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Institutional Mechanisms and Judicial Autonomy in Pakistan: Assessing the Effectiveness of Constitutional and Democratic Safeguards

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Abstract

This article examines whether Pakistan's constitutional safeguards for judicial autonomy principally the appointment and bench-formation mechanisms created and repeatedly re-engineered by the Eighteenth (2010), Nineteenth (2010), and Twenty-Sixth (2024) Constitutional Amendments have produced durable de facto judicial independence, or only oscillating de jure arrangements vulnerable to reversal by whichever coalition controls Parliament. Drawing on the de jure/de facto distinction developed by Feld and Voigt (2003) and refined by Hayo and Voigt (2007) and Voigt, Gutmann, and Feld (2015), the article argues that Pakistan's post-2010 record demonstrates a structural pattern in which formal safeguards are periodically strengthened in response to a crisis of executive or military overreach, only to be substantively unwound once the judiciary's institutional assertiveness threatens the incumbent governing coalition. The Twenty-Sixth Amendment is analyzed as the clearest instance of this pattern to date: a two-thirds parliamentary majority reconstituted the Judicial Commission of Pakistan, replaced automatic seniority-based selection of the Chief Justice with a parliamentary committee vote, and created a separately staffed Constitutional Bench with panel-assignment powers concentrated in a government-influenced commission. The article situates this development within comparative evidence on court-packing and court-curbing in democratically backsliding states and concludes that indices of judicial independence, while useful as background trend data, understate the significance of appointment-and-panel-control mechanisms that operate beneath the threshold such indices are designed to detect.

Keywords: *judicial independence; judicial autonomy; Pakistan; constitutional amendment; de jure and de facto independence; court-packing; comparative judicial politics*

1. Introduction

The superior judiciary in Pakistan has a singular role in hybrid and competitive-authoritarian regimes, having asserted itself as a powerful force against civilian governments at several junctures since 2007, but also serving as a means to strengthen one government at the cost of the other since then

(Kureshi, 2022). This oscillation is not unintentional. It is the result of a three-times reshaped constitutional appointment structure that has been architecture from top to bottom in the service of capturing the judiciary, and not insulating it, in the name of reform, transparency, and parliamentary supremacy, each of which has been challenged by portions of the bar, the bench and civil society in a constitutional manner in the last fourteen years, and twice in the last four.

The focus of this article is not whether the constitution of the state of Pakistan explicitly provides for judicial autonomy, which it does, in the sense that the constitution of Pakistan has made the appointment procedure of these judges institutionalised, involving multiple actors, rather than the unilateral appointment by the executive, but whether these appointments have resulted into any autonomy that has survived the interaction with a determined governing coalition? This is an empirical question concerning the difference between "de jure" independence and "de facto" independence, and demands the use of a model that separates formal design from actual practice in order to assess the possibility of the absence of the latter despite the presence of the former.

There are 5 steps in the argument. In Section 2, the de jure/de facto framework, which is based on comparative judicial-independence scholarship, is explained and supplemented with a mechanism-level process tracing to account for the Pakistani case. In Section 3, the study takes a step back to sit within the literature of judicial politics in Pakistan, namely the audience-oriented approach to judicial assertiveness developed by Kureshi (2022), and Newberg's (1995) earlier institutional history. Section 4 takes a look back at the process of appointments from 2010 to 2024. Section 5 traces the de jure-de facto gap via comparative index information and mechanism-level information — such as the letter from the judges of the Islamabad High Court in 2024 alleging interference by the intelligence agencies and the panel-assignment powers introduced under the Twenty-Sixth Amendment. Section 6 explores what "effective" might reasonably mean for a legally reversible safeguard and Section 7 summarizes.

2. Theoretical Framework: De Jure and De Facto Judicial Autonomy

Comparative political economy has long been concerned with the independence of a judiciary as a formal, textual construct from the actual independence of the judiciary. Feld and Voigt (2003) developed the first systematic cross-national indicators of both dimensions, which were coded from constitutional and statutory provisions on judicial independence, specifically in terms of judicial appointment, tenure, removal, and budgetary autonomy, as well as from patterns of judicial compliance, turnover, and deference noted in the field. Their main empirical result (replicated by Voigt, Gutmann and Feld (2015) with an enlarged sample and with an extended time period) is that de jure independence is not strongly correlated with the increase of economic activity while de facto independence is. But the point of the analysis generally, and especially for the present article, is that formal protection is not enough, and that the extent of the difference between it and actual protection is the subject of the analysis, rather than the starting point.

Hayo and Voigt (2007) build on this logic by posing the question of why some cases are granted greater independence in practice even when independence in law is constant, but some are denied it, depending on the value of credible commitment, and why it is taken away when the judiciary becomes a constraint on the incumbent's preferences. It is directly relevant to Pakistan because all the three

amendments discussed here were approved by the governments that had parliamentary super majorities and all of them modified the rules for appointment in a way that lessened the power of the previous government or judiciary just at the time when their interests were most vulnerable to judicial restraint.

This article uses the *de jure/de facto* distinction in a dependent-variable structure, but differs from the pure indices approach in one way. Aggregate indicators, like those developed by the Varieties of Democracy (V-Dem) project and the World Justice Project (WJP), rely on the approximation of judicial autonomy as part of an overall measure of judicial power, which is published on an annual cycle, and that includes other components of judicial power unrelated to the system of appointing judges (V-Dem Institute, 2025; World Justice Project, 2024). The most detail at which a constitutional amendment of the type analyzed here can operate is too fine a level for a composite annual index of constitutional amendments to isolate and the most significant such amendment in Pakistan's recent history comes before the latest published index waves this analysis. The index data, therefore, are presented as a piece of corroborative background information for the general trend rather than constituting the key evidence for the assessment of the *de jure–de facto* gap, which is based on the process-tracing approach to the court-packing mechanism as used in the qualitative comparative-institutional analysis of court-packing (Kureshi, 2022).

3. Literature on Judicial Politics in Pakistan

Newberg's (1995) institutional history documented how Pakistan's superior judiciary, prior to the current period, functioned largely as a validating rather than a constraining institution, legitimating successive military interventions through doctrines such as the law of necessity while rarely constraining civilian governments in ways that altered political outcomes. Kureshi (2022) offers the most systematic recent account of what changed. His audience-based framework argues that the judiciary's shift from deference toward assertiveness — most visibly under Chief Justice Iftikhar Chaudhry after 2007 — resulted from a change in the constituencies whose esteem and support judges sought to cultivate: from a narrow reliance on executive and military patronage toward a broader base including the organized bar, media, and public opinion. This shift produced a judiciary willing to confront both military and civilian governments, but it did not, on Kureshi's own account, produce a judiciary insulated from subsequent institutional counter-mobilization by the political actors it had confronted.

The appointment-mechanism literature specific to Article 175A traces a narrower but directly relevant thread. Legal commentary on the Eighteenth Amendment's original design (Center for American Progress, 2010) and on the Supreme Court's own response to it in *Nadeem Ahmed v. Federation of Pakistan* (PLD 2010 SC 1165) shows that the mechanism was contested from its inception: the Court's ruling in that case, and the subsequent Nineteenth Amendment negotiated in its aftermath, restored substantial control over nomination to the judiciary itself, reversing key features of the original two-tier design (SAHSOL, n.d.-a; SAHSOL, n.d.-b; The Express Tribune, 2010). This sequence — a parliamentary reform, followed by judicial pushback, followed by a further parliamentary amendment restoring judicial weight — establishes the pattern of iterative renegotiation that the remainder of this article traces forward to the Twenty-Sixth Amendment of 2024, in which the direction of renegotiation reversed decisively toward parliamentary and executive control.

4. Institutional Timeline: From the Eighteenth to the Twenty-Sixth Amendment

Table 1 summarizes the key events discussed in this section as a single chronology before the subsections below reconstruct the causal and legal sequence connecting them.

Date	Event
April 2010	Eighteenth Amendment passed; Article 175A creates the two-tier Judicial Commission / Parliamentary Committee appointment mechanism (Center for American Progress, 2010).
2010	Nadeem Ahmed v. Federation of Pakistan (PLD 2010 SC 1165): Supreme Court disposition shifts practical control back toward the judiciary (SAHSOL, n.d.-a).
December 2010	Nineteenth Amendment passed; enlarges judicial representation on the Judicial Commission and curtails the Parliamentary Committee's public rejection power (The Express Tribune, 2010; SAHSOL, n.d.-b).
26 March 2024	Six Islamabad High Court judges write to the Supreme Judicial Council alleging intelligence-agency interference in judicial proceedings (Freedom House, 2024).
May 2024	Federal Law Minister describes the Parliamentary Committee on Judicial Appointments as a "rubber stamp" under the 19th Amendment design.
21 October 2024	Twenty-Sixth Amendment passed in an overnight parliamentary session, restructuring the Judicial Commission, Chief Justice selection, and creating the Constitutional Bench (Tripathi & Kumar, 2024).
November 2024	Reconstituted Judicial Commission votes 7–12 to nominate the first seven-member Constitutional Bench (Arab News, 2024).
2025	Litigation challenging the 26th Amendment's constitutionality proceeds before a bench constituted under the amendment's own mechanism; petitioners dispute the bench's composition and legitimacy to rule on its own validity.

Table 1. Timeline of the appointment-mechanism sequence, 2010–2025.

4.1 The Eighteenth and Nineteenth Amendments: A Judiciary-Weighted Appointment Regime

Under the Eighteenth Amendment (2010), the president and prime minister would no longer be directly involved in the appointment of judges, but instead would have a two-step system: a Judicial Commission, led by the Chief Justice and consisting largely of judges, would be tasked with nominating candidates, and a Parliamentary Committee, with half the members holding government and half opposition, would approve or reject candidates, with reasons required for any rejection (Center for American Progress, 2010). An important point of the amendment was that the principle of seniority for choosing the Chief Justice was enshrined in the statute book, after the Supreme Court itself had expressed it in its previous judgments (Judicial Commission of Pakistan, constitutional commentary; SAHSOL, n.d.-a).

This design was attacked even before the Supreme Court, on the argument that even a parliamentary confirmation step weighted in favor of judges would have the effect of vitiating judicial independence. In *Nadeem Ahmed v. Federation of Pakistan* (PLD 2010 SC 1165), the Court's ruling rebalanced the control towards the judiciary; the Nineteenth Amendment (2010) negotiated by the government in response to the ruling, expanded the cadre of Senior Judges on the Judicial Commission, shifted the

power to designate ad hoc judges from the Chief Justice to the Commission as a body, and mandated that the Parliamentary Committee operate in camera and justify to the Commission, not to the public, any rejection of ad hoc judge nominations (SAHSOL, n.d.-b; Nineteenth Amendment, as per the legislative record). As a whole, the sequence of the 2010 was an appointment system in which the organized judiciary had the primary role in the appointment of its own successors, while Parliament is still playing a confirmatory role, albeit a narrow one and one that is more reactive.

Between 2010 and 2024, Pakistan's highest judiciary exercised its autonomy of appointment as provided in the 2010 amendments in conjunction with its far-reaching judicial review and suo motu jurisdiction, which brought it into direct and repeated conflict with civilian governments and the military, according to the account of Kureshi (2022). During this time, big-time disqualifications of sitting Prime Ministers, sweeping human-rights cases and — most recently relevant to the argument here — a growing sense among the successive governing coalitions that the judiciary, insulated by the 2010 appointment process, had become an independent veto player rather than a neutral arbiter. By 2024, this impression had evolved into an actual grievance by the federal law minister against the Parliamentary Committee on Judicial Appointments for having become "not more than a rubber stamp" under the design of the Nineteenth Amendment (as reported in contemporaneous coverage of Judicial Commission proceedings).

4.2 Interregnum: Judicial Assertiveness and Its Political Costs

In March 2024, six sitting judges of the Islamabad High Court wrote to the Supreme Judicial Council regarding "persistent interference" in judiciary proceedings by the country's top intelligence agency, the Pakistan Intelligence Bureau (PIB), which the Supreme Court took suo motu action on, and issued a notice to hold an inquiry (Freedom House, 2024). The episode is important to the argument here because it shows that de jure appointment security (the judges in question were appointed at the very institutional structure that the 2010 amendments had created) does not alone prevent such an alleged pattern of extra-constitutional pressure from being levied on serving judges. In fact, this is the de jure/de facto gap that Hayo and Voigt (2007) also anticipate: Formal independence and actual, felt independence are empirically different from each other, and proof of the latter must be found in other sources.

The Two-third majority necessary for constitutional amendment was obtained on 21st October 2024 while the session was being held overnight (Tripathi & Kumar, 2024). The amendment brought about four changes which directly affect the autonomy of the judiciary. First, it scrapped the seniority principle for appointment of the Chief Justice of Pakistan and introduced a Special Parliamentary Committee to recommend the name of the most senior sitting judge among the three judges for a fixed term of three years (Courting the Law, 2024; The Pakistan Gazette, 2025). Secondly, it also changed the composition of the Judicial Commission of Pakistan, as the number of senior sitting Supreme Court judges on the thirteen member Commission was reduced, while the other members of the Commission were from the government, parliamentary and bar backgrounds and pressure was placed on them to do a job that was otherwise performed by the judges alone (International Commission of Jurists, 2024).

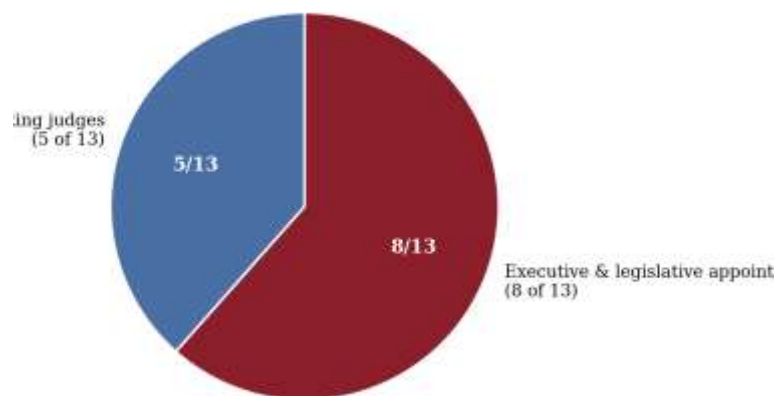
4.3 The Twenty-Sixth Amendment (2024): Reconstituting Appointment and Bench Formation

Most importantly for the argument made here, Article 191A includes a creation of the Constitutional Bench, a Constitutional Bench of Judges with exclusive constitutional jurisdiction, separate from the

Supreme Court Judges, wherein the power of nominating the pool of Judges eligible to sit on that Bench is vested in the Judicial Commission, and not with the Chief Justice or in the Supreme Court's own practice of rostering Judges to sit on that Bench, and the designation of a Presiding Judge of that Bench by the Judicial Commission, who in turn assigns individual panels to a particular case (JURIST, 2024). This has been described as allowing the government-backed Commission to control the composition of the panels for politically-sensitive litigation at any time in the future, for the Commission can change the group of eligible parties at its pleasure (Verfassungsblog, 2025). Fourth, the amendment added a new, textually uncircumscribed basis for "inefficiency" to bring judges before the Supreme Judicial Council for discipline, which critics argue creates a constant disciplinary threat that can be used against judges who rule against the government in power, particularly when they are viewed as obstructionist (International Commission of Jurists, 2024; Courting the Law, 2024).

In the weeks following the amendment's approval, the new Judicial Commission met and, by a vote of 7 to 12, endorsed a seven-member Constitutional Bench, as the passage was reported at the time as having resulted in a 'reward to those who oppose the interests of the current government'. By the end of 2025, litigants were attacking the constitutionality of the amendment before a bench constituted in accordance with the amendment's own process – a circle of justices that also refused to include several senior judges whose independence from the government was widely considered by them, the litigants, and many senior judges, to be impeccable, including those with a more rights-biased posture, as the previous one did (Tribune coverage of Supreme Court proceedings, 2025).

Judicial Commission of Pakistan (JCP): Composition Under the 26th Constitutional Amendment (2024)



Source: International Commission of Jurists (2024); The Pakistan Gazette (2025).

Figure 1. Composition of the Judicial Commission of Pakistan under the 26th Amendment (2024): 5 of 13 seats are held by sitting judges; 8 are executive, legislative, or bar-council appointees (International Commission of Jurists, 2024; The Pakistan Gazette, 2025).

Feature	18th Amendment (2010)	19th Amendment (2010)	26th Amendment (2024)
Chief Justice selection	Seniority principle formalized in Art. 175A(3)	Seniority principle retained	Special Parliamentary Committee selects among 3 most senior judges for a fixed 3-year term
JCP composition	7 members; CJP chairs; judicial members hold effective majority	Enlarged to include 3 serving + 1 retired judge, law minister, AG, PBC representative	13 members; only 5 seats required to be judges
Parliamentary role	Committee confirms/rejects nominees; must give public reasons for rejection	Committee meets in camera; justifies rejections to Commission, not publicly	JCP nominations forwarded directly to PM; 12-member Special Parliamentary Committee with proportional party representation
Constitutional adjudication	Ordinary Supreme Court jurisdiction; no separate bench	Unchanged	New Art. 191A creates a separate Constitutional Bench; JCP nominates the eligible pool and presiding judge
Disciplinary ground	Removal only via Supreme Judicial Council reference (Art. 209)	Unchanged	Adds an undefined “inefficiency” ground for referral to the Council

Table 2. The appointment and bench-formation mechanism compared across three amendments.

5. Analysis: Mapping the De Jure–De Facto Gap

5.1 De Jure Trajectory, 2010–2024

Read as a single sequence, the de jure trajectory of Pakistan's appointment mechanism is neither monotonically increasing nor monotonically decreasing in judicial autonomy; it is cyclical and reversible. The 2010 amendments shifted formal control toward the judiciary; the 2024 amendment shifted it back toward the executive and legislature, using an instrument — a two-thirds constitutional amendment — that is by design available to whichever coalition commands it. This reversibility is itself an analytical finding, not merely background: a safeguard that can be substantially unwound by the ordinary constitutional-amendment process, without any requirement of judicial concurrence or a referendum threshold, is a categorically weaker form of entrenchment than one requiring supermajority consensus across an electoral cycle or judicial ratification. Pakistan's 1973 Constitution imposes no such heightened entrenchment on Article 175A specifically; it is amendable on the same two-thirds-of-each-house threshold as ordinary constitutional provisions.

5.2 De Facto Trends: Comparative Index Evidence

Aggregate index data are consistent with, though they cannot on their own establish, a broader deterioration in Pakistan's rule-of-law environment over the period under review. The V-Dem Institute's

2025 Democracy Report identifies Pakistan among a set of populous states undergoing sustained autocratization over the past decade, a trend line that includes but is not limited to judicial constraints on the executive (V-Dem Institute, 2025). Freedom House's Freedom in the World 2024 assessment of Pakistan describes the judiciary as "formally independent" while noting that it "has been closely involved in power struggles between the military, the civilian government, and opposition politicians," acting in recent years as a partisan actor in its own right rather than a neutral arbiter (Freedom House, 2024). The World Justice Project's Rule of Law Index places Pakistan in the bottom quartile globally, with only marginal year-on-year movement in its most recent wave (World Justice Project, 2024). None of these sources isolates the appointment-mechanism variable specifically, which is precisely why Section 5.3 turns to mechanism-level evidence rather than resting the analysis on index trends alone.



Source: World Justice Project, Rule of Law Index 2024 (Pakistan country release, 23 Oct. 2024).

Figure 2. Pakistan's global rank (of 142 countries) across the eight WJP Rule of Law Index 2024 factors. Order and Security ranks lowest (140th); Constraints on Government Powers — the factor most directly tracking judicial and legislative checks on the executive — ranks 103rd. Source: World Justice Project (2024).

In the de jure system of appointments, the trajectory of Pakistan has neither been monotonically ascending nor descending in terms of autonomy of judges; it is cyclical and reversible. The 2010 amendment took the formal power back into the hands of the judiciary, while the 2024 amendment returned it to the executive and legislative branches and is so designed that it can be passed by the controlling coalition. The fact that it is reversible is not just background, it is a finding of the analysis: A safeguard that can be meaningfully "unwound" by the regular constitutional amendment process, for which there is no judicial concurrence or any need of a referendum threshold, is a categorically weaker form of entrenchment than one requiring supermajority consensus over an electoral cycle or judicial ratification. The 1973 Constitution does not provide for any greater entrenchment of the participation of women in the government of Pakistan in Article 175A – it can be amended on the same two-thirds-of-each-house basis as other constitutional provisions.

5.3 Mechanism-Level Evidence: Where the Gap Is Located

Collectively, three pieces of mechanism-level evidence suggest that the de jure–de facto gap during the post-2024 period is chiefly restricted to power for the bench-formation and disciplinary-referral processes, and not to judicial-appointment security per se. First, the Constitutional Bench mechanism established in Article 191A of the Constitution gives the Judicial Commission flexibility as to which judges participate in constitutional cases and who presides over the panel assignment — mechanism that comes into play after judges are appointed and therefore can't be measured by any index of appointment independence alone (JURIST, 2024; Verfassungsblog, 2025). Second, the names of certain senior judges omitted from the initial Constitutional Bench pool, highlighted by name in the contemporaneous coverage of the Supreme Court proceedings, is direct behavioral evidence that the safeguard is being put to the test on how it is implemented, as much as by who is included, which is limited to formal eligibility. (Coverage of the Supreme Court proceedings, 2025). Third, the "inefficiency" removal ground functions, as the ICJ sees it, as a standing disciplinary threat, and this effect on judicial behavior is not directly apparent in the statistics of judicial appointments or an annual composite index of efficiencies; the effect is likely to be apparent in self-censorship or changes in voting patterns on politically sensitive questions, which the evidence in this article does not test directly and which will be the focus of future empirical studies based on the analysis of judicial voting patterns.

6. Discussion: What Does "Effectiveness" Mean for a Reversible Safeguard?

The above findings make it hard to determine whether the constitutional protections of judicial autonomy have been "effective" in Pakistan. On the de jure/de facto framework used here, one can not evaluate the effectiveness of the amendment by looking at the text of Article 175A or Article 191A at any given time since the latter, which is three times longer, has been rewritten three times over fourteen years by the same amendment procedure and every rewriting has been proclaimed by the authors of the amendment as a safeguard-strengthening amendment. The 18th Amendment was intended to be a step away from the presidential and prime ministerial control over appointments while the 26th Amendment was intended to reaffirm parliament's supremacy over an unaccountable judiciary and to tackle case backlogs (Ahmed & Ul Haque, 2024; The Pakistan Gazette, 2025). Both of the framings have a defensible institutional-design argument, but this article does not adjudicate between them as normative arguments. The evidence does point to a more limited but still important conclusion: that any measure which relies entirely on the balances of parliamentary power for its durability is not – in the relevant comparative sense – an autonomy-guaranteeing mechanism, but just a “temporarily stable” equilibrium of parliamentary power; and that at any given moment, a measure's “effectiveness” depends not so much on its institutional features as on the balance of the various parliamentary powers.

This is consistent with the comparative literature on court-packing and court-curbing in democratically backsliding countries, which finds that the primary means by which incumbent coalitions in Hungary, Poland, Turkey and, more recently, Mexico and Israel have sought to change the nature of courts is through constitutional amendment, rather than extra-constitutional coup (Verfassungsblog, 2025). The 26th Amendment of the Constitution of Pakistan is very much in line with these characteristics: it was passed in a regular constitutional manner (with the requisite supermajority), it did not suspend the Constitution or remove sitting judges by decree, and it nonetheless brought about a significant shift in the actual exercise of power over the judges who hear the cases. But it is a normative question on which

reasonable constitutional theorists may disagree whether this pattern should be interpreted as illegitimate court packing or legitimate parliamentary correction of the judiciary overreach, and this article's contribution is not normative; it is empirical – to show exactly where, in the architecture of the appointment and the bench, the locus of control is today, and, above all, to demonstrate that it has shifted significantly since 2010 without any need of change to the Pakistan's formal commitment, on paper, to an independent judiciary.

7. Limitations and Directions for Future Research

The above conclusions are subject to three limitations. First, the index-based evidence in Section 5.2 is based on data from before the amendment, as the most recent published waves of the comparative indices referred to here are later than that, so that index-based evidence does not really measure the impact of the amendment, but rather its trend. A follow-up study on the next wave of V-Dem and WJP data releases would enable a more direct test. Second, the mechanism-level evidence that has been gathered here is largely from legal commentary, reporting from human rights organizations, and journalistic coverage of Judicial Commission proceedings, since the case contesting the constitutionality of the amendment was, at the time of writing, pending before the very same Constitutional Bench whose composition is under dispute; the eventual verdict in that case, and its implementation or non-implementation, will constitute essential primary evidence for a potential reevaluation. Third, the author has not tried to make the systematic judicial voting-record analysis that would be required to test directly whether the disciplinary and panel-assignment provisions of the 26th Amendment have changed the conduct of judges on politically charged cases, as opposed to merely changing the rule book in which judges play. This is the most promising path for an empirical study to follow in the future, and is indicated as the most promising avenue by the author of this article, and is also the most promising avenue for an empirical study as suggested by the author of this article, if it can be done by using a difference-in-differences design to compare constitutional and non-constitutional bench rulings before and after October 2024.

8. Conclusion

The history of Pakistan since 2010 has shown that no matter how carefully drafted the constitutional protection of judicial autonomy is, it is as long-lasting as the parliamentary alliance which last updated the constitution. The Eighteenth and Nineteenth Amendments created a judiciary-focused appointment system to counter a strong executive under military rule, while the Twenty-Sixth Amendment eliminated the foundation of the judiciary system in order to counter what its supporters saw as judicial overreach, with an appointment-bench-formation structure that focuses practical control of constitutional adjudication in a government-appointed Judicial Commission. Such a dynamic cannot be captured by either *de jure* text alone or by aggregates of independence indices alone; the mechanism level, *de jure/de facto* comparative approach developed by Feld and Voigt (2003) is called for here for appointment and panel-formation power. The bigger picture, however, is that in states with thresholds that do not require a constitutional amendment to be met by an ordinary supermajority coalition, judicial independence is not a given, but rather an ongoing and provisional balance that still needs to be renegotiated at a different time "in the future" by different coalitions and individuals.

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