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A Comparative Legal Analysis of Judicial Autonomy, Freedom of Expression, and Criminal Justice in Pakistan and the UK: Bridging Constitutionalism and Control

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Abstract

The article examines the legal systems of Pakistan and the United Kingdom through a comparative lens, focusing on three main themes: judicial independence, freedom of speech, and the framework of the criminal justice system. It examines how both systems evolved from a shared colonial common law into distinct orders, highlighting Pakistan's ties to Islamic law and its contrast with the UK's secular traditions and judicial independence. Attention is given to hate speech laws and how both countries balance free speech with social harmony through specific definitions and judicial moderation. Additionally, the article analyzes the structure and operation of each country's criminal justice system, noting procedural gaps and enforcement challenges. By employing qualitative legal analysis and referencing peer-reviewed literature, this study enhances understanding of legal pluralism, the rule of law, and democratic constitutionalism. The article ends with suggestions aimed at enhancing legal clarity, ensuring judicial independence, and upholding civil liberties in both jurisdictions, promoting the need for de-politicization and accuracy within Pakistan's legal system.

Keywords: Judiciary, Freedom of Expression, Comparative, Pakistan, UK

1. Introduction:

The architecture of any legal system reveals more than its statutes and case law; it reflects the historical, political, and social currents that shape the nation's identity and governance. Both Pakistan and the United Kingdom inherit the common law tradition, yet their legal and constitutional trajectories have diverged significantly. Where the UK has institutionalized secularism, judicial independence, and proportionality in human rights adjudication, Pakistan's legal system grapples with overlapping layers of religious, colonial, and constitutional law under the strain of political instability and executive dominance.

This article conducts a comparative legal critique of Pakistan and the UK, focusing on three critical domains: judicial autonomy, freedom of expression, and the criminal justice system. These areas expose the deep fault lines between democratic governance and authoritarian tendencies, between legal pluralism and procedural certainty, and between protecting liberty and curbing disorder. Judicial independence remains a cornerstone of constitutional democracy, yet its application varies significantly between Pakistan's historically politicized judiciary and the UK's tradition of restrained yet robust judicial review. Finally, the two nations' criminal justice systems reflect contrasting socio-legal philosophies: Pakistan's fusion of common law and Islamic

principles stands in stark contrast to the UK's secular adversarial model rooted in centuries of procedural evolution.

The research employs a qualitative and doctrinal methodology grounded in a robust comparative legal analysis framework. Primary sources consist of constitutional provisions, statutory instruments, and case law, while secondary sources include scholarly articles. This extensive source base facilitates a critical and well-founded exploration of the systemic differences and common challenges faced by each country.

This study is not merely descriptive. It aims to critically evaluate how these legal structures respond to the demands of justice, liberty, and democratic governance. In doing so, it identifies specific reforms, especially for Pakistan, that could enhance transparency, protect fundamental rights, and restore public confidence.

2. Historical and Legal Foundations:

The legal systems of both Pakistan and the United Kingdom are rooted in the British common law tradition. Still, they have since diverged in response to their distinct political, cultural, and religious contexts. A historical understanding of their origins is essential for contextualizing the present legal structures and the principles underpinning judicial independence, civil liberties, and procedural justice.

2.1 The Common Law Legacy and Divergence:

Pakistan's legal system is deeply rooted in the English common law introduced during British colonial rule. Following independence in 1947, Pakistan retained much of the British legal framework but gradually incorporated Islamic jurisprudence and constitutional innovations to shape its own identity (Coulson, 2021; Khoso, 2023; ZAKIR). While the foundational doctrines, such as the adversarial trial system, judicial hierarchy, and statutory interpretation, are preserved, Pakistan's system is also shaped by religious values and sociopolitical pressures, including the use of Shariah courts in specific domains, like family law.

In contrast, the UK's legal evolution continued along a secular and pluralistic trajectory, adapting to changing societal needs through statutory reforms, judicial precedents, and the integration of European legal principles until Brexit (Sikora, 2022). The UK's reliance on judicial precedent and parliamentary sovereignty has enabled it to maintain procedural integrity and adaptability, distinguishing it from Pakistan's more rigid and hybrid legal system (Emmanuel K Nartey, 2024).

2.2 Legal Pluralism and Structural Differences:

A critical divergence lies in the institutional complexity of Pakistan's legal system. Unlike the UK, which operates a unified secular judiciary, Pakistan has a dual structure that includes civil courts and Islamic forums, such as the Federal Shariat Court ((Ishfaq et al., 2024; Moran, 2024). This duality introduces interpretive conflicts, especially in areas involving family law, blasphemy, and morality statutes.

The UK's system is hierarchically organized, with magistrates' courts, crown courts, appellate courts, and the UK Supreme Court. It employs juries for criminal trials and emphasizes due process through the consistent application of case law and statutory rights (Daly, 2019a; Khoso, 2023). In contrast, Pakistan has largely abandoned jury trials and relies on judges for both fact-finding and legal interpretation, a departure from its colonial predecessor system (Bakhsh et al., 2022).

2.3 Religious and Sociopolitical Contexts:

Religion plays a marginal role in British legal doctrine, particularly after the abolition of blasphemy laws in 2008, whereas in Pakistan, religion is central to many legal processes and statutes (Sherwood, 2021; Zahid, 2024). In Pakistan, the enforcement of laws for religion of the

Penal Code institutionalizes religious sensitivities and introduces severe penalties, including capital punishment, for speech or conduct deemed offensive to Islam (AllahRakha; Khan & Riaz, 2024). It is claimed that these provisions are often weaponized in politically or socially charged contexts, undermining both free speech and judicial neutrality (Bilal, 2024).

The UK's laws, such as the Public Order Act 1986 and the Racial and Religious Hatred Act 2006, provide precise definitions of hate speech and rely on proportionality tests to ensure compatibility with Article 10 of the European Convention on Human Rights (ECHR) (Ahmad & Lilienthal, 2023; Mallory & Tyrrell, 2021). The result is a legal environment that is more protective of minority rights and more resistant to arbitrary enforcement.

2.4 Modernization and Legal Reform:

In the post-Brexit UK, there has been considerable discussion about redefining human rights and the role of the judiciary in striking a balance between liberty and security (Davies, 2021). In contrast, Pakistan continues to grapple with the influence of the military, political overreach, and constitutional amendments that alternately strengthen and weaken judicial independence (Khan et al., 2025; Rafiq, 2022).

The 18th Amendment to Pakistan's Constitution is a landmark reform that established a Judicial Commission for appointments, aiming to reduce executive interference in the judicial appointment process. However, the 26th Amendment has been criticized for reversing gains in judicial autonomy (Ahmed & Asma, 2024). Meanwhile, the UK has benefited from a relatively stable tradition of judicial restraint, where courts exercise review without overt conflict with Parliament, aided by institutions like the Judicial Appointments Commission and the Human Rights Act 1998 (Fenwick et al., 2020; Vajda, 2021).

3. Constitutional Framework and Judicial Autonomy:

Judicial independence is a fundamental tenet of constitutional democracy, ensuring that the judiciary operates independently of coercion from the executive or legislature. While both Pakistan and the United Kingdom recognize this principle, the legal structures and political realities that shape judicial autonomy in each state differ significantly. This section critically examines constitutional provisions, judicial appointment mechanisms, and the influence of political forces in both countries.

3.1 Judicial Autonomy in Pakistan between Ideal and Intervention:

Pakistan's Constitution expressly acknowledges the division of governmental powers and independence of the judiciary (Article 175), but practice often contradicts the principle. The Eighteenth Amendment (2010) introduced the Judicial Commission of Pakistan (JCP), composed predominantly of senior judges, to ensure merit-based judicial appointments are insulated from executive control.

However, the Twenty-Sixth Amendment, passed in October 2024, reversed these safeguards. It restructured the JCP by removing the judge-led majority and adding political actors such as parliamentarians, the law minister, and the attorney general. (Qaiser & Jamil, 2025). It also created a Special Parliamentary Committee to select the Chief Justice of Pakistan (CJP), bypassing the seniority convention. Moreover, it introduced "constitutional benches," whose composition is controlled by the JCP, rather than the CJP, and restricted the Supreme Court's suo motu jurisdiction under Article 184(3) (Muhammad & Ali, 2025; Qureshi, 2025).

The amendment further amended allowing judges to be removed on the ground of "inefficiency," significantly broadening the disciplinary scope of the Supreme Judicial Council. Critics argue these changes erode the separation of powers and tilt judicial appointments toward political loyalty rather than constitutional integrity (Nazir et al., 2024).

These developments echo earlier judicial complicity under the doctrine of necessity (Dosso, PLD 1958 SC 533) and stand in contrast to rulings like *Al-Jehad Trust* (1996) and *Munir Hussain Bhatti* (PLD 2011 SC 407), which upheld judicial primacy in appointments (Ashraf et al., 2025; Qaiser & Jamil).

3.2 Judicial Independence in UK:

Judicial independence is deeply embedded in constitutional convention and statutory law. The Human Rights Act 1998, which incorporates the European Convention on Human Rights, notably Article 6 (fair trial) and Article 10 (freedom of expression), reinforces the judiciary's mandate to review executive action for proportionality and legality in the UK (Van Dijk & Van Hoof, 2023).

The Judicial Appointments Commission (JAC), created by the Constitutional Reform Act, shifted judicial appointments from the Lord Chancellor to an independent commission. (Daly, 2019b; Ekins & Gee, 2021). This reform institutionalized merit-based judicial selection and insulated judges from political manipulation, a notable contrast to Pakistan's politicized and opaque appointment mechanisms.

Importantly, the doctrine of parliamentary sovereignty does not prevent UK courts from interpreting laws in consideration of human rights obligations. For example, the UK Supreme Court has used declarations of incompatibility under the Human Rights Act to challenge legislation that conflicts with ECHR principles (Greene, 2024; Horsley, 2022).

While the UK has no formal written constitution, its judicial culture is marked by restraint, proportionality, and deference, preserving legitimacy without compromising independence (Emmanuel K Nartey, 2024). This approach contrasts sharply with Pakistan's reactive judicial interventions, which are often viewed as opportunistic rather than principled.

3.3 Comparative Perspectives

In Pakistan, the 18th Amendment established the Judicial Commission of Pakistan (JCP), a judge-dominated commission, to ensure judicial oversight of appointments. However, the 26th Amendment reconstituted the JCP with a political majority, allowing government-aligned members to influence outcomes. The appointment of the CJP, now under a special committee, removes the long-standing seniority convention, a principle upheld by the Court in *Malik Asad Ali* PLD 1998 SC 161 and reinforced in *Al-Jehad Trust*.

By contrast, the UK's Judicial Appointments Commission (JAC) includes legal professionals, laypersons, and judicial members, ensuring a transparent, merit-based, and political process.

3.4 Constitutional Disruption in Pakistan:

A unique challenge to judicial autonomy in Pakistan is the pervasive role of the military. Unlike the UK, where the military plays no role in domestic governance, Pakistan's military has, directly and indirectly, shaped the judiciary through extrajudicial influence and constitutional amendments during periods of martial law (Badshah, 2021; Ghulam Farid & Iftikhar Hussain, 2023).

This history of intervention undermines judicial authority, particularly when courts validate extra-constitutional measures, weakening the constitutional fabric. This pattern has led to a cyclical erosion of judicial trust, where the judiciary oscillates between activism and complicity, depending on the prevailing political climate (Tahir Mahmood Gondal, 2024).

4. Freedom of Expression and Hate Speech Regulation:

Freedom of expression is enshrined as a fundamental human right in both Pakistan and the United Kingdom. Yet, the way each state defines, protects, and limits this right is shaped by deeply divergent political, religious, and legal cultures. This section examines the constitutional

and statutory frameworks governing speech, the conceptual distinctions between free speech and hate speech, and the judicial mechanisms employed to strike a balance between liberty and social order in both countries.

4.1 Constitutional Protection and Legal Basis:

In Pakistan, Article 19 of the Constitution guarantees freedom of expression 1973. However, this guarantee is qualified by a broad range of exceptions, including “the glory of Islam,” “morality,” “decency,” “public order,” “national security,” and “contempt of court” (Constitution of Pakistan, 1973). These terms are abstract and politically malleable, resulting in a legal landscape where freedom is heavily curtailed, especially in matters involving religion or political dissent(Sultan, 2025).

In recent developments, the Prevention of Electronic Crimes Act (PECA) underwent significant amendments in 2025, raising serious constitutional concerns. The amendments introduce Section 26A, which criminalizes the dissemination of "false and fake information" that may cause "fear, panic, or unrest," punishable by up to three years in prison and a fine of two million rupees. In addition, the creation of the Social Media Protection and Regulatory Authority (SMPRA) grants sweeping powers to monitor, block, and remove digital content with limited transparency or judicial oversight. These provisions pose direct threats to Articles 19, 19A, and 10A (right to a fair trial) of Pakistani Constitution(Ahmed, 2025; Aslam, 2025).

The language used in the amendments is inclusive and subjective, for instance, defining misinformation by its effect (“creating unrest”) rather than objective falsity. Moreover, the absence of procedural safeguards and public consultation in the lawmaking process reflects an authoritarian approach to digital governance, which contradicts international legal standards under Article 19 of the International Covenant on Civil and Political Rights (ICCPR). Critics argue that these changes institutionalize censorship and surveillance while stifling democratic dissent and press freedom.

In contrast, the UK protects free expression through Article 10 of the European Convention on Human Rights (ECHR), as incorporated into domestic law via the Human Rights Act 1998. This framework allows for qualified limitations only when restrictions are prescribed by law, necessary in a democratic society, and proportionate to the legitimate aim pursued(Foster, 2023). The principle of proportionality is a defining feature of UK law that distinguishes it from Pakistan’s broad, often discretionary limitations on speech.

4.2 Hate Speech Legislation

Pakistan’s hate speech laws are grounded not only in the Penal Code but also in the Prevention of Electronic Crimes Act (PECA), which empowers authorities to block or remove digital content deemed against “public order or morality”(Muhammad Ahmar et al., 2024). The lack of definitional clarity in key terms like "hate," "decency," and "morality" enables selective enforcement, often against journalists, political activists, and minorities(Asma Jabeen et al., 2025).

The UK, on the other hand, defines hate speech within a precise legal framework. The Public Order Act 1986 and the Racial and Religious Hatred Act 2006 are the main statutes addressing this issue. These laws apply to speech that incites racial or religious hatred but require that the act be intentional and assessed in context, thus ensuring a high evidentiary threshold(Webber, 2022). UK courts employ the doctrine of proportionality and judicial review to ensure that free expression is not unduly restricted (MacAvaney et al., 2019; Peers et al., 2022).

4.3 Regulating Speech in the Digital Era:

In Pakistan, digital speech is governed by the Prevention of Electronic Crimes Act (PECA) 2016, which has become increasingly controversial following the 2025 amendments. Enacted initially to prevent cybercrime, PECA has evolved into a powerful legal instrument for suppressing dissent and controlling online narratives. The amendments introduced criminal liability for “false information,” mandated data localization, required social media registration, and established fast-track tribunals with lowered due process thresholds (Ahmed, 2025). Authorities now possess the power to block content within 24 hours and conduct surveillance without judicial authorization under Sections 31 and 32 of the law.

These reforms have raised alarm among civil society groups, journalists, and international observers for violating privacy rights and enabling arbitrary censorship. Individuals can be prosecuted based on ambiguous accusations of creating “panic” or “unrest,” while platforms face fines or operational bans for failing to comply with takedown orders. This legal regime fosters self-censorship, particularly among journalists and activists, and severely curtails anonymous political speech, a right often vital in oppressive environments.

By contrast, the UK’s approach is guided by the Online Safety Act 2023, which seeks to regulate harmful content without criminalizing individual expression. The Act empowers Ofcom to oversee platform accountability while protecting journalistic freedom and ensuring procedural fairness. While criticisms persist regarding potential overreach, the UK model still embodies principles of necessity, proportionality, and oversight, values notably absent from Pakistan’s amended PECA framework.

4.4 Comparative Summary:

The comparative summary of is seen in table 1 below.

Table No.1

Aspect	Pakistan	United Kingdom
Constitutional Basis	Article 19 – Broad and vague restrictions	Article 10 ECHR – Narrow, proportionate limits
Hate Speech Statutes	Penal Code & PECA – ambiguous terms	Public Order Act & RRHA – precise definitions
Digital Regulation	PECA – overbroad, politicized	Online Safety Bill – debated, rights-based
Judicial Oversight	Weak, politically pressured	Strong, independent review

5. Structure and Practice of Criminal Justice Systems:

The criminal justice systems of Pakistan and the United Kingdom, although both originating from the common law tradition, have developed into significantly divergent frameworks influenced by structural, cultural, and ideological transformations. This section conducts an analysis of architecture, operational procedures, due process mechanisms, and law enforcement institutions relevant to each nation, as well as their respective approaches to sensitive criminal issues, including terrorism, corruption, and religious offenses.

5.1 Structural Composition and Legal Frameworks:

The criminal justice system in Pakistan comprises civil and Sharia courts, law enforcement agencies, and a prosecutorial system operating under the influence of British common law, Islamic jurisprudence, and statutory law (Khan, 2024). The system has a dual structure, where the Federal Shariat Court and Shariat Appellate Bench can review and strike down laws deemed un-Islamic. This introduces a layer of religious adjudication absent from the UK system.

Conversely, the United Kingdom's system is secular, hierarchical, and unitary, operating independently from religious influences. Courts are divided into Magistrates' Courts, Crown Courts, High Courts, and the UK Supreme Court. Criminal procedure in the UK is governed by the Police and Criminal Evidence Act 1984, Human Rights Act 1998, and other statutory provisions that ensure due process and evidentiary fairness(Daly, 2019a; Rab, 2021).

5.2 Trial Procedures and Due Process:

Both systems adopt the adversarial model, yet their practices differ sharply. In Pakistan, trials are often judge-led, with the jury system abolished in the 1960s. Judges function as both legal interpreters and factfinders, leading to overburdened courts and delayed trials(Ahmed, 2020). Pre-trial detention is common, and cases involving sedition or terrorism often bypass standard procedures under special laws.

In the UK, adversarialism is preserved through jury trials in severe criminal cases, strict evidentiary rules, and a presumption of innocence upheld through case law and statutory protections. The right to legal representation and protection against self-incrimination are codified in both domestic law and the European Convention on Human Rights(Ostavciuc, 2023).

5.3 Law Enforcement and Accountability:

In Pakistan, law enforcement is divided between provincial police (e.g., Punjab Police and Sindh Police) and federal agencies, such as the Federal Investigation Agency (FIA) and the National Accountability Bureau (NAB). Despite broad mandates, these institutions are plagued by corruption, lack of training, and political misuse (Imran, 2023; Masudi, 2023). Human rights violations, including torture, custodial deaths, and selective prosecution, have damaged public trust.

The UK's law enforcement agencies are territorially organized, with specialized branches for financial crimes (HMRC), serious organized crime (NCA), and intelligence (MI5, MI6)(Bunnik, 2024; Schaap, 2021). UK police enjoy a high degree of operational independence, though issues like racial profiling and use of force have sparked criticism.

5.4 Access to Justice and Public Perception:

Access to justice continues to be a critical issue in Pakistan, particularly for women, minorities, and individuals with low incomes. The financial burden associated with litigation, the absence of legal aid, and delays in the adjudication process dissuade citizens from pursuing legal remedies(Sultan, 2024). Furthermore, the legal system is often perceived as biased, inefficient, and susceptible to political influence.

In the United Kingdom, despite advancements in access, persistent concerns regarding reductions in legal aid, racial disparities in sentencing, and the privatization of correctional services remain(Tuck, 2023). Nonetheless, institutional mechanisms, including ombudsman schemes, independent oversight bodies, and judicial review, serve to uphold public trust and accountability.

6. Comparative Legal and Socio-Political Analysis:

This section synthesizes the findings derived from the preceding analyses. It offers a comparative legal critique that situates Pakistan and the United Kingdom within their respective socio-political contexts, institutional traditions, and constitutional cultures. The comparison extends beyond mere doctrinal examination and is deeply intertwined with the interplay between law, politics, and society in each nation.

6.1 Legal Culture and Institutional Evolution:

Both Pakistan and the United Kingdom share a common legal ancestry; however, distinct governance logics have influenced their respective trajectories. In the United Kingdom, the law has developed through a secular, rule-of-law-based system bolstered by institutional stability,

parliamentary sovereignty, and judicial restraint (E. K. Nartey, 2024). The judiciary operates independently of political pressures, with judicial review applied cautiously and with due respect for democratic structures.

In contrast, Pakistan's system is characterized as hybridized, distinguished by the confluence of Islamic jurisprudence, military dominance, and recurrent constitutional disruptions. Consequently, the resultant legal culture aspires to judicial independence, though it remains institutionalized. Moreover, constitutional amendments often reflect the shifting balance of power (Younis, 2024).

6.2 Political Interference and Judicial Autonomy:

The 26th Amendment has initiated constitutional litigation invoking the "basic structure doctrine," which contends that judicial independence constitutes a fundamental constitutional feature that is immune to amendment. Petitions submitted by former presidents of the Supreme Court Bar Association and various political parties reference Al-Jehad and the 18th Amendment case to substantiate their assertions (Muhammad & Ali, 2025).

Although Pakistan's judiciary has not officially embraced the fundamental structure doctrine, previous judgments, notably the 18th Amendment ruling and the dissenting opinion in the 21st Amendment case, recognized that principles such as judicial independence and the separation of powers constitute essential aspects of the constitutional framework. The ongoing litigation has the potential to signify a pivotal moment, potentially resulting in a formal constitutional entrenchment of judicial independence (Qaiser & Jamil, 2025).

6.3 Public Confidence and Legal Legitimacy:

Public perception of the judiciary is another revealing point of comparison. In Pakistan, public trust in courts is undermined by corruption, delay, and politicized rulings (Mangi, 2025). The courts are often seen as tools of the powerful, with limited accessibility for the poor, minorities, and women.

In the UK, while criticisms exist, particularly over legal aid cuts, institutional racism, and slow court processes, overall public confidence in the integrity and fairness of the legal system remains relatively high (Bhattacharya, 2024; Peatfield, 2024). Mechanisms such as judicial ombudsmen, public inquiries, and freedom of information laws further enhance legal legitimacy.

6.4 Reform Capacity and Institutional Resilience:

The legal system in the United Kingdom has exhibited a robust capacity for reform, adapting to the dynamics that emerged following Brexit, advancements in technology, and the evolution of social norms. The introduction of various legislative measures, including the Online Safety Bill, as well as reforms about family law and police accountability, exemplifies a continuous process of evidence-based and democratic legal change (Dittel, 2022).

In contrast, the reform environment in Pakistan is significantly politicized, characterized by changes that are frequently motivated by the priorities of elite negotiations instead of public consultation or judicial independence. Although civil society movements, exemplified by the Lawyers' Movement, have temporarily altered the legal landscape, the accomplishments achieved are frequently undermined in the absence of structural safeguards (Jatoi, 2023).

7. Key Challenges and Reform Recommendations:

This section addresses the core challenges faced by the legal systems of Pakistan and the United Kingdom and offers concrete reform recommendations drawn from the comparative analysis. These proposals aim to enhance judicial autonomy, freedom of expression, and equity in the criminal justice system, grounded in constitutional values, procedural integrity, and international human rights norms.

7.1 Challenges in Pakistan:

I. Executive Interference in Judiciary:

The ongoing politicization of judicial appointments continues to undermine the judiciary of Pakistan severely. Although the Eighteenth Amendment (2010) aimed to depoliticize the appointment process by establishing a judge-led Judicial Commission of Pakistan (JCP), the Twenty-Sixth Amendment (2024) has effectively reversed these advancements. This amendment has compromised judicial autonomy by reconfiguring the JCP to preferentially include political members, establishing a parliamentary committee responsible for appointing the Chief Justice, introducing “constitutional benches” under the control of the restructured JCP, and broadening the grounds for judicial removal to encompass “inefficiency”.

These changes have triggered significant constitutional litigation and widespread criticism from legal scholars, the bar, and civil society. The Supreme Court is now hearing petitions invoking the “basic structure doctrine,” arguing that judicial independence is a fundamental constitutional feature that is immune to amendment.

To restore the separation of powers, Article 175A must be amended once more to re-establish judicial primacy within the Judicial Commission of Pakistan (JCP) and to reinstate the seniority convention for the appointment of the Chief Justice. Additionally, the Supreme Court should acknowledge judicial independence as a “salient feature” of the Constitution, a principle that cannot be overridden, even by Parliament.

II. Vague and Overbroad Legal Language:

Laws related to morality, hate speech, and digital expression are poorly defined in Pakistan’s statutes. This legal vagueness allows for selective enforcement and abuse, particularly under the Penal Code and PECA.

Introduce legislative amendments to define key terms, such as “hate,” “morality,” and “public order,” with specific, objective thresholds that are clearly defined. Laws must include due process protections, such as judicial review and evidentiary standards, aligned with international law frameworks.

III. Lack of Judicial Capacity and Access to Justice

Delays in trials, case backlogs, and inadequate legal aid contribute to injustice for the poor and marginalized. Furthermore, the blend of religious law and civil law complicates procedural consistency.

Invest in judicial infrastructure, training, and legal aid while clarifying the jurisdictional overlaps between Sharia and civil courts. A national legal education reform should also emphasize constitutional values and the rights of minorities.

IV. Overcriminalization of Digital Expression and Privacy Violations:

The 2025 amendments to the Prevention of Electronic Crimes Act represent a dramatic expansion of the state’s ability to control online discourse. With broad and vague terminology, these amendments criminalize “false” information without providing objective standards, leaving interpretation to politically aligned regulators. The newly established Social Media Protection and Regulatory Authority (SMPRA) can unilaterally block or remove content and compel platform compliance, even before formal adjudication, under the threat of sanctions.

Furthermore, enhanced surveillance powers under Sections 31 and 32 authorize data collection and monitoring without warrants, violating the constitutional right to privacy. Specialized tribunals shift the burden of proof onto the accused, thereby undermining the presumption of innocence and the fair trial guarantees enshrined in Article 10A of the Constitution. These provisions contravene both domestic constitutional protections and

international obligations under the ICCPR, particularly the requirement that restrictions on expression be narrowly tailored and necessary in a democratic society.

The PECA amendments should be repealed or significantly redrafted to ensure clarity, due process, and alignment with constitutional and international norms. Judicial oversight must be restored, and speech regulation should avoid vague, subjective standards that can lead to abuse. Legislative reforms should be transparent, consultative, and protective of digital rights and democratic participation.

7.2 Challenges in the United Kingdom:

I. Digital Regulation and Freedom of Speech:

While the UK's commitment to free speech is robust, recent legislation, such as the Online Safety Bill, has sparked concerns about overregulation, particularly for journalists and political expression.

Ensure that all digital regulations include clear safeguards for journalistic content, academic freedom, and political dissent. Courts must be empowered to review and strike down provisions that violate Article 10 of the European Convention on Human Rights.

II. Legal Aid and Court Delays:

Legal aid cuts and case backlogs threaten the equity of the justice system, especially for marginalized defendants and civil claimants.

Restore adequate funding for legal aid, expand the availability of pro bono services, and invest in digital court systems to streamline proceedings without compromising procedural fairness.

III. Protecting Judicial Independence Post-Brexit:

Post-Brexit legal reforms risk weakening the UK's commitment to international human rights and introducing politicization into judicial appointments.

Strengthen the statutory independence of the Judicial Appointments Commission, maintain the Human Rights Act 1998, and resist attempts to centralize executive power at the expense of judicial scrutiny.

7.3 Shared Challenges and Opportunities:

While the UK and Pakistan differ significantly in terms of legal maturity and institutional stability, both countries face challenges in striking a balance between liberty and order, upholding procedural fairness, and maintaining public confidence in their legal systems.

Table 2 Shared Issues

Shared Issues	Pakistan	United Kingdom
Judicial Appointments	Politicized, opaque	Transparent, but facing pressure post-Brexit
Free Speech	Overbroad restrictions	Specific but increasingly regulated
Digital Law	PECA used to suppress dissent	The Online Safety Bill debated
Court Delays	Severe, systemic	Increasing but less critical
Public Trust	Low	Relatively high

8. Conclusion:

This article has examined the legal systems of Pakistan and the United Kingdom through a comparative constitutional lens, exposing how judicial autonomy, freedom of expression, and criminal justice frameworks reflect and often determine a state's commitment to democratic

governance and the rule of law. While both nations share a common law heritage, they diverge sharply in institutional design, political culture, and respect for individual rights.

The United Kingdom has cultivated a resilient legal system marked by judicial independence, legislative clarity, and proportionate restrictions on speech and privacy. Mechanisms such as the Judicial Appointments Commission, the Human Rights Act 1998, and independent digital regulation under the Online Safety Act 2023 demonstrate the UK's commitment to striking a balance between state interests and personal freedoms.

In contrast, Pakistan's legal structure remains vulnerable to politicization, executive overreach, and authoritarian impulses that are often cloaked in the guise of legality. The 26th Constitutional Amendment has diluted judicial autonomy by shifting appointment power to the political branches, undermining decades of precedent and the doctrine of separation of powers. Simultaneously, the 2025 PECA Amendments have entrenched digital authoritarianism, expanding censorship, criminalizing dissent, and enabling surveillance in ways that directly violate constitutional guarantees under Articles 10A, 19, and 19A and breach international human rights obligations.

The Pakistani legal system stands at a constitutional crossroads today. The legitimacy of its judiciary, the vibrancy of its public sphere, and the integrity of its democratic institutions depend on whether the courts, legislature, and civil society can resist these trends. Reforms must extend beyond technical adjustments; they must embody constitutional re-commitment to judicial independence, legal clarity, proportionality, and participatory governance.

For both Pakistan and the United Kingdom, the path forward lies in upholding legal systems that not only regulate but also protect, serving not just order but also justice and prioritizing not only security but also freedom. In an age of digital transformation and political polarization, constitutionalism is not self-sustaining. It must be actively defended through law, institutions, and public will. Only then can the promise of a democratic legal order be truly realized.

References:

- Ahmad, N., & Lilienthal, G. (2023). Proportionality of Bias-Motivation and Hate Crime: An Overview of Hate Crime Laws. *Russian Law Journal*, 11(3), 1729-1747.
- Ahmed, F. A. (2025). Analyzing PECA Amendments: Press Freedom, Democratic Values, and Digital Regulation in Pakistan. *Traditional Journal of Law and Social Sciences*, 4(01), 41-51. <https://ojs.traditionaljournaloflaw.com/index.php/TJLSS/article/view/191>
- Ahmed, F. A., & Asma, M. (2024). Legal Implications of Pakistan's 26th Constitutional Amendment: A Critical Analysis. *Journal for Social Science Archives*, 2(2), 351-368.
- Ahmed, I. (2020). Review Essay: Designing Democracy: Judges, Judicial Review and Constitutionalism in Pakistan.
- AllahRakha, N. Modernizing Punishment: Comparative Analysis on Pakistan's Penal Code. *Available at SSRN 5036330*.
- Ashraf, M. A., Mukhtar, M. A., Aslam, S., & Ashraf, M. R. (2025). CONSTITUTIONAL SUBVERSIONS: THE ROLE OF THE DOCTRINE OF NECESSITY IN UNDERMINING DEMOCRACY IN PAKISTAN. *Research Consortium Archive*, 3(2), 45-54.
- Aslam, M. A. (2025). Regulating Misinformation or Silencing Dissent? A Constitutional Analysis of the PECA Amendments 2025. *The Critical Review of Social Sciences Studies*, 3(1), 1809-1815. <https://doi.org/10.59075/t1c1hz64>
- Asma Jabeen, K., Shahzada Aamir, M., Muhammad Ali, S., & Muhammad Abdul, W. (2025). The Right to be forgotten in the Digital Age: A Pakistani Perspective on Balancing Data

- Protection & Privacy, Freedom of Expression, and Cyber Security. *Journal for Social Science Archives*, 3(1), 387-403. <https://doi.org/10.59075/jssa.v3i1.126>
- Badshah, N. (2021). The role of superior judiciary in protecting its independence: A case study of judicial legitimization of military regimes in Pakistan. *Journal of Humanities, Social and Management Sciences (JHSMS)*, 2(2), 65-76.
- Bakhsh, F., Ejaz, N., Khattak, F., & Jamshed, J. (2022). Extrinsic and intrinsic aspects of the adversarial system of Pakistan: Fact finding through evidence. *Pakistan Journal of Humanities and Social Sciences*, 10(4), 1651-1656.
- Bhattacharya, A. (2024). The Socio-Economic Impact of Judicial Verdicts: A Comparative Analysis. *Opus Publica*.
- Bilal, M. (2024). What Is Blasphemy? Perspectives of Ordinary Pakistani Muslims. In *Beyond the Law: Living Blasphemy in Pakistan: Ethnography of Mundane Violence, Faith, and Lifeworlds* (pp. 69-104). Springer.
- Bunnik, A. (2024). Policing the future?: Assessing the mobilisation of Big Data by UK law enforcement.
- Coulson, N. J. (2021). Islamic family law: progress in Pakistan. In *Changing law in developing countries* (pp. 240-257). Routledge.
- Daly, P. (2019a). *Apex Courts and the Common Law*. University of Toronto Press.
- Daly, P. (2019b). Judicial Independence and Accountability in the British Constitution. In *European Yearbook of Constitutional Law 2019: Judicial Power: Safeguards and Limits in a Democratic Society* (pp. 143-170). Springer.
- Davies, G. (2021). Facilitating cross-border criminal justice cooperation between the UK and Ireland after Brexit: 'Keeping the lights on' to ensure the safety of the Common Travel Area. *The Journal of Criminal Law*, 85(2), 77-97.
- Dittel, A. (2022). The UK's Online Safety Bill: The day we took a stand against serious online harms or the day we lost our freedoms to platforms and the state? *Journal of Data Protection & Privacy*, 5(2), 183-194.
- Ekins, R., & Gee, G. (2021). Reforming the Lord Chancellor's Role in Senior Judicial Appointments. *Policy Exchange*, 22.
- Fenwick, H., Phillipson, G., & Williams, A. (2020). *Text, cases and materials on public law and human rights*. Routledge.
- Foster, S. (2023). Free speech, equality and diversity: the legitimacy of controlling content-based expression under the ECHR and in domestic law. *Tolley's Communications Law*, 28(3), 102-118.
- Ghulam Farid, J., & Iftikhar Hussain, S. (2023). The Impact of Constitutional Amendments on Judicial independence in Pakistan. *Journal of Education, Law and Social Sciences*, 1(1), 63-77. <https://jelss.miard.org/index.php/jelss/article/view/8>
- Greene, A. (2024). The Discretionary Nature of Declarations of Incompatibility under the Human Rights Act: An Unfortunate Judicial Experiment in Deferential Dialogue?
- Horsley, T. (2022). Constitutional functions and institutional responsibility: A functional analysis of the UK constitution. *Legal Studies*, 42(1), 99-119.
- Imran, M., Murtiza, G., & Akbar, M. S. . (2023). A Critical Analysis of Legal Framework on Accountability: A Case Study of Pakistan. *Journal of Development and Social Sciences*, 4(2), 176-188.
- Ishfaq, M., Yasin, S., Riaz, M., & Riaz, K. (2024). Navigating Legal Pluralism: A Comparative Analysis of Islamic Law and Secular Legal Systems in Pakistan. *International Journal of Social Welfare and Family Law*, 1(2), 01-17.

- Jatoi, G. F., & Shah, I. H. . (2023). The Impact of Constitutional Amendments on Judicial independence in Pakistan. *Journal of Education, Law and Social Sciences*, 1(1), 63-77.
- Khan, A., Naseem, I., & Inamullah, M. (2025). Constitutional Dynamics and Judicial Autonomy in South Asia: A Comparative Study of Pakistan and its Neighbors. *Al Manhal Research Journal*, 5(1).
- Khan, M. I., & Riaz, N. (2024). Blasphemy Laws in Pakistan: A Legal Analysis and Contemporary Discourse. *International Journal of Social Science Archives (IJSSA)*, 7(1).
- Khan, M. J., & Bilal, M. (2024). Criminal Justice System of Pakistan and the UK: Similarities and Differences A Critical Analysis. *Pakistan Journal of Humanities and Social Sciences*, 12(1), 807-814.
- Khoso, L. A. (2023). Prevailing Criminal Justice System in Pakistan (Adversarial System). Available at SSRN 4541517.
- MacAvaney, S., Yao, H.-R., Yang, E., Russell, K., Goharian, N., & Frieder, O. (2019). Hate speech detection: Challenges and solutions. *PLOS ONE*, 14(8), e0221152.
<https://doi.org/10.1371/journal.pone.0221152>
- Mallory, C., & Tyrrell, H. (2021). Discretionary space and declarations of incompatibility. *King's Law Journal*, 32(3), 466-496.
- Mangi, D. B., Magsi, L. A., & Ali, U. (2025). Need of Judicial Reforms in Pakistan: Ensuring Accountability and Transparency in Courts. *Pakistan Social Sciences Review*, 9(1), 182-194.
- Masudi, J. A., & Mustafa, N. . (2023). Policing in Pakistan: A comprehensive study of law enforcement practices and challenges for reform. *Pakistan Journal of International Affairs*, 6(2).
- Moran, G. M. (2024). The Challenge of Dual and Plural Legal Systems: Religious and Secular Jurisdiction. *Exiting Violence: The Role of Religion*, 151.
- Muhammad Ahmar, Z., Aas, M., Muhammad Aurangzeb Khan, K., & Muhammad Ahmed, M. (2024). Cybercrime and Criminal Law in Pakistan: Societal Impact, Major Threats, and Legislative Responses. *Pakistan Journal of Criminal Justice*, 4(1), 223-245.
<https://doi.org/10.62585/pjci.v4i2.102>
- Muhammad, M., & Ali, M. S. (2025). The 26th Amendment to the Constitution of Pakistan: Implications for Judicial Independence. *Social Science Review Archives*, 3(2), 148-153.
- Nartey, E. K. (2024). Ethical judicial restraint and the rule of law: strengthening constitutional integrity in the UK. *Athens JL*, 10, 787.
- Nartey, E. K. (2024). Ethical judicial restraint and the rule of law: strengthening constitutional integrity in the UK. *Athens JL*, 10(787).
- Nazir, S., Sajid, C. H., Ur Rehman, T., & Raza, C. A. (2024). Abuse of Process of Law: A Case of Abuse of Legal Proceedings in Pakistan. *Pakistan JL Analysis & Wisdom*, 3, 22.
- Ostavciuc, D., & Osoianu, T. (2023). Freedom of Self-Incrimination. *Cogito: Multidisciplinary Res. J.*, 15(72).
- Peatfield, E. (2024). Examining Justice. In *The Reality of Justice in England's Lower Courts: Behind the Bench*. Cham: Springer Nature Switzerland, 91-96.
- Peers, S., Hervey, T., Kenner, J., & Ward, A. (2022). The EU Charter of Fundamental Rights.
<https://doi.org/10.5771/9783748913245>
- Qaiser, M. N., & Jamil, M. S. THE ROLE OF THE JUDICIAL COMMISSION: JUDICIAL INDEPENDENCE IN PAKISTAN POST-26TH AMENDMENT.
- Qaiser, M. N., & Jamil, M. S. (2025). THE ROLE OF THE JUDICIAL COMMISSION: JUDICIAL INDEPENDENCE IN PAKISTAN POST-26TH AMENDMENT.

- Qureshi, M. A. (2025). Failure of Judicial Independence is the Failure of Doctrine of Trichotomy in Pakistan. *Social Science Review Archives*, 3(1), 313-331.
- Rab, S. (2021). Legal systems in the UK (England and Wales): overview. *Thompson Reuters Practical Law*.
- Rafiq, A. (2022). *Changing course: understanding judicial independence in Pakistan* [University of Oxford].
- Schaap, D. (2021). Police trust-building strategies. A socio-institutional, comparative approach. *Policing and society*, 31(3), 304-320.
- Sherwood, Y. (2021). *Blasphemy: a very short introduction* (Vol. 681). Oxford University Press.
- Sikora, A. (2022). Brexit and Europe á géometrie variable: towards the beginning or the end of the differentiated integration within the EU legal order? In *Research Handbook on Legal Aspects of Brexit* (pp. 491-506). Edward Elgar Publishing.
- Sultan, M. S. (2025). Balancing Freedom of Expression and Hate Speech Regulations: A Comparative Analysis of Pakistani and United Kingdom. *Traditional Journal of Law and Social Sciences*, 3(02), 27-41.
<https://ojs.traditionaljournaloflaw.com/index.php/TJLSS/article/view/159>
- Sultan, M. S., & Fatima, S. . (2024). Access to Justice; Informal Justice System and Principles of Human Rights. *Pakistan Journal of Criminal Justice*, 4(1), 180-194.
- Tahir Mahmood Gondal, S. K. (2024). Judicial Independence and Activism in South Asia: A Comparative Study of Pakistan and India. *Journal of Indian Studies*, 10, 153 – 164.
https://pu.edu.pk/images/journal/indianStudies/PDF/10_v10_1_24.pdf
- Tuck, R. H. (2023). Punishing mobility: membership, race, and privatization in all-foreign prisons in the United States of America. *Doctoral dissertation, University of Oxford*.
- Vajda, C. (2021). The UK courts and EU law post-Brexit. *Competition law journal*, 20(3), 113-119.
- Van Dijk, P., & Van Hoof, G. J. (2023). *Theory and practice of the European Convention on Human Rights*. Martinus Nijhoff Publishers.
- Webber, F. (2022). Impunity entrenched: the erosion of human rights in the UK. *Race & Class*, 63(4), 56-80. <https://doi.org/10.1177/03063968221083193>
- Younis, M. (2024). Colonialism and Hybrid Political System: A Case of Pakistan. *Pakistan Languages and Humanities Review*, 8 (2), 213-223.
- Zahid, G. R. (2024). Sharia Law and Legal System in Pakistan: A Historical Overview. *Tanazur*, 5(2), 124-138.
- ZAKIR, M. H. The Impact of Colonial-Era Laws on Pakistan's Legal System: A Historical Analysis of the British Colonial Influence on Pakistan's Legal System and Its Ongoing Effects.