

ADVANCE SOCIAL SCIENCE ARCHIVE JOURNAL

Available Online: <https://assajournal.com>

Vol. 04 No. 02. October-December 2025. Page# 5012-5022

Print ISSN: [3006-2497](#) Online ISSN: [3006-2500](#)

Platform & Workflow by: [Open Journal Systems](#)

<https://doi.org/10.5281/zenodo.22727399>



Judicial Independence in Constitutional Democracies: Comparative Institutional Safeguards

Dr. Imtiaz Hussain

Lecturer

Department of Law, University of Okara, Pakistan

Email: imtiazsanda95@gmail.com

Muhammad Faiq Butt

Assistant Professor

Department of Law

University of Okara, Pakistan

faiqbutt@uo.edu.pk

Asmia Habib*

Assistant professor

Nawab Allah Nawaz Law Collage

Gomal University Dera Ismail Khan, Pakistan

*(Corresponding Author)

asmiahabib6262@gmail.com

Abstract

The ability of the constitutional limitations ultimately depends on the ability of institutions to apply the limitations without undue political influence; this is the reason for the independence of the judiciary in constitutional democracy. Judicial independence is, however, not only a guarantee in the constitutional text enshrined in a country's founding document, but also an actual and valued role in the democratic process in the modern democratic state. Recent democratic backsliding has shown that there is a possibility to have formal guarantees that are accompanied by strong discretionary powers in judicial appointments, courts administration, judicial discipline, budget planning and the composition of constitutional courts. The article takes a comparative institutional approach to judicial independence and highlights the structures in place that empower judges to be independent yet remain "accountable to the people. It differentiates between de jure and de facto judicial independence and recommends that the best protection of judicial independence is to have multiple institutional protections working together, not separately. It then contrasts the appointment systems, security of tenure, autonomy in financial management, judicial councils, disciplinary mechanisms, constitutional review and accountability mechanisms of a number of selected democratic and hybrid constitutional systems. Special focus is placed on the progress in Europe, Latin America, South Asia, the Middle East, specifically on Türkiye, Hungary, Pakistan and India. The analysis shows that the complete judicial insulation as well as unconstrained political participation in judicial governance are not feasible solutions. Achieving sustainable judicial independence must be based on a well-balanced combination of objectives including independence, transparency, accountability, professionalism and democracy. Finally, the

article suggests a model of institutions with multiple dimensions that is especially appropriate for constitutional democracies in a state of political polarization and democratic backsliding.

Keywords: *Judicial Independence; Constitutional Democracy; Rule of Law; Judicial Appointments; Judicial Councils; Separation of Powers; Constitutional Courts; Democratic Backsliding.*

1. Introduction

Judicial independence is considered a key part of the institutional structure of a constitutional democracy. This is because courts have been given a role within the constitutional order which is unique. Legislatures are given power by electoral representation, executives by political mandate, and courts are expected to rule on disputes by law, regardless of conflicting political preferences of those who are politically powerful. The independence of the judiciary thus serves two purposes: it guards against infringement of an individual's right and it preserves the separation of governmental powers in the constitution. Recent comparative scholarship, however, shows that judicial independence is not an institution given. Recent comparative scholarship, however, has shown, however, that judicial independence is not a given institution. It can differ from state to state and even within a country's constitution under varying political competition, institutional design, and political actors' actions (Berggren & Gutmann, 2020).

The problem is that a constitutional democracy needs courts to be independent – but not completely removed from democratic accountability. Judges wield a remarkable amount of public power, and especially when they have the power to overturn laws, to scrutinize executive power, and to decide political power disputes, such as election disputes. Thus, the institutional challenge to which judges are confronted is less about making judges independent than in creating an institutional setting in which judges are able to withstand improper political pressures while at the same time being held to accountable legal and ethical standards (Castillo-Ortiz, 2020a).

De jure and de facto independence is key in this respect. A constitution can give the judges secure tenure and protected remuneration and judicial autonomy, but judges can still be vulnerable to political control as to their appointment, promotion, disciplinary procedures, administrative control, or through informal pressures. Empirical studies in the recent past have shown that the constitutional text does not always necessarily reflect judicial independence in practice, and therefore that the degree of judicial independence cannot be measured solely based on the formal constitution (Hayo & Voigt, 2023).

The problem has grown in its severity in our times of democratic backsliding. Modern attempts to curtail judicial independence seldom involve open violations of the Constitution but rather more subtle, but no less legally valid, means. The governments can modify the appointment process, increase the number of judges, reorganize judicial councils, transfer administrative functions, establish disciplinary procedures, or adjust the retirement policies and procedures, while still publicly upholding judicial independence. These methods are less obvious to capture, and could even be more challenging to avoid (Haggard & Tiede, 2025a).

This comparative experience further shows that political competition fails to have a consistent impact on judicial independence. Studies with 97 democratic countries reveal that the degree of political competition could facilitate judicial independence in mature democracies, but may have a negative impact in developing ones. This result goes against one of the liberal democracy's core tenets, which is that competition produces an incentive for politicians to maintain independent courts (Aydın, 2013).

The question that this article poses at the heart of the issue is: What sort of institutional protection is most likely to ensure judicial autonomy in constitutional democratic states and still hold them accountable to the

people? It makes the point that there are no single institutional mechanisms that will do the job. The best type of judicial independence is one that is not undermined by the appointment process, tenure, financial stability, administrative self-government, lack of accountability, lack of transparency in discipline and regulation, or constitutional oversight.

2. Conceptual Foundations of Judicial Independence

Independence of the Judiciary should not be confined to freedom from the direct intervention of the Executive. It is more commonly interpreted as an institutional principle, which has both individual and institutional aspects. The independence of individual judges is the right to conduct a particular case free from threat, inducement or improper interference. Institutional independence is about the ability to influence and regulate its own operations, appointments, budget, case handling and professional conduct as an institution, as opposed to as individuals (Burchardt, 2025).

The subjective–objective independence dichotomy has gained extra importance in the constitutional law of Europe. Subjective independence is the impartiality of judges whereas objective independence is institutional safeguards that can give rise to public trust in the impartiality of adjudication. In the modern scholarship, a third dimension has been stressed: that of the right of judges to judicial independence. This vision goes beyond viewing judicial independence as a privilege given by political institutions, and understands it as a condition of the constitutionality of the judiciary (Gisbert, 2022a).

De jure/de facto relates to the other important analytical framework. De jure independence is the constitutional and/or statutory protections of autonomy of decision-making by judges, and de facto independence is the degree to which judges are actually autonomous in their decision making. Formal guarantees are important, but institutional combinations are key to the effectiveness of the guarantees. Melton and Ginsburg's rethinking of judicial independence thus indicates that an individual protection is not necessarily sufficient for judicial independence – combinations of institutional protections are better than single protections (Melton & Ginsburg, 2014).

This is a very important thing to consider when designing a constitution. In a constitution, one can give the power to appoint but leave the rest to the executive. In a constitution one can give the power of appointment and leave the rest to the executive. It could also establish an independent appointments commission, but allow for government to regulate budgets for judges. Both systems have formal protection mechanisms in place, but are not fully protected due to additional institutional pathway for political influence. Judicial independence is thus better understood as a combination of protection measures rather than just a constitutional principle.

The institutional nature of judicial independence also accounts for the fact that sometimes, courts can pose a threat to rather than a possibility of safeguarding constitutional democracy. A completely independent judiciary might be held to the public in a weak way, if any, by the lack of checks and balances. If a judiciary is entirely independent, then it can exercise public power without proper checks and balances. It should not then be the goal to have the judiciary have a general supremacy. Constitutional democracy, on the contrary, should be guaranteed through judicial independence in a calibrated ambience of legality, professionalism, reasons, transparency and institutional controls (Castillo-Ortiz, 2020b).

Thus, the independence of judicature and democracy are interwoven. Independent courts safeguard democratic competition, which means that governments are not able to manage elections, crush opposition and ignore constitutional restrictions. In the same way, the legitimacy of the judicial system is tied to the recognition of constitutional limits on judges' power. Courts' legitimacy, on the other hand, relies on respect

for the constitutional limits of judicial power. The scholarship on democratic decline has recently focused on the role of courts in protecting democracy, but also on their potentially facilitating role in democratic decline when courts' authority is politicized or captured (Dichio & Logvinenko, 2025a).

A helpful conceptual framework that accordingly sees judicial independence as a balance of autonomy, accountability, competency and legitimacy. Judges are protected from improper pressure by autonomy, accountability helps to prevent improper use of judicial power, competence ensures that judges are professionally adjudicate, and legitimacy ensures that judges have constitutional and public support for their power.

3. Judicial Appointments, Tenure, and Institutional Security

All institutional safeguards, judicial appointments are probably the most far-reaching. How a judge is appointed influences his or her perceived legitimacy and incentives. An appointment system which is heavily influenced by one political arm of government can lead to formal or informal reliance, especially when judges are subjected to the threat of reappointment, promotion or political support. On the other hand, an appointment system that is entirely judicial can raise the questions of insularity of the profession and of democratic accountability (Adjolohoun, 2023).

Experience shows that there is no 'best' appointments model in general. In some systems, much emphasis is placed on the participation of the executive and/or the legislative branches, and in other systems, judicial councils or collegial appointment bodies are relied upon. It's not about the participation of politicians; it's about the institutional design that does not allow for a politics that is one-sided. To reduce the risk of appointments being used for political patronage, a number of measures can be taken, such as ensuring there is a supermajority, independent screening committees, transparent selection criteria, public hearings, professional qualifications, and fixed selection procedures (Shanthi et al., 2023).

The Indonesian and South Korean experience is one that is relevant. The study also shows that constitutional judge selection in Indonesia follows a decentralized system which does not have a uniform process across the institutions that propose judges while in South Korea, there is a more standardized process and greater public scrutiny in the confirmation process. Participation in politics can thus not automatically be seen as undermining independence if it is integrated in transparent and structured institutional procedures (Satriawan et al., 2023).

The second great protection is judicial tenure. Security of tenure is needed because it is unfeasible to give judges the discretion to rule on politically-charged cases in opposition to the government if their tenure relies on approval from the government. Tenure serves not only to secure personal security for a judge, but to assure the trustworthiness of judicial proceedings. However, it is important that tenure is not synonymous with wide and undefined disciplinary rules and practices, and that independence is not equated with immunity to professional accountability.

Recent research on international adjudication also shows how hard it can be to maintain independence and accountabilities. Political influence is not the only issue that must be included in appointment procedures, but also competence, representation, screening, reappointment and removal. The institutional issue (i.e., whoever controls appointment and removal has potential influence over the adjudicative behavior) is quite similar in both internal and international courts (Larsson et al., 2023a).

Another important comparative example is that of the Indian experience. This debate over the collegium system is a continuing one, and reflects the conflict between judicial independence and transparency in appointments. The judiciary has the power to protect itself from the executive on matters of appointments,

but it can also create issues of opacity and accountability within the judiciary. Judicial independence, therefore, can now be considered as an institutional design issue and not just a matter of executive versus judicial control, as the recent scholarship has pointed out (Sarma, 2025).

Any defensible appointment system ought to have the following elements: Professional standards for appointments, independent initial screening, involvement of multiple constitutional actors, broad consensus on the institutions, and transparency concerning reasons and criteria. The goal is to avoid the executive capture and unconstrained judicial self-replication.

4. Comparative Institutional Safeguards

Judicial independence is not just about appointments and tenure – comparative experience points to this. There is also a need for administrative autonomy, financial stability, decision making power over the cases and institutional procedures that will repel external interference by the courts. These protections are especially relevant in the context of claims by governments to try to shape the decisions of courts, even if they do not expressly contravene constitutional protections.

A case in point is the European constitutional systems. The principle of judicial independence has become a fundamental aspect of European law based on "the rule of law" through the efforts of governments in a number of countries to reorganize judicial institutions in a seemingly lawful manner. Institutional independence can be compromised even if judicial autonomy is enshrined in formulating constitutions, as the European experience shows. Judicial councils, appointment processes, disciplinary systems and administrative systems can be avenues for political influence (Gisbert, 2022b).

Hungary is a special case in which the formal independence has been accompanied by the absence of the practical independence. But recent empirical studies highlight the possibility of competitive authoritarian systems maintaining *de jure* independence in the judiciary, yet through *de facto* control of court officials by the executive, the practice of co-optation, informal patronage and competition among institutions managing the judiciary. The Hungarian case shows that constitutional protection can prove to be futile in a context where the informal political networks have operational control of judicial institutions (Hanelt & Vincze, 2024).

The lesson from the constitutional systems in Latin America is a bit different. The recent studies on Argentina, Colombia and Mexico show how independent constitutional courts can be players that can help others to hold the executive accountable by blocking executive manipulation of the constitutional systems. Institutional autonomy and interventions that do not stray beyond constitutional processes but are instead driven by constitutional principles can thus help to sustain democratic resilience (Gamboa et al., 2024a).

Financial independence is yet another key protection. Governments can allow budgetary control to be an indirect instrument for rewarding and punishing courts and this can make judicial independence shaky. Certainly the principle of judicial authority does not extend to complete control of public expenditure, but the constitutional democracies must bring about greater certainty of funding and make it impossible for political forces to play games with fundamental judicial resources because of specific judicial decisions.

The same goes for administrative autonomy. The power to allocate cases, staff the court, transfer judges, promote judges and run the court internally can have similar impacts as direct political interference. Different cases may be assigned to judges for politically sensitive reasons, which can affect the results of court cases, even though the makeup of these judges remains the same. Institutional independence should therefore not be limited to judicial decisions. It is then necessary for institutional independence to also apply to the day-to-day workings of the judiciary.

Institutional protection is also shown to have to be tailored to the constitutional context in the African experience. The idea of appointing independent judges has been doubted by comparative scholarship, however, which has suggested that the withdrawal of the executive from appointments alone will not guarantee independence. Despite judicial reforms, issues such as judicial corruption, poor professional institutions, political instability and administrative dependence can persist to affect the courts negatively (Olutola, 2020).

The fact that these comparisons seem to indicate that the best institutional model is not necessarily the one with maximum autonomy for courts points to the need for ongoing research and experimentation. The result of these comparisons demonstrates the need for further research and experimentation. Rather, the strongest is one where political power is spread among multiple institutions, appointments and disciplinary processes are open, financial security is guaranteed and no single player can control the judicial system.

5. Judicial Independence and Democratic Backsliding

Judicial independence is now being compromised in today's world in the context of democratic backsliding. In contrast to the classic "authoritarian" type of intervention, judicial capture has come to be a common phenomenon in the modern era that proceeds in a legal and constitutional way. Reforms can be said to be geared towards enhancing efficiency, eradicate corruption, etc., or to make judicial systems more democratic or more accountable. But the challenge is that those goals can be a valid reason for reform which is not intended to advance the autonomy of the judiciary.

The judicial backsliding literature shows that judicial backsliding typically occurs over time and manifests itself in the easing of horizontal checks on executive authority. Particularly, the role of legislatures could be significant in this regard since a government that is well supported by the legislatures may be able to change the institutional context for courts. Thus, it is difficult to effectively safeguard judicial independence if constitutional checks other than judicial are already undermined (Haggard & Tiede, 2025b).

Packing the courts is one of the most readily apparent ways to manipulate institutions. Governments can change judicial decision making without changing the actual legality of the courts by adding more judges, or changing the makeup of a court. Some evidence from Hungary, Poland and Türkiye suggests that judicial manipulation is linked to the decline of accountability and the rule-of-law (Callais & Mkrtchian, 2024).

Türkiye is a case in point. The empirical literature that has been published in recent years on the effect of the new constitutional reform on the Turkish judiciary that followed the 2010 referendum finds that constitutional changes resulted in a permanent decrease in effective judicial independence. This happened because in the process of erosion of the institutions the reform was disguised as modernization instead of a clear repudiation of the judicial autonomy by the reformers (Garoupa, 2025a).

In the Latin American context, the reverse is the case. At times, courts in Argentina, Colombia and Mexico have defied the executive branch in their attempt to shift the constitutional balance. In these instances, judicial independence can be a tool of democratic resilience: if the state has the institutional capacity to protect judges' independence and if the political sphere does not assign easy-to-achieve punishments for judges' decisions on the constitution, they can play a significant role in safeguarding democracy (Gamboa et al., 2024b).

However, no judicial independence can be a guarantee of democracy. Courts can be far more assertive than they have been so far, or exercise the power they have under the Constitution in a way that may increase political tension. Comparative research, therefore, highlights the double nature of courts in times of democratic backsliding: on the one hand, courts can help limit the authoritarian impulses of the regime, but

on the other hand, courts can contribute to democratic regression as they are captured or when the institutional authority of courts is misused (Dichio & Logvinenko, 2025b).

This results in a basic paradox. While strong courts are essential to limit the power of the executive, strong courts can also prove to be a politically significant institution whose rulings can have an impact on electoral dynamics, public policy and governmental survival. It is not the duty of the appropriate response to be to diminish judicial independence—to the contrary, it is to improve the institutional environment that maintains impartiality, reasoned decision-making, transparency and accountability.

This is confirmed by recent scholarship about people's attitudes toward courts. Judicial independence not only needs to be institutionalized but also needs to be given a measure of public confidence of the judiciary's ability to withstand the interference by the Executive. Citizens' mistrust of courts could provide more public reasons for politicians' meddling in judicial administration (Gandur et al., 2025a).

6. Pakistan and the Institutional Challenge of Judicial Independence

The history of Pakistan is particularly suitable for the discussion of independence of the judiciary as the country has experienced various phases of elected governments, military rule, judicial activism, constitutional action and institutional clashes between the various wings of government. The Pakistani case shows that there can be substantial institutional weaknesses despite formal constitutional safeguards.

It is now being argued that Pakistan is a constitutional state in which judicial independence is being built in the context of a larger contestation of political power. At various times, the judiciary has challenged the executive, broadened constitutional interpretation, fostered institutional independence, and at other times, joined constitutional processes which enhanced the power of non-representative political actors (Kalhan, 2013).

This is not to say that the question of constitutional independence of the Pakistani judiciary is not a difficult one. The question which is more relevant is: what are the institutional circumstances in which judges are allowed to have this independence? The operational autonomy of judges is affected by the appointment procedures, judicial administration, their composition, internal institutional arrangements and political relations.

A similar study has been conducted in Pakistan revealing that there exists a huge gap between the ideal and the actual of independence of judiciary in the constitution. While constitutional protections may formally guarantee access to the judiciary, institutional and political challenges can still impact the ability to access the judiciary without political influence (Hassan et al., 2023).

The post-Eighteenth Amendment discussion about judicial appointments illustrates the challenges of articulating a viable appointment system. The system needs to be constitutionally designed so as not to become a system of executive appointments but not lose control of the judiciary to the executive branch. The goals should be to broaden institutional involvement, and then professional criteria and the openness of the procedures (Ali, 2021).

The experience of Pakistan also proved that there is a need for judicial accountability. Judicial independence is not to say judicial insulation from all types of scrutiny. Courts have a high degree of constitutional power and their legitimacy is dependent on their ability to make reasoned decisions, to have open institutional processes, ethics and processes specified by the Constitution as means of accountability. The institutional goal should therefore be to take on responsibility responsibly, not to be totally independent.

The same argument also applies to the constitutional rights. An effective protection of constitutional rights begins with a judicial system that is institutionally linked to the constitutional order and at the same time

can interpret rights independently from the other parts of the constitutional order. The contemporary literature pertaining to the constitutional environmental rights, and comparative studies with other constitutional frameworks such as Pakistan, shows how the court can give meaning and content to the constitutional principles and make them enforceable rights (Bashir et al., 2025).

A stable institutional structure in Pakistan should therefore involve: clear rules of judicial appointments, effective involvement of various constitutional institutions, secure tenure for judges, stable judicial budgets, safeguarding against arbitrary transfers, clear rules for making of benches and selection of cases, independence of judicial administration and accountability, and strict rules of discipline. These reforms should be accompanied by protection against the possibility of constitutional changes being made for short-term political gain.

The general teaching of the lesson is that to have an independent judiciary one has to go beyond the words of the constitution. The conclusion in the comparison is strengthened by the Pakistani experience, which has led to the conclusion that independence has to be placed under an institutional umbrella that will be able to weather all changes in government. The constitution should be designed to make it hard for any "temporary political majority" to gain comprehensive control of the judiciary.

7. Toward a Multidimensional Model of Institutional Safeguards

The above comparison of the evidence suggests the protection of judicial independence could be best provided by a multi-dimensional institutional model. The first part should be pluralistic judges' selection. There should be no room for any one branch of government to have an unlimited power to appoint judges to constitutional courts. Meanwhile, the process of judicial appointments should not be allowed to be entirely internal and be governed by sitting judges. If combined with supermajority rules and clear procedures, a mixed model with judicial, legislative and executive powers as well as with the involvement of independent professional actors can balance the institutional power, provided it is backed by a clear decision-making process (Larsson et al., 2023b).

Tenure security should be coupled with accountable removal, the second component. The judges need to be protected, or else from powerful political actors, they would be unable to decide cases. This, it seems, can only be done on definite grounds and by means of due process and on no ground for partisan retribution. Judicial discipline has to deal with "real" misconduct and not disagreement with the decisions of judges.

Financial and administrative autonomy is the third one. Political control of the resources of courts cannot allow courts to be independent. Hence, it is essential that constitutional democracies offer adequate means of judicial funding, keeping the necessary public auditing and expenditure controls. Case management, staffing and internal assignments and court administration should be administered independently of the CEO.

The fourth safeguard is transparency of judicial governance. Modern judicial independence should recognize the judicial power within the court system. Institutional practice should be based on published criteria for the bench formation, case allocation, transfers, promotions and disciplinary decisions. This is especially the case in matters of internal judicial independence since external political interference is not the only one that threatens impartial adjudication.

The fifth one should be 'constitutional entrenchment'. Basic elements of judicial independence should be guaranteed to create a constitutional barrier against the possible aberrations of temporary majorities in reshaping courts to serve short-term political agendas. There are several examples of how institutional arrangements can be undermined, even though seemingly normal constitutional or legislative reform – as in

Türkiye and Hungary, where the constitutional and legislative changes were not particularly significant in themselves, but they are part of a broader development that has undermined the existing system over time (Garoupa, 2025b).

The sixth is that of democratic legitimacy based on logical decision-making and public accountability. Judicial independence does not mean that they should not be explained. Legitimacy of courts is based on the following: constitutional authority, legal reasoning, procedural fairness and public confidence. Finally, recent comparative studies reveal that there is a link between the level of citizens' awareness of executive interference and demand for judicial independence, as indicated by the following story. In turn, recent comparative studies show that citizens' awareness of executive interference can affect demand for judicial independence, as is now demonstrated in the following story (Gandur et al., 2025b).

Last, but not least, independence of the judiciary needs to be resilient beyond the judiciary. It is not possible to save constitutional democracy by itself in the courts. Political conditions that surround judicial independence include legislative oversight, free media, professional legal organizations, civil society, academic institutions and conventions. The formal legal protection is significantly less effective if these institutions happen to be eroded at the same time (Gandur et al., 2025b).

This model can thus be called "networked judicial independence". This strategy neither removes the judiciary from the control of the people, but rather shares the control amongst various institutions so as to prevent any single political player from exerting undue control over the judiciary. Safeguards should be separate in each of the following processes: appointment, tenure, finance, administration, discipline and constitutional review, and institutional checks of each of these should be overlapping.

A model like this is a more realistic model of constitutional democracy. Whole court independence from politics isn't feasible, and it's not necessarily good. All judges are situated in political societies and constitutional adjudication often has a political impact. It is the institutional responsibility, however, to make sure that political implications are not given political direction.

8. Conclusion

Whilst judicial independence is a crucial aspect of constitutional democracy, it is not just a constitutional assertion that the courts shall be independent; as contemporary experience from comparative studies shows. The one thing that fundamentally differentiates the two is that independence is a formal legal concept versus independence as a working institutional practice. Even though judicial tenure is guaranteed and institutional autonomy is conferred by a constitution, judicial independence can be undermined when the informal institutional incentives, administrative structures, financing, disciplinary process, or appointments are under the control of the political actors.

The evidence discussed in this article indicates that there is a multidimensional concept of judicial independence. The procedures of appointments should not be used to subject the medical profession to a one-sided political domination, but should be professional and democratic. Tenure should ALLOW judges to be protected from retaliation, but NOT PREVENT them from being held accountable. The freedom of funds and administration should not be subject to any indirect political pressure. Judicial councils and disciplinary bodies need to be independent enough to ensure judges are protected, and subject to clear constitutional rules that are clearly defined and open. Constitutional courts should have powers of meaningful review, but they should do so in a reasoned, principled and legal manner and not in a partisan way.

Comparative experience also shows that a democratic backsliding often starts with measures that do not involve a display of an outright rejection of constitutionalism, but rather a manipulation of institutions.

Gradually, the independence of the judiciary can be undermined by court packing, appointments that are based on partisanship, disciplinary measures, administrative organizational changes, and “apparent” constitutional changes. Thus, it is not just an authoritarian government per se that poses a threat. In institutional norms, “weak” institutions can also result in the deterioration of established democracies in the presence of “polarized” politics and “weak” constitutional protections.

It is therefore most convincing institutional response that is neither judicial supremacy nor political control over courts. It's a set of interconnected constitutional protections, in which the power is diffused and no one political actor could dominate the judicial power. Independent Judges need to be held accountable, transparent, competent and legitimate.

This lesson holds special importance for those countries that are democratic in their form of Government, like Pakistan. An attempt to preserve judicial independence should not only be guaranteed by the words in the constitution, it should also be done by institutional mechanisms that can endure through political government changes. A key to a constitutional democracy's durability is the ability of courts to rule based on the law, when doing so is politically unpalatable. Without an independent judiciary, constitutional restrictions are not very effective restraints of public power.

References:

- Adjolohoun, S. H. (2023). Judges guarding judges: Investigating regional harbours for judicial independence in Africa. *Journal of African Law*, 67(2), 169–187.
- Ali, R. N. (2021). Independence of Judiciary in Pakistan: An analysis of 18th & 19th Constitutional Amendments. *Journal of Social Sciences Review*, 1(2), 1–12.
- Aydın, A. (2013). Judicial independence across democratic regimes: Understanding the varying impact of political competition. *Law & Society Review*, 47(1), 105–134.
- Bashir, M. U., Wattoo, M. A. F., & Hashmi, M. A. I. (2025). Climate Constitutionalism: Integrating Environmental Rights into National Constitutions. *ASSAJ*, 4(02), 3272–3284.
- Berggren, N., & Gutmann, J. (2020). Securing personal freedom through institutions: The role of electoral democracy and judicial independence. *European Journal of Law and Economics*, 49(2), 165–186.
- Burchardt, D. (2025). A behavioural approach to judicial independence. *Maastricht Journal of European and Comparative Law*, 32(5–6), 552–579.
- Callais, J. T., & Mkrtchian, G. (2024). Court-packing and judicial manipulation. *European Journal of Political Economy*, 83, 102536.
- Castillo-Ortiz, P. (2020a). The Dilemmas of Constitutional Courts and the Case for a New Design of Kelsenian Institutions: Pablo Castillo-Ortiz. *Law and Philosophy*, 39(6), 617–655.
- Castillo-Ortiz, P. (2020b). The Dilemmas of Constitutional Courts and the Case for a New Design of Kelsenian Institutions: Pablo Castillo-Ortiz. *Law and Philosophy*, 39(6), 617–655.
- Dichio, M. A., & Logvinenko, I. (2025a). Stewards, defenders, progenitors, and collaborators: Courts in the age of democratic decline. *Law & Policy*, 47(1), e12251.
- Dichio, M. A., & Logvinenko, I. (2025b). Stewards, defenders, progenitors, and collaborators: Courts in the age of democratic decline. *Law & Policy*, 47(1), e12251.
- Gamboa, L., García-Holgado, B., & González-Ocantos, E. (2024a). Courts against backsliding: Lessons from Latin America. *Law & Policy*, 46(4), 358–379.
- Gamboa, L., García-Holgado, B., & González-Ocantos, E. (2024b). Courts against backsliding: Lessons from Latin America. *Law & Policy*, 46(4), 358–379.

- Gandur, M., Chewing, T. K., & Driscoll, A. (2025a). Awareness of executive interference and the demand for judicial independence: Evidence from four constitutional courts. *Journal of Law and Courts*, 13(1), 122–147.
- Gandur, M., Chewing, T. K., & Driscoll, A. (2025b). Awareness of executive interference and the demand for judicial independence: Evidence from four constitutional courts. *Journal of Law and Courts*, 13(1), 122–147.
- Garoupa, N. (2025a). Populist constitutional backsliding and judicial independence: Evidence from Türkiye. *International Review of Law and Economics*, 106301.
- Garoupa, N. (2025b). Populist constitutional backsliding and judicial independence: Evidence from Türkiye. *International Review of Law and Economics*, 106301.
- Gisbert, R. B. (2022a). Judicial Independence in European constitutional law. *European Constitutional Law Review*, 18(4), 591–620.
- Gisbert, R. B. (2022b). Judicial Independence in European constitutional law. *European Constitutional Law Review*, 18(4), 591–620.
- Haggard, S., & Tiede, L. (2025a). Judicial backsliding: A guide to collapsing the separation of powers. *Democratization*, 32(2), 513–537.
- Haggard, S., & Tiede, L. (2025b). Judicial backsliding: A guide to collapsing the separation of powers. *Democratization*, 32(2), 513–537.
- Hanelt, E., & Vincze, A. (2024). Managing courts in competitive authoritarian regimes: Co-optation, repression and resistance in Hungary. *Zeitschrift Für Vergleichende Politikwissenschaft*, 18(3), 381–400.
- Hassan, A., Khan, M. M. A., & Arif, S. (2023). Independence of judiciary and rule of law: Myth and reality. *Pakistan Social Sciences Review*, 7(3), 1099–1109.
- Hayo, B., & Voigt, S. (2023). Judicial independence: Why does de facto diverge from de jure? *European Journal of Political Economy*, 79, 102454.
- Kalhan, A. (2013). Gray Zone Constitutionalism and the Dilemma of Judicial Independence in Pakistan. *Vand. J. Transnat'l L.*, 46, 1.
- Larsson, O., Squatrito, T., Stiansen, Ø., & St John, T. (2023a). Selection and appointment in international adjudication: Insights from political science. *Journal of International Dispute Settlement*, 14(2), 134–148.
- Larsson, O., Squatrito, T., Stiansen, Ø., & St John, T. (2023b). Selection and appointment in international adjudication: Insights from political science. *Journal of International Dispute Settlement*, 14(2), 134–148.
- Melton, J., & Ginsburg, T. (2014). Does de jure judicial independence really matter?: A reevaluation of explanations for judicial independence. *Journal of Law and Courts*, 2(2), 187–217.
- Olutola, B. (2020). Constitutional Safeguards for the Independence of the Judiciary in African Democracies. *세계헌법연구*, 26(3), 297–323.
- Sarma, R. (2025). Judicial powerplay: Independence of judiciary under the shadow of illiberalism. *Indian Law Review*, 9(2), 109–136.
- Satriawan, I., Lee, S., Wijayanti, S. N., & Hidayat, B. (2023). An evaluation of the selection mechanism of constitutional judges in Indonesia and South Korea. *Padjadjaran Jurnal Ilmu Hukum (Journal of Law)*, 10(1), 122–147.
- Shanthi, K., Dari, S. S., & Dhage, P. (2023). Higher judicial appointments and judicial independence: Tussle between judiciary and executive. *Russian Law Journal*, 11(15), 80–88.