

Husain_Abstract

Project Title: The Judicialization of Politics: Comparative Study of Pakistan, India, and the United States

There is a spectrum that becomes apparent if one considers and compares judicial review exercised by the Supreme Courts of the United States, Pakistan and India. On one side of this spectrum, there is the role of the judiciary as a guarantor of justice and check on Executive excesses, on the other there is the doctrine of separation of powers between branches of government. The US and Pakistan are imbalanced on this spectrum on either sides of it, especially when one considers the recent outburst of judicial activism in Pakistan. Though certain conditions create a need for a dynamic judiciary in the Indian Subcontinent, namely prime ministers, presidents, or generals who demonstrate authoritarian tendencies against a public that faces threats from illiteracy, crime, and poverty. Despite this political requirement for an active judiciary, the Supreme Court of India has balanced its duties to foster justice while remaining vigilant of the Separation of Powers doctrine. As such, the Indian judiciary has been able to avoid creating crises in leadership unlike the Pakistani Supreme Court which has been accused of upending the political process with its activism. Looking to the future in Pakistan, if the Supreme Court can adopt repeatable standards to limit its use of judicial review, learning from the Indian experience and partially from the U.S., judicial review will foster access to justice and relative inter-branch stability in Pakistan.