POLITICO-JUDICIAL ACTIVISM IN PAKISTAN: A HISTORICAL OVERVIEW

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ABSTRACT
The purpose of this article is to take a historical overview of Judiciary’s activism in derailing the democratic process in Pakistan. To provide a complete study of judicial activism and its impacts on democracy a glimpse of historical background can help to establish an appropriate point of view that the political history of Pakistan is full of judicial interference. The constitutional and political history of Pakistan has witnessed the murder of political rights by other institutions. The repeated undemocratic acts/episodes of dissolving the elected assemblies by the military or bureaucratic establishment with judicial support can be witnessed throughout the political history of Pakistan. This study shall attempt to find the correlation between the successful democracy and the doctrine of separation of power. By applying the theory of separation of power to this study it shall be concluded that the prime reason of weak democracy is imbalance of power among the three organs of government. This research shall be conducted by utilizing the qualitative methodology. The documentary analysis provides the information to understand historical roots of specific issues.

Keywords: Judicial Activism, Political Representation, Separation of power, Suo moto powers, Fundamental rights.

INTRODUCTION
Increase in judicial activism has become a practice around the world particularly in the developing countries of Asia. But Judicial activism in Pakistan is more common than the other democratic states, which has changed the mode of judicial activism to judicial excesses. This judicial activism is divided into two categories, i.e; limitless jurisdiction of the interpretation and the use of Article 184 (3) and the interference of the Supreme Court in the political decisions of the country (Kamal, 2019). In Pakistan, judicial activism has seen many phases but in the era of the former Chief Justice Saqib Nisar, judicial activism was in full swing (Abbasi, 2019). The reason behind the increased judicial activism is the worst performance of governments/legislatures. In Pakistan, judicial activism can be observed in two phases; one is to make rule of law applicable by mediating into governmental affairs and the other is to protect the constitutional fundamental rights to people which other institutions of governments have failed to provide. Suo moto is a power given to the Supreme Court of Pakistan through constitution of 1973 in Article 184 (3). Which permit to take action in order to save the citizens fundamental rights. Whenever Supreme Court of Pakistan took suo moto actions diverse responses were showed from different sectors of the country. Practice of suo moto in provision of fundamental rights to people got popularity among masses but the suo moto actions like the decision of Panama Case against the Prime Minister of that time (Mr. Moh Nawaz Sharif) received the divided opinions. Previously politicians had enjoyed such decision of Supreme Court for the sake of their own interests while it has damaged the constitutional powers of legislature. (Iqbal, 2018). Judicial activism influenced politics with its biased decisions and resulted into destabilizing democracy while on the other hand it encouraged dictators to make changes in constitutions to strengthen their positions as chief executive of state. Public has welcomed this judicial activism for the sake of the solution of their problems and for the safety of their fundamental rights but at a larger scale it destabilizes the whole system of the country.

REVIEW OF LITERATURE
The following portion of literature review shall represent the point of view of the scholars regarding Judicial Activism and its impacts on political history of Pakistan. (Kennedy, 2011) has indicated that the higher judiciary has remained preoccupied throughout the political history of Pakistan. He explains his point of view by sharing a court verdict “Keeping the ship of the state afloat”. He divided the courts
into four categories. The first one is the court which remains independent having no involvement in the political affairs. The second type is the mute judiciary which is less independent and also has less involvement in politics. The third type of court has strong involvement in political decisions and is less independent. The fourth one is the activist courts which are independent as well as active in political affairs. This analysis shows that the judicial activism has exceeded in different levels of judicial structures.

Sharif argues that the Judiciary is regarded as a fundamental necessity of democracy. The democracy in Pakistan is in a hostile situation (Sharif, 1963). In Pakistan judicial decisions have brought havoc for both state and the people. In 1999, i.e. General Pervez Musharraf dissolved the national assembly, and the Supreme Court did not take any action against the military chief’s abrogating the constitution and labeled their weakness as the “Doctrine of Necessity” (Qazi, 2015). Judicial Activism is directly affecting the supremacy as well as sovereignty of parliament. The legislature in Pakistan is a source to legitimize the judicial structure. Unfortunately the judiciary in Pakistan has become a party in weakening the legislation process by undemocratic actions (Jamal, 2018). It is a fact that almost all political parties in Pakistan have struggled to restore the democracy and often failed in this endeavor mainly due to the clash among the institutions and undemocratic behavior of political elite as well as political problems (Shafqat, 1998). Increase in judicial activism has become a practice around the world particularly in the developing countries of Asia. During the last seven decades the superior courts of Pakistan became a prominent figure in governance and state matters. The apex courts have become political institutions due to wholesome political issues and constitutional controversies (Cheema, 2018). Prof. Hassan Askari, a foremost contributor, argues that the powers of institutions are overlapping in Pakistan in return affecting the democratic procedure. A major threat to democracy in Pakistan eliminates from the non-elected institutions of bureaucracy and judiciary. Over the years the bureaucracy has supported other non-elected institutions so as to expand its authority over legislature. Whenever military took over the democratic governments, the judiciary has been the former’s main supporter. During all such military takeovers or crises against elected parliament, the apex courts have been consistently engaged in judicial activism. In a political divided context, one chief justice commented that the higher judiciary has been overriding its powers on parliament. In this atmosphere of uncertainty, an elected prime minister of Pakistan has been sent home by Supreme Court with the allegation of contempt of court. If one institution of the state dominates the other especially the elected one, then it would be impossible to uphold democratic values. The clash of power between elected executive and non-elected judiciary is not a good omen for Pakistani democracy (Rizvi, 2012).

Research Gap

The focus of this research is to delineate the judicial activism and its impacts on democratic history of Pakistan. Though a number of articles and books are present at the topic but no such attempt made to A-line the political cases starting from Molvi Tamizzuddin Case till the date. Considering it our main aim was to congregate relevant information from different authentic sources that includes decisions given by higher courts of Pakistan as well as Constitution of Pakistan. This article will surely open a gateway for the researchers as a complete document of judicial decisions.

Theoretical Framework

Montesquieu, a prominent philosopher of political and legal history, presented the theory of separation of powers in 18th century. This concept later led to great impacts on western political and constitutional development. Montesquieu plunged into the study of institutions, he was impressed by the liberties and spirit of freedom granted to people by the state. According to his opinion, the freedom was the consequence of independent working of three organs of government being free from each other’s control. Hence powers of institutions of government in the hand of one person were not desirable. He appreciated the powers of British legislature and freedom of the judiciary. (Montesquieu, 2002). The beauty of democracy lies in the rule of separation of power and principle of check and balances. The story of Pakistani democracy is not a fascinating one it is full of institutional instabilities. The loopholes created by elected politicians provided the opportunity to other institutions to intervene in political system and dismantle the democracy. (Khalid, 2012) The judiciary of Pakistan always strengthened these unconstitutional acts by its decisions and halted the process of democracy. For observing the impacts of these structural disabilities and its impacts on nonconsolidated democracy of Pakistan I have implement the theory of separation of power on my research. Though the 1973 constitution of Pakistan provides the opportunity to implement the doctrine of separation of power but the dogma has never
been implemented according to its true spirit or the system of check and balances prevailed in the country (Sultana T., Montesquieu's doctrine of separation of power: A case study of Pakistan, 2012). The key success of democracy requires the balance of power among the institutions of Pakistan. If one institution dominates the other it will not be probable to maintain democratic values (Rizvi, 2012). This study shall be conducted in light of separation of powers concept as elucidated by Montesquieu. With the application of this theory, this study shall attempt to trace the different reasons through which judiciary is casting strong impacts on democracy of Pakistan. It shall also see if the constitution clearly safeguards the separation of powers among institutions of government.

**METHODOLOGY**

This research is conducted by utilizing the qualitative methodology to explore the behavior of different institutions and their effect on democracy. The aim of this research is to investigate the reasons as to why the democracy in Pakistan is in a constant phase of struggle and conflict even after passage of 74 years of country’s independence. Some scholars argue that the biasedness of a researcher is a major limitation in qualitative method. On the other hand, the flexible feature in qualitative research provides an opportunity to transform the existing ideas (Silverman, 2011). I have employed the documentary analysis technique for the collection of data. The documentary analysis provides the information to understand historical roots of specific issues. This helps a political scientist in interpreting special events. This study has utilized documentary analysis in order to take a review of prior literature consisting of legal and constitutional documents which help to appraise, find and synthesize data. The documentary analysis is a visual written or oral material which provides information about the social change and human behavior. (Mangal, 2013). Documentary analysis an attractive option for researcher due to its less time consuming quality. It is however the duty of researcher to ensure that the consulted document is genuine. In documentary analysis the purpose is to select the data instead of collecting the data. (Rapley., 2007). Documentary analysis is an organized process of reviewing and evaluating the printed and electronic documents. In a qualitative research data is explained and inspected in order to obtain knowledge and gain understanding (Strauss, 2008).

**Historical Perspective of Judicial Activism in Pakistan**

To provide a complete study of judicial activism and its impacts on democracy a glimpse of historical background can help to establish an appropriate point of view. For a successful democracy, each organ of government including judiciary, bureaucracy and military play an active role. This also strengthens the state. Pakistan is considered a week democratic state due to the continual rift and disharmony among the institutions of government. The repeated undemocratic acts/episodes of dissolving the elected assemblies by the military or bureaucratic establishment with the aid of judiciary are found throughout the political history of Pakistan. Although the democratic governments have also failed to deliver to the aspirations of people at numerous occurrences and each time the people of Pakistan elected their representative with a fresh optimism. The power struggle prevalent among the institutions as well as the politicians has been ruthless. A close political nexus developed between judiciary and executive since the colonial period and has prolonged till today (Innayatullah, 1997). Like most third world countries, Pakistan also came into being after an extensive struggle with the colonial masters. Quaid-e-Azam, bestowed with a charismatic leadership, endured hardships of new born state and commanded the country with courage and prestige till his death. Liaquat Ali khan, the first prime minister of Pakistan, strengthened the parliamentary system in the country. But unfortunately he was assassinated on October 16, 1951. The death of this immensely talented and courageous duo leadership gave way to deterioration of parliamentary democracy. The office of governor general was used as the instrument by the civil bureaucracy which was a big setback to political stability (Hassan, 2011) (Javaid, 2017).

The Judicial activism in political affairs started from Maulvi Tammizuddin case and continues till today. The constitutional and political history of Pakistan experienced judicial activism on the grounds of doctrine of necessity which further proved to be a legal black hole (Steyn, 2004). The constitutional development and democratic process of Pakistan faced many hurdles also due to the constitutional imbalance. Weak representative institutions helped judiciary to become empowered (Kalhan, January 2013). These are the land mark cases in the political and constitutional history of Pakistan. They depict the reasons as to how and why the judiciary became significant putting itself in the critical position since 1954.
Following discussion provide a clear view of history of politico judicial activism from Moulvi Tamizuddin case till now.

**Federation of Pakistan vs Moulvi Tamizuddin Case (PLD 1955 FC 240).**

The doctrine of necessity was adopted by superior Courts in 1955 in Tamizuddin case and hence became responsible for democratic and political instability of Pakistan (Shabbir, January 2013). Governor General Ghulam Mohammad dissolved the constituent assembly of Pakistan on 24th October 1954. The unconstitutional act of governor general was challenged by writ petition filed by Moulvi Tamizuddin khan, the then speaker of constituent assembly of Pakistan, in Sindh High Court under section 223. Sindh High Court declared the act of dissolution of assembly unconstitutional. The decision of Sindh High Court was challenged in Federal Court where Chief justice of Pakistan justice Muhammad Munir along with four more judges Mr. Justice A.S.M. Akram, Mr. Justice A.R Cornelius, Mr. Justice Muhammad Sharif and Mr. Justice S.A. Rehman declared the act of dissolution of constituent assembly validated (federation of Pakistan vs Moulvi Tamizuddin khan, PLD 1955). The judgement of Sindh High Court was set aside by majority of Federal Court judges however only Mr. Justice Cornelius wrote a dissenting judgement (Dawood, 1994). The judgement of federal court was widely criticized because it did not only affect the politics of country but also put deep scars on democratic development of Pakistan (Kokar., 2013).

**Asima Jillani vs Government of Punjab (PLD 1969 LAH 786)**

On 22 December 1971 Malik Ghulam Jillani was arrested under Martial Law Regulation No, 78. The detention was challenged by his daughter Miss Asima Jillani in Lahore High Court. The case was heard and dismissed with the judgement that the court could not question the act of martial law. Miss Asima Jillani challenged the judgement in Supreme Court which was heard by the panel of judges including Chief Justice Mr. Hamood Ur Rehman, Mr. Justice Wahid Ud Din, Mr. Justice Muhammad Yaqub Ali, Mr. Justice Salah Uddin Ahmad and Mr. Justice Sajjad Ahmed. The decision of the appeal was that the proclamation of martial law by Gen. Yahya khan was illegal (Asima Jillani vs Government of Punjab, PLD 1972). It was the exclusive privilege of Apex court to identify laws which are either not laws or bad laws. Though Asima Jillani case was another example of doctrine of necessity but in the final verdict the judiciary itself rejected the doctrine and analyzed its responsibilities to correct its own decisions (Newberg, 1995).

**Begum Nusrat Bhutto vs Chief of Army Staff (PLD 1977 SC 657)**

Judiciary and military nexus was also exhibited in the Nusrat Bhutto case in which Supreme Court of Pakistan declared martial law of 1977 constitutional and valid. After the imposition of martial law and abrogation of constitution by the chief of army staff General Zia ul Haq, the then prime minister of Pakistan Zulfiqar Ali Bhutto and his ten other companions of PPP were imprisoned in September 1977 and threatened with military tribunal trials. Begum Nusrat Bhutto challenged the legality and validity of martial law by filing a petition in Supreme Court of Pakistan (Rizvi, 1986). A bench of nine member judges was constituted for hearing, the judges included Chief Justice Anwar ul Haq, Mr. justice Wahid ud din Ahmed, Mr. justice Muhammad Afzal Cheema, Mr. justice Muhammad Akram. Mr. Justice Dorab Patel, Mr. Justice Qaiser Khan, Mr. Justice Muhammad Haleem, Mr. Justice G.Safder Shah, Mr. Justice Naseem Hassan Shah (Begum Nusrat Bhutto vs Chief of Army staff and Federation of Pakistan, PLD 1977). The leading judgement was written by Mr. Justice Anwar ul Haq and the constitutional petition was dismissed unanimously. This verdict gave free hand to Zia ul Haq government to retain the power and also provided a foundation to a deep rooted long military rule in civil society (Newberg, 1995).

**Haji Saifullah vs Federation of Pakistan (PLD 1989 SC 166)**

58 (2B) adopted in the 1973 constitution, changed the spirit of parliamentary system into semi-presidential system. The eighth amendment gave sufficient powers to president of Pakistan to dissolve the National assembly without any consultation at the grounds that National assembly has failed to fulfill the objectives and purposes for which it has been elected. The removal of the representative of people of Pakistan with a single stroke of pen cannot be challenged as an unconstitutional act. In May 1988 Gen. Zia ul Haq dismissed the elected prime minister of Pakistan Muhammad Khan Junejo on the charges of corruption. A writ petition filed in 1989 challenged the order of dissolving the national assembly. It was heard by ten judges including the Chief Justice Muhammad Haleem, the leading judgement was written by Justice Naseem Hassan Shah. The verdict was that the President’s order of dissolving the National assembly was illegal. All the judges agreed with justice Naseem Hassan Shah.
except Justice Saifur Rehman. But the writ petition was dismissed on the grounds of the principle of Laches. This principle of Laches of British law means that there has been delay in filing the petition. Hence the constituent assembly could not be restored though the act of dissolution of assembly was illegal (Patel, 2000). This decision was though a delayed decision but it showed that judiciary can play an effective role in the development of democracy and opened new doors for elections which were being delayed for almost 11 years.

**Ahmed Tariq Raheem vs Federation of Pakistan (PLD 1992 SC 646)**
On 6th August 1990 President Ghulam Ishaq Khan dissolved the National assembly and dismissed the Prime Minister Benazir Bhutto under the article 58(2B). The reason of this act was that the federation has lost good ties with its provinces. Another reason put forward was that the practices of nepotism have become widespread and that the national assembly has lost the confidence of the people (Khan T., 2018). Khawaja Tariq Raheem challenged the order of President in Lahore High Court, hence a full bench upheld the order of dissolution of assembly. Mr. Tariq Raheem challenged the decision of Lahore High Court in the Supreme Court of Pakistan. This appeal was heard by full bench consisting of ten judges of Supreme Court. The order of the court was written by Mr. Justice Saifur Rehman hence fore it was declared that the act of president was illegal. The petition was however dismissed because a new National Assembly had taken the oath (Patel, 2000) (Khalid, 2012). It was another setback for the democratic and constitutional development of country.

**Mian Muhammad Nawaz Sharif Vs President of Pakistan (PLD 1993 SC 473)**
The series of dissolving the National assembly continued and on 18th April 1993 President Ghulam Ishaq Khan dissolved the national assembly dismissing the then prime minister. The dissolution of assembly was challenged directly in Supreme Court of Pakistan; the bench of ten judges was headed by Chief justice Mr. Justice Naseem Hassan Shah. The verdict given by the bench was that the act of dissolution of assembly by President was illegal. The Chief Justice reinstated the national assembly on 26th May 1993. It was a different decision from the previous ones which further invited diverse comments from political circles. Mr. Justice Nassem Hassan Shah emphasized on the commitment of judiciary to the constitution of a state in a civilized and democratic world in which an overthrown government has been restored back to the parliament by the order of higher judiciary (Shah., 1993). On the other hand, on 18th July 1993, Prime Minister Nawaz Sharif had to resign nearly after two months of the decision as a result of an agreement with chief of army staff Gen. Abdul Wahid Kakar. Afterwards the President Ghulam Ishaq Khan also resigned and the Chairman Senate Mr. Waseem sajjad took the oath of president.

**Mohtarma Benazir Bhutto vs President of Pakistan**
The elected assembly of Mohtarma Benazir Bhutto faced the same fate and the National assembly was dissolved again in 1996 by the then President Mr. Farooq Laghari under article 58(2B) on the charges of corruption. The act of president was challenged in Apex Court, the Supreme Court of Pakistan upheld the act of president of dissolution of National assembly of Pakistan. However, the impact of the decision was that an opinion started establishing in the state and outside the state that no elected assembly can complete its legal duration of five years and always remains under the black shadow of 58(2B). The decision also created unrest and democratic instability in the state (Ahmed., 2012).

**Zafar Ali Shah vs Pervez Musharraf (PLD 2000 SC 1208)**
The general elections were held on 3rd February 1997 resulting in the victory of PML (N), Mr. Muhammad Nawaz Sharif was elected as the prime Minister of Pakistan and confrontation with judiciary arose soon after. When a list of five judges of Supreme Court was sent to prime minister for elevation by Chief Justice, Mr. Nawaz Sharif showed his resistance over two names. After the intervention of president, the issue was resolved and the government notified the appointments of judges. Later another issue arose when Prime Minister Nawaz Sharif criticized the suspension of 14th amendment by the Supreme Court in a press conference. This resulted in contempt of court and Prime Minister Nawaz Sharif had to appear twice before the Court and submit his written regret. The controversies continued when the seniority of Chief Justice Sajjad Ali Shah was challenged and later resolved with Justice Sajjad Ali Shah vacating the office (Ziring, 1997). The Chief of Army Staff Gen. Jahangir Karamat was also forced to leave his office and replaced by Gen. Parfait Musharraf. The constitution was also amended by the 13th and the 14th amendments by force the president Farooq Laghari has to resign. The then Prime Minister of Pakistan Mr. Nawaz Sharif turned out to be the most powerful prime minister as a result of all these replacements (Khan, 2009). On 12th Oct 1999 General
Pervez Musharraf was coming back from an official tour of Sri Lanka. His plane was not allowed to land at Karachi airport and in the meantime prime minister appointed General Zia Uddin Butt as new Chief of army staff. The army took over the control of Karachi airport and allowed the plane to land. After landing on 12th Oct 1999, General Pervez Musharraf suspended the 1973 constitution dissolving the National Assembly, and dismissing Nawaz Sharif. This imposition of martial law was challenged by Syed Zafar Ali Shah challenged in a writ petition in the Supreme Court. A full Court bench comprising of twelve judges including Iftekhar Muhammad heard the case. Chief Justice Irshad Hassan Khan declared that the act of General Pervez Musharraf as lawful. Mr. Nawaz Sharif was found guilty of plane high jacking, sentenced to 14 years of imprisonment. He was later extended presidential pardon, later left for Saudi Arab. Once again the democratic process of state was sacrificed in the guise of doctrine of necessity (Khan F. A., 2012).

**Suspension of Justice Iftekhar Muhammad Chaudhry by Gen. Pervez Musharraf**

On 30 June 2005, General Pervez Musharraf appointed Iftekhar Muhammad Chaudhry as Chief Justice of Pakistan. Supreme Court started taking Suo Moto notices in cases of fundamental rights especially in the case of missing persons. General Pervez Musharraf response was decisive with this independent performance of judiciary. And on 9th March General Musharraf called the Chief Justice Iftekhar Chaudhry in his army house asking him to resign. The Chief Justice flatly refused to do so; he was kept in army house for five hours. During these five hours Justice Javed Iqbal took oath as the new Chief Justice of Pakistan. General Pervez Musharraf called the meeting of Supreme Judicial council, a disciplinary committee for proceeding. In a reference filed under article 209, the allegations of misconduct were placed on former chief Justice Iftekhar Chaudhry. The Supreme Judicial council ceased the functions/authority of Chief Justice till the investigations of misconduct (Malik, 2008). A massive protest sparked soon after the suspension of Chief Justice Iftekhar Chaudhry, in these protests not only lawyers but also politicians, students, traders and religious scholars participated. The protests lasted for months, finally ended when Supreme Court set aside the allegations of misconduct and restored the Chief Justice Iftekhar Muhammad Chaudhry. Nevertheless, this restoration remained for a short span as General Pervez Musharraf declared emergency and imposed PCO (provisional constitutional order) on 3rd November 2007. Mr. Justice Hameed Dogar took the oath of Chief Justice of Pakistan on the same day. Almost 63 judges of Apex Court refused to take oath under PCO and were placed under house arrest. On 28th November 2007 General Pervez Musharraf resigned from his Chief of army staff office and lifted the emergency on 15th December 2007. Later new elections were held in February 2008 resulting in the victory of Pakistan People’s Party. The General Pervez Musharraf also stepped back from the office of president (Omer, 2013). The Chief Justice Iftekhar Muhammad Chaudhry was reinstated in March 2009; the restoration of Chief Justice gave a new dimension to judicial activism in Pakistan. Hence Judiciary became independent and powerful after winning a long battle of its survival. On the other hand this movement resulted in the division of judiciary in two categories, the PCO judges and the judges who did not take oath under PCO (Kokar., 2013). In this incident judiciary played a different role in political and constitutional history than in the past.

**18th Amendment in the 1973 Constitution of Pakistan**

The 18th amendment to the 1973 constitution brought by the Pakistan people’s party government in 2010 is a milestone in the constitutional history of Pakistan (Munir, 2018) It has not only enhanced the provincial autonomy but has also withdrawn the power of dissolution of National assembly from president. This in turn backs the semi presidential system and restores the parliamentary system. In addition, the amendment has changed the procedure of selection of judges of superior courts increasing the judicial independence. Before the 18th amendment Chief Justice of Supreme Court recommended a panel of candidates to the president. After the 18th amendment the selection procedure of judges had to pass through two forums the first was the judicial commission and second being the parliamentary committee. It was an effort to maintain equilibrium among the institutions of government hence a remarkable change in traditional mode of appointments (Hassan.) (Cheema., 2018). The 18th amendment was an effort to balance out the powers but then again judicial activism has reached its apex in post amendment era.

**Imran Khan Niazi vs Mian Muhammad Nawaz Sharif (PLD 2017 SC 265 PLD 2017 SC 692)**

On the 3rd June 2013, Mr. Muhammad Nawaz Sharif became the Prime Minister of Pakistan for the third time. He faced a very tough opposition from Imran Khan the Chairman of Pakistan Tahreek- E-Insafe along with other political parties. The opposition accused PML (N) for rigging in general
elections of 2013. Later Imran Khan filed a petition on 29th August 2016 against Nawaz Sharif seeking his disqualification on the basis of Panama Leaks. Panama Leaks revealed the links of Nawaz Sharif family with eight offshore companies. In order to investigate the Panama leaks and its relation with Sharif family, the Supreme Court formed a Joint investigation team (JIT). After the submission of JIT report, Supreme Court consisting on panel of five judges Mr. Justice Asif Saeed Khosa, Mr. Justice Ejaz Afzal Khan, Mr. Gulzar Ahmed, Mr. Azmat Saeed, and Mr. Ijaz-ul-Hassan gave its verdict with 3-2 split decision. On 28th July 2017 the Supreme Court of Pakistan sentenced PM Nawaz Sharif to ten years’ prison, $10.6 million fine and life time disqualification from membership of National assembly. The decision of Apex Court was considered a historical one and also the most publicized one (Alecci, 2018).

Pakistan continued to bleed from its democratic crisis after independence. This study explains that the judiciary has played an important role in this political and democratic crisis. To improve the democratic conditions in Pakistan every institution must plays its positive role and work with in realms of its constitutional frame work in order to manage the difficulties in political system.

CONCLUSION AND FINDINGS

History is replete with an unusual amount of instances exampling that whenever the democratic order of a state has destabilized it was because efforts were made to stifle the powers of the Judiciary (Kazi, 1976). As a researcher, I have observed that the survival of every state is reliant on the rule of law and Pakistan is no exception. After over 70 years of manipulation and exploitation, we stand at cross roads. Pakistan’s political institutions like the Legislature remained under strain due to the influential and effectual positions of the military, Judiciary and the bureaucracy (Ahmad, 2018). The most important function of the Judiciary in a constitutional democracy is that it is the custodian of the constitution as well as the rights of citizens. An impartial and independent Judiciary can provide fair dispensation of justice and solvency of democratic institutions. A proper recruitment process of Apex court judges can ensure the impartiality and independence of Judiciary which is very important for the salvation of the public. Although judicial activism has affected democracy, others factors for this occurrence exist too. When political leaders frequently approach the Judiciary for settling matters that are essentially political in nature, it plainly showcases that political institutions are not disposing of their responsibilities suitably and, therefore, looking to the state institutions like the Judiciary and military to come and rescue them. Such situations create an imbalance in state institutions especially when compared to the political institutions. Judiciary has not facilitated but rather subverted the democratic process; they are all actors. It is only the politicians who suffer from the forever looming threat of discontinuity; they are never sure about their tomorrow. When civil servants and bureaucrats enter into the stream they know they can last for 35 years if wanted, but they politicians aren’t even ensured 5 years of constancy. There is hardly a Prime Minister who has completed his/her tenure. Even Zulfiqar Ali Bhutto lasted just his first tenure; in his second he had become near insufferable for the armed forces. After 2008, though we’ve had the political system but the inside of that system in rapt with turmoil and chaos. Seldom has a Prime Minister been able to complete five complete years of his term, whether it was Mr. Yousef Raza Gillani or Mr. Nawaz Sharif. Democratic governments were successively dismissed and so it makes it pertinent upon us to search for where the actual problem lies i.e. why instability and uncertainty prevails.

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