

The 26th Amendment to the Constitution of Pakistan: A Step Towards Judicial Reform or an Erosion of Judicial Independence?

a- Introduction:

Thesis Statement:

Although some hold that it is a step towards judicial reform, the 26th Amendment to the Constitution of Pakistan is indeed an erosion of judicial independence, effectively placing the judiciary under legislative control.

→ Pakistan's judicial independence, effectively placing the judiciary under legislative control.

b- Understanding Judicial Independence

c- The 26th Amendment As an Erosion of Judicial Independence

1- End to the Principle of Seniority and Establishment of Special Parliament

DATE: _____

DAY: _____

mentary Committee
i- Paving the way for
Indians to secure
Political favors

2- Inclusion of Political
Representatives in the
Judicial Commission

3- Political sway over
Constitutional Bench
Formation

4- Removal of Judges
on the Grounds of
Inefficiency

i- The term "Inefficiency"
Deliberately left
undefined

5- Curtailment of suo
motu Power

i- End to protection
against Executive
Overreach

6- The Authority of
Supreme Court to
Transfer Cases

i- A means to protect

Your arguments are
fine

DATE: _____

DAY: _____

Malicious Political Agendas

7- Shortening the Tenure of Chief Justice

- i- Stability and continuity in the apex court desired
- ii- Position of CJP made susceptible to Political manipulation

d- The 26th Amendment as a Step Towards Judicial Reforms - II Counter Narrative

1- The Amendment Eased Judicial Workload

- i- The introduction of New Benches

2- It Hindered Judicial Activism

- i- The limitation on Suo Motu Power

3- It Rendered the Parliament Sovereign

DATE: _____

DAY: _____

e-Addressing the Counter Narratives:

1- More Expansion of Benches Does not Solve Judicial Backlog

i- Procedural Delays and inefficient case management remain unaddressed

2- Parliament cannot claim Absolute Sovereignty

i- The constitution should remain sovereign

f-Conclusion:

Introductory Paragraph:

The 26th Amendment to the constitution of Pakistan, enacted in October 2024, is a sweeping reform. It significantly altered the nation's judicial and parliamentary landscape. The Amendment introduced profound changes across multiple domains of governance, sparking debate.

Start with strong hook

DATE: _____

DAY: _____

consultation, and legal scrutiny. Some people believe the amendment is a step towards judicial reforms. According to them, it eased judicial workload, hindered judicial activism, and rendered the parliament sovereign. However, the 26th Constitutional Revision has, in fact, dealt a severe blow to the independence of judiciary. The end to the principle of seniority and establishment of Special Parliamentary Committee, inclusion of political representatives in the judicial commission, political sway over constitutional bench formation, removal of judges on the grounds of inefficiency, curtailment of suo moto power, the authority of Supreme Court to transfer cases, and shortening of the tenure of Chief Justice of

DATE: _____

DAY: _____

Pakistan (CJP) lend credence to this concern. Therefore, although some hold that it is a step towards judicial reform, the 26th Amendment to the Constitution of Pakistan is indeed an erosion of judicial independence, effectively placing the judiciary under legislative control.

"Body Paragraph"

Judicial independence is the principle that courts and judges must be able to decide cases

free from improper influence, whether from the executive branch,

legislative, or private interests. This autonomy

ensures that justice is administered impartially and in accordance with law. It is not merely

a legal guarantee, but a practical necessity for protecting individual rights.

DATE: _____

DAY: _____

ensuring fairness; and maintaining public confidence in the rule of law. This principle is deeply intertwined with the doctrine of separation of powers. This doctrine divides the functions of state into three distinct branches—legislative, executive, and judicial—each with its own powers and limits. Judicial independence is a cornerstone of this separation: it ensures that the judicial branch is not subordinated to the legislature or executive. It preserves checks and balances so that no institution accumulates unchecked power. Judicial independence and separation of powers are most famously linked to Montesquieu, who expounded them in his work, "The Spirit of the Laws" (1748).

DATE: _____

DAY: _____

Conclusion:

Ultimately, while some people believe the 26th Amendment is a measure to improve the judiciary, it has undermined judicial independence by subordinating the judiciary to the legislature.

Choice of words

There has been apprehensions

that it would undermine the judicial autonomy

The champions of the Amendment argue that

it facilitated judicial backlog, curbed judicial activism, and made the

legislature sovereign. Nevertheless, the 26th constitutional

restructuring has,

in reality, curtailed

the independence of

judiciary. The termination

of the seniority principle and the creation

of Special Parliamentary

committee, involvement of

political actors in the

judicial commission, political

influence over constitutional

bench formation, removal

of judges on the basis of inefficiency, restriction of

DATE: _____

DAY: _____

Suo Motu power, and the authority of the Supreme Court to transfer cases stand testimony to that fact. It is hoped that the lawmakers would realize the reverberations of this amendment and would work to restore the judicial independence.

After all, it would be in the best interest of Pakistan and its people.