

**A CRITICAL ANALYSIS OF THE REVIEW PETITIONS DECIDED
BY THE SUPREME COURT OF PAKISTAN**



Submitted by

SYED ZAFAR HASSAN NAQVI
01-278212-020

A thesis submitted in fulfilment of the
requirements for the award of the degree of
Master of Laws (General)

Supervised by

DR. SADAQUT ALI

September, 2023

**BAHRIA SCHOOL OF LAW
BAHRIA UNIVERSITY, ISLAMABAD**

APPROVAL FOR EXAMINATION

Scholar Name: Syed Zafar Hassan Naqvi

Registration No: 01-278212-020

Program of Study: LLM (General)

Thesis Title: AN ANALYSIS OF THE REVIEW PETITIONS DECIDED BY THE SUPREME COURT OF PAKISTAN

It is to certify that the above these has been completed to my satisfaction and, to my belief, its standard is appropriate for submission for examination. I have also conducted plagiarism test of this thesis using HEC prescribed software and found similarity index 5% that is within the permissible limit set by the HEC for the LLM degree thesis. I have also found the thesis in a format recognized by the BU for the LLM thesis.

Principal Supervisor's Signature: _____

Dr. Sadaqut Ali

School of Law

Date: _____

AUTHOR'S DECLARATION

I, Syed Zafar Hassan Naqvi hereby state that my LLM thesis titled “AN ANALYSIS OF THE REVIEW PETITIONS DECIDED BY THE SUPREME COURT OF PAKISTAN” is my own work and has not been submitted previously by me for taking any degree from Bahria University or anywhere else in the country/world.

At any time if my statement is found to be incorrect even after my graduation, the University has the right to withdraw/cancel my LLM degree.

Name of Scholar: Syed Zafar Hassan Naqvi

Date: _____

PLAGIARISM UNDERTAKING

I, solemnly declare that research work presented in the thesis titled “A CRITICAL ANALYSIS OF THE REVIEW PETITIONS DECIDED BY THE SUPREME COURT OF PAKISTAN” is solely my research work with no significant contribution from any other person. Small contribution / help wherever taken has been duly acknowledged and that complete thesis has been written by me.

I understand the zero-tolerance policy of the HEC and Bahria University towards plagiarism. Therefore, I as an Author of the above titled thesis declare that no portion of my thesis has been plagiarized and any material used as reference is properly referred/cited.

I undertake that if I am found guilty of any formal plagiarism in the above titled thesis even after award of LLM degree, the university reserves the right to withdraw/revoke my LLM degree and that HEC and the University has the right to publish my name on the HEC/University website on which names of scholars are placed who submitted plagiarized thesis.

Scholar/Author's Sign: _____

Name of the Scholar: Syed Zafar Hassan Naqvi

PLAGIARISM REPORT

ZAFAR HASSAN NAQVI THESIS DRAFT			
ORIGINALITY REPORT			
5%	4%	1%	2%
SIMILARITY INDEX	INTERNET SOURCES	PUBLICATIONS	STUDENT PAPERS
PRIMARY SOURCES			
1	Submitted to Higher Education Commission Pakistan Student Paper		1%
2	www.supremecourt.gov.pk Internet Source		1%
3	pr.hec.gov.pk Internet Source		<1%
4	sys.lhc.gov.pk Internet Source		<1%
5	thefrontierpost.com Internet Source		<1%
6	Turnitin 한국 DB, 국민대학교 Publication		<1%
7	Submitted to University of Leeds Student Paper		<1%
8	library.lhc.gov.pk Internet Source		<1%
9	nasirlawsite.com Internet Source		<1%
10	repository.sgu.ac.id Internet Source		<1%
11	summit.sfu.ca		<1%

DEDICATION

This thesis is dedicated to my family and friends for their endless love, support, and encouragement.

I humbly dedicate this work to every individual who has made sacrifices to defend and uphold the Constitution in Pakistan.

ACKNOWLEDGMENT

Alhamdulillah

I express my gratitude to Allah SWT for giving me the strength, knowledge, ability and opportunity to undertake this research and complete it satisfactorily. I would like to extend my heartfelt gratitude to my respectable Supervisor, Professor Dr. Sadaqut Ali, whose invaluable guidance, encouragement, and feedback have played a pivotal role in the realization of this thesis. His expertise in Constitutional Law and commitment to academic rigor have not only shaped this work but also instilled in me a profound respect for the intricacies of legal scholarship. I am also deeply grateful to the faculty and staff of the Bahria University Law School, especially Dr Sohaib Mukhtar and Dr Ghulam Abbass who provided me with the necessary tools, insights, and resources throughout my LLM journey.

Outside of academia, my heartfelt appreciation goes to my family, especially my wife Syeda Zahra Naqvi, whose unwavering support, patience, and belief in my capabilities were my pillars of strength. Her sacrifices and encouragement have been the foundation upon which this academic endeavour was built.

In culmination, this thesis stands as a testament not just to my efforts but to the collective support, guidance, and encouragement I have been fortunate to receive. Any errors or oversights contained herein are my own in writing process.

LIST OF ACRONYMS

AIR	All India Law Reports
CITES	Convention on International Trade in Endangered Species of Wild Flora and Fauna
CLC	Civil Law Cases
CLD	Corporate Law Decisions
CLR	Civil Law Reports
CMS	Convention on Migratory Species of Wild Animals
CPC	Civil Procedures Code
CRPC	Criminal Procedures Code
FBR	Federal Board of revenue
LJCP	Law and Justice Commission of Pakistan
LHC	Lahore High Court
MLD	Monthly Law Digest
PBC	Pakistan Bar Council
PCr.LJ	Pakistan Criminal Law Journal
PHC	Peshawar High Court
PLJ	Pakistan Law Journal
PLD	Pakistan Legal Decisions
PTD	Pakistan Tax Decisions
SHC	Sindh High Court
YLR	Yearly Law Review
SCMR	Supreme Court Monthly Review
SC	Supreme Court
SJC	Supreme Judicial Council

ABSTRACT

The concept of a ‘review’ refers to a legally sanctioned process wherein a court revisits its own judgment. This practice is globally prevalent and has sparked diverse debates, featuring arguments both for and against the exercise of review by courts. The doctrine of review is also incorporated in the legal and constitutional framework of Pakistan. The Supreme Court has the power, using Article 188 of the constitution, to review its past decisions. However, the exercise of this power has been marred by substantial criticism, attributed to inconsistencies in decisions, protracted delays, case pendency, and alleged politicization. The primary question guiding this study was to unravel the reasons behind the criticisms directed at the exercise of review by the Supreme Court and to ascertain the grounds of review. The study employed doctrinal research methodology to analyze the review petitions decided by the Supreme Court of Pakistan from 2016 to 2023 and found significant anomalies, deviations from established norms, and arbitrariness, embedding uncertainty in the jurisprudential landscape. To alleviate these disparities and revitalize the efficacy of the review process, comprehensive reforms including the formulation of explicit review criteria, enactment of responsive legislation, and sustained engagement with stakeholders, are imperative.

LIST OF AUTHORITIES

- *Akhtar Umar Hayat Lalayka and others v. Mushtaq Ahmed Sukhaira and others*[2018] SCMR 1218(SC)
- *Al-Jehad Trust through Habibul Wahab Al-Khairi, advocate and 9 others v. Federation of Pakistan* [1999] SCMR 1379 (SC)
- *Amir Masih v. State* [2013] PLD 249 (LAH)
- *Ayaz Baig alias Bau Chuhanwala v. The State* [2002] SCMR 380 (SC)
- *Basharat Ali Khan v. Muhammad Akbar* [2017] SCMR 309 (SC)
- *Bismah Noureen v. Federation of Pakistan* [2023] CLC 110(IHC)
- *Dilawar Hussain v. The State* [2013] SCMR 1582(SC)
- *DR Jahanzeb v. Govt of KPK* [2023] PLD 25(PHC)
- *Fayyaz Ahmad v. Bilal Ahmad* [2022] MLD 787 (LAH)
- *Federation of Pakistan v. Mian Muhammad Nawaz Sharif* [2009] PLD 664(SC)
- *Federation of Pakistan v. Mian Nawaz Sharif* [2009] PLD 391(SC)
- *Fida Hussain v. The Secretary, CRP.296/2020, etc.* 20
- *Ghulam Mohiuddin v. Federation of Pakistan* (SC, 19 June 2023)
- *Hadayat Ullah and Others v. Federation of Pakistan and others* [2022] PLCS 1603 (SC)
- *Hadayat Ullah v. Federation of Pakistan* [2022] SCMR 1691(SC)
- *Hafi Bahadar Khan v. Habib Ahmad* [2021] CLC 114(PHC)
- *Juan Suli v. State* [1971] SCMR 618 (SC)
- *Kalal Khan v. Misri Khan* [1979] SCMR 347 (SC)
- *Kashmir Affairs and Northern Affairs Division, Islamabad* [1995] PLD 701(SC)
- *Khalid Iqbal and 2 others v. Mirza Khan and others* [2015] PLD 50 (SC)
- *Malik Muhammad Mumtaz Qadri v. The State* [2016] PLD 146(SC)
- *Manzoor Ahmad v. Muhammad Nawaz* [2013] PLD 123(LAH)
- *Mehdi Hassan v. Province of Punjab* [2007] SCMR 7559(SC)
- *Mian Muhammad Nawaz Sharif v. Imran Ahmed Khan Niazi* [2018] PLD 1(SC)
- *Moin ud Din and others v. The State and others* [2019] PLD 749 (SC)

- *Muhammad Afzal v. Secretary Establishment Division* [2021] SCMR 1569(SC)
- *Muhammad Ajmal v. Province of Baluchistan* [2022] CLC 965(BHC)
- *Muhammad Naveed v. Federation of Pakistan through Secretary M/o Defense* [2013] SCMR 596(SC)
- *Muhammad Nazir v. State* [1979] SCMR 89 (SC)
- *Muhammad Rehan v. Akbar Shahzad* [2019] MLD 429 (LAH)
- *Muhammad Sadiq v. Muhammad Sarwar* [1979] SCMR 214(SC)
- *Muhammad Siddique Baloch v. Jehangir Khan Tareen and others* [2016] PLD 97(SC)
- *Muhammad Zubair v. Muhammad Zia* [2004] SCMR 1077 (SC)
- *Nazar Khan v. Goga Khan* [2005] YLR 3297
- *Pensionary Benefits of the Judges of Superior Courts* [2013] PLD 829(SC)
- *Qazi Faez Isa and Others v. President of Pakistan and others*, SC 22 February 2021
- *Raja Prithwi Chand Lal Choudhury v. Sukhraj Rai and others* [1941] AIR 1(FC)
- *Saghir Ali v. Mehar Din* [1968] SCMR 729 (SC)
- *Screening Committee, Lahore and another* [1978] SCMR 367 (SC)
- *Shahzada Aslam v. Ch Muhammad Akram* [2017] PLD 142(SC)
- *Shahzaib ul Hassan Khan v. Mian Muhammad Ahmad* [2017] CLC 1539 (SHC)
- *Sikandar Hayat v. The State* [2020] PLD 559 (SC)
- *Suba v. Fatima Bibi* [1996] SCMR 158) (SC)
- *Syed Shabbar Raza Rizvi and others v. Federation of Pakistan, Ministry of Law and Justice Division through Secretary, Islamabad and others* [2018] SCMR 514(SC)
- *Venkata Narasimah Appa Row v. The Court of Wards* [1886] II A C 660
- *Wali Muhammad v. Special Judge Anti-Corruption* [2017] PLD 76 (Baluchistan)
- *Zakrya Ghani v. Muhammad Ikhlq Memon* [2016] CLD 480(SC)
- *Zulfiqar Ali Bhutto v. The State* [1979] PLD 741(SC)

LIST OF STATUTES

- 1-** Anti-Terrorism Act, 1997
- 2-** Civil Courts Ordinance 1962
- 3-** Civil Procedures Code 1908
- 4-** Code of Criminal Procedures 1890
- 5-** Constitution of Islamic Republic of Pakistan 1973
- 6-** Federal Court (Enlargement of Jurisdiction) Order 1949
- 7-** Income Tax Ordinance, 2001
- 8-** Laws (Continuance in Force) Order 1959
- 9-** Privy Council (Abolition of Jurisdiction) Order 1950.
- 10-** Punjab Land Revenue Act 1967
- 11-** Sacked Employees (Re-instatement) Act, 2010
- 12-** Supreme Court Rules 1980
- 13-** Supreme Court (Review of Judgments and Orders) Act 2023
- 14-** Supreme Court (Number of Judges) Act 1997

TABLE OF CONTENTS

APPROVAL FOR EXAMINATION	II
AUTHOR’S DECLARATION	III
PLAGIARISM UNDERTAKING	IV
PLAGIARISM REPORT	V
DEDICATION	VI
ACKNOWLEDGMENT	VII
LIST OF ACRONYMS	VIII
ABSTRACT	IX
LIST OF AUTHORITIES	X
LIST OF STATUTES	XII
CHAPTER 1	1
INTRODUCTION AND SCOPE OF THE RESEARCH	1
1.1.Introduction.....	1
1.2.Research Statement.....	4
1.3.Significance of Study.....	4
1.3.Research Questions.....	5
1.4.Objectives of Research	5
1.5.Research Methodology	6
1.6.Literature Review	6
1.7.Research Gap	13
CHAPTER 2	14
THE SCOPE, PROCESS AND GROUNDS OF REVIEW	14
2.1 Introduction.....	14
2.2 The System and Hierarchy of Courts in Pakistan	14
2.2.1 The Supreme Court of Pakistan	17
2.2.1.1.The Supreme Court under Current Constitution	18
2.2.1.2.Original Jurisdiction	18
2.2.1.3 Appellate Jurisdiction	20
2.2.1.3.Advisory Jurisdiction (Article 186).....	21
2.2.1.4.Review Jurisdiction (Article 188)	22
2.3.Scope, Process and Grounds of Review in Criminal Law	23
2.4.Scope, Process and Grounds of Review in Civil Law	26
2.5Scope, Process and Grounds of Review by the Supreme Court of Pakistan	31
2.6Promulgation of Supreme Court Review of Judgment Act 2023	34
2.7Conclusion	36
CHAPTER 3	37

A CRITICAL ANALYSIS OF REVIEW PETITIONS DECIDED BY THE SUPREME COURT OF PAKISTAN	37
3.1.Introduction.....	37
3.2.Qazi Faez Isa Case	37
3.4.Commissioner Inland Revenue Z-III, Corporate Regional Tax Office, Tax House, Karachi and Another Vs. MSC Switzerland Geneva and Others	43
3.5.Zaid Shah Alias Jogi Versus The State	45
3.6.Sikandar Hayat Versus. The State	46
3.7.Mst. Mukhtar Mai Versus Abdul Khaliq And Others	49
3.8. Moinuddin Vs State	50
3.9.Dr. Ahmed Ali Shah and Others Versus Syed Mehmood Akhtar Naqvi and Others: 51	
3.10.Mst. Sumaira Malik Versus malik Umar Aslam Awan and Others.....	53
3.11.Rashid Ali Channa And Others versus Muhammad Junaid Farooqui:	54
3.13.Basharat Ali Khan Versus Muhammad Akbar:	57
3.14.Zakaria Ghani And 4 Others Versus Muhammad Ikhtlaq Memon And 8 Others ...	59
3.15.Malik Muhammad Mumtaz Qadri Versus The State	61
3.16.Government Of Punjab And Others Versus Aamir Zahoor-UI-Haq And Others...	62
3.17.Conclusion	65
CHAPTER 4	66
GROUNDS OF CRITICISM ON REVIEW JURISDICTION OF THE SUPREME COURT OF PAKISTAN	66
4.1.Introduction.....	66
4.2.Inconsistency in Judgments	66
4.4.Politicization	72
4.5.Increase in backlog of cases.....	73
4.6.Conclusion	75
CONCLUSION AND RECOMMENDATIONS	77
Introduction.....	77
Conclusion	77
Findings	78
Recommendations.....	79
BIBLIOGRAPHY	82