



Judicial Review and Parliamentary Sovereignty: Balancing Fundamental Rights with Legislative Supremacy in Pakistan

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ABSTRACT

This research examines the constitutional relationship between judicial review and parliamentary sovereignty in Pakistan, with particular emphasis on maintaining a balance between fundamental rights and legislative supremacy. The Constitution of Pakistan establishes a parliamentary democratic system while simultaneously entrusting the superior judiciary with the authority to interpret constitutional provisions and review legislative and executive actions. This dual framework has generated significant constitutional debates concerning the limits of judicial intervention, the autonomy of Parliament, and the protection of fundamental rights. The study adopts a doctrinal and qualitative legal research methodology, analysing constitutional provisions, legislation, judicial precedents, and relevant scholarly literature. It critically evaluates the evolving approach of the Supreme Court of Pakistan towards judicial review and considers whether expansive judicial intervention strengthens constitutionalism or risks undermining the democratic mandate of elected institutions. The research argues that neither absolute parliamentary supremacy nor unrestricted judicial power provides an adequate constitutional balance. Instead, constitutional supremacy, institutional restraint, separation of powers, and effective protection of fundamental rights should guide the relationship between Parliament and the judiciary. The study concludes that a principled and restrained approach to judicial review can preserve democratic legitimacy while ensuring meaningful constitutional accountability.



1. Introduction

1.1 Background and Constitutional Context

The relationship between judicial review and parliamentary sovereignty is one of the most significant issues in constitutional law because it concerns the distribution of authority among state institutions and the protection of individual rights. In Pakistan, the Constitution establishes a parliamentary form of government while simultaneously declaring the Constitution to be the supreme law of the state. Parliament possesses extensive legislative authority, but its powers are subject to constitutional limitations, particularly those relating to fundamental rights, federalism, and the institutional separation of powers (Bazmi, 2022). The superior judiciary, especially the Supreme Court of Pakistan, has the constitutional responsibility to interpret the Constitution and examine whether legislative and executive actions conform to constitutional requirements. Judicial review therefore operates as an important mechanism for maintaining constitutional supremacy and protecting citizens against unlawful exercises of state power. At the same time, excessive judicial intervention may raise concerns regarding democratic legitimacy and the authority of elected representatives. The central constitutional challenge is consequently to determine how judicial review can protect fundamental rights without unnecessarily undermining Parliament's legitimate legislative functions (Rafiq & Riaz, 2025).

1.2 Significance of the Study

The study is significant because the balance between judicial authority and parliamentary power directly affects constitutional democracy, institutional stability, and the protection of fundamental rights in Pakistan. Constitutional disputes frequently involve questions concerning the limits of Parliament's legislative competence and the extent to which courts may invalidate legislation or interpret constitutional provisions in ways that affect parliamentary policy choices. Examining this relationship is particularly important in Pakistan because constitutional development has been influenced by political instability, constitutional amendments, institutional tensions, and changing judicial approaches. A balanced framework can strengthen the rule of law while preserving the democratic mandate of Parliament. The study also contributes to understanding how constitutional supremacy can coexist with legislative authority without allowing either institution to exercise unrestricted power (Hashmi et al., 2025).

1.3 Research Objectives

- i. To examine the constitutional foundations and scope of judicial review and parliamentary sovereignty in Pakistan.
- ii. To analyse the role of the superior judiciary in protecting fundamental rights through constitutional review.
- iii. To evaluate the constitutional limits of Parliament's legislative authority in Pakistan.
- iv. To assess the tensions between judicial intervention and legislative supremacy through relevant constitutional principles and judicial precedents.
- v. To propose a balanced constitutional approach that protects fundamental rights while respecting Parliament's legitimate legislative functions.

1.4 Research Questions

- i. What are the constitutional foundations and limits of judicial review and parliamentary sovereignty in Pakistan?

- ii. How does the superior judiciary protect fundamental rights through the exercise of judicial review?
- iii. What constitutional limitations exist on Parliament's legislative authority in Pakistan?
- iv. To what extent does judicial intervention affect parliamentary supremacy and the separation of powers?
- v. How can Pakistan achieve an appropriate balance between fundamental rights protection and legislative supremacy?

1.5 Research Gap

Existing scholarship has extensively examined judicial review, constitutional supremacy, fundamental rights, and parliamentary authority in Pakistan, but comparatively less attention has been given to their interaction as a continuing institutional balance. Much of the literature focuses either on judicial activism or parliamentary power independently, rather than examining how both can operate within constitutional boundaries. This study addresses this gap by analysing judicial review and legislative supremacy together and developing a principled approach based on constitutionalism, institutional restraint, separation of powers, and effective protection of fundamental rights.

1.6 Research Methodology

This study adopts a qualitative research methodology with a doctrinal legal approach. The research relies exclusively on secondary sources to examine the constitutional and legal dimensions of judicial review and parliamentary sovereignty in Pakistan. The principal sources include the Constitution of Pakistan, relevant statutes, constitutional amendments, reported judgments of the Supreme Court and High Courts, and established principles of constitutional interpretation. Secondary academic materials, including books, research articles, law journals, scholarly commentaries, institutional reports, and other relevant legal literature, are also examined. The study employs analytical and interpretive techniques to identify constitutional principles, judicial trends, and areas of institutional tension. Relevant judicial decisions are analysed to understand how Pakistani courts have approached fundamental rights, legislative competence, constitutional supremacy, and the limits of judicial intervention. The doctrinal approach enables the study to critically evaluate existing constitutional rules and jurisprudence without relying on interviews, questionnaires, surveys, or other forms of primary empirical data.

2. Theoretical and Constitutional Foundations

2.1 Concept and Theories of Judicial Review

Judicial review refers to the authority of courts to examine legislative and executive actions and determine whether they are consistent with the Constitution. It is an essential feature of constitutionalism because it ensures that governmental institutions remain within their legally prescribed limits. In Pakistan, judicial review derives its legitimacy from the supremacy of the Constitution, which binds all state organs, including Parliament, the executive, and the judiciary. The judiciary may therefore examine legislation where it is alleged that constitutional provisions, particularly fundamental rights or limitations on legislative competence, have been violated (Asghar et al., 2026). The theoretical justification for judicial review is generally associated with the protection of constitutional principles against arbitrary exercises of public power. The rights-protective theory considers courts essential for safeguarding minorities and individuals who may lack sufficient political influence. The constitutionalist theory emphasizes that elected majorities are also subject to constitutional limitations. At the same time, judicial review raises the

counterargument that unelected judges should exercise caution when interfering with decisions made by elected representatives. This tension between judicial protection and democratic legitimacy forms a central issue in Pakistan's constitutional framework (Asghar & Sabir, 2026).

2.2 Concept and Evolution of Parliamentary Sovereignty

Parliamentary sovereignty traditionally refers to the principle that Parliament possesses supreme legislative authority and that courts should generally respect legislation enacted through the democratic process. In its classical form, the doctrine developed most prominently within the British constitutional tradition, where Parliament was regarded as the highest law-making authority. Pakistan, however, does not follow an unrestricted model of parliamentary sovereignty. Its constitutional structure is based upon constitutional supremacy, meaning that Parliament exercises legislative power within boundaries established by the Constitution. The evolution of parliamentary authority in Pakistan has consequently been shaped by constitutional amendments, political developments, judicial interpretations, and institutional conflicts (Kanwel, Khan, et al., 2024a). Parliament has the power to legislate on matters within its constitutional competence and to amend the Constitution according to prescribed procedures. Nevertheless, parliamentary authority is not entirely immune from constitutional scrutiny. The Pakistani constitutional framework attempts to reconcile democratic legislative authority with constitutional limitations, particularly those concerning fundamental rights and the basic institutional structure of the state. Parliamentary sovereignty in Pakistan should therefore be understood as constitutionally limited legislative supremacy rather than absolute legislative power (Altaf, 2023).

2.3 Separation of Powers and Institutional Balance

The doctrine of separation of powers provides an important theoretical foundation for understanding the relationship between Parliament and the judiciary. It seeks to prevent the concentration of governmental authority by allocating legislative, executive, and judicial functions among different institutions. Although the Pakistani Constitution does not establish a completely rigid separation of powers, it recognizes distinct institutional responsibilities and provides mechanisms for interaction and accountability among state organs. Parliament primarily performs legislative functions, the executive implements laws and administers government, while the judiciary interprets the Constitution and laws and adjudicates disputes. Institutional balance requires each organ to exercise its authority within constitutional boundaries while respecting the legitimate functions of the others. Judicial review can support this balance by preventing unconstitutional exercises of legislative or executive authority. However, excessive judicial intervention may itself disturb institutional equilibrium by allowing courts to enter areas primarily entrusted to elected institutions. Similarly, unrestricted parliamentary authority could weaken judicial independence and undermine constitutional protections. The principle of institutional restraint is therefore essential to maintaining a workable balance between judicial review and legislative supremacy (Kanwel, Asghar, et al., 2024).

2.4 Constitutional Supremacy and Fundamental Rights

Constitutional supremacy is the central principle connecting judicial review, parliamentary authority, and fundamental rights in Pakistan. Under a constitutional system, all organs of the state derive their authority from the Constitution and must exercise their powers consistently with its requirements. Fundamental rights provide substantive limitations on governmental authority and protect individuals against arbitrary, discriminatory, or unlawful state action. The judiciary has an important role in ensuring that these rights are meaningful rather than merely declaratory. Through constitutional interpretation and judicial review, courts can scrutinize legislation and governmental conduct that allegedly infringes protected rights. At the same time, constitutional supremacy does

not mean that courts possess unlimited authority (Kanwel, Khan, et al., 2024b). Judicial power must itself operate within constitutional boundaries and respect the constitutional distribution of functions. The proper relationship between Parliament and the judiciary therefore requires recognition that Parliament represents democratic choice while the judiciary protects constitutional legality. Neither institution should be treated as completely unrestricted. A balanced constitutional order requires Parliament to legislate responsibly within constitutional limits and requires courts to exercise judicial review with principled reasoning, institutional restraint, and respect for democratic governance. This approach enables fundamental rights to be protected without unnecessarily weakening the legitimate legislative role of Parliament (Ch et al., 2024).

3. Constitutional Framework of Judicial Review in Pakistan

3.1 Constitutional Basis of Judicial Review

Judicial review in Pakistan is rooted in the supremacy of the Constitution and the responsibility of the superior judiciary to interpret and enforce constitutional provisions. The Constitution establishes a system in which all organs of the state are required to exercise their powers within constitutional boundaries. The superior courts therefore possess authority to examine whether legislative, executive, or administrative actions conform to constitutional requirements. The Supreme Court and High Courts exercise constitutional jurisdiction through provisions that empower them to enforce fundamental rights, interpret constitutional questions, and scrutinize governmental actions (Nisar et al., 2023). Judicial review serves as an institutional safeguard against arbitrary exercise of public authority and ensures that constitutional limitations remain effective. The constitutional basis of review also reflects the principle that Parliament, despite possessing broad legislative authority, cannot exercise powers contrary to express constitutional provisions. Consequently, judicial review does not merely represent judicial intervention in political affairs; rather, it is an essential mechanism for maintaining constitutional governance. Nevertheless, its exercise requires judicial restraint because courts must distinguish between legitimate constitutional adjudication and matters that primarily fall within the policy-making authority of elected institutions (Afzal et al., 2023).

3.2 Fundamental Rights and Judicial Enforcement

Fundamental rights constitute one of the most important areas in which judicial review operates in Pakistan. The Constitution guarantees a range of rights relating to life and liberty, equality, dignity, freedom of expression, association, religion, movement, and access to justice, subject to constitutionally permitted limitations. These rights impose substantive obligations upon the state and establish boundaries for legislative and executive action. The superior judiciary plays a crucial role in ensuring that these guarantees are not reduced to theoretical declarations. Through constitutional petitions and other forms of judicial proceedings, courts may examine governmental conduct alleged to violate fundamental rights and provide appropriate constitutional remedies (Asghar, Bhatti, & Ch, 2022). Judicial enforcement is particularly significant where individuals or minority groups may have limited political influence and require institutional protection against majoritarian decisions. At the same time, fundamental rights are not always absolute, and the Constitution permits reasonable restrictions in certain circumstances. Courts must therefore determine whether restrictions are constitutionally authorized, legally justified, and proportionate to legitimate governmental objectives. This balancing function places the judiciary at the centre of constitutional protection while requiring careful consideration of Parliament's legislative responsibilities (Asghar, Bhatti, & Adnan, 2022).

3.3 Judicial Review of Legislation

Judicial review of legislation involves determining whether an Act or legislative provision is compatible with the Constitution. In Pakistan, Parliament exercises substantial legislative authority, but that authority is constitutionally defined and limited. Where legislation conflicts with constitutional provisions, particularly fundamental rights or mandatory constitutional requirements, the superior judiciary may examine its validity. The purpose of such review is not to replace Parliament's policy judgment with judicial preferences but to ensure that legislation remains within constitutional limits. This distinction is important in maintaining an appropriate relationship between judicial authority and legislative supremacy (S. A. Bilal, 2025). Courts may interpret legislation, assess its constitutional validity, and, where necessary, declare unconstitutional provisions ineffective to the extent permitted by constitutional law. Judicial review therefore functions as a check against unconstitutional majoritarianism while preserving the general legislative role of Parliament. However, judicial review can become controversial where courts adopt broad interpretations that substantially influence political or policy questions. A principled approach requires courts to focus on constitutional text, established interpretive principles, fundamental rights, and institutional competence rather than merely disagreeing with the wisdom or desirability of legislation. Such an approach can reconcile constitutional accountability with democratic legislative authority (Farooq & Abbasi, 2025).

3.4 Constitutional Amendments and Judicial Review

Constitutional amendments present a particularly complex dimension of judicial review because they are enacted through a special constitutional procedure and represent an exercise of constituent legislative authority. Pakistan's constitutional history demonstrates that amendments have frequently responded to changing political, institutional, and governance requirements. The question arises whether Parliament's power to amend the Constitution is unlimited or whether constitutional amendments themselves may be subject to judicial scrutiny. Pakistani constitutional jurisprudence has developed significant debate concerning the extent of Parliament's amendment power, the constitutional identity of the state, and principles that may impose substantive limitations upon amendment authority (Sohaib, 2025). Judicial consideration of constitutional amendments consequently raises difficult questions about whether courts should protect certain fundamental constitutional characteristics from alteration while respecting Parliament's constitutionally assigned amendment function. The issue requires a careful balance between constitutional continuity and democratic constitutional change. Judicial review of amendments should therefore be exercised through clear constitutional reasoning and exceptional restraint. An appropriate framework should recognize Parliament's central role in constitutional development while ensuring that constitutional amendments do not undermine the foundational principles, institutional structure, or fundamental rights protections upon which the constitutional order depends (Muhib et al., 2025).

4. Judicial Review versus Parliamentary Sovereignty in Pakistani Constitutional Practice

4.1 Historical Development of Judicial Review

The development of judicial review in Pakistan is closely connected with the country's constitutional history and recurring tensions among state institutions. From the early constitutional period, courts were required to determine the validity of governmental actions and the extent of legislative authority. Judicial review gradually developed as an instrument for maintaining constitutional legality and resolving disputes concerning the distribution of state power. Early constitutional jurisprudence was influenced by doctrines concerning state necessity, constitutional

continuity, and the relationship between legislative authority and constitutional limitations. Over time, however, the judiciary increasingly emphasized constitutional supremacy and the protection of fundamental rights. The adoption of successive constitutional arrangements strengthened the role of superior courts in constitutional interpretation (Khan Muhammad Aqeel; ur Rehman Hidayat, 2024). Under the Constitution of 1973, judicial review acquired a more structured constitutional foundation, particularly through the jurisdiction of the Supreme Court and High Courts. The historical development demonstrates a gradual movement from judicial deference toward a more active constitutional role, although the intensity of review has varied according to political and institutional circumstances. This history is essential for understanding contemporary debates concerning whether judicial review protects constitutional democracy or risks encroaching upon Parliament's democratic mandate (Ahamed, 2025).

4.2 Judicial Review of Parliamentary and Legislative Actions

Judicial review of parliamentary and legislative actions represents the most direct point of tension between constitutional adjudication and parliamentary authority. Parliament is the principal law-making institution and derives its authority from the Constitution. Its legislation reflects democratic representation and public policy choices; however, parliamentary legislation must remain within constitutional boundaries. Courts may therefore examine legislation to determine whether it violates fundamental rights, exceeds legislative competence, conflicts with constitutional provisions, or otherwise contravenes mandatory constitutional requirements. The judicial review of legislation does not ordinarily authorize courts to substitute their policy preferences for those of Parliament. Rather, its central purpose is to determine constitutional validity (Alam et al., 2025). This distinction is important because democratic legitimacy and constitutional legality are complementary rather than necessarily contradictory principles. Parliament provides democratic legitimacy to legislation, while judicial review ensures that legislative power is exercised within the constitutional framework. Nevertheless, when courts invalidate or significantly reinterpret legislation, concerns may arise regarding judicial overreach. The appropriate approach therefore requires courts to exercise review carefully, provide clear constitutional reasoning, and respect Parliament's legitimate policy-making domain while intervening where constitutional violations are established (Gul et al., 2025).

4.3 Landmark Constitutional Cases and Judicial Doctrines

Pakistan's constitutional practice has been significantly shaped by landmark judicial decisions that established and developed important doctrines concerning judicial review, constitutional amendments, legislative authority, and fundamental rights. Early cases concerning constitutional crises contributed to the development of doctrines that at times provided legal justification for extraordinary governmental actions. Later jurisprudence increasingly emphasized constitutional supremacy, judicial independence, and limitations on state authority. The doctrine commonly associated with the basic structure of the Constitution has also generated substantial debate concerning the extent of Parliament's power to amend constitutional provisions (Zehra et al., 2025). Judicial decisions concerning fundamental rights have further expanded constitutional interpretation by emphasizing dignity, equality, liberty, due process, and access to justice. These cases demonstrate that judicial doctrines have evolved in response to changing political and constitutional circumstances. At the same time, landmark judgments reveal the difficulty of maintaining consistency between judicial protection of constitutional principles and respect for democratic institutions. The significance of these doctrines therefore lies not only in their individual outcomes but also in their contribution to defining the constitutional boundaries within which Parliament and the judiciary operate (M. Bilal & Khokhar, 2022).

4.4 Expansion and Limits of Judicial Power

The expansion of judicial power in Pakistan has strengthened the judiciary's role as a constitutional guardian, particularly in matters involving fundamental rights, institutional accountability, and unconstitutional governmental action. An active judiciary can provide an important safeguard where legislative or executive institutions fail to comply with constitutional requirements. However, the expansion of judicial authority also creates concerns regarding institutional competence, democratic legitimacy, and separation of powers. Courts may face criticism when constitutional interpretation moves beyond resolving legal disputes and enters areas involving complex political, economic, or administrative policy choices. Judicial power therefore requires meaningful constitutional limits (Usman et al., 2022). These limits do not imply that courts should avoid difficult constitutional questions; rather, they require courts to distinguish constitutional adjudication from political decision-making. Judicial restraint, respect for institutional competence, adherence to constitutional text and principles, and reasoned interpretation can prevent judicial review from becoming judicial supremacy. Similarly, Parliament must recognize that legislative authority is not absolute and that fundamental rights and constitutional limitations cannot be disregarded merely because legislation has democratic approval. The appropriate constitutional balance is consequently based on mutual institutional respect: Parliament should exercise its legislative authority within constitutional boundaries, while courts should protect constitutional supremacy without unnecessarily displacing legitimate legislative choices. Such equilibrium can strengthen both democratic governance and the rule of law in Pakistan (HASSAN, 2024).

5. Balancing Fundamental Rights with Legislative Supremacy

5.1 Fundamental Rights as Limits on Legislative Power

Fundamental rights constitute a central constitutional limitation on legislative power in Pakistan. Although Parliament possesses broad authority to enact laws for public welfare, governance, and social development, such authority must be exercised consistently with the Constitution. Fundamental rights provide individuals with protection against arbitrary state action and establish substantive standards that legislation must respect. Rights relating to life, liberty, equality, dignity, expression, association, and religious freedom therefore operate as constitutional restraints on majoritarian legislative power. Judicial review becomes particularly important where legislation is alleged to interfere with these guarantees (Khalid & Shaheen, 2023). Courts may assess whether a legislative restriction is constitutionally authorized, pursues a legitimate objective, and remains consistent with the nature and scope of the protected right. This does not mean that every restriction imposed by Parliament is unconstitutional. Modern constitutional systems recognize that rights may sometimes be subject to reasonable limitations necessary for public order, security, morality, or the protection of other rights. The challenge is therefore to prevent unjustified restrictions without transforming judicial review into an unrestricted power to invalidate legislation based merely on judicial disagreement with parliamentary policy (Falki & Shahzad, 2022).

5.2 Parliamentary Authority and Democratic Legitimacy

Parliamentary authority is grounded in democratic representation and remains essential to a functioning constitutional democracy. Members of Parliament are elected to represent citizens and formulate laws and policies in response to social, economic, and political needs. Legislative decisions therefore possess democratic legitimacy that courts must recognize when reviewing parliamentary enactments. Parliamentary supremacy in Pakistan, however, operates within the framework of constitutional supremacy. Parliament cannot claim unlimited authority simply because legislation has been adopted through a democratic process. The Constitution determines the scope of legislative competence and establishes rights and institutional principles that bind

elected representatives. Democratic legitimacy and judicial review should consequently be viewed as complementary rather than inherently contradictory. Parliament provides democratic authorization for law-making, while the judiciary ensures that the exercise of that authority remains constitutionally valid (Ali et al., 2023). Problems arise when either institution claims exclusive authority over constitutional questions. Unrestricted parliamentary power may threaten minority and individual rights, while unrestricted judicial power may weaken democratic decision-making. The appropriate balance requires Parliament to respect constitutional limitations and courts to acknowledge that policy choices ordinarily belong to elected institutions unless they clearly violate constitutional requirements.

5.3 Judicial Restraint, Deference and Proportionality

Judicial restraint and institutional deference provide important mechanisms for maintaining equilibrium between judicial review and legislative authority. Judicial restraint requires courts to avoid unnecessary intervention in matters constitutionally entrusted to Parliament and to exercise review only where a genuine constitutional issue is established. Deference does not mean abandoning constitutional review; rather, it recognizes that elected institutions generally possess greater democratic legitimacy and institutional competence in policy matters. Proportionality provides a structured method for determining whether restrictions on fundamental rights are constitutionally justified (S. H. Khan & Zubair, 2023). Under a proportionality-oriented approach, courts may consider whether a legislative measure pursues a legitimate objective, is rationally connected to that objective, is necessary, and maintains an appropriate balance between governmental interests and individual rights. Such analysis can prevent both excessive judicial intervention and insufficient rights protection. In Pakistan, a principled combination of restraint, deference, and proportionality can strengthen constitutional adjudication by requiring courts to provide reasoned justification for interfering with legislative choices. It also allows courts to protect fundamental rights without automatically treating every legislative restriction as unconstitutional (Pasha et al., 2024).

5.4 Comparative Constitutional Perspectives and Lessons for Pakistan

Comparative constitutional experience demonstrates that there is no single universal model for reconciling judicial review with legislative supremacy. In the United States, strong-form judicial review gives courts significant authority to invalidate unconstitutional legislation, while the United Kingdom traditionally emphasizes parliamentary sovereignty, although modern constitutional principles and rights protections have introduced important qualifications. Countries such as Canada and South Africa provide additional models in which constitutional rights are judicially protected while mechanisms exist to preserve legislative participation and democratic accountability. These approaches offer useful lessons for Pakistan but cannot simply be transplanted because constitutional structures, political traditions, and institutional conditions differ (A. Khan et al., 2023). Pakistan can nevertheless benefit from comparative principles such as constitutional supremacy, proportionality, reasoned judicial review, institutional dialogue, and respect for legislative competence. The most suitable approach would preserve meaningful judicial protection of fundamental rights while recognizing Parliament's primary role in policy-making and law-making. Courts should intervene where constitutional violations are clear or substantial, whereas Parliament should retain reasonable discretion in areas involving legitimate policy choices. Such a balanced model can promote constitutional stability, democratic legitimacy, judicial independence, and effective protection of fundamental rights without allowing either judicial power or legislative authority to become constitutionally unchecked (Amin, 2023).

6. Findings, Recommendations and Conclusion

6.1 Major Findings

The study finds that judicial review and parliamentary sovereignty in Pakistan should not be understood as mutually exclusive principles. The Constitution establishes Parliament as the principal legislative institution while simultaneously making constitutional supremacy and fundamental rights central features of the legal order. Parliament therefore possesses substantial legislative authority, but that authority is constitutionally limited. The judiciary performs an essential role in ensuring that legislation and governmental actions remain within constitutional boundaries. The analysis further finds that judicial review is particularly significant for protecting fundamental rights, preventing arbitrary exercises of state power, and maintaining institutional accountability. However, excessive judicial intervention may create tensions with democratic legitimacy and the constitutional functions of elected institutions. The study also finds that Pakistan's constitutional experience demonstrates periods of both judicial activism and judicial restraint, reflecting the continuing difficulty of determining appropriate institutional boundaries. A sustainable constitutional order requires neither absolute parliamentary supremacy nor unrestricted judicial authority. Instead, constitutional supremacy, separation of powers, fundamental rights, institutional competence, and democratic legitimacy must operate together.

6.2 Recommendations for Constitutional Balance

A balanced relationship between Parliament and the judiciary requires clearer adherence to constitutional boundaries and greater institutional restraint. Parliament should exercise its legislative authority with careful consideration of fundamental rights and constitutional limitations. Legislative processes should include stronger constitutional scrutiny before enactment so that potential conflicts with fundamental rights can be identified at an early stage. Parliamentary committees and constitutional experts may play a greater role in examining the legality and constitutional implications of proposed legislation. The judiciary, meanwhile, should exercise judicial review through principled reasoning and avoid unnecessary interference with policy choices that properly belong to elected institutions. Courts should clearly distinguish between unconstitutional legislation and legislation that may simply be unpopular, controversial, or politically undesirable. Proportionality should be applied where appropriate to determine whether restrictions on fundamental rights are justified. Judicial decisions should also provide transparent constitutional reasoning so that institutional intervention remains predictable and accountable. Both institutions should respect judicial independence and parliamentary competence, recognizing that constitutional democracy depends upon cooperation as well as checks and balances.

6.3 Towards a Balanced Model of Constitutional Governance

Pakistan requires a model of constitutional governance based on constitutional supremacy rather than either absolute parliamentary sovereignty or judicial supremacy. Under such a model, Parliament would remain the primary institution for legislation and public policy, while the judiciary would act as the constitutional guardian within clearly defined judicial limits. Fundamental rights would constitute enforceable boundaries on governmental authority, but judicial review would be exercised with appropriate deference to legitimate legislative choices. Institutional dialogue should become an important feature of this relationship, allowing judicial decisions identifying constitutional deficiencies to encourage legislative reconsideration rather than automatically producing prolonged institutional confrontation. The principle of proportionality can further assist courts in balancing individual rights against legitimate public interests. Similarly, parliamentary institutions should strengthen mechanisms for reviewing the constitutional implications of legislation. This model would encourage mutual respect, institutional

accountability, and constitutional fidelity. It would also reduce the possibility that disputes between state organs become broader political conflicts. The ultimate objective should be to ensure that constitutional institutions exercise their powers effectively while remaining subject to the Constitution.

6.4 Conclusion

The relationship between judicial review and parliamentary sovereignty represents a fundamental constitutional question in Pakistan because it determines how democratic authority can coexist with enforceable constitutional limitations. The study concludes that parliamentary legislative authority is indispensable to democratic governance, but it cannot be treated as unlimited because Parliament itself derives its powers from the Constitution. Similarly, judicial review is essential for protecting fundamental rights and maintaining constitutional supremacy, but judicial authority should not become an unrestricted substitute for democratic decision-making. The appropriate constitutional balance lies between these two extremes. Courts should protect constitutional rights and invalidate legislation where genuine constitutional violations occur, while exercising restraint in matters involving legitimate policy choices. Parliament should respect constitutional limitations and recognize the judiciary's role in enforcing them. A stable constitutional order therefore depends upon separation of powers, institutional respect, proportionality, judicial restraint, and effective legislative responsibility. Ultimately, neither Parliament nor the judiciary should be regarded as constitutionally supreme over the other; the Constitution must remain supreme. A balanced relationship between judicial review and legislative authority can strengthen fundamental rights, democratic legitimacy, institutional stability, and the rule of law in Pakistan.

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