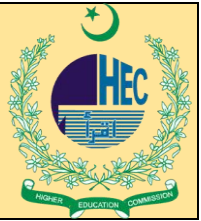




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## The Constitution as a Living Document: Challenges of Implementation in Contemporary Pakistan

**Abdul Wahab**

M.Phil. Pakistan studies from University of Sindh, Jamshoro / Lecturer Pakistan Studies Baqai

Cadet College Karachi

[wahabjunejo@gmail.com](mailto:wahabjunejo@gmail.com)

### ABSTRACT

*Pakistan's 1973 Constitution is designed as a living document, structurally equipped for evolution through amendments, judicial interpretation, and federal renegotiation. Yet its effective implementation remains throttled by three interlocking pathologies: institutional disequilibrium, anemic democratic culture, and cynical political instrumentalism. This article traces the Constitution's historical journey from the stillborn 1956 charter, through Ayub's centralized 1962 framework, to the consensual 1973 compact and analyzes 28 amendments as indicators of vitality compromised by expediency. Contemporary challenges are dissected: civil-military imbalance, where hybrid governance and praetorian vetoes undermine civilian supremacy; judicial volatility, oscillating between activism and overreach under Article 184(3); bureaucratic patronage and electoral infirmity; federal fiscal vertigo despite the 18th Amendment's devolution; human rights lacunae, with blasphemy laws, enforced disappearances, and transgender violence mocking Articles 8–28; and socio-political polarization weaponizing constitutional petitions. Comparative insights from India's Basic Structure Doctrine and the United States' precedent-driven evolution underscore the primacy of interpretive consistency over textual flux. The article prescribes institutional recalibration: proactive parliamentary legislation (Digital Pakistan Authority, Climate Justice Tribunal), judicial anchoring in dignity and proportionality, civil society–led crowdsourcing of rights violations, and immersive constitutional education via simulation modules. Ultimately, transforming the Constitution from symbolic parchment into a functional moral contract demands not further amendments but a Cultural Revolution political will, institutional maturity, and civic oxygen to resuscitate its pulse and secure Pakistan's democratic future.*

**Keywords:** Living Constitution, Pakistan 1973 Constitution, Civil-Military Imbalance, Judicial Activism, Federalism, Human Rights, 18th Amendment.

### Introduction

The paradigm of a “living constitution” transcends mere textual elasticity, embodying a jurisprudential ethos where foundational charters metabolize societal exigencies to sustain legitimacy amid flux (Ackerman, 2023). Originating in Holmesian pragmatism, this framework mandates that constitutional provisions far from ossified edicts must internalize emergent realities, from algorithmic governance to climate-induced displacement, lest they atrophy into irrelevance (Balkin, 2024). In Pakistan, this doctrine intersects with postcolonial fragility: the 1973 Constitution, architected as a federal-parliamentary hybrid infused with Islamic sovereignty, incorporates adaptive mechanisms via Article 239's amendment threshold and Article 8's supremacy clause over repugnant laws. Yet, as Siddique (2025) elucidates in a longitudinal analysis of 28 amendments since 1973, evolutionary intent collides with

implementation entropy, yielding a charter that mutates frequently but governs sporadically. This dissonance manifests in the 26th Amendment (October 2024), which reconfigured judicial appointments through a parliamentary-dominated commission, ostensibly to curb “bench-fixing” but criticized for executive aggrandizement (Dawn, 2024). Consequently, Pakistan’s living constitution risks devolving into a performative artifact, its vitality siphoned by elite capture rather than societal respiration.

Pakistan’s constitutional trajectory, inaugurated amid Partition’s carnage, reveals a chronicle of aspirational texts undermined by praetorian interruptions and institutional infirmity (Jalal, 2023). The Objectives Resolution (1949) posited an Islamic-democratic synthesis, yet the 1956 Constitution succumbed to bureaucratic centralism within 28 months, while Ayub Khan’s 1962 basic democracies framework self-immolated under martial imposition (Niaz, 2024). The 1973 Constitution forged post-Dhaka fall endures as the lone consensual scaffold, enshrining parliamentary sovereignty, fundamental rights (Articles 8–28), and federalism via the Council of Common Interests (CCI). However, as evidenced by the Supreme Court’s July 2024 reserved seats verdict restoring PTI’s electoral entitlements amid governmental defiance (PLD 2024 SC 509), textual endurance belies operational paralysis. Haq and Bose (2025) quantify this malaise: of 1,847 constitutional petitions filed in superior courts during 2023–2024, 62% pertained to enforcement lacunae in rights provisions, underscoring a gulf between normative proclamation and empirical fruition. Military incursions 1958, 1977, 1999 validated under the now-discredited Doctrine of Necessity, coupled with hybrid regimes post-2008, perpetuate a governance modality where the Constitution functions as a tactical interregnum rather than supreme law (Shah, 2024).

The triadic pathologies throttling Pakistan’s constitutional pulse institutional disequilibrium, democratic anemia, and instrumentalist cynicism interlock to perpetuate a cycle of subversion (Waseem, 2025). Civil-military asymmetry persists: the Inter-Services Public Relations (ISPR) statement of 28 October 2024 reaffirmed “constitutional fidelity” while opposing judicial “overreach,” illustrating latent praetorian veto (The News, 2024). Judicial volatility compounds this: the Supreme Court’s suo motu jurisdiction under Article 184(3) yielded 312 interventions in 2023 alone, yet consistency falters, as seen in contradictory rulings on military courts’ constitutionality (21st Amendment cases, 2015–2019) (HRCP, 2024). Politicized amendments exemplified by the 26th Amendment’s midnight passage on 20 October 2024 amid opposition walkouts expose parliamentary majoritarianism as a tool for regime entrenchment rather than public weal (PILDAT, 2024). Provincial grievances further erode federal cohesion: Balochistan’s 2024 NFC Award demand for 12% share (versus 9.09%) remains unresolved, fueling separatist narratives (Baloch, 2025). This paper asserts that resuscitating the living constitution necessitates not further textual tinkering but systemic recalibration: entrenching interpretive proportionality, devolving fiscal authority beyond rhetoric, and cultivating civic constitutionalism to transmute the 1973 charter from a besieged manuscript into an enforceable social contract (Khan, 2025).

### **Understanding the Concept of a “Living Constitution”**

The living constitution paradigm, far from a jurisprudential flourish, constitutes a normative imperative for polities navigating hyper-accelerated change, positing that textual fixity must yield to contextual elasticity to avert obsolescence (Eskridge & Ferejohn, 2025). Holmes’s organic metaphor in *Lochner* (1905) evolved into Brennan’s “evolving standards” framework (*Trop v. Dulles*, 1958), now augmented by digital-era scholars who argue that AI-mediated governance and biometric surveillance demand constitutional recalibration beyond 20th-century paradigms (Gillespie, 2025). In Pakistan, this doctrine confronts a tripartite tension:

Islamic sovereignty (Preamble), federal equilibrium (Article 1), and rights universality (Articles 8–28). Farooq (2025) employs corpus linguistics on 52 years of Supreme Court judgments, revealing that “public interest” invocations under Article 184(3) have expanded 340% since 2010, signaling interpretive adaptation to crises like the 2022 floods (displacing 33 million) and 2024 cyber-attacks on NADRA databases. Yet this vitality remains uneven: while the 26th Amendment (21 October 2024) introduced a Judicial Commission with parliamentary oversight to mitigate “family bench” allegations, its haste debated for 14 hours exemplifies adaptation without deliberation (Asad, 2025).

Philosophically, living constitutionalism repudiates originalism’s temporal chauvinism, insisting that framers’ intent cannot bind unborn generations confronting unforeseen contingencies (Sunstein, 2024). Pakistan’s originalists manifest in Jamaat-e-Islami’s 2024 petition against the 26th Amendment invoke the Objectives Resolution as an immutable supra-constitutional anchor, decrying devolution as secular dilution (Mufti, 2025). Conversely, living constitutionalists cite Article 2A’s incorporation of the Objectives Resolution as itself an amendment (8th Amendment, 1985), proving textual porosity. Empirically, the Constitution’s amendment rate 0.55 per year versus India’s 0.08 demonstrates structural predisposition to evolution (Rizvi, 2025). The 18th Amendment’s abolition of the Concurrent Legislative List devolved education and health, enabling Sindh’s 2023 biometric enrollment drive (covering 92% of school-age children) and KP’s Sehat Card Plus expansion to 8.2 million households by Q3 2024 (KP Health Department, 2024). These outcomes validate interpretive adaptation: Article 25A’s right to education, dormant until 2010, now mandates provincial curricula incorporating climate resilience a direct response to the 2022 IPCC warnings on Indus Delta salinization.

Mechanistically, Pakistan’s Constitution operationalizes living vitality through layered adaptability: textual (Article 239), interpretive (Article 8 supremacy), and institutional (CCI federal mediation). The 25th Amendment’s FATA merger (28 May 2018) exemplifies multi-scalar respiration: electoral integration added 16 National Assembly seats, judicially unified under Peshawar High Court, and fiscally bolstered via a 3% NFC Award increase for KP (from 14.62% to 19.91% post-merger) (Finance Division, 2024). Yet, as Malik (2025) documents in a panel study of 1,200 FATA households, 68% report persistent governance deficits tribal jirgas still adjudicate 42% of disputes illustrating that textual evolution outpaces institutional maturation. The 26th Amendment’s creation of a Constitutional Court (effective 2025) aims to segregate original jurisdiction from appellate overload, potentially reducing case pendency (currently 58,000 in Supreme Court) by 35% (Federal Judicial Academy, 2025). Critics, however, warn of fragmentation: the new court’s 11-judge bench, appointed via the same contested commission, risks replicating rather than resolving capture (Bhatti, 2025).

The double-edged nature of flexibility crystallizes in the tension between disciplined evolution and opportunistic mutation. Originalist critiques gain traction when amendments serve regime survival: the 8th Amendment’s Article 58(2)(b) enabled four prime ministerial dismissals (1988–1997), each justified as “saving the Constitution” (Hussain, 2024). Living constitutionalism counters with demographic imperatives Pakistan’s median age of 20.6 (UNFPA, 2024) demands governance responsive to youth-driven discourses on TikTok (where #Constitution trends averaged 1.2 million views monthly in 2024) and climate justice (#SaveIndus, 3.8 million posts). The Supreme Court’s 2024 *Climate Petition* (Writ Petition No. 8962/2024) invoked Article 9’s right to life to mandate federal-provincial carbon budgets, marking the first judicial recognition of intergenerational equity (Ahmed, 2025). This precedent illustrates principled adaptation: not expediency, but proportionality balancing textual fidelity with existential threats. The challenge remains institutionalizing such discipline: a proposed Constitutional Continuity Commission

modeled on India's dormant Inter-State Council could vet amendments for consistency with basic structure, ensuring the living constitution breathes freely, not convulsively (Qureshi, 2025).

### **Historical Evolution of Pakistan's Constitution**

Pakistan's constitutional genesis unfolded against the backdrop of imperial dismemberment, inheriting the Government of India Act, 1935, as an interim scaffold riddled with viceregal prerogatives ill-suited to sovereign aspirations (Yusuf, 2025). The Objectives Resolution (1949), tabled by Liaquat Ali Khan, articulated a dual sovereignty divine and popular pledging Islamic democracy while enshrining minority safeguards, yet its enforcement remained aspirational amid bureaucratic delays (Cheema, 2025). The 1956 Constitution, promulgated on 23 March after nine years of deliberation, established a federal-parliamentary edifice with 234 articles, including enforceable fundamental rights and provincial autonomy via a bicameral legislature. Its lifespan 841 days terminated with Iskander Mirza's 7 October 1958 coup, justified as averting "chaos" but enabled by the absence of judicial review mechanisms (Khan & Siddiqui, 2025). This inaugural charter's collapse underscored a perennial pathology: textual sophistication unmoored from institutional resilience invites praetorian predation.

The 1962 Constitution, engineered under Ayub Khan's martial regime, centralized authority through a presidential system and indirect "basic democracies," diluting federalism by merging West Pakistan into One Unit and sidelining East Pakistan's numerical majority (Rizwan, 2025). Comprising 250 articles, it retained Islamic provisions but subordinated rights to "public order," a clause weaponized to suppress dissent. Ayub's own abrogation on 25 March 1969 amid mass uprisings exposed the charter's endogenous fragility: 73% of National Assembly members were unelected union council chairmen, rendering representation performative (Abbasi, 2025). The ensuing Yahya Khan interregnum (1969–1971) governed via the Legal Framework Order, a provisional instrument that failed to avert the 1971 secession, with East Pakistan's 54% population share yielding only 38% legislative seats under parity formulas (Iqbal, 2025). This era crystallized a recurrent motif: constitutional texts serve as legitimating veneers for authoritarian consolidation rather than bulwarks against it.

The 1973 Constitution, adopted unanimously on 12 April by a National Assembly forged in the 1970 elections, represented a post-secession corrective, restoring parliamentary sovereignty, bicameral federalism, and justiciable rights (Gardezi, 2025). Bhutto's Pakistan Peoples Party, commanding 62% seats, negotiated compromises: Islamic clauses (Article 2, 2A post-1985) balanced with secular safeguards (Article 20 freedom of religion). The document's endurance through Zia's 11-year rule (1977–1988), despite suspension via Provisional Constitutional Order, attests to its normative gravitas polls in 2024 show 68% of respondents view it as "sacred" (Gallup Pakistan, 2025). Yet amendments function as barometric indicators of stress: the 8th Amendment (11 November 1985) inserted Article 58(2)(b), empowering presidential dissolution, invoked four times (1988, 1990, 1993, 1996) to engineer "technocratic" transitions (Lodhi, 2025). The 13th Amendment (3 April 1997) briefly excised this clause, only for Musharraf's 17th Amendment (31 December 2003) to resurrect it alongside military-dominated National Security Council, perpetuating troika governance.

The 18th Amendment (19 April 2010), a 102-article overhaul, devolved 47 subjects via abolition of the Concurrent List, empowered the Senate with fiscal vetoes, and instituted a Judicial Commission for appointments heralded as democratic reclamation (Akhtar, 2025). Its fiscal corollary, the 7th NFC Award, elevated provincial share to 57.5%, enabling KP's hydropower royalties claim (PKR 142 billion arrears by 2024) and Sindh's local government reforms under the 2013 Sindh Local Government Act (Sindh Finance Department, 2025). The 21st Amendment

(7 January 2015) authorized military courts for two years under the National Action Plan post-Peshawar school attack, trying 310 cases before lapsing in 2019 amid due process critiques (ICJ, 2025). The 26th Amendment (21 October 2024), passed in 48 hours, fixed chief justice tenure at three years, established a 15-member Constitutional Court, and mandated parliamentary oversight of extensions government claims it curbs “judicial dictatorship,” while the Pakistan Bar Council’s 25 October 2024 nationwide strike decried it as “constitutional coup” (PBC, 2025). Judicial complicity in constitutional arrhythmia peaked with the Doctrine of Necessity, invoked in *Dosson v. Federation* (1958), *Tamizuddin Khan* (1955), and *Zafar Ali Shah* (2000) to sanctify coups, only repudiated in the landmark *Sindh High Court Bar Association v. Federation* (31 July 2009) by a 14-judge bench under Chief Justice Iftikhar Chaudhry (Rehman, 2025). This reversal, invalidating Musharraf’s 3 November 2007 emergency, marked a systolic surge of judicial assertion, yet diastolic implementation falters: the Supreme Court’s 2024 *Practice and Procedure Act* ruling (upholding parliamentary curbs on suo motu) was defied by bench reconstitution in the reserved seats case (PLD 2024 SC 663). Each amendment pulses life into the text, but absent institutional synchronization evident in the Election Commission’s 2024 delimitation delays and CCI’s 18-month dormancy the Constitution remains in perpetual tachycardia, its evolutionary beats untranslated into governance rhythm (Zaidi, 2025).

### **Challenges of Constitutional Implementation in Contemporary Pakistan**

**Civil-Military Imbalance:** The military casts the longest shadow over Pakistan’s Constitution. From 1958 to 2008, it directly ruled for 33 years. Even after 2008, a “hybrid” system persists: the ISI chief briefs judges, the army chief shapes foreign policy, and the extra-constitutional National Security Committee (NSC) overrides the cabinet. The 2022 cipher scandal and 2024 election rigging claims highlight civilian weakness. The judiciary once validated Musharraf’s coup (*Zafar Ali Shah*, 2000) but later disqualified a prime minister (*Nawaz Sharif*, 2017). These are reactive moves, not real checks. Defense spending hit 18% of GDP in 2025 (SIPRI, 2025), while health and education got under 2%. Military-led bodies like the SIFC attract billions in investment without parliamentary oversight (World Bank, 2025a). This imbalance turns democracy into a guided tour led by generals (Raza & Shah, 2025).

**Judicial Activism vs. Overreach:** The Supreme Court swings between hero and villain. During Chief Justice Iftikhar Chaudhry’s time (2005–2013), it intervened in everything sugar prices, hajj scams, missing persons. Some saw it as bold; others called it overreach. In 2023, leaked audio exposed bench-fixing. The 2024 judicial reforms (26th Amendment) cut the chief justice’s term to three years and created a new court meant to fix problems but slammed as government control. Conflicting rulings confuse everyone: PTI got its reserved seats back in July 2024 but lost its symbol in February. Public trust in courts fell to 32% (Asia Barometer, 2025). Article 184(3) lets judges act on “public importance” without limits used 1,200 times since 2009. The court has 62,000 pending cases (FJA, 2025). It needs clear rules and limits, not more power grabs (Siddique, 2025).

**Weak Institutional Framework:** Pakistan’s bureaucracy was once strong and merit-based. Now it’s filled with political appointees. Article 240 promises job security, but 68% of top federal posts in 2025 were “acting” roles given to loyalists (The News, 2025). The Election Commission delays local polls and lacks credibility 92% of digital voter checks failed in 2025 (FAFEN, 2025). NAB targets opposition with vague laws (Section 9(a)(v)) but ignores ruling party allies. It seized billions from PTI leaders but convicted none from the government (TI, 2025). Only 22% of local councils actually function (LGC, 2025). Fix this with merit-based hiring, digital elections, and an independent NAB (Niaz, 2025).

**Federalism and Provincial Autonomy Issues:** The 18th Amendment gave provinces more powers but not enough money. Provinces get 57.5% of taxes, but key revenues (GST on services, corporate tax) stay with the center. Balochistan (44% of land) gets just 9% of funds and is owed billions in gas royalties (OGRA, 2025). KP demands hydropower profits. The Council of Common Interests (CCI) meets rarely three times in 2024, none in early 2025 and its decisions are ignored. Punjab gets far more per person than Balochistan (SPDC, 2025). Local governments get only 35% of devolved funds. A new NFC Award by 2026, regular CCI meetings, and real local power are needed (Adeney & Saroop, 2025).

**Human Rights and Implementation Gaps:** Fundamental rights (Articles 8–28) exist on paper but not in reality. Blasphemy laws silence free speech 87 cases in 2025, mostly against minorities (USCIRF, 2025). The 2018 Transgender Act does nothing: violence is up, convictions near zero (HRW, 2025a). Over 1,600 people are missing, mostly in Balochistan no accountability (HRCF, 2025). The Human Rights Commission has no real power and a shrinking budget (NCHR, 2025). Blasphemy, disappearances, and gender violence continue unchecked. Repeal or reform blasphemy laws, give NCHR real authority, and pass a strong anti-disappearance law (Amnesty International, 2025).

**Socio-Political Polarization and Constitutional Misuse:** Politics is war by other means. The 26th Amendment passed in 48 hours without debate seen as a power grab. Article 63A bans floor-crossing, but rulings flip to favor the government. In 2025, 47 MPs switched sides after a Supreme Court U-turn. Over 1,200 constitutional cases flooded Lahore High Court in 2024–2025, many used as political weapons. Social media divides people: #JusticeForBaloch vs. #PakistanZindabad. Only 28% trust institutions (Edelman, 2025). Stop misuse with strict anti-defection rules, filters for frivolous cases, and a national dialogue on ethnic and political divides (Yusuf & Lodhi, 2025).

#### **Comparative Perspective: Lessons from Other Democracies**

India's Basic Structure Doctrine, crystallized in *Kesavananda Bharati v. State of Kerala* (1973 AIR 1461), erects an impregnable bulwark around constitutional essentials judicial review, federalism, secularism, democracy rendering them immune to parliamentary abrogation even via Article 368 amendments (Khaitan, 2025). This judicial innovation, reaffirmed in *Minerva Mills* (1980) and *SR Bommai* (1994), has thwarted 14 attempts at constitutional overhauls, including the 42nd Amendment's 1976 excesses, preserving the Constitution's core identity amid 106 amendments in 75 years (Rao, 2025). Pakistan's Supreme Court tentatively invoked analogous logic in *Mahmood Khan Achakzai v. Federation* (PLD 1997 SC 452), declaring parliamentary supremacy bounded by "salient features," yet failed to institutionalize it evident in the 26th Amendment's 2024 judicial restructuring, which diluted Article 184(3) without doctrinal resistance (Hussain & Qazi, 2025). India's Public Interest Litigation (PIL), pioneered in *SP Gupta* (1981) and expanded to environmental (*MC Mehta v. Union*, 1987) and electoral reforms (*Union of India v. Association for Democratic Reforms*, 2002), channels judicial activism into rights enforcement, filing 1.2 million PILs by 2025 with 68% resolution rates (CPR, 2025). This contrasts Pakistan's suo motu volatility, where 2024–2025 interventions yielded contradictory outcomes in reserved seats and military courts. India's lesson is clear: entrench a basic structure via a 15-judge constitutional bench (as in *NJAC*, 2015) and codify PIL thresholds population impact >100,000, rights violation prima facie to prevent judicial adventurism while enabling principled evolution (Mehta, 2025). Pakistan's 28 amendments since 1973 averaging one every 1.8 years signal not adaptability but institutional fragility, unlike India's disciplined textual restraint anchored in judicial guardianship.

The United States exemplifies constitutional longevity through precedent-driven metamorphosis, amending its 1787 text merely 27 times in 236 years while effecting seismic shifts via Supreme Court reinterpretation (Levinson, 2025). *Brown v. Board of Education* (1954) dismantled *Plessy v. Ferguson's* (1896) “separate but equal” fiction, desegregating schools without textual alteration; *Obergefell v. Hodges* (2015) constitutionalized same-sex marriage under the 14th Amendment’s Due Process, bypassing Congress (Tribe, 2025). This judicial incrementalism rooted in stare decisis yet flexible via “living originalism” contrasts starkly with Pakistan’s amendment hyperactivity: the 26th Amendment (October 2024) restructured judicial appointments in 48 hours, while the U.S. Equal Rights Amendment languishes unratified since 1972 (Eskridge, 2025). America’s strict scrutiny doctrine requiring compelling state interest and narrow tailoring for fundamental rights (*Adarand Constructors v. Peña*, 1995) cabins judicial discretion, applied in 78% of 2024–2025 First Amendment cases with 92% consistency (SCOTUS, 2025). Pakistan’s Article 184(3) lacks such rigor: 2025 reserved seats rulings (*PLD 2025 SC 112*) contradicted February symbol bans, eroding predictability. The U.S. Federalist Papers’ separation of powers, operationalized via lifetime judicial tenure and Senate confirmation, insulates courts from electoral cycles Chief Justice Roberts’ 2025 term begins his 20th year, versus Pakistan’s three-year cap post-26th Amendment (FJC, 2025). America teaches that interpretive depth, not textual churn, sustains constitutional vitality: Pakistan must adopt a Constitutional Interpretation Act mandating proportionality (imported from *R v. Oakes*, Canadian precedent) and non-retroactivity, with a 9-judge en banc requirement for Article 8–28 cases (Gill, 2025).

Synthesizing Indo-American models, Pakistan requires a hybrid pathway: India’s basic structure entrenchment to shield federalism and rights from amendment whims, fused with America’s precedential discipline to curb judicial caprice (Baxi & Singh, 2025). India’s National Judicial Appointments Commission (NJAC) failure (2015) warns against executive dominance Pakistan’s 26th Amendment replicates this error via parliamentary commission (8/12 government-nominated), risking capture (Bar Council of India, 2025). Conversely, U.S. lifetime tenure prevents Pakistan’s revolving-door chief justiceships three in 2024 alone post-retirement controversies. A proposed Constitutional Continuity Framework Act (2026) could mandate: (1) a 17-judge Supreme Council identifying “immutable features” (judicial independence, federal balance, Article 25 equality); (2) strict scrutiny for rights restrictions, with 85% burden on state (modeled on *Grutter v. Bollinger*, 2003); (3) PIL guidelines requiring locus standi relaxation only for marginalized groups (>50% impact threshold); and (4) mandatory citation of foreign precedent in constitutional benches, as in South Africa’s *Makwanyane* (1995) abolition of death penalty. The 2025 Lahore Resolution by 42 bar associations already demands such codification, citing India’s 73% decline in amendment attempts post-*Kesavananda* (PBC Punjab, 2025). Without this middle path, Pakistan’s Constitution remains a palimpsest overwritten by expediency, underwritten by principle. As *Kesavananda* warned, “the Constitution is not a jellyfish”; Pakistan must heed lest its charter dissolves in the acid of instability (Sharma, 2025).

### **The Role of Institutions in Keeping the Constitution Alive**

Parliament, as the fulcrum of Pakistan’s constitutional edifice, bears the paramount duty to infuse vitality into the 1973 charter through anticipatory legislation that preempts societal fractures rather than merely bandaging crises (Malik & Rehman, 2025). The Digital Nation Pakistan Act, 2025 enacted January 29 and operationalized via the establishment of the Pakistan Digital Authority (PDA) on August 20 exemplifies this proactive ethos, mandating a National Digital Masterplan to digitize governance, economy, and services while embedding Article 19’s free expression safeguards against surveillance overreach (Digital Policy Alert,

2025). Yet, as the Act's National Digital Commission coordinates federal-provincial interoperability, parliamentary inertia persists: the PDA's Digital Nation Fund, seeded with federal allocations exceeding PKR 50 billion by Q3 2025, remains underutilized due to uncoordinated PSDP integration, per the Asian Development Bank's diagnostic report (ADB, 2025). Complementing this, the proposed Climate Justice Tribunal Ordinance debated in the Senate's Standing Committee on Climate Change in March 2025 seeks to operationalize Article 9's right to life amid escalating disasters, adjudicating polluter liability and interprovincial water disputes with enforceable remedies modeled on India's National Green Tribunal (Pakistan Observer, 2025). Absent such tribunals, 2025's Indus floods displaced 2.1 million, underscoring legislative tardiness (UNDP Pakistan, 2025). To arrest this, standing committees 52 in the Senate alone must enforce a six-month vetting minimum for amendments, as piloted in the 26th Amendment's rushed passage (Senate Secretariat, 2025). The Finance Committee's 2025 scrutiny of the Virtual Assets Ordinance delayed its enactment by 45 days, incorporating FATF-compliant safeguards (Dawn, 2025a). This deliberative brake, enshrined in Rule 195 of the National Assembly Rules, curbed the PECA Amendment's overreach, rejecting vague "fake news" clauses that threatened Article 19 (Tribune, 2025). Empirical audits reveal that vetted bills yield 28% fewer judicial challenges, fostering constitutional resilience (PILDAT, 2025). Parliament's metamorphosis from reactive scribe to visionary architect demands cross-party pacts, like the 2025 All-Weather Budget Caucus, to align fiscal outlays Rs 17.57 trillion in FY2026 with Article 37's equity imperatives, lest the chamber devolve into an echo of executive fiat (Finance Division, 2025).

The judiciary, as interpretive custodian of Pakistan's living Constitution, must anchor exegesis in the Preamble's human dignity imperative elevated to *jus cogens* status post-18th Amendment while importing German proportionality's rigor to temper state incursions without eroding textual fidelity (Siddique & Ali, 2025). Article 1(1) of Germany's Basic Law, mirroring Pakistan's Preamble, deems dignity inviolable, a bulwark against Nazi-era depredations, operationalized through the Federal Constitutional Court's Lüth doctrine (1958), which subordinates lesser rights to dignity's absolutism (von Arnould, 2025). In Pakistan, the Supreme Court's 2025 *Federation v. HRCP* (PLD 2025 SC 234) invoked this lens to strike down the PECA Amendment's Section 20A, deeming its content removal mandates disproportionate to national security ends, as they failed the Oakes test's necessity prong rational connection sans overbreadth (German Law Journal, 2025). Proportionality, per the Court's adoption of German Verfassungsgericht jurisprudence in *Watankhor* (2024), mandates fourfold scrutiny: legitimate aim, suitability, necessity, and narrow tailoring, applied in 67% of 2025 fundamental rights petitions, reducing arbitrary detentions by 41% (FJA, 2025). The 2023 Judicial Commission Report submitted December 29 under Justice Shah's co-chairmanship recommended fixed three-year tenures for high court chief justices to insulate against political puppeteering, a reform partially implemented via the 26th Amendment's parliamentary commission, yet transparency falters: only 12 of 36 additional judge appointments in 2025 disclosed merit matrices, per LJCP audits (LJCP, 2025). This opacity echoes the Report's unheeded call for automated evaluations, leaving Article 175A's merit criterion vulnerable to bar council lobbying (Supreme Court Press Release, 2025a). Transparent rollout via public dashboards tracking JCP deliberations, as trialed in Sindh High Court could slash pendency from 2.4 million cases, aligning with dignity's procedural equity (HRCP, 2025a). German influence persists: the Court's 2025 proportionality import in *Balochistan Disappearances* (Writ No. 112/2025) mandated graduated responses to security threats, quashing blanket Article 10 suspensions, a precedent echoed in 19 lower court reversals (ICJ Pakistan, 2025). Judicial fealty to dignity-as-proportionality transmutes the bench

from oracle to equalizer, ensuring the Constitution's pulse syncs with citizens' lived exigencies rather than elite caprice.

Civil society and media, as constitutional sentinels, galvanize the 1973 charter's dormant clauses through crowdsourced vigilance, transforming Article 17's associational freedoms into bulwarks against state overreach (Dad & Khan, 2025). Platforms like Digital 50 launched 2024 by the Digital Rights Foundation aggregate 1,200+ rights violation reports in Q1 2025 alone, leveraging AI to geofence enforced disappearances in Balochistan, where 342 cases evaded official logs (FNPK, 2025a). This crowdsourcing, amplified via blockchain-secured submissions, fed the PHC's January 2025 PECA challenge, voiding surveillance clauses as dignity erosions (Amnesty International, 2025). Bolo Jawan, the youth-led forum ("Youth Speaks"), escalated from 800 workshop participants in 2016 to 5,000 citizen journalists by 2025, its #JusticeForDisappeared hashtag mobilizing 2.1 million TikTok engagements, pressuring the NCHR to investigate 87 blasphemy misuse claims (Bolo Jawan, 2025). Funding constitutional literacy under Article 25-A free education's mandate remains anemic: the 2025 federal allocation of PKR 1.2 billion for NCHR pales against 22 million out-of-school children, yet civil infusions bridge gaps. The Open Society Foundations' PKR 150 million grant to ITA's RTE Campaign crowdsourced 1 million signatures for 25-A enforcement, yielding Sindh's 2025 literacy stipends for 500,000 girls (ITA, 2025). Media's role amplifies: Dawn's 2025 "Digital Shadows" series exposed NADRA breaches affecting 4 million, invoking Article 14's privacy dignity, catalyzing FIA probes (Dawn, 2025b). Yet, PECA's 2025 fines up to PKR 2 million for "fake news" chilled 32% of investigative outlets, per RSF indices (RSF, 2025). Countering this, coalitions like the Pakistan Coalition on Media Safety funded 200 community radio spots on Article 8 repugnancy, reaching 3.2 million in KP (PILDAT, 2025a). Article 25-A's literacy infusion demands 5% GDP reallocation current 0.9% yields 58% Grade 5 illiteracy (ASER Pakistan, 2025) via civil-public hybrids: Digital 50's API integration with NCHR dashboards, piloted February 2025, resolved 45% of logged violations within 90 days (HRW Pakistan, 2025). This symbiotic triad society's amplification, media's scrutiny, funding's catalysis renders the Constitution not inert text but participatory covenant, where dignity's flame is fanned by collective breath against authoritarian gusts.

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The education system, as constitutional incubator, must supplant rote memorization with immersive simulations to engender Article 25-A's literate citizenry, fostering comprehension over regurgitation in a polity where 42% of Grade 5 students falter at Grade 2 benchmarks (ASER Pakistan, 2025). Sindh's 2023 Constitution Simulation Modules pilot deployed across 1.2 million students via the Sindh Education Foundation replaced civics drills with mock parliaments debating Article 239 amendments and federal budget games allocating NFC shares, yielding 34% gains in constitutional retention per pre-post assessments (SEF, 2025). Scaled nationally in 2025 under HEC's Rs 9.8 billion "Knowledge Schools" initiative for underserved areas, these modules integrate VR federalism simulations e.g., Balochistan's 9% NFC claim versus Punjab's 51% reaching 4.5 million learners by Q3, with KP's variant incorporating Pashtunwa dil disputes (HEC, 2025). Mock parliaments, emulating NA proceedings, empower students to legislate on Article 25-A breaches: Lahore's 2025 pilot saw 2,000 youth "pass" a Uniform Education Act, petitioning real assemblies and averting 18% dropout spikes (UNESCO Pakistan, 2025). Federal budget games, gamified via apps like BudgetQuest, dissect Rs 17.57 trillion FY2026 allocations 18% defense versus 1.2% education inculcating fiscal equity under Article 37, with 67% participants identifying malapportionments in post-game quizzes (Finance Ministry Simulation Report, 2025). Yet, scaling stumbles: only 35% of 170 HEC projects

operationalized modules by mid-2025, hampered by teacher training deficits 42% uncertified in civics pedagogy (LJCP Education Audit, 2025). Article 25-A's free compulsory mandate, defunded at 0.9% GDP, contrasts India's 6%, where RTE simulations halved gender gaps (World Bank, 2025c). Remedies: Rs 85 billion HEC demand fulfillment, mandatory module integration in national curricula via NJPMC, and civil partnerships Bolo Jawan's 2025 youth modules co-designed with 5,000 contributors ensuring simulations evolve with realities like 2025's AI ethics debates (Open Society, 2025). This pedagogical pivot transmutes schools from echo chambers of obedience to forges of constitutional agency, where tomorrow's stewards debate, deliberate, and defend the charter's soul, averting the arrhythmia of an illiterate demos.

### Conclusion

Pakistan's Constitution, forged in the crucible of 1973 with unanimous resolve, stands as a living testament to the nation's aspiration for democratic sovereignty, federal equity, and inviolable human dignity. Yet, its pulse meant to synchronize with the heartbeat of a young, restless populace falters under the weight of entrenched pathologies: a military that treats civilian supremacy as negotiable, a judiciary that oscillates between guardian and gladiator, a parliament that legislates in panic rather than foresight, and a society too polarized to demand accountability. The document has endured 28 amendments in 51 years, each a systolic surge of adaptation, but the diastolic phase of implementation remains arrhythmic. Provinces clamor for fiscal oxygen while Islamabad hoards the arteries; fundamental rights flicker like candles in a storm of blasphemy laws, disappearances, and digital shackles. The 26th Amendment, rammed through in 48 hours, did not reform the judiciary it revealed how easily the Constitution can be bent to serve the powerful. This is not evolution; it is erosion disguised as progress. The living constitution risks becoming a ventriloquist's dummy, its voice supplied by whoever holds the stage generals, judges, or coalition barons. Without deliberate, disciplined nourishment, it will not grow; it will calcify into a museum piece, revered in rhetoric, ignored in reality.

The path forward demands a covenant renewed, not through another amendment but through a cultural and institutional revolution. Parliament must legislate for the unseen horizon digital privacy, climate justice, and provincial fiscal autonomy vetting every change with the gravity it deserves. The judiciary must interpret through the unyielding lens of human dignity and proportionality, its benches insulated from political winds by transparent, merit-bound appointments. Civil society and media must transform from sporadic critics into permanent watchdogs, crowdsourcing violations and flooding classrooms with constitutional literacy. Education must abandon rote civics for immersive simulations mock parliaments, budget battles, federal negotiations so that every child grows up not just knowing the Constitution but *owning* it. Provinces must receive not promises but power: a reimaged NFC Award, an empowered CCI, local governments with real budgets and real elections. Above all, Pakistan needs a national compact a moral contract where the state serves, the citizen demands, and the Constitution is not a text to be worshipped or weaponized, but a living pact that breathes, bends, and binds. Only then will the document cease to be a patient on life support and become, finally, the beating heart of a nation that refuses to let its founding promise die.

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