

## **Constitutional History of Pakistan: A Legal and Democratic Struggle**

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Islamic Republic of Pakistan became independent from colonial regime in the year 1947. It carries a unique history when it comes to development of its constitution. Current research paper presents the legal and historic background of constitutional framework of Pakistan. It depicts the enormous problems faced by the lawmakers while promulgating the constitution. This paper also discusses the landmark case law and jurisprudence forwarded by the superior courts of Pakistan while dealing with the core questions of constitutional law. Pakistan has experimented three constitutions' and multiple forms of government. The role of undemocratic forces cannot be neglected while talking about the constitutional norms. Parliamentary efforts have paved ways to prosecute any person or organisation that may abrogate the constitution such as military personnel. Constitutionalism in Pakistan enshrined the provision of human rights and independent judiciary for fair administration.

Constitutional developments have been explained in the context of social and political events that shaped them. Moreover it focuses on constitutional and political history, and constitutional development concurrently. It includes a liberal humanitarian methodology to travail lawmakers and the role of generals, judges, politicians, and bureaucrats in the implementation of law.

## **Is Our Judiciary Really Independent: Exploring the Reasons of Pakistani Judiciary's Hostile Behavior towards Constitution and Democracy**

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It is generally believed, and very often claimed by the judiciary, that the superior courts of the country are the custodian of the constitution. If it is true, and it should be true, then the history of the judiciary of Pakistan is quite shaggy when it comes to the protection of constitution and safeguarding democracy. Right from the famous *Federation of Pakistan v. Molvi Tameezudin Khan* case to *Zafar Ali Shah v. General Pervez Musharraf* case, the role of judiciary had been antagonist towards democracy, constitution and rule of law. There had been very rare exceptions, like *Asma Jilani v. Federation of Pakistan*, where the judiciary stood firm with the constitution and democracy. The reasons behind this behavior of the judiciary might have been different but the outcome had been the same: that the judiciary seems not to be independent which results into the suffering of the constitution and half in the continuation of democratic process. This paper intends to explain the history of the judiciary of Pakistan with respect to the constitution and democracy by examining the decisions of the Supreme Court of Pakistan from the early years of Pakistan to the beginning of 21<sup>st</sup> century. Moreover, this paper will make an attempt to explore the reasons why judiciary has been hostile towards democracy and constitution. The paper will also identify the effects of the particular behavior of the judiciary on the political history of Pakistan in particular and the society, economy and culture of Pakistan in general. The author will provide recommendations after duly concluding arguments.