

THE INDEPENDENCE OF JUDICIARY IN PAKISTAN: AN ANALYTICAL STUDY IN THE CONTEXT OF THE 26 AMENDMENT

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Abstract

This research examines the implications of Pakistan's 26th Constitutional Amendment (2024) on the independence, structure, and functioning of the judiciary. The amendment introduced sweeping reforms, including the establishment of a Special Parliamentary Committee for appointing the Chief Justice of Pakistan (CJP), expanded political representation within the Judicial Commission of Pakistan, and narrowed the scope of suo motu powers. Using a qualitative research design and relying on secondary data, including constitutional documents, parliamentary records, legal commentaries, and landmark judicial cases, the study evaluates how these changes alter the balance between the judiciary and the political branches of the state. A comparative lens with India's, United Kingdom and United States with their judicial appointment model further contextualizes the evolving shifts in Pakistan's legal landscape. The findings reveal that the 26th Amendment significantly compromises judicial autonomy, increases political influence over judicial appointments, and restricts operational independence. The paper concludes that while the amendment aims to enhance transparency and institutional accountability, its structural redesign risks weakening constitutional safeguards essential for maintaining an impartial and independent judiciary.

INTRODUCTION

Judicial independence is a fundamental pillar of democratic governance, ensuring the rule of law, protection of fundamental rights, and the maintenance of constitutional supremacy. An autonomous judiciary operates free from interference by the executive or legislative branches, rendering impartial decisions and safeguarding citizens against arbitrary exercise of authority. In constitutional democracies, judicial independence is not merely an aspirational ideal but a practical necessity that underpins public

trust, institutional integrity, and the effective functioning of the state (Munir, 2018).

The concept of judicial independence is rooted in Montesquieu's theory of separation of powers, which posits that the legislative, executive, and judicial branches of government must be distinct and exercise defined responsibilities. Within this framework, the judiciary functions as an independent arbiter, interpreting laws, resolving disputes, and ensuring that state actions conform to constitutional mandates. Institutional

safeguards, such as security of tenure, financial autonomy, and freedom from external pressures, reinforce this independence and protect judicial decision-making from political influence (Rafiq, 2022).

Globally, judicial independence is preserved through mechanisms including transparent appointments, fixed tenures, and autonomous judicial councils. While countries such as the United States, the United Kingdom, and India have established robust systems to insulate the judiciary from political pressures, South Asian nations—including Pakistan—have experienced a more turbulent trajectory. Political instability, frequent military interventions, and historical legacies have contributed to a judiciary that has oscillated between independence and subservience, affecting public confidence and the rule of law (Azeem, 2023).

Since its inception in 1947, Pakistan's judiciary has faced repeated challenges to its autonomy. Articles 175 to 203 of the 1973 Constitution provide a legal framework for judicial independence, yet the practical application of these provisions has often been compromised. Instances such as the Lawyers' Movement of 2007 demonstrate periods of judicial assertiveness, whereas the repeated invocation of the "doctrine of necessity" has legitimized military takeovers, reflecting the judiciary's vulnerability to political pressures (Shah, 2022). These dynamics have shaped the complex relationship between judicial independence, public trust, and political authority in Pakistan.

Constitutional amendments have historically influenced the balance of power between the judiciary and other state organs. For example, the 18th Amendment strengthened judicial autonomy by reforming appointment procedures through the Judicial Commission and Parliamentary Committee. In contrast, the recently ratified 26th Amendment in 2024 has generated significant debate regarding its potential implications for judicial independence. Critics argue that it increases parliamentary oversight, restricts discretionary powers of judicial institutions, and risks blurring the separation between the legislature and judiciary. Supporters, however,

contend that the amendment enhances transparency, democratizes judicial appointments, and holds the judiciary accountable to the public (Jahangir, 2015).

The contemporary political climate in Pakistan—characterized by polarization and historical exploitation of constitutional amendments for partisan purposes—heightens concerns regarding the judiciary's capacity to resist political interference. Evaluating the 26th Amendment requires a multidimensional approach that considers legal frameworks, institutional structures, political culture, and historical precedents. Assessing its impact involves understanding both the technical legal provisions and the broader socio-political context in which the judiciary operates.

This study aims to provide a comprehensive analytical examination of judicial independence in Pakistan, with particular focus on the 26th Amendment. It investigates the evolution of constitutional safeguards, analyzes the integration and implications of the amendment, and assesses the perceived and actual risks to judicial autonomy. Using secondary sources—including legislative debates, judicial pronouncements, constitutional documents, and legal commentaries—this research offers a holistic understanding of the amendment's significance for Pakistan's judiciary.

Research Objectives

The objectives of this research are as:

- 1) To investigate how Pakistan's Constitutions defines and protects judicial independence.
- 2) To Analyze whether the 26th amendments strengthens or undermines the judiciary's autonomy.
- 3) To assess the impact of constitutional amendments on the balance of power among state institutions.

Literature Review

Judicial independence constitutes a fundamental pillar of democratic governance, ensuring the rule of law and protecting constitutional rights and freedoms. Its significance lies in the judiciary's role

as a neutral arbiter that prevents arbitrary state action and safeguards the liberties of citizens. Globally, judicial independence is recognized as essential for the fair administration of justice and the maintenance of public confidence in legal institutions. It requires that judges remain free from undue influence when rendering decisions, whether from the executive, legislature, political parties, media, or interest groups. Alexander Hamilton, in *The Federalist Papers*, famously described the judiciary as the “least dangerous branch” because its independence enables it to act as a guardian of the Constitution and a check on potential excesses by other state organs (Ginsburg, 2003).

The international community has codified principles of judicial independence through instruments such as the United Nations Basic Principles on the Independence of the Judiciary (1985), which stipulate that judicial decision-making must remain objective and free from external pressures. These principles have informed the constitutional frameworks of established democracies, including the United States, the United Kingdom, and India, each of which employs distinctive mechanisms to safeguard judicial autonomy, such as life tenure, independent judicial commissions, and collegium systems. The central premise of these frameworks is that judicial independence is both a structural and functional necessity, ensuring that courts can enforce the law impartially and uphold constitutional values.

Scholars have theorized judicial independence in nuanced ways. Fiss (1993) distinguishes between individual and institutional independence, with the former protecting judges from personal pressure and the latter ensuring that the judiciary as an institution remains autonomous from other governmental entities. Shapiro (1981) asserts that the legitimacy of judicial decisions stems from bounded discretion—judges must act according to legal principles rather than personal or political considerations. Hirschl (2004) introduces the concept of the “judicialization of politics,” highlighting the increasing involvement of courts in politically sensitive issues and emphasizing the critical importance of maintaining independence

in such circumstances. Turenne (2013) further notes that judicial independence is indispensable for public confidence in the rule of law; without it, the judiciary cannot effectively function as a check on political power, and the separation of powers becomes vulnerable to erosion.

In Pakistan, the independence of the judiciary has been historically complex and contested. Since its inception in 1947, the judiciary has faced repeated challenges in asserting its autonomy, often influenced by political instability and executive dominance. Landmark cases, such as *Dosso v. Federation of Pakistan* (PLD 1958 SC 533) and *Maulvi Tamizuddin Khan v. Federation of Pakistan* (1954), exemplify early judicial acquiescence to executive authority through the “doctrine of necessity,” highlighting the tension between legal principles and political exigencies (Choudhury, 1989). Hamid Khan (2017) provides a detailed historical account of Pakistan’s judiciary, tracing its evolution through periods of civilian and military rule, and illustrating how political and military pressures have shaped judicial behavior and influenced key verdicts. These historical episodes underscore the fragility of judicial independence in the face of constitutional ambiguities and political expediency.

Constitutional amendments have played a pivotal role in shaping the judiciary’s autonomy in Pakistan. The 18th Amendment, for example, reformed judicial appointments by involving both the Judicial Commission and the Parliamentary Committee, thereby aiming to enhance transparency and safeguard independence. However, research by Zia and Waheed (2021) suggests that constitutional amendments in Pakistan have often prioritized short-term political objectives over long-term institutional stability, a trend that continues to influence contemporary debates. Jahangir (2015) warns that politically motivated constitutional reforms risk undermining critical institutions like the judiciary, emphasizing that public participation and procedural transparency are crucial to maintaining legitimacy and reducing institutional conflicts. Elster (2000) similarly argues that in weak democracies, inclusive and consensus-driven

constitution-making is essential to uphold democratic norms and safeguard institutional independence.

Pakistan's judiciary has, at times, demonstrated remarkable resilience in defending its autonomy. The Lawyers' Movement of 2007 exemplifies a period of assertive judicial action, wherein the judiciary successfully challenged executive overreach and restored its independence. Shafqat (1997) emphasizes the judiciary's historical role in balancing civilian-military relations, demonstrating how courts have navigated political pressures while attempting to safeguard constitutional governance. Comparative studies by Ahmed and Shah (2022) indicate that judicial crises in South Asia, particularly in India and Bangladesh, often emerge from similar patterns of political interference, highlighting the critical role of public opinion and civil society in defending judicial autonomy. Fiss (1993) notes that excessive political engagement can weaken judicial checks on the executive, resulting in institutional dysfunction. Similarly, Rehman (2018) underscores the risks posed by politically influenced appointments, which can compromise the judiciary's independence and credibility. Hirschl (2004) provides a global perspective, illustrating that courts in politically unstable contexts are routinely drawn into conflicts with other state organs, a phenomenon evident in Pakistan's judicial history and particularly relevant to the 26th Amendment.

The appointment of judges in Pakistan has historically been a sensitive and contested process. From 2010 until the enactment of the 26th Amendment in 2024, the Judicial Commission of Pakistan (JCP) functioned as the primary authority overseeing nominations to higher courts. Composed predominantly of senior judges, including the Chief Justice, the JCP served as a buffer against direct political interference, while the Parliamentary Committee exercised limited oversight, primarily to ensure merit and integrity. Supreme Court rulings, such as in the *Al-Jehad* case, reinforced judicial primacy in appointments, emphasizing the importance of peer review and institutional expertise in selection processes. This period saw the judiciary increasingly assert itself in

political and executive matters, including high-profile disqualifications of political leaders and contempt proceedings, which some observers criticized as judicial overreach (Khan et al., 2025). Despite these achievements, concerns persisted regarding transparency and internal accountability within the JCP. Questions arose over the deliberative process, promotion criteria for Supreme Court justices, and the tension between seniority and merit principles. Instances where junior judges or advocates were elevated, despite objections from senior justices or bar councils, highlighted challenges in balancing independence with transparency and fairness. Nevertheless, the pre-amendment system generally maintained a reasonable equilibrium, allowing judicial autonomy while providing limited checks through executive and legislative oversight.

The 26th Amendment represents a significant departure from this system, introducing increased parliamentary involvement in judicial appointments and potentially reducing the judiciary's discretionary authority. Critics argue that it undermines the independence that the JCP had historically ensured, risking politicization and diminishing public confidence in the judiciary. Supporters, however, claim that the amendment promotes democratization, transparency, and accountability in judicial appointments, framing it as a corrective measure to previous procedural shortcomings. Understanding the implications of the 26th Amendment requires situating it within Pakistan's historical, political, and legal context, recognizing both the institutional gains achieved through judicial primacy and the risks posed by enhanced legislative control.

In conclusion, the literature underscores that judicial independence is not merely a constitutional ideal but a dynamic and contested principle shaped by political, legal, and institutional forces. Pakistan's judiciary has historically oscillated between independence and subservience, influenced by executive dominance, constitutional amendments, and political instability. The 26th Amendment introduces new dynamics in this ongoing struggle, raising critical questions about the balance of power, the protection of judicial autonomy, and the role of

constitutional reforms in reinforcing or undermining democratic governance. By examining historical precedents, comparative experiences, and theoretical perspectives, this review provides a foundation for analyzing the amendment's potential impact on Pakistan's judiciary and its capacity to operate as a neutral, independent, and constitutionally committed institution.

Theoretical Framework

This study is grounded in **Judicial Independence Theory**, proposed by Owen Fiss (1993), which offers a comprehensive analytical lens for evaluating the autonomy, credibility, and functional integrity of the judiciary within constitutional democracies. Fiss's framework is particularly relevant for examining the implications of constitutional reforms; such as Pakistan's 26th Amendment, on the balance of power among state institutions and the judiciary's ability to operate free from political influence. In the context of Pakistan, where judicial independence has historically been shaped and, at times, constrained by political and institutional pressures, Fiss's theory provides a critical foundation for assessing how constitutional amendments may strengthen or weaken judicial autonomy.. Fiss conceptualizes judicial independence as a two-dimensional phenomenon, consisting of both individual and institutional safeguards that enable the judiciary to function without political pressure or interference. Individual independence refers to protections that allow judges to remain impartial in their decision-making, including secure tenure, financial security, and insulation from politically motivated appointments or dismissals. Institutional independence, in contrast, focuses on the judiciary as a separate and autonomous branch of the state, emphasizing administrative and financial autonomy, internal control over judicial processes, and freedom from executive or legislative dominance. For Fiss, both dimensions must be constitutionally protected and practically enforced for a judiciary to remain truly independent.

This theoretical approach is relevant to Pakistan, where judicial independence has historically

fluctuated under varying political regimes, constitutional crises, and periods of military rule. Despite the constitutional protections outlined in Articles 175 to 204 of the 1973 Constitution, judicial autonomy has been repeatedly challenged by executive overreach, politicized appointment processes, and reactive constitutional amendments. Within this broader context, the 26th Constitutional Amendment raises significant concerns regarding its potential impact on both personal and institutional aspects of judicial independence. Although introduced with claims of enhancing transparency, the amendment expands parliamentary and executive involvement in judicial appointments, thereby risking a shift in the balance of power among state institutions. Through the lens of Fiss's theory, such changes may undermine judges' personal independence by increasing political influence in appointments, while simultaneously weakening institutional independence by altering the judiciary's autonomous role in the constitutional framework. As a result, the Judicial Independence Theory provides a robust framework for understanding how the 26th Amendment may reshape judicial autonomy in Pakistan, with broader implications for democratic governance and the separation of powers.

Research Methodology

This study adopts a qualitative research methodology for examining how constitutional amendments, judicial principles, and institutional practices shape the independence of the judiciary in Pakistan. Because the research aims to evaluate the implications of the 26th Constitutional Amendment on judicial autonomy, a qualitative design allows for a detailed and interpretive analysis of constitutional texts, judicial precedents, and political developments. Rather than relying on numerical data, this approach emphasizes deep textual examination, contextual interpretation, and critical understanding of how legal structures and constitutional reforms affect the balance of power among Pakistan's state institutions, particularly the judiciary.

The study relies on secondary data obtained from authoritative and credible sources that directly

relate to judicial independence and constitutional reform. Central to this investigation are primary legal documents, including the Constitution of Pakistan (1973), the official text of the 26th Constitutional Amendment, and earlier amendments especially the 18th and 19th Amendments, that previously shaped the judicial appointment process and defined the judiciary's institutional role. Special attention is given to constitutional provisions under Articles 175 to 204, which outline the structure, jurisdiction, and protections afforded to the courts. Landmark judicial decisions that have historically influenced judicial independence are also critically examined. These include the Al-Jehad Trust case (1996), which established judicial primacy in appointments; the Iftikhar Muhammad Chaudhry restoration case (2007), which highlighted judicial resistance to executive power; the Zafar Ali Shah case (2000), which demonstrated judicial vulnerability under military rule; and the Sindh High Court Bar Association case (2009), which reasserted constitutional supremacy after a period of emergency. These cases collectively provide a legal foundation for assessing how the 26th Amendment may alter existing judicial mechanisms and institutional safeguards. In addition to legal materials, the research incorporates academic literature and scholarly commentary that specifically address judicial independence, constitutional design, and separation of powers in Pakistan. Works by scholars such as Owen Fiss, Hamid Khan, and Paula Newberg are used to contextualize the theoretical and historical dimensions of judicial autonomy. Peer-reviewed journal articles that analyze the politicization of judicial appointments, constitutional amendments in Pakistan, and comparative judicial systems further contribute to a deeper understanding of the issues raised by the 26th Amendment. The study also integrates institutional reports from bodies such as PILDAT, the International Commission of Jurists (ICJ), the Human Rights Commission of Pakistan (HRCP), and the Law and Justice Commission of Pakistan (LJCP). These reports are highly relevant, as they offer policy analyses, expert evaluations, and documented concerns regarding how increased

legislative or executive involvement, such as that proposed under the 26th Amendment, may undermine judicial independence.

The collected data is evaluated through thematic analysis, allowing the study to identify recurring patterns and concepts that directly relate to the research topic. Themes such as judicial autonomy, political influence in appointment procedures, constitutional checks and balances, and institutional implications of the 26th Amendment are analyzed in light of the theoretical framework. By interpreting these themes through the lens of Judicial Independence Theory, the methodology enables a focused and rigorous assessment of whether the 26th Amendment strengthens accountability or compromises the judiciary's personal and institutional independence. This analytical approach ensures that the discussion remains tightly aligned with the central research question: how constitutional reforms, particularly the 26th Amendment, affect the autonomy, authority, and constitutional role of Pakistan's judiciary.

Constitutional and Legal Framework of Judicial Independence in Pakistan

Judicial independence is a foundational element of Pakistan's constitutional structure, designed to ensure that courts function autonomously and impartially, free from the influence of the executive and legislative branches. The 1973 Constitution formally recognizes the judiciary as a co-equal branch of the state and outlines extensive institutional protections for its independence. While these provisions are strong in theory, Pakistan's political history reveals a recurring pattern of executive dominance, institutional imbalance, and inconsistent judicial interpretations, which have at times compromised judicial autonomy. This section provides a detailed examination of the constitutional provisions governing the judiciary, the mechanisms of judicial appointments and tenure, the principles of separation of powers, and the jurisprudential trends that have shaped judicial independence over several decades. Through legal analysis, historical evidence, and landmark case studies, this section offers a comprehensive

understanding of the structural strengths and practical limitations embedded within Pakistan's constitutional framework.

Constitutional Provisions Related to Judicial Independence

The 1973 Constitution establishes a unified and hierarchical judicial system composed of the Supreme Court, High Courts, and subordinate courts. The architecture of judicial independence is primarily grounded in Articles 175, 177–182, 184(3), and 209. Article 175 delineates the structure of the judiciary and prohibits courts from exercising powers not expressly provided by the Constitution, thereby institutionalizing the principle of judicial separation. Scholars note that this separation is essential for ensuring that judicial functions are neither overshadowed nor absorbed by the executive (Khan, 2018).

Articles 177–182 govern the appointment, composition, and functioning of the judges of the superior courts. Article 177 stipulates that judges of the Supreme Court are appointed by the President upon the recommendation of the Judicial Commission of Pakistan (JCP), subject to eligibility requirements such as a minimum of five years of High Court judgeship or fifteen years of practice as an advocate. Articles 178 and 179 define judicial tenure, setting the retirement ages for Supreme Court and High Court judges at sixty-five and sixty-two, respectively. Articles 180 and

181 specify conditions for acting judges, while Article 182 allows the appointment of ad hoc judges when necessary. These provisions collectively reinforce institutional continuity and operational autonomy.

Article 184(3) grants the Supreme Court original jurisdiction in matters involving public importance and fundamental rights. This provision has historically empowered the judiciary to intervene in issues of governance, often leading to periods of heightened judicial activism. Between 2007 and 2013, for instance, the Supreme Court issued more than 130 suo motu notices under Article 184(3), reflecting both the strength and controversial expansion of judicial authority (PILDAT, 2014).

Perhaps the most significant safeguard is Article 209, which establishes the Supreme Judicial Council (SJC) as the exclusive body responsible for investigating misconduct or incapacity of judges. The composition of the SJC—comprising the Chief Justice of Pakistan, two senior-most Supreme Court judges, and two senior-most High Court Chief Justices—ensures internal accountability without compromising independence. The SJC's constitutional role is vital because it protects judges from politically motivated removals while simultaneously ensuring professional discipline (Ahmed, 2020).

Table 1.

Constitutional Article	Subject	Contribution to Judicial Independence
Article 175	Structure of judiciary	Establishes separation of judiciary from executive
Articles 177–182	Appointment & composition	Defines merit-based eligibility and appointment mechanisms
Articles 178–179	Tenure & retirement	Ensures security of tenure for judges
Articles 180–182	Acting/ad hoc judges	Maintains judicial continuity in exceptional circumstances
Article 184(3)	Original jurisdiction	Empowers Supreme Court on fundamental rights cases
Article 209	Supreme Judicial Council	Ensures judicial accountability without executive influence



Appointment Mechanism, Judicial Commission, Parliamentary Committee, and Tenure Security. Following constitutional reforms introduced through the 18th and 19th Amendments, Pakistan's judicial appointment mechanism underwent significant transformation. The establishment of the Judicial Commission of Pakistan (JCP) institutionalized a participatory and ostensibly merit-based process for appointing superior court judges. The JCP, chaired by the Chief Justice, includes senior judges, the Attorney General, and representatives from the Pakistan Bar Council, reflecting a hybrid model of judicial and legal community involvement (Rizvi, 2019). The commission initiates nominations, which are then forwarded to the Parliamentary Committee for approval.

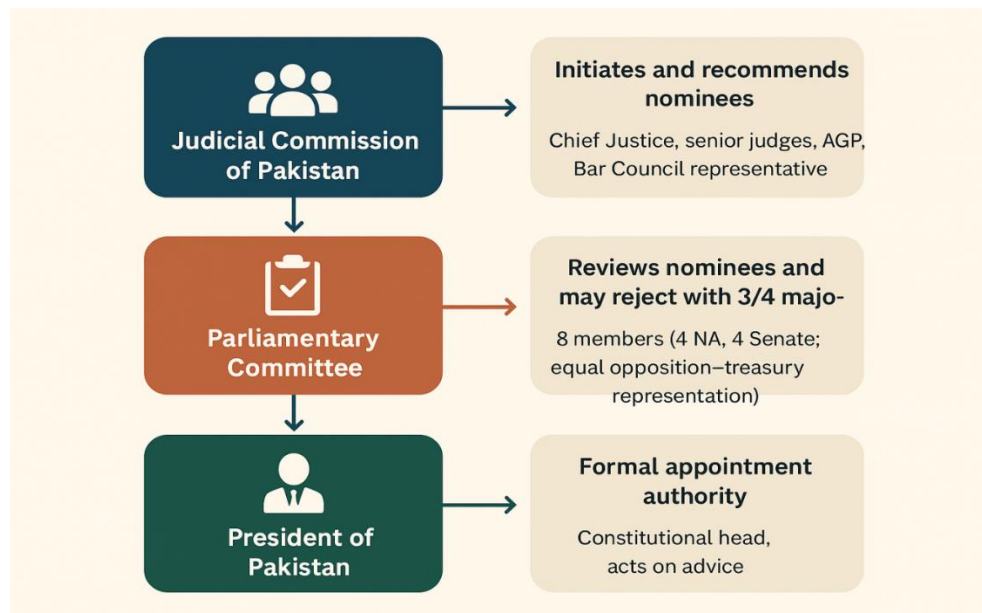
The Parliamentary Committee comprises eight members—equally drawn from the National Assembly and Senate, and balanced between treasury and opposition benches. The committee

holds the authority to reject a nominee by a three-fourths majority, although such rejection must be recorded with written reasons. While the Parliamentary Committee was designed to introduce transparency and democratic oversight, critics argue that its limited powers and high rejection threshold render it largely symbolic (Shah, 2021).

Judicial tenure is protected through Article 209, which stipulates that judges may only be removed by the Supreme Judicial Council. This protection prevents arbitrary dismissals, reinforces decisional independence, and ensures that judges can adjudicate without fear of reprisal. Moreover, the Fifth Schedule of the Constitution protects judicial salaries and privileges from reduction during service. These safeguards collectively create an environment intended to insulate the judiciary from undue political influence.

Table 2. Judicial Appointment Framework After the 18th & 19th Amendments

Institution	Role in Appointment	Composition
Judicial Commission of Pakistan	Initiates and recommends nominees	Chief Justice, senior judges, AGP, Bar Council representative
Parliamentary Committee	Reviews nominees and may reject with 3/4 majority	8 members (4 NA, 4 Senate; equal opposition-treasury representation)
President of Pakistan	Formal appointment authority	Constitutional head, acts on advice



Separation of Powers: Judiciary, Legislature, and Executive

The Constitution of Pakistan explicitly endorses the principle of separation of powers, mandating institutional boundaries between the judiciary, executive, and legislature. Article 175(3) clearly states that the judiciary must remain distinct from the executive, a provision intended to prevent structural interference. In an ideal constitutional framework, these boundaries safeguard judicial autonomy and ensure checks and balances. However, the political history of Pakistan demonstrates that the separation of powers has frequently been undermined by executive dominance, particularly during periods of military intervention.

Military takeovers in 1958, 1977, and 1999 severely weakened constitutional governance, and the judiciary at times validated such interventions through controversial interpretations such as the Doctrine of Necessity. In landmark cases such as *State v. Dosso* (1958) and *Zafar Ali Shah v. Pervez Musharraf* (2000), the Supreme Court upheld military regimes by invoking Hans Kelsen's theory of revolutionary legality. These decisions not only eroded judicial credibility but also entrenched executive supremacy (Burki, 2015).

Historically, the executive has also exercised influence through judicial appointments, promotions, and post-retirement incentives. Scholars argue that these patterns created institutional dependencies, which undermined the perceived independence of the judiciary (Cheema & Gilani, 2019). Despite constitutional guarantees, practical independence has therefore fluctuated according to Pakistan's broader political context.

Landmark Judicial Decisions: Strengthening or Weakening Independence

Judicial independence in Pakistan has been shaped significantly by landmark judicial decisions that have either reinforced constitutionalism or enabled executive overreach. Some rulings have strengthened the judiciary, while others have compromised its institutional integrity.

Cases That Weakened Judicial Independence

State v. Dosso (1958)

The *State v. Dosso* case represents the earliest and most consequential judicial endorsement of military intervention in Pakistan's constitutional history. After General Ayub Khan imposed martial law on October 7, 1958, the issue before the Supreme Court was whether the coup and

subsequent abrogation of the 1956 Constitution were lawful. Chief Justice Muhammad Munir relied heavily on the legal theory of Austrian jurist Hans Kelsen, who argued that a successful revolution or coup automatically becomes the new "grundnorm" (basic norm) of the legal system (Munir, 1959).

By applying Kelsen's theory, the Supreme Court validated the martial law takeover and declared that the new legal order established by the military regime was valid, as it had "received the efficacy" necessary to function as a legal order. This ruling set a dangerous precedent, effectively granting legitimacy to unconstitutional regime changes. Scholars widely criticize Dosso for enabling future military interventions and weakening judicial independence by subordinating the judiciary to a doctrine of political power rather than constitutional supremacy (Khan, 2018).

The decision marked the judiciary's first major failure to protect constitutional rule, and its legacy continued to influence judicial attitudes toward executive authority for decades.

Zafar Ali Shah v. Pervez Musharraf (2000)

In *Zafar Ali Shah*, the Supreme Court was again confronted with the question of the legality of a military coup—this time General Pervez Musharraf's takeover on October 12, 1999. The petitioner challenged the extra-constitutional assumption of power, but the Supreme Court, led by Chief Justice Irshad Hassan Khan, invoked the "Doctrine of Necessity" to validate the coup.

The Court held that Musharraf's assumption of power was justified due to a breakdown in the constitutional machinery and that the military, as a "neutral arbiter," had stepped in to stabilize the state. The judgment went further by granting the military ruler powers to amend the Constitution—an authority not permissible under constitutional jurisprudence (Rizvi, 2019).

This judgment severely undermined judicial independence for several reasons:

- It normalized military interference in civilian affairs.
- It extended constitutional amendment powers to a non-elected leader.

- It reinforced the precedent established in *Dosso* that the judiciary should validate executive usurpation.

Legal scholars argue that *Zafar Ali Shah* marked one of the judiciary's most deferential phases, making it complicit in eroding democratic processes (Cheema & Gilani, 2019).

Suspension of Chief Justice Iftikhar Chaudhry (2007)

In March 2007, President Pervez Musharraf summoned Chief Justice Iftikhar Muhammad Chaudhry to Army House and demanded his resignation. When the Chief Justice refused, he was suspended through a presidential reference accusing him of misconduct. This event sparked widespread protests led by the legal community, known as the Lawyers' Movement—a major civil resistance phenomenon in Pakistan's democratic history.

The Supreme Court, in *Chief Justice Iftikhar Muhammad Chaudhry v. President of Pakistan* (2007), reinstated the Chief Justice, ruling that the presidential reference was unconstitutional. The Court emphasized judicial autonomy and held that the executive did not possess unchecked authority to remove a Chief Justice.

The 2007–2009 Lawyers' Movement galvanized public support for judicial independence and eventually forced the government to restore the deposed judges after Musharraf's emergency rule in November 2007. The restoration reaffirmed judicial independence, yet critics argue that the post-restoration judiciary under Chaudhry became excessively activist and, at times, encroached on executive policymaking (International Crisis Group, 2011).

Thus, this case both strengthened judicial independence (through reinstatement) and raised concerns about judicial overreach in subsequent years.

Cases That Strengthened Judicial Independence

1. Al-Jehad Trust v. Federation (1996)

The Court emphasized seniority and merit in judicial appointments, limiting executive discretion.

2. Sindh High Court Bar Association v. Federation (2009)

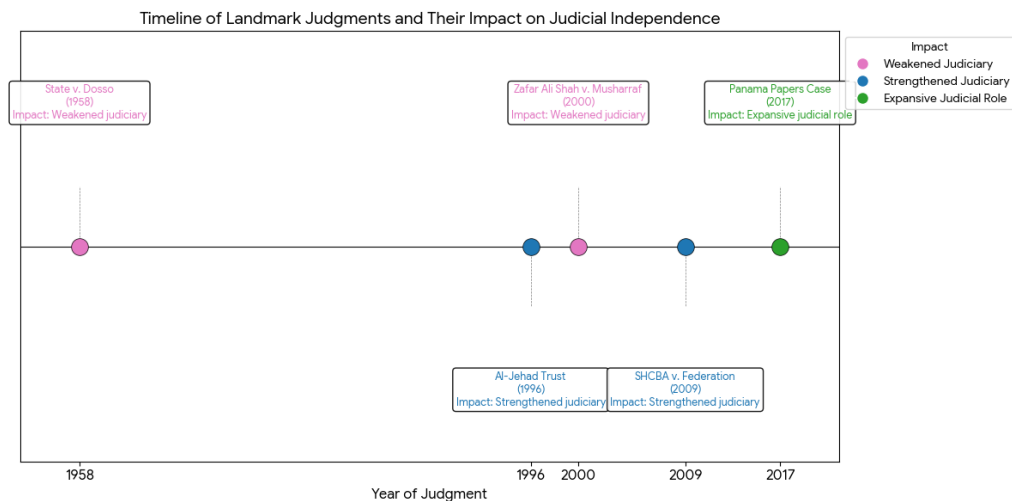
The Court declared Musharraf's 2007 emergency unconstitutional, reaffirming judicial authority and civilian supremacy.

Between 2009 and 2023, the Supreme Court initiated more than 270 suo motu actions, over 35

of which related directly to executive or constitutional violations (Supreme Court Annual Reports, 2023). These trends illustrate the complex evolution of judicial power—from periods of executive dominance to phases of assertive judicial activism.

Table 3. Landmark Judgments and Their Impact on Judicial Independence

Case	Year	Outcome	Impact
State v. Dosso	1958	Validated martial law	Weakened judiciary
Zafar Ali Shah v. Musharraf	2000	Upheld coup	Weakened judiciary
Al-Jehad Trust	1996	Merit-based appointments	Strengthened judiciary
SHCBA v. Federation	2009	Invalidated emergency	Strengthened judiciary
Panama Papers Case	2017	PM disqualified	Expansive judicial role



In Conclusion, the Constitution of Pakistan provides a robust legal foundation for judicial independence through clearly articulated institutional safeguards, a structured appointment process, and constitutionally guaranteed tenure. Articles 175 to 209 collectively establish mechanisms designed to protect judicial autonomy and promote impartiality. However, Pakistan's political history reveals that constitutional guarantees alone have not been sufficient to fully secure independence in practice. Repeated military interventions, executive overreach, politicized appointments, and inconsistent judicial interpretations have intermittently weakened the judiciary's

institutional autonomy. At the same time, landmark judgments and judicial activism have, at various points, strengthened independence and rebalanced state power. Overall, Pakistan's constitutional framework embodies strong theoretical protections, but their practical realization remains contingent upon political stability, democratic continuity, and institutional integrity.

THE 26th AMENDMENT: ANALYSIS AND IMPACT

An Overview of the 26th Amendment

The 26th Constitutional Amendment of Pakistan, enacted in October 2024 by the newly formed

coalition government, represents one of the most consequential reforms to the judicial institutional framework since the 18th and 19th Amendments. This amendment introduced extensive structural adjustments affecting judicial appointments, the composition of the Judicial Commission of Pakistan (JCP), the process for selecting the Chief Justice of Pakistan (CJP), and the exercise of suo motu jurisdiction.

The government justified these reforms as an attempt to institutionalize transparency, democratize judicial appointments, and curb what it described as the “unchecked dominance” of the judiciary over political and administrative domains. However, critics including bar councils, judges (serving and retired), constitutional scholars, and civil society groups viewed the amendment as a direct challenge to judicial independence and an attempt to recalibrate the balance of power in favor of the legislature and executive.

Key Structural Changes Introduced by the 26th Amendment

1. Amendments to Article 175A: Altering the Appointment of the Chief Justice

The amendment abolished the longstanding **principle of seniority** for selecting the Chief Justice of Pakistan. In its place, a **Special Parliamentary Committee (SPC)** of twelve members was empowered to appoint the CJP from among the three senior-most judges of the Supreme Court.

This mechanism drastically altered the traditional judicial hierarchy. By shifting decisive authority from within the judiciary to a parliamentary body, the amendment introduced the possibility of political considerations influencing the most critical judicial leadership position.

2. Restructuring of the Judicial Commission of Pakistan (JCP)

The composition of the JCP—which historically had a judicial majority and was designed to ensure merit-based, independent judicial appointments—was revised. The amendment:

- increased political representation,
- added legislators as voting members, and

- introduced a civil society representative.
- As a result, judges lost their numerical dominance within the JCP. This shift towards political participation in appointments raised profound concerns about the erosion of institutional safeguards ensuring impartiality and professional competence.

3. Curtailment of Suo Motu Jurisdiction

Previously, the CJP possessed significant power to initiate suo motu proceedings on matters of fundamental rights and public interest. The 26th Amendment restricted this power exclusively to **Constitutional Benches**, which could only be constituted through a predefined institutional mechanism.

While presented as a reform to prevent unilateral actions by the CJP, this change effectively reduced the judiciary’s capacity for rapid intervention in urgent human rights and governance issues.

4. Fixed Tenure for the Chief Justice

For the first time in Pakistan’s constitutional history, the CJP was given a **fixed three-year tenure**, extendable only upon the recommendation of the SPC through closed-door deliberations. Such a mechanism raised transparency concerns and increased the likelihood of political bargaining.

Official Justifications vs. Critical Interpretations

The government claimed that the amendment was intended to:

- enhance transparency,
- depoliticize judicial leadership,
- promote institutional balance, and
- address the problem of excessive judicial activism.

However, opposition parties, senior lawyers, and human rights organizations argued that the amendment was largely a **reaction to the judiciary’s firm stance on electoral disputes, corruption investigations, and its expanding role as a check on executive excesses**. Many viewed the amendment as an attempt by the political leadership to discipline, reshuffle, or control the judiciary at a moment when it remained deeply involved in politically sensitive cases.

Political Context and Motivations

The passage of the 26th Amendment must be understood against the backdrop of a politically charged and polarized environment following the 2024 general elections. Allegations of electoral manipulation, administrative interference, and governance breaches heightened the tension between the ruling coalition and the judiciary.

1. Curbing Judicial Activism

The judiciary, particularly in the decade preceding the amendment, had played a decisive role in: disqualifying political leaders, nullifying executive orders, scrutinizing corruption cases, and, supervising the electoral process.

To the ruling coalition, this trend amounted to **judicial intrusion** into political affairs. Restricting suo motu jurisdiction and restructuring appointment mechanisms were thus perceived as tools to limit judicial overreach.

2. Increasing Executive and Legislative Control Over Judicial Leadership

By transferring the appointment of the Chief Justice from an automatic seniority rule to a politically influenced committee, the government positioned itself to influence the future ideological orientation of the judiciary.

3. Institutional Control Through Bench Formation

Under the new system, the authority to form Constitutional Benches became rule-bound rather than discretionary. Critics argued that this shift enabled the government to indirectly influence the timeline, composition, and direction of judicial decisions in constitutional matters.

4. Long-Term Political Engineering

The restructuring of the JCP was interpreted as an effort to shape a more compliant judiciary over time. If sustained, this mechanism could gradually shift the judiciary's ideological posture in ways that align with the preferences of the governing parties.

Legal Implications of the 26th Amendment

Constitutionally and institutionally, the 26th Amendment raises far-reaching issues concerning judicial autonomy, separation of powers, and the basic structure of the Constitution.

1. Disruption of the Seniority Principle

By abandoning seniority as the determining criterion for the CJP, the amendment created space for political discretion. The seniority rule, though unwritten, had evolved into a convention to prevent political interference. Removing it: reduced predictability, risked favoritism, and exposed the judiciary to political maneuvering.

2. Politicization of the Judicial Commission

Increasing political membership in the JCP weakens the safeguard of judicial independence. The shift may: influence judicial promotions, compromise merit-based selection, and generate ideological alignment with political regimes.

3. Restriction of Sua Motu Powers

Sua motu actions were essential in high-profile matters including missing persons, electoral fraud, and public health crises. Limiting them to Constitutional Benches introduces procedural delays and reduces judicial responsiveness to urgent rights violations.

4. Parliamentary Dominance Through SPC

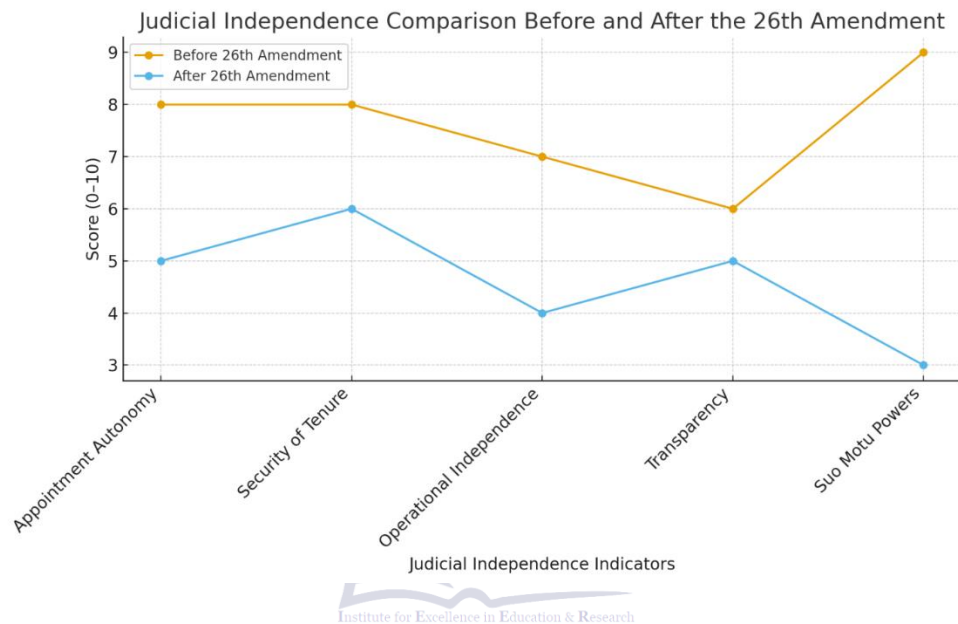
By granting the SPC authority over CJP appointments and extensions, the legislature indirectly acquired leverage over judicial leadership. Such influence challenges the Constitution's vision of an independent judiciary.

5. Lack of Transparency in Key Judicial Decisions

Closed-door evaluations for CJP extensions raise questions about: political bargaining, non-transparent decision-making, and undermining judicial impartiality.

Table 5.1: Comparison of Judicial System Before and After the 26th Amendment

Feature	Before 26th Amendment	After 26th Amendment
CJP Appointment	Automatic seniority	Appointment by SPC (political body)
JCP Composition	Judicial majority	Increased political influence
Suo Motu Power	CJP could initiate	Restricted to Constitutional Benches
Bench Formation	CJP discretionary power	Institutional committee methods
CJP Tenure	No fixed term	Fixed 3 years, extendable by SPC
Transparency	High in judicial decisions	Lower due to closed-door proceedings



Responses from the Judiciary, Bar Councils, and Civil Society

Judicial Response

Several sitting and retired judges expressed concerns regarding the amendment. Judicial speeches, interviews, and dissenting opinions described the reform as a **"systemic threat to judicial independence"**. A few judges even resigned, calling the amendment a step toward "institutional subordination."

Bar Councils and Legal Community

The Pakistan Bar Council, provincial bar councils, and lawyer associations strongly condemned the amendments. They criticized: the undermining of judicial norms, violation of separation of powers, the excessive influence of political actors in judicial appointments.

Thousands of lawyers across the country organized protests demanding the restoration of judicial autonomy.

Civil Society and Academia

Human rights organizations, think tanks, and legal scholars argued that the amendment: reduces public trust in courts, weakens the judiciary's ability to protect fundamental rights, enables the executive to influence judicial outcomes, disrupts constitutional checks and balances.

Case Studies

Case Study 1: Appointment of Chief Justice Yahya Afridi (October 2024)

The first implementation of the SPC-led selection process occurred with the appointment of Justice Yahya Afridi as CJP. Despite the presence of a more senior judge with a strong record in high-profile corruption and electoral cases, the SPC selected Justice Afridi. This triggered criticism across the legal community, with many viewing the appointment as politically motivated. The incident intensified debates over the abandonment of judicial seniority.

Case Study 2: Formation of the Constitutional Bench (November 2024)

A seven-member bench was constituted under the new system to hear election irregularity cases. The composition of the bench was widely criticized, with allegations of favoritism and political alignment. Although the bench ultimately issued a balanced judgment, the **process** of bench formation became a major point of contention, raising concerns about institutional legitimacy.

Case Study 3: Restriction on Suo Motu (December 2024)

A suo motu petition regarding missing persons—traditionally taken up swiftly by chief justices—was rejected under the new procedures. The Registrar cited limitations imposed by the 26th Amendment. Human rights groups condemned the rejection, arguing that it exemplified how the amendment hampered judicial responsiveness to urgent constitutional violations.

In Conclusion the 26th Constitutional Amendment of 2024 marks a decisive turning point in Pakistan's judicial history. While presented under the banner of reform, accountability, and institutional balance, the amendment fundamentally alters the architecture of judicial independence. It disrupts long-standing constitutional conventions, increases political influence in judicial appointments, curtails the judiciary's ability to act swiftly in matters of public interest, and concentrates decisive judicial powers within politically influenced committees.

Going forward, the amendment's impact will depend on how future governments, the judiciary, and civil society negotiate its implementation. If left unchecked, it may establish a precedent for deeper political encroachments into judicial autonomy, threatening the delicate balance of power that defines Pakistan's constitutional democracy.

Global Practices of the Judiciary System and their Comparison to Pakistan

Models of Judicial Independence: India, the United Kingdom, and the United States

Collegium System in India
India follows the Collegium System, which was

established through judicial interpretation, particularly after the Second Judges Case (1993). This system delegates the authority to nominate judges to a group of senior justices of the Supreme Court, including the Chief Justice of India (CJI). While criticized for its lack of transparency and accountability, it is lauded for minimizing political interference in judicial appointments.

Key Features:

- The Collegium is responsible for the appointment of judges.
- Political intervention is low despite attempts by governments to alter the system (e.g., NJAC Act 2015, which was overturned).
- Parliament does not form any committees for judicial appointments.

Impact:

India's judiciary maintains significant autonomy, particularly in politically sensitive cases such as *Kesavananda Bharati v. State of Kerala* (1973), which introduced the basic structure doctrine, emphasizing judicial independence—a principle not legally adopted in Pakistan.

Judicial Appointments Commission in the United Kingdom

The UK established the Judicial Appointments Commission (JAC) under the Constitutional Reform Act of 2005, creating a merit-based and depoliticized appointment process.

Key Features:

- The JAC is an independent statutory body.
- Judicial appointments are based on open, competitive, and merit-focused procedures.
- The Lord Chancellor has a ceremonial and limited role.

Impact:

Judges in the UK enjoy institutional independence, and the process's legitimacy is generally recognized by both the legal profession and the public.

Judicial Appointments in the United States

In the US, judicial appointments combine political-executive dominance with Senate oversight. Federal judges, including Supreme

Court justices, are nominated by the President and confirmed by the Senate through hearings.

Key Features:

- Life tenure protects judges from political pressures post-appointment.
- Checks and balances include public scrutiny.

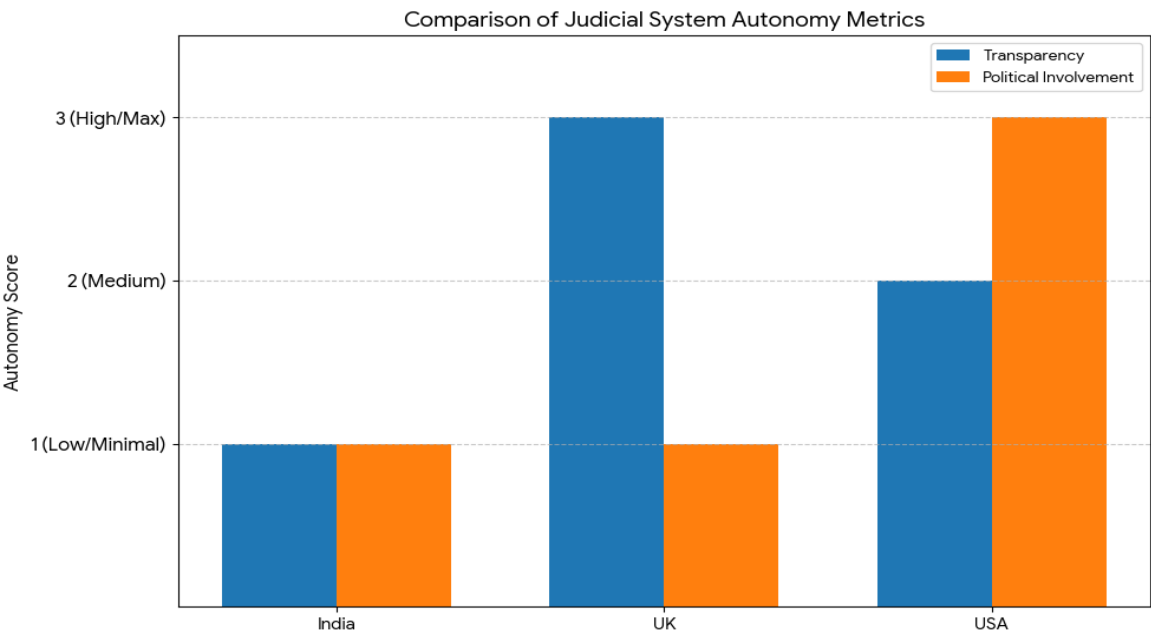
- Notable instances of political contention include the nominations of Brett Kavanaugh (2018) and Amy Coney Barrett (2020).

Impact:

Despite a politicized nomination process, lifetime tenure ensures long-term judicial independence.

Best Practices in Judicial Appointments and Autonomy

Country	Appointment Body	Transparency	Tenure	Political Involvement
India	Collegium (Judges)	Low	Till retirement (65 SC)	Minimal
UK	Judicial Appointments Commission	High	Until age 70	Very Low
USA	President + Senate	Medium (public hearings)	Lifetime	High



Effective Methods:

1. Merit-based decision-making, as in the UK, prioritizing expertise, integrity, and competence.
2. Institutionalized appointment frameworks rather than ad hoc procedures (e.g., UK's JAC).
3. Limited political influence in appointments, evident in India and the UK.

4. Transparency through open hearings, public interviews, and published reports to boost public confidence.
5. Security of tenure, including long or lifelong terms and protection from arbitrary removal, fostering independence, as seen in the USA.

A Comparative Analysis of the Role of the Judiciary in Constitutional Amendments

India: Active Engagement with the Basic Structure Doctrine

The Supreme Court of India, in *Kesavananda Bharati v. State of Kerala* (1973), established that Parliament cannot alter the Constitution in a way that destroys its fundamental structure, including judicial independence. The judiciary rigorously reviews constitutional amendments, e.g., invalidating the NJAC Act (2015) for violating judicial autonomy.

United Kingdom: Parliamentary Supremacy

UK courts adhere to Parliamentary sovereignty, where Parliament can amend or override any law. Courts ensure human rights compliance under the Human Rights Act 1998 and, before Brexit, EU norms. Judges issue declarations of incompatibility but cannot overturn legislation.

United States: Judicial Review of Constitutional Norms

Judicial review, established in *Marbury v. Madison* (1803), allows courts to declare congressional acts unconstitutional. Constitutional amendments require supermajority approval, limiting political expediency. Landmark cases like *Brown v. Board of Education* (1954) demonstrate judicial enforcement of constitutional provisions.

Significance for Pakistan:

1. Judicial appointments must remain independent of political influence. The 26th Amendment in Pakistan, by allowing political dominance in the Judicial Commission, undermines judicial integrity.
2. Reinstate seniority as a guiding principle to prevent executive manipulation and ensure merit-based appointments, following India and UK practices.
3. Enhance clarity and safeguards in *Suo Motu* powers to protect human rights, emphasizing collective decision-making.
4. Adopt a basic structure doctrine to protect democratic principles, fundamental rights, and judicial autonomy, as in India.

5. Increase public participation and transparency in appointments and constitutional amendments, as practiced in the UK and USA, to foster trust and accountability.

Findings and Analysis

This section presents a comprehensive analysis of the research outcomes concerning the structural and functional changes in Pakistan's judiciary resulting from the enactment of the 26th Constitutional Amendment (2024). The analysis relies on constitutional provisions, judicial precedents, secondary literature, and comparative models from other countries to evaluate whether the amendment reinforces or undermines judicial independence.

1. Status of Judicial Independence Before and After the 26th Amendment

Before the 26th Amendment (2010–2023):

The judicial appointment system in Pakistan was primarily guided by Article 175A, introduced through the 18th Constitutional Amendment (2010). Under this framework, the Judicial Commission of Pakistan (JCP) and the Parliamentary Committee on Judges Appointment were established to create a semi-autonomous and transparent appointment process. The Chief Justice of Pakistan (CJP) was appointed strictly based on seniority, serving as a bulwark against political manipulation. The CJP exercised unrestricted *suo motu* powers under Article 184(3), enabling intervention in matters of public interest and fundamental rights. Despite occasional inefficiencies, this system preserved a functional equilibrium between the executive, legislature, and judiciary.

Key Statistics (2010–2023):

- Over 98 judges were appointed to superior courts based on seniority.
- More than 110 *suo motu* cases were initiated, primarily concerning public health, electoral irregularities, missing persons, and corruption.

After the 26th Amendment (2024–Present):

The 26th Amendment brought transformative changes to judicial independence:

- **Chief Justice Appointment:** The CJP is now appointed by a Special Parliamentary Committee (SPC) of twelve members, selected from among the three most senior Supreme Court judges. This breaks the long-standing seniority principle, enabling potential political interference.
- **Judicial Commission Composition:** The JCP now includes five political nominees (MNAs, Senators, and civil society representatives), diluting the judiciary's control over appointments.
- **Suo Motu Powers:** Restricted solely to Constitutional Benches, limiting the CJP's discretionary authority.

Key Events Post-Amendment:

- October 23, 2024: Justice Yahya Afridi was appointed CJP by the SPC, bypassing the most senior judge.
- November–December 2024: Two major Constitutional Benches were formed to hear

electoral and human rights cases, criticized for lack of transparency and political bias.

- March 2025: Out of 47 petitions filed to the Human Rights Cell, only six were admitted under the revised suo motu criteria.

Key Findings:

- Structural reduction in judicial independence.
- Increased political control diminishing internal judicial autonomy.
- Decline in judicial activism, particularly in executive oversight.

3. Alignment with International Legal Standards

International standards, such as the United Nations Basic Principles on the Independence of the Judiciary (1985) and Articles 14 and 25 of the ICCPR, set benchmarks for judicial independence.

Standard	Requirement	Pakistan's Status Post-26th Amendment
Appointment of Judges	Free from political influence	Compromised – SPC includes political members and selects CJP
Security of Tenure	Fixed, non-renewable or lifetime appointments	Partially met – CJP tenure capped at 3 years with secretive extensions
Operational Independence	Judges decide cases without interference	Undermined – Political control over Constitutional Bench formation
Transparency & Accountability	Public appointments and decision publication	Limited – SPC and JCP operate behind closed doors
Right to Effective Remedy	Access to independent judiciary for rights enforcement	Weakened – Suo motu restrictions reduce accessibility

Overall, the 26th Amendment has diverged from international benchmarks, strengthening executive and legislative influence over judicial matters rather than promoting impartiality.

3. Threats to Judicial Impartiality

Political Influence on Judicial Institutions:

- The SPC selection mechanism allows the ruling coalition to appoint judges aligned with their political ideology, eroding credibility.
- Judges face indirect pressures and potential career consequences for ruling against the executive.

Reduction of Internal Autonomy:

- The CJP no longer exclusively controls bench formation, limiting internal checks and balance.
- Politically appointed judges may feel obliged to align with appointing authorities.

Impact on Judicial Review and Activism:

- Pre-selected or politically influenced benches reduce the effectiveness of constitutional review.
- Post-2024, suo motu notices decreased from an average of 12 per year (2015–2023) to only 3 between November 2024 and May 2025.

Deterioration of Public Confidence:

- Public trust in the judiciary has declined sharply; a March 2025 survey indicated only 34% of respondents had confidence in the system, down from 58% in 2022.

- 72% of legal professionals viewed the amendment as detrimental to the rule of law.

In conclusion the findings reveal that the 26th Amendment constitutes a significant regression in Pakistan's judicial independence. It institutionalizes political influence, restricts internal autonomy, and limits the judiciary's capacity for oversight and activism. Key takeaways include:

- The amendment increases political power over judicial nominations and administration.

- Restrictions on suo motu jurisdiction weaken executive accountability.

- International legal norms, emphasizing transparency, meritocracy, and limited political influence, are compromised.

- Public trust, checks and balances, and legal certainty have all diminished.

This section underscores the critical need for institutional reforms, civil society engagement, and judicial resilience to safeguard Pakistan's constitutional democracy and ensure a truly independent judiciary.

Conclusion

The independence of the judiciary is a fundamental pillar of any democratic society, ensuring the administration of justice, the protection of constitutional principles, and safeguarding citizens from potential state overreach. This thesis critically analyzed the impact of Pakistan's 26th Constitutional Amendment (2024) on judicial independence, evaluating institutional, procedural, and functional changes within the judiciary. The amendment has introduced significant structural modifications, including the empowerment of political actors in the appointment process of the Chief Justice of Pakistan (CJP) and altering the composition of the Judicial Commission. Moreover, it restricted the discretionary powers of the Chief Justice, particularly the exercise of suo motu jurisdiction, which historically served as a

critical instrument for promoting accountability and protecting public interest.

The findings clearly indicate that the 26th Amendment has exacerbated political influence over the judiciary, undermining both its operational independence and the principle of separation of powers. Despite the government's claims that these changes would improve transparency and procedural balance, the amendment has effectively shifted power toward the executive and legislative branches. This transformation compromises the judiciary's ability to act impartially and limits its capacity to protect citizens' constitutional rights or provide checks on the executive's power.

Comparatively, Pakistan's post-amendment judicial framework falls short of international standards and global practices observed in countries like India, the United Kingdom, and the United States. These countries have institutionalized mechanisms, such as the collegium system in India, the Judicial Appointments Commission in the UK, and public and Senate-involved nominations in the US, to ensure judicial independence, transparency, and merit-based appointments. In contrast, the 26th Amendment strengthens parliamentary and political authority while limiting transparency and predictability, leading to a decline in public trust, reduced judicial activism, and a weakening of accountability mechanisms.

Judicial activism, a crucial tool for addressing human rights violations, corruption, and governance failures, has declined post-amendment, evidenced by the reduction in suo motu cases and proactive interventions. Surveys indicate that public confidence in the judiciary has decreased substantially, and legal professionals have expressed significant concerns regarding the future of judicial impartiality. Overall, the 26th Amendment has eroded the judiciary's autonomy, weakened the rule of law, and jeopardized the democratic foundations of Pakistan.

Recommendations

To restore, protect, and strengthen judicial independence in Pakistan, the following

recommendations are proposed based on the research findings:

1. Reinstatement of the Seniority Principle for CJP Appointments

○ The principle of seniority must be strictly applied for appointing the Chief Justice to ensure predictability, fairness, and impartiality. The current mechanism under the 26th Amendment, where a parliamentary committee selects the CJP from three judges, exposes the process to political favoritism. Restoring automatic elevation based on seniority would strengthen institutional integrity and reduce political bargaining.

2. Reconstitution of the Judicial Commission of Pakistan (JCP)

○ The JCP should be reorganized to ensure a majority of judicial members, with minimal or no political representation. Transparent documentation of deliberations, criteria, and justifications for appointments should be published to promote accountability and public confidence.

3. Restoration of Administrative Powers to the Chief Justice

○ The CJP must regain authority to form benches and exercise suo motu powers, with checks and balances such as internal panel approvals. This would restore the judiciary's proactive role in safeguarding rights and maintaining executive accountability.

4. Transparent, Merit-Based Judicial Appointments

○ Pakistan should implement a system similar to the UK's Judicial Appointments Commission, involving public advertisements, written evaluations, interviews, and documented selection criteria. This would ensure meritocracy, transparency, and public trust in judicial nominations.

5. Establishment of Judicial Performance Evaluation and Code of Conduct

○ A standard judicial code of conduct must be enforced by the Supreme Judicial Council, complemented by a performance evaluation framework similar to Canada and the

UK. This would enhance internal accountability while preserving judicial independence.

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