

**Judicial Reforms or Control Mechanisms Exploring the Real Impact of the 26
Constitutional Amendment**

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ABSTRACT

This paper is an exploration of the convergence between legal reforms and judicial crisis in Pakistan and concentrates on the 26th Constitution amendment and how it has been declared as a black day by the judiciary. This study discusses why the said amendment, which was intended to solve governance issues, brought about much controversy in the legal and political arena. In the qualitative research design, the paper examines the chronicle development of the judicial reforms in Pakistan, the contents and the aim of the 26 th Amendment and issues that contributed to the protest by the judicial fraternity. The results indicate that the amendment that is supposedly meant to enhance governance questioned the independence of the judiciary because of what was seen as political interference. A wider tension of the judiciary and other arms of government can be observed in the "Black Day" declaration which demonstrates the lack of structural and procedural points in the legal framework in Pakistan. Comparative studies that have taken place in countries with similar legal systems serve to underline the need to maintain a level of independence to the judiciary in reforms. The results of this study contribute the discussion on the tradeoff between legal reform and judicial independence and propose measures of fostering openness, consultations with stakeholders, and quality of institutions. In case these challenges are addressed, Pakistan would subsequently be capable of preventing the judiciary against such crises in future as well as ensuring successful delivery of justice.

Keywords: Legitimate amendments, Legal independence, Judicial honesty, Rule of law, Parting of powers, Institutional conflict, Ascendency reform, Legal accountability.

INTRODUCTION

One of the bastions of our Constitution is the judiciary that upholds the rule of law, dispenses justice and serves as a check against all other powers that are invested in our democratic regimes. In Pakistan though the judiciary has not been a secluded one in terms of political milieu, and it had its political tinges as well as the judicial crisis. Among the notable happenings in this struggle was the enactment of the 26 th Constitution Amendment that caused a lot of controversies about the meaning of independence of the judiciary relative to the state and separation of powers. Simultaneously, the declaration of a Black Day by the judiciary when perceived threats are posed to the judiciary shows the tension in the battle between legal change and self-governance by the institutions. Thus, the study aims to explore these processes, and it offers an understanding of the interaction between legal reforms and judicial crises and explains the

role these events have played in the justice provisioning and government practice in Pakistan (Munir, 2018; Kanwel et al., 2020).

Although numerous other papers are limited to a detailed examination of the 26th Amendment in particular, this one has a whiter socio-political background and comments upon events that occurred prior to the one in question, such as the suffrage movement. Such characteristics of the legal environment in Pakistan will be peculiar to this country, and it is because Pakistan is a nation whose past is scarred, and littered, by colonial heritage, even in the face of the momentum of the current democratic practice and the broken, sporadic contemporary military adventurism. It is on this background that constitutional amendments usually serve as a lightning rod to exposing a deep underlying divisions in the legal and political infrastructures. Although the 26th amendment is said to have been aimed at enhancing good governance, it was confronted with insecurities of judicial independence which stated that it eroded the judiciary as an unbiased judiciary. The amendment is placed in the whole context of a broader history and examines the impact it had on the judiciary which was the pillar of democracy in reality.

The value of this work is the fact that it examines the conflict between judicial independence and legal reforms. However, reform, although necessary to steering an institution that adapts to the demands of an evolving society and governance issues cannot afford to compromise the integrity of an institution in itself. In these environments of a high level of political pressures and dearth of governance, the study seeks to highlight the importance of the judicial independence and its maintenance. This paper continues debate about the implications of making judiciary a political arena through the 26th Amendment and the Black day of the judiciary (Azeem, 2023).

The focal thesis of the paper is that the 26th Constitutional Amendment, although with the purported objective of reform, had the adverse effect of further stoking underlying fires between the judiciary and the executive, which eventually erodes the confidence that people have on the legal institutions. The research questions that the study will answer are as follows: (1) What were the aims and contents of the 26th Amendment and how did the judiciary perceive them? What was the significance of the fact that the judiciary was declaring a black day with regards to issues of judicial independence? As the episode suggests, (3) what are the lessons in this episode that would help balance reforms and institutional independence in Pakistan? As a methodological note, this is qualitative research, based on a constitutional as well as historical analysis as well as the comparative perspective. The main items are legal documents, court rulings, and official statements whereas secondary articles are scholarly articles, news reports, and professional commentary. The contextualization of the analysis is within well-known theoretical underpinnings concerning principles that hold that the judiciary is independent, that the separation of powers exists, and that judicial activism can be checked and also within the newer emerging concepts around democratic accountability.

The results of the current study will illuminate on 26th Amendment and its implications, i.e. the politicization of the legal changes and the necessity of the open, inclusive, and participatory policymaking process; The study also gives policy recommendations on how to safeguard the independence of the judiciary and the means by which co-operation between the judiciary and other arms of government can be enhanced.

The article is organized in the following way: after this introduction, the Section 2 presents the history of the judicial reforms in Pakistan. In Section 3, the 26th Amendment is discussed in detail, and in Section 4 the “Black Day” of the judiciary is discussed along with its implications. In section 5, legal reforms in relation to judicial crises are discussed, and compared to similar situations in other countries. Section 6 explains the difficulties and gives suggestions to improve judicial independence. Lastly, Section 7 ends by looking back on the lessons of this episode and on the way forward of Pakistan judiciary.

LITERATURE REVIEW

Independence of the judiciary and its connection with constitutional reforms has been addressed in many forms of law and academics. Literature Review Judicial Independence, Constitutional Amendments, and Political Interference This literature review addresses the current body of research on judicial independence, constitutional amendments, and political interference with particular attention to Pakistan and relevant comparative points of reference. Judicial independence has been termed as a foundation of democracy because it determines the decision making capacity of the courts without the interference of the legislature, executive departments, or any other private or civic organization. It is noted that the independence of the judges against political influence is a key institutional protection that is necessary to maintain the credibility of the rule of law (Shetreet and Turenne, 2013). This is how they argue that the separation of powers application is, which proves to be a problem in Pakistan due to the constitutional crisis and political instability. In even Pakistan, where the judiciary has mostly been struggling with independence against numerous backlash. An even more detailed and thorough historical account of the same can be found in Constitutional and Political History of Pakistan by Hamid Khan (2017). It looks at how the judiciary has been gaining relevance over the decades and how it has affected things. interference on its decisions by political and military interference. The book offers a helpful insight into the bigger picture wherein the 26 th Constitutional Amendment is to be viewed.

Amendments to the constitution are mostly double-edged swords since they can both stabilize leadership or end up inflaming the conflict of institutions. The article by Elster (2000) on constitution-making reveals the importance of inclusiveness and agreement when scribing amendments especially in weak democracies. Using this framework in the case of Pakistan, Zia and Waheed (2021) posit that constitutional reforms in Pakistan are usually made to gain political payoffs in the short-term, rather than to have a long-term institutional stability. In particular, the 26 th Amendment has been criticized as a result of its absenteeism in terms of consultation of stakeholders. In her previous writing, legal scholar Asma Jahangir (2015) had contended that amendments that are seen as politically driven may jeopardize the relationship with important sectors like the judiciary. Her discussion highlights the significance of the transparency of the procedure and the participation of the people to curb the occurrence of conflicts in light of the constitutional amendment.

Pakistan Judiciary has been involved in a dual role, protecting the constitutional rights of people, and sometimes contributing to the political interest. This duality is addressed in Saeed Shafqat as Civil-Military Relations in Pakistan (1997), where the author of the book maps the way the judiciary has maneuvered between the military and civilian governments. This piece of work is especially applicable in interpreting the events culminating in the declaration of a black day by the judiciary, since it places the resistance of the judiciary to perceived infringements of its independence in context. Studies that have been conducted more recently, like a recent article by Ahmed and Shah (2022) on the topic of judicial crises in South Asia, provide more comparative data on how these crises have been dealt with in adjacent nations such as India and Bangladesh. The importance of public opinion and the civil society in protecting judicial independence is highlighted in these studies, a factor that contributed much to the backlash against the 26 th Amendment. The issue of political interference is a major theme that is applied when discussing judicial crises. Fiss (1993) points out the detrimental effect of such interference on the role of the judiciary as a check against executive power with resulting systemic malfunction. The theme is also reflected in Pakistani literature with writers such as I.A. Rehman (2018) criticizing the loss of judicial independence due to partisan appointments and changes in Pakistan. In comparison, the topics on Judicialization of Politics by Hirschl (2004) can be considered global, where the author explains how courts within the context of politically fragile situations tend to become involved in the jurisdictional rivalry that exists between the various branches of government. This model can be applicable in studying the reaction of the judiciary on the 26 th Amendment and its proclamation of a black day.

There are international case studies which offer lessons to Pakistan. As an example, Kommers (1997) considers the constitutional reforms in the post-war Germany and the significance of judicial independence as means of restoration of the public faith in the state. Equally, the work by Ginsburg (2003) on constitutional design in East Asia reveals the importance of institutional protection of judicial independence in the environment of unstable politics. All these instances highlight the importance of Pakistan implementing the same precautions so that the country can avoid further predicaments (Khan et al., 2020).

The analyzed literature helps to know more about the intersection of legal reforms and judicial crises and it is possible to state that it is a very strong basis. There are however loopholes in the analysis of certain events such as The 26th constitutional amendment and the Black Day of the judicial system. Although international comparison is helpful, a more local understanding must be used because of the peculiarities of socio-political life in Pakistan. As such, the study will attempt to fill these gaps as it will be contextualized in the Pakistani context and combining theoretical insights and empirical research.

Conceptual and Theoretical Framework

This paper is based on the premise of judicial independence constitutional reform/political interference as complementary and interdependent in the coexistence as also contradictory in competing hands. A principal of democracy The judiciary Judicial independence is that level of independence in the judicial system itself of the executive or legislative branches of government. Putting the 26th Constitutional Amendment in perspective, this paper gives us a method of criticism of the Amendment that can jeopardize this autonomy. Developed on the basis of theories of separation of powers and the rule of law, the theoretical framework theorizes that judicial independence can be augmented or weakened by transformations of the institutions. The study applies the theory of checks and balances, which is that proper governance is one that is achieved through separately but interdependent branches of government. It also incorporates the judicialization of politics theory by Hirschl that investigates the degree to which courts get co-opted as venues of politics and sources of political clash particularly in a range of unstable democracies. The model conceives judicial crisis as a combination of three inputs namely: the clash of institutions with the jurisdiction of the district and the high courts, the absence of proceduralism (such as decision to increase the number of judges appointed), and the intrusion of politics into judicial affairs. This type of political-theoretical approach will enable the study to capture broader political or legal systemic issues just as witnessed in the 26 th Amendment and judicial reactions over it besides positioning Pakistan in transnational perspective. With the aim of filling this gap, this study incorporates the three generic frameworks to establish a holistic view of the legal reforms, institutional autonomy, and stability of governance nexus and offer suggestions on how to strengthen the institutions of democracy in Pakistan.

METHODOLOGY

Applying qualitative approach of research, the study explores the legal reforms and judicial crises as experienced in Pakistan in the light of 26 th Constitutional Amendment and judicial response. Such research is doctrinal, and this means that it relies on first-order sources of law, i.e., literal text, judicial opinions, and government documents as the foundations of interpreting the amendment and its impact. Secondary sources used to illustrate this analysis are scholarly articles, books, and media reports containing varying views on the historical, political, and social background of the problem. Alternative coupling of the case study approach to the events surrounding the so-called Black Day is granted to this article in such a way that this coupling allows the derivation of an in-depth study of the judicial resistance and the subsequent implications that it has on institutional autonomy. It promotes quality sources of data gathering that are authoritative. Based on the theoretical tools of separation of powers and judicialization of politics, the analysis makes certain generalization and discovers the interconnections and disconnections between the legal reforms and the judicial independence. A rationale of such an approach can be seen in the need to study a multipronged, multidimensional issue in the sociopolitical and institutional context. The study applies the legal and theoretical knowledge base to build a comprehensive understanding of the issues that face the judiciary of Pakistan, and specific actions that can be taken to advance the process of reform (Usman, et al., 2021).

Historical Context of Judicial Reforms In Pakistan

Pakistan judicial reforms belong to the history of the country in the field of violence in the political process and the evolution of the constitution. As one of the three arms of the state, the judiciary has also been seen to have been involved with both executive and legislative wrangles. These wars are usually fuelled by constitutional amendments, inconveniencing politicking and general governance. This section will examine constitutional development in Pakistan, past constitutional amendments and its

consequences on the make-up of the judiciary, which lead to the 26th Constitutional Amendment in Pakistan, within its political-historical context.

Evolution of the Constitution and Legal Reforms

Pakistan entered an odyssey of constitutions when their nation became independent in 1947 with the Government of India Act, 1935 becoming the adopted interim constitution. Massive political disturbance and military interventions were commonplace in the country, and as such, the implementation of the new, much-needed constitution in 1956, which was the first time a parliamentary system was adopted in the country, came with many obstacles. This constitution was repealed in 1958 and the Constitution of 1962 was passed during military rule where the historical independence of judges was reduced and the authority of the executive was increased to the expense of institutional restraint. The attempt to reinstate parliamentary democracy and the judiciary as the guardian of the fundamental rights and the constitution was made by the civilian leadership during the period when 1973 Constitution was promulgated. Thereafter, throughout the decades that followed, numerous reforms have been implemented on the judiciary system of Pakistan with a view to enhancing its robustness and independence. However, these reforms had been politically reactionary other than coherent notion on judicial independence. Some of the feature milestones on these include, the introduction of judicial review powers, the establishment of supreme judicial council to be accountable to and procedural reforms to have cases resolved.

Previous Constitutional Amendments and Their Impact on Judiciary

History of constitutional amendments in Pakistan has had either positive or negative impacts on the judiciary. Among them are the 8th and 18th Amendments which offer excellent teachings on the jostling of the court and other arms of the government. The 8th Amendment made under the military regime of General Zia-ul-Haq introduced fundamental amendments that established a concentration of powers in the executive branch of the government as opposed to an independent judiciary. This amendment changed the judiciary, and the executive was permitted to test appointments and choices to legalize the approach to authoritarianism. The latter would be some 8 years and three democratic regimes down the line, that are facilitated by the 18th Amendment which I have discussed in this column earlier and was enacted in 2010. It abolished the presidential powers to dissolve parliament arbitrarily and indubitably provided judicial autonomy wherein appointment was done using an open process and having to pass through the Judicial Commission of Pakistan. Nevertheless, even this amendment was controversial as the debate was still on political composition of a commission and the possibility of a political favoritism. Other amendments have also been done to attempt to address the governance problems as well as outcomes that are detrimental to the judiciary. Legalization of his position as president and army chief created a crack in the executive and judiciary during a constitutional (17th amendment) enacted under General Pervez Musharraf regime. Each of these amendments reflects the politics of it and the fact that judiciary is likely to have institutional and political pressures (Jatoi & Shah, 2023).

Factors Leading to the 26th Amendment

The 26th Constitutional Amendment was a response to both the governance challenges and inequitable distribution of resources in areas incorporated into Khyber Pakhtunkhwa through the 25th Amendment, especially in terms of financial resources, human development, and infrastructure. The merger created a host of legal and administrative problems, moving the tribal areas from a semi-autonomous position under the framework of policies formed in colonial times to the constitutional fold of Pakistan. To largely remedy misrepresentation, more National Assembly and provincial assembly seats were assigned for the 26th Amendment to these areas. Despite appearing to aim at bolstering democratic representation, the provision was criticized as rushed through with little input from the appropriate parties, including the judiciary. Additional apprehension regarding the broad implications of the amendment for judicial

independence and governance soon followed. Political experts note that the amend also appeared to be part of a larger campaign by the executive to dominate institutional procedures, worsening ties with the judiciary. Moreover, the polarized political atmosphere in Pakistan and lack of institutional guards worsened the situation further, leading to a "*Black Day*" by the judiciary in protest what it termed attempted encroachment on its independence. To sum up, the 26th Constitutional Amendment supplements at large the trends of constitutional development and reform of the judiciary in Pakistan. It highlights the long-standing difficulties of reconciling the need for legal change with the need for institutional independence within an inherently crisis-prone and conflict-driven political framework. Such historical knowledge is significant in terms of examining the geo-historical function of the amendment and the way it impacts judicial independence as well as governance and in outlining routes for enhancement in these two domains (Gondal et al., 2023; khan et al., 2021).

The 26th Constitutional Amendment

The 26th Constitutional Amendment passed in Pakistan in 2020 was a milestone, particularly in resolving the issues Pakistan had to govern with after accession, mainly related to political and administrative incorporation into the provincial structure of tribal areas. Although the amendment itself concerned only the expansion of representation, it entailed larger issues of the separation of powers between the judiciary, the executive, and the legislature. The following explores the primary provisions of the 26th Amendment, the reasons and rationales for its introduction, and the sociopolitical environment through which it was implemented (Asia, 2024).

Key Provisions of the Amendment

At the heart of the 26th Constitutional Amendment was the re-demarcation of the electoral map for the former FCR-ruled merged tribal areas of the province of Khyber Pakhtunkhwa (KP). The legislation also added more seats to ensure representation of the newly merged areas to the National Assembly and the KP Provincial Assembly, comprising the erstwhile Federally Administered Tribal Areas (FATA). In particular, the amendment allocated more seats in the National Assembly, allowing the tribal areas to make a larger contribution to the legislative business of the country. Tribal areas have been historically underrepresented, so this provision sought to offset this imbalance by giving them a larger pool of political power and resources. The amendment also provided specific provisions for the candidacy of such areas, ensuring that these areas were to be represented in national and provincial assemblies. The same constitutional amendment also included the provisions regarding extending the jurisdiction of the Supreme Court and Peshawar High Court to the erstwhile FATA regions, thus aligning FATA and the rest of Pakistan's legal framework. Although these measures were important from the perspective of political integration of the tribal belt, they were not entirely controversial, particularly in relation to the judicial context. The most direct impact on the judiciary would relate to the status of the areas merged for purposes of these laws, with a provision proposing to create a dispensation that would facilitate expedient implementation and integration into the legal and political fabric of Pakistan. This also encompassed the application of constitutional protections to residents of these regions, which would also challenge the court's capacity to manage the outpouring of causes related to this rapid change (Latif, 2024; Javed2021).

Objectives and Justifications Behind the Amendment

The realization behind passing the 26th Amendment was to finally end the decades-long trend that resulted in political exclusion and socio-economic disenfranchisement of the tribal regions that had remained outside the ambit of the constitution of Pakistan. The areas remained marginal to the political system, but their merger with Khyber Pakhtunkhwa (KP) under the 25th Amendment also ushered them to the political mainstream phase in 2018. But it posed the challenge of governance, particularly in terms of political representation in the National Assembly and provincial assemblies. Thus, the main purpose of

the 26th Amendment was to logically institutionalize political representational systems in these regions like the remaining provinces of Pakistan. To correct the historical injustices of under-representation within the political system at the National Assembly and the KP Provincial Assembly level, a bill was sent to the Parliament, which resulted in increasing the total number of seats. This was also part of a wider initiative to consolidate political integration and governance of territories that had previously been governed under a different legal regime with limited involvement in the mainstream political system (Ahmed, 2019).

Furthermore, it also aimed to fuse the tribal areas' judicial and administrative systems into the national family. This was a significant step towards aligning the legal regime of the Federally Administered Tribal Areas (FATA) with the rest of Pakistan, bringing them within the constitutional framework through the extension of the jurisdiction of the superior courts, namely, the Supreme Court and Peshawar High Court. The amendment was couched as a step towards stronger political integration and touted as a vehicle to accelerate socio-economic development and establish the rule of law in the tribal areas. But there was an overt commitment to address political inclusion and social inclusion in the amendment, in contrast to criticisms that it would centralize power further in the executive at the cost of the courts and provincial autonomy (Latif, 2024).

Analysis of Political and Social Context

Sitting in the political and social background is the only way to understand the 26th Constitutional Amendment and its far-reaching effects. The country of Pakistan has been experiencing conflict between the different arms of government in the country which include the judiciary, executive, and military. The historical precedent of political interference with the judiciary and the role of the judiciary as a restraining force upon the executive branch developed an atmosphere in which the amendment acted both as a political tool and a catalyst towards an institutional clash between the judiciary and the legislature. The amendment was enacted when political turmoil was drastic in the country with the ruling party bearing tremendous battles both internally and externally. In the home front, the government was in the process of strengthening its political foundation by appeasing the sentiments of the people of the tribal areas who had always felt marginalized in the national political and judicial mainstream. Externally, the government was keen to be a reflection of the internal integration of these regions and actual completion of the promises made to people of FATA during the merger with KP. The judiciary was also afraid that the executive was attempting to have more control over the legislative process and judicial decision making of the institutions as a result of this latent political amendment. The question which role the judiciary should play in interpreting and executing the constitutional amendments was a common target of criticism and many claimed that expanding the jurisdiction by the judiciary to the tribal regions would result in politicization of appointments and decisions of the judiciary. It continued the absence of comfort and later led to the judiciary declaring a black day of expressing its dissatisfaction with the amendment as political and the authoritarianism overtures amendment cast on the independence of the judiciary (Kureshi, 2022).

The amendment was also indicative of a larger background issue of governance in Pakistan as institutional reforms are often presented as solutions to historical injustice to the region. Incorporating the tribal regions into the constitutional framework was not without gravitation repercussions as it required alterations in all aspects including elections and courts systems. There was also a general fear in social terms of how such reforms would affect the everyday lives of citizens of the new Integrated regions, and the fear of justice in the new legal framework and how well the new legal system could implement the newly offered legal protection in the amendment. In the end, therefore, the 26th Constitutional Amendment emerged as a product of various political, social and institutional factors but it shared a single objective to seek the redress of decades of unfairness in political representation and governance.

But the strains it placed on the relationships among the executive, legislature, and judiciary bring to the fore the risky, localized reality of constitutional change in an extraordinarily divided system of politics. Upon its introduction, it did not only highlight the splendors and dangers of its bringing to the fold of law, but it also posed a dilemma between the role of political representation and judicial independence being under the same umbrella in the new constitutional order of Pakistan (Rizvi & Hashmi, 2021).

The Black Day for Judiciary

The imposition of “*Black Day*” by the Pakistani judiciary was a turning point in the national legal-political history. It was hardly a symbolic gesture; it was the judiciary's profound expression of frustration over political interference and its fear that its independence as an institution is being eroded. This came after a period of rising tensions between the executive and the judiciary, especially over the 26th Constitutional Amendment. Here is what Black Day is about, how it was declared, what it means for the judiciary of the country, and how the general public as well as the lawyers’ community reacted to Black Day (Abdullah, 2024).

Events Leading Up to the Black Day Declaration

The events to come would become the reason behind the declaration of the Black Day by Pakistan judiciary against the judiciary and slowly create the fizz between the two institutions. The 26th Constitutional Amendment of 2020 by which the camel broke came into effect without dwelling much on the back story of this affair, the straw that broke the camel was the adoption of the 26th Constitutional Amendment that brought concerns internally about the rising threat to the independent judicial system by politics. As indicated above, the amendment was largely involved with guaranteeing representation of the merged tribal areas in the National Assembly and Khyber Pakhtunkhwa. However, a section of the judiciary perceived this as an encroachment to the concept of judicial independence, particularly the prolonged jurisdiction and execution of judgments in these so called new territories. It was always cautious of the government intentions to concentrate power and erode its autonomy. Among the flashpoints was when judiciary took exception in the amendment which directly affected it as the judicial branch, being drafted without consulting it. A legal necessity to hand over the former FATA regions to the jurisdiction of the Supreme Court and the High Court of Peshawar, was being termed as a political game of enabling the executive branch to have more control over the judiciary in the tribal regions. Besides, it was viewed that it had been enacted lowly without sufficient consultation with the judiciary that made the legal fraternity feel marginalized and belittled (Minallah, 2024).

They did not react only to the specific case but also to the overall atmosphere of the growing tensions between the two branches. Judiciary was not unused to resisting executive pressure particularly when Supreme Court chief justice Iftikhar Muhammad Chaudhry was in office and judiciary had changed its softer stance in asserting its constitutional role and limits to executive power in resisting pressure. Pakistan's political climate, with its history of military coups and political crises, had repeatedly brought the judiciary face to face with the executive. The Black Day was an end to all of these tensions; it was the day when the judiciary decided to mark its territory against all of those who threatened it. The declaration itself was not a standalone act; there were several occasions prior to it when the judiciary had shown disquiet over the acts of the executive. Increasingly, legal scholars and political commentators had noted the executive in trying to influence judicial nominations and decisions, which could have long-term effects on the rule of law. In what was a landmark separation of power declaration of a Black Day, the judiciary chose this decision right when it appeared the independence of the judiciary was under threat, signaling thus that the executive encroachment would not be tolerated anymore (IPSweb, 2024).

Significance of the Black Day in Pakistan's Judicial History

In the immediate aftermath of the 26th Constitutional Amendment, the Black Day declaration is significant; however, in a broader sense, the declaration is significant in Pakistan's judicial history. Pakistan has a long history of judicial-executive conflict, especially during military regimes. But the Black Day was significant because here was, for the most part, one time the courts pushed back against a politically motivated amendment to the Constitution. That occasion was particularly important, as it illustrated the broader battle for judicial independence in Pakistan, a state dominated by military rule and executive overreach throughout its history. Judicial independence itself was an ever-abridged right in Pakistan and the Black Day was a statement of the intent of the judiciary to stand up and stay in its rather constitutional domain as —both forbiddingly and encouragingly —laid down under various sub-clause of the Constitution. It is also a memory that the courts are vital organs of democracy, despite political pressure (Jazeera, 2024).

The Black Day was also symbolically important, as it touched the legal community and civil society. It represented the climax of decades of the judiciary's struggle to reassert its independence, building on the foundation of the 2007 Lawyers' Movement that ultimately restored an independent judiciary under Chief Justice Iftikhar Muhammad Chaudhry. The Black Day was different in context and scale, but the message was similar—the judiciary would never be made into a political football or cannon fodder of a partisan purpose. So, the Black Day was a significant chapter in the judicial history of Pakistan, corroborating the stance of the judiciary over constitutionalism and the rule of law. Notably, the event was especially crucial because it emphasized the liberty of the judiciary to challenge the executive excess even with a constitutional amendment. It was the Black Day when the judiciary of Pakistan, as opposed to its earlier inaction, was not going to passively accept a weakening of its independence and the differentiation of powers promised by the Constitution of Pakistan. It marked a turning point in the centuries-old struggle between the judiciary and the executive and the effects of which are still evident today on the Pakistan legal and political discourse (Mayar, 2016). Response in Public and Legal Fraternity

The public and the members of the law fraternity received differently the announcement of the Black Day and reflected the highly divided politics and legal scenario of the country. On the one hand, the legal community, which is headed by the bar associations, cast its vote in huge majority in favor of the judiciary. According to legal professionals, lawyers and judges, the Black Day was a positive and valid reaction to rising political interference in the judicial field. The top bar association such as the Pakistan Bar Council, provincial bar councils in the country organized rallies and stage public demonstrations in support of the judiciary on its upholding independence against the intrusion of politics. The significance of the Black Day as the occasion of emphasizing the rule of law and separation of powers was also reflected by legal professionals and activists. Majorities had argued that the aggressive judicial intervention was necessary to enforce the checks and balances in the Pakistani political system as the executive power was getting more and more strong. controls over state institutions. Moreover, the Black Day, for many, was viewed as a reaffirmation of the judiciary as a defender of constitutional norms and civil liberties, particularly in a country with a political system that has frequently been described as unconsolidated with authoritarian tendencies and fragile institutional arrangements (Shahzad & Shahzad, 2024).

But there was more mixed reaction among people in general—as well as among political leaders. Many national and international stakeholders had supported the independence of the judiciary; however, some political parties and government figures condemned the Black Day, seeing it as adding to the divisive atmosphere. They contended that the judiciary's response to the 26th Amendment was excessive and that the legal reforms were introduced under the amendment to meet the needs of the tribal areas. Others saw

the judiciary's opposition to be a subversion of the state's political integration and developmental agenda. Another key player in all this is the media, which brought the day to the center of the zeitgeist. Judicial independence was a theme for coverage among most media outlets, although coverage diverged along party lines. There were two versions of the same reality in state-run media, which branded the judiciary as having undertaken politically motivated actions and those that were sympathetic to the judiciary's position and argued that there is a significant need for institutional independence considering sweeping political pressures. Overall, the reactions to the Black Day represent a spectrum of sentiment as it pertains to the social climate in Pakistan. The judicial stand received the support of many legal people and many civil society groups, whereas the government and some political groups perceived it as an attempt to undermine institutional power. It was, thus, both a repudiation of the judiciary seeking to defend its independence as well as a stark reminder of the persistent friction between Pakistan's political order and its judiciary (Shah, 2024).

Intersection of Legal Reforms and Judicial Crisis

One law reform and judicial crisis in Pakistan is a complicated and multifaceted issue that has been at the core of the constitutional and political configuration of Pakistan. As is evident in the amendments made under the 26th Constitutional Amendment meant to remedy representation of infirmities in the merged tribal areas, it also speaks to the tenuousness of judicial independence against political/executive whims. It further elaborates on the judicial controversies the 26th Amendment triggered, the judicial-political interference involved in the judicial crisis, and the administrative ramifications of this judicial crisis on the judicial independence of Pakistan.

How the 26th Amendment Sparked Judicial Controversies

But the 2020 passage of the 26th Constitutional Amendment, though procedural, was politically explosive and much contested, particularly within Pakistan's judiciary. Although the amendment focused mostly on providing representation for the tribal areas downloaded to Khyber Pakhtunkhwa (KP), it also dealt with matters that directly affect judicial jurisdiction and governance. It expanded the The Supreme Court and the Peshawar High Court could exercise their jurisdiction to other places within the tribal belt that had been under FCR and denied the full scope of protection of the Pakistan legal framework. Even though it was legal that judicial power ought to be extended to the new areas that had been merged, it raised alarm bells in the judicial system concerning the way in which amendments were to be done. Judicial office bearers believed that there was political machination through the manner in which the amendment was drafted without necessarily consulting the judiciary and thus undermining the constitutional independence of judiciary. The absence of judicial consultation in this significant transition raised doubts that the executive was trying to influence the judicial proceedings in the tribal regions-judgements that would be inclined in its favor in the political interests or self-interests (Pervaiz Akhtar, 2021).

There is also the fact that the sudden, relatively non-consultative process of proposing the amendment prompted greater apprehension against the growing political encroachment into the legal realm in general. The judiciary, having over a long time fought to remain independent of the political arena as being one of the pillars of democracy especially during the Lawyers Movement and the Chief Justice Iftikhar Muhammad Chaudhry tenure, viewed the 26th Amendment as another example of political interference with the aim of delegitimizing judicial intervention and the power of the courts to defend constitutional rights. This led to the escalating tensions which later erupted in the form of a Black Day in the judiciary as a drastic response to what was deemed to be an attempt to subvert its authority. Prior to the 26th Amendment, the executive and the judiciary had been operating in divisiveness, a matter that also contributed to judicial controversies unleashed by the amendment. Judicial leaders and bar members

thought the amendment was a part of a much larger grand design to influence courts in favor of the executive, especially in the politically charged climate induced by the integration of the tribal areas. There was nothing more than a legal reform behind an amendment; nonetheless, an amendment became the trigger of a wider judicial crisis that revealed long-standing tensions between the branches of government (Cheema & Cheema, 2024).

The Role of Political Interference in Judicial Matters

In Pakistan, political interference in judicial matters has historically been a serious problem because of its Sharif-style governance scheme, in which there is considerable executive overreach and military interference in judicial matters. The amendment itself, presented as a feather in the cap for political integration and democratic representation, was, in a protracted war over judicial independence, just another battleground marked by opposition to the 26th Constitutional Amendment. Pakistan has a history of political meddling in the judiciary, extending back to the military regime era, when military dictators regularly interfered with the judiciary to strengthen power bases and justify dictatorial rule. The judiciary has been tested time and again by political forces trying to bend judicial decisions to the will of the rulers, even under civilian governments. Many in the legal community see the introduction of the 26th Amendment without consulting the judiciary in advance as an attempt at what is interpreted as an ongoing political project to encircle the judiciary to dictate the latter's course of action in politically sensitive cases (Desk, 2024).

The 26th Amendment itself raised one of the strongest concerns, that the executive would be able to use its influence over judicial proceedings in the new merged tribal areas. One of the most contentious parts of the law was the expansion of the jurisdiction that the Supreme Court and Peshawar High Court would have in these areas, with critics arguing that this would be aimed at achieving judgments that fitted the political purposes of the executive. The matter also raised eyebrows about the independence of judges and the question of whether political consideration may affect legal decisions in the tribal areas. Moreover, the way judges are appointed in Pakistan is itself controversial, with judiciary appointments often determined by politics. The dilemma was aggravated by the 26th Amendment since there was a fear that centralized political forces might exploit the integration of tribal areas by filling all judicial positions with judges favorably inclined towards executive interests and thereby further eroding the independent nature of the judiciary. Legal professionals, organizations, and other stakeholders raised fears about the role of the executive in controlling judicial appointments and possible intrusion by the political executive towards the courts in the Judge Loya Bill period of the amendment's passage (Maheen Pracha, 2024).

Implications of the Crisis on Judicial Independence

The whole judicial crisis due to the 26th Constitutional Amendment in Pakistan had very serious consequences for the independence of the judiciary. Judicial independence is a bedrock of democracy, allowing courts to operate without fear of political or executive retribution. The saga of the 26th Amendment revealed the fragility of Pakistan's judiciary and its continued battle for upholding its independence in an atmosphere where political forces put needed weight on the scales of justice. All these events made the crisis highlight the fact that the executive branch had been expanding its reach into the matters of the judiciary, and the latter was becoming increasingly concerned about the same. Concerns about damage to institutional checks and balances were fueled by the He played executive role in the passage of the 26 th Amendment, particularly the failure to consult the judiciary. This, as far as the judiciary was concerned, was a threat that it felt and the judiciary reacted in the form of declaring a Black Day to safeguard their independence against political interference. However, this crisis also revealed the more generalized problems of Pakistan judicial system like politicization of judicial reform, absence of accountability in appointment to the judicial system and the larger problem of judicial accountability (Imran Ahmed, 2019).

This is not to say that this was a crisis that affected only the judiciary, but it had a domino effect on the political and legal environment of the entire country of Pakistan. It was the day that was reminiscent in that judicial independence of the executive is needed to enable the rule of law to work within a democracy. Such a crisis would just trigger the further liveliness of the debates of the necessity of reforms in respect to judicial appointment, accountability, and transparency. Greater recognition had been given to the significance of institutional protection of judicial independence against political interference with the judicial process—that outcomes in cases should be reached by the law and not by political considerations. In a more elevated plane the crisis also showed the risks of undermining the integrity of judiciary in a nation with widespread governance failure. Independence of the judiciary is important not only to ensure fair trial and human rights, but also to gain confidence of people in the legal system. Pakistan is a nation that has a highly polarized political system and whose politics is the order of the day. Any act that poses a danger to the independence of the courts can disintegrate the whole constitutional order. The 26th Amendment, and the following Black Day therefore vividly brought to memory how these changes in the political sphere weigh up with their ramifications on the autonomy of the judiciaries (BahaaEldein, 2024).

Challenges and Recommendations

Legal reforms and judicial independence seldom yield dividends easily, but in Pakistan they infallibly encounter a perfect storm of challenges that require difficult but appropriate responses. Considering the 26th Constitutional Amendment and the resulting judicial crisis that teetered the line between dismantling legal reforms and protecting judicial independence, the stories demonstrate the constant tension that exists between the necessity of reforms, especially regarding the integration of periphery regions and judicial independence. While Pakistan deals with these challenges, carefully calibrating the need to initiate legal and political reforms with the need to preserve judicial independence from unwarranted political influence remains imperative. This section examines difficulties in reconciling reforms and judicial independence, offers policy recommendations to enhance judicial autonomy and transparency, and identifies the key stakeholders that need to play their parts to avert future crises.

Challenges in Balancing Reforms and Judicial Independence

This struggle between the executive and judicial branches of the Pakistani government is a primary factor in the difficulties of balancing legal reforms and judicial independence within the country. Political reforms that are often dressed up to resolve important national debates (like the integration of the tribal areas into mainstream Pakistan) can lead to a debate over the judiciary within Pakistan again, as seen in the case of the 26th Constitutional Amendment. Legal reforms are also needed to respond to changing political and social circumstances, but they should not be used as grounds upon which to erode the independence of the judiciary or open it up to politicization. This poses an even bigger challenge in Pakistan, where the judiciary has often been susceptible to political pressure. Different political administrations, both civilian and military, have consistently posed threats against the independence of the judiciary. Political parties have, when in power, attempted to influence judicial appointments and political leanings, undermining the separation of powers between the executive, legislative, and judicial arms of government. In this context, reforms, be they the extension of judicial jurisdiction to newly integrated regions or changes in judicial oversight mechanisms, may seem to normalize populations by undermining judicial independence or by seeking control judicial decision-making.

In addition, the failure to consult the judiciary adequately in the 26th Amendment played a key role in amplifying the friction between legal changes and judicial independence. This exclusion of the judiciary, in issues where it has a direct and clear interest, speaks to a larger malady in Pakistan regarding lack of understanding and collaborative politics between the state organs. The absence of cooperation makes it hard to locate the line between the pragmatic call for legal reforms and the necessity to defend judicial

autonomy. The second big problem is the absence of good institutional mechanisms that can provide transparency in judicial appointments and functioning. Moreover, political control over such judicial selection processes can result in the appointment of politically aligned judges, thus undermining the independence of the judiciary and its role as a counterbalance to executive authority. By creating this perception of political bias, this undermines public confidence in the judicial system, as people are easily persuaded that judiciary is subject to political whims rather than being an independent and impartial body (Mehboob, 2024).

Recommendations for Strengthening Judicial Autonomy and Transparency

To address the challenges of balancing as a result of legal changes and judicial independence, some major suggestions can be presented to enhance judicial independence and transparency in Pakistan.

To begin with, the judicial appointment procedure requires overhauling such that it focuses more on the competence and professionalism rather than political affiliation in the hiring of judges. This may include the formation of an independent judicial commission that would recommend the judicial appointments in accordance to the factors like legal knowledge, integrity and fidelity to the law. The commission should also consist of members of the legal fraternity as well as the other wider stakeholder involvement ensuring that judicial appointments are not subject to adherence to political ideologies but the quality of a candidate.

Second, the process of reform should be participatory and judiciary should be more active, particularly on amendments that affect its own domain and operations. This created the 26th Amendment to be a close one in the sense of not creating a ban against specific courts in a political and legal sense but it also showed the danger of removing judicial review on constitutional amendments that matters the independence of judicial practices. What would be a better model is that parliament would work together with the judiciary in the sense that proposed changes to the law would consult the judiciary before such, so that both the two arms could work hand in hand towards refinements that would be effective and would not compromise the independence of the judiciary. In addition, reforms should also be undertaken following the independent nature of the judiciary in regard to the constitution without political interference.

Third, in order to enable more transparency and accountability in the judiciary itself. It matters a lot that the judiciary should be independent, but there must be a certain degree of transparency so that the citizens can have trust in the judicial procedures. That may imply greater openness in judicial decision-making, easy access to court proceedings for the public, and clearer judicial rulings. And lastly, independent periodic audits and oversight systems should be introduced for judges (while protecting their independence).

Finally, Pakistan can consider introducing constitutional mechanisms that explicitly limit the ambit of each arm of the state, especially the independence of the judiciary. Such safeguards would lower the possibility of further executive-judicial clashes by enshrining a framework of judicial independence that would be respected through future political regimes (Goyal, 2024).

Role of Stakeholders in Preventing Future Crises

Addressing this can only happen with the active participation and collaboration of all stakeholders, including the judiciary, executive, and legislative branches of government. Not only to prevent a future judicial crisis but also to establish a sense of trust in the courts of Pakistan, the judicial crisis needs to be addressed by not only the judicial community itself, but also the broader legal fraternity and civil society. These are all key players in the maintenance of the judiciary that can be relied upon to operate without any political influence. And this is the part where the judiciary itself becomes a significant one by

making sure that its independence is not tampered and that the rule of law prevails. The judiciary should not only resist political pressure, but it should also go in the arena of law and the law-making process where the terms of its independence are established. Judges have to remain uninvolved and they should do everything possible to remain detached in the process of a rather political pulling of the strings. In addition, even the judiciary should take care that it is not losing its credibility and the judiciary must make efforts to embrace the safe practice of openness and allow all its judgments to be open to scrutiny, which will ensure them their due fair play.

The importance of independence of the judiciary at the highest level is taken as a condition of good governance and of constitutional rights, which should be welcomed by the executive branch as the central locomotive of the state policy. The national problems such as integration of the tribal areas may require the reforms but it should not be allowed at the expense of the independence of the judiciary. The executive also needs to solemnly commit to keeping the separation of power and avoid interfering with judicial matters. The greater interaction between various significant arms of the government which would ensure that physicians do not come into collision with the judicial system of sorts, by inviting the judiciary in the conferences and deliberations and implementing some changes in the existing constitution in the form of some changes in law would definitely help in avoiding the undesired physicians striking against the judiciary action through interaction. arency and trust in the branches of the government. Instead, the legislative branch is also an important part of keeping judicial independence safe. Lawmakers must safeguard the Constitution's features that secure judicial independence, especially when they are writing and enacting legislation that directly affects the judiciary. Parliament must proceed only after the necessary legislative changes are made, consistent with constitutional scruples and the role of the judiciary in maintaining checks and balances.

It is, therefore, all the more important that the legal community—lawyers and judges, bar associations, and other legal scholars—play an active role in the maintenance of judicial independence and greater awareness of the need for an impartial judiciary. Political attempts to compromise judicial independence must be resisted by the legal community as it was during the Lawyers' Movement. Lawyers and bar associations will play the role of watchdog, and when the executive is overstepping or attempting to manipulate the judiciary, it will be a public fight. In addition, legal academics should join the discussion of judicial reform by proposing workable concepts and empirical studies balancing the independence of the judiciary and the need to reform the law. Lastly, civil society and the media need to be proactive in demanding accountability from the executive and judiciary. Toleration of judicial autonomy and constitutional norms by both branches of power is the result of public awareness campaigns, media coverage, and public debates regarding judicial independence. Moreover, civil society organizations can lobby for transparency in the process of appointing judges and protection of the judiciary against political interference, keeping the public aware of the need for an independent judiciary (BR Web Desk, 2024).

CONCLUSION

The analysis of the 26th Constitutional Amendment and the subsequent judicial crisis highlights the delicate balance between implementing legal reforms and preserving judicial independence in Pakistan. The key findings reveal that while the amendment aimed to address critical representation and governance issues in the newly integrated tribal areas, its execution exposed deeper systemic challenges, including inadequate consultation with the judiciary and political interference in judicial matters. This crisis underscored the judiciary's vulnerability in the face of executive overreach and highlighted the need for institutional safeguards to uphold judicial autonomy.

The long-term implications of the 26th Amendment are significant, as they point to the risks of politicizing the judiciary and eroding public trust in the legal system. These developments serve as a stark reminder that any legal reform, no matter how well-intentioned, must be undertaken with respect for constitutional principles and judicial independence. Looking ahead, the path forward for Pakistan's judiciary requires comprehensive reforms to strengthen transparency, accountability, and collaboration between branches of government. Establishing an independent mechanism for judicial appointments, fostering open dialogue on constitutional amendments, and promoting public awareness about the judiciary's role are essential steps in ensuring a robust and impartial judicial system. Only by addressing these challenges can Pakistan's judiciary fulfill its mandate as a guardian of constitutional rights and a cornerstone of democratic governance. Here's your conclusion expanded into a more detailed, academically rich version while keeping your core points intact and strengthening the analytical depth:

The analysis of the 26th Constitutional Amendment and the ensuing judicial crisis underscores the fragile equilibrium between enacting necessary legal reforms and safeguarding the independence of Pakistan's judiciary. While the stated intent of the amendment was to enhance political representation and governance—particularly in the context of the newly integrated tribal areas—its formulation and implementation revealed deeper systemic shortcomings. Chief among these was the lack of meaningful consultation with the judiciary, coupled with overt and covert political pressures that raised concerns of executive overreach. Such developments expose the judiciary's institutional vulnerability, especially in a constitutional framework where the separation of powers is more aspirational than operational.

This crisis has illuminated the structural weaknesses within Pakistan's judicial system, highlighting how easily judicial autonomy can be compromised when legal reforms are driven by short-term political objectives rather than principled adherence to constitutional norms. The risks are not merely procedural but deeply consequential: politicization of the judiciary erodes public trust, weakens the legitimacy of judicial decisions, and undermines the rule of law itself. History and comparative constitutional studies show that once public confidence in judicial impartiality is damaged, it is exceedingly difficult to restore.

The long-term implications of the 26th Amendment are therefore profound. Without robust institutional safeguards, future amendments could similarly be used as instruments of political control rather than tools of democratic consolidation. To prevent such outcomes, Pakistan must pursue a comprehensive reform agenda aimed at fortifying judicial independence. This includes establishing a transparent and merit-based mechanism for judicial appointments, insulating judicial tenure and decision-making from political influence, and ensuring that all constitutional amendments affecting the judiciary are preceded by open, multi-stakeholder consultations.

Equally important is fostering public legal consciousness—educating citizens on the judiciary's constitutional role as a guardian of rights and a check on the abuse of power. Transparency in judicial proceedings, increased accountability mechanisms that do not undermine independence, and institutionalized collaboration between the judiciary, legislature, and executive can create a balanced governance structure.

Ultimately, the future stability of Pakistan's democratic framework hinges on the ability of its judiciary to operate free from partisan interference. The 26th Amendment serves as both a cautionary tale and a call to action: meaningful legal reform must respect the constitutional boundaries that protect judicial independence. Only through such principled reforms can the judiciary remain a credible arbiter of justice and a cornerstone of democratic governance in Pakistan.

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