



## Judicial Activism and its Political Impacts: A Comparatively Analysis Pakistan and USA

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*This study examines the ways in which judicial activism influences public policy, upholds democratic norms, and addresses social and political issues in Pakistan and the US. Judicial activism, or the judiciary's proactive approach, has produced significant reforms in both countries. In the United States, landmark decisions such as Roe v. Wade and Brown v. Board of Education have influenced social policy and civil rights. Following the attorneys' movement, judicial activism gained popularity in Pakistan, leading to the restoration of the judiciary and a renewed focus on the importance of the constitution. However, problems like judicial overreach, governmental interference, and political instability make the judiciary's job in Pakistan more difficult. The paper emphasizes that Pakistan's judiciary functions in a more unstable political environment, necessitating a careful balance between restraint and proactive action, whereas the US court has primarily shaped judicial activism through adherence to precedent and judicial independence.*



## 1. Introduction

Judicial activism is a crucial aspect of modern jurisprudence, enabling courts to interpret and enforce laws, addressing societal challenges, and adapting the legal framework. It safeguards justice, ensures constitutional relevance, and addresses grievances (Schacter, 2018). Judicial activism is a vital mechanism for upholding constitutional principles and maintaining justice in societies with rapid change or legislative stagnation. It safeguards fundamental rights, such as individual and minority rights, and ensures that constitutional provisions evolve with societal advancements. Judicial activism also addresses legislative inertia by addressing controversial issues that legislators may avoid due to political considerations or gridlock (Rubin, 1979). It maintains the balance of power among government branches by invalidating laws or executive actions that violate constitutional principles through judicial review. Furthermore, judicial activism promotes social justice by addressing societal grievances and rectifying injustices, challenging entrenched norms and advocating for marginalized communities. In the United States, landmark rulings like *Brown v. Board of Education* demonstrate the judiciary's ability to dismantle systemic inequalities (Levine, 1999; Reayat et al, 2021). Judicial activism in Pakistan ensures accountability and protects constitutional rights and public interest. Landmark cases like Chief Justice Iftikhar Chaudhry's restoration in 2009 and electoral reform rulings set precedents (Khalid, 2024). Judicial activism addresses public grievances and intervenes in injustices, building public trust in the judiciary.

Judicial activism has had a profound impact on society, transforming laws, societal norms, and political structures. It has led to groundbreaking legal changes, such as *Roe v. Wade* and *Obergefell v. Hodges*, which redefined rights and freedoms. Civil rights campaigns and desegregation initiatives are two examples of how judicial activism has influenced social standards (Levine et al, 1999; Reayat et al, 2021). It tackled modern issues and enhanced civil liberties like the right to privacy and the liberty of speech issues like terrorist activity worldwide and climate change. Judicial activism can impact administration and policymaking and have significant effects on politics. As seen by the rulings of the Indian Supreme Court on socioeconomic rights and regulations pertaining to the environment, it has also influenced international jurisprudence. All things considered; judicial activism has the capacity to change society in ways that will last for many centuries (Faujdar, 2020). Because it exposes corruption, ensures openness, and challenges constitutional activities, judicial activism has had a substantial impact on governance. However, detractors contend that overzealous involvement could go beyond the judiciary's authority, escalating conflicts with other state institutions and casting doubt on the neutrality of the court, particularly in situations involving massive corruption scandals or environmental protection (Reayat et al, 2021).

Judicial activism upholds justice, protects constitutional principles, and responds to societal needs. It addresses legislative and executive failures, ensures constitutional relevance, upholds justice and equity, safeguards democracy, promotes social progress, and balances power dynamics between government branches. It addresses societal grievances, champions minority



rights, and maintains checks and balances. Judicial activism is often justified in a system with weak institutions as a means to address ineffective governance and ensure justice. However, it must adhere to constitutional boundaries and avoid encroaching on legislative and executive domains to be effective, maintaining institutional harmony and long-term democratic stability (Sarwar, 2024).

## **2. Literature Review**

Judicial activism in Pakistan shapes legal and political narratives but also presents challenges. It emphasizes judicial independence, case management, and access to justice. Strategic reforms like technological integration and international collaborations are needed. However, addressing judicial overreach, public trust, and procedural limitations is crucial. Pakistan must balance assertive judicial interventions with restraint to protect democratic institutions and legal procedures. Strategic reforms enhance judicial independence, improve access to justice, and promote dialogue (Khalid, 2024).

The impact of judicial activism and suo moto notices on Pakistan's democracy, emphasizing the need for a balance between judicial intervention and respect for other government branches. It highlights the judiciary's role in interpreting laws and protecting fundamental rights, the effects of suo moto notices on power separation and democratic governance, and the disruption of political institutions (Bazmi et al., 2023).

The legal systems of the United States and India, emphasizing their differences, similarities, and distinguishing characteristics. The United States is governed by a federal system of government, with both state and federal tribunals which foster justice and adhere to the concept of separating powers. The Indian judicial system follows a unified framework, with judges passively enforcing due process and impartiality. The essay comprehends the practical ramifications of different systems, including structural and functional disparities, obstacles to fairness, equality, and accountability, and the impact of separation of powers on court autonomy (Faujdar, 2020).

The impact of abortion legalization on fertility rates in the United States, focusing on demographic groups like teenagers, women over 35, non-White women, and unmarried women. It also examines the potential outcomes if abortion were recriminalized or if abortion access varied across states. Key points include the decline in fertility rates in states where abortion was legalized compared to those where it was not, demographic breakdowns of the decline in fertility rates, and the potential impact of recriminalizing abortion nationwide or reversing the *Roe v. Wade* decision. However, the article's causal mechanisms do not fully explore underlying factors that could have influenced fertility rates, such as changes in access to contraception, healthcare policies, or economic conditions. The findings suggest that a national recriminalization of abortion could lead to a substantial increase in births, depending on whether women can travel between states for abortions. Demographic considerations are also examined, as abortion access disproportionately affects specific demographic groups (Levine et al., 1999).



The decision made by Chief Justice John Marshall in *Marbury v. Madison*, which established judicial review in the US, is criticized in this essay. It argues that similar precedents existed before *Marbury*, both within the United States and common law countries. The paper suggests that Marshall's judgment may have created a "myth" around the origins of judicial review. The paper highlights a gap in the historical narrative surrounding the origin of judicial review, including a lack of detailed precedents, limited exploration of *Fletcher v. Peck*, an underdeveloped concept of natural law, and clarification of Marshall's "myth." The paper justifies a more nuanced understanding of how judicial review developed in U.S. law and its connection to broader legal principles. It also argues that the notion of judicial review, as articulated by Marshall, was ultimately rooted in natural law principles, which are not bound by written constitutions but are part of universal legal standards (Shehu, 2017).

Judicial review is a constitutional doctrine that allows courts to evaluate the constitutionality of actions by the executive and legislative branches, ensuring adherence to the Federal Constitution. However, its effectiveness can be influenced by subjective factors like judicial personalities and sociopolitical climate. The practical implementation of this doctrine often lacks uniformity in interpretative approach and application. Understanding these limitations and influences is crucial for refining the doctrine, ensuring decisions are made with seriousness, selflessness, and resilience against political and personal biases (Rubin, 1979).

The US judicial process of opinion publication is criticized for its lack of uniformity and clarity in publication criteria across judicial circuits, leading to subjective interpretations and inconsistent application of guidelines. Despite the Judicial Conference's efforts to standardize opinion publication, there is no consensus on a uniform model. The broad and subjective nature of existing criteria results in significant variations in the treatment of unpublished decisions, especially those involving substantial judicial discretion. Addressing this gap can help develop clearer, more objective criteria, ensuring transparency and uniformity in the judicial process (Songer, 1989).

### **3. Materials and Methods**

This qualitative study explores judicial activism and its political impacts in Pakistan and the United States using secondary resources like government reports, academic papers, and policy documents. It looks at case studies such as the Pakistani court crisis in 2007, and famous decisions like *Wade v. Roe* and *Obergefell vs. Hodges*. Additional information about political tactics and changes to the judiciary in both countries can be found through expert interviews and media content analysis. With a focus on the real-world effects of judiciary involvement in governance, the methodology strives to offer a thorough grasp of judiciary activism and its influence on the political scene.

#### **3.1 Theoretical Framework**

According to the judicial philosophy known as "judicial activism," courts in constitutional democracies such as the US and Pakistan shape socio-political environments by interpreting and applying the constitution to modern problems, frequently going beyond their usual purview



(Schacter, 2018). Supreme Court Justice John Marshall's major rulings in *Marbury v. Madison* are the foundations of judicial activism in the United States (Shehu, 2017). It became well-known during the Warren Court era thanks to important decisions like *Roe v. Wade* and *Brown v. Board of Education* (Levine et al, 1999). *Wade* outlawing racial segregation and recognizing abortion rights (Levine, 1999). In recent decades, judicial activism has expanded to contentious areas like same-sex marriage and executive authority. Critics argue that judicial activism ensures the Constitution remains relevant, but caution against overstepping the separation of powers, posing a risk of politicizing the judiciary.

Judicial activism in Pakistan emerged in response to political instability and democratic norm erosion. The Supreme Court of Pakistan began asserting itself in the late 1980s under Chief Justice Muhammad Afzal Zullah, but gained momentum during Chief Justice Iftikhar Muhammad Chaudhry's tenure (Khalid,2024). The judiciary-initiated cases without formal complaints to address public interest issues like corruption and human rights violations. However, critics argue that excessive judicial intervention blurs the lines between judicial and executive authority, and the judiciary has sometimes validated unconstitutional actions through the doctrine of necessity. In recent years, courts have increasingly asserted their independence.

#### **4. Role of Judiciary as a guardian of the Constitution**

The judiciary in Pakistan and the US is responsible for enforcing the constitution, albeit their roles differ based on their unique constitutional frameworks and historical contexts. The U.S. judiciary, led by the Supreme Court, has been instrumental in interpreting and preserving the Constitution since *Marbury v. Madison*. It checks legislative and executive powers, ensuring federalism and protecting civil liberties. The judiciary resolves dispute between states and the federal government, preserving federal structure and minimizing political influence (Songer, 1989).

Pakistan's judiciary upholds the Constitution of 1973, ensuring its supremacy. The Supreme Court exercises judicial review to strike down laws or executive actions violating constitutional provisions, such as the Doctrine of Basic Structure (Amir & Jan, 2020). The judiciary also protects fundamental rights through Article 184(3), addressing public interest litigation. It oversees electoral matters through Election Tribunals, ensuring free and fair elections. However, challenges like judicial overreach and executive interference can affect its impartiality.

##### **4.1 The Balance of Power Judiciary VS Legislature VS Executive**

By providing checks and balances, democratic governance's power balance guarantees that no one branch grows too strong and fosters accountability, stability, and constitutional observance.

**Judiciary:** The judiciary interprets constitutions, laws, and executive actions to uphold constitutional values, protect fundamental rights, and maintain the rule of law, but overreach can disrupt this balance.

**Legislature:** Legislative power, including enacting laws, overseeing the executive, and controlling the budget, can ensure accountability but can potentially undermine the judiciary and executive if centralized.

**Executive:** The executive, in parliamentary and presidential systems, enforces laws, policies, and manages state affairs, but overreach can disrupt the balance of power.

**Figure No 1: The Balance of Power Judiciary VS Legislature VS Executive**



#### 4.1.1 Judicial Activism in Pakistan

Judicial activism in Pakistan has evolved over time, shifting from a restrained approach to a more active role in political and constitutional crises (Amir & Jan, 2020). The judiciary has shifted from a check on executive overreach to addressing issues like corruption and human rights, highlighting its dynamic and contested constitutional evolution.

#### 4.2 Cases in Pakistan's History

**Asma Jilani Case (1972):** The Asma Jilani Case is a landmark legal case in Pakistan that challenged the legality of martial law and significantly influenced constitutional jurisprudence. The case arose after General Yahya Khan's military regime was imposed after the dissolution of civilian governance in 1969 (Malik, 2018). Fundamental Rights as Basic Structure of Constitution: Judicial Restraint of Pre-Achakzai Case. *Journal of Pakistan Vision*, 19(1). Asma Jilani, the daughter of Malik Ghulam Jilani, was detained under Yahya Khan's martial law orders. The Supreme Court declared Yahya Khan's martial law illegal and unconstitutional, overturning the Doctrine of Necessity, which had previously justified martial law. This case marked a shift in Pakistan's judiciary's role, rejecting the Doctrine of Necessity as a justification for extra-constitutional actions and underlining the supremacy of the constitution over military rule (Malik, 2018). Fundamental Rights as Basic Structure of Constitution: Judicial Restraint of Pre-Achakzai Case. *Journal of Pakistan Vision*, 19(1). The case remains a cornerstone in Pakistan's legal history, reaffirming democracy, constitutionalism, and judicial accountability, and setting a precedent for future military takeovers.

**Ali Shah Case (2000):** The Ali Shah Case, involving Zafar Ali Shah and General Pervez Musharraf, is a significant judgment in Pakistan's judicial history. He addressed the legality of



Musharraf's military coup in 1999, which ousted Prime Minister Nawaz Sharif and suspended the constitution (Zahoor, 2001). The court had to determine whether the military takeover was legal and if the doctrine of necessity could justify the suspension of the constitution. The Supreme Court, led by Chief Justice Irshad Hasan Khan, validated the military takeover under the Doctrine of Necessity, citing national interest and the need to prevent chaos. The court ruled that Musharraf's actions were justified and that the military government had the authority to make laws but must adhere to the constitution's "salient features," including federalism, parliamentary democracy, and judicial independence (Zahoor, 2001). The court granted Musharraf a three-year timeframe to hold general elections and restore civilian rule, imposing conditions to limit the military's power. However, the judgment was criticized for legitimizing another military intervention and perpetuating a cycle of extra-constitutional takeovers.

**Panama Paper Case (2017):** The Panama Papers Case, involving Pakistani Prime Minister Nawaz Sharif, was a significant legal and political event in the country's history. The case was triggered by the 2016 leak of offshore companies owned by Sharif's children, raising questions about their wealth sources. The disclosure of financial records that connected the Sharif family to offshore businesses and upscale London real estate sparked popular indignation and calls for opposition leaders to answer for their actions. The Supreme Court brought the case, claiming asset deception, laundering of funds, and corruption (Khan et al, 2019). The court took into account issues including whether Sharif and his family had obtained assets legally and whether he had broken Articles 62 and 63 of the Constitution. A five-member Supreme Court bench mandated the creation of a Joint Investigation Team (JIT) in April 2017 in order to look into the claims. Sharif's wealth sources were not justified by the JIT's examination, which also exposed inconsistencies in his financial records. Sharif was overwhelmingly dismissed by the Supreme Court on July 28, 2017, under Article 62(1)(f), for neglecting to include a receivable remuneration from a UAE company in his candidacy documents (Khan et al, 2019). The case had important political ramifications, demonstrated the judiciary's enlarged role in holding public officials responsible, and emphasized how crucial it is for politicians to be transparent and financially accountable (Rashid, 2023).

### **4.3 Political Impact of Judicial Activism in Pakistan**

Pakistan, judicial activism has had a major effect on accountability, governance, and institutional balance. For the sake of justice, constitutionalism, and the public good, the judiciary steps in to deal with issues that usually get handled by the executive or legislative branches. It has been criticized for politics and overreach, even as it has reinforced democratic principles.

#### **4.3.1 Strengthening Rule of Law and Accountability**

- Exposes corruption and holds public officials accountable.
- Fosters culture of legal recourse and civic engagement.

#### **4.3.2 Increased Judicial Independence**



- Chief Justices like Iftikhar Muhammad Chaudhry enhance judiciary's independence.
- Resistance against executive pressure, like Lawyers' Movement, shows judiciary's check on authoritarianism.
- Independence limits executive's unchecked power, requiring constitutional limits.

#### 4.3.3 Alteration of Political Dynamics

- Judicial Activism and Government Destabilization
- Judicial activism often leads to political instability.
- High-profile rulings alter political trajectories and disrupt governance.
- Opposition parties use judicial activism to challenge ruling governments.

#### 4.3.4 Challenges and Criticism of Judicial Activism in Pakistan

Judicial activism involves the judiciary stepping out of its traditional role of interpretation and adjudication to influence public policy and lawmaking, promoting justice and accountability, but it has faced criticism and challenges.

- **Violation of Separation of Powers:** Critics argue that Pakistan's judicial activism undermines the separation of powers between the executive, legislature, and judiciary, as it may encroach on the roles of elected representatives or the executive.
- **Political Polarization:** Judicial activism can exacerbate political divisions by involving the judiciary in corruption cases or government policies, potentially causing public trust in the judiciary's impartiality to be eroded (Rashid, 2023).
- **Undermining Democratic Processes:** Judicial activism can weaken democratic processes by sidelining elected representatives and disrupting the normal political process, as seen in high-profile cases where courts have ordered actions that the government should have decided, posing instability.
- **Accountability vs. Overreach:** Judicial activism, praised for holding politicians accountable, is often criticized for taking on roles that should be reserved for the legislature, leading to accusations of judicial overreach, where judges make decisions about public policy instead of interpreting the law (Rashid, 2023).
- **Lack of Expertise in Policy Making:** Critics argue that judges lack the expertise and mandates of elected legislators, making them ill-equipped to make complex decisions on economics, foreign policy, or social reforms, potentially not reflecting societal needs.

#### 4.3.5 Judicial Activism in USA

Judicial activism in the United States has evolved significantly over time, reflecting the judiciary's role in shaping societal, political, and legal frameworks. Its roots can be traced back to *Marbury v. Madison* (1803), where Chief Justice John Marshall established judicial review, empowering courts to strike down unconstitutional laws. During the 19th century, judicial activism was limited, with courts often deferring to the political branches. The late 19th and early 20th





centuries, known as the *Lochner* Era, saw courts prioritizing economic liberties over government regulation, often striking down progressive labor laws (Dey, 2022). A shift occurred during the New Deal era of the 1930s, when the Supreme Court initially resisted President Roosevelt's economic reforms but later adopted a more restrained approach. The mid-20th century saw the height of judicial activism under the Warren Court, expanding civil rights, desegregating schools, and advancing individual liberties. In the late 20th century, conservative activism grew, with cases like *Bush v. Gore* influencing presidential elections and *Citizens United v. FEC* reshaping campaign finance laws. More recently, the judiciary has revisited precedents, overturning *Roe v. Wade* and reshaping abortion laws (Eksteen, 2021).

#### 4.4 Cases in USA's History

**Marbury v. Madison (1803) case:** A landmark case in American law, *Marbury v. Madison* (1803), created the judicial review principle and gave the Supreme Court the authority to rule that legislation are unconstitutional. William Marbury was one of the Federalist justices appointed under President John Adams' administration as part of the "Midnight Appointments" (Douglas, 2003). But before Thomas Jefferson took office, the commissions were not provided, so Marbury asked the Supreme Court to issue a writ of mandamus, requiring Madison to produce the commission. Chief Justice John Marshall expanded the Court's original jurisdiction beyond what the Constitution allowed when he declared that Marbury had a right to his commission, that his grievance had a legal remedy, and that the Judiciary Act of 1789 was unconstitutional (Douglas, 2003). This case strengthened the court's independence and made sure that no branch of government, including the president or Congress, may overreach its constitutional powers by establishing judicial review, which enables the judiciary to overturn legislation that violate the Constitution.

**Brown v. Board of Education (1954):** *Brown v. Board of Education* (1954) was a Supreme Court case that contested racial segregation in public schools. The case involved five separate cases, alleging that segregation violated the Equal Protection Clause of the 14th Amendment. The plaintiffs, African American children denied admission to certain schools, argued that segregation created a psychologically harmful sense of inferiority. The Doll Test experiments by Kenneth and Mamie Clark demonstrated the damaging effects of segregation on children's self-esteem. The Supreme Court unanimously overturned the *Plessy v. Ferguson* decision, stating that separate educational facilities were inherently unequal. The ruling concluded that racial segregation in public schools created a sense of inferiority, affecting the motivation of African American children to learn, thus violating the Equal Protection Clause. The *Brown* decision marked a significant moment in the Civil Rights Movement, marking the beginning of a new era of challenges to racial segregation in other public institutions.

**Roe v. Wade (1973):** *Roe v. Wade* (1973) was a landmark Supreme Court decision that legalized abortion in the United States. The case involved Norma McCorvey, a woman named Jane Roe, who sued district attorney Henry Wade, claiming the state's restrictive abortion laws violated



her right to privacy (Songer, 1989). The central legal issue was whether a woman's right to terminate her pregnancy fell within the Due Process Clause of the 14th Amendment. The Supreme Court issued a 7-2 decision in favor of Roe, stating that a woman's right to privacy was broad enough to encompass her decision to terminate her pregnancy (Levine et al, 1999). However, the Court also ruled that this right was not absolute and had to be balanced against the state's interests in regulating abortions, including protecting the mother's health and the potential life of the fetus. The Court established a trimester framework, stating that during the first trimester, the decision to have an abortion was solely the women. After the point of fetal viability, the state's interest in protecting potential life became compelling, and the state could restrict or prohibit abortions, except when necessary to protect the woman's health.

#### 4.5 Political Impact of Judicial impact in USA

##### 4.5.1 Political Polarization in Judicial Appointments

- Prioritization of ideologically aligned judges by presidents and parties.
- Supreme Court justices' confirmations reflect deep partisan divides.
- Confirmations have significant political consequences.

##### 4.5.2 Court Rulings Impact on Political Strategies

- Citizens United v. FEC (2010) allowed unlimited corporate campaign spending.
- Changed American elections landscape.
- Increased money influence in politics.

##### 4.5.3 Judiciary's Role in Elections and Voting Rights

- Judiciary determines election fairness and protection of voting rights.
- Shelby County. Holder (2013) decision impacts voting access and election laws, especially in southern states.

##### 4.5.4 Challenges and Criticism of Judicial Activism in USA

Judicial activism in the United States is a contentious issue, particularly regarding the judiciary's role in shaping policy through Constitution and law interpretations.

- **Constitutional Interpretation vs. Policy Making:** Critics argue that courts, particularly the Supreme Court, may make policy decisions that should be left to the legislative branch, as seen in cases like *Roe v. Wade* (1973), where the Court legalized abortion rather than interpreting existing law, arguing this power should belong to the legislature.
- **Judicial Overreach:** The Supreme Court, may make policy decisions that should be left to the legislative branch, as seen in cases like *Roe v. Wade* (1973), where the Court legalized abortion rather than interpreting existing law, arguing this power should belong to the legislature (Levine et al, 1999).



- **Political and Ideological Bias:** Political appointments of judges in the U.S. can lead to perceived bias in judicial decisions, as judicial activism often reflects ideological inclinations, especially when the Court influences political issues like civil rights.
- **Undermining the Role of Elected Officials:** Judicial activism in the U.S. undermines the role of elected representatives, as it may overturn or limit decisions made by legislative and executive branches, reducing the role of democratic elections in policy shaping.
- **Legal Precedents and Consistency:** Judicial activism can lead to overturning precedents, creating uncertainty in the law and undermining trust in the legal system. This fluctuating legal landscape, particularly in political climates, can hinder consistent interpretations of the Constitution and laws (Eksteen, 2021).
- **The Risk of Judicial Isolation:** Judicial activism in the U.S. may create a disconnect between the judiciary and society, as judges' decisions lack democratic legitimacy, leading to policies enacted without public accountability, as they are not elected.

The following Table is showing a comparative investigation of Pakistan and USA’s Judiciary.

**Table No 1: Comparative investigation of Pakistan and USA’s Judiciary**

| Key Points                             | Pakistan                                                                                                                                                                                                                          | USA                                                                                                                                                                                                                                     |
|----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Hierarchy and Structure</b>         | Three-tiered system: District Courts, High Courts in each province, and the Supreme Court.<br><br>No state-level judiciary due to Pakistan being a federal republic with a centralized judicial system.                           | Three-tiered system: Federal District Courts, Circuit Courts of Appeal, and the Supreme Court.<br><br>State-level courts operate independently with their constitutions and laws, ensuring dual sovereignty.                            |
| <b>Appointment of Judges</b>           | The President appoints judges based on the Judicial Commission of Pakistan's recommendation, which is verified by the Parliamentary Committee.<br><br>Judges do not serve lifetime appointments; they have fixed retirement ages. | Federal judges, including Supreme Court Justices, are nominated by the President and confirmed by the Senate.<br><br>Judges hold lifetime appointments to ensure independence.                                                          |
| <b>Judicial Activism and Restraint</b> | Frequently engages in judicial activism, addressing political corruption, governance issues, and human rights violations.<br><br>Suo moto actions have often been used to compensate for weak governance.                         | Generally, adheres to the doctrine of judicial restraint, though landmark rulings (e.g., Roe v. Wade, Obergefell v. Hodges) reflect activism.<br><br>Focuses on interpreting the Constitution with respect to evolving societal values. |



|                                     |                                                                                                                                                                                                                                      |                                                                                                                                                                                               |
|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Role in Politics</b>             | <p>Plays a more prominent role in political matters, often intervening in constitutional crises (e.g., dismissal of prime ministers).</p> <p>Its decisions sometimes face implementation challenges due to political resistance.</p> | <p>Maintains a largely neutral stance but occasionally makes politically impactful decisions (e.g., Bush v. Gore, 2000).</p> <p>Judicial rulings are generally respected and implemented.</p> |
| <b>Accessibility and Efficiency</b> | <p>Faces significant challenges, including case backlogs, lack of resources, and limited access to justice for marginalized communities.</p> <p>Corruption and inefficiency remain persistent concerns.</p>                          | <p>Well-developed legal aid systems and technological advancements improve accessibility.</p> <p>Legal proceedings can be slow and expensive.</p>                                             |

## 5. Conclusion

The political structures, histories, and constitutional frameworks of Pakistan and the United States differ significantly, as evidenced by judicial activism between the two countries. Judicial activism has played a significant role in the United States in defending individual liberties, building civil rights, and adapting to social shifts. The Supreme Court can now interpret the Constitution and challenge unconstitutional legislative and executive actions because it has upheld the judicial review foundation established by *Marbury v. Madison* (1803). Critics counter that by replacing the will of elected representatives with judicial preferences, judicial activism might erode democratic values. However, Pakistan's unique political history especially its numerous military operations and shifting civil-military relations has led to complicated and troublesome judicial activism. The Supreme Court in particular has had a significant influence on politics by upholding democratic principles and bolstering military power. The 2007 judicial crisis prompted the judiciary to begin building its independence and attempting to counterbalance the president's and military's dominance. The political impacts of judicial activism in both countries fall into several significant categories. The United States' checks and balances system has been strengthened, individual liberties have been expanded, and social justice has often been advanced as a result of judicial activism. However, the notion that unelected judges are rendering judgments on controversial issues that belong in the democratic process may be a disadvantage.

### 5.1 Recommendations

The United States is dealing with judicial overreach in sensitive areas like campaign finance and abortion. Openness and accountability in court decisions are promoted by measures



like permitting diverse groups to present amicus curiae arguments. Pakistan is considering amending its constitution to specify the scope and bounds of judicial involvement.

The United States is tackling legal difficulties by promoting collaboration between federal and state courts, reducing delays, and streamlining procedures. Pakistan is decentralizing its legal system and easing the burden on its central institutions by letting local courts handle routine issues. This decentralization allows for quicker resolutions and less burden on central institutions. in an effort to reduce human mistake and expedite the legal system.

Public outrage about the politics of judicial nominations, particularly to the Supreme Court, has led to calls for changes to the judicial selection procedure. Transparency is being increased through public hearings and comprehensive disclosures of nominees' qualifications and past decisions. Pakistan is maintaining the independence of the court and avoiding political meddling while enhancing the transparency of judge appointments by integrating academic experts and civil society organizations. The role of the US judiciary is to ensure that economic policies comply with the Constitution. Pakistan is promoting judicial restraint in economic affairs, recognizing the judiciary's function in upholding transparency and interpreting the law. The judiciary is consulting with experts and business executives to ensure that rulings are based on sound economic principles.

The United States is promoting collaboration among the judicial, executive, and legislative branches. This tactic lessens disagreements while maintaining judicial neutrality. Pakistan is promoting the growth of institutional capacity so that the judiciary and other branches can effectively fulfil their constitutional obligations. Strengthening other institutions, such as the legislative and executive branches, encourages cooperative governance and reduces the motivation for the court to overreach. The United States and Pakistan are promoting public education about legal processes, rights, and the importance of an independent judiciary. Both countries aim to demystify the process, foster trust in the legal system, and alleviate concerns about partisanship in the judiciary. Pakistan's efforts focus on educating the people about their rights, such as access to justice and protection from violations of human rights, in an effort to boost public confidence in the judiciary and reduce concerns about its impartiality.

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