

Pakistan's Approach to the Law of International Treaties

Usama Ahmad Khan¹

Faizan Ali²

¹ Master's Law of International Trade and Dispute Resolution, School of International Law, Higher School of Economics, Moscow Russia. Email: ukhan@edu.hse.ru

² Master's International Relations: European and Asian Studies, Faculty of World Economy and International Affairs, Higher School of Economics, Moscow Russia. Email: faizanali@edu.hse.ru

ABSTRACT

The treaties are foundational to international law and vital for addressing global challenges such as human rights, trade and environmental protection. This paper comprehensively examines Pakistan's approach to the law of international treaties, outlining the role of the state's organs in the process and their interaction with the doctrine of separation. Pakistan's practice remains largely executive-driven, with parliament and courts playing secondary roles. The paper follows how this executive dominance plays out differently across the three organs while parliament has been consistently marginalized despite repeated legislative attempts at reform, the judiciary displays a more selective pattern, applying international norms assertively in human rights matters while showing marked restraint over politically sensitive commitments. The study analyses how Pakistan's dualist legal system prioritizes domestic law over international obligations unless treaties are specifically incorporated through legislation and provides an overview of the country's engagement with major international treaties and highlights the political, institutional and constitutional factors shaping the country's treaty practices. In light of ongoing debates about enhancing transparency and accountability in treaty-making, the paper suggests reforms to align Pakistan's processes with both constitutional principles and international commitments. The findings contribute to a deeper understanding of the challenges faced by developing countries like Pakistan in balancing sovereignty with global cooperation.



© 2025 The Authors. Published by [Center of Innovation in Interdisciplinary Research \(CIIR\)](http://Center of Innovation in Interdisciplinary Research (CIIR)).
This is an Open Access Article under the Creative Common Attribution Non-Commercial 4.0

Article History: Received: 11-08-2025

Accepted: 15-12-2025

Published: 30-12-2025

Keywords: Treaty law, VCLT, United Nations, International Law, Constitution of Pakistan, International Relation

Corresponding Author's Email: ukhan@edu.hse.ru



<https://doi.org/10.62585/ilhr.v4i1.178>

1. Introduction

Treaties form the very basis of International Law which is governed by the Law of International Treaties. International treaties are express written agreements, mostly binding between sovereign states and international institutions administered by international law. (Shaw, 2021, pp. 89–93) Treaties can be referred to by several other names from Conventions, International Agreements, Pacts, General Acts, Charters, to Statutes, Declarations and Covenants. Law of treaties provides a structured framework for states to resolve global challenges arising in a dynamic geopolitical environment. Treaties are an effective mechanism to advance the issues of human rights and environmental protection and other mutual problems faced by humanity in the world. Bilateral and multilateral economic agreements between states and parties facilitate the smooth trade around the globe vital to world's economy and sustainable development. (Klabbers, 2017, pp. 142–145)

Vienna Convention on Law of Treaties itself defines treaty as ‘an international agreement concluded between states in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation’. (Vienna Convention on the Law of Treaties, 1969, art. 2(1)(a)) The law to govern transnational agreements between states evolved over time before finally coming up with Vienna Convention on Law of Treaties which has acquired customary nature. VCLT even not being formally recognized by many states but it still acts as legal authority regarding treaties mechanism. (Aust, 2006) Treaties are as old as the recorded history of humankind and there might exist some other form as well predating writing systems. (Nussbaum, 1954, p. 1) International treaties’ legal force stems from the international law’s foundational principle ‘*pacta sunt servanda*’ (pacts must be respected) which obligates parties to uphold treaty commitments in good faith. (Vienna Convention on the Law of Treaties, 1969, art. 26)

Pakistan is a dualist country where domestic law is supreme and international law needs municipal effectuation. Like many other common law countries, negotiations and conclusion of treaties remains executive’s domain while parliament and judiciary only act in implementation of the treaties entered by the government. (Hamid, 1994, pp. 127–142) The doctrine of separation of powers serves as the fundamental principle of Pakistan’s constitutional law, establishing a system of trichotomy of powers between the executive, parliament and judiciary. It requires the organs of state to work in their domains for smooth governance however these organs have often encroached upon each other over the course of country’s constitutional history. (Soomro, et al., 2023 pp. 144–156)

Pakistan is a parliamentary democracy, but the Constitution remains the supreme order. There have been repeated calls to reform the country's treaty-making process, particularly from parliamentary quarters seeking oversight powers. (Ghouri, 2021, pp. 137–155) The executive, which holds ultimate authority over treaty-making has consistently opposed this on the grounds that legislative involvement would unnecessarily complicate the process and carry implications for Pakistan's standing at the international stage. While prior scholarship has examined Pakistan's executive-dominated treaty practice in general terms, this paper contributes an updated, institution-by-institution account that traces how executive dominance operates differently across the three organs of the state with most notably, a judiciary that applies international norms assertively in human rights matters while exercising marked restraint over politically sensitive commitmentss. This paper examines Pakistan's approach to the law of international treaties, analyzing the process of treaty-making in the country. The study mainly addresses the following questions:

- 1) Does Pakistan need to have a parliamentary oversight to reform the country’s executive dominated

process of entering into international treaties or it will be against the doctrine of separation of power?

- 2) What is the role of judiciary having powers of judicial review in municipal effectuation of international treaties?

This paper examines Pakistan's treaty-making process to give an understanding of the country's approaches to the law of international treaties. It highlights the executive's dominance in negotiations, ratification and implementation while assessing the parliament's struggle for oversight and the judiciary's role in enforcing treaty obligations. The study ultimately proposes reforms to strengthen transparency and accountability while respecting Pakistan's constitutional framework and international commitments.

This study employs a qualitative, doctrinal research design to examine Pakistan's approach to the law of international treaties, analyzing three institutional areas: executive authority, parliamentary oversight and judicial practice, in the light of the constitutional doctrine of separation of powers. The analysis draws on primary constitutional and statutory text, the legislative record case law supplemented by comparative reference to other common law jurisdictions around the world. Findings will provide insights into Pakistan's treaty practices and contribute to the broader discourse on the role of developing countries in international law.

1.1 Overview of Pakistan's engagement with international treaties

Over the last two centuries there has been rapid development of international law and progress in foreign relations and diplomatic events. It was reflected in the institutionalized treaty-making as seen in the formation of the League of Nations in 1919 after World War I which was dissolved with start of World War II and later in 1945 after the end of war states joined together to sign Charter of United Nations which established United Nation Organizations (UNO). (Shaw, 2021, pp. 22–27)

Pakistan became independent in 1947 and soon afterwards joined the United Nations (UN) which marked Pakistan's first engagement with international treaties. (United Nations General Assembly, 1947) Pakistan's foreign policy vision was to march with international community and base its relations with the UN on justice, equality, and respect for international law. This commitment to fairness and mutual cooperation was central to the country's approach, as emphasized by founder of Pakistan Muhammad Ali Jinnah.

“Our foreign policy is one of friendliness and goodwill towards all the nations of the world. We do not cherish aggressive designs against any country or nation. We believe in all principles of honesty and fair play in national and international dealings and are prepared to make our utmost contribution to the promotion of peace and prosperity among the nations of the world. Pakistan will never be found lacking in extending its material and moral support to the oppressed and suppressed peoples of the world and in upholding the principles of the UN Charter.” (Jinnah, as cited in Ahmed, 1976, pp. 463–464)

Pakistan being a dualist state with regard to International Law had a pragmatic approach to international treaties which requires municipal effectuation to enforce treaty obligations as law of the land is considered supreme. (Hamid, 1994, pp. 127–142)

After acceding to UN Charter and being accepted as a member to the United Nations Organization (UNO), Pakistan also became party to other key international treaties like Geneva Conventions in 1949 to establish

humanitarian law norms and abide by the law of conflict. Another important charter to which Pakistan endorsed was Universal Declaration of Human Rights (UDHR) in 1948 as its resolve to march with international community in support of human rights. In 1948 Pakistan became a member of the General Agreement on Tariffs and Trade (GATT) 1947 for cooperation between states to reduce trade barriers and facilitate economic cooperation which is the predecessor of the World Trade Organization (WTO).

Pakistan soon after its independence faced existential threat from its neighbor India after the start of conflict over Kashmir and other disputes which continue to this day. It pushed Pakistan to align with Western backed alliances which mainly were to contain Soviet Union's growing influence. Pakistan became party to SEATO (1954) & CENTO (1955) for the purpose and acquired military and economic assistance from West.

Pakistan signed various bilateral treaties and the Bilateral Investment Treaty (BIT) between Germany and Pakistan signed in 1959 is notable in this regard for being the first ever BIT to be signed between any two countries in the world. (Venzke & Günther, 2022, pp. 1183–1207) Today Pakistan has more than 50 such BITs and numerous other bilateral cooperation treaties signed with various countries around the world. Free Trade Agreements (FTAs) or Preferential Trade Agreements (PTAs) and Double Taxation Treaties are other examples of economic agreements Pakistan have entered into over the course of time. The agreements on China Pakistan Economic Corridor (CPEC) are recent landmark agreements in the arena of economic cooperation.

In 1960 World Bank mediated between Pakistan and India over water dispute and Indus Waters Treaty (IWT) was signed by India and Pakistan for water sharing between them over the rivers. Pakistan as a lower riparian state is fed by rivers coming from part of disputed region of Kashmir controlled by India. IWT brokered by World Bank solved the issue of water sharing for quite some time however tensions continue to this day with Indian demands of renegotiating the treaty. Other significant bilateral treaties with India mainly centered around conflict resolution include 1950 Liaquat-Nehru Pact over refugees issue, 1965 Tashkent Declaration regarding the cessation of hostilities after 1965 Indo-Pakistani War 1972 Simla Agreement after 1971 Indo-Pakistani War which established Line of Control (LOC) in disputed region of Kashmir and 1999 Lahore Declaration for cooperation in governance and reducing nuclear tensions after both countries tested nuclear weapons. (Ghouri, 2021, pp. 137–155)

Pakistan as a country always sought brotherly relations with Islamic world. Constitution of Pakistan specifically binds the country to work towards unity of Islamic nations and support the common interests of peoples around the world. In 1969 Islamic nations gathered in Morocco to condemn the arson at Al Quds Mosque in Jerusalem and formed the Organization of Islamic Cooperation (OIC). Pakistan became founding member to the OIC Charter which calls for preserving Islamic social and economic values; promoting solidarity amongst member states; increased cooperation in social, economic, cultural, scientific, and political areas; uphold international peace and security; and advance education, particularly in science and technology in Islamic world. (Organization of Islamic Cooperation, 2025)

Pakistan also became part of regional treaties to advance cooperation in governance and economy. In 1964 Regional Cooperation for Development (RCD) was founded by Pakistan, Iran and Turkey which was succeeded by Economic Cooperation Organization (ECO) in 1985. The organization now has membership of various post-Soviet Eurasian countries which actively work with other members of ECO in bilateral framework to promote trade and investment among each other.

Another important but almost defunct regional organization is South Asian Association for Regional Cooperation (SAARC) founded in 1985 by the South Asian nations as intergovernmental organization for

economic development and regional integration. However due to geo-political rivalry between Pakistan and India, SAARC has mostly been inefficient in its objective and purpose.

Pakistan signed Vienna Convention on Law of Treaties in 1970 (United Nations, 1987) after it was adopted in 1969 but it has not yet been ratified domestically. However VCLT is still used to an extent as it got the status of customary source on treaties as evident in the decisions of country's higher judiciary. (Snamprogetti Engineering B.V. v. Commissioner of Inland Revenue Zone-II, 2023) In modern times Pakistan signed and ratified various human rights as part of its alignment with international community in 21st century with and without reservations. Pakistan became party to Convention on the Rights of the Child (CRC), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT), International Covenant on Civil and Political Rights (CCPR), International Convention on the Elimination of All Forms of Racial Discrimination (CERD), International Covenant on Economic, Social and Cultural Rights (CESCR), Convention on the Rights of Persons with Disabilities (CRPD) etc. (United Nations Human Rights Treaty Body Database, 2025) As a country adversely affected by climate change and global warming around the world, Pakistan entered into various climate agreements as part of its commitments to sustainable developments. Pakistan ratified United Nations Framework Convention on Climate Change (UNFCCC), the Kyoto Protocol, and the Paris Agreement. (Ministry of Climate Change and Environmental Coordination, 2025)

2. Pakistan and Law of International Treaties

International treaties, administered by the 1969 Vienna Convention on the Law of Treaties (VCLT) serve as the basis of modern interstate relations. This chapter deliberates upon Pakistan's treaty practice through three core institutional lenses. First, it examines the executive's unimpeded dominance in treaty-making under constitutional authority which is a legacy of colonial-era foreign policy centralization. Second, it assess Parliament's marginal role, contrasting Pakistan's weak oversight mechanisms with other common law countries where parliament has major role in ratification of important treaties. Third, it analyzes judicial practices, where courts have a traditional dualist approach, requiring municipal effectuation to enforce treaty obligations, a stance that has though shielded national sovereignty but results in delayed compliance with international norms.

Pakistan, a state balancing strategic alliances, economic development and a moderate religious identity, finds itself in a genuine paradox with respect to international treaties. They offer clear opportunities for global integration but still their ratification and implementation are persistently shaped by tension between international obligations and domestic sovereignty. This tension reflects strategic pragmatism rather than systematic compliance. The treaties function in practice as diplomatic tools to be adopted, delayed or qualified as circumstances demand, rather than as binding commitments entered into on principle. The religious reservations attached to the CRC, CEDAW's delayed ratification until 1996 alongside continuing reservations over interpretation and jurisdiction and the hastily approved 2020 FATF action plan all illustrate the same underlying pattern that the political and ideological considerations routinely override domestic checks and international legal norms alike. The three sections that follow examine how this pattern plays out differently across the executive, Parliament, and the judiciary, and the analysis returns in the Conclusion to what reforms would align Pakistan's treaty practice with its own constitutional values and international commitments.

2.1 Executive as sole authority for approving international treaties

Pakistan has, since independence in 1947, signed over 500 multilateral treaties but it still has one of the

lowest ratification rates of core UN human rights instruments in South Asia relative to regional countries such as India and Bangladesh. (United Nations Treaty Collection, 2025) This gap is not simply a matter of bureaucratic capacity, it reflects the same executive-centralization pattern examined throughout this section, in which the near-total absence of legislative or judicial checks on ratification allows the executive to defer, qualify or decline instruments without needing to build the domestic political consensus a more participatory process would require. In Pakistan the usual practice in acceding to international treaties from negotiations to the ratification has solely been the executive function much like other common law countries. There doesn't exist any specific legislation with regard to negotiations and conclusion of treaties in Pakistan. (Ghouri, 2021)

The Constitution of Pakistan through its various provisions enables the federal government to perform executive functions which includes the foreign relations of Pakistan. (Constitution of Pakistan, 1973, arts. 40, 90)

Article 97. Extent of executive authority of Federation

Subject to the Constitution, the executive authority of the Federation shall extend to the matters with respect to which Majlis-e-Shoora (Parliament) has power to make laws, including exercise of rights, authority and jurisdiction in and in relation to areas outside Pakistan. (Constitution of Pakistan, 1973, art. 97)

The scope of the executive's foreign-relations authority under the Constitution is further elaborated, though not in great detail, in the Fourth Schedule under the Federal Legislative List, which assigns 'External Affairs' to the Federal Government,

Federal Legislative List

1. External affairs; the implementing of treaties and agreements, including educational and cultural pacts and agreements, with other countries; extradition, including the surrender of criminals and accused persons to Governments outside Pakistan.
32. International treaties, conventions and agreements and International arbitration. (Constitution of Pakistan, 1973, Fourth Schedule, pt. I)

Constitution allows the federal government to make rules of business to conduct the executive functions through which executive regulates the power over treaty making process. (Constitution of Pakistan, 1973, art. 99(3))

Rule 16. Cases to be brought before the Cabinet.

(1) The following cases shall be brought before the Cabinet:

(h) proposals for signing of negotiated instruments with foreign countries and approval for ratification of the instruments. (Rules of Business, 1973, r.16(h))

Pakistan's treaty accession process is fundamentally executive-driven, with the Cabinet serving as the ultimate decision-making body under the Rules of Business, 1973. The rules create a hierarchical approval system that prefers executive efficiency over legislative oversight in treaty matters. The Cabinet headed by Prime Minister of Pakistan decides upon the whole process from negotiations to signatures and reservations to ratification. All proposals for signing or ratifying international instruments are brought before the Cabinet, though preliminary approval from the Minister of Foreign Affairs and relevant

Minister of the concerned Division is required before commencement of negotiations. The Prime Minister as head of government maintains special oversight, especially regarding cases with considerable policy implications for the country.

This concentration of authority in a single organ without a parallel requirement of parliamentary notice before signature, textually exceeds what Article 99 itself requires: the provision empowers the executive to authenticate instruments in the President's name but nowhere excludes prior legislative consultation as a matter of constitutional text. (Constitution of Pakistan, 1973, art. 99(3)) The exclusivity now practiced is therefore better understood as an executive convention consolidated through the Rules of Business rather than a constitutional command.

The framework consolidates treaty-making authority within the executive branch, with the Cabinet and Prime Minister exercising discretionary power upon agreements reaching the decision-making stage and their implementation domestically which is overseen by Cabinet Division's Treaty Implementation Cell. Some inter-ministerial consultation requirements are given by the rules of procedure in this regard, however the process mostly excludes parliamentary participation till the ratification stage. The involvement of parliament is only to the extent if the treaty requires enabling legislation for its implementation, parliament's has to pass the legislation for treaty to take effect. Furthermore important treaty documents are to be laid before National Assembly or Senate for reporting after the completion of process.

The executive's authority as sole player in the process of becoming party to international treaties and foreign agreements often receives criticism, mostly from parliamentary corridors. The Constitution of Pakistan provides for a parliamentary form of government where executive authority rests with Prime Minister elected from Parliament. The constitution also provides for the doctrine of separation of powers between the organs of state, i-e Executive, Parliament and Judiciary. However over the course of constitutional history of the country these organs have often encroached each other's domain and the separation of power is seen more in theory than practice. (Gilani et al., 2023) Executive has often been accused of overstepping its constitutional domain and the most recent example of which can be seen in the 26th Amendment to the Constitution of Pakistan whereby judiciary's powers came under executive's watch.

Pakistan's near-total executive control over treaty ratification creates a system that prioritizes expediency over transparency and democratic accountability. The Prime Minister-led Cabinet functions as the sole decision-maker with no constitutional or legal requirement to seek parliamentary approval before binding the state to international agreements. This concentration of authority allows treaties to be negotiated, signed, and ratified with limited public or expert scrutiny which was seen in rushed commitments like the FATF action plans and certain CPEC-related agreements. While the Foreign Ministry and relevant divisions technically oversee negotiations, real decision-making power rests with the Prime Minister who can fast-track politically convenient treaties while delaying or diluting others. The CRC's ratification, for instance, came with a religious reservation over the adoption provisions which Islamic law generally does not recognize; this reservation was later withdrawn in 1997. CEDAW's ratification was similarly delayed for religious reasons and was finally ratified with a general declaration subjecting it to the provisions of the Constitution, only after sustained pressure from women's NGOs and human rights organizations. Both examples illustrate the same dynamic that the executive discretion is exercised not according to a consistent doctrine but according to the relative political cost of compliance versus reservation in each case. (Ali, 2000)

This criticism's from parliamentary quarters has largely remain unheeded. Parliamentarians repeatedly

demand more transparency in country's foreign agreements. The 2020 Financial Action Task Force (FATF) commitments, hurriedly adopted under executive authority by then Pakistani government, embody this duality. Though it ensured Pakistan's removal from the FATF's grey list, they sparked debates about Pakistan entering into its international commitments without carefully reviewing its specifics which results in confusion and conflict in country's legal order. (Khan, 2023, p. 37) The episode is instructive precisely because it shows executive urgency functioning as a substitute for institutional process: the same speed that secured a favourable international outcome also foreclosed the kind of scrutiny that might have surfaced implementation problems before ratification rather than after.

The executive's monopoly in this matter also enables strategic non-compliance, as treaties lack domestic enforceability without enabling legislation owing to dualist nature of country, a loophole exploited to avoid inconvenient obligations. This centralized process undermines Pakistan's international credibility, as treaties become tools of short-term diplomacy rather than enduring commitments. Without institutional checks, the executive's treaty power remains vulnerable to political whims, foreign pressure, and bureaucratic complexities, often at the expense of national interest and legal consistency.

1.1 2.2 Parliamentary oversight of treaty approval

Parliament of Pakistan has no active role in treaty approval process in the country. According to the constitution the executive organ of the state usually holds this power and navigates the process throughout the negotiations, authentication, reservations or ratification. The parliament only acts as enabler for implementation of the foreign agreements in the country owing to dualist approach of country towards international law. The 1973 Constitution of Pakistan does not provide for parliamentary approval of treaties, though it binds the executive, the Cabinet, together with the Ministries of State to be collectively responsible to the Parliament.

91. Cabinet

(6) The Cabinet, together with the Ministers of State, shall be collectively responsible to the Senate and the National Assembly.
(Constitution of Pakistan, 1973, art. 91(6))

Thus any agreement or treaty entered into by the executive with a foreign government can on a motion in the parliament be subjected to debate and discussion by the Parliament and it can pass a resolution for consideration of the Government. Unlike many other democratic states where legislatures play an active role in approval of treaties and are ratified by them, Pakistan's Parliament remains largely sidelined in the treaty-making process.

In various common law countries although this function remains with executive however legislature checks are present in some way. Neighboring India which also inherits the same colonial legacy being a common law country has similar but effective mechanism. Although the process of approval of treaties is mainly executive driven, parliament is consulted at various stages in the process especially if the treaty has important implications for the state's subjects parliament has limited oversight in a structured manner to legislate over them. In contrast Pakistan's parliament can't independently oversee treaties and they are only tabled in parliament for reportage and if requires for enabling legislation.

In other common law systems like Australia has created a Parliamentary Joint Standing Committee on Treaties which oversees the process. Similarly, the United Kingdom has legislation requiring Parliamentary approval of treaties before their ratification by the government executives. In the United States, important treaties signed by the President have to be approved by the US Senate which effectively

acts as a check on executive's authority.

However in a parliamentary form of government like that in Pakistan, the executive comes from within the parliament and the two functions, legislative and executive is combined in the same group of persons and happens in close cooperation of both. Although in theory parliament can block treaty's implementation by holding back the enabling legislation but it's less likely since the government comes from within the majority group of parliament unless the government's coalition is weak. Thus in practice it doesn't happen as people who legislate to the extent of treasury benches and those who govern are the same and parliamentarians are bound by the party or coalition's policy in this regard to support such legislation. The executive formed by the majority group of parliament as long as retains the majority can ensure the enabling legislation requirement with the close cooperation between the two organs of the state in principle. (Hamid, 1994, pp. 127–142)

Parliament in Pakistan retains limited but indirect influence though there is no constitutional requirement for parliamentary approval before treaty ratification. The Senate's Standing Committee on Foreign Affairs can review treaties but cannot block ratification. Treaties are not automatically binding domestically unless implemented via legislation giving Parliament a post-hoc role in the process. Parliament may discuss treaties if tabled but debates are non-binding. Enabling legislation is required for domestic implementation in cases such as the 2020 FATF action plan and the legislation giving effect to the International Court of Justice's 2021 judgment in the *Kulbhushan Jadhav* case, an Indian national convicted of espionage in Pakistan and it is this requirement that gives Parliament its principal point of leverage over enforcement. (Dawn.com, 2024)

Pakistan does not have any special statute or act with regard to approval of treaties. There have been attempts on occasions to bring such legislation but the bills were rejected due to government's opposition. In 2007 a private member bill to formalize the process of treaty ratification was rejected. Similarly in 2013 another such bill failed owing to government's consideration of the matter being executive's domain constitutionally. The last such attempt was done in 2018 with the draft bill of Ratification of Foreign Agreements by Parliament Bill, 2018. (Ghouri, 2021, pp. 137–155) The bill was referred to Senate's Standing Committee on Law and Justice reviewed the bill, which sought to mandate parliamentary ratification of foreign agreements. The bill argued that various treaties particularly those with economic, political, or human rights implications for the country are ratified solely by the Cabinet under the Rules of Business, 1973, without the involvement of Parliament to scrutinize them. The bill proposed that all foreign agreements should be laid before Parliament within 15 days of signing for consideration and will require passing from both houses of the parliament. Provided further that, where a resolution to withhold ratification is passed by a 55 percent majority vote, the treaty would be deemed not to have received Parliament's ratification. (Ratification of Foreign Agreements by Parliament Bill, 2018, ss. 3–4)

However, the Ministry of Law and Justice opposed the bill, referring to Article 99 of the Constitution which grants the executive authority to authenticate treaties without the requirement of legislative approval. It was of the view that parliamentary ratification could create diplomatic complications and leave the government in embarrassing situation and may impact the foreign relations of Pakistan. The Ministry of Foreign Affairs echoed these concerns, arguing that Pakistan's executive-led treaty process is in conformity with other common law systems like India and Australia, where ratification remains an executive function. The Economic Affairs Division also objected to the bill with the concerns of complications in process of monetary agreements critical for fiscal stability of the country.

This justification however, does not fully withstand comparative scrutiny. Article 99 empowers the President, acting on the executive's advice, to authenticate instruments made in the exercise of executive

authority, a textual grant of authenticating power, not an express bar on prior parliamentary involvement. (Constitution of Pakistan, 1973, art. 99(3)) The "diplomatic embarrassment" rationale is also difficult to reconcile with the experience of the United Kingdom where treaties must be laid before Parliament for a set period before ratification, or of the United States, where the Senate's advice-and-consent role for major treaties is constitutionally entrenched; neither system has been rendered diplomatically dysfunctional by legislative involvement. The Ministry's comparison to India is also incomplete, while India's executive retains formal ratification authority, significant treaties are in practice routinely placed before Parliament for debate through mechanisms outside strict constitutional compulsion, giving India's process more built-in transparency than Pakistan's despite the similar formal structure.

The government's objection rests less on a demonstrated risk of diplomatic paralysis than on a preference for procedural convenience, a distinction the Committee's ultimate reasoning did not examine. The lawmaker emphasized on democratic transparency but majority of committee members were convinced by government's position and ministries' concerns and rejected the bill, affirming that treaty-making is an executive prerogative. The committee ultimately concluded that while Parliament should exercise oversight through debates and committee reviews, forcing ratification would violate the separation of powers doctrine embodied in the country's constitution. The bill was defeated in a unanimous vote in the committee, preserving Pakistan's executive-dominated treaty process. (Senate Standing Committee on Law and Justice, 2020, pp. 373(5)–373(10))

Pakistan's Parliament currently has a minimal role in process of approving foreign treaties to the extent of enabling legislation reflecting sort of a democratic deficit. Unlike other constitutional systems blending executive negotiation with legislative scrutiny, Pakistan's process is entirely executive-dominated. The constitution empowers the Cabinet alone to do the whole process, reducing Parliament to a post-hoc debating chamber with no binding authority. Legislative attempts to reform this approach have consistently been defeated on the grounds of the constitutional doctrine of separation of powers, with the executive gatekeeping the authority throughout. This marginalization raises concerns regarding transparency of the agreements entered into by government.

The Standing Committee on Foreign Affairs nominally reviews treaties but cannot block ratification or give binding considerations. Parliament can debate treaties and legislate for domestic enforcement but these powers are reactive, not proactive. For example, human rights treaties CRC, CEDAW, ICCPR etc ratified with religious reservations by the executive, leaving Parliament to later bridge conflicts through piecemeal legislation. Similarly for economic agreements like CPEC, IMF, FATF-related ordinances, parliament lacks authority to amend terms, only approving the executive-driven enabling legislation, often under significant time pressure that leaves little room for genuine deliberation. This receives backlash and criticism from parliament and civil society quarters as restricting the role of parliament to being a mere rubber stamp for legislation by the executive. (Dawn.com, 2024)

Introducing limited oversight in a structured manner could address key gaps in the current approval process. Mandating pre-ratification debates would expose foreign agreements opaque terms for public scrutiny and transparency of these agreements. Requiring simple-majority approval for some important treaties would align Pakistan with global norms like EU member states' parliamentary ratification. A parliamentary committee to review and be part of the process of approval could also be suitable approach.

However, excessive legislative control comes with risks as well especially in cases of hung parliaments like that in Pakistan. Opposition can politicize the matters of national importance as well to give tough time to government and cause diplomatic delays for multilateral treaties many of which require swift ratification to avoid isolation as nearly happened with FATF grey-listing.

The issue of religious reservations could further exacerbate as religious parties although couldn't form governments in Pakistan but maintains a presence in the parliament which could further delay international treaties citing Islamic rules as they interpret which usually is a hard-line approach rather than government's moderate approach.

Parliament's populism can also politicize technical agreements or reject treaties due to short-termism. Parliamentarians come from various backgrounds and not all of them have good understanding of international relations and international law. A further complication arises at the level of federal-provincial relations. Since the 18th Amendment devolved significant subject matter to the provinces, treaties touching on devolved areas of environmental commitments, water-sharing arrangements, or resource-linked agreements connected to projects such as CPEC which raise a genuine question of whether provincial consent should be sought through the Council of Common Interests before ratification, given that implementation of such treaties may fall substantially within provincial competence. Though currently, no formal mechanism requires this consultation, meaning provinces can be bound by international commitments affecting devolved subjects without a structured voice in their negotiation.

1.2 2.3 Judicial practice in application of treaties

The judiciary in Pakistan has a limited but important role in the treaty-making process, mainly through post-ratification review rather than direct involvement in negotiations or ratification. The Constitution mandates treaty-making to be an executive domain and the separation of powers doctrine restrains the judiciary and the executive from encroaching upon each other's domains, a principle affirmed in the higher judiciary's own decisions in various cases. (Soomro, et al., 2023) Under the powers of judicial review enshrined in the constitution, superior judiciary can review the constitutionality of the actions of executive and even parliament.

184. Original Jurisdiction of Supreme Court

(3) Without prejudice to the provisions of Article 199, the Supreme Court shall, if it considers that a question of public importance with reference to the enforcement of any of the Fundamental Rights conferred by Chapter I of Part II is involved have the power to make an order of the nature mentioned in the said Article. (Constitution of Pakistan, 1973, arts. 184(3), 199)

Pakistan follows a dualist system, by which international treaties do not automatically become part of domestic law unless implemented through enabling legislation and domestic laws have precedence over international rules. Higher judiciary has shaped this framework through key rulings while balancing executive prerogatives and constitutional rights. Judiciary in Pakistan has constitutional authority to interpret the law and fill the vacuum where law is silent. The status of customary international law and international treaties, specifically in relation to their application by the courts of Pakistan has been debatable. A High Court in Pakistan, in *Saeed Ahmad v. Mahmood Ahmad*, considered whether the provisions of international treaties can be applied in the domestic legal order of Pakistan in absence of municipal effectuation held that the country inherited the English judicial system and thus English concepts of international law should be held to prevail in Pakistan as well. (Saeed Ahmad v. Mahmood Ahmad, 1968)

The question of relationship between international law and domestic law and legal status of treaties was also discussed in another case before a High Court which gave a landmark judgment in this regard. In the decision of *Messrs. Najib Zarab Ltd. v. The Government of Pakistan*, honorable court held that nations must march with the international community and the municipal law must respect rules of international

law provided they do not conflict with existing parliamentary statutes. While acknowledging the British doctrines of 'incorporation', automatic absorption of international law and 'transformation', requiring legislative enactment, the ruling tilted towards conforming domestic law with international obligations as a matter of comity among nations. However, it upheld the supremacy of national sovereignty, clarifying that where international norms conflict with Acts of Parliament, domestic law prevails unless expressly accepted by the legislature. (Messrs. Najib Zarab Ltd. v. Government of Pakistan, 1993)

The Supreme Court of Pakistan adopted stricter dualist approach to international law in line with state's policy. In the case of *Federation of Pakistan v. Messrs Dalmia Cement Co. Ltd*, it was emphasized that while international obligations may theoretically bind the state, they cannot be enforced domestically without explicit legislative incorporation. The Court categorically viewed that domestic courts lack authority to recognize or enforce predecessor state obligations or general principles of international law unless Pakistan's legislature has expressly adopted them through statutory law. (Federation of Pakistan v. Messrs Dalmia Cement Co. Ltd, 1962)

Read together, *Najib Zarab* and *Dalmia Cement* reveal an unresolved tension within Pakistan's dualist jurisprudence. *Najib Zarab*, decided by a High Court leaned toward harmonizing domestic law with international obligations as a matter of comity while *Dalmia Cement*, decided by the Supreme Court took the stricter position that unincorporated international obligations cannot bind domestic courts at all. Because *Dalmia Cement* is a Supreme Court decision, it formally carries greater precedential weight and the case practice examined below suggests courts have in fact continued to observe a broadly dualist default. What *Najib Zarab*'s comity-based reasoning appears to have shaped however, is not the formal doctrine so much as the interpretive practice discussed later in this section, where courts increasingly use treaty language as an aid to interpreting domestic statutes without treating the treaty itself as directly enforceable. The two cases are therefore better read as marking the outer boundaries of a spectrum rather than as a resolved doctrinal conflict.

Although the court practice has mostly adhered to country's dualist approach, in certain circumstances the courts of Pakistan to meet the ends of justice did apply international customary law or treaty law as a matter of policy in the absence of domestic legislation. On the issue of sovereign immunity in the cases of *M. A. Qureshi v. The Union of Socialist Soviet Republics* and *Messrs Gammon-Layton v. Secretary of State of the United States of America*, the court ruled in favour of applicants that the acts which are only Jure Gestionis are not immune and courts can exercise jurisdiction over the acts of state which are commercial in nature. (Hamid, 1994, pp. 127–142) Courts in various judgments cited the rule regarding interpretation of statutes given in the authoritative work of Sir Peter Benson Maxwell, *On the Interpretation of Statutes* that every statute is to be interpreted and applied, as far as its language admits, as not to be inconsistent with the comity of Nations or with the established rules of international law. (Maxwell, 1976)

In Pakistan, while courts cannot directly enforce unincorporated international treaties due to the country's dualist legal system, they can exercise the powers of judicial review enshrined by the constitution of Pakistan. Though the courts have been cautious in its use over international agreements and subsequent domestic legislation. However, clear conflicts between statutes and unincorporated treaties are resolved in favor of parliamentary supremacy. This framework maintains legislative primacy and allows for meaningful judicial oversight of how international commitments are domesticated, balancing Pakistan's global engagements with constitutional sovereignty. Recent jurisprudence demonstrates a balanced approach where courts reference international norms as interpretive tools while steadfastly upholding their mandate to protect the Constitution's supremacy. Pakistani judges increasingly utilize harmonization principles, interpreting domestic laws in light of treaty commitments where possible, as seen in a range

of cases from human rights to environment law. (Riar, 2019, p. 108)

Pakistan's evolving judicial activism, particularly in international commercial agreements, reveals a paradox in how courts engage with international law. Courts demonstrated progressive tendencies in human rights cases by citing international treaties but the judiciary remains constrained by Pakistan's strict dualist tradition when it comes to treaty enforcement. Courts have shown creativity in harmonizing domestic laws with international norms yet maintain deference to parliamentary supremacy and executive authority in foreign affairs. (Awan, 2014)

By comparison, Indian courts have engaged in more active constitutional review of treaty-related executive action and EU courts operate under a comparatively systematic framework of treaty oversight. Pakistan's judiciary, by contrast, has developed neither a consistent doctrine nor procedural mechanisms for comprehensive international law integration. Judges have actively employed international standards to expand constitutional rights protection but avoided scrutinizing executive-dominated treaty processes like FATF agreements or economic commitments such as IMF conditions which reflects strategic judicial restraint in politically sensitive areas while permitting innovation in less contentious domains. This is not simply inconsistency, it is a discernible pattern in which the judiciary appears willing to assert interpretive authority precisely where doing so expands individual rights and carries limited institutional risk and to withhold it where doing so would require confronting the executive's core prerogative over foreign economic and security policy. The selectivity identified here is therefore less a temporary inconsistency than a structural feature of how Pakistani courts currently negotiate the tension between constitutional sovereignty and international engagement and it is this feature, more than the formal dualist/monist classification that best explains the unpredictability of Pakistan's treaty practice as a whole.

2 3. Conclusions

Pakistan's treaty-making process is characterized by executive dominance, minimal parliamentary oversight, and a judiciary that is assertive in some domains but restrained in others, a pattern that is traced across each of the three organs of the state. The executive, empowered by the Constitution, holds near-exclusive authority over treaty negotiation, ratification, and implementation, largely bypassing parliamentary scrutiny and public debate. This has raised legitimate concerns regarding transparency in country's international commitments and selective compliance, where treaties serve short-term diplomatic goals instead of enduring national interests.

Meanwhile Parliament's role is largely symbolic, limited to post-hoc debates and reactive legislation driven by executive with no formal power to approve or give binding considerations on treaties. Attempts to legislate greater oversight the approach from time to time have been rejected owing to the constitutional doctrine of separation of powers.

The judiciary formally bound by dualism, has not applied that doctrine uniformly and has a cautious approach by upholding the supremacy of domestic legal order over unincorporated treaties though there's an increasing trend of bridging the gap between both by harmonizing domestic laws with international rules. The courts have been willing to draw on international human rights norms as an interpretive resource while remaining notably restrained toward executive-driven, politically sensitive commitments. This selectivity rather than a simple tension between global engagement and constitutional sovereignty is what leaves Pakistan's treaty practice fragmented and difficult to predict in any given case.

To address these gaps, targeted reforms are needed for each branch. Executive requires more transparent approach with public disclosure of treaty texts and Cabinet meeting summaries for ratified agreements. The government should be compelled to explain treaty reservations to Parliament. A Treaty Registry

should be maintained by government wherein a public database of all ratified treaties and implementing laws should be uploaded.

Parliament should be given an increased role, at minimum, being kept informed and consulted throughout the approval process for important treaties affecting sovereignty, human rights or federalism. A Parliamentary Committee on Treaties can be established comprising of international law experts among parliamentarians to give binding considerations on treaties pre-ratification.

Judiciary should play positive role using its judicial review powers to bind executive to properly follow the mechanism of approving treaties aligning with constitutional standards and international norms. Supreme Court's advisory opinions can be required over the treaties with opaque terms for clarification by the executive.

A balanced treaty framework retaining executive leadership in negotiations but requiring parliamentary consideration and judicial involvement for high-stakes agreements would strengthen Pakistan's compliance with international law while safeguarding democratic norms. The separation of powers in Pakistan's Constitution creates distinct roles for each branch of government while allowing for necessary cooperation to ensure smooth and coordinated governance. Executive efficiency, parliamentary scrutiny and judicial review are not mutually exclusive. A reformed treaty process would align Pakistan's international commitments with its constitutional principles of transparency, accountability, and federalism. By adjusting the roles of all three branches, Pakistan can reform its dualist tradition with the needs of a globalized legal order, ensuring treaties serve as instruments of long-term national interest, not just diplomatic convenience.

References

- Ali, S. S. (2000). Law, Islam and the women's movement in Pakistan. In S. M. Rai (Ed.), **International perspectives on gender and democratisation** (Women's Studies at York Series). Palgrave Macmillan.
- Aust, A. (2006). Vienna Convention on the Law of Treaties (1969). In R. Wolfrum (Ed.), **Max Planck encyclopedia of public international law**. Oxford University Press. <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1498>
- Awan, M. R. (2014). **Judicial activism in Pakistan in commercial and constitutional matters: Let justice be done though the heavens fall**. Semantic Scholar.
- Constitution of the Islamic Republic of Pakistan, 1973 (Pak.).
- Dawn.com. (2024, October 20). Judicial capture: Lawyers react to 'diluted' 26th Constitutional Amendment Bill. <https://www.dawn.com/news/1866477>
- Federation of Pakistan v. Messrs Dalmia Cement Co. Ltd., PLD 1962 SC 260 (Pak.).
- Ghouri, A. (2021). Democratising foreign policy: Parliamentary oversight of treaty ratification in Pakistan. **Statute Law Review*, 42*(2), 137–155. <https://doi.org/10.1093/slr/hmz023>
- Gilani, S. R. S., Ullah, Z., & Zahoor, S. (2023). Democracy, economic development, and the separation of powers in the 1973 Constitution of Pakistan: A critical analysis. **Qlantic Journal of Social Sciences and Humanities*, 4*(3), 150–158. <https://doi.org/10.55737/qjssh.401499812>
- Hamid, J. A. (1994). International law and Pakistan's domestic legal order. **Asian Yearbook of International Law*, 4*, 127–142.
- Jinnah, M. A. (1976). **Speeches and writings** (Vol. 2, J. Ahmed, Ed.). Sheikh Muhammad Ashraf.
- Khan, S. (2023). The illusory implementation of treaties: Critical reflections on giving effect to treaties in Pakistan. **Islamabad Law Review*, 7*(1), 37–58.
- Klabbers, J. (2017). **International law** (2nd ed.). Cambridge University Press.
- Langan, P. St. J. (Ed.). (1976). **Maxwell on the interpretation of statutes** (12th ed.). Sweet & Maxwell.
- Messrs. Najib Zarab Ltd. v. Government of Pakistan, PLD 1993 Karachi 93 (Pak.).
- Ministry of Climate Change and Environmental Coordination. (2025). **International conventions, treaties and agreements**. Government of Pakistan. <http://www.mocc.gov.pk/Detail/NWMxNDhkOWYtMTE3OC00ODZmLTg3MjltM2ZhYjVhYTA5MDgy>
- Nussbaum, A. (1954). **A concise history of the law of nations** (Rev. ed.). Macmillan.
- Organization of Islamic Cooperation. (2025). **About OIC**. <https://www.oic-oci.org>

Ratification of Foreign Agreements by Parliament Bill, 2018 (Pak.).

Riar, H. A. (2019). Upholding the international rule of law. **RSIL Law Review*, 1*, 108–123.

Rules of Business, 1973 (Pak.).

Saeed Ahmad v. Mahmood Ahmad, PLD 1968 Lahore 520 (Pak.).

Senate Standing Committee on Law and Justice. (2020, March 11). **Report of the Standing Committee on Law and Justice on the Ratification of Foreign Agreements by Parliament Bill, 2018** (Part III, pp. 373(5)–373(10)). Senate Secretariat, Government of Pakistan.

Shaw, M. N. (2021). **International law** (9th ed.). Cambridge University Press.

Snamprogetti Engineering B.V. v. Commissioner of Inland Revenue Zone-II, L.T.U., Islamabad, 2023 SCMR 1055 (Pak.).

Soomro, K. H., & Masudi, J. A. (2023). Separation of powers and the role of judicial activism in Pakistan. **Propel Journal of Academic Research*, 3*(1), 144–158. <https://doi.org/10.55464/pjar.v3i1.68>

United Nations. (1987). **United Nations Treaty Series** (Vol. 1155). United Nations.

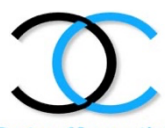
United Nations General Assembly. (1947, September 30). **Resolution 108 (II): Admission of Pakistan to membership in the United Nations**.

United Nations Human Rights Treaty Body Database. (2025). **Ratification status for Pakistan**. <https://tbinternet.ohchr.org/layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=131&Lang=en>

United Nations Treaty Collection. (2025). **United Nations Treaty Collection**. <https://treaties.un.org/>

Venzke, I., & Günther, P. (2022). International investment protection made in Germany? On the domestic and foreign policy dynamics behind the first BITs. **European Journal of International Law*, 33*(4), 1183–1207. <https://doi.org/10.1093/ejil/chac066>

Vienna Convention on the Law of Treaties, May 23, 1969, 1155 U.N.T.S. 331 (entered into force J

Journal of International Law & Human Rights 	Volume and Issues Obtainable at Centeriir.org Journal of International Law & Human Rights ISSN (Print): 3007-0120 ISSN (Online): 3007-0139 Volume 4, No.1, 2025 Journal Homepage: http://journals.centeriir.org/index.php/jilhr	 Center of Innovation in Interdisciplinary Research
--	--	---

Author Contributions (CRediT)

Usama Ahmad Khan: Conceptualization, Methodology, Investigation, Formal Analysis, Writing

Faizan Ali: Literature Review, Editing, Formatting

Funding

This research received no external funding.

Conflict of Interest

The authors declare that they have no known financial or personal conflicts of interest that could have influenced the work reported in this paper.

Data Availability Statement

All data used in this study are derived from publicly available legal sources, including statutes, judicial decisions, treaties, and published academic literature cited in the references. No new datasets were generated or analyzed.

Ethical Statement

Ethical approval was not required because this study is based exclusively on publicly available legal documents, judicial decisions, treaties, and published literature and did not involve human participants, animals, or confidential data.

AI Use Disclosure

The authors declare that no generative artificial intelligence tools were used in the research, analysis, or writing of this manuscript.

How to cite this article

Khan, U. A., & Ali, F. (2025). Pakistan's Approach to the Law of International Treaties. *Journal of International Law & Human Rights*, 4(1), 1–16. <https://doi.org/10.62585/ilhr.v4i1.178>