

An Analysis of Zulfiqar Ali Bhutto's Trial beyond the Acknowledgement of Miscarriage of Justice

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Abstract

The trial of Zulfiqar Ali Bhutto was one of the landmark cases in the history of Pakistan. This case has always been in talk since its beginning. But now the question rises that to what extent the opinion of Supreme Court's 2024 Judgment affects the legal and constitutional value. This Article seeks to explore how the Supreme Court's 2024 judgment in Zulfiqar Ali Bhutto's case re-examines the fairness of Bhutto's 1979 trial in light of constitutional and procedural guarantees. This Article tries to go beyond the plain description of judicial bias, and instead puts forward a doctrinal evaluation, in a more organized way, of the 1979 proceedings against the Article 10-A of the Constitution of Pakistan 1973 and the International human rights benchmarks, especially ICCPR Article 14. This Article adopts the doctrinal research methodology. The results indicates that Bhutto's trial was not just an authoritarian rule. Instead it comes off as a wider kind of systemic procedural breakdown where the statutory steps were used as instruments to undermine the constitutional safeguards. The article suggests that the legacy of the Bhutto's case may not be limited to historical acknowledgment only, rather it may serve as a basis for developing a stronger constitutional framework for preventing and responding to the miscarriages of justice..

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1. Introduction

The principle of fair trial stands as the backbone of the legal stability and constitutional democracy. Fair Trial guarantees that people are not to be deprived of life or freedom by the State without following official, fair, and unbiased procedures. "The right to a fair trial is a principle of international human rights and this principle is intended to shield people from

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arbitrary and unlawful arrests as well as the denial of other fundamental human rights.”³ The trial, conviction, and execution of Zulfiqar Ali Bhutto have left a solemn and dark legacy in the judicial history of Pakistan. History of Pakistan has never seen a case that has been hanging like a dark shadow over the integrity of the institutions like the trial, conviction, and execution of Zulfiqar Ali Bhutto. In the judicial history of Pakistan the case of Zulfiqar Ali Bhutto still stands as a case of political, constitutional and legal debate. This case went far beyond the allegation of murder of the ex-Prime Minister. But also raise a question on the basic principles of independence of judiciary, transparency of trial, constitutional rights and rule of law. Almost after 45 years, Supreme Court of Pakistan in 2024 giving its opinion accepted that the standards of due process and fair trial were not met.⁴ It is reported that Supreme Court has acknowledged the miscarriage of justice but still it could not cancel the punishment. And was ultimately in vain because Bhutto had already been executed, highlighting the concept that “justice delayed is justice denied” therefore, this acknowledgement established a milestone in Pakistan’s constitutional history.⁵ Yet, the historic admission raises a significant academic question: if opinion of Supreme Court in 2024 in Bhutto’s case had already described judicial bias and political pressure, what exactly is the fresh legal value of revisiting this case today?

The role of this Article lies between historical criticism and the current constitutional theory. This Article, however, takes a different approach and takes the 2024 opinion of Supreme Court as a prism to examine the 1979 trial procedures in relation to the Article 10-A, Constitution of Pakistan 1973 (inserted through the 18th Amendment) and Article 14 of the International Covenant on Civil and Political Rights (ICCPR).

This Article also examines the effects of political interference on judicial independence and the integrity of the trial, including issues of evaluation of evidence, Defence rights and unbiased adjudication. Issues concerning the independence of the judiciary, the political context of the trial, process and overall fairness of the proceedings were raised. It also examines the importance of the Supreme Court’s 2024 decision recognizing that the trial did not adhere to constitutional requirements. It reflects its larger implications with respect to judicial accountability, precedent and rights to fundamental rights in the framework of the Pakistani legal system.

However, the Court simultaneously held that the Constitution and law did not provide a mechanism through which the final judgment could be set aside because the judgment had attained finality after dismissal of the review petition.⁶ This makes the central problem studied in this article. If the Supreme Court acknowledges that a person was denied a fair trial and due process, what may be the constitutional and legal consequence of that finding?

³ Jamali, Nadir Hussain, Yanyou Yi, Hongyao Wu, Abdul Ghaffar Khoso, Waqar Fazal Mahar, and Almas Bano. "A Comparative Analysis of the Right to a Fair Trial in Pakistan in Context with ICCPR's Set out Standards." *Beijing Law Review* 15, no. 1 (2024): 231-248.

⁴ *Zulfiqar Ali Bhutto v. The State, Presidential Reference No. 1 of 2011(PLD 2024 SC 509)*

⁵ Musaddiq, Aiza, and Aina Nadeem. "Wrongful Convictions in Death Penalty: Effects of Systematic Failures on Rule of Law Hampering Fair and Just Punishment." *Journal of Law & Social Studies (JLSS)* 7, no. 1: 65-72.

⁶ *Zulfiqar Ali Bhutto v. The State, Presidential Reference No. 1 of 2011(PLD 2024 SC 509)*

The ongoing debate around the Bhutto Reference has been mostly about fairness of the trial, the validity of the verdict and the recognition of the Supreme Court of the shortcomings of the trial. This article goes beyond these questions. The key question that remains unanswered, the article argues, is between recognition of injustice in the constitution and the availability of an effective remedy. This article refers to this phenomenon as the “Recognition–Remedy Gap.” The article’s central argument is that the Bhutto Reference represents a significant development in constitutional accountability as it is reported that the judicial process had failed to meet the requirements of fair trial and due process.⁷ However, the constitutional framework remains insufficiently developed in dealing with the consequences of such a finding. The absence of an effective remedial mechanism creates a situation where a constitutional court can recognize a serious miscarriage of justice but may be unable to provide meaningful corrective relief.

The article therefore proposes that Pakistan’s constitutional jurisprudence may develop a carefully limited remedial framework for exceptional cases involving serious and established violations of fundamental rights, particularly where the violation has affected the integrity of the judicial process itself.

1.1 Zulfiqar Ali Bhutto’s Case

This study analyzes the groundbreaking judgment of *Zulfiqar Ali Bhutto Vs State* (PLD 1979 SC 53) and its subsequent review by the judiciary in the case of *Reference No.1 of 2011* (PLD 2024 SC 509). The study looks at both cases from a factual background, legal questions and argumentative points and judicial outcomes.

1.1.1 Zulfiqar Ali Bhutto Vs The State (PLD 1979 SC 53)

The case emerged from a supposed conspiracy which aimed to kill Nawab Muhammad Ahmad Khan Kasuri who was the father of Ahmed Raza Kasuri. Zulfiqar Ali Bhutto, among others, was accused of orchestrating the murder. The Lahore High Court conducted the trial which resulted in Bhutto receiving a death sentence after his conviction. The appeal of these criminal cases reached the Supreme Court of Pakistan. The Supreme Court decided to uphold the conviction and death sentence with a 4-3 vote. It was alleged that The Zia-ul-Haq military regime controlled both the trial and appeal process which generated suspicions about political powers affecting judicial decisions. On 4th April 1979 Bhutto was shot dead by the military regime of General Zia-ul-Haq.⁸

⁷ *Zulfiqar Ali Bhutto v. The State, Presidential Reference No. 1 of 2011* (PLD 2024 SC 509)

⁸ Khan, Hamid. *Constitutional and Political History of Pakistan*. 3rd ed. Karachi: Oxford University Press, 2017.

1.1.2 *Zulfikar Ali Bhutto v. The State, Presidential Reference No. 1 of 2011(PLD 2024 SC 509)*

In 1978 the Lahore High Court (LHC) held a trial for Zulfikar Ali Bhutto was charged with the murder of Muhammad Ahmad Khan Kasuri. The LHC convicted Bhutto and sentenced him to death which the Supreme Court of Pakistan later upheld decision that was documented in *PLD 1979 SC 53..* The PPP government (2008-2013) under President Asif Ali Zardari placed the matter under Presidential Reference No.1 of 2011. The reference asked the Court to rule on whether Bhutto received a fair trial and whether the court's verdict in his case were in accord with the principles of due process, fair trial and fundamental rights provided by the Constitution. On March 6, 2024, the nine-member bench presided by Chief Justice Qazi Faez Isa unanimously gave an advisory opinion that the trial and appeal that took place in 1979 did not meet the constitutional standards of fair trial and due process.⁹

2. Comparative Analysis

2.1 Fair Trial as a Fundamental Right

The constitutionally required protection of fundamental rights includes the right to a fair trial. "Fundamental principle of right to fair trial is presumption of innocence; every accused is presumed to be innocent unless proven guilty by a competent Court and by observing safeguards and requirements in the context of a fair trial."¹⁰ A fair trial requires independent and impartial hearings, and is a fundamental entitlement referenced in international treaties such as the UDHR and the ICCPR.¹¹ However it is alleged that the 1979 decision lacked proper legal recognition for fair trial rights. As the former Chief Justice of the High Court, Maulvi Mushtaq Hussain, deliberately denied Zulfiqar Ali Bhutto the opportunity for a free and fair trial.¹² The fair trial standards includes the right to a public hearing, the presumption of innocence, information of the charges, sufficient time and resources to prepare a defense, the right to counsel and mandatory legal representation, the right to an interpreter and the right not to be tried under retroactive legislation.¹³ While the the Constitution of Pakistan specifically provides for the right to a fair trial in Article 10A, which elevated it to the status of a fundamental right within the national legal framework.¹⁴ Incorporation of Article 10A

⁹ *Zulfikar Ali Bhutto v. The State, Presidential Reference No. 1 of 2011(PLD 2024 SC 509)*

¹⁰ *Shahid Ali Vs The State (P L D 2026 Supreme Court 126)*

¹¹ Prawira, M. Rizki Yudha. "Reconceptualizing Justice: Utilizing The Fair Trial Principle As A Standard For A States' Criminal Justice Systems." *Ius Comparatum: Journal of Law Studies* 1, no. 2 (2025): 21-38.

¹² Shah, Noman Ali, and Faisal Awais. "Critical Analysis of Partiality of Judges and its Impact on Legal Landscape of Pakistan." *Annals of Human and Social Sciences* 5, no. 4 (2024): 41-51.

¹³ Mairaj, Muhammad Usman, Muhammad Rustam Abbas Tullah, and Hafiz Muhammad Azeem. "Fair Trial Rights of the Accused: Evaluating Compliance with International Human Rights Standards in Pakistan." *Pakistan Research Journal of Social Sciences* 3, no. 2 (2024).

¹⁴ Mairaj, Muhammad Usman, Muhammad Rustam Abbas Tullah, and Hafiz Muhammad Azeem. "Fair Trial Rights of the Accused: Evaluating Compliance with International Human Rights Standards in Pakistan." *Pakistan Research Journal of Social Sciences* 3, no. 2 (2024).

made fair trial a constitutional right justiciable by the Court and formed the basis of the Court's arguments in 2024.

The judgment of 2024 sets out the principles of the concept of fair trial as essential rights, which are the core of constitutional governance. The Court advanced its arguments relying on Article 10A of the constitution of Pakistan 1973 that the provision existed after Bhutto's trial while the Court recognized current understanding of due process and impartial adjudication as fundamental components of constitutional justice. The right to a fair trial is one of the most fundamental rights that underpin the rule of law.¹⁵ The historical assessment of legal proceedings can be evaluated through constitutional fairness standards which maintain their enduring validity even when explicit constitutional provisions were not present.

2.2 Procedural Integrity and Due Process

Due process is the foundational principle for any democratic judicial system, emphasizing fairness, reasonableness, and efficiency.¹⁶ In the 1979's judgment of Bhutto's case Court found no procedural irregularities which would have invalidated the trial but later the 2024 Court found multiple due process violations which invalidated the previous court proceedings.

The trial of Zulfikar Ali Bhutto raised doubts about whether the judicial system maintained essential standards of procedural fairness throughout its legal proceedings. It was alleged that the proceedings took place under military control because martial law has been enforced.¹⁷ The state institutions which included the judiciary system faced threats to their independence because of the existing situation. The political situation during that time period created conditions which made judges and political events work together, thus reducing public trust in the fairness of the legal system. "Wrongful convictions in the death penalty remove the trust of society in the justice system, which in turn results in social and economic problems. The angle they look at the justice system and law changes destructively."¹⁸

The accused person has the right to defend himself through an unbiased and effective defense presentation that serves as an essential component of procedural fairness. Critics of Bhutto's trial process claim that the trial proceedings between the prosecution and defense did not demonstrate equal rights for both parties. "From insufficient legal representation for Bhutto to faulty investigation methods and violation of the right to a fair trial, this case demonstrates

¹⁵ Clooney, Amal, and Philippa Webb. *The right to a fair trial in international law*. Oxford University Press, 2020.

¹⁶ Grossi, Simona. "Procedural due process." *Seton Hall Cir. Rev.* 13 (2016): 155.

¹⁷ Khosa, Sardar Latif, and Jamila Anjum. "Benazir Bhutto: Zulfikar & Benazir Bhutto's Stable Pakistan: An Elusive Dream." In *Dynastic Succession in South Asia: Rajiv Gandhi, Benazir Bhutto & Sheikh Hasina Wazed*, pp. 79-148. Cham: Springer Nature Switzerland, 2026.

¹⁸ Musaddiq, Aiza, and Aina Nadeem. "Wrongful Convictions in Death Penalty: Effects of Systematic Failures on Rule of Law Hampering Fair and Just Punishment." *Journal of Law & Social Studies (JLSS)* 7, no. 1: 65-72.

a justice system that prioritizes the rush above fairness and thoroughness.”¹⁹ The defense team faced obstacles which prevented them from successfully disputing the prosecution witnesses and showing their case because the courtroom environment was already filled with political animosity against the accused.

Interrogation of evidence and examination of witnesses brought people to the forefront to voice their concerns. The court proceedings were compromised due to the fact that the statements of witnesses and procedures for evaluation of evidence that were used by the trial court did not have the necessary credibility. In criminal case, all evidence received by courts may be closely examined by the court when deciding the cases which involve death penalty. All presumptions can be made in his favour. Bhutto’s trial is controversial due to the endless legal wrangling that had left questions of evidence and witness testimony open during the trial.

A judicial system may ensure that trials of the criminal are conducted by judges who are completely independent and impartial and who have the right to defend him through lawful judicial procedures. The trial of Zulfiqar Ali Bhutto did not satisfy the basic requirements as the following fundamental needs were not met. It was alleged that the military government dominated the proceedings that set conditions which infringed on judicial freedoms, and political forces obtruded on every stage of the judicial process. The selection of the bench, evidence evaluation process and the consideration of inconsistencies in prosecution evidence were all lopsidedly and negatively skewed aspects of an unfair trial setting. Due to the political climate surrounding the trial, it never happened that Bhutto received his constitutionally guaranteed right to “fair” trial, as the trial outcome was what the government wanted. The Supreme Court’s ruling was by a narrow majority with little clarity in the law to solve the current issues. The trial had procedural flaws, which enabled the defendant to submit constitutional challenges to the conviction. The Supreme Court of 2024 confirmed that fair trial rights were not protected which proves that procedural fairness did not exist at any point during the judicial process.²⁰

The Supreme Court’s appellate process, which the Constitution establishes, failed to eliminate all doubts about its procedural fairness. The narrow majority by which the conviction was upheld indicated that the case involved serious legal ambiguities. The existence of strong dissenting opinions within the highest court suggested that alternative interpretations of the evidence and legal principles were plausible. The internal divisions among judges made people believe that the case contained some evidence which created reasonable doubt about its outcome.

The 1979 trial continues to face disputes about its procedural fairness. It was alleged that the official legal proceedings were disrupted by political factors and issues with evidence

¹⁹Musaddiq, Aiza, and Aina Nadeem. "Wrongful Convictions in Death Penalty: Effects of Systematic Failures on Rule of Law Hampering Fair and Just Punishment." *Journal of Law & Social Studies (JLSS)* 7, no. 1: 65-72

²⁰Naseer, Ghalib. "Judicial Activism: Authority or Autocracy? Unravelling The Role of Judiciary in Pakistan." *Pakistan JL Analysis & Wisdom* 3 (2024): 32.

evaluation and defense capabilities. The disputed historical record of the case has affected subsequent court evaluations of the matter while it has shaped ongoing discussions about implementing better protections for fair trial rights during high-stakes political trials.

2.3 Judicial Independence and Political Context

The judicial independence is viewed primarily from a human rights perspective and is defined as a fundamental right of “everyone” in both global and regional human rights treaties.²¹ The political regime impacts judicial independence and independent courts are always necessary for establishing the rule of law.²² The judicial independence is the core component of the judiciary’s design, intended to guarantee the Rule of Law and empower judges to make unpopular but correct decisions.²³ The Supreme Court’s 2024 judgment regarding Zulfiqar Ali Bhutto’s trial established crucial constitutional impacts on Pakistan’s judicial system despite the court not officially reversing the conviction. The case includes multiple essential judicial accountability requirements which define constitutional judicial accountability standards. The Court established that previous court decisions permit critical examination when it recognized that the trial suffered from both unfairness and political pressure. The judiciary demonstrates its willingness to examine past mistakes because it wants to protect fundamental principles of justice and the rule of law through this evolving constitutional practice.

The 1979 judgment found political factors to be unimportant for its decision, but the 2024 judgment showed that judicial fairness needs assessment of the entire political landscape which affects courtroom decisions. It is reported that there have been cases in Pakistan where politics and other factors have played a role in judicial matters, such as interference in judicial elections and pressure on judges to change the direction of the trials. This interference has a direct effect on the fairness of trials, and also affects the independence of the judiciary.²⁴ Over the past two years, or so, Pakistan’s judges and lawyers have attracted the attention of the populace to their profession and behaviour more than ever. Starting from the early days of Pakistan’s existence at a time when the state of Pakistan was young and vulnerable it was alleged that the judiciary has been justifying military take-overs and rulers with the ‘doctrine of necessity’ surely an innovation in the field of legal theory. The military has had enormous power in Pakistani politics, leading to military coups where the judiciary was often tasked with justifying the actions of the military rulers, which sometimes compromised judicial independence.²⁵ On March 21, 1955, Chief Justice Muhammad Munir of the federal court (the

²¹ Bárd, Károly. "Judicial independence: an argument that even populists will love." In *Sustaining the Rule of Law*, pp. 98-107. Edward Elgar Publishing, 2025.

²² Helmke, Gretchen, and Frances Rosenbluth. "Regimes and the rule of law: Judicial independence in comparative perspective." *Annual Review of Political Science* 12, no. 1 (2009): 345-366.

²³ O'Connor, Sandra Day. "Judicial accountability must safeguard, not threaten, judicial independence: An introduction." *Denv. UL Rev.* 86 (2008): 1.

²⁴ Amjad, Anees. "Review of Judicial Independence and Democracy in Pakistan." In *Journal of Conferences Proceedings Publication*. 2026.

²⁵ Zehra, Muhaddisa, Noreen Akhtar, Muhammad Babar Shaheen, and Shoket Ali. "The role of the judiciary in constitutional interpretation in Pakistan." *Inverge Journal of Social Sciences* 4, no. 3 (2025): 20-35.

present Supreme Court of Pakistan) legalized the dissolution of the first constituent assembly.²⁶ He gave the ruling that the constitutional assembly had “lived in a fool’s paradise if it was ever seized with the notion that it was the sovereign body of the state”²⁷

Many other cases including “Maulvi Tamizuddin case wrecked the fate of Pakistan as it is in a constant situation of chaos and political dilemma”²⁸ which resulted in the lack of independence of the judiciary. Not only in this case but also in *Dosso vs The State* case there is a lack of justice and lack of independence of the judiciary and it is alleged that there is political and military pressure always in the way of justice.²⁹

The relationship between politics and the administration of justice becomes especially sensitive in cases involving high-profile political figures. Zulfiqar Ali Bhutto, the ousted Prime Minister, was sentenced to death in a controversial judicial proceeding, illustrating the judiciary’s susceptibility to political manipulation.³⁰ The trial of Zulfiqar Ali Bhutto contains political influence as its most disputed element throughout the judicial proceedings. The proceedings did not take place in an ordinary democratic environment but under a military regime that had removed an elected government. The political environment of the time established the conditions which determined both the execution and public understanding of the trial.

The political situation developed after Bhutto lost his position and faced legal charges against him. The general public perceived the trial as a judicial process which served as a method for political factions to continue their ongoing power struggle. The perception of the justice system as unbiased between opposing sides created public distrust while people worried about judicial independence from political and executive influences.

Political influence can affect justice in both hidden and visible ways. The power structure that exists in authoritarian or transitional political systems controls judicial operations even when courts use their formal procedures. Judges face restrictions from political conditions that currently exist and from public expectations that the ruling government establishes and from legal decisions that would conflict with major political parties. The judicial system faced extreme examination because of the high political importance that Bhutto’s trial held in his case.

The impact of political influence is shown through the way society receives and interprets legal decisions. The political landscape became deeply divided after a former prime minister received his conviction and sentencing. Supporters considered the verdict to be an unjust political decision whereas opponents viewed it as a method to hold people accountable for alleged criminal behavior. The division demonstrates how political factors create challenges to judicial procedures which need to be evaluated as unbiased legal processes.

²⁶ *Maulvi Tamizuddin Vs. Federation (PLD 1955 Sindh 96)*

²⁷ Sehgal, Ikram, And Bettina Robotka. "What is wrong with Pakistan’s Judiciary?." *Defence Journal* 23, no. 5 (2019): 84.

²⁸ Tariq, Fatima. "Constitutional History of Pakistan Pre-mid assignment (1) Fatima Tariq Ms. Shahzeen Jamil September 25, 2018." (2018)

²⁹ *State vs Dosso (PLD 1958 SC 553)*

³⁰ Muhammad, Aas, Mian Saadat Ali Nadeem, and Muhammad Aurangzeb Khan Khakwani. "Executive Influence on Judicial Independence in Pakistan: A Critical Analysis With Reference to Constitutional and Legal Framework." *Tanazur* 5, no. 4 (2024): 194-227.

The belief that political factors affected the trial process created permanent damage to the justice system's credibility. Public confidence in legal systems decreases when people view courts as tools for political purposes instead of viewing them as impartial decision-making bodies. The Bhutto case evolved into a demonstration of how politically unstable times create major difficulties for legal systems which need to protect judicial independence while administering justice against influential political forces involved in criminal cases.

3. The Recognition-Remedy Gap

This article's main contribution is the identification of the Recognition–Remedy Gap. This concept describes a situation where a constitutional court expressly recognized that the fundamental rights of an individual have been violated. Still, no remedy was provided under the constitutional and legal framework regarding the consequences of the violation.

The Bhutto Reference explains this gap. The Supreme Court expressly acknowledged the serious constitutional shortcomings in the administration of justice. However, the Court also held that it lacked the constitutional authority to set aside the conviction because the judgment had attained finality as Bhutto was hanged to death.

This creates a constitutional paradox. On the one hand, the judicial system officially recognizes that a serious injustice has occurred. On the other hand, it is unable to provide a meaningful legal remedy capable of addressing the consequences of that injustice. As a result, the recognition of the violation remains largely declaratory, while the effects of the constitutionally defective proceedings continue to exist.

The Recognition Remedy Gap raises an important constitutional concern because the safeguarding of the fundamental rights is generally understood to include the availability of an effective remedy. Where a court acknowledges a violation but the legal system offers no meaningful response, the practical value of those rights is significantly weakened.

This article therefore argues that the Bhutto Reference may be served as a starting point for a broader constitutional debate on whether Pakistan's legal framework may develop a carefully limited mechanism to address exceptional cases in which serious violations of fundamental rights have been judicially established. Such a mechanism may not undermine the principle of finality of judgments; rather, it might ensure that in truly extraordinary circumstances, constitutional rights are accompanied by an appropriate and meaningful legal response.

4. The Bhutto Reference as a Lesson in Judicial Accountability

The impact of the Supreme Court's verdict in Bhutto's case goes well beyond the case of Zulfiqar Ali Bhutto himself. As it is a very important example of institutional judicial accountability where in the renowned case the Supreme Court has explicitly stated that the trial of Zulfiqar Ali Bhutto did not fulfil the constitutional baseline of fair trial and due process.

The recognition by Supreme Court of Pakistan is noteworthy as it is not just about the rightness of the decisions but that the judiciary is willing to admit and learn from the errors of

its ways. The Supreme Court has affirmed the importance of judicial accountability as a key element in ensuring the credibility and legitimacy of the justice system, having recognized the need to correct constitutional shortcomings in the history of judicial proceedings.

However, it is not enough to recognize the errors for institutional accountability. It also could inspire constructive institutional change to avoid such constitutional problems in future cases. The lessons learned from the Bhutto Reference may therefore build independence of Judiciary, further strengthen fair trial and due process guarantees, and foster transparency and consistency in criminal proceedings.

Thus, it is suggested that judicial accountability may be seen as more than just corrective action in recognition of past errors, but as an ongoing constitutional commitment to institutional improvement. Thus, accountability and independence of Judiciary can be seen as two sides of the same coin. A judiciary that is ready to look back at its own mistakes, learn from them and initiate changes so that they may never happen again in the future, ultimately boosts public confidence and enhances the legitimacy of the constitutional justice system.

Yet, accountability of the Judiciary may go beyond merely recognizing the shortcomings of the past in the Constitution and create effective institutional and legal arrangements to address those shortcomings. If these mechanisms are not in place, then accountability can remain a mere gesture and not achieve real change in the constitution.

5. Suggestions

The past may not be legally reversible, but the lessons of the past may in all circumstances shapes the future of constitutional justice. Based on the analysis, this article proposes the following recommendations:

5.1 Acknowledgment of the Recognition–Remedy Gap

The Supreme Court of Pakistan and the legislature may formally acknowledge the difference between recognizing a constitutional injustice and providing an effective legal remedy. The Bhutto Reference demonstrates that even though the Supreme Court of Pakistan opinioned that the trial failed to meet the constitutional requirements of fair trial and due process in the case; Still, it could not provide any practical relief because the judgment had already attained finality.

Acceptance of this Recognition Remedy Gap is the first step towards meaningful constitutional reform. Once this gap is acknowledged, appropriate legal standards and remedial mechanisms may be developed to address the exceptional cases where serious constitutional violations have been established. While at the same time preserving the principle of finality of the judicial decisions.

5.2 Exceptional Rather Than Routine Application

Allowing unrestricted applications would undermine the principle of finality of judgments. It may lead to an excessive workload on the courts. It may also stimulate repetitious litigations. Instead there may be a preliminary Screening Procedure which would first assess whether there is any prima facie case of a serious constitutional miscarriage of justice. Such standards could be introduced in order to avoid any abuse and ensure uniformity in deciding on these cases. In case if the applicant cannot show a prima facie case of the constitutional violation, the application may be rejected in the preliminary stage and no re-opening of the completed case may be considered.

5.3 Institutional Learning

The Bhutto Reference may not simply be seen as a commentary on an old case; instead, it could be useful to serve as an opportunity for institutional learning and reform in the judicial branch. The objective of institutional learning is not to revisit or review the past but rather a way to ensure that the mistakes which were identified in the Bhutto Reference may not be made again in future cases. Institutional safeguards may be strengthened to ensure that the judicial proceedings remain free from any kind of political and executive influence.

Considering the lessons learned from the case, the judiciary and legislature might consider introducing new reforms. These reforms aimed at strengthening the independence of Judiciary, reducing the risk of judicial bias, uphold fair trial and due process requirements, improving transparency in the criminal proceedings. It also provides continuous training for judges on the constitutional rights and procedural fairness.

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