



The Analysis of Article 184(3) of the Constitution of the Islamic Republic of Pakistan regarding Cases is Pending or Decided by High Courts

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ABSTRACT

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The legal analysis investigated the scope of Pakistan's Supreme Court's original jurisdiction under Article 184(3) of the Constitution of the Islamic Republic of Pakistan, 1973. It delves into precedents to establish the extraordinary and discretionary nature of this jurisdiction. The study discussed the principles guiding the exercise of jurisdiction when concurrent jurisdiction exists with the High Courts under Article 199. Additionally, it introduces the principle of forum non-conveniens, emphasising the court's discretion in selecting the most suitable venue for a case. This study, which was conducted using the doctrinal legal research method, examined legal precedents in which the Supreme Court declined jurisdiction due to a pending petition in the High Court. The article concludes by asserting the court's inability to challenge or circumvent judgments of high courts under Article 199.



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1. Introduction

The Supreme Court of Pakistan (SCOP) has the authority to intervene in issues related to the protection of basic rights, as outlined in (Manzar, 2021) of the Constitution. The statement asserts that the Supreme Court has the authority to make orders similar to those outlined in Article 199 when it concludes that a public problem related to the enforcement of fundamental rights is at stake (Manzar, 2021). Article 199 delineates the jurisdiction of Pakistani high courts. High Courts have the ability to intervene and provide orders to individuals or organisations, including governments and governmental bodies, to uphold fundamental rights in their area of jurisdiction when requested by a party who has been wronged. These provisions aim to ensure the protection and maintenance of the basic rights outlined in the Constitution. Article 199 pertains to the jurisdiction of the High Courts, while Manzar (2021) specifically addresses the original jurisdiction of the Supreme Court. Both aim to safeguard basic rights (Kureshi, 2022). They provide their respective courts with the power to intervene in cases involving the protection of essential rights that are significant to the general public. High Courts are crucial in their own geographical areas,

while the Supreme Court has the ultimate authority in interpreting and maintaining these rights (Nadeem, Qasim, & Ibrahim, 2023).

The SCOP has discretionary original jurisdiction, exceptional (Iqbal, 2023), and extraordinary (Tahir-ul-Qadri, 2013) per Article 184(3) of the Constitution. The SCOP should exercise its original jurisdiction "with caution" only in "exceptional cases" of public importance involving the enforcement of fundamental rights that are considered suitable for the Court to handle under this jurisdiction (PLD, 1975). The Court has exceptional and unparalleled authority as the last arbiter since there is no recourse to a higher court for a dissatisfied party. To maintain the Court's reputation as an unbiased institution, it is crucial to use this power judiciously and with restraint (Kureshi, 2022). Should the public's confidence in a court diminish, the court would lose the necessary credibility to fulfil its responsibilities. This is because the court is both the foundation of the legal system and the origin of its real authority. The court seeks legitimacy through a genuine commitment to fulfilling its responsibility towards the people it serves, rather than self-interest (Khan, 2014).

2. Research Methodology

This legal study uses the doctrinal legal research approach to examine the implementation of Article 184(3) of the Pakistani Constitution in cases where the High Courts (HCs) are deliberating on the same matter. The research enhances readers' understanding of how the Supreme Court uses its original jurisdiction in conjunction with the HC's concurrent jurisdiction under Article 199 by examining interpretative and doctrinal elements of legal principles. Parts of this investigation include looking at relevant legal precedents, principles that help the court decide if to step in, and stressing that this authority is completely up to the judge (Ghosh, 2013).

3. An Analysis of Article 184(3)

According to Article 184(3), the SCOP has the authority to take independent action or respond to requests from individuals, provided that the SCOP finds evidence of a violation of any of the rights mentioned in the section on fundamental rights and that the violation is of public significance. The nation is well-acquainted with Article 184(3), which pertains to the *Suo Motu* power, also known as the inherent authority of the SCOP. The legal community is now debating whether the frequent use of constitutional article 184(3) by SCOP infringes against the powers of the legislative and executive branches (Nadeem et al., 2023).

The 1956 Constitution granted the SCOP the power to create various orders or Writs, such as the Writ of Habeas Corpus, Mandamus, Prohibition, Quo Warranto, and Certiorari. Anyone can request these orders by submitting a petition to the SCOP, or the SCOP can take its own action. The purpose of these orders is to enforce the fundamental rights protected by the Constitution in matters of public importance. There seems to be a similarity between Article 22 and Article 32 of the Indian Constitution. Both articles include subtitles containing the phrase "Remedies for enforcement of rights conferred for enforcement of rights by this Part." Given this, Articles 32 and 22 are *Pari Materia*, indicating that they mutually enhance each other (Nadeem et al., 2023).

In 1957, martial law invalidated the 1956 Constitution and replaced it with the 1962 Constitution, which excluded the provisions of Article 22. SCOP's original authority does not enable the enforcement of the fundamental rights articles of the 1962 Constitution. After imposing martial law in 1969, the government once again invalidated the 1962

Constitution. The 1969 Constitution partitioned East Pakistan as a result of the general election. The municipal administration enacted an interim constitution in 1972 as a reaction to the prevailing political turmoil. In 1973, the Pakistan People's Party, led by Zulfikar Ali Bhutto, drafted the current enduring constitution (Ghosh, 2013).

According to Article 184(3) of the Constitution, the individuals in SCOP possess primary authority in ensuring the protection of fundamental rights that are crucial for the overall well-being of society. SCOP has the authority to issue orders that are similar to those that the High Court may provide. Article 184(3) states that the SCOP may evaluate matters of public significance related to any of the fundamental rights protected under Chapter 1, Part II, without being limited by the provisions of Article 199. Articles 184(3) and 199(1)(c) demonstrate that judicial review has the power to uphold the rights that are provided by the Fundamental Rights. Chief Justice Muhammad Haleem clarified in the Benazir case Bhutto (1988) that when two articles provide the same solution, they are considered similar. Subsequently, the parties have the liberty to choose any forum of their choice (Akbar & Malik, 2019).

They firmly believed that once a party chose a forum, it became impracticable to select another, especially one that impeded the right to appeal. Conversely, if a party has already selected the High Court, invoking Article 184(3) would undermine the High Court's authority. In the Wukla Mahaz case, Chief Justice Ajmal Mian concurred with the Attorney General that the parties are misusing Article 184(3), thereby diminishing the credibility of the High Court.

In 1975, the court adjudicated the first case under Article 184 (3). Authorities apprehended Ch. Zahoor Elahi, a proactive member of the National Assembly, in Lahore and then transferred him to Baluchistan. Article 199 contested his imprisonment in Sindh and Baluchistan. Ch. Manzoor Elahi, the sibling of Ch. Zahoor Elahi, filed a further complaint with the SCOP under Article 184(3), which falls within the SC's primary authority, while these petitions were still unresolved. This was the first instance using Article 184(3) of the Pakistani Constitution of 1973, notwithstanding the existence of a prior case, the Zebunisa case, which fell under a similar provision, Article 22 of the 1956 Constitution. The SCOP issued a logical ruling in the Manzoor Elahi case State (1975), stating that a petition filed under Article 184(3) should not be allowed as a routine practice while the issue is still being resolved in the High Court as per Article 199 (Amir, Muhammad, & Jan, 2022).

In this particular case, we used and clarified the principle of concurrent jurisdiction. Reason elucidated two concepts. Initially, if the parties choose the forum, they have the liberty to opt for any candidate. During the ongoing adjudication, they are unable to use the higher forum, but they may choose a lower forum afterwards. When concurrent jurisdiction exists, the higher court (in this case, Article 184 (3)) cannot deny the affected party the right to appeal to a higher court. This is because the higher court is also an appellate court. The petition fulfils all the necessary conditions for invoking Article 184(3), which includes addressing an issue of public interest and implicating the basic rights No. 9, namely the right to life and liberty of the people concerned. Indicating that the issue was still being deliberated in the High Courts, the petitioner presented the petition without prejudice to Article 199. This need was further emphasized. An extra and noteworthy right of appeal is established as outlined in Article 185. They intended to present Petition No. 61-P of 1973 as a response to Petition No. 1143 of 1973, which was filed under Article 199 and is now awaiting judgment. The SCOP also advised a timely resolution, stating that my knowledgeable colleagues indicated the other requirements are adequately met in the current situation. My knowledgeable brother, S. Anwarul Haq, J., opines that the other

issues stated are of significant public significance and claims a violation of Fundamental Right No. 9. I agree that a ruling on Petition No. 61-P of 1973 should not be issued while a constitutional petition filed under Article 199 of the current Constitution awaits a decision on its merits. The petitioner should proceed with Petition No. 1143 of 1973 in the Sind & Baluchistan High Court.

Alam (2016) stated that public importance is a legal instrument that enables citizens to seek judicial intervention to protect public interests or enforce the legal rights of marginalised groups who are otherwise unable to do so. It is a powerful mechanism for promoting social justice, holding the government accountable, and advancing the rule of law. In Pakistan, public importance has emerged as an important tool for challenging social injustices and promoting human rights.

3.1. Case Study Analysis

In the 2008 case of *Jamat-e-Islami (2008)*, SCOP outlined two prerequisites that must be met to exercise its jurisdiction under Article 184(3) of the Constitution. When filing a petition under this Article, the matter must primarily concern a significant public issue and secondarily relate to the implementation of any fundamental rights protected by Part II, Chapter 1 of the Constitution. Considering the legal criteria provided by SCOP, we would want to assess whether the current petitions meet the indicated conditions for review under Article 184(3) of the Constitution.

In the case *Tahir-ul-Qadri (2013)*, through *Secretary M/O Law, Islamabad & Others, 2013*, the SCOP ruled that if a case only appeases one of these conditions, the Court cannot take it up. The first norm is that the case must be of public importance, and the second criterion is the implementation of a fundamental right. It is highlighted that both of these criteria must be met for the SCOP's jurisdiction; the SCOP cannot intercede in a case that only fulfils one of these criteria. The establishment of this principle has several implications. Firstly, there is clarity on the SCOP's jurisdiction, which is supported to avoid excessive power. Secondly, the SCOP only intervened in cases that were of significant public importance. This prevents the SCOP from becoming mired in insignificant issues that lack a substantial impact on society. Thirdly, the SCOP only interferes in cases that involve the implementation of fundamental rights (Hassan & Azfar, 2003).

The SCOP is a protector of fundamental rights, particularly in matters of public importance. The SCOP initiated *Suo Motu Case No. 7, 2017*, which violated several constitutionally protected fundamental rights. The SCOP recognized the case's importance in perpetuating fundamental rights and its consequences for the public.

The SCOP's involvement in this matter showcases its assurance to uphold the rule of law and safeguard individuals' constitutional rights. The ruling accentuates the role of judicial activism in protecting fundamental rights, both within Pakistan and in other countries with parallel constitutional provisions. The SCOP used its own initiative, called *Suo Motu Munir (2007)*, to investigate and indict the people responsible for the public interest of two brothers in Sialkot in 2010. The SCOP's interpolation ensured justice for the victims and held those responsible accountable, emphasizing the Court's role in safeguarding fundamental rights and holding the powerful accountable.

The SCOP procured an exploit through media coverage of video footage of Sarfaraz Shah's extrajudicial killing by Sindh Rangers in Karachi in June 2011. The Court investigated law enforcement agencies for covering facts and ordered the removal of two top officials from their posts. This case highlights the role of the judiciary in guaranteeing

justice and accountability, particularly in cases where law enforcement agencies fail to entertain independently and endorse human rights (Hussain, 2022).

In the case of Zia (1994), the petitioners told the SCOP that the Water and Power Development Authority (WAPDA) wants to build a grid station with high-power transmission lines near residential areas. This would put people's lives at risk and is against Article 184(3) of the Constitution of the Islamic Republic of Pakistan. There is an allegation that the respondents refused to comply with demands to halt the construction of a grid station, which is in violation of people's basic rights. The phrase 'life' in Article 9, as per Article 184(3), has such a broad scope that the perceived risk and infringement complained about would violate a citizen's basic right. Therefore, the SCOP has taken authority over the issue. PLD (1994) suggests that the interpretation of the situation warrants support for the petition filed under Article 184(3) of the Islamic Republic of Pakistan, 1973.

3.2. Principles Established for Applying Article 184(3)

The SCOP quickly examined the Manzoor Elahi (PLD 1975) case under Article 184(3) to determine its original jurisdiction post-Constitution. The SCOP briefly summarized the specific limits of this jurisdiction on the relevant subject matter. Article 184(3) addresses issues of public importance in relation to enforcing any of the Fundamental Rights. The SCOP expanded upon this clause and provided precise directives.

The SCOP has unique original jurisdiction as outlined in Article 184(3), and it must use it judiciously. The SCOP may use its "enabling powers" even in disputes about the execution of any fundamental rights. Before exercising its exceptional authority, the Court must determine whether the subject matter is within its jurisdiction and whether the facts of the case warrant such action. When there is a conflict between the jurisdiction of the HCs under Article 199 and this Court under Article 184(3), this Court will consider two established principles before deciding to intervene under Article 184(3) if the HCs have already been involved under Article 199 and the case is still pending.

If the person filing the petition chooses to use one of the two courts that have the same legal authority, it is crucial for them to strictly adhere to the chosen location and seek a resolution there (PLD, 1975). Furthermore, a higher court with the same legal authority as another court typically rejects redundant requests under review in lower courts when receiving appeals from courts of equal power. Noncompliance with this stage will lead to one party losing their right to appeal. This Court can choose not to exercise its unique jurisdiction if it finds inadequate information to warrant bypassing the concurrent jurisdiction of the relevant HC (PLD, 1975).

SMC No.1/2023, also known as the uncomfortable forum, included the third principle, forum non conveniens. This method might possibly aid the Court in evaluating the suitability of exercising jurisdiction under Article 184(3) in a particular situation. In countries that adhere to the common law system, a court has the power to decide that it would be more beneficial for all parties concerned to move a case to another court by declining to hear it, based on the concept of forum non conveniens. By ensuring that cases are handled in the most appropriate setting, this concept optimizes the effectiveness and impartiality of the legal system. This principle allows a court to decline jurisdiction over a case if it believes that another court is better suited to handle it and can deliver a decision that better serves the interests of all parties involved and the goals of justice (Loughlin, 2022).

Courts in many nations often use this rule when one party voluntarily transfers jurisdiction from their own court to another court. Nevertheless, this same line of reasoning may also serve as the foundation for decisions made by courts that possess concurrent jurisdiction within a certain nation. If the Court determines that the HC, as stipulated in Article 199, would be a more suitable venue for the issue at hand, it may choose not to exercise its jurisdiction under Article 184(3). The judgement would be based on the inherent characteristics of the issue and the practicality for the parties concerned (SMC No. 1/2023).

3.3. Inherent Jurisdiction under Article 184(3)

In the case of Bhutto (1988), a Full Court Bench of eleven members thoroughly scrutinised the Court's original jurisdiction. The SCOP deliberated on and clarified the regulations outlined in the Manzoor Elahi ruling regarding the use of this jurisdiction in the mentioned case and determined that the argument lacked any debatable or contradictory grounds. The SCOP has lately used its inherent jurisdiction under Article 184(3) of the Constitution, taking into account specific facts and circumstances in the case. In the Benazir Bhutto case, the court upheld the guidelines established in the Manzoor Illahi case, which suggest that when many courts have jurisdiction, it is often more beneficial to first approach the court with the least power. The SCOP determined that while it is generally acceptable to conduct legal proceedings at the lower court, there are legitimate circumstances when this concept does not apply. The HCs' protracted procedures hindered achieving justice in this particular case. The HCs were unaffected by the issue since they chose not to use their judicial jurisdiction by accepting the petitions for a formal hearing on this topic. The SCOP emphasised the need to take into account the particular facts and circumstances of each case when assessing the relevance of this concept. The possibility of exploiting the concept, where anyone may file petitions without a valid rationale in an attempt to hinder judges from using their jurisdiction as allowed by Article 184(3), is the reason for this.

The SCOP determined that it would only warrant consideration of the "common interest" of the two petitioners if there was evidence of a shared objective in choosing the place. Due to the petition being submitted without the petitioner's approval, the HC lacked jurisdiction over the victim, who is the co-chair of the party. The SCOP has officially determined that Manzoor Elahi's case should be considered separately from the petition under examination. One may comply with Article 184(3) and follow the restrictions set out in this case. The SCOP has always upheld the principles outlined in this case without issuing any contradictory rulings. As outlined in Article 184(3), the principles dictating the scope and authority of this Court's original jurisdiction, first established by this case and subsequently enhanced by Benazir Bhutto, must remain in force until a majority of the court judges determine differently.

In the SCMR (1994) case, the SCOP refrained from utilizing its authority under Article 184(3), citing the precedent set by the Benazir Bhutto case. The High Court may entertain the same continuing petition on account of its same factual foundation, legal complexities, and lack of any indication of deliberate judicial procrastination. As said before, the HC will evaluate the ongoing Article 199 issue during the first week after the vacation. The Court dismissed the direct petition filed in compliance with Article 184(3). The court concluded that the direct petition submitted under Article 184(3) was unlawful because the Sindh HC was already deliberating on a comparable request under Article 199. As per Article 184(3), it is imperative to use caution while determining which matters to deliberate upon, as emphasised in the Mahaz (1998) judgment. The statement emphasised that it is impermissible for a party to circumvent the High Court by accepting a constitution petition

under this article. This provision confers the power to uphold fundamental rights in accordance with Article 199, clause (2).

The SCOP ruled that the legal manoeuvres in the lower courts did not warrant their intervention under Article 184(3). If the HCs had not been interrupted, they would have resolved the cases themselves. This highlights potential delays caused by procedural complexities. The Manzoor Elahi and Benazir Bhutto cases highlight the importance of choosing the appropriate legal forum. The writ petitions by PTI and others in the Lahore HC, as well as the constitutional petitions by the Punjab Assembly Speaker in the SCOP concern issues of significant importance to the petitioners. However, based on its own precedents, the Supreme Court has determined that these cases do not fall under the exceptional circumstances for intervention outlined in Article 184(3). Consequently, the current Suo Motu hearings and related petitions will not proceed under this specific original authority.

4. Article 184(3) and High Court Precedence

Suo Motu Case No. 1/2023 tackled a crucial constitutional question: the brief facts of the case are that when a Chief Minister seeks Provincial Assembly dissolution and election date setting from the Governor, but the Governor refuses, who ultimately decides the election date? In response, the Lahore HC Single Bench issued a landmark ruling on February 10, 2023, exercising its constitutional powers under Article 199. This decision remains in full force and legally binding for affected parties in relevant writ cases, pending any potential challenges or modifications by higher authorities. You can find out if Article 199 of the Constitution allows this Court to issue an order against a High Court order, either directly or indirectly, within the scope of Article 184(3) if the constitution petitions and ongoing Suo Motu Case No.1/2023 proceedings are valid.

Invoking its authority under Article 184(3), the SCOP reviewed cases like Bhutto (1988) and Sharif (1993) to inform its decision. However, it's crucial to understand that the Court's ruling pertains solely to the specific circumstances of these cases and does not preempt ongoing writ applications under Article 199 in the HCs.

While a relevant decision exists under Article 199, the SCOP found no prior judgement where the HC explicitly addressed the particular question raised. Consequently, it invoked its exceptional authority under Article 184(3). This case highlights the significance of first views in legal matters. To fully understand the Court's decision, it is recommended to review key provisions of Articles 199 and 184.

The HC in Pakistan serves as a vital guardian of justice for both individuals and legal entities. According to the Constitution's provisions, it has the authority to hear cases and deliver verdicts on behalf of anyone who has suffered a legal wrong. This extends not only to individual citizens but also encompasses government bodies and legally recognised groups. However, HC power is not absolute. Its primary focus lies in protecting the fundamental rights enshrined in Chapter I of Part II of the Constitution. While individuals can directly approach the HC for such violations, any other entity seeking relief must demonstrate that they have already exhausted all other legal avenues. Additionally, Article 199 gives the SCOP the ultimate authority to enforce fundamental rights, particularly in matters deemed vital to the public interest. Therefore, despite its significant power, the HC operates within a well-defined legal framework. The judicial system maintains order and avoids conflicting decisions through a clear hierarchical structure while protecting individual rights. The right to approach the HC is thus a fundamental safeguard against injustice, balanced by limitations that uphold stability within the legal system. By understanding

these limitations and the HC's specific role in defending fundamental rights, individuals and legal entities alike can effectively navigate the Pakistani legal landscape and seek appropriate redress for any legal grievance they may encounter. The current situation poses a potential conflict with Article 184(3), which defines the original jurisdiction of the SCOP. While both the SCOP and HCs hold the power to enforce fundamental rights under Articles 199(1)(c) and 184(3), a crucial distinction emerges from Article 199(5). This clause excludes the SCOP and HCs themselves from the definition of "person," thereby limiting the application of Article 199's enforcement powers to them.

Navigating the Pakistani legal landscape requires a delicate dance between the SCOP and HCs, both powerful pillars upholding fundamental rights. Article 199 acts as a bridge, letting people work together while stopping direct interference by putting limits on things like Article 184(3)'s SCOP directives and not including these courts in the definition of "person." Striking this balance, as exemplified by the Chaudhry (1998), ensures a harmonious and effective system where mutual respect for boundaries fosters justice for all.

To avoid invoking Article 184(3), the SCOP cited two key arguments: first, its own panels can't review internal decisions, and second, Article 199 forbids writs against courts due to their equal standing with HCs, except in rare cases like judges acting as tribunals or facing quo warranto challenges. This emphasises the limitations and internal checks within the judicial system, ensuring a balanced and harmonious approach to legal matters.

In a decisive move, the SCOP affirmed the separation of its original and appellate jurisdictions. As cited by Raza (2018), it emphasized that Article 184(3) grants original jurisdiction, and its own rulings cannot be challenged. Similarly, it cannot use this Article to interfere in valid HC judgements under its own original authority (Article 184) or its appellate authority (Article 185). While the Court can review and overturn HC decisions it deems unlawful, this power stems solely from its appellate function, not its original jurisdiction under Article 184(3). This reinforces distinct boundaries between review and original action within the legal system.

Previous court rulings prohibit engaging in certain acts either directly ("per directum") or indirectly ("per obliquum") (PLD, 2018). Anything that leads to a prohibited action is also prohibited, as stated in the Latin phrase "Quando aliquid prohibetur, prohibetur et omne per quod devinetur ad illud." Article 175(2) of the Constitution outlines the jurisdiction explicitly granted to courts by the Constitution or by legislation. Any court, including this one, must not evade its fundamental obligation through deceit or other methods. Therefore, neither this Court nor a HC may promptly review a constitutional petition filed against any of the aforementioned parties, the petitioner, or any action or process conducted by the petitioner. Alternatively, they may use their discretionary power, as described in the aforementioned articles, to discreetly or indirectly deviate from previous decisions reached by any of them, as long as their determination is based on the same set of facts and subject matter. Therefore, the Court cannot issue any order, directly or indirectly, that contradicts a judicial order of a HC as outlined in Article 199, even when exercising its original jurisdiction as defined in Article 184(3). The Lahore HC Single Bench has already made a decision on the subject. Therefore, the court has deemed both SMC No. 1/2023 and the constitution petitions filed under Article 184(3) unconstitutional. This is due to the constitutional constraints outlined in Article 199(5) and Article 175(2) of the Constitution.

5. Applicability of the Doctrines of Stare Decisis and Res Judicata

Stare Decisis, or the Rule of Precedent, is a valuable tool in Common Law nations for interpreting the law to enhance legal predictability, stability, and clarity. Cardozo famously said that "Stare decisis are at least the everyday working rule of our law." Furthermore, our Constitution acknowledges this viewpoint. It is crucial to recognise that precedent functions as a tool, not an end in itself. When used effectively, it significantly promotes the objectives of justice by providing a framework for uniformity and precision in judicial decisions. Yet, reckless departures from established standards might undermine this framework, leading to a perception of injustice and uncertainty. By considering these factors, this research aims to make a modest contribution to the advancement of justice principles in our legal system.

Stare decisis is a fundamental legal principle derived from Latin that mandates courts to adhere to the precedents established by previous judgements. This assumption embodies the objective of maintaining predictability and stability in the legal system. The Latin saying "Stare Decisis et non quieta movere" highlights the importance of respecting established verdicts in court. These safeguards uphold judicial precedents established by higher courts within the framework of the Constitution of the Islamic Republic of Pakistan and its predecessors. Article 189 of the 1973 Constitution explicitly mandates compliance with SCOP decisions, underscoring its significance in shaping the interpretation and implementation of legislation. Furthermore, this concept pertains to decisions issued by superior courts, which have legal authority over all courts and individuals in Pakistan. The Pakistani legal system is based on reinforcing precedent via legal theory, which highlights the need for coherence and consistency in court rulings. Articles 203GG and 201 of the Constitution highlight the decisions of the Federal Shariat Court and High Court in the context of addition. This strengthens precedent's role in guiding judicial processes and ensuring fairness and justice in the application of the law. The Pakistani legal system's framework prioritises the significance of precedent in guiding court procedures, fostering uniformity, predictability, and adherence to the rule of law.

The SCOP grappled with how the Election Commission (ECP) should respond to the Lahore HC ruling. Articles 189 and 201 seem to say that all courts should follow SCOP decisions, but they also said that this might be in conflict with the "stare decisis" principle (which means following past decisions) and the "res judicata" doctrine (which means not having to go through the same problems again). But, the Court's previous decision that res judicata doesn't apply to legal matters (Pir Bakhsh case) makes it clear how to deal with this complicated situation, so there isn't much need for more legal gymnastics (PLD, 2018).

Stare decisis and res judicata both support finality, but they do so in different ways. Stare decisis sets binding examples for future cases based on the "ratio decidendi" of past rulings, while res judicata stops people from bringing the same legal dispute to court again. While stare decisis allows nuanced application to new facts, res judicata demands strict adherence to settled judgements, ensuring both precedent and individual closure coexist within the legal system.

Stare decisis and res judicata, though aiming for finality, walk different paths. Stare decisis draws legal principles (ratio decidendi) from past rulings, binding future cases even without the same parties and seeking clarity and predictability. Res judicata aims to prevent relitigation between the same parties or their privies by relying on the specific ruling of a prior case to end disputes, even if flawed findings were made. Stare decisis' reassessment power (PLD, 2018) allows both res judicata and stare decisis to overturn flawed judgements by sticking to legal principles.

Citing *res judicata* and avoiding legal chaos, the SCOP concluded that the Lahore HC Single Bench ruling binds the Election Commission and Punjab Governor. While appeals are ongoing, any conflict with that ruling requires an Article 185 appeal, not Article 184(3), as additional legal avenues exist. Similar to Article 226 in India, rejected petitions under Article 199 require respect for the HC judgment. Thus, this case falls outside the Supreme Court's purview under Article 184(3).

6. Conclusion

The Pakistani Constitution of 1973, particularly Article 184(3), establishes guidelines for using Article 199 to protect fundamental rights. The Pakistani Supreme Court has the power to potentially override the jurisdiction of high courts under Article 199 in cases related to the enforcement of fundamental rights mentioned in Chapter I of Part II of the Constitution that are of significant public concern. Article 184(3) grants the Supreme Court original jurisdiction to promptly address and safeguard fundamental rights. The Supreme Court frequently mentions "human rights" in "Human Rights Cases," even though the term is not defined in the 1973 Constitution. Articles 184(3) and 199 collectively facilitate understanding the full scope of human rights that need to be maintained. The idea of "human rights" is broad, but the Constitution's "fundamental rights" provide more precise definitions and limitations on the rights given to all Pakistani citizens.

Regardless of citizenship status, all individuals under Pakistan's territorial jurisdiction are entitled to certain fundamental rights. This thesis aims to analysis several aspects of the jurisdiction given to the Supreme Court by Article 184(3) of the Constitution, along with related concerns regarding the interpretation and enforcement of fundamental rights in Pakistan's legal system.

The Supreme Court has discretionary power that is intricate and requires prudence while examining its original jurisdiction as outlined in Article 184(3) of the Constitution. The previous instances, namely those involving Benazir Bhutto and Manzoor Elahi, emphasize the distinctive nature of this legal jurisdiction and the need to assess the validity of a case. These cases influence the legal framework within which the court operates, along with issues like the forum non convenience doctrine and concurrent jurisdiction with high courts. Furthermore, the examination of later cases, such as Farough Siddiqi, confirms the court's reluctance to entertain petitions that bypass the jurisdiction of the High Courts, especially when similar matters are already under consideration. When operating within its original jurisdiction, the Supreme Court unequivocally prohibits challenging or questioning the judgments, decrees, or orders of high courts, whether directly or indirectly. The constitutional limitations outlined in Articles 199(5) and 175(2) prohibit any court from issuing rulings that are inconsistent with each other. *Res judicata* adds an additional layer of complexity by highlighting that any attempts to circumvent a High Court judgment using Article 184(3) are considered illegal under Article 199. The verdict effectively reaffirms the principle that the Supreme Court should use its original jurisdiction sparingly, considering the hierarchical structure of the courts and the limitations imposed by the constitution. The primary focus is to promote justice, efficiency, and legal stability within the constitutional framework.

Authors Contribution:

Khurram Baig: Introduction section, and original draft.

Ali Raza Laghari: Justification of objectives, incorporate the comments and finalize the paper

Rehman Akhtar: Complete the Initial draft preparation and incorporate the comments

Waqas Ahmad: Proofread and comments incorporation

Conflict of Interests/Disclosures

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