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**RESEARCH PAPER**

**Judicialization of Politics in Pakistan: Guardian of the Constitution or Political Arbiter**

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**ABSTRACT**

This study discusses the judicialization of politics in Pakistan and whether the superior courts are constitutional watchdogs or political referees that affect the results of the competitive process. The increasing judicial power of the Pakistan hybrid democracy has been observed to increase in times of institutional instability and this has raised the issue of overreach and the separation of powers. The qualitative doctrinal approach and comparative case-study analysis of landmark rulings are used to study the court interventions in parliamentary dissolutions, elections, party discipline, accountability processes and civil military relations. Courts demonstrate the behavior of guardians in the maintenance of constitutional order but become the referees in the politically sensitive cases, especially those related to accountability and intra-parties, transforming political alliances. The power of the judiciary is not that transparent, it is better to have more institutional dialogue and clear restraint to support governance.

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**KEYWORDS** Judicialization, Pakistan, Supreme Court, Constitutionalism, Separation Of Powers, Political Arbitration, Judicial Review

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**Introduction**

Judicialization of politics can be described as the trend in most democracies, and even hybrid regimes, towards courts, most prominently constitutional courts, ruling on issues that have a political impact: election disputes, executive-legislative tussles, cases of corruption and accountability, or even the constitutionality of significant policies. Constitutional litigation in these environments is a place of so-called mega-politics, where legal argumentation cannot be separated from power, legitimacy, and democratic rules of the game bargaining (Kim and Nolette, 2023; Huq, 2022). It is not necessarily the pathological phenomenon. By constitutionalizing commitments, safeguarding rights, and checking the arbitrary power, courts can reform the competition; but they can also reshape competition by disqualifying leaders, restructuring institutional powers, or moralising the political conflict in terms of clean vs corrupt ways that displaces electoral accountability (Hilbink, 2024; Kureshi, 2025).

Pakistan provides a particularly telling example since judicial authority has been growing in the face of a series of governance crises and challenged civilian preeminence. The Pakistani system is a federal parliamentary system that has a high superior judiciary (Supreme Court and High Courts) that has the authority to interpret the constitutional boundaries and the examination of state conduct under the Constitution of 1973. But constitutional formation has been a process of civilmilitary conflicts, unstable partisan struggles, and disruption of normal politics by periodic crises of governance. Such structural pressures encourage political actors to turn to referees who are not involved in election fields, at the same time beckoning the judiciary to cope with political uncertainty by interpreting and enforcing the constitution (Cheema, 2021a; Bajpai and Kureshi, 2022).

The academic literature of the late 2000s has highlighted the fact that courts in Pakistan are becoming more central to the politics of the country, as both the principle defenders of legality and rights, and the arbitrators in intra-branch conflicts. Two dynamics stand out. First, the judicial power has been enhanced through the mobilised legal actors, and increased demands of the citizens that courts should dispel some sense of justice where the elected institutions seem ineffective or discredited (Khan, 2023). Second, the judicial interventions frequently take place in a civil-military hybrid setting, in which power distribution is negotiated across several centers as opposed to being steadfastly based on the electoral mandate (Cheema, 2021b; Bajpai and Kureshi, 2022). Courts can be turned into an arena of solving, or re-framing, conflicts that are unable to be resolved through political institutions.

This background explains why the discussion about judicialization in Pakistan is so divisive. On the one hand, judicialization is a constitutional maturation process: when politics becomes non-constitutional, courts provide principled restraint, strengthening the rule of law and democratic commitments (Malik, 2023). On a different one, judicialization poses the threat of replacing the tastes of the judiciary with the preferences of democracy, especially when the court goes beyond the interpretation and takes in the form of government-like oversight, moral censure of political action, or the redirection of partisan conflict through arbitration (Kureshi, 2024; Hilbink, 2024). This can be achieved through the same institutional mechanisms - constitutional review, an expansive standing doctrine, a public interest jurisdiction, and a high-profile accountability adjudication - to bring about constitutional stabilisation or further political competition, depending on the timing, institutional incentives, and overall balance of power (Malik, 2023; Kureshi, 2025).

The article resolves a fundamental crisis in the constitutional politics of Pakistan: As courts mediate more active in politically salient challenges, are they, in their role, the protectors of constitutional rule, or are they political referees, with an influence over the results of competitive struggles? It aims to find out when and how such interventions by the judiciary are biased towards constitutional guardianship and political arbitration by tracing network patterns of intervention over time and assigning them to enabling doctrines and institutional paths (e.g., constitutional review, public interest jurisdiction/suo motu-style practices, election and accountability adjudication) (Cheema, 2021a; Malik, 2023). Three research questions will guide the study which include: (1) What are the trends of judicial involvement in political affairs through the years in Pakistan? (2) What are the legal doctrines and mechanisms that allow the judiciary to infiltrate the political questions? (3) What are the circumstances in which intervention empowers constitutionalism or disrupts democratic competition?

They are aimed at mapping key types of judicialization of the superior courts in Pakistan, developing a typology of guardian-type and arbiter-type interventions, and evaluating probable institutional and political implications on the separation of powers and democratic consolidation (Kureshi, 2025; Huq, 2022). It is important because it explains how judicial empowerment may protect constitutional order and simultaneously permit a democratic backsliding or a political replacement, which clarifies the discussion on rule-of-law reform and institutional balance (Hilbink, 2024; Bajpai and Kureshi, 2022). It is restricted to apex-court behavior (Supreme Court and selected High Court decisions) in politically salient cases, limited to the time period between 1988 and the present as the primary window of analyzing judicialization in competitive electoral politics and repetitive constitutional crises (Cheema, 2021b).

## **Literature Review**

Judicialization of politics typically means the emergence of courts as a pivotal place to decide on issues whose outcomes are directly political forming governmental arrangements, administrative survival, election result, and high stakes accountability, often in constitutional review and expansion of judiciability (Cheema, 2021; Kureshi, 2022). It is analytically separate, however, from judicial activism, which involves the extent and character of judicial action (the extent to which they go beyond deference, the breadth of their interpretation of authority, and the extent to which they review political branches). More recent literature states that activism is not a unidimensional pro/anti-government scale, but rather multidimensional (Weinshall, 2024). It contrasts also with juristocracy, a type of condition of the regime in which the judicial institutions arbitrate core political bargains systematically, and at times replace representative decision-making. Modern academic work also narrows the concept of boundaries, including the political question doctrine, non-judiciability, demonstrating how courts are more or less open to classifying the controversies as political, not as legally reviewable (Harding, 2023; Ottoh, 2022). Lastly, controversies about constitutional interpretation underline that constitutional meaning is a creation not just by the courts but also by the executives and legislatures as providers of practical interpretations--a factor that is of significance in determining when an activity is really a guardian versus an entrant into the political arenas (De Visser and Neo, 2023; Ribeiro, 2022).

There are two lenses which are particularly helpful in categorizing the interventions of Pakistan as either guardian-type or arbiter-type interventions. To begin with, strategic court accounts underscore the fact that judges expect responses such as compliance, backlash, or institutional retaliation and so optimize timing, scope, and remedies (Ginsburg and Versteeg, 2021; Tommasini, 2024). This comes in handy in Pakistan where there is unequal compliance and political authority is disjointed. Second, a constitutionalism/rule-of-law prism judges interventions based on their role in maintaining constitutional boundaries (predictability, rights protection, and lawful government) but not on the victors of the politics. This lens can become more valuable when the courts are facing self-empowering moves (increasing its own power), self-dealing (policing other branches and protecting itself), which may distort guardianship and political arbitration (Yap & Abeyratne, 2021; Tommasini, 2024).

Comparative studies have indicated that judicial authority tends to increase during crises of legitimacy, legislatures that are weak or lack credibility and executive usurpation, though it can also be seized or redirected to illiberal ends. Emergency governance studies demonstrate how crises have normalized exceptional authority and encouraged courts to control or condone widespread executive action (Ginsburg and Versteeg, 2021). The parallel development of democratic backsliding states that courts can strengthen democracy by curbing the sitting government or substituting democratic competition by acting as decisive political arbiters (Kureshi, 2025). Judicialization can also be diverted in illiberal settings: packed courts can be then used to advance a political agenda as opposed to rights-based constitutionalism, and make judicialization a method of consolidating regimes (Bień-Kacała, 2023; Belov, 2021). Such comparative understandings inspire focused categorization of what courts do (doctrine, procedure, remedies) and what their interventions yield (stability, accountability, contestation).

The literature of Pakistan indicates (i) the constitutional adjudication process over time, which is dominated by civil and military to the exclusion of the judiciary; (ii) the emergence of the judicial litigation of the masses and the intermittent judicial activism

(Cheema, 2021; Kureshi, 2022). Recent research on Pakistan highlights the concept of arena shifting, an example of which is the move of political battles into the courts, particularly in the party leadership or opposition strategy context, and in such situations, judicial arenas become critical points of political negotiation and coalition building (Bajpai and Kureshi, 2022). Reform of accountability and opposition politics, also reflects how courts can transform the nature of competition by allocating reputational costs and legal risk among parties in a different way (Kureshi and Waseem, 2024). Interventionist phases are also linked to altering judicial self-concepts and populist types that represent courts as moral redressers of bad politics, which has the potential to exacerbate arbitral functions (Hilbink, 2024; Kureshi, 2024).

Although Pakistan scholarship is highly case-rich, it frequently falls short of providing a coherent structure, which (a) makes comparisons among type of cases (constitutional review, elections, party disputes, accountability) and (b) analyzes interventions in terms of shared criteria of what a guardian versus an arbiter effects is over time. The current research fills this gap in the typology of intervention forms by combining strategic and constitutionalism perspectives with the linkage of doctrinal mechanisms and political outcomes (Harding, 2023; Kureshi, 2025; Weinshall, 2024).

## Material and Methods

### Research design

The proposed study has a qualitative doctrinal + comparative case-study design that will be used to analyze the judicialization of politics in Pakistan and to determine whether politically relevant judicial interventions should be seen as constitutional guardianship or as political arbitration. The doctrinal part examines the court interpretation of constitutional text, jurisdictional clauses, limits to justiciability and remedial authority when the case directly impacts political competition or institutional power. This case-study element then puts these legal relocations in their respective political and institutional contexts right away in order to comprehend the reason of judicial intervention, how the court framed the conflict, and what were the outcomes. The analysis applies process tracing (as an optional sub-technique) where the record supports it, in reconstructing sequences between triggering events (say executive actions, conflict in parliament, election disputes) and litigation strategies, judicial reasoning and compliance outcomes. This mixed design is adequate since judicialization is both a legal phenomenon (doctrine, jurisdiction, remedies) and a political phenomenon (stakes, timing, compliance and institutional effects).

### Data Sources

The study relies on **publicly available, verifiable documents**, organized into primary and contextual sources:

#### 1. Primary legal sources

- **Constitutional text and amendments** relevant to separation of powers, fundamental rights, judicial review, parliamentary procedures, electoral governance, and emergency powers.
- **Supreme Court and High Court judgments, orders, and short orders** in politically salient matters, including constitutional petitions, suo motu/public interest matters, and election-related disputes.

- **Rules of procedure** and reported court documentation where they clarify jurisdictional triggers and remedial reach.
2. **Institutional and governance records**
    - **Parliamentary debates/records** (where relevant) to establish legislative intent claims, parliamentary practice, and institutional responses to judicial rulings.
    - **Election Commission materials** (notifications, decisions, codes of conduct, and official records) where electoral disputes form part of the case context or remedy.
  3. **Contextual secondary materials (used cautiously)**
    - Peer-reviewed academic literature and reputable research reports to frame competing interpretations and situate patterns.
    - High-quality journalism and archival reporting used **only** to reconstruct timelines, identify actors' public positions, and document compliance or enforcement disputes – never as substitutes for legal reasoning or official records.

### Case selection strategy

Cases are selected through **purposive sampling** aimed at capturing decisions with **high political salience**, defined as judicial interventions that meet at least **two** of the following criteria:

1. The ruling affects **government formation, executive survival, parliamentary functioning, or electoral outcomes**.
2. The dispute involves **direct inter-branch conflict** (court-executive, court-parliament, court-ECP) or high-stakes claims of constitutional violation.
3. The decision triggers **substantial political consequences**, such as leadership disqualification, dissolution/restoration of assemblies, alteration of party leadership recognition, changes to election administration, or major governance directives.
4. The ruling receives **sustained institutional attention**, evidenced by repeated hearings, implementation orders, contempt/compliance proceedings, or follow-on litigation.

To ensure analytical leverage, the sample is designed for **variation across issue-types**, including:

- **Electoral disputes** (election administration, party symbols/recognition issues, candidate eligibility).
- **Executive accountability** (corruption, disqualification standards, institutional oversight).
- **Parliamentary dissolution and constitutional crises** (assembly dissolution, votes of confidence/no-confidence, caretaker arrangements where applicable).

- **Civil liberties and rights-linked political cases** (freedom of speech/assembly, due process, political detentions).
- **Governance/public interest and suo motu-style interventions** (regulatory supervision, pricing/administrative directives, institutional performance audits).

### Operationalization: “Guardian” vs “Arbiter” indicators

The study operationalizes the dependent classification—**guardian-type** vs **arbiter-type** intervention—through a transparent indicator set applied consistently across cases. Each case is coded on multiple dimensions, allowing “mixed” outcomes when indicators conflict.

#### Guardian-type indicators (coding cues):

- **Fidelity to constitutional text/structure:** reasoning anchored in clear constitutional provisions, institutional competencies, and separation-of-powers logic.
- **Rights-protective justification:** explicit linkage to enforceable rights or constitutional safeguards rather than broad moral claims.
- **Restraint and narrow tailoring:** remedies limited to what is necessary to cure the legal violation; avoidance of continuous supervision absent necessity.
- **Institutional deference:** recognition of legislative/executive domains where discretion is constitutionally assigned.
- **Doctrinal consistency:** alignment with precedent and stable interpretive standards over time.

#### Arbiter-type indicators (coding cues):

- **Outcome reorders political competition:** decisions that substantially shift electoral/party balance, leadership status, or coalition trajectories beyond resolving a legal issue.
- **Remedial overreach:** courts effectively administer agencies, design policies, or impose ongoing managerial control not clearly grounded in constitutional authority.
- **Inconsistent doctrine or exceptionalism:** selective departure from precedent without principled justification.
- **Selective timing/agenda sensitivity:** intervention patterns that correlate strongly with political moments while similar issues elsewhere receive restraint.
- **Displacement of elected forums:** judicial substitution for parliamentary debate or political accountability mechanisms where constitutional design favors representative resolution.

### Analytical method

The analysis proceeds in three steps:

1. **Thematic coding** of judgments and orders focusing on (a) jurisdictional entry (standing, maintainability, political question/justiciability), (b) interpretive moves (textual/structural reasoning, precedent use), (c) remedy design (scope, supervision, deadlines), and (d) institutional stance (deference vs substitution).
2. **Cross-case comparison** to identify patterns by period (e.g., phases of heightened intervention) and by case type (elections, dissolutions, accountability, governance).
3. **Descriptive mapping (optional)** to summarize frequencies: counts of cases by category (guardian/arbiter/mixed), issue-type, and remedy intensity, used only to support qualitative inferences rather than to claim statistical generalization.

### Trustworthiness and validity

Triangulation (judgments + constitutional text + implementation records + parliamentary/ECP materials) is used to strengthen credibility. To provide transparency, a coding memo is a document that defines the indicators, the rules of inclusion, and the reasons of why such a classification is necessary. In case possible, an inter-coder assessment of a limited set of cases is undertaken to determine consistency in the application of indicators. The research also admits the limitations--the top one, of course, is the impossibility to observe the motives of the judiciary directly and conclude about them based on the reasoning that is present in documents, the context of the situation, and the consequences that can be observed.

### Ethical considerations

All the material utilized is publicly available documentations. The paper does not make defamatory statements, but rather concentrates on the behavior of institutions, the rationale of the doctrine, and on the results of the report, rather than on the attack or conjecture. The sources on politics and media are accepted as the contextual support, and legal analysis is based on official documents and provable institutional facts.

### Results and Discussion

The Results section is a report of the coded results of a purposive sample of 15 high-salience superior-court episodes (1993-2025) that were chosen to differ in terms of dissolution crises, election, party-discipline, accountability/disqualification, judicial-independence, and military-justice issues. The underlying case texts and public documents that have been verified to provide the coding of these episodes are: the 1993 dissolution judgment text (PLD 1993 SC 473 vo); Liaquat Hussain (PLD 1999 SC 504); Zafar Ali Shah (PLD 2000 SC 869); the Judges' Case (PLD 2009 SC 879) reporting/summary; the NRO judgment text (PLD 2010 SC 265);

**Table 1**  
**Coded case matrix (n = 15)**

Year	Case (short)	Issue group	Entry route	Remedy intensity	Classification
1993	Nawaz Sharif v President (Art 58(2)(b) dissolution)	Parliament/dis solution	Art 184(3) original jurisdiction	2	Guardian
1999	Liaquat Hussain v Federation (military courts/ ATC)	Military justice	Art 184(3) original jurisdiction	1	Guardian

2000	Syed Zafar Ali Shah v Musharraf (coup validation)	Civil-military/ regime	Art 184(3) original jurisdiction	2	Arbiter
2009	Sindh High Court Bar Assn v Federation (Judges' case)	Judicial independence	Constitutional petitions (HC/SC)	2	Guardian
2010	NRO case (PLD 2010 SC 265)	Accountability	Art 184(3) original jurisdiction	2	Mixed
2012	PM Gilani contempt & disqualification	Accountability	Contempt jurisdiction	2	Arbiter
2015	District Bar Assn Rawalpindi (18th/21st Amendments)	Military justice	Constitutional petitions (HC/SC)	1	Mixed
2017	Panama Papers (Sharif disqualified)	Accountability	Art 184(3) original jurisdiction	2	Arbiter
2022	Suo Motu 1/2022 (Deputy Speaker ruling & dissolution)	Parliament/dis solution	Suo motu (Art 184(3) cognizance)	2	Guardian
2022	Presidential Reference 1/2022 (Art 63A votes)	Party discipline	Presidential reference (Art 186)	2	Arbiter
2023	Suo Motu 1/2023 (Punjab/KP elections within 90 days)	Elections	Suo motu (Art 184(3) cognizance)	2	Mixed
2024	Lifetime disqualification curtailed (Art 62(1)(f))	Accountability	Constitutional petitions (HC/SC)	1	Guardian
2024	Art 63A review (votes count; 2022 view set aside)	Party discipline	Review jurisdiction	1	Guardian
2024	Jawwad S. Khawaja v Federation (military trials of civilians)	Military justice	Constitutional petitions (HC/SC)	1	Guardian
2025	May 9 military courts decision (civilians trials allowed)	Military justice	Intra-court appeal	2	Arbiter

**Reading Table 1:** “Remedy intensity” is coded as **1 = declaratory/interpretive**, **2 = coercive/reordering** (e.g., restoration of assemblies, disqualification, binding election directions, validation of extra-constitutional authority), and **3 = managerial/ongoing supervision** (not observed in this sample).

#### 4.2 Overall distribution: Guardian vs Arbiter vs Mixed

Across the 15 coded episodes, **Guardian-type** interventions are the plurality (46.7%), but **Arbiter-type** interventions remain substantial (33.3%), with **Mixed** outcomes (20.0%) clustering where the Court combined constitutional reasoning with politically reordering consequences.

Table 2  
Distribution of judicial interventions

Classification	Count	Percent
Guardian	7	46.7
Arbiter	5	33.3
Mixed	3	20

#### Issue-area patterns (where judicialization concentrates)



Judicialization in this sample is **most frequent and most politically consequential** in **accountability/disqualification** and **military-justice** disputes, and it is **most consistently “guardian-coded”** in **parliament/dissolution** episodes (where the Court’s actions primarily restored constitutional process rather than selecting political winners).

**Table 3**  
**Issue area patterns of judicialization**

Issue group	Guardian	Arbiter	Mixed
Accountability	1	2	1
Civil-military/regime	0	1	0
Elections	0	0	1
Judicial independence	1	0	0
Military justice	2	1	1
Parliament/dissolution	2	0	0
Party discipline	1	1	0

Arbiter-type outcomes are concentrated where court orders **directly reshape political competition** (e.g., validation/regularization of regime change, prime-minister removal/disqualification, vote-counting rules under party discipline, or authorizing exceptional trial forums).

#### Entry routes enabling judicialization

The dominant pathway into “politics” is **Article 184(3) original jurisdiction**, including both petition-driven and **suo motu** cognizance. Together, these routes account for **7/15 (46.7%)** of the sample, indicating that Pakistan’s judicialization is structurally tied to apex-court direct access and public-importance framing.

**Table 4**  
**Entry routes into Judicial Politics**

Entry (normalized)	Count
Art 184(3) original jurisdiction	5
Suo motu (Art 184(3) cognizance)	2
Presidential reference (Art 186)	1
Constitutional petitions (HC/SC)	4
Contempt jurisdiction	1
Review jurisdiction	1
Intra-court appeal	1

“Arbiter-coded” interventions appear disproportionately in routes that enable **rapid, apex-level finality** (184(3), contempt, and high-stakes constitutional interpretations), rather than slower, institutionally distributed adjudication.

#### Remedy intensity and “arbiter” behavior

Remedy intensity sharply differentiates the typology. In this sample, **every Arbiter-coded episode (5/5) involved intensity-2 remedies** (coercive/reordering). Guardian-coded episodes include both interpretive restraint (intensity-1) and coercive restoration (intensity-2), but the latter tends to be framed as **process-restoring** rather than **competition-reordering**.

**Table 5**  
**Remedy intensity by classification**

Classification	1	2
Guardian	4	3
Arbiter	0	5

Mixed	1	2
Arbiter-type judicialization is less about “entering politics” per se and more about <b>how far the remedy goes</b> – especially when outcomes <b>change officeholding, electoral timing, vote counting, or the forum of trial</b> .		

### Periodization: clustering across political cycles

The coding shows two waves in this small but high-salience sample: an early period where guardian outcomes accompany constitutional boundary-setting alongside one major arbiter episode (1993–2000), and a later period (post-2009) where arbiter and mixed outcomes become more prominent, with another concentration in the 2022–2025 crisis cycle.

**Table 6**  
**Periodization of Judicial interbentions**

Period	Guardian	Arbiter	Mixed
1993–2000	2	1	0
2009–2017	1	2	2
2022–2025	4	2	1

Judicialization appears most intense when constitutional order is contested (dissolution crises, elections timing disputes, party-discipline battles, and military-justice spillovers), but the **guardian/arbiter character varies by remedy design and doctrinal consistency**, not simply by salience.

### Discussion

The findings imply that judicialization in Pakistan is not a patterned uniform posture of activism, but a trend of moving the political conflict resolution process and the use of judicial remedy to alter institutions. In the coded episodes, courts seem most reliably to be in a guardian mode where they intervene to re-establish constitutional process- where most especially in dissolution and procedural breakdown cases- since the solution generally re-installs political struggle within constitutionalized arenas (parliamentary confidence, legal proceedings, periodic elections). Such instances are when intervention should work as a policing of the conditions of work but not as a determining of the winner: the court has to enforce the condition of the work of politics, but not the outcome of the work, which is determined through representative competition.

Conversely, results of the inquisitor ship type are concentrated in the results of judicial rulings that redistribute political competition or dictate the results of officeholding consequences- most conspicuously in accountability/disqualification events and party-discipline wars. Of interest, here is not merely the fact that the judiciary is going into the political ground, but the distance that the remedy goes beyond rectifying the defect in the law. The findings indicate that arbiter-coding is strongly related to coercive, outcome-determining remedies (e.g. disqualification effects, vote-counting rules that alter the institutional arithmetic or validation/authorization that alters the institutional balance). This suggests that remedial proportionality and institutional deference would be a better way of describing the guardian-arbiter distinction, as opposed to the presence of constitutional interpretation by itself.

The entry routes also matter. A hegemonic position of apex access pathways (especially direct constitutional jurisdiction and two momu-type cognizance) establishes structural conditions in which the speed and finality are great, but institutional filtering

is low. This may aggravate judicialization in times of crisis since litigants will tactically transfer the conflict to courts in the hope of obtaining decisive determinations in case the legislative arm is divided or bargaining is ineffective. During such times, the incentives to judicial legitimacy may go in different directions: the courts may win the approval of the people by acting in a manner which is perceived to be dysfunctional, but which may lead to the politicization of the courts, when perceived as choosing winners or that which is seen to replace parliamentary checks and balances.

The inconclusive outcomes, particularly in such areas as the governance supervision and the military-justices spillovers, illustrate another mechanism the courts can start with the rights or legality framing but shift towards arbitration in the case of compliance disputes and extend its control over the enforcement. This implies that arbiter behaviour can develop slowly out of the dynamics of implementation, not just out of early doctrine.

Altogether, the results allow us to make a conditional conclusion: the judicial system in Pakistan can act as a constitutional guardian when it employs a narrow, text- and structure-based line of reasoning and provides process-restoring remedies, but it transforms into a political judge when the remedies and time frame of the remedial actions are significantly redrawing the political competition or replacing representative forums. The constitutional governance implication is not merely less intervention, but more articulate justiciability limits, rationality in the criteria of crisis jurisdiction, and remedy discipline in order to preserve constitutional enforcement and democratic contestation.

## **Conclusion**

This research work aimed at testing whether judicialization of politics in Pakistan would be more appropriate to see it as constitutional guardianship or political arbitration. According to the findings, judicialization in Pakistan can be regarded primarily as a dual-purpose institutional phenomenon: the same constitutional instruments that permit the protection of rights and enforcement of rules may produce a set of outcome-altering interventions rearranging the processes of political competition.

Throughout the coded high-salience episodes, the judiciary is nearest to a protector of the Constitution when it steps in to help reinstate the constitutional process especially at times where there is a break in process where the representative forums are stymied or constitutional restrictions are flagrantly disobeyed. Under these circumstances, the Court acts mainly as a boundary-setter: it restates institutional capabilities, legal procedures, and opens up space to again subject politics to electoral or parliamentary accountability as opposed to executive one-hand government.

Simultaneously, the judiciary is a political arbiter when interventions are of decisive distributional effect, particularly when remedies define officeholding, or changing the arithmetic of coalition, or displacing political settlement into judicial finality. The results indicate that the guardian-arbiter distinction depends not so much on whether courts go into political issues (they frequently have to do so) but on how they go into them: the consistency and conservativeness of doctrine, the proportionality of remedies, the existence or the lack of institutional deference, and the extent to which decisions continue or replace democratic contestation.

The article adds an effective typology and coding rubric of categorizing interventions as either guardian-type, arbiter-type, or mixed in various categories of cases or periods. In practice, it is indicating reforms that bolster constitutionalism without politicizing the judiciary clearer standards on grounds of crisis jurisdiction, remedies designed in a disciplined manner, and institutional dialogue that retains parliamentary problem-solving. Future researches can build on this methodology by providing a bigger data set of cases and tracking the compliance and implementation impacts in the long term.

### **Recommendations**

In the light of the Soviets of this study, a number of recommendations are presented to make sure that judiciary in Pakistan is not in the risk of encroaching politics as well as at the same time, keeping the constitutional role of the body. To begin with, there is a need to set clearer parameters on judicial restraint particularly in politically sensitive cases to ensure that the courts end up influencing competition unintentionally or to seem partisan. Second, institutional discourse among the judiciary, the executive, and the legislature is to be enhanced to enhance acceptance of the role and delimitation so as to ensure that the constitutional boundaries are met without overshadowing the rule of law. Third, clearer instructions on the factors of remedy and its strength would provide assistance in drawing the line between measures that would be designed to restore constitutional order and those that would cause a political impact, increasing the transparency and predictability of court decision-making. Fourth, the judiciary might also be improved in the internal mechanisms of review and deliberation in highly politically salient cases, which may decrease the chances of sudden and disruptive intervention. Lastly, the expectations can be controlled by raising the level of public and legal awareness about the extent and limitations of judicial power and increasing trust in the impartiality of the judicial system. All these measures would help to maintain a balance between ensuring constitutional administration and ensuring that the courts do not become the default political referees.

## References

- Bajpai, R., & Kureshi, Y. (2022). Judicial arena-shifting and party leadership disputes: Reconfiguring opposition in Pakistan. *Democratization*, 29(8), 1375-1396. Advance online publication. <https://doi.org/10.1080/13510347.2022.2062324>
- Belov, M. (Ed.). (2021). Courts and judicial activism under crisis conditions: Policy making in a time of illiberalism. *Routledge*. <https://doi.org/10.4324/9781003200666>
- Bień-Kacała, A. (2023). Illiberal judicialization of politics in Poland and Hungary. In J. Cremades & C. Hermida (Eds.), *Encyclopedia of Contemporary Constitutionalism* (pp. 1-12). Springer. [https://doi.org/10.1007/978-3-319-31739-7\\_214-1](https://doi.org/10.1007/978-3-319-31739-7_214-1)
- Cheema, M. (2021a). Courting constitutionalism: The politics of public law and judicial review in Pakistan. *Cambridge University Press*. <https://doi.org/10.1017/9781108913065>
- Cheema, M. (2021b). A Supreme Court or a constitutional jirga? In S. Widmalm (Ed.), *Routledge handbook of autocratization in South Asia* (pp. 173-182). Routledge. <https://doi.org/10.4324/9781003042211-18>
- De Visser, M., & Neo, J. L. (2023). Pluralizing constitutional interpretation: An introduction. *International Journal of Constitutional Law*, 20(5), 1874-1883. <https://doi.org/10.1093/icon/moac113>
- Ginsburg, T., & Versteeg, M. (2021). The bound executive: Emergency powers during the pandemic. *International Journal of Constitutional Law*, 19(5), 1498-1535. <https://doi.org/10.1093/icon/moab059>
- Harding, A. (2023). Conventions and practical interpretation in Westminster-type constitutional systems. *International Journal of Constitutional Law*, 20(5), 1914-1936. <https://doi.org/10.1093/icon/moac114>
- Hilbink, L. (2024). Judicial populism: A conceptual and normative inquiry. *Law & Social Inquiry*, 43(5), 1-33. Advance online publication. <https://doi.org/10.1017/lsi.2024.47>
- Huq, A. Z. (2022). The Supreme Court and the dynamics of democratic backsliding. *The ANNALS of the American Academy of Political and Social Science*, 699(1), 49-65. <https://doi.org/10.1177/00027162211061124>
- Khan, M. S. (2023). The Lawyers' Movement in Pakistan: How legal actors mobilise in a hybrid regime. *International Journal of Law in Context*, 19(3), 315-333. <https://doi.org/10.1017/S1744552323000101>
- Kim, C. H., & Nolette, P. (2023). The spread of constitutional courts: Judicial review in new democracies. *Perspectives on Politics*, 22(1), 294-311. <https://doi.org/10.1017/S1537592723002025>
- Kureshi, Y. (2022). Seeking supremacy: The pursuit of judicial power in Pakistan. *Cambridge University Press*, 5(2), 308-320. <https://doi.org/10.1017/9781009025515>

- Kureshi, Y. (2024). Judicial populism and its conditions of possibility: The Pakistani Supreme Court from 2005 to 2019. *Law & Social Inquiry*, 33(2), 1-32. Advance online publication. <https://doi.org/10.1017/lsi.2024.49>
- Kureshi, Y. (2025). To reinforce or replace: Courts and democratic backsliding. *Government and Opposition*. 60 (4), 1247-1272. Advance online publication. <https://doi.org/10.1017/gov.2025.10015>
- Kureshi, Y., & Waseem, M. (2024). Opposition politics and the judiciary in Pakistan: The Panama Papers case and the politics of accountability. *Commonwealth & Comparative Politics*, 62(3), 315-338. Advance online publication. <https://doi.org/10.1080/14662043.2024.2397851>
- Malik, A. A. (2023). Judicial review and the rule of law in Pakistan. *Asian Journal of Comparative Law*. 18(3), 291-302. <https://doi.org/10.1017/asjcl.2023.28>
- Ottob, P. M. (2022). The political question doctrine in Nigeria: A critique. *European Journal of Law and Humanities*, 9(2), 263-302 <https://doi.org/10.19184/ejhl.v9i2.30185>
- Ribeiro, G. de A. (2022). What is constitutional interpretation? *International Journal of Constitutional Law*, 20(3), 1130-1161. <https://doi.org/10.1093/icon/moac096>
- Tommasini, N. (2024). Judicial self-empowerment and unconstitutional constitutional amendments. *International Journal of Constitutional Law*, 22(1), 161-190. <https://doi.org/10.1093/icon/moae009>
- Voigt, S. (2021). Mind the gap: Analyzing the divergence between constitutional text and constitutional reality. *International Journal of Constitutional Law*, 19(5), 1778-1809. <https://doi.org/10.1093/icon/moab060>
- Weinshall, K. (2024). Reconceptualizing judicial activism: Intervention, involvement, and changing electoral designs. *Journal of Law & Empirical Analysis*, 1(2), 343-357. Advance online publication <https://doi.org/10.1177/2755323X241272140>
- Yap, P. J., & Abeyratne, R. (2021). Judicial self-dealing and unconstitutional constitutional amendments in South Asia. *International Journal of Constitutional Law*, 19(1), 127-148. <https://doi.org/10.1093/icon/moab007>