

## Assignment

Q: What is Judicial Activism?  
What are its implications and  
how it curtails

Ans: → Judicial Activism

There are two aspects of judicial Review. If judges repeatedly give their personal opinion over prevails over legislature set to be exercising judicial review. Secondly, when judges make an active role for ensuring fundamental rights of public superceding executive duties.

→ Judicial Activism History

The term judicial activism was first used by "Arthur Schlesinger" in Fortune Magazine in "Constitution of 1947". In article Constitution of 1947, author discussed temperament of the four judges while writing that they were worked above the domain.

Historical International  
Event of Judicial Review  
"Marbury vs Madison Case (1803)"

H. was Sukh: a legal development in the history of judicial system that made precedents for the judicial review.

\* Judicial Review In Pakistan  
Mulvi Tameezudin Case in Pakistan set the precedent for the judicial review. After that there are number of cases where Supreme Court of Pakistan has used its "Original Jurisdiction". Including Darshan Masih Vs State case, privatization case, missing person, rape cases are the major reasons for the judicial review.

\* vast use of Supreme Court Jurisdiction Powers leads to "Judicial Activism" In Pakistan.

Judicial activism in Pakistan is often associated with the period of Supreme Court Chief Justice Ch. ~~Etaja~~ Iftikhar who frequently used the powers of Art 184 which shaped judicial review into

# Judicial activism (

) . It's biggest evidence is the formation of human rights cell because of a large numbers of cases.

→ Why Judicial Activism?  
i) for the sake of public interests

The Supreme Court use its jurisdiction powers for the matter of public interests when there is a violation of fundamental rights of people which are enlisted in the constitution from Article 2-28.

ii) To Ensure Rule of Law.

In order to maintain supremacy of the constitution Supreme court played a major role.

iii) Maintain Public Order.

Judicial activism can be a manifestation of maintaining public order so that no one can play above the domain.

## → Signs / Manifestations of the Judicial

### i) Excessive use of "Suo-motu"

Excessive use of "Suo-motu" is one of the face of judicial activism.

"Suo-motu" term is not written in the constitution while powers of "original jurisdiction" according to Article 184 is vested to Supreme Court of Pakistan only.

ii) Out of precedent use of powers  
It is also a kind of manifestation of judicial activism.

## → Implications of Judicial Activism.

i) Increase grievance between public and government  
It would badly harm public and government of

State's relationship. As public would definitely found state's role in their problem solving ineffective. We have an example relevant to this which was "Shehla Zia" case.

## ii) It Details Democracy

The constitution of Pakistan has defined the roles of three pillars of the state; for judiciary, executive and the legislature. If the judiciary run out of its domains and superceeds the executive it would definitely details Democratic process of the country.

## iii) Delayed Supreme Court Cases

There are about 70,000 plus cases which Supreme Court of Pakistan has to judge every year. If apex courts frequently involved in cases which are under the domain of executive that would waste courts precious time. It would leads to

delays in cases which  
are already in Pending.

#### iv) Social Unrest

These would be social  
unrest. As people waited  
so long for their cases  
and spend lot of money  
for fighting their cases  
in Supreme Court. It would  
create a sense of  
hopelessness, deprivation  
and ultimately animosity  
among the society.

#### v) Political Chaos

One of the major  
implications would be the  
"Political Instability". If  
Supreme Court intervenes  
the democratic system's  
executive authority and  
put forth its decision  
using its original jurisdiction  
it would disturb the  
democratic system in the  
country.

→ How it curtails?  
→ How to put limit  
→ Repeal Article 184(3)  
It is important to Repeal article 184(3) of the constitution and put a limit over the authority of intervening in the executive related issues.

→ Increase government efficiency regarding public matters  
Government should thoroughly address the problem of public so that matters concluded short handedly. Instead of involving judiciary.

→ Accountability and Apprehension by the state  
State should ensure rule of law in the country on its own. So that matter would solve under its domain. State should make people and institutes accountable for act according to the law so that there would no discrimination left.

→ Availability of fundamental rights at best

It is the responsibility of the state to make it sure that all citizens of the country would be able to enjoying their rights independently.

→ Strong Reforms and Policies for facilitating victum

This thing is very important to "rebuild public trust on State". people would trust government and also able to understand the reasons for delayed in the process of justice.

All of the above, there is a clear dimension of the distribution of powers among three state organs; Judiciary, executive and legislature in the sacred Constitution of Pakistan. The State pillars have their own domains to work under. For the sake of stability in the country, there is a responsibility on these



three distinctive parts of  
the government to cooperate  
with each other and  
maintain harmony.