
Judicial Activism in Pakistan: A Comparative Study of CJP Saqib Nisar and Umar Ata Bandial

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Abstract:

This paper provides a detailed discussion of judicial activism in Pakistan, comparing the eras of two vastly different Chief Justices, Saqib Nisar and Umar Ata Bandial. This paper explores the core and contentious issues of activism on the court, the gains and pains of judicial activism, the impacts of activism on rights and freedoms, the impacts of activism on the executive, and the impacts of activism on social justice. Through discussion of the Mukhtar Mai and Blasphemy cases in the context of the cases, the study focuses on the additive role of the judiciary in common legal and social questions. In addition, the paper addresses the problems of caseload, public perception challenges, and security issues affecting the judiciary. For this reason, international views are incorporated to situate Pakistan's judicial processes. Moreover, the paper compares the aggressive behaviour during the tenure of Chief Justice Nisar to the passive stance of the present Chief Justice Bandial and how they caused either favourable or unfavourable shifts in legal norms and society. Finally, the study provides specific suggestions for judicial reforms in the scenarios of case management, access to justice, and cooperation with international organizations in order to strengthen the judiciary as a result of Pakistan's developing legal structure.

Keywords: Judicial Activism, Chief justice, Pakistan, Suo moto, Dosso case, Saqib Nisar, Panama paper case.

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Introduction:

Pakistan's active legal scene often sees the judiciary stepping beyond mere interpretation, taking on a more involved role in shaping the nation's path. This phenomenon, called judicial activism, sparks intense debate, closely tied to the country's changing political and social landscape. This study compares the approaches of two Chief Justices: Saqib Nisar and Umar Ata Bandial. Chief Justice Nisar (December, 2016- January 2019) embodied a bold form of judicial activism. He frequently intervened in areas usually left to the executive or legislative branches, addressing corruption, human rights issues, and even leading to the removal of a Prime Minister (Jatoi, Mustafa, & Kataria, 2022). Supporters praised his actions as bold steps toward accountability and justice, highlighting his rulings on missing persons and environmental negligence. They argue his activism restored public trust in the judiciary as a check against executive power and societal problems (Rasheed, Mukhtar, Saqib, & Khan, 2020). However, critics warn of the dangers of unrestrained judicial authority. Nisar faced accusations of overreach, sidestepping democratic processes and established checks and balances. Some believe his interventions were politically motivated, targeting specific

figures and parties. They argue that his public statements, often made in televised hearings, blurred the lines between judicial impartiality and due process.

Chief Justice Bandial (February 2022 to September 2023) presents a significant departure. He adopted a more restrained approach to judicial activism, emphasizing deference to other branches of government and focusing on adjudicating disputes within established legal frameworks (Hussnain, 2023; News, 2022). This shift is welcomed by proponents of judicial restraint, arguing it restores constitutional balance and safeguards democratic institutions from undue judicial influence (News, 2022). Bandial's emphasis on precedent and procedural safeguards is viewed as a check against arbitrary judicial decisions and ensures greater predictability in the legal system. However, critics argue that this cautious approach may lead to missed opportunities to address critical societal issues and uphold fundamental rights. They suggest that a more proactive stance may be necessary in certain instances to tackle systemic injustices or hold powerful actors accountable. Critics of Bandial point to his perceived reluctance to engage in *suo motu* cases or address sensitive issues directly, suggesting that excessive deference could leave vulnerable groups unprotected and perpetuate impunity (Hussnain, 2023; Baloch, 2023).

Examining the contrasting approaches of Chief Justices Nisar and Bandial provides valuable insights into the current state of judicial activism in Pakistan. Their respective tenures raise crucial questions about the judiciary's role in a young democracy, the delicate balance between accountability and overreach, and the ongoing struggle to define the optimal boundaries of judicial power. This study aims to delve deeper into these complexities, analyzing the specific interventions of each Chief Justice within their historical context and evaluating their impact on Pakistan's legal, political, and social landscape. Through this comparative analysis, we seek to shed light on the ongoing debate surrounding judicial activism in Pakistan, offering insights into its potential and pitfalls and ultimately contributing to a nuanced understanding of this dynamic force shaping the nation's destiny.

Judicial activism, the phenomenon wherein courts play an active role in shaping and influencing public policy, has been a significant aspect of Pakistan's legal landscape. This research paper aims to explore the intricacies of judicial activism in Pakistan, including its historical evolution, pros, and cons, and conducting a comparative analysis of the tenures of Chief Justices Saqib Nisar and Umar Ata Bandial. Pakistan's judiciary, like many post-colonial nations, has played a pivotal role in defining the contours of governance, law, and societal norms. The roots of judicial activism in Pakistan can be traced back to its early years, marked by landmark cases that laid the foundation for a judiciary willing to intervene in political matters and matters of public interest. The objective of this research is not only to chronicle the history of judicial activism but also to critically examine its impact on the country's legal and political landscape.

Defined by scholars, judicial activism involves judges interpreting the law in ways that contribute to societal changes, often going beyond traditional boundaries (Katchela, n.d.; Cheema, 2016). This phenomenon is crucial in Pakistan, where issues of constitutional interpretation, fundamental rights, and the balance of powers are frequently under scrutiny (Ahmed, 2023). To understand this phenomenon, it is essential to dissect specific instances of judicial activism, the legal principles involved, and the implications for governance and human rights. Several seminal cases and moments stand out in the history of judicial activism in Pakistan, shaping the trajectory of the judiciary's engagement with public issues. Notable

cases such as the Asma Jilani case (1972), the Lawyers' Movement (2007), the Panama Papers case (2017), and the restoration of the national assembly (2022) are illustrative examples of the judiciary's willingness to intervene in matters of national importance.

To guide this exploration, references will be drawn from legal scholarship, court decisions, and scholarly analyses of judicial activism in Pakistan. Scholars such as Hamid Khan, Asif Hameed, Ayesha Jalal, and Faizan Mustafa provide valuable insights into the historical and constitutional dimensions of the judiciary in Pakistan, while specific case analyses and commentaries from legal experts contribute to a nuanced understanding of the subject. This study applies descriptive analysis research methodology.

In the subsequent sections, this research paper will unfold the historical narrative of judicial activism in Pakistan, critically assess its pros and cons, and offer a comparative examination of Chief Justices Saqib Nisar and Umar Ata Bandial. Through this multifaceted exploration, the paper aims to contribute to the ongoing discourse on the role of the judiciary in shaping the socio-political landscape of Pakistan.

Historical Overview of Judicial Activism in Pakistan

The story of judicial activism in Pakistan is not straightforward but rather a complex journey marked by periods of assertive intervention and cautious restraint. It reflects the nation's turbulent political history, balancing the quest for accountability with the dangers of unchecked power (Ahmed, 2023; Cheema, 2016). This overview aims to navigate this intricate discourse, tracing the evolution of judicial activism from its inception to its contemporary forms.

In the early years (1947-1977), the judiciary showed glimpses of activism, gradually expanding its role beyond interpretation. Landmark cases like the Dosso Case (1954) and the Maulvi Tamizuddin case (1955) showcased the judiciary's early assertiveness against executive overreach, though it also faced periods of acquiescence to military regimes, notably under Ayub Khan and Yahya Khan (Ahmed, 2023; Khan & Shamim, 2019). The era of Zia-ul-Haq's dictatorship saw a shift in the judicial landscape, with the judiciary initially accommodating the regime's Islamization efforts but later asserting fundamental rights in cases like the Nusrat Haroon case (1984). Activist lawyers like Asma Jahangir challenged the regime through strategic litigation, paving the way for a more vocal citizenry (Ziring, 1988; Khan & Shamim, 2019).

Following Zia's regime, the judiciary's approach remained inconsistent, occasionally intervening in political matters during Benazir Bhutto's and Nawaz Sharif's tenures but also displaying deference at times. The Sharif-Ousted-Judiciary crisis (1997) exemplified this volatility, with the Supreme Court dismissing Sharif's government over alleged corruption, a decision later reversed (Ahmed, 2023). The Lawyers' Movement (2007-2009) marked a significant turning point, mobilizing public support for an independent judiciary and leading to Chief Justice Iftikhar Chaudhry's reinstatement (GNAD, n.d.). This period witnessed unprecedented judicial activism, with landmark judgments like the NRO case (2009) disqualifying corrupt politicians and the Panama Papers case (2017) unseating Nawaz Sharif, cementing the judiciary's role in accountability.

Pakistan's journey with judicial activism remains ongoing, balancing accountability with judicial restraint and democratic principles. The historical evolution of judicial activism in Pakistan is deeply intertwined with the nation's socio-political journey since independence. The judiciary, envisioned as a guardian of the Constitution and fundamental rights, has often played a pivotal role in shaping Pakistan's legal landscape, facing challenges and opportunities along the way.

Pros and Cons of Judicial Activism in Pakistan

Judicial activism plays a vital role in safeguarding fundamental rights, particularly for vulnerable groups and minorities often overlooked by other branches of government. Landmark cases such as the Asma Jilani case (1972) reinforce the judiciary's commitment to upholding individual liberties, even in the face of legislative or executive actions (FAISAL & ASHRAD, 2023). By interpreting and defending fundamental rights proactively, the judiciary acts as a bulwark against potential abuses of power. In instances where the legislature is slow to address pressing social issues, judicial activism can bridge legislative gaps. For example, the Indian Supreme Court's judgments on the right to clean air and the right to education filled legislative voids, impacting millions and highlighting the judiciary's role in addressing societal needs (KHAN & ZUBAIR, 2023; Poddar, 2023).

Judicial activism offers a significant advantage in upholding the system of checks and balances. Through vigilant oversight of executive and legislative actions, the judiciary acts as a safeguard against possible overreach, ensuring governmental activities adhere to constitutional principles (Khan & Shamim, 2019; Jamal, 2018). This oversight is vital in thwarting power abuse and upholding the rule of law. Landmark cases such as the Asma Jilani case (1972) and the NRO case (2009) in Pakistan illustrate how judicial activism has been pivotal in maintaining checks and balances, guaranteeing governmental actions align with constitutional principles and averting potential power abuses (Munir & Khalid, 2020).

Furthermore, an activist judiciary can hold the executive and legislative branches accountable for their actions. In Pakistan, the Panama Papers case led to the ousting of Prime Minister Nawaz Sharif for financial misdeeds, demonstrating the judiciary's potential to combat corruption and promote accountability (Katchela, n.d.; Naqvi, 2023; Panama Papers case judgment PLD, 2017). Additionally, judicial activism can promote social justice by championing causes and challenging discriminatory practices. For example, in South Africa, the Constitutional Court played a pivotal role in dismantling apartheid, underscoring the judiciary's power to address societal injustices and uphold human rights causes. Overall, judicial activism has been instrumental in addressing societal injustices, championing human rights causes, and contributing to a more inclusive and equitable legal landscape. The judiciary's prioritization of public interest in its decisions reflects a commitment to fostering a just and humane society.

However, excessive judicial activism has drawn criticism for potentially undermining democratic processes and weakening elected representatives' role, thus disrupting the delicate balance intended by the constitution. Critics argue that unelected judges imposing their personal values through judicial pronouncements infringe upon democratic principles. The Dosso case (P.L.D. 1958, 1958) serves as an example where the judiciary validated martial law in the name of necessity, raising concerns about the separation of powers (Badshah, 2021). Judicial overreach is another concern, where judges may exceed their constitutional

mandate, leading to accusations of bias and a lack of accountability. Chief Justice Saqib Nisar's tenure in Pakistan has been cited as an example of judicial overreach and potential political influence. While interpreting the law falls within the judiciary's purview, engaging in policymaking ventures may exceed its constitutional mandate, as seen in the Panama Papers case (2017).

Moreover, activist rulings can create uncertainty in the legal system, making it challenging for individuals and businesses to plan their affairs. In contexts where the rule of law is weak, judicial activism may inadvertently legitimize undemocratic practices, as exemplified by the Venezuelan Supreme Court's support for President Maduro's authoritarian regime. Critics also highlight the perception of selective intervention by the judiciary, where cases may be chosen based on personal or political considerations, leading to inconsistent application of judicial activism (Naqvi, 2023; Khan & Shamim, 2019). This perceived bias in case selection can erode public trust in the judiciary's impartiality and credibility. The debate surrounding judicial activism underscores the need to find a balance between protecting rights, promoting accountability, and respecting democratic institutions. This requires careful consideration of each situation's context, ensuring transparency and public trust in judicial processes, and fostering informed discussions on the judiciary's proper role in a democratic society.

Understanding both the benefits and drawbacks of judicial activism is crucial for engaging in constructive dialogue and ensuring that the judiciary plays a constructive role in advancing justice and upholding the rule of law. The analysis of Chief Justices Saqib Nisar and Umar Ata Bandial's tenures will shed light on their approaches and the implications of their decisions on Pakistan's trajectory of judicial activism.

Comparative Analysis of Chief Justices Saqib Nisar and Umar Ata Bandial

The comparative analysis of Chief Justices Saqib Nisar and Umar Ata Bandial marks a crucial examination of the evolving role of the judiciary in Pakistan. Chief Justice Saqib Nisar presided over a period marked by high-profile interventions and decisions that sparked debates on the extent of judicial power. On the other hand, Chief Justice Umar Ata Bandial, assuming office in 2022, inherits a judiciary shaped by the precedents of his predecessors. This section seeks to scrutinize the distinct tenures of these Chief Justices, exploring their key decisions, approaches to judicial activism, and the consequential impact on the legal and socio-political landscape of Pakistan. Through this comparative lens, the research aims to unravel the nuanced dynamics of judicial leadership and its implications for the future trajectory of the Pakistani judiciary. The Pakistani judiciary's recent years have been marked by two contrasting figures: Chief Justices Saqib Nisar and Umar Ata Bandial. Their tenures, characterized by distinct approaches to judicial activism, have sparked vibrant debate, raising crucial questions about the optimal role of the judiciary in a young democracy. This comparative analysis delves into the approaches of these two Chief Justices, exploring their stances on judicial activism, their landmark interventions, and the impact they have had on Pakistan's political, social, and legal landscape.

A. Saqib Nisar

Chief Justice Saqib Nisar's tenure was marked by significant cases and policy initiatives that left a lasting impact on Pakistan's legal and socio-political landscape. His chief justiceship was characterized by an assertive brand of judicial activism, where he readily

intervened in matters traditionally within the executive or legislative domains, addressing issues such as corruption, human rights violations, and environmental neglect.

One of the most notable cases during Chief Justice Nisar's tenure was the Panama Papers case in 2017, which exposed the financial dealings of then-Prime Minister Nawaz Sharif and his family. Chief Justice Nisar played a pivotal role in investigating allegations of corruption, resulting in Sharif's disqualification from office. While hailed as a landmark move in holding political leaders accountable, critics raised concerns about judicial overreach into executive and legislative matters. Furthermore, Chief Justice Nisar championed causes beyond legal disputes, exemplified by his initiation of the Diamer-Bhasha Dam Fund in 2018 to address Pakistan's water crisis (Azeem, 2018). This initiative, although receiving public support, sparked debates on the appropriateness of the judiciary assuming roles traditionally associated with the executive branch.

Additionally, Chief Justice Nisar demonstrated a proactive stance in addressing human rights issues, frequently taking suo-motu notice of incidents capturing public attention, such as cases related to child abuse and inadequate healthcare facilities (Ijaz, 2019). While praised for prioritizing human rights, this expansive use of suo-motu powers faced criticism for potentially exceeding the judiciary's constitutional role. Moreover, Chief Justice Nisar implemented judicial reforms to streamline case management, reduce delays, and enhance overall efficiency, including the use of technology for case tracking and management (Malik, 2018). However, his involvement in addressing critical national issues like water scarcity and healthcare raised debates on the appropriate role of the judiciary in policymaking.

Nevertheless, Nisar's tenure was not without controversy, with accusations of judicial overreach and political targeting being widespread. Critics argued that some interventions appeared politically motivated, bypassing established checks and balances and raising concerns about democratic processes.

B. Umar Ata Bandial

Chief Justice Umar Ata Bandial's approach stands in stark contrast to his predecessors. Since assuming office in 2022, he has adopted a more restrained approach to judicial activism, emphasizing judicial deference to other branches of government and a focus on adjudicating disputes within established legal frameworks. This shift has been welcomed by proponents of judicial restraint, who argue that it restores constitutional equilibrium and protects democratic institutions from undue judicial influence.

In his early tenure, Chief Justice Bandial has emphasized the importance of preserving judicial independence. His commitment to a robust and independent judiciary has been evident in his public statements and interactions with legal stakeholders. This focus on maintaining the judiciary's autonomy is crucial given the historical challenges to judicial independence in Pakistan (BANERJI, 2023; Khan A. R., 2023). Furthermore, Chief Justice Bandial's approach to constitutional interpretation and upholding the rule of law has been consistent. He has prioritized legal principles, precedent, and procedural safeguards, ensuring predictability and adherence to established legal norms. Bandial's exercise of significantly less recourse to suo motu actions reflects his commitment to respecting the boundaries between the judiciary and other branches of government (Iqbal, 2023).

Moreover, Chief Justice Bandial has displayed a cautious approach to public interest litigation (PIL), recognizing the importance of addressing matters of public concern while emphasizing the need for clear legal principles and standing in PIL cases. This balanced approach aims to prevent potential misuse of PIL while ensuring accessibility for cases of genuine public interest. Chief Justice Bandial has shown continuity in pursuing judicial reforms, building on initiatives undertaken by his predecessors. Efforts to streamline case management, reduce backlog, and improve court infrastructure have persisted. Additionally, his emphasis on dialogue and consultation with stakeholders fosters a collaborative approach to legal decision-making, contributing to trust and legitimacy for the judiciary.

However, critics argue that Bandial's cautious approach might result in missed opportunities to address critical societal issues and uphold fundamental rights. They contend that excessive deference could leave vulnerable groups unprotected and perpetuate impunity. In assessing Chief Justice Bandial's tenure, there appears to be a nuanced approach to judicial activism. While recognizing the judiciary's role in addressing constitutional issues and upholding fundamental rights, he has emphasized judicial restraint and adherence to constitutional limits. His commitment to collegial decision-making within the Supreme Court ensures diverse perspectives and thorough deliberations.

Chief Justice Bandial has also shown awareness of contemporary challenges facing Pakistan, emphasizing the judiciary's role in ensuring accountability and good governance. As his tenure progresses, it will be essential to monitor how these early trends develop and whether new themes and priorities emerge in shaping the course of judicial activism in Pakistan.

Comparative Analysis

The difference in the views of CJs Nisar and Bandial offers information that relies on the continuous discussion of activism in Pakistan. During his tenure, Nisar gave robust interventions that ensured positive outcomes, especially in sensitive cases like the Panama Papers case. By coming out against corruption, human rights abuses, and environmental wrongs, he demonstrated the judiciary as a balancing power against the executive branch. He returned the masses' trust in the ability of the judiciary to set the law right (Panama Papers case judgment PLD, 2017). However, suo motu actions taken by Nisar became a source of controversy owing to the fact that the judiciary encroached into the province of the executive and legislature to create judicial hegemony; there were fears that it would be politically motivated (QAZI, 2018). Challenges that the critics of this process observed insist with success that the hearings that are held within the framework of television broadcasts, on the contrary, contribute to transparency and create a spectacle that can destabilize the courtroom (Jatoi, Mustafa, & Kataria, 2022).

On the other hand, Chief Justice Bandial emphasizes restraint as stability, judiciary impartiality and compliance with rules. He, particularly, does not engage in suo motu actions frequently, and where he does so, it is with restraint, especially in public interest litigation; this shows his respect for the separation of powers and his desire to ensure a proper role for the judiciary. For instance, when dealing with environmental pollution, he has engaged people in such issues, preferring legal settlements as opposed to quick corrective action (Hafeez & Walkinson, 2021). As much as this approach is seen to uphold the rule of law, this approach has also been criticized for rationalizing the failure to correct system injustices,

especially where the government fails to act (Jamal, Democracy and Judicial Activism in Pakistan, 2018).

These two judicial approaches highlight the challenges of finding an intermediate level of activism and restraint. Nisar's politically aggressive approach, while resulting in expeditious actions against corruption, also exposed the judiciary to political bickering and conflict. This not only diverted the judiciary's focus from its core responsibilities but also raised concerns about its independence and impartiality. On the other hand, Bandial's approach, while preserving constitutionalism, may restrain the judiciary from addressing imminent social concerns, leaving vulnerable members of society at risk when other arms of the government fail to act (Falki & Shahzad, 2022).

Challenges Faced by the Judiciary in Pakistan

Today, essential key issues identified in Pakistan's judiciary include case backlog, which slows down the delivery of justice. Appellate courts, as well as other trial courts, have been congested, and the delays that are occasioned generate more social mistrust in the legal process (Prakash, 2011). In addition, the judiciary faces physical and human resource constraints as well as inadequate infrastructure and human resources estimator. Also, the late appointment of judges prolongs the cases and leads to increased public mistrust, which may be part of the reasons for corruption and nepotism (Hussain, 2015).

In prejudiced societies like Pakistan, the provision of justice remains a significant challenge, especially for citizens of lesser importance. High legal costs, complex legal processes, and geographical constraints often prevent many from seeking remedy, undermining the principle of justice for all. This challenge is further compounded by cases of executive intervention, which not only compromise the independence of the judiciary but also its ability to act as an impartial referee (Falki & Shahzad, 2022; Hussain, 2015).

Case Studies and Examples

Examining specific case studies provides a nuanced understanding of how the challenges outlined in previous sections manifest in real-world legal scenarios in Pakistan. Notable cases under Chief Justices Saqib Nisar and Umar Ata Bandial offer insights into the complexities faced by the judiciary and its evolving role in shaping legal precedents and societal norms.

Chief Justice Nisar's tenure was characterized by bold interventions and a willingness to challenge established norms: The Panama Papers Case (2017) exemplified Nisar's assertive activism. His *suo motu* action and the subsequent disqualification of Prime Minister Nawaz Sharif set a precedent for holding high-ranking officials accountable for financial misconduct. This landmark decision challenged the notion of elite immunity and bolstered public trust in the judiciary's capacity to uphold the rule of law (Rasmussen, 2017; Panama Papers case judgment PLD, 2017).

Additionally, Nisar's interventions expanded the perceived purview of the judiciary, particularly in issues like environmental pollution and missing persons. While sparking debate about the appropriate boundaries of judicial power, these actions stimulated broader public discourse and awareness of legal issues, despite concerns about impartiality raised by his televised hearings (Jatoi, Mustafa, & Kataria, 2022; QAZI, 2018).

However, Nisar's legacy also involves contested precedents. Critics argue that his frequent recourse to *suo motu* actions and interventions in politically charged cases may have undermined due process and jeopardized the judiciary's neutrality. Such concerns highlight the potential risks of judicial overreach and politicization, undermining public trust in the judiciary's impartiality.

In contrast, Chief Justice Bandial's tenure emphasizes restraint and procedural safeguards: Bandial's cautious approach prioritizes established legal frameworks and adherence to due process, reaffirming the principle of judicial restraint and ensuring consistency in judicial decision-making. His emphasis on dialogue and collaboration with stakeholders sets a precedent for a more consultative approach to legal problem-solving, fostering trust and legitimacy for the judiciary. Bandial's environmental activism, particularly in the environmental pollution case, highlights the judiciary's potential to address pressing issues within established legal frameworks. By promoting environmental protection and holding polluters accountable, Bandial sets a precedent for judicial engagement in societal issues while upholding procedural safeguards (Hafeez & Walkinson, 2021; Jamal, *The Problem With Pakistan's Supreme Court*, 2023).

However, concerns persist regarding the effectiveness of Bandial's restraint. Critics argue that his cautious approach may limit the judiciary's ability to address urgent issues requiring prompt intervention, particularly in cases involving human rights violations or systemic injustices.

Examining specific case studies further highlights the intricacies of legal challenges faced by the judiciary in Pakistan: The Mukhtar Mai case (2002) underscored challenges related to gender-based violence and access to justice, revealing the need for legal reforms to better protect survivors of sexual assault (Institute, 2011; *Mukhtar Mai v. The State*, 2005). Cases involving enforced disappearances and missing persons exemplify the judiciary's struggles in balancing national security concerns with individual rights and addressing allegations of state-sponsored disappearances. Blasphemy cases, such as the Asia Bibi case, illustrate the delicate task of balancing religious sentiments, the rule of law, and international scrutiny, highlighting the need for judicial courage in handling cases with significant societal implications (Ali, 2022; *Asia Bibi v. The State*, 2019). Overall, these case studies offer insights into the complexities, successes, and limitations of the judicial system in Pakistan. By navigating these challenges and shaping legal precedents, the judiciary plays a crucial role in influencing societal norms and upholding the rule of law.

Comparative International Perspectives

Examining the challenges and dynamics within the judiciary in Pakistan through a comparative international perspective offers valuable insights into global trends, best practices, and potential solutions. Key aspects such as judicial independence, case management and efficiency, access to justice, executive-judiciary relations, and judicial activism can be explored by drawing comparisons with other countries, shedding light on shared challenges and innovative approaches to judicial governance.

The issue of judicial independence is universally recognized as crucial for upholding the rule of law and ensuring impartial justice. Countries like the United States, Canada, and the United Kingdom have established robust mechanisms to safeguard judicial autonomy. For

example, the principle of judicial review in the United States allows courts to review the constitutionality of laws enacted by the legislature and actions taken by the executive branch. Similarly, in the United Kingdom, the judiciary operates independently from political influence, with the Lord Chancellor traditionally serving as a guardian of judicial independence. Comparative analysis with these jurisdictions highlights the importance of legal frameworks, institutional safeguards, and a culture of respect for the rule of law in ensuring judicial independence (Judiciary, n.d.; Bingham, 2000).

Many Western democracies, such as Germany and Sweden, have implemented efficient case management systems to address caseload backlogs and ensure timely resolution of disputes. For instance, Germany's civil procedure system emphasizes procedural efficiency, with specialized courts and alternative dispute resolution mechanisms contributing to swift case resolution. Similarly, Sweden prioritizes technology-driven solutions and streamlined legal procedures to expedite court proceedings. Comparative insights from these countries can inform potential reforms in Pakistan aimed at enhancing the efficiency of its judicial system, particularly in addressing the persistent issue of backlog of cases (Ragone, 2019; Mather & Yngvesson, 1995).

Scandinavian countries like Norway and Finland are renowned for their models of ensuring broad access to justice (Nylund, 2021; Langbein, 2004). These countries prioritize legal aid services, simplified legal procedures, and community-based dispute resolution mechanisms to ensure that justice is accessible to all segments of society. For example, Norway's legal aid system provides free legal assistance to individuals who cannot afford legal representation, thereby reducing barriers to justice. Comparative analysis with these countries can inspire innovations in Pakistan to overcome challenges related to limited access to justice, especially for marginalized and vulnerable populations.

Comparative analysis of executive-judiciary relations in countries like India and South Africa offers valuable insights into navigating the delicate balance of power between these branches of government. In India, the judiciary has played an active role in checking executive power through landmark decisions and judicial activism (Sahoo, 2022). Conversely, South Africa's constitutional court has been instrumental in post-apartheid governance, ensuring adherence to constitutional principles and protecting human rights. Analyzing these experiences can provide perspectives on maintaining institutional checks and balances, promoting accountability, and upholding the rule of law in Pakistan (Klug, 2006).

The phenomenon of judicial activism is not unique to Pakistan, and other jurisdictions grapple with similar debates regarding the appropriate role and limits of judicial intervention. The United States, with its history of landmark decisions by the Supreme Court, serves as a contrasting example of a judiciary that actively shapes public policy. For instance, decisions such as *Brown v. Board of Education* and *Roe v. Wade* have had far-reaching implications for civil rights and reproductive rights, respectively. Comparative insights from these experiences can inform discussions on the scope and boundaries of judicial activism in Pakistan, considering its legal and political context (Tushnet, 1997).

By considering these comparative international perspectives, Pakistan can draw on global experiences to address its specific challenges and enhance its judicial system. While each country has a unique legal and political context, the shared principles of judicial independence, efficiency, and access to justice serve as universal benchmarks. Leveraging

lessons learned from diverse legal systems can contribute to the ongoing efforts to strengthen Pakistan's judiciary and ensure justice delivery in a fair, transparent, and accountable manner.

Recommendations for Judicial Reforms

Efforts to enhance the effectiveness, efficiency, and credibility of the judicial system in Pakistan necessitate comprehensive reforms tailored to address the multifaceted challenges identified earlier. Drawing on international best practices and adapting them to the unique context of Pakistan, the following recommendations are presented to guide meaningful judicial reforms.

Firstly, implementing robust case management systems and leveraging technology for e-filing and data analytics can significantly reduce the backlog of cases. Countries like Sweden and Canada serve as benchmarks for successful case management practices, where technological integration and efficient court administration have expedited legal proceedings.

Secondly, prioritizing ongoing training programs for judges, legal professionals, and court staff is essential to keep them abreast of evolving legal principles and case management techniques. Collaboration with international legal education institutions can provide specialized training opportunities, ensuring that the judiciary remains equipped to handle complex legal issues.

Thirdly, developing policies to enhance access to justice, particularly for marginalized communities, is crucial. Models from countries like Norway and Finland, where legal aid services and simplified legal procedures promote inclusivity, offer valuable insights. Establishing community-based dispute resolution mechanisms can address local issues promptly.

Fourthly, enhancing security measures for judges, judicial personnel, and witnesses is imperative to safeguard the independence of the judiciary. Learning from the experiences of countries like India and Colombia can inform the establishment of effective protection protocols and ensure the safety of those involved in legal proceedings.

Fifthly, strengthening institutional mechanisms to protect judicial independence is essential. This includes transparent and merit-based processes for judicial appointments and effective functioning of judicial commissions. Comparative insights from countries like the United Kingdom with robust judicial independence safeguards can inform these reforms.

Sixthly, promoting the use of alternative dispute resolution mechanisms, such as mediation and arbitration, can alleviate the burden on formal court systems. Establishing specialized ADR centers and training professionals in ADR techniques, as seen in countries like Singapore and the United States, can provide valuable lessons.

Seventhly, undertaking comprehensive legal reforms to protect human rights and ensure fair treatment within the legal system is imperative. Learning from countries with strong human rights frameworks, such as Canada and Germany, can help strengthen legal provisions and align domestic laws with international standards.

Eighthly, launching public awareness campaigns to educate citizens about their legal rights and the functioning of the judiciary is essential. Collaborating with educational

institutions, media outlets, and civil society organizations, as observed in countries like Australia and the United States, can foster a culture of legal literacy and civic responsibility.

Ninthly, developing and enforcing a robust ethics and accountability framework for the judiciary is crucial. Implementing codes of conduct and establishing independent judicial conduct bodies, akin to the Judicial Conduct Board in the United Kingdom, can strengthen accountability mechanisms.

Lastly, fostering collaborations with international legal organizations, NGOs, and foreign legal experts is vital. Engaging in international forums and peer-review mechanisms allows Pakistan to exchange knowledge, seek guidance, and continuously improve the judiciary's functioning.

Implementing these recommendations requires a collaborative and sustained effort from various stakeholders. By adopting a holistic approach and drawing on lessons from diverse legal systems, Pakistan can build a judiciary that is responsive, transparent, and capable of delivering justice to all its citizens.

Conclusion:

In conclusion, the examination of judicial activism, challenges, case studies, and international perspectives within the context of Pakistan's judiciary underscores the intricate and evolving nature of the legal landscape. Judicial activism, as demonstrated by notable cases and the tenures of Chief Justices, has been instrumental in shaping legal and political narratives. The challenges encountered by the judiciary, spanning institutional issues to public perception, necessitate strategic and comprehensive reforms.

The case studies shed light on the judiciary's role in addressing various issues, from gender-based violence to constitutional complexities. International comparisons have underscored the significance of judicial independence, case management, and access to justice in cultivating a robust legal system. Drawing on international best practices while considering Pakistan's unique socio-political context can guide reforms aimed at enhancing the judiciary's effectiveness and credibility.

The recommendations proposed advocate for a holistic approach, encompassing technological integration, capacity building, access to justice initiatives, and international collaborations. Strengthening judicial independence, fortifying security measures, and embracing alternative dispute resolution mechanisms are pivotal aspects of these recommendations. Additionally, legal reforms, public awareness campaigns, and ethical accountability frameworks are essential in constructing a judiciary aligned with democratic values and ensuring justice for all.

As Pakistan navigates the path of judicial reform, the convergence of these recommendations seeks to establish a judiciary that is efficient, transparent, and responsive to the needs of its diverse populace. Continuous dialogue, collaboration, and a commitment to the rule of law are indispensable for fostering a legal system that resolves disputes and contributes to broader goals of justice, equality, and societal well-being. The journey toward a reformed judiciary is a shared responsibility, and by addressing identified challenges and implementing strategic reforms, Pakistan can strengthen its judicial institutions for the benefit of its citizens and the rule of law.

The contrasting legacies of Chief Justices Nisar and Bandial illustrate the ongoing dilemma surrounding judicial activism in Pakistan. While Nisar's assertive interventions yielded immediate results in high-profile cases and empowered the public, they also raised concerns about judicial overreach and potential political influence. Bandial's shift towards restraint, although commendable for upholding legal procedures and protecting democratic institutions, faces criticism for potentially limiting the judiciary's ability to address systemic issues effectively.

Navigating this complex landscape requires a nuanced approach that balances accountability with restraint. The future of the Pakistani judiciary lies in finding a middle ground, where assertive interventions address pressing societal issues without undermining established procedures or democratic processes. Continuous public engagement, open dialogue between branches of government, and a commitment to upholding the rule of law will be crucial in shaping a just and equitable future for Pakistan, where the judiciary plays its vital role without overstepping its boundaries. Only through such careful calibration can Pakistan forge a path towards truly impactful and balanced judicial activism, one that delivers on the promise of both justice and a robust democracy.

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