



Review of Judicial Independence and Democracy in Pakistan

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ABSTRACT

Judicial independence is the backbone of constitutional democracy because it ensures that judges can decide cases without fear, pressure, or political bargaining. In Pakistan, however, this idea has developed in a turbulent constitutional environment shaped by repeated military takeovers, unstable civilian rule, and frequent constitutional disruption. This research examines how Pakistan's superior judiciary has alternated between complicity and resistance, and how that pattern has affected democratic governance and the rule of law. Using a doctrinal and contextual method, the study traces the historical roots of judicial compromise beginning with *Federation of Pakistan v. Maulvi Tamizuddin Khan* (PLD 1955 FC 240), where the dissolution of the Constituent Assembly was upheld on technical grounds, an early turning point that later nourished the Doctrine of Necessity. The research shows that necessity jurisprudence gradually became a recurring legal cover for extra-constitutional governance, especially during the regimes of Ayub Khan, Yahya Khan, Zia-ul-Haq, and Pervez Musharraf. In these periods, Provisional Constitutional Orders (PCOs), enforced oaths, and "validation judgments" reshaped courts from constitutional guardians into crisis managers. This study also highlights that threats to judicial independence are not only external. Internal controversies relating to accountability, politicized appointments, seniority disputes, and administrative influence have weakened institutional cohesion and public trust. Further, the research finds that democratic governments have often repeated executive interference through appointment manipulation, political pressure, and resistance to adverse rulings, proving that democratic legitimacy alone does not guarantee constitutional restraint. Finally, the study evaluates contemporary developments, including the Twenty-seventh Constitutional Amendment (2025) and debates around restructuring constitutional adjudication. It concludes that judicial independence is not merely a legal safeguard but a democratic necessity: where courts compromise, constitutional limits collapse. The research recommends transparent appointments, respect for seniority, institutional autonomy, and clear limits on executive interference to rebuild constitutionalism and democratic resilience in Pakistan.

Keywords: Judicial Independence; Doctrine of Necessity; Constitutionalism; Martial Law; Democratic Governance

1. Introduction

Judicial independence lies at the core of constitutional democracy and the rule of law [1]. The right to information in relation with Judicial independence is also one of major factor for democracy and the rule of law[2, 3]. It requires that judges decide cases free from political pressure, institutional interference, or private influence, thereby ensuring fair adjudication and maintaining public confidence in the legal system. In democratic settings, an independent judiciary functions as a safeguard against arbitrary power, protects fundamental rights, and upholds constitutional supremacy[4]. In Pakistan, however, the ideal of judicial independence has evolved within a contested political landscape marked by military interventions, fragile civilian rule, and recurring constitutional disruption[5]. Since independence in 1947, Pakistan's judiciary has played an ambivalent role, at times legitimizing authoritarian rule while at other moments resisting executive dominance and asserting constitutional limits. A critical early episode was *Federation of Pakistan v. Maulvi Tamizuddin Khan* (PLD 1955 FC 240), in which the Federal Court upheld the dissolution of the Constituent Assembly and laid the groundwork for the "doctrine of necessity"[6]. This doctrine, subsequently invoked in later crises, provided legal cover for extra-constitutional governance, including military coups, and severely compromised judicial autonomy. Under the regimes of General Ayub Khan, General Zia ul Haq, and General Pervez Musharraf, courts repeatedly validated military rule through pliant interpretations,



PCOs, and enforced oaths, even as pockets of resistance emerged around questions of constitutionalism and rights.

The suspension of *Chief Justice Iftikhar Muhammad Chaudhry* in 2007 and the ensuing lawyers' movement symbolized a turning point in the public and professional imagination of judicial independence in Pakistan[7]. Yet, the pressures on the judiciary have persisted under both military and civilian governments, including through politicized judicial appointments, manipulation of seniority, and attempts to influence high-profile litigation. In the contemporary context, assessments such as *Freedom in the World 2025* point to a formal electoral framework coexisting with entrenched military influence over political outcomes, media space, and policy direction, raising serious concerns about the quality of democratic governance. Recent constitutional developments have intensified these concerns. The Twenty-seventh Amendment to the Constitution of Pakistan (2025) restructures the judicial architecture by establishing a Federal Constitutional Court to assume primary responsibility for constitutional adjudication and by reshaping the appointment, transfer, and supervision of judges[8]. Critics, including international legal bodies such as the International Bar Association's Human Rights Institute and the International Commission of Jurists, argue that the amendment amounts to a "flagrant attack" on judicial independence, entrenching military dominance and weakening institutional checks and balances[9]. The reported resignations of senior Supreme Court judges in protest against these changes further underscore the depth of institutional unease and the perception that the superior judiciary's role in constitutional review is being systematically curtailed. Against this backdrop, the link between judicial independence and democracy in Pakistan is both institutional and normative. Judicial autonomy provides a crucial mechanism for ensuring that governmental action remains subject to constitutional constraints, that fundamental rights are meaningfully protected, and that the separation of powers is not reduced to a mere formal claim. Where courts are unable or unwilling to fulfill this role, whether due to overt coercion or more subtle forms of executive leverage, democratic accountability erodes, civil liberties weaken, and the constitutional order tilts toward managed or hybrid authoritarianism.

This article undertakes a doctrinal and contextual analysis of judicial independence in Pakistan, tracing its historical evolution, doctrinal foundations, and contemporary challenges. It examines landmark cases, including *Maulvi Tamizuddin Khan* and later jurisprudence under the doctrine of necessity, as well as key constitutional changes culminating in the Twenty-Seventh Amendment, to evaluate how courts have alternated between complicity and resistance in the face of executive and military power. Methodologically, the article employs a doctrinal [10] approach combined with historical and institutional analysis to assess the extent to which existing safeguards can still sustain a judiciary capable of acting as an effective guardian of the Constitution. In doing so, it seeks to contribute to broader debates on constitutionalism, separation of powers, and democratic resilience in Pakistan and comparable hybrid regimes.

2. The Doctrine of Necessity: Judicial Validation of Power and Democratic Fragility

The Doctrine of Necessity is a contentious legal principle used to justify actions taken outside the constitutional framework in the name of preserving the state or restoring order in exceptional circumstances[11]. In its classical formulation, drawn from medieval English law and later constitutional theory, it rests on the maxim that necessity may temporarily override ordinary legal rules where their strict application would imperil the community or the state itself. In principle, this doctrine is intended as a narrow, time-bound exception to protect the legal order, not to displace it. In Pakistan, however, the doctrine has acquired a very different and deeply problematic character. Rather than remaining a last-resort safeguard, it has evolved into a recurring judicial device used to validate unconstitutional seizures of power, particularly military coups and the dissolution of representative institutions. In country's constitutional history, the *Doctrine of Necessity* has been pivotal in enabling repeated constitutional breakdowns instead of preventing them[12]. Superior courts have frequently



invoked necessity not to preserve the Constitution, but to rationalize its suspension, abrogation, or radical alteration under extra-constitutional regimes. Military rulers and non-representative executives have relied on the judiciary's willingness to accept "state necessity" as a legal justification for emergency rule, PCOs, and the sidelining of elected institutions. Each time courts upheld these measures, plainly unconstitutional acts were transformed into legally sanctioned orders, granting de facto legitimacy to de jure illegality.

2.1 *Maulvi Tamizuddin Khan Case*

The case titled as *Federation of Pakistan v. Maulvi Tamizuddin Khan*, PLD 1955 FC 240, is widely regarded as the foundational moment in the judicial entrenchment of the *Doctrine of Necessity* in Pakistan[13]. The dispute arose when the Governor-General unilaterally dissolved the Constituent Assembly, which was engaged in drafting Pakistan's first Constitution. *Maulvi Tamizuddin Khan*, the President of the Assembly, challenged this dissolution, arguing that it was unconstitutional and violated the emerging democratic structure of the state[14]. The case thus posed a stark question: would the judiciary defend representative constitution-making, or endorse executive prerogative power? Initially, the Sindh Chief Court sided with *Maulvi Tamizuddin Khan*, holding that the Governor-General's action was unlawful and beyond his constitutional authority. This judgment affirmed the principle that even the highest executive officeholder remained bound by legal limits. However, the Federal Court, led by *Chief Justice Muhammad Munir*, overturned the decision, holding that the Constituent Assembly was not a fully lawful body because it had not been properly constituted under existing legal instruments. This reasoning allowed the Court to treat the Governor-General's dissolution as legally sustainable, effectively prioritizing formalistic technicalities over the substantive democratic function of the Assembly. Justice Munir's reasoning extended beyond narrow legal interpretation into an overt preference for "state necessity" and political stability. By emphasizing the need to avoid a constitutional vacuum and to preserve continuity of governance, the Court implicitly endorsed the idea that legality could yield to perceived necessity. Although the term "*Doctrine of Necessity*" was not yet fully articulated in the sophisticated form it would later assume, its core logic, sanctioning extra-constitutional actions in the name of state survival, was clearly embedded in the judgment. This decision thus supplied the intellectual and jurisprudential foundation upon which later courts would build when validating coups, martial law regimes, and emergency decrees.

2.2 *Impact of Constitutional Cases*

In the decades following the *Maulvi Tamizuddin Khan Decision*, the *Doctrine of Necessity* matured into a recurring judicial rationale in country's constitutional jurisprudence [15]. Superior courts repeatedly relied on necessity to validate extra-constitutional regimes, including the military coups of 1958, 1977, and 1999, as well as various emergency proclamations and PCOs. Instead of correcting the initial doctrinal misstep, the judiciary embedded it more deeply, transforming an extraordinary justification into a familiar legal instrument. Over time, necessity moved from the margins to the center of constitutional discourse, shaping how crises were interpreted and resolved. Through a series of landmark cases, courts affirmed the suspension or abrogation of constitutions, endorsed martial law authorities, and permitted the restructuring of state institutions without democratic mandate. Each judicial validation strengthened a dangerous pattern: once unconstitutional acts received judicial approval, they acquired a veneer of legality, blurring the line between lawful constitutional change and raw political power[16]. This blurred boundary did not only affect abstract doctrine; it also reshaped institutional behavior. Political actors came to expect that courts would eventually reconcile extra-constitutional interventions with constitutional language, thereby lowering the perceived cost of breaching constitutional norms. The democratic cost of this jurisprudential trajectory has been severe. Judicial endorsement of extra-constitutional actions weakened parliamentary sovereignty by allowing non-elected authorities to usurp legislative and constituent powers with legal blessing. Public trust in the judiciary's impartiality and courage eroded as courts were seen as partners, rather than checks, in



projects of authoritarian consolidation. The separation of powers became more formal than real, as executive and military actors repeatedly escaped meaningful judicial scrutiny in moments of greatest constitutional stress. Democracy in Pakistan thus suffered not only because constitutions were suspended or rewritten, but because the very institution tasked with defending the constitutional order repeatedly ratified its violation.

3. Martial Laws in Pakistan and Judicial Independence

The constitutional history of Pakistan is inseparable from the recurring influence of martial law[17]. Each military intervention has not only interrupted the democratic process but has also reshaped the judiciary's character and role within the state. The courts, often positioned as guardians of constitutional order, were repeatedly placed under political and institutional pressure to validate extraconstitutional actions. These judicial compromises eroded the foundations of democratic governance and constitutional supremacy. This analysis examines how successive martial law regimes, under *General Ayub Khan*, *General Yahya Khan*, *General Zia-ul-Haq*, and *General Pervez Musharraf*, systematically weakened judicial independence and transformed the nature of constitutional adjudication in Pakistan.

3.1 General Ayub Khan's Regime (1958–1969)

General Ayub Khan's military takeover in October 1958 marked the first major constitutional rupture in Pakistan's political history[18]. The 1956 Constitution was abrogated, national and provincial assemblies were dissolved, and the military consolidated executive and legislative powers. The judiciary, instead of resisting this unconstitutional seizure, legitimized it through judicial reasoning cloaked in the doctrine of "state necessity." The Supreme Court, in the landmark *State v. Dosso* (1958) case, validated Ayub Khan's actions, laying the groundwork for the subordination of the judiciary to military power. This reasoning shifted the judiciary's role from a protector of constitutional limits to a facilitator of executive dominance. The court justified its decision by suggesting that maintaining order and continuity outweighed adherence to constitutional forms a rationale that would haunt Pakistan's judicial system for decades. Following the abrogation, Ayub Khan introduced the 1962 Constitution, which placed significant restrictions on the judiciary's powers[19]. It institutionalized executive control over the courts, narrowing judicial review and blurring the separation of powers. Judges functioned in a climate where opposing the regime was not only risky but institutionally discouraged. The long-term impact of Ayub Khan's regime was devastating to judicial independence. By normalizing judicial validation of unconstitutional acts, the courts blunted the public's confidence in legal institutions. Democracy, stripped of judicial protection, became vulnerable to future takeovers. Ayub's era set the precedent that extraordinary rule could be judicially validated, embedding a culture of submission within the judiciary.

3.2 General Yahya Khan's Regime (1969–1971)

When General Yahya Khan assumed power in 1969, he deepened the constitutional instability left by his predecessor[20]. Unlike Ayub, Yahya Khan did not attempt to preserve even a façade of constitutional continuity; instead, he ruled directly through martial law regulations, effectively sidelining the judiciary altogether. During this period, the superior courts operated under severe constraints. Their jurisdiction was curtailed, and their ability to review military orders or protect individual rights was virtually nullified. The judiciary's silence in the face of these violations exposed deep institutional fragility, it became a bureaucratic appendage rather than an independent branch of government. The judiciary's failure to challenge *Yahya Khan's* abrogation of the Constitution had severe consequences. Without constitutional oversight, executive authority expanded unchecked, precipitating political repression and alienation. This vacuum of legality contributed to broader national disintegration, culminating in the *separation of East Pakistan* in 1971[21]. The *Yahya regime* highlights how the erosion of judicial independence can accelerate both political and territorial instability. When courts are silenced, the rule of law collapses, and constitutional order becomes irretrievable.



3.3 General Zia-ul-Haq's Regime (1977–1988)

General Zia-ul-Haq's takeover in 1977 presented a more sophisticated and entrenched form of militarized governance[22]. Rather than merely suspending the Constitution, Zia sought to re-engineer the legal and judicial framework to ensure long-term control[23]. His manipulation of constitutional provisions and introduction of ideological law served both political and authoritarian purposes. The Fifth and Sixth Amendments were central to this process. These amendments altered the terms of judicial retirement, shifted appointment powers, and expanded executive discretion in judicial administration. Judges became dependent on the regime for advancement, undermining both institutional autonomy and personal security. Zia also pursued a systematic Islamization of law, establishing Shariat benches and other parallel legal structures. While framed as religious reform, these measures functioned politically to align the judiciary with the regime's ideological narrative and to suppress independent judicial interpretation. Courts under Zia frequently validated his policies through judgments that prioritized "national stability" or "Islamic values" over constitutional legality. Instances of judicial resistance were swiftly punished through dismissal or marginalization. The resulting culture of compliance eroded public confidence and entrenched executive dominance. Even after Zia's death and the restoration of civilian rule, the judiciary struggled to reclaim its independence. The institutional legacies of constitutional manipulation and ideological control outlived the regime itself, leaving behind a cautious and often politically deferential judiciary. Zia's rule thus institutionalized judicial submission not through overt coercion, but through structural and psychological conditioning.

3.4 General Pervez Musharraf's Regime (1999–2008)

General Pervez Musharraf's coup in 1999 initiated a more legally nuanced era of military governance[24]. Learning from earlier regimes, Musharraf sought legitimacy through legal instruments rather than outright abolition of the Constitution[25]. The *Provisional Constitutional Order (PCO)* became the cornerstone of his strategy, compelling judges to swear allegiance to the new regime before resuming their duties[26]. This oath effectively divided the judiciary: those who refused were dismissed, while those who complied retained their positions. Judicial independence was replaced by conditional loyalty to executive power. The confrontation reached its peak in 2007 when Musharraf suspended *Chief Justice Iftikhar Muhammad Chaudhry*, triggering a constitutional crisis[27]. Unlike previous eras, this confrontation sparked resistance both within and beyond the legal community. The *Lawyers' Movement (2007–2008)* united thousands of legal professionals, civil society groups, and ordinary citizens demanding restoration of judicial independence. It was the first time in Pakistan's history that the judiciary, supported by public mobilization, became a symbol of constitutional defiance rather than submission. The reinstatement of the judiciary following Musharraf's resignation represented a partial victory for democratic resilience. Courts, emboldened by public support, began asserting their authority in subsequent years through judicial activism. Yet, structural vulnerabilities, such as executive influence in appointments and institutional politicization, remained unresolved. Musharraf's era therefore represents both continuity and transformation. It reaffirmed the persistent threat posed by military rule to judicial independence but also introduced a new chapter in which public and professional resistance revitalized hopes for constitutionalism.

The history of martial law in Pakistan reveals a recurring pattern: judicial complicity under pressure and constitutional compromise under coercion [28]. From Ayub Khan's initial abrogation to Musharraf's calculated manipulation of legality, the judiciary repeatedly prioritized stability over [29]. Each validation of military rule weakened the rule of law, eroded democratic structures, and conditioned the judiciary to accommodate executive encroachment [13]. However, Pakistan's judicial evolution also demonstrates a potential for renewal [30]. The Lawyers' Movement signaled that judicial independence can be reclaimed when anchored in public demand, professional solidarity, and constitutional conviction [31]. Yet, the legacy of martial law reminds us that institutional reforms are essential. Judicial appointments, tenures, and jurisdictions must be protected constitutionally, free from



military or executive interference [13]. True judicial independence in Pakistan can only be achieved through a firm constitutional culture, one that rejects the doctrine of necessity and affirms that no political crisis justifies the subversion of the rule of law [13]. The judiciary must reclaim its rightful place as the custodian of the Constitution, not its interpreter under duress. Only then can Pakistan break the cycle of constitutional collapse and ensure sustainable democratic governance [32].

4. Controversies Within the Apex Judiciary

Pakistan's Supreme Court, empowered by Articles 184 and 189 of the Constitution to protect fundamental rights and interpret the foundational law, faces its deepest challenges from within its own ranks rather than solely from external forces like military coups or executive overreach (Khan, 2015). Internal controversies ranging from doctrinal flip-flops and ethical scandals to politicized trials and administrative favoritism, have steadily eroded the Court's credibility, turning it from an impartial referee into a perceived player in power struggles. These self-inflicted wounds reveal a judiciary grappling with its core identity, where judges' divisions and compromises have fractured public trust and weakened constitutional guardianship [33].

The *Maulvi Tamizuddin Khan v. Federation of Pakistan* case (PLD 1955 FC 240) set this troubling pattern early [34]. In 1955, the Federal Court upheld Governor-General Ghulam Muhammad's dissolution of the Constituent Assembly based on a narrow procedural flaw under the Government of India Act, 1935, ignoring the democratic will of elected representatives [35]. Chief Justice Muhammad Munir's majority opinion prioritized "legal continuity" over popular sovereignty, laying the groundwork for the "doctrine of necessity" that later justified martial laws. Justice Sharif's dissent warned of the dangers, but the ruling trained courts to favor stability over democracy, priming the judiciary for decades of deference to extra-constitutional power. This internal vulnerability peaked in the *State v. Zulfikar Ali Bhutto* trial (PLD 1979 SC 38), where a divided 4-3 Supreme Court upheld the former prime minister's death sentence amid General Zia-ul-Haq's dictatorship [22]. The majority, led by Chief Justice Anwar-ul-Haq, accepted flawed evidence like coerced testimony and limited Bhutto's defense rights, breaching fair trial principles now enshrined in Article 10-A [36]. Dissenters exposed the political motivations, and international bodies like the International Commission of Jurists labeled it a "judicial murder". The split not only scarred the Court's reputation but also portrayed it as a tool for regime consolidation, amplifying perceptions of bias and forum-shopping [37].

More recently, the presidential reference against Justice Qazi Faez Isa under Article 209 (PLD 2021 SC 1) highlighted the tricky balance between accountability and independence. Triggered after Isa's critical rulings on military land allotments, the probe alleged hidden assets and was seen as executive retaliation. A 10-judge bench quashed it in 2021, insisting on solid evidence for misconduct claims and protecting judges from reprisals. This decision underscored a key tension: unchecked power breeds arrogance, but selective scrutiny stifles courage, calling for SJC reforms like transparent processes to prevent abuse. Justice Shaukat Aziz Siddiqui's 2018 removal by the Supreme Judicial Council further muddied accountability waters. After a speech alleging ISI interference in case assignments, the SJC deemed it misconduct under Article 209, prioritizing judicial silence overexposing systemic issues. Critics argued it punished whistleblowing, chilling honest critique, while supporters cited ethics codes. The case exposed how internal discipline can suppress reform, demanding rules that protect truth-tellers without chaos. The 2019 treason conviction of Pervez Musharraf under Article 6 (PLD 2019 Islamabad 1) offered a bold contrast, with a special court rejecting necessity defenses for his 2007 emergency. Yet, Supreme Court suspensions and his eventual exile diluted enforcement, revealing judicial hesitation against entrenched powers. This gap between strong words and weak action showed disunity's cost, undermining deterrence. Appointment controversies compound these fractures. Skipping senior judges for elevations, often via 18th or 26th Amendment tweaks, breeds cronyism accusations, violating Article 175(3)'s collegial spirit and fostering factions. Similarly, opaque registrar picks, who control



case lists and benches under Article 191, invite suspicions of backdoor influence, breaching equal access in Article 25.

These episodes, from early doctrinal dodges to modern ethics clashes, prove Pakistan's judicial crisis is as much homegrown as imposed. Doctrinal U-turns, trial stains, and admin games have blurred law and politics, sapping constitutional faith. Reforms like fixed seniority, insulated SJC, open administration, and dissent-friendly ethics are essential. Only by mending these internals can the Supreme Court reclaim its role as democracy's unyielding sentinel.

5. Democratic Government & Judicial Independence

5.1 Benazir Bhutto's Second Term: Acting Chief Justices and Executive Manipulation

The second democratic tenure of Benazir Bhutto (1993–1996) is often remembered as a missed opportunity for consolidating judicial independence [37]. Although the period marked a return to civilian rule after years of authoritarian dominance, executive conduct toward the judiciary reflected continuity rather than reform. One of the most controversial practices during this period was the frequent appointment of *Acting Chief Justices* instead of confirming senior-most judges. This tactic allowed the executive to exert indirect influence over judicial leadership by keeping top judicial offices temporary and uncertain [38]. Acting appointments weakened institutional confidence, discouraged judicial assertiveness, and signaled that tenure security depended on executive goodwill. From a constitutional perspective, this practice undermined the principle of separation of powers. Judicial independence does not merely depend on the absence of overt interference; it also requires structural stability. By manipulating appointments, the executive retained leverage over judicial administration, case allocation, and internal discipline. Importantly, these actions did not occur in a vacuum. They were shaped by historical patterns, where executives learned that judicial compliance could be achieved without overt coercion. Thus, even under democratic rule, the judiciary remained vulnerable, not because democracy was absent, but because democratic norms had not yet matured into constitutional restraint.

5.2 Pakistan Peoples Party's Rough Handling of Judges: Political Pressure and Institutional Weakening

Beyond appointments, the Pakistan Peoples Party's broader engagement with the judiciary during democratic rule reflected a confrontational approach that strained institutional boundaries [39]. Judges perceived as unfriendly to executive interests were subjected to political criticism, public delegitimization, and administrative sidelining [40]. Such "rough handling" manifested through pressure tactics rather than formal removal. Public statements questioning judicial motives, resistance to implementing court orders, and strategic delays collectively weakened judicial authority [41]. While civilian governments possess democratic legitimacy, constitutionalism demands restraint in how that power is exercised [42]. This period illustrates a critical paradox: democracy alone does not guarantee judicial independence. When political actors view courts as obstacles rather than partners in governance, judicial autonomy suffers. The judiciary, already institutionally fragile due to past authoritarian subordination, found itself navigating a democratic environment that reproduced many of the same pressures, albeit in subtler forms. Institutionally, these practices deepened mistrust between branches of government and discouraged judicial boldness. Judges became cautious, aware that assertiveness might invite political backlash. Consequently, judicial independence was compromised not through coups or emergency decrees, but through everyday political hostility [43].

5.3 Judgment in the Judges Case: Restoration Jurisprudence and Judicial Autonomy

The Judges Case represents a turning point in Pakistan's constitutional jurisprudence [44]. For the first time, the Supreme Court articulated a doctrine aimed explicitly at restoring judicial autonomy by limiting executive dominance over appointments. The Court emphasized that judicial independence is a *structural requirement* of the Constitution, not a privilege granted by the executive. It reaffirmed the seniority principle and restricted arbitrary discretion in judicial appointments [45]. This jurisprudence



marked a conscious effort to undo decades of executive encroachment documented in earlier chapters. However, the judgment's significance lies not only in its legal reasoning but also in its symbolic message: the judiciary was attempting institutional self-correction. By asserting control over its own composition, the Court sought to reclaim legitimacy eroded by earlier compromises. Yet, the restoration was incomplete. The judgment operated within a political environment still resistant to judicial autonomy. While it strengthened doctrinal foundations, implementation remained contested. Nevertheless, the Judges Case laid the groundwork for later constitutional reforms, demonstrating that jurisprudence could serve as a vehicle for democratic recalibration [46].

5.4 Judicial Crisis During the Zardari Government: Executive–Judiciary Confrontation and Appointments Controversy

The democratic government led by Asif Ali Zardari witnessed one of the most visible confrontations between the executive and the judiciary [47]. The refusal to immediately restore deposed judges following the Lawyers' Movement intensified institutional conflict and tested democratic commitment to constitutional supremacy. Appointments once again became a focal point of controversy. Allegations of favoritism, delays in confirmations, and resistance to court rulings reflected executive discomfort with an assertive judiciary [45]. The confrontation underscored unresolved tensions inherited from both authoritarian and earlier democratic periods. This crisis demonstrated that judicial independence, once asserted, invites resistance from political actors accustomed to judicial accommodation. The executive's reluctance to yield ground highlighted a broader structural issue: democratic legitimacy was being used to justify constitutional defiance. Ultimately, the judiciary's persistence during this period strengthened its public standing. Yet, the episode also exposed institutional fragility, judicial authority still depended heavily on political negotiation rather than unquestioned constitutional acceptance [48].

5.5 The Need for the 18th and 19th Constitutional Amendments: Balancing Independence and Accountability

The 18th Amendment and 19th Amendment emerged as structural responses to decades of judicial–executive conflict [49]. These amendments institutionalized a new appointment mechanism through the Judicial Commission and Parliamentary Committee [50]. The objective was balance: safeguarding judicial independence while ensuring democratic oversight. The Judicial Commission prioritized professional input, while the Parliamentary Committee introduced representative accountability. This hybrid model sought to prevent unilateral control by either branch. Critically, the amendments reflect lessons learned from earlier controversies. Absolute executive discretion had failed; unchecked judicial autonomy also risked elitism. The new framework attempted to reconcile independence with transparency [51]. While debates over effectiveness continue, the amendments represent a constitutional acknowledgment that judicial independence must be *systematically protected*, not episodically defended. They mark a shift from reactive jurisprudence to proactive constitutional design [52].

5.6 Vote of No Confidence and the Deputy Speaker's Ruling: Constitutional Breakdown and Judicial Intervention

The Deputy Speaker's ruling dismissing a vote of no confidence constituted a profound constitutional crisis. By bypassing explicit constitutional procedures, the ruling threatened parliamentary sovereignty and democratic continuity [53]. The judiciary's intervention restored constitutional order by reaffirming that political processes must operate within legal boundaries. This moment demonstrated the Court's willingness to confront executive overreach even in politically charged environments. Importantly, the intervention reflected institutional learning. Unlike earlier eras, the judiciary did not retreat into formalism or deference. Instead, it asserted its role as a constitutional referee, signaling maturity in democratic adjudication [54].

5.7 Supreme Court's Verdict: Hope for Democratic Consolidation

The Supreme Court's verdict on the no-confidence crisis stands as a hopeful marker for Pakistan's democratic future. By prioritizing constitutional text and democratic procedure over political expediency, the Court reaffirmed its commitment to constitutional supremacy. This assertiveness reflects an evolved judiciary, one shaped by past failures but willing to defend democratic norms. While challenges persist, the verdict suggests that judicial independence, though fragile, is no longer passive. It offers cautious optimism that democracy and constitutionalism can coexist through principled adjudication. Judicial independence in Pakistan emerges not as a static principle, but as an evolving struggle contested, corrected, and cautiously advancing.

6. Conclusion

This study examined judicial independence in Pakistan not as a theoretical constitutional promise, but as a practical institutional reality. As discussed, controversies relating to judicial conduct, accountability, appointments, and administration exposed deep institutional fragmentation. Once accommodation became normalized, the judiciary grew vulnerable to politicization, selective accountability, and erosion of moral authority. Internal divisions weakened the judiciary's ability to act collectively and independently. The return to democratic rule did not automatically restore judicial independence. Civilian governments, despite democratic legitimacy, often repeated patterns of executive dominance through manipulation of appointments, political pressure, and resistance to unfavorable judgments. This confirms a central conclusion of this study: democracy without constitutional restraint can undermine judicial independence just as severely as authoritarian rule. When courts validate unconstitutional actions or tolerate executive interference, constitutional limits on power weaken. This encourages both military and civilian executives to bypass democratic institutions.

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