

SEPARATION OF POWERS AND ITS PRACTICAL LIMITATIONS IN PAKISTAN'S CONSTITUTIONAL FRAMEWORK

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Abstract

The Constitution calls for a firm wall of separation between the religion and state. Institutional and political relationships tend to obscure the line between the three branches of the legislature, the executive and the judiciary. boundaries. The paper explores the provisions of the constitution, the historical landmark, judicial decisions, and how power sharing works in reality. Especially, judicial activism, All of these are discussed, such as executive dominance, weaknesses of parliament etc., which are all contributor to the functional balance of power. The effect of constitutional crises and military interventions on the political landscape, and the changes in democratic norms in redefining institutional relations are also discussed in the article. The paper places the theory of doctrinal theory on the empirical realities, and by doing thus, the paper exhibits the gap between constitutional principles and actual government. It concludes that, despite the separation of powers still being a core value, structural limits and they are stunted in Pakistan's constitutional order today by political culture.

Keywords: challenges, historical context, laws, opportunities, theoretical context

Introduction

The present research paper discusses the idea of separation of powers as enshrined in the constitution of Pakistan and its limitations in practice. The Constitution calls for a parallel division of legislative, executive and judicial power (Jamali et al., 2025; Qureshi, 2025), but the institutions and political dynamics often obscure the line between them (Alam et al., 2025; Sabeehullah et al., 2025). It discusses the constitutional provisions, some of the important judicial decisions, and the practice of power sharing.

Judicial activism, dominance of the executive, and weakness of parliament are all singled out, as are other factors that affect the functional balance of power (Azam, 2025). The impact of constitutional crises, military interventions, and the changes in democratic norms in redefining institutional relations are also some of the core issues (Begum et al.2025; Saifulislam et al., 2025). The paper places the theory of doctrinal theory on the empirical realities, and by doing so, the paper demonstrates the disconnect between constitutional ideals and practical governance. Despite the separation of powers still being a core value, structural limits and political culture still curtail its full expression in the constitutional order in Pakistan today (Amrit & Kumar, 2024; Iqbal & Zarkoon, 2025).

Research Justification

The study of the separation of powers in Pakistan is the most significant one since it can be used to study the effectiveness and legitimacy of the order of the constitution. The Constitution, in theory, gives the basis to divide power between the legislative, executive, and judiciary; however, the political instability shows that in reality, there is a lack of congruence

between theory and practice. An analysis of these gaps can identify institutional weaknesses and the changes and recommendations for reforming institutions to enhance governance and accountability.

This is particularly true in view of the regular crises of the institutional framework of institutional relations that impact the stability of the policy and rule of law. The division of powers has, from time to time, been affected by judicial interference, over-ambitious executive and parliamentary instability, and it is time to delve deeper into the practical implications of the separation of powers in Pakistan. This research can help to explain the institutional tendencies and their implications for constitutionalism in the past and present.

In addition, the practical constraints study is a topic of discussion in the context of democratization in the developing world. Provides empirical facts for policy makers, lawyers, and political analysts on the constraints of institutional balance. An understanding of the relationship between political culture and the elite network and norms of governance in law is also important. In general, the study aims to propose recommendations to enhance the balance between the theory and practice in the politics of Pakistan.

Literature Review

The academic literature about the separation of powers in Pakistan particularly focuses on the conflict between constitutional design and politics (Begum et al.2025). Most authors claim that although the 1973 Constitution expresses a practical separation of powers, the historical disturbances have hampered its regular development (Iqbal & Zarkoon, 2025). Analysts emphasise the transformations of inter-branch relations caused by constitutional amendments and institutional reinterpretations throughout history (Azam, 2025). Other studies also highlight the continuation of hybrid forms of governance where formal democratic institutions and informal sources of power exist (Jamali et al., 2025). All of this literature indicates that the constitutional path taken by Pakistan is one of adaptation and not following classical ideals of separatism (Saifulislam et al., 2025).

The other line of literature is on the role of the judiciary that is increasingly defining institutional boundaries. Perspective observers tend to associate judicial activism with times of political insecurity, claiming that courts have shifted between caution and aggressiveness in accordance with the broader governance narratives (Sabeehullah et al., 2025). Although other researchers commend the judiciary due to its role in the protection of constitutional supremacy, other researchers criticize the interventions of the judiciary as encroaching on the legislative and executive spheres (Begum et al.2025). The controversy often revolves around the problem of whether judicial review in Pakistan is a stabilizing or an institutional frictional device, which uncovers the difficulty of assessing constitutional guardianship in a developing democracy (Qureshi, 2025).

The sociopolitical aspects of power distribution such as civil-military relations and institutional capacity of the parliament, have recently been discussed in scholarly literature. According to the opinion of the researchers, structural imbalances in Pakistan cannot be explained by the analysis of texts only (Amrit & Kumar, 2024). Rather, they highlight the political culture, practices of governance, and elite bargains in vital factors influencing institutional equilibrium (Jamali et al., 2025). This new field of study requires that the interdisciplinary perspectives that combine the legal study with political sociology and

emphasise the importance of contextualizing the division of powers as a part of the larger project of democratizing Pakistan (Begum, 2025).

Historical Context of Separation of Powers in Pakistan's Constitutional Framework

Pakistan has been highly configured by the successive civilian and military regimes, which have shaped the constitutional development of Pakistan (Iqbal & Zarkoon, 2025). These efforts to institutionalize functional divisions were seen in the Objectives Resolution and 1956 and 1962 constitutional experiments, but powerful executive presidents limited the growth of parliament (Begum et al. 2025). These initial accords undermined the foundation upon which constitutional form was more likely to be much more inconsistent with political reality (Alam et al., 2025).

The 1973 Constitution marked a new, renewed allegiance of parliamentary democracy and a form of decisive institutional lines (Sabeehullah et al., 2025). Recurrent interpretations of the Constitution and the interventions of martial law that curtailed the growth of legislative control and administrative responsibility particularly interrupted the continuity (Saifulislam et al., 2025). Political instability and the interim governments that were experienced even during civilian life prevented the establishment of stable inter-branch conventions, and separation remained largely a subject to ad hoc political accommodation. This institutionalized ambiguity has been a feature of decades of constitutional rule (Azam, 2025).

The debates on the balance of institutions have been revived when the constitutional supremacy was restored in the post-2008 democratic period (Jamali et al., 2025). The changes, such as the Eighteenth Amendment, enhanced the independence of the parliament, yet the history of power inequality in the governance system still existed (Amrit & Kumar, 2024). This way, the historical process of Pakistan suggests that the separation of powers has been encouraged in phases, which is always affected by crises, negotiations, and changing democratic demands (Qureshi, 2025).

Theoretical Context of Separation of Powers in Pakistan's Constitutional Framework

The doctrine of separation of powers is based on the principles that power of governments should be disintegrated among different organs refrain from centralization and ensure rights of individual. Particularly, the legislature works on making laws; it's the duty of the executive to enforce those laws, and lastly, the judiciary applies and interprets them. This system provides checks and balances for each other, as each organs can be curb any potential abuses by the others, contributing to a democratic and accountable system.

In the system of Pakistan, theory and practice can be diverge significantly. Their real operations are influenced by the political tradition, of the past, and the civil military relationships, though the Constitution could describe the formal roles and powers of the branches, the real functioning of these branches is influenced by the political tradition, past experiences and civil-military relations. The situation of the executive dominance, instability in the legislative and judicial interventions demonstrate that situations may blur the theoretical separation of powers, undermining the checks and balances.

Moreover, the theoretical models are presented based on the presumption of rational and unbiased operations of institutions. Political bias, informal power relations, and crises in governance are practical challenges in Pakistan. In this sense therefore the principle of separation of powers in Pakistan is more of an ideal rather than a reality and demonstrates the lack of touch with reality of formal and informal aspects of political power.

Laws Regarding the Separation of Powers in Pakistan's Constitutional Framework

The separation of powers in Pakistan is regulated by several laws and ways that aim to maintain the balance of power between the legislature, executive, and the judiciary of Pakistan. These laws aim at establishing checks and balances and institutional independence, which, however, are somewhat ineffective because of the political and structural weakness.

1. Constitution of Pakistan 1973: The Constitution is the supreme law in Pakistan and the powers are given to each branch through the following articles of the Constitution of Pakistan, 1973: Articles 141-144 provided for the legislature, articles 175-212 provided for the judiciary and articles 90-100 provided for the executive. The amendments to the Constitution and the 'flexibility of interpretation' have allowed for encroachment upon independence by the executive. This leads to a situation where the legislative and judicial functions are hampered, which is contrary to the best of intentions of the framers.

2. 18th Amendment Act 2010: It was a very important and landmark act, which decentralized powers and enhanced the legislative powers of Article 270AA in the Constitution of Pakistan, and also reduced the functions of the president in the Constitution of Pakistan. It is sought to enhance federalism and checks and balances on the central executive authority of Pakistan. Despite these developments, the balance of power in the country remains in favor of the Executive, and political and administrative powers have frequently surpassed constitutional limitations, blunting the effectiveness of the legislative power at the national and provincial levels.

4- The Judicial Commission of Pakistan Rules, 2010: These rules are related to the Judicial appointments in Pakistan with the intent to improve transparency and merit. The amendments have boosted and supported parliamentary influence in the judicial appointments, threatening judicial independence and the integrity of its powers in Pakistan.

5-The 26th Amendment Act, 2024: This amendment introduces a change in the appointment of the Constitutional Benches and resolves the issue. It is highly dangerous to have too much Executive control over appointments, because that would endanger the independence and integrity of appointments, and lead to inefficiency.

6- Supreme Judicial Council Procedure of Enquiry, 2005: This supreme council deals with judicial misconduct to hold judges to account, but its standards are not clear, and can be open to political abuse, and enforcement is difficult. In conclusion, Pakistan's Constitution has given robust constitutional support, strengthened the rule of law and improved the separation of powers but at times it is not being followed.

Challenges for Separation of Powers in Pakistan's Constitutional Framework

The idea of separation of powers is not well suited to the history, politics and institutions of Pakistan. One of the main problems is that Pakistan has repetitive predominant conflicts between the executive and the legislature. This includes a lot of different things including frequent change of the legislative branch which is usually done by the adoption of ordinances, presidential orders and bureaucratic prerogatives which undermine the power of the legislative branch in Pakistan. Moreover, political unrest and changes of governments in a very short period of time worsen this issue as legislatures cannot adequately monitor this policy-making and control. It also addresses the problem of the domination of the elite and the centralized politics which is anti checks and balances. These can be combined with the absence of a link between the constitutional theory and the use of the power, thereby reducing the practical power of the separation of powers.

Even though the judiciary is supposed to be independent, it also is subject to limitations in exercising separate authority. Another factor that makes for role uncertainty is judicial uncertainty, in that judges' roles are extending and they are open to political pressure. The Judicial appointments, such as disciplinary procedures and reforms, have at many times been affected by the executive or the legislative branches, impacting impartial decision-making. Judiciary is also facing capacity constraints and high challenges from various issues such as case backlog, shortage of resources, inadequate infrastructure, etc., which is affecting timely justice delivery and the judiciary's role as a check and balance. These are the challenges that suggest that independence could be proclaimed but in reality, could be influenced and thus puts a strain on the judiciary in maintaining the balance of powers as envisaged in the constitution.

Moreover, Pakistan has the broadest political and civil-military setting which presents numerous challenges. Political engagement in military affairs has been a common strategy over the years and in recent history, to achieve 'institutional balance,' reducing the role of civilian oversight and redressing the inter-branch balance. This, and political party politics, institutional cultures and poor accountability mechanisms, have left the political environment where the doctrine of separation of powers will always be more aspirational than actual. These measures include constitutional changes, capacity development, and a political culture that doesn't infringe on the constitutional functions of the different branches of government, and resolve these problems. In the absence of these reforms, the doctrine of separation of powers may continue to be more of an aspiration than a reality in the quest for sustainable democracy.

Opportunities for Separation of Powers in Pakistan's Constitutional Framework

In addition to the number of hurdles, there are opportunities to ensure the separation of powers in Pakistan. One such opportunity is the Legislative reforms that will enhance the independence and oversight of parliament. The recent constitutional changes, including the 18th Amendment, have devolved powers to the provinces and strengthened federalism, which in turn is a step towards less unequal governance. The role of the legislature can be further strengthened through the institutionalization of legislative committees and the strengthening of law-making and holding the government to account. Improving the capacity of the legislature is an opportunity to fill the gap between constitutional theory and practice. The Judiciary is one of the most significant ways to bolster the separation of powers.

These articles (Articles 175-212), which provide an opportunity to courts to uphold the supremacy of the constitution, discuss the independence of the judiciary. Improved transparency in the judicial appointments can be a powerful instrument to enforce the constitutional norms in the judiciary. Improvement of the judicial administration and institutional processes, and ensuring that they are in line with the constitutional requirements, could support the courts' ability to keep a check on executive overreach without infringing on the legislative prerogative.

The promise contained in democratic culture and civil society is so great that it is difficult to maintain the doctrine of separation of powers. Media and civil society, empowered and discriminating citizens, can help to hold institutions accountable within the boundaries of the Constitution. The culture of respect towards institutional boundaries and accountability between the arms of government can be achieved through education campaigns, legal literacy programs, and popular education. Through leveraging these socio-political dynamics, Pakistan can make the doctrine of separation of powers a viable one, which could further improve governance, strengthen the rule of law, and consolidate democracy in the long term. They can

be taken advantage of in the legislative arena, in court, and in society in order to narrow the divide between constitutional aspiration and reality.

Discussion

The separation of powers in Pakistan is a thing. It is often hard to tell where the ideals in the Constitution end and the reality of how the government works begins. The constitution is very clear about what the legislature, executive, and judiciary should do. Things get messy when powerful people start interfering. Sometimes the laws made by the legislature are not enforced well. The powers of parliament and the judiciary get mixed up. The judiciary has to step in to protect the Constitution. When it does, it can get confusing and blur the lines between the different institutions.

This is a problem because it means that the idea of keeping the institutions separate is not working in practice. There are also patterns, like the military getting involved in politics and the country being unstable, that make it hard to establish good relationships between the different branches of government. Some other things that make the problem worse are that the government does not have resources, the bureaucracy is too centralized, and the checks and balances do not work very well. However, the constitution does give us a chance to make things better by changing the laws and how the government is organized. We can also make progress by engaging society and the media and ensuring that people in power are held accountable.

If we can make these changes over time, we can make the government work more in line with the values in the Constitution. The separation of powers is an idea, but it needs to be supported by real changes in how the government works and by social and political mechanisms to overcome the obstacles and have a truly democratic government. The separation of powers in Pakistan needs to be looked at, and the separation of powers in Pakistan has to be worked on to really make it effective.

Conclusion

In the Constitution of Pakistan the separation of powers is a fundamental doctrine. It's aim is to ensure democracy and preventing centralization of power. Notwithstanding, the Constitution states the functions of the legislative, executive, and judicial branches, in practice, it constraints like executive supremacy, political unrest, judicial activism, and military interventions in the past have often undermined the separation of powers. Because of it, the constitutional amendments, whether judicial or administrative reforms, can help to promote institutional autonomy and it will improve the checks and balances. A sense of involvement by the people, a press that is watchful, and an accountable people also help in enhancing the respect of constitutional limits. For maintaining separation of powers proceed with the current reforms, goodwill of politicians, and normalize the democratic procedures that focuses on institutional integrity. These reforms are the most important. Although these reforms carry some hurdles, these changes can help to align theory and practice. It will fulfill the constitutional promise of separation of powers and will balance the authority of institutions.

Recommendations

In the name of the development of the system of checks and balances in Pakistan. There is a need for legislative and institutional changes. First, more needs to be done to strengthen the oversight function of the first house, which includes giving committees more powers, expediting the process of legislation and allowing the first house to regularly oversee and scrutinize the executive. The defined rules of procedure and increased scrutiny will enable parliament to effectively exercise its role with minimal encroachment by the executive and the

adoption of a checks and balances approach to governance. Secondly, the judiciary needs to be strengthened.

Openness in judicial appointments, merit-based appointments, and checks against political interference will ensure judicial independence. Likewise, judicial administrative reform to cut the backlog of cases, redistribute the available resources, and ease processes will enable the judiciary to play an effective role as a constraint on legislative and executive action, increasing the institutional balance. Lastly, a culture of respect and accountability can be nurtured through the efforts of civic education, legal awareness, and awareness raising.

When the media and public questions the Government, it will highlight the issues and point out the constitutional provisions which are being violated by the authority. By cumulative legislative, judicial, and social reforms, Pakistan can gradually bridge the gap between constitutional theory and practice, and it will ensure that the separation of powers works to promote democratic practices and good governance.

Research Limitations

Many limitations are present in this study, which may affect the outcome of this study. First, the study is based primarily on constitutional texts, legal provisions, and the case studies of the past, which have a formal notion of separation of powers, but may not be sufficient to capture the informal political dynamics and subtle politics of power relations. Without an approach to the internal government that can report and policy in-depth discussions, the analysis of the executive and legislative decision-making procedures is also limited. Secondly, the historical trend and the legal structure of the research might not be sufficient to reflect the contemporary socio-political developments impacting the institutions' behaviour.

Other shifts, such as the shifting attitudes of the people, the shift in civil/military relations, and the impact of the new governance reforms, may not be explained adequately. Also, the use of secondary literature and previous studies puts in place possible prejudices of the current body of knowledge. It is a failure of the empirical studies and field work that has accentuated the need to study the segregation of powers further, so as to give a more comprehensive picture of the segregation of powers in Pakistan.

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Future Research Directions

The dynamics of separation of powers in Pakistan should be explored in future research by employing empirical and field research. One can examine how the informal political politics,

elite bargaining, and civil-military interactions affected the institutional behaviour in order to gain a better insight into the practical constraints found in this study. It is also possible to compare other developing democracies, which perhaps will allow identifying other ways of sharing power and inter-branch accountability.

Instead, the research could be conducted on the civil society, media, and popular involvement in order to enhance constitutional boundaries. By making effective the civic education, advocacy, transparency, and promotion can be examined to help clarify how a political culture of respect can be produced towards the institutions. A longitudinal study tracing the impact of the recent changes, such as the 18th and 26th Amendments to the legislative, executive, and judicial interactions, would also be beneficial over time in the interpretation of the evolving practice of separation of powers and would have practical value to policymakers, law experts, and the institution of democracy.

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