



RESEARCH PAPER

The Judiciary's Contribution to Regimes' Hybridity in Pakistan

Nauman Reayat ¹ Tahira Jabeen ² Ulfat Qasim ³

1. Ph. D Scholar, Department of Politics, University of York, York, North Yorkshire, England
2. LL.M Scholar, Faculty of Shari'ah and Law, International Islamic University, Islamabad, Pakistan
3. Assistant Professor (Law), Higher Education Department, Peshawar, KPK, Pakistan

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***Corresponding
Author**
tahirajebeen08@gmail.com

ABSTRACT

The Supreme Court of Pakistan (SCP) was never as powerful in a context of hybrid regime as it emerged after the lawyers' movement for the restoration of judiciary in March 2009. A hybrid regime is a mix of authoritarian and democratic features. The SCP decide several politically important cases against regimes' political interests including the disqualification of two Prime Ministers for their dishonesty, striking down politically most important laws such as National Reconciliation Ordinance, Contempt of Court Act 2012, and recovery and tracing of persons missing in connection to war on terror. This empowerment contributed to distinct indicators of regime's hybridity which has not been investigated until now. This paper examines the contribution of the SCP to regimes' hybridity from 2005 onwards.

Introduction

Ever since the lawyers' movement for the restoration of the judiciary the SCP emerged more powerful than any other court in authoritarian and hybrid regimes. An authoritarian regime is the one where an individual or a group controls state institutions and centralises powers. A hybrid regime is a mix of authoritarian and democratic features (Kim, 2020; Moheimany, 2021) where apparently democratically elected civilian regime is in power but the military influences politics from behind the scenes (Adeney, 2017). Turkish Constitutional Court couldn't decide any politically important decision against the political interests of the hybrid regime of President Erdogan (Bâli, 2013). The Egyptian Constitutional Court demonstrated a certain degree of empowerment during Anwar Sadaat's authoritarian regime but the authoritarian regime of Husn-e-Mubarak later controlled the Court (Moustafa, 2003). Hugo Chavez arrested judges who made decisions against the regime's political interest. However, the SCP disqualified two Prime Ministers (*Mohammad Azhar Siddique and Others v. the Federation of Pakistan and others*, 2012), questioned the

immunity of the President, started deciding the issue of the appointment of the Chief of Army Staff, and struck down important laws (*Baz Muhammad Kakar and others v Federation of Pakistan*, 2012) and constitutional amendments (*Nadeem Ahmed and others v. the Federation of Pakistan*, 2010). The executive and the Parliament couldn't take a major step to control this activism of the SCP. The military regime of General Pervez Musharraf was in power from 1999 to 2008 and the hybrid regimes are in power since 2008. This article aims to examine and evaluate the judiciary's contribution to regimes' hybridity in Pakistan.

There are six parts of this paper. The first part reviews the literature on hybrid regimes in general and courts in hybrid regimes in particular. The second part discusses research methodology. The third part examines judiciary's contribution to regimes' hybridity. The fourth part explains the new descriptor of hybrid regime. The fifth part presents the findings of this paper. Lastly the paper will make conclusions. The next section reviews the existing literature on hybrid regimes in general and courts in hybrid regimes in particular.

Literature Review

The existing literature explained the hybrid regimes in general and some works examined the hybrid nature of democracy in Pakistan in particular. This section will first look at current works on hybrid regimes in general to provide a basic understanding of hybrid regimes and then will look at courts in hybrid regimes.

Laporte (2020) examines the differences between political executives in non-democracies and those in democracies and found that political executives use a mix of formal and informal mechanisms to maintain power. Aprasidzy and Siroky(2020) studied technocratic populism in hybrid regimes of post-Soviet Georgia and found that technocratic populism is used to cover autocratic and authoritarian tendencies in hybrid regimes and suspension and reversal of democratisation. Gyory and Weinberg(2020) provided insights from political theory to provide constitutional law perspective on hybrid regime of Hungary and legislative practice under COVID-19 circumstances. Bursac and Vucicevic(2021) analysed the 2020 elections in Serbia to explain how lack of participation by opposition political parties gave rise to hybrid regime in Serbia.

Voltmer, Kjetil, and Hoigit(2021) compared the relationship between hybrid media and hybrid politics in Lebanon and Tunisia. Prochazka and Cabada(2020) analysed recent developments in Hungary to evaluate the utility of the concept of hybrid regimes for the regimes in Eastern and Central Europe. Wong(2021) found that contestation decreases, and inclusiveness (with constant contestation) increases inequality and that hybrid regimes with a combination of moderate contestation and inclusiveness consists of more inequality than democratic or authoritarian regimes. These studies explain hybrid regimes but do not examine courts' role in hybrid regimes.

Turning towards courts' role in hybrid regimes, it is argued that judicial empowerment in a context of hybrid regimes is an understudied phenomenon. Few studies explained how courts behave in hybrid regimes, let alone courts' contribution to regimes' hybridity. Wang(2020) compared ongoing judicial reforms in China with that in Russia and found a negative relationship between judicial independence and political competition in authoritarian or hybrid regimes. Bolkvadze (2020) used a process-tracing controlled comparison of reforms in Georgia and Moldova to explain that politicians in more fragmented regimes feel less encouraged to reform corrupt courts and politicians in less fragmented regimes feel more inclined to reform corrupt courts. Yam(2021) explained the legitimacy paradox of courts in hybrid regimes by analysing judicial behaviour in Hong Kong. Legitimacy paradox means that if courts behave actively they risk receiving backlash from the executive and if they behave passively they risk losing public trust. None of these studies examined the judiciary's contribution to regimes' hybridity.

Coming to the literature on hybrid regimes in Pakistan, it is argued that the existing scholarship on Pakistan is more focused on different features of hybrid regimes in Pakistan. Levitsky (2010) laid down a criteria for hybrid regimes and based on that criteria assigned different countries to the category of hybrid regimes. Pakistan was one of them. Recently, Adeney (2017) argued that the democratically elected regimes in Pakistan since 2008 are hybrid regimes. Adeney (2017) only explained the extent to which the civilian regime holds power in different areas of regimes, but she didn't explain the nature and scope of the judiciary's influence in those areas. Oldenburg (2017) made a similar argument that the secessionists in the province of Baluchistan and jihadi Islamists are disloyal and semi-loyal oppositions to democracy in Pakistan. He pointed out Islamists and secessionists as actors holding enough power to oppose democracy, but like Adeney (2017), he didn't explain the contribution of the SCP to regimes' hybridity in Pakistan. Pakistani scholarship does not explain the judiciary's contribution to regime's hybridity.

The SCP is empowered under article 184(3) of the Constitution to review the matters pertaining to fundamental rights and public importance. It is empowered to carry out all possible steps to ensure complete justice. Article 8 of the Constitution of Pakistan empowers the SCP to ensure that laws inconsistent to fundamental rights are to be declared void. Article 190 binds all other institutions to act in aid of the SCP. Recently, the text of article 62 and 63, asking for honesty and truthfulness of parliamentarians, has also been frequently used by the Court to decide the fate of parliamentarians including two Prime Ministers(*Mohammad Azhar Siddique and Others v. the Federation of Pakistan and others*, 2012).

However, the constitutional design in Pakistan was present since the enactment of the Constitution since 1973. Had the constitutional design been the reason behind the unique role of the SCP in the hybridity of the regimes, the SCP would have exercised the same degree of power in 1980s and 1990s. But, the Court demonstrated a certain degree of power consistently only after 2009. The judges' ability to use the constitutional design to maximize their preferences is entirely visible in its judgements after 2009. Ever since lawyers' movement in Pakistan from

2007 to 2009, the SCP has become very active against other institutions from 2009 onwards. There is hardly an area of politics and public policy that is beyond the influence of the SCP. Since March 2009, the SCP decided the matters pertaining to governance, constitution, human rights, and public importance. The influence over different matters show that the court can shape different parts of the democracy and that the contribution of the SCP to regimes' hybridity.

Using the judgements of the SCP, this paper argues that the judiciary contributes to different descriptors of hybrid regimes and shape the nature and scope of hybrid regimes. The main aim of this paper is to evaluate and examine the nature and scope of the judiciary's contribution to regimes' hybridity. Since the SCP interprets the constitution to make decisions in accordance with the rules and institutions provided in the constitution, the paper highlights the importance of a new descriptor of hybrid regime i.e., institutional supremacy. The next section explains research methodology.

Material and Methods

Research methodology used for this research is qualitative. The data used for this paper are reported and non-reported judgements of the SCP, journal articles, books, newspapers reports, and government documents. Process-tracing and document analysis are data analysis methods. Process-tracing involves sequencing of events and weighing most plausible reasons against least plausible reasons and accepting the most convincing explanation for analysis. This research sequenced the SCP judgements and different descriptors of hybrid regime and then analysed the most plausible explanation of the judiciary's contribution to regimes' hybridity in Pakistan. There is no coherent, organised, and systematically recorded database of the SCP judgements. Therefore, it is difficult to analyse the data quantitatively. The next section discusses the judiciary's contribution to different descriptors of hybrid regime.

Results and Discussion

This paper uses the descriptors selected by Adeney (2017) to show how the SCP contributed to regime' hybridity by shaping all of these descriptors. This is explained in the next section where the influence of the SCP over almost every descriptor is visible.

The Competitiveness

Adeney (2017), building upon Merkel (2004) and Merkel and Croissant (2004), argued that elections do not indicate democracy as fairness and transparency of elections are usually questionable and participation of voters and candidates are not equal. Adeney (2017) used Merkel's four parameters of competitiveness: (1) elected officials; (2) universal suffrage; (3) right to candidacy; (4) correctly organized

free and fair elections. The next section explains the role of the higher judiciary in shaping the status of elected officials from 2009 to 2017.

Elected Officials

The SCP disqualified many parliamentarians for their dual citizenship (Suo Motu Case No 3 of 2018). The Court disqualified many of the parliamentarians for submitting fake educational degrees (Civil Miscellaneous Application (CMA) No 3470 of 2013 in CMA No 1536 of 2017). The most important decisions of the court were on disqualification of two Prime Ministers (Imran Ahmed Khan Niazi v Mian Muhammad Nawaz Sharif 2017; Criminal Original Petition No 6 of 2012 2012). The Court didn't find the two Prime Ministers honest and trustworthy under article 62 and 63 of the Constitution. It disqualified one Prime Minister Yousaf Raza Gilani for his alleged disobedience of the court's direction to re-open the inquiry against the then President Zardari in Swiss courts (*Criminal Original Petition No 6 of 2012, n.d.; Mohammad Azhar Siddique and Others v. the Federation of Pakistan and others, 2012*). It disqualified the other Prime Minister Nawaz Sharif for not declaring his receivable assets (Imran Ahmed Khan Niazi v Mian Muhammad Nawaz Sharif 2017). However, the increasing power of the Court also includes the powers of the Court to increase the voters' power to vote. This is discussed in the next section.

Universal Suffrage

In Constitutional Petition No 87 of 2011, the SCP decided the case in favour of Workers Party and issued directions to government and the Election Commission of Pakistan to ensure that political parties do not spend money beyond the prescribed limits. The recent decision of the Court that allowed overseas Pakistani to vote is another example of how the Court played its role in improving universal suffrage (Constitutional Petition No 74 of 2015; Abbasi, 2021). The decision empowered Pakistani citizens with dual nationalities to vote from abroad countries. In the recent elections, the empowerment of overseas Pakistanis to vote was tested.

Rights to candidacy

Adeney (2017) overlooked the crucial role played by the SCP in shaping the right to candidacy. The SCP disqualified Prime Ministers Yousaf Raza Gilani in 2012 and Nawaz Sharif in 2017 (Imran Khan Niazi v Mian Muhammad Nawaz Sharif 2017). It created space for middle-class to strengthened the right to candidacy by decreasing the expenditures during election campaign, revoked the membership of many parliamentarians because they had dual nationalities (Constitutional Petition No 5 of 2012; Suo Motu Case No 3 of 2018), and disqualified a number of parliamentarians (Civil Miscellaneous Application(CMA) No 3470 of 2013 in CMA No 1536 of 2017). However, it was not only the candidacy of politicians which the SCP determined. The SCP also played a role in organising free, fair, and transparent elections in Pakistan which is discussed in the next section.

Free, Fair, and Transparent Elections

Adeney (2017) ignored the important role played by the SCP in shaping the nature and scope of elections. For example, in the wake of Pakistan Tehreek-e-Insaaf protest against the regime, the federal government in collaboration with the SCP constituted a judicial commission to probe the allegations of elections rigging. The Commission strategically decided the matter by not declaring that the elections were rigged and making a dozen of observations on malpractices of elections and proposed reforms. Instead, the Commission held that there were some lapses in elections but elections were fair (Haider, 2013).

Furthermore, as explained earlier the SCP decision on Watan Party's petition regarding expenditures on elections is also a contribution to free, fair, and transparent elections because the decision provided citizens and small political parties to participate in elections. The SCP also played an important role in determining civil liberties which is discussed in the next section.

Civil Liberties

Media Freedom

The SCP played an important role in protecting civil liberties. The military regime of General Pervaiz Musharraf liberalized the media.

The SCP's role in increasing media freedom has not been touched upon in either of the works on judicial politics and the role of new media in political activism (Ahmed, 2012; Bajwa, 2016; Bolognani, 2010; Marco & Sial, 2010). The SCP empowered the media by using media reports as a cause of action in suo motu notices and the decisions in suo motu notices from 2009 to 2013 had clear impacts on public policy and politics. For example, the decision on price fixation of sugar and petrol and the constitution of a body to supervise appointments in public bodies are inter alia two examples wherein media reports were used to initiate a change in policy matters through judicial verdicts (Tribune October 24 2012; Human Right Case 14392 of 2013). Although, the Court gave the decisions but the Court came to know about the issues through media report and took cognizance of the issues on the basis of media reports.

Furthermore, the SCP directly empowered media bodies in some cases. It protected media against the government's regulations. Many of the notices of explanation and fines issued by Pakistan Electronic Media and Regulatory Authority (PEMRA) were stayed by high courts (Dawn March 29 2018). Media Commission was another case wherein the SCP helped media bodies protect their independent functioning against the government. The case was initiated on the submission of complaints by two famous anchor persons, AsadKarral and Hamid Mir (Constitutional Petition No 105 of 2012). Recently, in another case, the Court obliged field reporters and journalists by ordering owners of private media bodies to pay

their employees in time without interruption. All these decisions showed that the SCP contributed to media's freedom to a considerable extent.

Freedom of Association

Adeney (2017) and Oldenburg(2017) overlooked the role played by the SCP in enhancing the freedom of association. The role played by the SCP certainly changed the power structure in Pakistan to some extent. For example, the SCP removed a long-standing ban on government employees and workers to protest against the government (Khan, 2016). Similarly, in famous Faizabad dharna case, the SCP issued directions to the executive to reaffirm the rights of citizen to join political parties and to reaffirm the citizens' right of assembly and protest without harming the fundamental rights of others (Suo motu Case No 9 of 2017). Accordingly, formation of labour unions, launching protests, and giving calls for protest are fundamental rights.

Rule of law

Adeney (2017) view the rule of law as the state's ability to uphold laws and to act in accordance with clearly defined prerogative. She put Pakistan low on this score. This does not mean that the SCP didn't contribute to the rule of law at all or didn't act independently. It certainly made a contribution by deciding independently and ensuring implementation of its orders through the use of contempt of court proceedings. The SCP increased the contempt of court proceedings mostly against public functionaries from 2009 to 2017 (Qazi, 2015).

The SCP contributed to a limited degree of improvement in rule of law. For example, previously the incidents of enforced disappearances either went unnoticed or were not taken seriously. But, after the appointment of Iftikhar Muhammad Chaudhary as the Chief Justice of Pakistan in 2005, the issue of the missing persons didn't go unnoticed. The SCP successfully made Pakistan Army-the otherwise unaccountable institution- to present some of the disappeared people. Due to activism of the court, the internment centres were identified (Dawn 7 December 2013). The due process of law had been initiated against many of the missing persons. Families of many persons were able to meet missing persons. Later, the federal government established the Commission of Inquiry on Enforced Disappearance on 1 March 2011 and assigned all missing persons cases to that commission (S.R.O.149 (I)2011 coioed.pk). Nevertheless, the problem of missing persons still exists.

Reserved Domains

The decisions of the SCP on 18th and 21st Constitutional Amendments and the Contempt of Court Act 2012 are two examples which clearly indicates that there is a certain kind of competitiveness between parliament, military, and the judiciary in Pakistan. The SCP prevailed over the parliament to a great extent and over military to some extent. The Court directed the parliament to revise the judicial appointment

process in the Eighteenth Constitutional Amendment. Parliament enacted Nineteenth Constitutional Amendment as per directions of the SCP. Similarly, in its decision on the Twenty-First Constitutional Amendment, the Court ratified the establishment of military courts but held that the decisions of military courts can be challenged in appellate jurisdiction of the SCP (Ahmed, 2015).

The decisions on the Election Act 2018, Contempt of Court Act 2012, and 18th and 19th Constitutional Amendment Acts are few examples of how the Court demonstrated its supremacy over fencing off of the policy domains (Constitutional Petition No 10 to 18 of 2010; Hassan, 2012).

Public Policy

The role of the SCP in different areas of public policy is entirely visible since 2009. It reviewed almost every policy of the government. For example, it revised the prices of petroleum fixed by the PPP government. It reviewed the key appointments in public enterprises, such as National Accountability Bureau, Pakistan Television, and Civil Aviation, by PPP government and went further ahead to lay down the whole procedure and composition of the body that can carry out appointments (Human Rights Case No 3654 of 2018; *Suo Motu* Case No 13 of 2016; Constitution Petition No 6 of 2011).

Elite Recruitment

Since 2008, political elites didn't take sides. Rather, they were united against any probable intervention. For example, all parties united against the sit-in of Tahirul Qadri in Islamabad in 2013. Then, political parties get united against sit-in of Pakistan Tehreek-e-Insaaf in 2014. Reportedly, military was pulling the strings from behind the scenes during both sit-ins. She scaled Pakistan as high on this descriptor.

The SCP increased the use of article 62 and 63. It has also disqualified many politicians for their possession of dual nationalities. The decision about disqualification of a number of politicians for holding fake degree is another example which shows that the SCP has great influence over the elites' recruitment in general and rule-setting, procedure, and selection of elites in particular. These decisions clearly demonstrate that the SCP plays an important role in deciding who will be elected and who will continue to represent people.

External Defence

The SCP exercised some degree of powers in matters related to external defence as well. For example, the missing person case was rooted in federal government's policy on war on terrorism during the military regime of General Pervez Musharraf. In memo commission, the SCP held Ambassador of Pakistan to the US Hussain Haqqani responsible for his involvement in seeking the US intervention to stop Pakistan Army from probable intervention.

Similarly, drawing inspiration from the activism of the SCP, Peshawar High Court declared drones attack as a war crime (F. M. Sabir Advocate Peshawar High Court Peshawar Vs. Federation of Pakistan through Ministry of Defence & others, 2011). It went further ahead to order the government of Pakistan and security forces to stop drone attacks. Furthermore, it issued directions to the federal government to take up the matter in the United Nations. These decisions suggest that the SCP, followed by Peshawar High Court, exercised a certain degree of independence in matters related to the external defence.

Internal Security

The decision of the SCP in the cases on Karachi Law and Order Situation (Suo Motu Case No 16 of 2011) and the Baluchistan law and order situation (Constitutional Petition No 77 of 2010) are very important examples regarding the judiciary's contribution to the internal security descriptor of hybrid regimes. In its decision on Karachi law and order situation, the Court dug out shortcomings on the part of government and the security agencies (Suo motu case No 16 of 2011). Following the proceedings, Pakistan rangers-a paramilitary institution- carried out multiple operations. National Accountability Bureau also expedited the process of accountability of different elites because it was perceived that corruption is linked to terrorism.

Before 2005, the military's power to enforce disappearance of suspects in connection with terrorism was unlimited as there was no check at all. After 2005, the Court got some degree of success in limiting the powers of military because some of the missing persons were presented before the court and others returned to home (Constitutional Petition No 29, 37, 55 of 2007; Human Right Cell Case No 2724/2007; Human Rights Cell Case No 7679-G/2007). Many of the internment centres had been declared (Dawn 7 December 2013). A dedicated commission has been established for the recovery of missing persons and some degree of progress is going on (coioed.pk).

The above analysis showed that the SCP contributed to different descriptors of hybrid regimes in Pakistan and asserted itself in almost every area of public policy and politics. The next section explains how and why institutional supremacy should be studied as a new descriptor of hybrid regimes in Pakistan.

Institutional Supremacy as a New Descriptor of Hybrid Regime

The above analysis of the decisions on different descriptors of hybrid regimes from 2009 to 2017 show the frequent exercise of judicial review by the restored judges against parliament, military, and the executive. The ability of the Court to alter the behaviour of other institutions shows the expanded power of the SCP. It is argued that the SCP enjoys supremacy over parliament and the executive. The SCP justify this supremacy in two ways. One, the court maximizes interests by using provisions of the Constitution related to different domains of powers including fundamental rights, public importance, and Islamic principles. Two, the Court makes popular interpretation of the abovementioned multiple provisions. Popular

interpretation here means anti-elites interpretation which is appealing to the sentiments of middle-class or ordinary people who had grievances against the elites. This stretching of constitutional provisions through popular interpretation constitutes a complex model of judicial review which goes beyond the questions of mere constitutionality and/or rights litigation.

Therefore, it is argued that a separate descriptor of institutional supremacy needs to be added to the existing descriptors of hybrid regimes. This descriptor tells about the ultimate supremacy of institutions. The SCP relied on the 1973 Constitution to justify its decisions against the executive and parliament. This means constitutions providing powers and jurisdictions of different organisations of the state are supreme. Therefore, institutional supremacy means that written rules or institutions enshrined in the constitution are supreme. This makes the SCP supreme because SCP acquired the ultimate authority to provide the final interpretation of the Constitution. The new descriptor explains who enjoys the ultimate authority over the final interpretation of laws which is the SCP in case of Pakistan.

The scope of the Court's powers was not limited to one area of politics or public policy. The decisions of the Court from 2009 to 2017 included the issues pertaining to core interests of other institutions. For example, the Court struck down the decision of the executive to privatize Pakistan Steel Mills (*Watan Party v. Federation of Pakistan*, 2006). The Court struck down the Contempt of Court Act 2012 (*Baz Muhammad Kakar and others v Federation of Pakistan*, 2012) and Election Act 2017. It reviewed the executive's decisions on petroleum prices and appointments in public enterprises. It held people, involved in scandals such as National Insurance Corporation Limited (NICL) (Suo motu case No 18 of 2010), Bank of Punjab (The News 15 April 2015), and Employees Old Age Benefits Institution (EOBI) (Constitutional Petition No 6 of 2011), accountable to the Constitution.

Findings

This paper found that the higher judiciary contributed to regimes' hybridity in Pakistan. The SCP made decisions independently of undue influence of the executive, parliament, and the military in cases pertaining to three main descriptors of hybrid regimes: competitiveness, civil liberties, and reserved domains. Bold decisions of the SCP in different areas of policy-making and politics show that there should be a new descriptor of hybrid regime i.e. institutional supremacy. It is because the SCP enforced constitution in different policy areas and demonstrated a certain degree of independent behaviour. Any study of hybrid regimes in Pakistan need to look at the nature and scope of the judiciary's involvement in different descriptors of hybrid regimes. The judiciary's contribution to regime' hybridity in Pakistan necessitates a new descriptors of hybrid regimes for a better understanding of hybrid regimes. The new descriptor is institutional supremacy which means institutions enshrined in the constitution are supreme.

Conclusion

Before 2005, the Court facilitated the dominance of military in politics and public policy. It legitimized different military interventions (*Begum Nusrat Bhutto v. Chief of Army Staff*, 1977; *Government of Pakistan v. Maulvi Tamizuddin Khan*, 1955; *The State v. Dosso*, 1958; *Tikka Iqbal Muhammad Khan v. General Pervez Musharraf*, PLD 2008 SC 6, n.d.). It used the doctrine of state necessity to legitimize different authoritarian regimes. The doctrine of state necessity means that the state created through a revolution is a legitimate entity (Kelsen, 1949). The higher judiciary in Pakistan interpreted the abrogation of the Constitution by General Ayub as a revolution in its decision to endorse the military intervention. The higher judiciary employed the same doctrine in different forms in different decisions on military intervention by stating that the civilian regime was inept, non-responsive, and there was a constitutional and economic breakdown.

After 2005, the SCP increased exercising its power of judicial review against the executive and parliament. The strategy of the court was to stretch the scope of article 184(3), 187(1), 190, and article 8 of the Constitution. It connected different domains of public policy and politics with the definition of fundamental rights and public importance. The Court strategically relaxed the requirements of locus standi and the formal procedure of submission of the petition and fixation of hearings. A simple letter was enough to submit complaints regarding human rights violation and public importance was enough. The Court took on itself to convert these simple letters into petitions. Many of the suo motu notices were taken on media reports. The presence of the petitioners was not required. This increased the access of individuals and groups to the Court.

The scope of the Court power was not limited to one are of politics or public policy. The decisions of the Court from 2009 to 2017 included the issues pertaining to core interests of other institutions. For example, the Court struck down the decision of the executive to privatize Pakistan Steel Mills. The Court struck down the Contempt of Court Act 2012 and Election Act 2018. It reviewed the decisions of the executive on petroleum prices and appointments in public enterprises. It held people, involved in scandals such as National Insurance Corporation Limited (NICL) (Suo motu case No 18 of 2010), Bank of Punjab (The News 15 April 2015), and Employees Old Age Benefits Institution (EOBI) (Constitutional Petition No 6 of 2011), accountable to the Constitution.

Comparing the role of the SCP in deciding the matters pertaining to different descriptors of hybrid regimes explained in the framework of Adeney(2017) and Oldenburg, it is found that the decisions of the SCP had important impact on different descriptors of hybrid regimes. This impact cannot be ignored as the Court brought a range of different policies in line with the Constitution. The SCP made decisions in politically important cases in domains pertaining to competitiveness, civil liberties, and reserved domains from 2009 to 2017. The SCP brought political competition, civil liberties, and deserved domains in line with the Constitution.

However, the SCP shaped the nature and scope of abovementioned descriptors of hybrid regimes in Pakistan. This enhanced the powers of the SCP vis-à-vis other institutions. The popular interpretation of the Constitution accorded institutional legitimacy and gained public support for the Court. This change in judicial behaviour and the consequent enhancement of the powers of the SCP results in a need for a separate descriptor of hybrid regimes i.e. institutional supremacy. This descriptor shows the supremacy of the institution whether the parliament, military, or the SCP has ultimate authority over the interpretation of the Constitution. The constitutional interpretation is important because the Constitution provides different domains of power and boundaries of separation of powers among institution. Whosoever has the ultimate authority over the final interpretation has institutional supremacy. The analysis in this paper shows that the SCP has the ultimate authority over the interpretation of laws.

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