

CONSTITUTIONAL TIMELINES AND LEGAL STATUS OF
CARETAKER GOVERNMENTS IN PAKISTANHaq Nawaz^{*1}, Dr. Manual Selvaraj Bexci²^{*1}PhD Social Sciences Arts & Humanities (Specialized in Law) Research Scholar
LINCOLN UNIVERSITY COLLEGE, MALAYSIA²Professor & Pro-Dean Faculty of Social Sciences Arts & Humanities, Lincoln University College, Malaysia^{*1}nawazlegal@gmail.comDOI: <https://doi.org/10.5281/zenodo.18043167>**Keywords**

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Corresponding Author: *

Haq Nawaz

Abstract

The research focuses on the legal and constitutional aspects of caretaker governments in Pakistan, especially beyond the 90-day constitutional limits. Army General Muhammad Zia-ul-Haq established the idea of caretaker governments in 1985; this idea was not included in the original 1965, 1962, and 1973 Constitutions. Its objectives are to provide continuity of governance, uphold peace and order, and guarantee free and fair elections in the interim between the dissolution of National and/or Provincial Assemblies and the election of a new government. The central research problem explores the constitutional and legal dimensions of the caretaker setup, examining its evolution and impact on the electoral process. The study delves into historical development, constitutional and legal status, functions, and limitations of caretaker governments, emphasizing their role in overseeing transparent elections. It also highlights instances of caretaker government actions extending beyond the constitutional timeframe, prompting constitutional and legal questions. The research design employs a qualitative approach, utilizing an extensive analysis of legal documents, constitutional provisions, court cases, and semi-structured interviews with key stakeholders. Thematic analysis is applied to collected data, revealing key themes related to historical development, constitutional dimensions, functions, controversies, and the impact of caretaker governments. The study identifies questions about the legal and constitutional necessity of caretaker governments, suggesting reforms for transparency and consensus-building due to a lack of specific guidelines. The study proposes to invoke the Supreme Court's advisory jurisdiction under Article 186 of the Constitution of the Islamic Republic of Pakistan 1973, for clarification on legitimacy of the caretaker governments beyond the fixed constitutional time limits of 90-day provided under Article 224. Historical developments, constitutional amendments, and legislative changes are explored, emphasizing the need for amendments to address constitutional ambiguities. In conclusion, the research offers a comprehensive exploration of the origin, evolution, and constitutional foundations of caretaker governments in Pakistan. It highlights the historical context, legal dimensions, and the need for specific guidelines and legislation. The study advocates for reforms to enhance transparency, consensus-building, and the appointment of neutral figures in

caretaker setups. The findings underscore the unique nature of Pakistan's caretaker government and its crucial role in ensuring free and fair elections, emphasizing the importance of addressing constitutional ambiguities through amendments. The research contributes significantly to constitutional law, political science, and governance in Pakistan, suggesting recommendations for future studies and amendments to empower caretaker governments.

INTRODUCTION

A caretaker government, sometimes denoted to as an interim government, is a transitional body established in Pakistan between the dissolution of the National and/or Provincial Assemblies and the establishment of a new government. Maintaining law and order, ensuring free and fair elections, and ensuring continuity of administration during this transitional period are the key goals of a caretaker government. The Caretaker Prime Minister of Pakistan and/or Caretaker Chief Ministers are in charge of this temporary arrangement.

In Pakistan, the caretaker governments usually composed of nonpartisan members chosen by mutual understanding between the leader of the opposition in the National Assembly and the departing prime minister, while the chief minister and the opposition leader participate in provincial assembly. In the event that an agreement cannot be reached, a caretaker prime minister, or chief minister, as the case may be, is nominated by a parliamentary committee made up of an equal number of members from the government and the opposition. These people are typically retired judges, public servants, or other impartial, independent people who are not associated with any political party. The goal of this selection procedure is to maintain the caretaker government's impartiality so that it may supervise impartial and free & fair elections in the country.

Remarkably, most of the world, with the exception of Pakistan, does not have a legal or constitutional requirement for the idea of a full-fledged caretaker government. It was originally enacted in the Islamic Republic of Pakistan's 1956, 1962, and 1973 constitutions. In Pakistan, non-elected officials are appointed to form an interim caretaker government to manage issues, in contrast to the worldwide standard where the elected government shifts into a "caretaker mode" once its term ends.

In line with a report published by Democracy Reporting International (DRI), a not-for-profit organization that aims to promote citizen involvement in politics, state accountability, and the global development of democratic institutions, Pakistan is the only democratic state having the caretaker setup of government for holding general elections in the country. (Majid, 2018)

In 1985, General Muhammad Zia-ul-Haq inserted the concept of caretaker government into the 1973 Constitution through the Revival of Constitution of 1973 Order, 1985 (RCO). The 1973 Constitution originally stated, prior to (RCO), that the prime minister and cabinet, as well as other executive heads of government, would hold their positions until a new government was elected or the National Assembly or provincial assembly's term came to an end. Regarding the caretaker governments, Joseph Stalin says "it's not the people who vote that count, it's the people who count the votes" (Khawar, 2023)

The idea of caretaker government by General Muhammad Zia-ul-Haq brought to Pakistan in 1985. This makes people wonder about its legal and constitutional necessity, especially since it wasn't in the original constitutions of 1956, 1962, or 1973. The research problem revolves around the constitutional and legal dimensions of the caretaker setup behind the constitutional limit of 90 days, its evolution, and its impact on the electoral process.

When the assemblies of Punjab and Khyber Pakhtunkhwa Provinces were dissolved on January 14th, 2023, and January 18th, 2023, respectively, the Chief Ministers in both instances provided advice to their respective Governors in accordance with Article 112(1) of the Constitution, recommending the dissolution of the Assembly. In the Punjab Province, the Governor opted not to act on the advice, leading to the automatic dissolution of the Assembly after 48 hours, as prescribed by law on the mentioned date.

Conversely, in the case of Khyber Pakhtunkhwa Province, the Governor heeded the advice and issued an order for the dissolution of the Assembly on January 14th, 2023. As outlined in clause (3) of Article 148, it is the constitutional responsibility of the Federation to ensure that the governance of each Province aligns with the provisions of the Constitution (Supreme Court of Pakistan, 2023).

The caretaker government setup will be appointed by the President or Governor as the case may be on the nomination of departing prime minister & leader of opposition for federation and in the province mutual understandings between chief minister and leader of opposition. In the event of a dispute, Article 224A procedures will be followed. The Prime Minister, the Chief Minister, and other members of caretaker cabinets, as well as their close relatives, are not permitted to immediately contest the general election to ensure the transparency in the country.

Article 224 (1A, 1B) & Sub Articles 1 to 6 of the Constitution of the Islamic Republic of Pakistan 1973 outline the processes and deadlines for elections and the appointment of caretaker governments within the framework of the National Assembly and Provincial Assemblies. It specified that, unless the Assembly is dissolved earlier, elections for the National Assembly or a Provincial Assembly shall be held within 60 days after the Assembly's term ends. (Qazi, Shams-ur-Haq, 2004, p. 128)

The caretaker system, which was intended to be assumed by the departing chief executive and the leader of the opposition, was incorporated into the constitution by 18th Amendment. The idea of a neutral caretaker administration was included in the constitution to guarantee a free and fair election process, preventing rivals in charge of the federal and provincial governments from manipulating the results.

The caretaker chief minister is required to be familiar with the responsibilities and roles of caretaker government as outlined in Elections Act of 2017 Chapter XIV. In this regard, it has been decreed that a Caretaker Government will carry out its duties by attending to the day-to-day operations that are essential to managing the Government's affairs; helping the Election Commission to conduct

elections in compliance with the law; limiting its actions to those that are ordinary, routine, urgent, non-controversial, in the public interest, and reversible by the subsequent Government elected by the elections; and remaining impartial towards each individual and political party.

In accordance with the spirit of Article 224 of the Constitution, which was also upheld and decided by the Lahore and Peshawar High Courts in various writ petitions under Article 199, as well as the verdict of the Supreme Court of Pakistan in *Suo-Moto* jurisdiction under Article 184(3) in various cases, particularly in *Suo-Moto* Case No.1/2023 for the conduct of general elections within 90 days, but it was delayed beyond the time limit stipulated under Article 224 under the pretext of poor security, a dire economic situation, a census, and other things. Eventually, the period of the Care Taker Cabinet was also automatically extended, raising constitutional and legal questions about the legitimacy of the caretaker setup and their actions beyond the aforementioned time frame.

The caretaker cabinet member is endowed with the same powers and responsibilities as the elected prime minister, chief minister, and ministers they succeeded. The acting prime minister and the chief ministers of the provinces have absolute authority to appoint persons of their choosing to important positions in the bureaucracy. The only restriction placed on the temporary administration is that the caretaker prime minister, chief ministers, ministers, and their spouses and children are not allowed participate any elections that are held during the temporary period.

The Election Commission's primary responsibility under Article 219(d) is to conduct general elections for the National Assembly and Provincial Assemblies. As a result, all executive bodies within the Federation and its provinces are required by Article 220 to support the Commission and the Election Commission in carrying out their respective responsibilities. Additionally, the Election Commission must schedule an election within ninety days of the assembly's dissolution in accordance with Article 224 subclause (2).

Article 4 of the Constitution of the Islamic Republic of Pakistan mandates that all State employees must act in compliance with the law. In this case, using the province of Khyber Pakhtunkhwa as an example, the provincial assembly was dissolved by the Governor in accordance with Article 112(1), acting at the Chief Minister's recommendation. In addition, the Election Commission is required by Article 218 Subclause (3) to supervise the election's planning and execution as well as to take any necessary actions to guarantee that it is conducted in a fair, just, and honest manner and that corrupt practices are avoided.

The aforementioned constitutional and legal provisions make it clear what the caretakers' legal status and mandate are. They are limited to carrying out the daily tasks required to manage the Government's affairs, meaning they can only engage in routine, urgent, and non-controversial activities. (Shah 2023)

Furthermore, what is the legal and constitutional standing of the caretaker arrangement in relation to the constitutional limit outlined in Article 224, among other questions? A straightforward interpretation of the Elections Act of 2017 and the Constitution's provisions shows that they have a limited duration and a mandate to hold elections within a given time frame, such as 60 or 90 days, depending on the situation. As stated in Article 148, clause (3), the Islamic Republic of Pakistan's constitution states that the Federation has a responsibility to "protect every Province against external aggression and internal disturbance and to ensure that the Government of every Province is carried on in accordance with the provisions of the Constitution."

In addition to defining the process for appointing a Caretaker Cabinet, Article 224 and its sub-articles stipulate that general elections must be held within 60 days of the assembly's dissolution if it occurs after its five-year term has expired, or within 90 days of the assembly's dissolution if it occurs before then. The procedures and timelines for elections and the formation of caretaker cabinets within the framework of the National Assembly and Provincial Assemblies are outlined in Article 224 (1A, 1B) & Sub Articles 1

to 6 of the Islamic Republic of Pakistan 1973 Constitution.

The study's objectives are to investigate the evolution of Pakistan's caretaker government historically, Evaluate the legal and constitutional standing of the caretaker arrangement, especially in light of Article 224.

Background:

The Interim Government of Pakistan, known as the Caretaker Government, is set up during the transitional phase following the dissolution of the National Assembly and/or provincial assembly, and before the formation of a new government in the country. The Caretaker Prime Minister of Pakistan or Caretaker Chief Minister, respectively, is in charge of this arrangement, which aims to hold and guarantee free and fair elections throughout the nation. Muhammad Zia-ul-Haq introduced the idea of a caretaker government to Pakistan in 1985. He reappointed the same cabinet in 1988 after dismissing government of Muhammad Junejo, the then-elected prime minister, but he did so without Junejo's supporters. A new election has taken place, so even though the Constitution does not require the appointment of a prime minister to head the caretaker government, the Supreme Court declared in 1990 that Junejo's removal and the subsequent dissolution of the National Assembly were unlawful. Ghulam Mustafa Jatoi took office as Pakistan's first Caretaker Prime Minister on August 6, 1990. Since then, there have been a number of acting prime ministers. The most recent one was Anwarul Haq Kakar, a senator from the Baluchistan Awami Party, who assumed the position on August 12, 2023, following the dissolution of the National Assembly.

In 2010, during the assembly of the parliament and political forces with the aim of restoring the 1973 Constitution to its original state and removing the changes made by Army General Zia and General Pervez Musharraf, the decision was made by lawmakers not only to retain Zia's modifications but also to enhance them. Clause 1 of Article 224 was replaced with the current clauses, 1A and 1B, by the 18th Amendment in 2010. According to Clause 1A, the president or governor will appoint a caretaker

prime minister or chief minister following consultation with the respective outgoing prime minister or chief minister and the head of the outgoing assembly's opposition.

The process of appointing caretaker governments was made clearer by this procedure. Caretaker prime ministers and chief ministers, as well as members of their immediate families, were expressly prohibited from running in the upcoming general elections by clause 1B. The goal of the amendment is to improve the process's impartiality and guarantee that the caretaker arrangement won't likely tamper with the elections. The Election Commission of Pakistan in its Code of Conduct for Political Parties and Candidates 2013 went one step further and forbade the caretaker prime minister, chief ministers, president, governors, and the majority of senior government cadres from taking part in the election campaign.

In order to prevent any attempts at manipulating or influencing the election, it is imperative that the interim government remains impartial and devoid of political affiliations. The authority of the president to appoint a caretaker prime minister or chief ministers of their choice has been curtailed by the 20th Amendment, enacted in 2012. Additionally, Article 224A has been incorporated into the Constitution by the 20th Amendment, ensuring that in cases where the Leader of the Opposition and the Prime Minister fail to reach a consensus on the caretaker prime minister's selection, the matter will be referred to a parliamentary committee. This committee, comprising an equal number of members from both political parties, will then make the appointment. Similarly, each province's caretaker chief minister is selected by a bipartisan committee consisting of six members from the provincial assembly. If these committees are unable to reach a decision within three days, the matter is forwarded to the Election Commission of Pakistan, which is legally obligated to make a decision within two days. Subsequent to the appointment of caretaker executives, the caretaker Prime Minister and Chief Ministers provide recommendations for the formation of federal and provincial caretaker cabinets. This amendment, known as the "Twenty Amendment" Act of 2012 (V

of 2012), introduced sections 8 and 9 to the Constitution. Top of Form

Holders of public office, such as ministers, the president, and the prime minister, will refrain from taking part in local politics. Public office holders are prohibited from participating in any way, including the president, prime minister, caretaker setup, governors, chief ministers, provincial ministers, chairman and deputy chairman of the senate, speaker and deputy speaker of an assembly, federal ministers, ministers of state, advisors to the governor and chief minister, mayors, chairmen, Nazim, and their deputies. (Yusuf, 2023)

The 20th Amendment was ratified in 2012, and it represented yet another important modification to the laws pertaining to caretaker governments. The amendment established the appointment of a caretaker cabinet akin to Article 224 by amending Article 48(5b). Additionally, Article 224A was added to provide a process for selecting the caretaker government in the event that the opposition leader and prime minister are unable to come to an agreement. (Amended for clauses 5 and 6 by Act, 2010 "10 of 2010," s. 15)

In compliance with the 1973 Constitution and the Elections Act of 2017, the primary goal of the interim government is to ensure transparent, equitable, and open elections. It is the interim government's responsibility to supervise a fair and impartial election process. This includes ensuring that voter registries are accurate and enforcing measures to prevent any fraudulent activity related to voting. A proposed law granted the caretaker government broad powers in 2023. This was opposed by cooperating parties, so the matter was put off. More discussion led to the decision to make a small change to the law. As a result, the interim government can only collaborate with donors belonging to specific nations or groups of nations. With some modifications, the interim government is still able to use its authority for ongoing plans, but not for new agreements. In order to implement this modification, Section 230 of the Election Act of 2017 will now include a new clause 2A.

Functions of the Caretaker Government

The functions of a caretaker government in Pakistan are outlined to ensure the smooth transition between elected governments and the conduct of free and fair elections. The caretaker government is mandated to handle day-to-day matters necessary for running the government, assist the election commission in holding elections, and limit its activities to routine, non-controversial, and urgent tasks in the public interest. Impartiality towards individuals and political parties is emphasized.

However, the caretaker government is restricted from making major policy decisions, entering into significant contracts, conducting major international negotiations, making promotions or major appointments, transferring public officials, and attempting to influence elections. The need for clear guidelines for the caretaker government has been highlighted by the Supreme Court, but no legislation has been introduced to define its parameters until 2017.

Despite the Supreme Court's call for guidelines on caretaker government activities, no legislation was enacted until 2017. The Election Act of 2017 was passed, specifying the powers, functions, prohibitions, and objectives of the caretaker government. The primary responsibility is to ensure free, fair, and transparent elections. It provides a legal framework, specifying the powers, functions, and limitations of the caretaker government. The selection process for the caretaker Prime Minister has faced criticism for lack of transparency, consensus, and potential bias. Proposed reforms include increased transparency, consensus-building, appointing neutral figures, and involving parliament in the selection process.

The caretaker government is tasked with responsibilities such as overseeing free and fair elections, upholding law and order, ensuring the continuity of governance, managing budgetary and financial matters, monitoring the performance of the outgoing government, representing the country on the international stage, and maintaining political neutrality. However, the process of selecting the caretaker Prime Minister has faced criticism due to perceived shortcomings in transparency, consensus-

building, and the potential for bias. To address these concerns, suggested reforms include enhancing transparency, fostering consensus, appointing neutral figures, and involving the parliament in the selection process.

In 2023, amendments were approved, granting additional powers to the caretaker government to make important decisions and engage with international institutions. This includes handling existing bilateral and multilateral projects with institutions like the World Bank and IMF. The amendments aim to empower caretaker governments to address economic challenges and manage significant agreements during their interim tenure. These changes empower the caretaker government to handle existing projects with international institutions amid economic challenges.

Notable caretaker Prime Ministers in Pakistan's history include Moeen Qureshi from July 18th, 1993 to October 19th, 1993, Malik Meraj Khalid from November 5th, 1996 to February 17th, 1997, Muhammad Mian Soomro from November 15th, 2007 to March 25th, 2008, Nasir-ul-Mulk from June 1st, 2018 to August 18th, 2018, and Hassan Askari Rizvi from June 1st, 2018 to August 18th, 2018. Their appointments prioritize neutrality, impartiality, and the ability to conduct free and fair elections.

Understanding the origin and evolution of the caretaker government in Pakistan is crucial to appreciate its significance in ensuring a smooth transition of power and conducting transparent elections. The research seeks to shed light on the legal and constitutional framework surrounding the caretaker setup, addressing any ambiguities and assessing its impact on democratic governance. The motivation stems from the need to provide insights into the functioning of caretaker governments, contributing to informed discussions on electoral processes and constitutional governance in Pakistan.

Literature Review:

The literature surrounding caretaker governments in Pakistan encompasses various constitutional, and legal aspects. Key references include the Supreme Court of Pakistan's *Suo Motu Case No. 1 of 2023*, which specifically addresses the holding of general

elections to the Provincial Assemblies of Punjab and Khyber Pakhtunkhwa. Additionally, Shams-ur-Haq Qazi's work on the Constitution of the Islamic Republic of Pakistan provides a foundational understanding of the legal framework governing caretaker governments.

Various articles and opinion pieces, such as those by Shah, Solangi, Khawar, Malik, Majid, and Aamir Saeed, contribute to the discourse by discussing the constitutional position of caretakers, their role in the democratic process, and the amendments and additional powers granted to them by the parliament. Wikipedia serves as a comprehensive source summarizing the historical context and evolution of caretaker governments in Pakistan.

Supreme Court of Pakistan Suo Motu Case (2023): The Supreme Court's Suo Motu Case No. 1 of 2023 focuses on the holding of general elections to the Provincial Assemblies of Punjab and Khyber Pakhtunkhwa. This legal document serves as a key reference for understanding the constitutional context and legal basis for caretaker governments during election periods.

Shams-ur-Haq Qazi (2004): Shams-ur-Haq Qazi's work provides insight into the constitutional framework of Pakistan, specifically highlighting amendments to the Constitution up to 1973. This foundational reference aids in understanding the legal underpinnings of the caretaker government, particularly in relation to Article 224.

Shah, S. A. A. (2023): The Express Tribune article by Shah emphasizes the constitutional position of caretakers under Article 4. It sheds light on the obligation of every state functionary to act in accordance with the law, offering a perspective on the legal principles guiding the actions of caretaker governments.

Solangi, M. (2023): Solangi's article provides insights into the continuation of caretaker governments in Punjab and Khyber Pakhtunkhwa until October. The piece explores the reasons behind this extension, contributing to an understanding of the practical considerations surrounding caretaker administrations.

Khawar, U. (2023): Khawar's Dawn article critically analyzes the procedural challenges associated with

caretaker governments in Pakistan. The reference provides a viewpoint on the problematic aspects of the caretaker setup, adding a layer of scrutiny to the existing literature.

Syed Barkat Mujtaba (2023): The Nation's article discusses the requirement for the Election Commission to seek Supreme Court permission for a new Punjab caretaker setup. This reference adds a legal perspective to the dynamics between the judiciary and the electoral process.

Shahzad F. Malik (2023): The article retrieved from csstimes.pk delves into the role of caretaker governments in Pakistan's democratic process. Malik's work contributes insights into the broader political context and the significance of caretaker administrations.

Majid, H. (2018): Hurmat Majid's Dawn article, dated May 24, 2018, explores the rationale behind having a caretaker government and the purposes it serves. This historical perspective adds depth to the review, tracing the evolution of the caretaker government's role.

Wikipedia (2023): The Wikipedia entry on the caretaker government of Pakistan provides a concise overview of historical and procedural aspects. While not a primary academic source, it offers a quick reference point for readers seeking a broad understanding of the topic.

News Desk (2023): The Express Tribune's explainer on National Assembly dissolution and the caretaker setup contributes to the literature by elucidating the relationship between these two crucial aspects of the electoral process.

Aamir Saeed (2023): Aamir Saeed's article in Arab News reports on Pakistan's parliament granting additional powers to the caretaker government ahead of polls. This news source adds a contemporary perspective on the evolving dynamics of caretaker governance.

Staff Report (2023): 'The Pakistan Today' article discusses the Pakistan Tehreek-e-Insaf's (PTI) decision to move the Supreme Court against interim governments in Punjab and Khyber Pakhtunkhwa as the 90-day tenure ends. This reference provides insight into the political implications and legal challenges associated with caretaker governments.

In conclusion, the literature review synthesizes diverse sources to offer a comprehensive understanding of the caretaker government in Pakistan, constitutional, encompassing legal foundations and contemporary challenges. The combination of legal documents, news articles, and opinion pieces provides a nuanced perspective on this vital component of Pakistan's democratic process.

The literature explores several key theories and concepts related to caretaker governments in Pakistan. One prominent theme is the constitutional underpinning of caretaker positions, as highlighted in Shams-ur-Haq Qazi's constitutional analysis. The literature also delves into the theoretical aspects of the caretaker government's role in ensuring a fair and transparent electoral process, as discussed by various authors such as Shah, Malik, Majid, and Aamir Saeed. The concept of the caretaker government's temporary and neutral nature, aimed at overseeing the electoral process without bias, is a recurring theme. The interplay between constitutional provisions, legal requirements, and the practical implementation of caretaker governments forms a central aspect of the theoretical discussion.

Despite the wealth of information, there are gaps and controversies within the literature. The literature hints at controversies surrounding the, time frame, procedural aspects of caretaker government formation, as indicated by references such as Syed Barkat Mujtaba's article, suggesting that the Election Commission must seek Supreme Court permission for a new caretaker setup.

The problematic procedure of caretaker government, as highlighted by Khawar, further underscores controversies within the literature. The potential challenges and controversies surrounding the dissolution of the National Assembly and the setup of caretaker governments are explored in the article by the Express Tribune. The theoretical framework emerges from a synthesis of legal, constitutional, and procedural aspects discussed in the literature. The Constitution of Pakistan, as amended, serves as the foundational document, providing the legal framework for caretaker governments. The theoretical framework also incorporates the principles of neutrality, fairness, and transparency in electoral

processes as fundamental objectives of caretaker governments.

The controversies and gaps identified in the literature contribute to the theoretical framework, emphasizing the need for a clear and robust procedural mechanism for caretaker government formation. The interplay between constitutional provisions, legal requirements, and practical challenges forms the theoretical basis for understanding the role and significance of caretaker governments in Pakistan's democratic process.

Methodology

The research design for this study adopted a qualitative approach. Qualitative research was deemed suitable for exploring complex phenomena, understanding social processes, and providing in-depth insights into the contextual aspects of the research problem. Given that the study aimed to examine the historical development, constitutional and legal status, functions, and impact of caretaker governments in Pakistan, qualitative research methods allowed for a comprehensive exploration of these dimensions.

The primary data collection method involved a thorough analysis of legal documents, constitutional provisions, and relevant court cases. This included an in-depth examination of the Constitution of the Islamic Republic of Pakistan 1973, particularly Article 224, along with legal opinions, judgments, and amendments related to caretaker governments.

Semi-structured interviews were conducted with key stakeholders, including legal experts, constitutional scholars, members of caretaker governments, and officials from the Election Commission. These interviews provided valuable perspectives on the historical evolution, legal nuances, and practical challenges associated with caretaker governments. Furthermore, news articles from reputable sources, as identified in the literature review, were subjected to content analysis. This helped capture public discourse, controversies, and contemporary issues related to caretaker governments.

Key informants such as legal experts, constitutional scholars, and former members of caretaker governments were selected purposively based on their

expertise and involvement in relevant processes. This technique was employed to identify additional participants who might have valuable insights into caretaker governments, especially those who might not be easily accessible through conventional channels.

The collected data, including legal documents, interview transcripts, and news articles, underwent thematic analysis. Themes related to the historical development, constitutional and legal dimensions, functions, controversies, and impact of caretaker governments were identified. While governments in Pakistan by comparing constitutional provisions across different amendments and historical periods. News articles and opinion pieces were subjected to content analysis to extract patterns, recurring themes, and public sentiments regarding caretaker governments. A legal analysis was also conducted to assess the constitutional validity of the caretaker setup, especially in relation to Article 224 and other relevant legal provisions.

Prior informed consent was obtained from all participants involved in interviews. Participants were assured of the confidentiality and anonymity of their responses. All collected data was securely stored and accessible only to the research team. The research was conducted with a commitment to integrity, accuracy, and impartiality in presenting findings. By adopting a qualitative research approach and employing a mix of document analysis, interviews, and content analysis, this study aimed to provide a comprehensive understanding of the caretaker government in Pakistan, shedding light on its historical evolution, legal dimensions, controversies, and impact on the democratic process.

Results:

The research on caretaker governments in Pakistan unveils critical aspects related to their origin, evolution, constitutional and legal foundations, and their impact on the electoral process. The caretaker government, introduced in 1985 by Army General Muhammad Zia-ul-Haq, raises questions about its legal and constitutional necessity, given that it was not originally part of the 1956, 1962, and 1973 constitutions.

The primary functions of caretaker governments, as outlined in the Constitution and the Elections Act of 2017, were to ensure the smooth transition of power, conduct free and fair elections, maintain law and order, and provide continuity of governance during the transition period. However, the research identified a lack of specific guidelines and legislation defining the parameters of caretaker government activities, calling for reforms to enhance transparency, consensus-building, and the appointment of neutral figures.

The constitutional limit of 90 days for the caretaker setup, as prescribed under Article 224, became a focal point of discussion. While the Constitution did not explicitly provide for the caretaker government's continuation beyond 90 days, the absence of clarity raised legal and constitutional questions. It is noteworthy that Article 254 stipulates that if any act or obligation mandated by the Constitution within a specified timeframe is not fulfilled within that period, the act or obligation shall not be rendered invalid or ineffective solely due to the lapse of time. Hence, the conduct of elections beyond the prescribed terms outlined in Article 224 does not invalidate the presence and legal actions of the caretaker governments beyond the time limit specified by Article 224. However, considering the current circumstances, a more detailed interpretation of Articles 224 and 254 is considered essential. Therefore, it is suggested to invoke the advisory jurisdiction of the Supreme Court under Article 186 to seek clarity on the legitimacy of caretaker governments beyond the stipulated period of 90 days, as specified in Article 224, in light of the current circumstances.

The research also delved into historical developments, constitutional amendments, and legislative changes related to caretaker governments, emphasizing the need for amendments to address constitutional ambiguities. It highlighted the role of caretaker governments in overseeing elections, managing day-to-day affairs, and refraining from major policy decisions during their limited tenure. Furthermore, the research explored the impact of caretaker governments on the electoral process and democratic governance in Pakistan. It identified key

figures in the history of caretaker governments and their role in ensuring neutrality, impartiality, and the conduct of free and fair elections. The study emphasized the significance of understanding the historical context and evolution of caretaker governments to assess their impact on democratic governance.

The data analysis revealed that the introduction of caretaker governments in Pakistan was a deviation from global norms, with Army General Muhammad Zia-ul-Haq incorporating the concept in 1985. The study indicated that the caretaker government's constitutional and legal status was essential for ensuring a fair electoral process, but the lack of specific guidelines raised concerns about its functions and limitations. The examination of constitutional provisions, such as Article 224, and amendments like the 18th & 20th Amendments in 2010 & 2012 respectively, provided insights into the legal framework surrounding caretaker governments. The research underlined the need for amendments to address constitutional ambiguities, especially regarding the caretaker government's duration beyond the prescribed 90 days limit fixed under Article 224 of the Constitution of Islamic Republic of Pakistan 1973.

The research interpreted the functions of caretaker governments as outlined in the Constitution and the Elections Act of 2017, emphasizing their responsibility to conduct free and fair elections, maintain law and order, and provide continuity of governance. The legal limitations imposed on caretaker governments, such as refraining from major policy decisions and participating in elections, were essential components of their role. The analysis also shed light on the historical context, noting that the caretaker government's concept was not part of original constitutions of 1956, 1962 & 1973. The study explored the impact of constitutional amendments, judicial interpretations, and political negotiations on the evolution of caretaker governments, emphasizing their crucial role in the democratic process.

The discussion of results centered on the research questions and hypotheses related to caretaker governments in Pakistan. The findings highlighted

the constitutional and legal dimensions of the caretaker setup, especially in light of Article 224 and its prescribed 90-day limit. The study revealed the unique nature of the Pakistani caretaker government compared to global practices and raised questions about its necessity, given its absence in earlier original constitutions.

The examination of the dissolution of provincial assemblies in 2023 and the subsequent establishment of caretaker setups underscored the constitutional duties and obligations in ensuring a smooth transition. The study pointed out that while the Constitution provided a timeframe for conducting general elections within 90 days, it lacked clarity on the caretaker government's continuation beyond this period.

The research emphasized the importance of seeking clarity through the advisory jurisdiction of the Supreme Court under Article 186 to address constitutional ambiguities and ensure adherence to the prescribed 90-day limit. It also discussed proposed amendments to empower caretaker governments, especially in economic matters, while maintaining the need for reforms to enhance transparency and neutrality in the selection process.

Overall, the discussion provided a comprehensive overview of the research findings, linking them back to the initial research questions and hypotheses. It called for constitutional amendments, legal clarity, and reforms to strengthen the role of caretaker governments in facilitating fair and transparent elections in Pakistan.

Discussion

The examination of caretaker governments in Pakistan has provided insights into their origin, evolution, and constitutional foundations. The research underscores the critical role these entities play in ensuring a smooth transition of power and facilitating free and fair elections. The absence of specific guidelines and legislation defining the parameters of caretaker government activities has been identified as a significant concern. The interpretation of the results emphasizes the need for reforms to enhance transparency, consensus-building, and the appointment of neutral figures.

The study also highlights the importance of legal and constitutional clarity, particularly regarding the 90-day limit prescribed under Article 224. On the other hand, it is interesting to note that Article 254 denotes that "When any act or thing is required by the Constitution to be done within a particular period and it is not done within that period, the doing of the act or thing **shall not be invalid** or otherwise ineffective by reason only that it was not done within that period" (Ali, 2023). Therefore, apparently, it seems that merely holding elections after the terms fixed under Article 224 does not invalidate the acts of the caretaker government behind the time limit fixed under Article 224. Still, the call to invoke the advisory jurisdiction of the Supreme Court under Article 186 adds a dimension of legal interpretation to the findings, aiming to address existing ambiguities and legitimize the continuation of caretaker governments beyond the stipulated period.

Comparing the findings with existing literature reveals the unique nature of caretaker governments in Pakistan, introduced in 1985 by Army General Muhammad Zia-ul-Haq. The absence of this concept in earlier original constitutions raises questions about its necessity and constitutional validity. The study delves into historical developments, constitutional amendments, and legislative changes, positioning caretaker governments within the broader context of Pakistan's democratic governance. The research identifies the need for amendments to address constitutional ambiguities, particularly regarding the duration of caretaker governments beyond the prescribed 90 days limit. This comparative analysis highlights the deviation from global norms and emphasizes the significance of understanding the historical context and evolution of caretaker governments to assess their impact on democratic processes.

The implementation of the research findings suggests a two-fold approach. First, it advocates for constitutional amendments to provide a clear legal framework for caretaker governments, addressing the identified ambiguities. Second, the study underscores the significance of reforms to enhance transparency and neutrality in the selection process of caretaker figures. The proposed amendments aim to empower

caretaker governments, especially in economic matters, while ensuring adherence to the 90-day limit prescribed by Article 224. The research findings highlight the crucial role of caretaker governments in overseeing elections, managing day-to-day affairs, and refraining from major policy decisions during their limited tenure. Overall, the significance of the findings lies in strengthening the role of caretaker governments to facilitate fair and transparent elections in Pakistan and contribute to the democratic process.

While the research provides valuable insights into caretaker governments in Pakistan, certain limitations need acknowledgment. The study primarily focuses on the constitutional and legal dimensions, leaving potential socio-political aspects unexplored. Additionally, the lack of specific guidelines and legislation for caretaker government activities raises questions about the practical implications of their roles and responsibilities. The research suggests invoking the advisory jurisdiction of the Supreme Court for clarity, but the feasibility and potential challenges of this approach remain unaddressed. Furthermore, the examination of the dissolution of provincial assemblies in 2023 serves as a specific case study, limiting the generalizability of findings. Despite these limitations, the study serves as a foundation for future research, encouraging a more comprehensive exploration of caretaker governments' multifaceted nature and their impact on the broader political landscape in Pakistan.

Conclusion

In conclusion, the research on caretaker governments in Pakistan has yielded significant insights into their origin, evolution, constitutional and legal foundations, and their impact on the electoral process. The study, which explored the historical context and legal dimensions of caretaker governments, has provided valuable summaries of key findings, contributions to the fields, and recommendations for future research.

The research unearthed critical aspects related to the introduction of caretaker governments in 1985 by Army General Muhammad Zia-ul-Haq, raising questions about their legal and constitutional

necessity. The study highlighted the primary functions of caretaker governments, emphasizing the need for specific guidelines and legislation to define their parameters. The constitutional limit of 90 days became a focal point of discussion, calling for legal clarity through the advisory jurisdiction of the Supreme Court. The analysis of historical developments underscored the role of caretaker governments in overseeing elections and managing day-to-day affairs, noting their deviation from global norms. The findings revealed the unique nature of the Pakistani caretaker government compared to earlier original constitutions and emphasized the importance of amendments to address constitutional ambiguities.

The research contributes significantly to the fields of constitutional law, political science, and governance in Pakistan. It provides a comprehensive overview of the constitutional and legal dimensions of caretaker governments, shedding light on their historical context and evolution. The study identifies the challenges and shortcomings in the current framework, emphasizing the need for reforms to enhance transparency, consensus-building, and the appointment of neutral figures in caretaker setups. Furthermore, it highlights the impact of caretaker governments on the electoral process and democratic governance, emphasizing their crucial role in ensuring free and fair elections. The research also contributes to the ongoing discourse on constitutional amendments and legal clarity surrounding caretaker governments.

Building on the findings, the research suggests several recommendations for future studies. Firstly, there is a need for further exploration of the historical context and evolution of caretaker governments, including an in-depth analysis of constitutional amendments, judicial interpretations, and political negotiations that have influenced their development. Additionally, future research could delve into comparative analyses with caretaker systems in other countries to draw insights for potential improvements in Pakistan's framework. The study recommends continued scrutiny of the legal and constitutional aspects, particularly the advisory

endeavors aimed at strengthening the constitutional and legal framework surrounding caretaker governments in Pakistan.

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