

SHAPING JUSTICE: THE EVOLUTION AND EFFECTS OF JUDICIAL ACTIVISM IN PAKISTAN

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Abstract

Judicial activism in Pakistan took center stage in the making of law and politics in Pakistan, although the issue is quite controversial. This paper tries to trace the origin of judicial activism and how this trend has changed to consequences in its shift to other things like decisions of government, justice, and human rights. On the one hand, judicial activism has been hailed as the one that protects the rights of the people and holds the government liable. Meanwhile, it has also had its fair share of critics, as they have accused it of crossing the line and making the hands of elected officials shake involuntarily. In conclusion to this study, I looked at some of the significant judgments issues by some courts and how they have impacted the nation both positively and negatively on both sides of judicial activism. It also talks about the problems that face the judiciary today and where the judiciary will most probably visit in the future in Pakistani political order.

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INTRODUCTION

There has been significant discussion and disagreement on judicial activism in Pakistan.

It has become common for the judiciary of Pakistan to get more involved in the laws and policies of the country rather than the political sector. However, some think this is a positive force that works to defend citizens' rights and bring justice. In contrast, others consider it a disturbance, macerating the balance of power between the branches of the government (Khalid, 2024). As the role of the judiciary has changed, Pakistan's legal system has become more dynamic. However, with that has come a question about how much sway the courts should hold over political decision-making.

Regarding judicial activism in Pakistan, Akbar and Malik (2019) traced key court decisions that challenged government policies and actions and directly impacted the lives of people. The judiciary has

a vital role in Pakistan's politics thanks to these court decisions, especially in the areas of human rights and corruption. Though these are often steps they've been applauded for taking in defense of the public, some critics argue that the courts sometimes go too far from their purview, straying into areas that are properly the purview of elected officials (Khan & Shafiq, 2021). Judicial activism in Pakistan will be analyzed, and how it has impacted Pakistan's political and legal systems. Shabbir's (2013) paper attempts to understand how the judiciary has been shaped by looking at essential court decisions and their impacts.

Research Justification

Judicial activism in Pakistan plays a significant role in writing its laws and politics, so this research is essential. In Pakistan, the courts have increasingly become involved in making decisions affecting

people's rights and governments' actions. People say this is good because it should serve to protect citizens and the government accountable. Some fear that sometimes the courts may take too much decision-making away from elected officials, i.e., hurting democracy. This research will enable us to study how for or against judicial activism has affected Pakistan, how good it is, and how bad it is. You'll look at some critical court decisions in how they've shaped the country's politics and laws. Since we need to see how the courts may assist in improving government and how it should work with other branches of the government, this study is necessary. If we know this, then this could be beneficial to Pakistan's judicial system in the future.

Research Objectives

- 1.To discuss the historical context of data privacy laws in Pakistan.
- 2.To highlight the theoretical context of judicial activism in Pakistan.
- 3.To analyze the leading laws that govern judicial activism in Pakistan.
- 4.To identify the key challenges regarding judicial activism in Pakistan.
- 5.To explore the opportunities for judicial activism in Pakistan.
- 6.To propose effective prevention and intervention strategies.

Research Methodology

This study employed a systematic review methodology, with research objectives established accordingly. A comprehensive literature review was conducted (Komba & Lwoga, 2020). Research findings were categorized based on their content (Hiver et al., 2021; Petticrew & Roberts, 2006), and classified information was incorporated into the study by organizing it into headings (Gan et al., 2021; Pawson et al., 2005). The evaluation of classified information and titles formed the basis of the study (Page, 2021; Rahi, 2017), ensuring the integrity of the Research subject and its contents (Egger et al., 2022; Victor, 2008). The criteria for selection are enlisted.

1. **Relevance:** Researches that directly addressed the questions posed by this study are included.

2. **Quality:** Studies that meet a certain quality threshold (e.g., methodological rigor, bias risk) are included. Most of the research is from Scopus-indexed and Clarivate Analytics journals and reputed publishers.

3. **Recency:** Consideration of the publication date to ensure that the review reflects the most current evidence. Most of the studies are from the last three years.

4. **Language:** Only studies published in English are included.

5. **Data Completeness:** Previous studies must provide sufficient data on outcomes of interest for practical synthesis; it is also ensured in this research. This study did not use primary data from human participants; therefore, no ethics clearance letter from the ethics committee was required.

Literature Review

Judicial activism in Pakistan has been a major burning issue. It alludes to the position played by the courts in influencing the laws and politics of the country. In previous times, Pakistani courts have intervened, where they have taken decisions on behalf of the government and the legislators when they have misbehaved (Munir, 2021). Some people believe it is good because the courts assist in the protection of the rights of people and keep the government in check. Nevertheless, other people feel that the judges are occasionally stripping elected people of so much power and disrupting the democratic process (Amir et al., 2022).

Protection of such fundamental rights as the freedom of speech and equality has been praised upon instances of judicial activism. But at the same time, it is being criticized for transgressing its role by making decisions that should be left in the hands of the political leaders (Hassan et al., 2024). The judiciary had taken a compelling role in challenging the executive branch, as this event showed. Additionally, in order to protect rights, the courts have also taken a step in order to

fight issues such as child labor, pollution, and police violence.

Judicial activism may be on the increase in Pakistan as court rulings of such significance that have rocked courts in Pakistan have been proven to be impotent. A very famous case in Pakistan is the impeachment of Chief Justice Iftikhar Muhammad Chaudhry in 2007, which saw large roadside demonstrations that successfully resulted in regaining his lost position. (Jatoi et al., 2022). Although judicial activism has turned out to be positive, it has also questioned the involvement of courts in politics. According to some of the critics, the courts are increasingly encroaching on the activities of elected officials (Amir et al., 2022). The concept of judicial overreach is excessive judicial jurisdiction where courts overstep their mandate and pass judgments that are outside their mandate. It brings confusion on the separation of powers among the three arms of government- judiciary, executive, and legislature. There is a school of thought that feels this confuses the distribution of authority and emasculates democracy.

Others argue that judicial activism sometimes leads to instability, as courts may make decisions that disrupt the balance of power and hurt Pakistan's political system. Judicial activism is often seen as a response to weak government systems in Pakistan. When political leaders fail to address issues like corruption, rights violations, or public welfare, the courts step in to fill the gap (Munir, 2021). The judiciary has become a way for people to fight back against government failures. It is inevitable in a country like Pakistan, which has been associated with political turmoil and corruption over the years. Of course, it is the perfect time to jump into the game so that it can offer ideal sustainability (Khan & Shamim, 2018). Nevertheless, there are also some tensions that judicial activism can provoke because, in some cases, it contradicts political decisions, and it is debatable that courts should have such a significant role in the government. This controversy over the role of judicial activism is critical in the realization of how the courts can perform most adequately in Pakistani democracy (Niaz, 2020). Judicial activism has played a significant role in the law and politics of Pakistan. On the one hand, it has assisted in the preservation of rights and the holding of the government in check, but it also asks a not insignificant question of where the judicial power

begins and ends. The issue of the judiciary in Pakistan should be well-balanced so that it supports democracy without disrespecting the functions of the other arms of government.

Historical Context of Judicial Activism in Pakistan

In the past, Pakistan's courts were not very active in getting involved with politics; they mostly worked alongside the government and didn't challenge political decisions. But as time passed, especially from the 1970s onward, the courts began to take a more active role. According to it started in the 1980s under General Zia-ul-Haq's military rule. During this time, many people believed the courts were helping the military stay in power instead of protecting the rights of citizens (Sarwar et al., 2024).

Things began to change in the 1990s when Chief Justice Sajjad Ali Shah led the courts to stand up against corruption and government actions that hurt people (Awan, 2014). However, the real turning point was in 2007 when Chief Justice Iftikhar Muhammad Chaudhry was removed from his office. According to provoked protests and an entire movement for independent courts to be set up. Subsequently, the courts began to take up significant portions, assigning the government responsibility related to talking about human rights violations and corruption. Last weeks of judicial activism in Pakistan: Trying to secure peoples' rights at the same time involving themselves in politics (Shah et al., 2020).

Theoretical Context of Judicial Activism in Pakistan

The Pakistani term judicial activism is when courts do not only follow the laws but also take action when the government is not doing what it should do to protect people's rights. It's the idea that judges should stick their necks out on issues of interest, the types of problems that are important, even if sticking them out and getting their heads chopped off means challenging decisions of the government. The courts shouldn't stand around doing nothing; they should get the government to do what their job is. Judicial review, which is the power of the courts to look at laws or government actions and decide if they are OK or if they break the Constitution, is a big part of judicial activism in Pakistan. The Constitution has canceled things if they go against it. That means that

the courts check that no one is above the law, not the government and not anyone else. It, too, promotes that courts should ensure that each branch of government, for instance, the president, parliament, and courts, discharge their duties; otherwise, they run on each other's toes while keeping everything in order and fair.

Judicial Activism Laws in Pakistan

Judicial activism in Pakistan is closely related to a few legal acts and principles that allow the courts to assume an active role in making the country's legal and political environment in the country. The Supreme Court exercises one of its key powers by virtue of the Constitution of

Pakistan, especially Article 184(3), which entitles the court to suo-motu in case of public interest. The article gives the court the power to hear cases without a complaint, which is a pill for the judiciary to manage human rights violations or corruption.

Another fundamental legal principle is Public Interest Litigation (PIL), which permits cases to be filed by individuals or organizations on behalf of the public without necessarily being so affected. It has been the most essential tool in facing environmental, social, and political

issues of concern. Article 199 of the Constitution also defines Judicial Review as the core element of judicial activism in Pakistan. It enables the courts to test the constitutionality of laws and government action and to strike down any that infringe the Constitution. Pakistan's judiciary has been empowered through these laws to be a strong force in ensuring government accountability and protecting citizens' rights, and judicial activism is a significant part of Pakistan's legal system.

Challenges for Judicial Activism in Pakistan

1. One of the most significant problems of our criminal justice system is corruption in Pakistan. There are many police officers and others who accept bribes, and you can't expect fair treatment if you do. Sometimes, the police can't investigate cases correctly, and folks are sometimes wrongfully accused because of bribes. It's even harder for poor people because they usually can't afford to pay the bribes or pay for legal help.

2. Sometimes, politics or influential people get in the way of the courts. Sometimes, judges feel pressured to come to conclusions that favor the government or rich people as opposed to being just legal. It leads to unfair and impartial courts, and most folks no longer trust the system.

3. Not everyone in Pakistan can get fair justice, poor people or people living in far-away places.

Cases drag on for years; many can't pay for lawyers. That means there's not a fair fight for people's rights, and so the justice system is unfair to lots of people.

4. The criminal justice system almost always violates people's rights. Police torture people so they say they have committed a crime they have not committed. Prisoners don't necessarily get the basic care or dignity they deserve, and prisons are overcrowded. That's so unfair and particularly unfair to those who have very little in the neighborhood to begin with.

5. Pakistan's prisons are overcrowded, and life in prison is difficult. There is not enough food, space, or proper medical care for many of the prisoners. When they are released, there aren't enough programs to help prisoners learn new skills or become good citizens. What that means, socially, is that they usually re-offend, and the system doesn't assist in helping them be something better.

Opportunities for Judicial Activism in Pakistan

With judicial activism in Pakistan, people can benefit from a more powerful democracy, strict protection of their rights, and regular government oversight. Where political instability, too much executive power, and ineffective legislation are problems, the judiciary can be key in

protecting the interests of the general public. Protecting fundamental rights is one of the most significant opportunities in human rights now. Many people are unable to get basic needs such as education, health care, and clean water. By suo motu actions, the courts ensure these rights are upheld when existing official processes do not work correctly.

When corruption and power abuse occur, judges may step in. There is a history of both political and bureaucratic corruption in Pakistan. When judges use judicial activism, they prevent such practices by holding public officials responsible and ensuring everything is done openly. In major corruption cases,

rulings from courts have reinforced the belief among the public that justice can be found. Saving our environment is also another significant benefit. As environmental degradation grows, courts can get involved to ensure laws are followed, and those who break the laws are held responsible. The involvement of the judiciary can change policies and put more emphasis on sustainability issues that may not be part of political priorities.

By taking action, judges can use their position to limit the dissolution of assemblies or the abuse of emergency laws, which strengthens how the law is followed. This helps courts assist in preserving democracy and the steadiness of government bodies. Still, anything that courts do must align with the Constitution and prevent conflicts with legislators. It should make sure actions by lawmakers and the executive branch are fair but not perform the main functions of those branches. Judicial activism supports the progress of justice, the rights of people, and sound governance in Pakistan. As long as it is proper and reliable, it proves helpful for society's fairness and democracy.

Discussion

The activism of the judicial in Pakistan has been healthy and harmful. For that, it has protected the rights of people and has made the government accountable for their deeds. For instance, when there has been corruption when there have been significant cases like that where the judiciary is willing to stand up to mighty politicians – courts have intervened. It has led to strengthening people's trust in the system and a more accountable government. Sometimes, though, judicial activism goes too far. 'The democratic process gets hurt when courts decide on things that aren't in their role or when they get too involved in politics,' critics claim. It is meant to be interpreted by the courts, not by them making a decision that elected leaders should make. Stepping into areas they should not, judges can disbalance the system and create confusion.

Within the judiciary also exist a lot of challenges. Corruption, political interference, and cases that take extended periods to close make it difficult for courts to actually do their job correctly.' However, these problems can make it difficult for ordinary people to achieve just justice or to trust in the system. Judicial

activism is not a simple thing: it's done some good, but it's a delicate balance. The courts have to guard against it tipping into interfering too much in politics by keeping the support of justice without crossing that line.

Conclusion

Judicial activism has played a very significant role in Pakistan's justice system. Positive that it has served in protecting people's rights and holding the government accountable,

especially in corruption cases. The system gains trust when the courts act and when people in power are held to account. It's not always perfect, however. The courts can get too involved in

areas that allow them to intervene, and that is sometimes a problem. And it can upset the balance between different branches of government, making things confusing. Also, the judiciary itself is not without challenges; corruption, delays in cases, and political pressure are making the already complex system even more challenging to function as it should. Judicial activism in Pakistan is a little bit of tightrope walking. The important thing is that the courts continue to fight for people's rights, but they must also be aware of what role they are supposed to be playing.

There must be reform to allow the judiciary truly to do its job more fairly and more effectively, not displacing the power of elected officials.

Recommendations

1. If judges were to be really able to make those decisions freely, rather than under the pressures coming from politicians or anyone else, judicial activism could actually work. Protects should have them that let them do their job equity, only by law.

2. The courts should intervene only when necessary, but they certainly need to know and be willing to admit that they should do so no more than necessary. Instead, they should be interpreting laws, making sure they work with the Constitution, and not substituting the duties of lawmakers and politicians.

3. Courts need to clarify their decisions clearly. Understanding why judges rule as they do will increase people's belief in whether they're just following the law or outside influences have played a part.

4. Just like anyone else, judges shouldn't be above

scrutiny if they screw up. People should be able to rely on the system, so we need to find a way of reviewing their behavior again and making sure they're being fair.

5. Many people don't understand what the courts are and aren't about and what judicial activism is. People don't know how the judiciary protects their rights and when they can rely on it. A simple public education program could help everyone get that.

6. The courts must encourage cooperation between courts and lawmakers because their decisions must synergize with the laws passed by the government. Through regular talks between the two, the courts can prevent going ahead with what shouldn't be done and ensure that they are performing within their scope.

7. Judges need to be trained more frequently always to be aware of the latest human rights issues and new laws. So they are able to make better decisions for the will of society and to understand how their rulings affect society.

8. The more people trust the courts, the more far-reaching judicial activism will be. The courts must always be fair, they must be transparent, and they must give everyone a chance to be heard and treated equally.

9. High-profile cases can be tricky, but judges must stay neutral, no matter the pressure. They need to make sure that even influential people are held accountable by the law and their decisions should reflect fairness, not popularity.

10. Judicial activism only works if the courts move quickly enough to deliver justice. Streamlining the legal process, cutting down on delays, and using modern technology to help with cases can help people get justice faster and more efficiently.

Research Limitations

There are a few things to keep in mind when looking at this research on judicial activism in Pakistan. First, most of the information in this study comes from existing literature and cases, so anything that has happened recently in the courts might not be included. Also, this research mainly focuses on the legal side of judicial activism, but it doesn't dive much into how it affects society or the culture around it. There's a lot more that could be explored there.

Another limitation is that some of the sources used could have their own biases, as different experts may have different opinions on the issue. Finally, this study looks only at Pakistan and doesn't compare judicial activism with other countries, which could give a bigger picture. While this research is helpful, it doesn't cover everything, and there's plenty more to learn in the future.

Research Implications

We get some key points on judicial activism in Pakistan with this research. It first demonstrates how essential it is for a healthy democracy that courts have a huge role to play in protecting the people's rights and keeping the government accountable. But it also demonstrates that judges should be cautious. They do not adopt too many duties that elected officials should complete. In addition, the study recommends changes in the justice system, including making things sharper, helping judges rise in their abilities, and chipping away at corruption. Further changes will improve the courts for everyone. This research also promotes future research based on the question of how judicial activism impacts the lives of everyday people and how they perceive the system.

Future Research Directions

When it comes to judicial activism in Pakistan, there are too many areas for us to get past. There is one crucial thing to see: how judicial rulings actually impact ordinary people's lives. Are they making people feel more secure or more confused, less trusting? It could tell us more clearly how the public actually views the role of courts. Something else to think about now that we have mentioned judicial activism that Pakistan's system is compared with countries that also have judicial activism.

By doing this, we will come up with new ideas that can make working around here a lot better. Along those same lines, it would be nice to delve into how judicial activism affects

fairness in society. Is it actually making things more equal, or are you just making life harder for those who already struggle to get by? It's also possible to delve into some more practical changes: could judges be better trained, or how might corruption in the court

system be better addressed? Lastly, this could lead to studies of how the courts and the government can work with one another more closely.

REFERENCES

- Akbar, M., & Malik, M. (2019). Judicial activism and Pakistani society: A case study of Musharaf era. *Journal of Law & Social Studies*, 1(2), 61–68.
<https://doi.org/10.52279/jlss.01.02.6168>
- Amir, F., Muhammad, A., & Jan, J. (2022). Judicial activism at the cost of separation of power in Pakistan: A comparison of Justice Iftikhar Chaudhry and Justice Saqib Nisar's era. *Pakistan Journal of Social Research*, 4(3), 99-110.
- Awan, M. R. (2014). Judicial activism in Pakistan in commercial and constitutional matters: Let justice be done though the heavens fall. *Journal of International Criminal Justice Research*, 1, 1-28.
- Egger, M., Higgins, J. P., & Smith, G. D. (Eds.). (2022). *Systematic reviews in health research: Meta-analysis in context*. John Wiley & Sons.
- Gan, J., Xie, L., Peng, G., Xie, J., Chen, Y., & Yu, Q. (2021). Systematic review on modification methods of dietary fiber. *Food Hydrocolloids*, 119, 106872.
<https://doi.org/10.1016/j.foodhyd.2021.106872>
- Hassan, S., D., Wali, H., Durman, & Hussain, S. (2024). Judicial activism and comparative analysis of suo motu notices taken by Chief Justice Saqib Nisar and Iftikhar Chaudhry. *Social Science Review Archives*, 2(2), 796-813.
<https://doi.org/10.70670/sra.v2i2.127>
- Hiver, P., Al-Hoorie, A. H., Vitta, J. P., & Wu, J. (2021). Engagement in language learning: A systematic review of 20 years of research methods and definitions. *Language Teaching Research*, 13621688211001289.
<https://doi.org/10.1177/13621688211001289>
- Jatoi, S., Mustafa, G., & Kataria, M. (2022). Judicial activism and democracy in Pakistan: A case study of chief justice Saqib Nisar era. *Pakistan Journal of Social Research*, 4(2), 1-11.
<https://doi.org/10.52567/pjsr.v4i2.445>
- Khalid, H. (2024). Judicial activism in Pakistan: A comparative study of CJP Saqib Nisar and Umar Ata Bandial. *The Critical Review of Social Sciences Studies*, 2(2), 322-337.
<https://doi.org/10.59075/gtnm3436>
- Khan, M. I., & Shafiq, M. (2021). An assessment of judicial activism to empower the people: A case of Pakistan (2007–2013). *Global Political Review*, 6(2), 79–91.
[https://doi.org/10.31703/gpr.2021\(vi-ii\).09](https://doi.org/10.31703/gpr.2021(vi-ii).09)
- Komba, M. M. & Lwoga, E. T. (2020). Systematic Review as a Research Method in Library and Information Science. In P. Ngulube (Ed.), *Handbook of Research on Connecting Research Methods for Information Science Research* (pp. 80-94). IGI Global Scientific Publishing.
<https://doi.org/10.4018/978-1-7998-1471-9.ch005>
- Munir, B. (2021). Judicial activism, selectivism, and executive's functionalspace: A critical appreciation in the context of Pakistan. *Journal of the Research Society of Pakistan*, 58(1).
<https://doi.org/10.2139/ssrn.4916500>
- Munir, B., Ansari, A. A., & Mahmood, T. (2024). Judicial activism in Pakistan and its impacts on tripartite governance: Lessons from the US constitutional construct. *Global Political Review*, 9(3), 44-57.
[https://doi.org/10.31703/gpr.2024\(ix-iii\).05](https://doi.org/10.31703/gpr.2024(ix-iii).05)
- Niaz, I. (2020). Judicial activism and the evolution of Pakistan's culture of power. *The Round Table*, 109(1), 23–41.
<https://doi.org/10.1080/00358533.2020.1717091>
- Page, M. J., McKenzie, J. E., Bossuyt, P. M., Boutron, I., Hoffmann, T. C., Mulrow, C. D., Shamseer, L., Tetzlaff, J. M., & Moher, D. (2021). Updating guidance for reporting systematic reviews: Development of the PRISMA 2020 statement. *Journal of Clinical Epidemiology*, 134, 103-112.
<https://doi.org/10.1016/j.jclinepi.2021.02.003>
- Pawson, R., Greenhalgh, T., Harvey, G., & Walshe, K. (2005). Realist review - A new method of systematic review designed for complex policy interventions. *Journal of Health Services*

- Research Policy, 10(1), 21-34.
<https://doi.org/10.1258/1355819054308530>
- Petticrew, M., & Roberts, H. (2006). Systematic reviews in the social sciences: A practical guide. Blackwell Publishing.
<https://doi.org/10.1002/9780470754887>
- Rahi, S. (2017). Research design and methods: A systematic review of research, sampling issues, and instruments development. International Journal of Economics Management Sciences, 6(2), 403.
<https://doi.org/10.4172/2162-6359.1000403>
- Shabbir, S. S. (2013). Judicial activism shaping the future of Pakistan. Social Science Research Network.
<https://doi.org/10.2139/SSRN.2209067>
- Khan, S., & Shamim, S. (2018). A review on judicial activism in Pakistan. Social Science Research Network.
<https://doi.org/10.2139/SSRN.3126641>
- Sarwar, L., Azhar, M., & Baig, M. (2024). The role of judicial activism in the enforcement of human rights in Pakistan and its impacts on governance in Pakistan. Global Legal Studies Review, 9(3), 1-14.
<https://doi.org/10.31703/glsr.2024.01>
- Shah, A., Khan, M., & Farid, N. (2020). The role of the Supreme Court of Pakistan & constitutional parameters of judicial activism. Global Political Review, 5(3) 191-198.
[https://doi.org/10.31703/gpr.2020\(v-iii\).20](https://doi.org/10.31703/gpr.2020(v-iii).20)
- Victor, L. (2008). Systematic reviewing in the social sciences: Outcomes and explanation. Enquire, 1(1), 32-46.
<https://www.nottingham.ac.uk/sociology/documents/enquire/volume-1-issue-1-victor.pdf>

