

Judicialization of Politics in Pakistan (2016–2025): Its Impact on Democratic Governance

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Abstract

The increasing involvement of the judiciary in politically significant matters has become an important feature of Pakistan's constitutional and democratic development. Between 2016 and 2025, the superior judiciary dealt with several disputes involving political accountability, the eligibility of elected representatives, parliamentary proceedings, executive authority, and the institutional structure of the judiciary. This article examines the judicialization of politics in Pakistan during this period and evaluates its consequences for democratic governance. The study employs a qualitative research design based on documentary analysis of judicial decisions, constitutional documents, scholarly literature, and institutional reports. Particular attention is given to the Panama case and the disqualification of Nawaz Sharif, the broader expansion of judicial review, the constitutional crisis surrounding the no-confidence motion in 2022, and the Twenty-Sixth and Twenty-Seventh Constitutional Amendments. The article argues that judicialization has produced both positive and negative consequences. Judicial intervention has strengthened constitutional accountability and, in some instances, protected constitutional procedures. At the same time, the growing political significance of judicial decisions has intensified tensions between the judiciary and elected institutions and raised questions concerning judicial restraint and separation of powers. The article concludes that democratic governance in Pakistan requires an appropriate balance between judicial independence and judicial restraint, with courts protecting constitutionalism while respecting the legitimate functions of representative institutions.

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1. Introduction

The judiciary is an essential institution of constitutional democracy. Courts interpret constitutional provisions, protect fundamental rights, review governmental actions, and resolve disputes between state institutions. However, courts in many contemporary political systems have increasingly

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become involved in disputes that were traditionally resolved through political institutions. This phenomenon is generally described as the judicialization of politics (Tate & Vallinder, 1995).

Judicialization does not simply mean that judges become politically active. It refers more broadly to the increasing importance of judicial institutions in determining issues with substantial political consequences. These may include electoral disputes, executive authority, constitutional amendments, political accountability, and conflicts between branches of government (Hirschl, 2004).

The expansion of judicial power has been particularly significant in new and developing democracies. Ginsburg (2003) argues that constitutional courts can become important political actors where political institutions are fragmented or where political actors see constitutional litigation as an alternative mechanism for resolving disputes.

Pakistan provides an important case for examining this phenomenon. The country's superior courts have gradually developed from relatively limited institutions into significant actors in governance and constitutional politics. Cheema (2018) argues that the expansion of judicial power in Pakistan has been a long-term and nonlinear process rather than a sudden development following the Lawyers' Movement. He particularly emphasizes the gradual expansion of judicial review of executive and administrative action.

The period from 2016 to 2025 is especially significant because it witnessed several highly consequential judicial and constitutional developments. The Panama Papers case culminated in the disqualification of Prime Minister Nawaz Sharif in 2017, while the Supreme Court became central to the constitutional crisis surrounding the no-confidence motion against Prime Minister Imran Khan in 2022. More recently, the Twenty-Sixth Constitutional Amendment of 2024 and the Twenty-Seventh Constitutional Amendment of 2025 substantially altered the institutional framework of constitutional adjudication.

The central argument of this article is that judicialization has had a dual impact on democratic governance. It has strengthened constitutional accountability and judicial review in some circumstances, but excessive judicial involvement in politically contentious matters can also generate institutional conflict and weaken the autonomy of representative institutions.

2. Conceptual Framework: Judicialization of Politics

The concept of judicialization of politics was popularized by Tate and Vallinder (1995), who described the increasing expansion of judicial decision-making into areas previously dominated by political institutions. Judicialization can therefore occur when political questions become legal questions and are increasingly resolved through courts.

Hirschl (2004) approaches judicialization from a more critical perspective. He argues that the expansion of constitutional courts can transfer important political decisions from elected institutions to unelected judicial actors. From this perspective, judicialization can produce a form of "juristocracy" in which judges acquire considerable influence over political decision-making.

However, judicialization should not automatically be equated with judicial overreach. Judicial review is an essential feature of constitutionalism because governments must operate within

constitutional limits. The central question is therefore whether judicial intervention remains connected to a legitimate constitutional mandate.

Cheema (2018) provides an especially useful framework for Pakistan. He argues that the country's superior courts have progressively expanded their institutional role through administrative law and judicial review. According to his analysis, the judiciary's involvement in political questions cannot be understood only through spectacular constitutional cases; its authority was gradually constructed through the review of executive and administrative action (Cheema, 2018).

The distinction is important because it demonstrates that Pakistan's judicialization is not simply a story of judges suddenly becoming politically powerful. It represents a longer process of institutional expansion.

3. Historical Evolution of Judicial Power in Pakistan

The political role of Pakistan's judiciary has deep historical roots. The superior courts have repeatedly been called upon to adjudicate disputes involving constitutional transitions, executive authority, elections, and the distribution of state power (Cheema, 2018).

The post-Lawyers' Movement period nevertheless represented an important stage in the development of judicial authority. The movement for restoration of the judiciary strengthened public expectations regarding judicial independence and constitutional accountability. Siddique (2015) argues that the Supreme Court after the Lawyers' Movement became an increasingly important institution in Pakistan's political order.

The judiciary's expanding role was not limited to constitutional disputes. Administrative and public-law litigation also contributed significantly to judicial empowerment. Cheema (2018) argues that the consistent development of judicial review over executive and administrative action provided the institutional foundation for the later expansion of judicial authority into major political questions.

The Lawyers' Movement also demonstrated the importance of lawyers and civil society in the political empowerment of the judiciary. Shafqat (2018) explains that civil society played an important role in the movement and that the struggle for judicial restoration became connected with broader democratic aspirations.

Thus, the judicialization visible after 2016 should be understood as the continuation of an institutional process rather than an entirely new phenomenon.

4. Judicialization and the Panama Case

The Panama Papers controversy of 2016 marked a major turning point in Pakistan's judicial politics. The disclosure of the Panama Papers generated allegations concerning offshore assets associated with the family of Prime Minister Nawaz Sharif. The dispute ultimately reached the Supreme Court, which ordered further investigation and subsequently established a Joint Investigation Team.

The proceedings culminated in the disqualification of Nawaz Sharif from the office of Prime Minister in July 2017. The case therefore demonstrated the capacity of the judiciary to produce a direct and immediate consequence for elected political leadership.

Cheema (2018) identifies the disqualification of elected prime ministers as one of the most visible manifestations of the expansion of judicial power in Pakistan. He nevertheless emphasizes that the

underlying process was much older and was connected with the gradual development of judicial review.

The Panama case can be interpreted positively from the perspective of accountability. Democratic government does not place elected officials above the Constitution or law. Judicial scrutiny can therefore strengthen the rule of law when political leaders violate constitutional requirements.

At the same time, the political consequences of the decision were substantial. The removal of a sitting Prime Minister through judicial proceedings necessarily affected political competition and the balance of power among political parties. The case consequently illustrates the central dilemma of judicialization: a judicial decision may be legally grounded while simultaneously producing major political consequences.

Cheema (2016) cautions against treating every judicial intervention as simply “judicial activism.” Instead, judicial power should be examined through the institutional context in which courts exercise their authority and the consequences of their decisions.

5. Judicialization and Political Accountability

Accountability is a fundamental component of democratic governance. Political leaders must remain accountable for their conduct, and constitutional institutions must have mechanisms for preventing the abuse of public authority.

Judicial review provides one such mechanism. Courts can review executive decisions and determine whether public authorities have acted within their constitutional and legal powers.

However, the judicialization of accountability creates institutional challenges when courts become the principal arena for disputes between political actors.

Kureshi (2022) argues that the Pakistani judiciary has increasingly assumed an ambitious role in political affairs and has intervened in matters extending beyond conventional adjudication. Such intervention may occur partly because political actors themselves use courts to pursue objectives that they cannot achieve through ordinary political processes.

This is consistent with the broader literature on judicialization, which suggests that judicialization is often driven not solely by judges but also by political actors who perceive courts as useful institutions for pursuing political objectives (Tate & Vallinder, 1995).

Therefore, political parties and governments can themselves contribute to judicialization by transferring political disputes into judicial forums.

6. Judicialization and Democratic Governance

Judicialization can affect democratic governance in several ways.

First, judicial intervention can strengthen constitutional accountability. When courts ensure that public officials comply with constitutional requirements, they reinforce the principle that political authority is limited by law (Ginsburg, 2003).

Second, judicial intervention can protect fundamental constitutional procedures. Courts can prevent executive or legislative actors from violating established constitutional processes.

Third, judicial review can provide institutional protection against arbitrary government action. This is particularly important where political institutions are unable or unwilling to effectively restrain executive authority (Cheema, 2018).

However, judicialization also creates risks. When courts increasingly decide politically consequential questions, elected institutions may become dependent on judicial intervention to resolve political disputes.

Hirschl (2004) warns that the expansion of judicial power can transfer important policy and political decisions away from representative institutions toward courts.

The democratic impact of judicialization is therefore dependent on the balance between judicial review and judicial restraint.

7. The 2022 Constitutional Crisis

The constitutional crisis of 2022 represents one of the most important examples of judicial intervention during the period under study.

A no-confidence motion was submitted against Prime Minister Imran Khan under Article 95 of the Constitution. On 3 April 2022, the Deputy Speaker of the National Assembly rejected the no-confidence proceedings. The National Assembly was subsequently dissolved.

The Supreme Court intervened and examined the legality of the Deputy Speaker's ruling. In *Suo Motu* Case No. 1 of 2022, the Court addressed the constitutional validity of the parliamentary proceedings and the consequences that followed from the Deputy Speaker's ruling (Supreme Court of Pakistan, 2022).

The Court's intervention can be interpreted as an effort to protect constitutional procedures. A parliamentary majority cannot simply be prevented from exercising a constitutionally recognized mechanism through an unconstitutional procedural ruling.=

From this perspective, judicial intervention strengthened democratic governance by protecting the constitutional framework.

However, the case also demonstrates the increasing dependence of political actors on judicial institutions. A dispute originating within parliament ultimately required the Supreme Court to determine the constitutional boundaries of parliamentary action.

The case therefore illustrates the dual character of judicialization: judicial intervention can protect democracy while simultaneously increasing judicial involvement in political affairs.

8. Judicial Independence and Judicial Restraint

Judicial independence is essential for the functioning of constitutional democracy. Judges must be able to interpret and apply the law without political pressure.

However, judicial independence does not necessarily imply unlimited judicial authority.

Judicial restraint requires courts to recognize that elected institutions possess legitimate constitutional functions. Courts should intervene when constitutional violations occur but should avoid unnecessarily substituting judicial preferences for political decisions.

The literature on judicialization demonstrates that the expansion of judicial power can transform the institutional balance of a political system (Hirschl, 2004).

Pakistan's experience demonstrates this tension clearly. The judiciary has acquired significant authority through judicial review, but the expansion of that authority has also generated debates concerning institutional boundaries (Cheema, 2018).

The appropriate democratic model is therefore not judicial supremacy or parliamentary supremacy. It is constitutional balance, where each institution operates within its constitutional mandate.

9. The Twenty-Sixth Constitutional Amendment, 2024

The Twenty-Sixth Constitutional Amendment introduced major changes to Pakistan's judicial structure.

The official parliamentary record identifies the measure as the Constitution (Twenty-Sixth Amendment) Act, 2024 (Government of Pakistan, 2024).

Among its significant consequences were changes concerning constitutional benches and the process through which senior judicial offices are structured.

The amendment therefore represented an important change in the relationship between political institutions and the judiciary.

The International Commission of Jurists (2024) criticized the amendment, arguing that aspects of the reform threatened judicial independence and increased the potential for political influence over judicial appointments and institutional functioning.

From another perspective, constitutional restructuring can be defended as an attempt to improve judicial accountability and institutional organization.

The significance of the amendment for judicialization is that the direction of influence changed. Previously, the main concern was judicial influence over political institutions. Following the amendment, the question increasingly became political influence over the institutional structure of the judiciary.

This demonstrates that judicialization is not a one-directional process.

10. The Twenty-Seventh Constitutional Amendment, 2025

The Twenty-Seventh Constitutional Amendment represents an even more significant transformation of Pakistan's judicial structure.

The National Assembly records the Constitution (Twenty-Seventh Amendment) Act, 2025 (Act No. XXXII of 2025) among the legislation passed in 2025 (Government of Pakistan, 2025).

One of the most important consequences of the amendment was the establishment of a Federal Constitutional Court and the redistribution of constitutional jurisdiction.

The reform therefore altered the institutional architecture through which constitutional disputes are adjudicated.

The amendment is significant for the judicialization debate because it changes the question from simply asking how much political power courts possess to asking how constitutional judicial power itself should be organized.

The institutional restructuring may potentially improve specialization in constitutional adjudication. However, its consequences for judicial independence depend on the appointment process, security

of tenure, institutional autonomy, and the relationship between the Federal Constitutional Court and the Supreme Court.

Consequently, the long-term democratic implications of the amendment require empirical assessment rather than immediate assumptions.

11. Judicialization and Separation of Powers

The principle of separation of powers requires constitutional institutions to perform distinct but interconnected functions.

Parliament legislates, the executive governs, and the judiciary interprets and applies the law. Nevertheless, constitutional democracy also requires checks and balances among these institutions. Judicialization complicates this relationship because constitutional disputes frequently concern the powers of parliament and the executive.

The Panama case involved the constitutional position of an elected Prime Minister. The 2022 crisis concerned parliamentary proceedings. The 26th Amendment altered the structure of judicial appointments and constitutional benches, while the 27th Amendment fundamentally reorganized constitutional adjudication.

These developments demonstrate that the judiciary and political institutions are deeply interconnected.

Cheema (2018) argues that Pakistan's superior courts have become important institutional actors in mediating the balance of power between different state institutions.

The challenge is therefore not to eliminate interaction between the judiciary and politics. Such interaction is unavoidable in constitutional democracy. The challenge is to prevent institutional interaction from becoming institutional domination.

12. Positive Effects of Judicialization

Judicialization has generated several potentially positive effects for democratic governance.

12.1 Constitutional Accountability

Judicial review can ensure that political leaders remain subject to constitutional requirements. The Panama case demonstrates the judiciary's ability to hold political leadership accountable (Cheema, 2018).

12.2 Protection of Constitutional Procedures

The 2022 constitutional crisis demonstrated that courts can intervene when constitutional procedures are allegedly violated (Supreme Court of Pakistan, 2022).

12.3 Checks on Executive Power

Judicial review provides an institutional mechanism for reviewing executive decisions and preventing arbitrary exercises of governmental authority (Cheema, 2018).

12.4 Protection of Constitutionalism

Courts can strengthen the principle that governmental power is limited by constitutional rules (Ginsburg, 2003).

12.5 Development of Constitutional Law

Repeated judicial intervention has contributed to the development of Pakistan's constitutional jurisprudence and clarified the relationship between state institutions (Siddique, 2015).

13. Negative Effects of Judicialization

Despite these benefits, judicialization can also generate significant democratic challenges.

13.1 Weakening of Representative Institutions

If political actors increasingly depend on courts to resolve political disputes, parliament may become less capable of independently managing political conflict (Hirschl, 2004).

13.2 Institutional Conflict

Judicial intervention in politically sensitive disputes can produce confrontation between courts and elected governments (Kureshi, 2022).

13.3 Political Polarization

Highly consequential judgments may be interpreted through partisan political perspectives, potentially reducing confidence in judicial neutrality.

13.4 Judicial Overreach

When courts move beyond constitutional adjudication and begin determining questions better suited to elected institutions, the boundary between judicial review and political decision-making becomes unclear (Cheema, 2016).

13.5 Constitutional Instability

Frequent institutional confrontation can produce uncertainty regarding the respective powers of parliament, executive institutions, and courts.

Thus, judicialization can simultaneously strengthen constitutional accountability and create institutional instability.

14. Discussion

The evidence demonstrates that judicialization in Pakistan between 2016 and 2025 cannot be understood simply as a conflict between the judiciary and democratic government.

Instead, it represents a complex process involving courts, political parties, parliament, executive institutions, lawyers, and civil society.

The process can broadly be understood in three stages.

First, judicial power increasingly affected political accountability, most prominently through the Panama case.

Second, the judiciary became directly involved in constitutional conflicts between political institutions, particularly during the 2022 no-confidence crisis.

Third, political institutions responded through constitutional restructuring of the judiciary in 2024 and 2025.

This development demonstrates that judicialization is not a one-way process. Courts can influence political institutions, while political institutions can subsequently reshape the institutional framework governing courts.

This observation is consistent with the broader literature, which emphasizes that judicialization is often the product of interactions between judges and political actors rather than unilateral judicial expansion (Tate & Vallinder, 1995).

Pakistan's experience also supports Cheema's (2018) argument that judicial power developed gradually through administrative law and judicial review before becoming especially visible in major political disputes.

Therefore, the period 2016–2025 should be understood as an intensification and transformation of judicialization rather than its beginning.

15. Conclusion

The judicialization of politics became one of the defining characteristics of Pakistan's constitutional politics during 2016–2025.

The Panama case demonstrated the judiciary's ability to directly affect political leadership. The 2022 constitutional crisis demonstrated the judiciary's role in protecting constitutional procedures. The Twenty-Sixth and Twenty-Seventh Amendments subsequently transformed the institutional structure within which judicial power operates.

The findings demonstrate that judicialization has produced a mixed impact on democratic governance.

On the positive side, judicial intervention has strengthened accountability, constitutional review, and protection of constitutional procedures. On the negative side, excessive judicial involvement can weaken representative institutions, intensify institutional conflict, and create perceptions of judicial overreach.

The central challenge is therefore not whether Pakistan should have an independent judiciary. An independent judiciary is indispensable to constitutional democracy. The more important question is how judicial independence can be maintained while ensuring judicial restraint and institutional balance.

Pakistan's democratic stability ultimately requires strong courts and strong representative institutions. Courts must be capable of restraining unconstitutional governmental action, while

parliament and the executive must be capable of performing their legitimate constitutional functions without unnecessary judicial intervention.

The most sustainable approach is therefore a model of constitutional equilibrium, based on judicial independence, judicial restraint, separation of powers, institutional dialogue, and democratic accountability.

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