

## **Judicial Activism vs. Judicial Restraint in Developing Democracies: A Comparative Study**

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### **Abstract**

This paper examines the dynamics of judicial activism and judicial restraint in developing democracies, with a comparative focus on India, Pakistan and South Africa. It explores how courts navigate the tension between enforcing constitutional rights, maintaining institutional legitimacy and promoting democratic governance in contexts marked by political instability, socio-economic inequalities and evolving legal frameworks. Drawing on theoretical perspectives such as legal realism, public interest theory and the separation of powers doctrine, the study analyzes the advantages and challenges of activism and restraint, highlighting their context-dependent effectiveness. Case studies reveal that judicial activism enables courts to protect fundamental rights, ensure accountability and address institutional gaps, while judicial restraint preserves stability, respects legislative prerogatives and enhances long-term legitimacy. The paper emphasizes that a context-sensitive, hybrid approach, balancing activism and restraint, is essential for consolidating democracy in developing states. Lessons from these comparative experiences offer guidance on how judiciaries can adapt their interventions to uphold constitutional governance, protect rights and maintain public trust without destabilizing political institutions.

**Key Words:** Judicial Activism, Judicial Restraint, Developing Democracies, Constitutional Governance, Fundamental Rights, India, Pakistan, South Africa

### **Introduction**

In developing democracies, the judiciary serves as a cornerstone of constitutional governance, responsible for safeguarding fundamental rights, ensuring accountability and maintaining the rule of law. Unlike mature democracies with well-established political institutions, developing states often face challenges such as political instability, weak legislative frameworks and institutional inefficiencies. In this regard, the judiciary often assumes the role of a very important referee of the governance process, juggling the rights protection imperative with the requirement of upholding the

separation of powers. This two-fold role highlights the significance of the judicial philosophy, i.e. the practice of judicial activism and judicial restraint, in steering the course of the emerging democracies (Tushnet, 2000).

Judicial activism involves the proactive judiciary where the courts interpret the provisions of the constitution in a broad way, applying human rights and even imposing policies. Activist courts do not just decide cases but tend to undertake the role of governing by filling any loopholes left by the legislatures or executive organs. In ineffective or corrupt democracies, where the political systems might not be efficient, judicial activism may act as a corrective tool, allowing the marginal groups and minority to be safeguarded by the law (Gilani et al., 2021). It frequently takes the form of public-interest litigation, broad interpretations of the basic rights and offensive intrusions in cases of executive misconduct

On the other hand, judicial restraint focuses on the subordination to the elected arms of state, and suggests intervention only when constitutional mandates are evidently breached. Where courts exercise restraint, they put into effect the norm of separation of powers in view of the fact that legislatures and executives are better placed to deal with policy aspects. Judicial restraint is also especially important in politically sensitive situations, where active judicial intervention can trigger institutional opposition or cause people to lose confidence in the judicial system (Gul et al., 2025a). By exercising restraint, courts maintain legitimacy, ensure stability and preserve the democratic process, even if some rights may remain inadequately protected in the short term.

The setting of developing democracies is a special place where these philosophies of the judiciary are analyzed. The political instability, socio-economic inequalities, the change of legal frameworks and historical backgrounds are some of the factors that influence the ability and intent of the judiciary to either be activist or restrained. India In a case in point, in the past the Supreme Court of India has exhibited judicial activism through landmark decisions and public interest litigation to enhance democratic responsibility and safeguard rights. On the other hand, judicial system in Pakistan has kept swinging between activism and restraint and has, in many occasions, been affected by military intervention as well as political crises. The Constitutional Court of South Africa, the product of the post-apartheid situation, is an example of a delicate balance, where judicial activism is used to uphold social-economic rights and restraint in other politically sensitive areas (Ahmad, 2021).

Comparative analysis of judicial activism and judicial restraint in third world democracies is thus important in demystifying the role the judiciary plays in ensuring constitutionalism, safeguarding rights and political stability. The paper seeks to identify the role that judicial philosophy plays in the determination of governance, human rights, and the general consolidation of democracy by looking at case studies of India, Pakistan, and South Africa. The paper also brings out the advantages and limitations of each method, which in turn provides knowledge on how courts may tune the interventions to achieve both legitimacy and effectiveness in environments where institutional capabilities are not equal.

### **Theoretical Framework**

The philosophical approaches that the judiciary takes to the interpretation of the constitution and the governance of the states significantly determine how the judiciary will be able to develop democracies. Among these strategies, one can distinguish between judicial activism and judicial restraint as two opposite paradigms since they contain different ideas about the role of the judiciary in terms of the legislature and executive. These notions and the theoretical basis of their concepts are crucial to the study of the role of courts in the socio-political context, the safeguarding of basic rights and the ensuring of institutional legitimacy.

Judicial activism is a form of judicial activism whereby, courts take the initiative to make broad interpretation of constitutional articles, in many cases going further than strict adjudication and influencing states policy making and social justice. Activist courts are not averse to taking cases that raise an issue of structural inequality or executive overreach or legislative inaction. Judicial activism

in the developing democracies can be viewed as a remedial tool especially where political institutions might be unresponsive, unaccountable and incompetent. The activist judiciaries often use principles like the basic structure doctrine, broad interpretations of basic rights and public interest litigation to increase the access of justice to marginalized groups (P. Sharma & Mitra, 2021).

In theoretical terms, the field of judicial activism is given a background when it comes to legal realism. According to legal realism, decisions of the court are conditioned by not only the statutory or constitutional rules, but also by the social, political and economic environments. In developing democracies, this perspective helps explain why courts may adopt activist stances to address societal inequities and institutional deficiencies that formal legal rules alone cannot resolve (De Visser, 2022). Public interest theory complements this by emphasizing the judiciary's role in promoting collective welfare and safeguarding constitutional values. Under this theory, judicial activism is justified when courts intervene to protect rights and ensure that governance aligns with the principles of justice and equity enshrined in the constitution (Gul et al., 2025b).

Judicial restraint, by contrast, embodies a philosophy of caution and deference. Courts practicing restraint limit their interventions to clear and unambiguous constitutional violations, avoiding encroachment upon the policymaking domain of the legislature or executive. The primary justification for restraint lies in the separation of powers doctrine, which maintains that each branch of government should operate within its constitutional boundaries to preserve institutional stability and democratic legitimacy (B. K. Sharma, 2022). Restraint-oriented judiciaries emphasize predictability, continuity and respect for the policy choices of democratically elected bodies. In politically fragile developing democracies, restraint may prevent conflicts between state organs, preserve the judiciary's reputation and enhance its long-term authority.

Several other theoretical perspectives provide insight into the dynamics between activism and restraint. The proportionality principle, as articulated in Aharon Barak's scholarship, offers a framework for balancing competing rights and interests, allowing courts to justify intervention without excessive overreach (Dalla Corte, 2022). Similarly, the notion of judicial minimalism advocates a restrained and incremental approach, wherein courts provide limited guidance to resolve specific disputes while leaving broader policy decisions to elected representatives (Dalla Corte, 2022). Both frameworks inform how courts calibrate their interventions to ensure legitimacy, effectiveness and alignment with democratic norms.

Effectively, the decision-making between activism and restraint is not often absolute. Courts tend to follow a spectrum of practices, turning to activism where protecting rights is relevant, but being restraining in all things that are politically sensitive or resource-consuming. This mixed practice is notable especially in the emerging democracies where courts have to both apply constitutional guarantees, address the needs of society and overcome the constraint of institutional capacity. As an example, the Supreme Court of India has been activist with public interest litigation and broad interpretation of rights, but restraining itself when it comes to parliamentary prerogatives (Baxi, 2022). The judicial system of Pakistan has oscillated between aggressive interventions in times of constitutional crises and judicial restraint in respect of policy-making by the legislature in other areas (Shafiq et al., 2025). The Constitutional Court that arose in South Africa in the aftermath of apartheid can be viewed as an example of a judiciary that behaves carefully, asserting socio-economic rights and deferring to the policy space of the legislature in other areas (Penfold & Hoexter, 2024).

Rooting the discussion of judicial conduct in these theoretical foundations, it is then possible to assess the role of activism and restraint in practice and how democracies in development can be made advantageous by a judicial culture. Their interaction does not only determine the results of the law, but also it affects the contemporary view of legitimacy, the stability of democratic institutions and the efficiency of the governance, in general. It is based on this theoretical premise that a comparative analysis of judicial activism and restraint will be carried out in terms of certain case studies, which will be proceeded in the further sections of this paper.

## **Judicial Activism and Restraint in Developing Democracies**

Comparison of cases is the best way that the practical application of judicial activism and judicial restraint can be applied in developing democracies. In such cases, the courts are frequently charged with the responsibility of enforcing the constitutional principles whilst they negotiate political instability, institutional inefficiencies and socio-economic inequities. A case in point is India, Pakistan and South Africa which offer a lesson in how judicial philosophy comes in contact with local conditions to influence governance, the protection of rights and institutional legitimacy.

### **India**

The Supreme Court of India exemplifies judicial activism within a developing democracy. Through mechanisms such as public interest litigation (PIL), the Court has expanded access to justice for marginalized communities and enforced constitutional guarantees beyond traditional litigants. Landmark cases, including *Kesavananda Bharati v. State of Kerala* (1973), established the basic structure doctrine, affirming the judiciary's authority to review constitutional amendments to protect fundamental principles of governance (Singh & Saxena, 2021). Other cases, such as *Vishaka v. State of Rajasthan* (1997), utilized expansive interpretation of rights to address issues of workplace harassment and gender discrimination, demonstrating the Court's willingness to engage in progressive reform (Pathak, n.d.).

Judicial activism in India has also extended to environmental protection, corruption control and social welfare policies. The Court's intervention in matters such as the Bhopal Gas Tragedy litigation and environmental PILs illustrates its role in compensating for legislative or executive inaction. However, critics argue that frequent judicial intervention may blur the separation of powers and risk judicial overreach, potentially undermining the legitimacy of the judiciary in the eyes of elected representatives and the public (Tushnet, 2024).

### **Pakistan**

The Supreme Court of Pakistan has exhibited both judicial activism and restraint, often influenced by political dynamics and periods of instability. Judicial activism became particularly evident during the Lawyers' Movement (2007–2009), which restored the judiciary's independence after executive overreach and the suspension of Chief Justice Iftikhar Muhammad Chaudhry. The Court's assertive decisions in this period reinforced constitutional supremacy and enhanced public confidence in judicial oversight (M. N. Khan, 2023).

Conversely, periods of judicial restraint in Pakistan reflect the challenges faced by courts operating under military regimes or politically unstable governments. During such times, the Court often adopts a cautious approach, avoiding direct confrontation with the executive, which helps preserve institutional legitimacy but may delay justice or allow rights violations to persist. This oscillation highlights the contextual nature of judicial philosophy in developing democracies, where activism and restraint are employed strategically to balance enforcement of constitutional principles with survival in politically charged environments (I. U. Khan & Khan, 2023).

### **South Africa**

South Africa's Constitutional Court demonstrates a calibrated approach, balancing activism and restraint in a post-apartheid context. Following the adoption of the 1996 Constitution, the Court has used judicial activism to enforce socio-economic rights, promote equality and protect minority interests. The landmark case *Government of the Republic of South Africa v. Grootboom* (2000) required the government to provide adequate housing for the homeless, reflecting an activist stance aimed at fulfilling constitutional mandates in the social sphere (Hoexter & Penfold, 2024a).

At the same time, the Court has exercised judicial restraint in areas where legislative policy-making is complex or politically sensitive. This combination ensures that courts remain authoritative arbiters of rights while respecting the role of elected representatives in crafting and implementing policy. South Africa's model illustrates how courts in emerging democracies can employ a context-sensitive balance between activism and restraint to consolidate democratic governance while promoting social

### **Comparative Observations**

A cross-country comparison reveals key patterns. Judicial activism is most pronounced when institutional deficits, human rights violations, or social inequalities exist, allowing courts to compensate for legislative or executive shortcomings. Conversely, judicial restraint tends to dominate in politically volatile contexts or under fragile institutions, where courts prioritize legitimacy and stability. The effectiveness of judicial intervention is therefore contingent upon socio-political conditions, the maturity of legal institutions and public trust in judicial authority.

Developing democracies benefit from a hybrid judicial approach, where courts strategically combine activism and restraint depending on the issue, potential political repercussions and institutional capacity. This nuanced approach allows courts to protect constitutional rights, enforce accountability and maintain democratic stability, illustrating that neither pure activism nor absolute restraint is universally optimal. Instead, the judiciary's ability to calibrate its interventions is central to the consolidation of constitutional governance in developing democracies (WEATHER, n.d.)

### **Advantages and Challenges of Judicial Activism and Restraint**

Judicial activism and judicial restraint each present distinct advantages and challenges, particularly in developing democracies where institutional capacities, political stability and socio-economic conditions vary widely. Understanding these benefits and limitations is crucial for evaluating how courts can effectively balance rights protection, governance and legitimacy.

#### **Judicial Activism**

The principal advantage of judicial activism lies in its capacity to protect fundamental rights and advance social justice. Activist courts often intervene to ensure that marginalized populations, minority groups and vulnerable communities receive adequate legal protection, particularly when legislative and executive institutions are ineffective or unresponsive. For instance, India's Supreme Court, through public interest litigation (PIL), has addressed issues ranging from environmental degradation to corruption and labor rights, thereby expanding access to justice and enforcing constitutional guarantees (Chattopadhyay, 2024). Similarly, South Africa's Constitutional Court has used activist rulings to implement socio-economic rights and promote equality in the post-apartheid era, as exemplified in *Grootboom* (2000) (Molaba, 2025).

Improvement of accountability is another major benefit of judicial activism. Conducting the reviews of executive actions, legislative adherence to constitutional norms, and liberal interpretation of rights, activist courts will prevent the power abuse and reinforce democratic rule. The judiciary has the potential to serve as a form of check on the executive, as shown by the activist actions of the Supreme Court in the Lawyers' Movement (2007–2009) that restored judicial independence and strengthened the constitutional supremacy in Pakistan (Sheikh et al., 2024).

Judicial activism is fraught with problems as well. One of the main worries is judicial overreach, whereby the courts can interfere with the powers of legislature and executive, which may contradict the doctrine of separation of powers. Activities by certain organizations that are overzealous are likely to attract political opposition, destroy the credibility of the judiciary and jeopardize the justice system. Indeed, in developing democracies, in which the political institutions tend to be weak, too much judicial activism can become disruptive to governance or create tensions among state organs (Warraich et al., 2023). Besides, activist courts can be limited by resource and expertise, and they cannot successfully execute policy-based decisions, especially in multifaceted socio-economic areas.

#### **Judicial Restraint**

Judicial restraint, on the other hand, focuses on obedience towards elected authorities and only intervenes when the violations of the constitutions are obvious and evident. The first benefit of restraint is the stability of the institution since it maintains the independence of the legislature and executive and minimizes the chances of political conflict. The restraint-oriented courts have a

democratic predictability whereby the policy-making is under the watch of the elected representatives and the ruling is made based on the will of the people (Thakur, n.d.).

Judicial restraint also contributes to legitimacy preservation, especially in politically volatile or fragile environments. By avoiding unnecessary intervention, courts protect their credibility and long-term authority, minimizing the risk of being perceived as partisan or politically motivated. This approach is particularly relevant in developing democracies, where the judiciary may face pressure from dominant political actors or military influence, as observed in Pakistan's judicial history during periods of political instability (Kureshi, 2022).

Nevertheless, judicial restraint has its limitations. Excessive deference may result in the neglect of fundamental rights, delayed justice, or tolerance of executive overreach. Vulnerable groups may remain unprotected if courts consistently defer to political actors, thereby undermining the judiciary's role as a guarantor of constitutional principles. In developing democracies, where social inequalities and institutional inefficiencies are prevalent, strict adherence to restraint may weaken the enforcement of constitutional guarantees and hinder the advancement of social justice (Dikrurahman, 2025).

### **Balancing Activism and Restraint**

In practice, the choice between judicial activism and restraint is rarely absolute. Courts in developing democracies often adopt a context-sensitive, hybrid approach, exercising activism when rights protection or accountability demands intervention while practicing restraint in politically sensitive or policy-intensive matters. This measured course allows courts to defend constitutional values without destabilizing the governance process in an unnecessary way or undermining legitimacy. Judicial experience in India, Pakistan and South Africa shows that judicial activism and restraint can be judiciously balanced to increase the ability of the judiciary to balance with democratic consolidation, to enforce rights and to be institutionally credible (Sundar, 2023).

### **Comparative Analysis**

Comparative studies of judicial activism and judicial restraint in emerging democracies offer an analysis on how courts manage the balancing act between the protection of rights, government and legitimacy. As seen in the case of India, Pakistan and South Africa, it is clear that the quality of judicial philosophy is the most closely tied to the socio-political setting, institutional maturity and public trust.

### **India: Proactive Judiciary in a Developing Democracy**

The Supreme Court has been known to be activist oriented in India. The Court has always tried to maintain marginalized groups of people, hold the powerful accountable and bring social justice through public interest litigation (PIL) and broad interpretation of basic rights. *Kesavananda Bharati v. State of Kerala* (1973) and *Vishaka v. State of Rajasthan* (1997) landmark cases. Landmark cases such as *Kesavananda Bharati v. State of Kerala* (1973) and *Vishaka v. State of Rajasthan* (1997) illustrate the Court's proactive role in shaping governance, addressing social inequalities and responding to gaps left by legislative or executive inaction (Nath & Lakshmi, 2025).

Judicial activism in India has led to significant benefits, including enhanced rights protection, improved governmental accountability and the promotion of progressive social policies. However, this assertive approach has also attracted criticism for potential judicial overreach, as courts sometimes engage in quasi-legislative functions, raising concerns about the erosion of the separation of powers and the judiciary's institutional legitimacy (Idiculla & Mukherjee, 2023).

### **Pakistan: Oscillation Between Activism and Restraint**

Pakistan's judiciary presents a contrasting but instructive case. The Supreme Court has alternated between periods of judicial activism and restraint, often in response to political crises or military influence. The Lawyers' Movement (2007–2009) is a prime example of judicial activism, during which the Court asserted its independence, restored the constitutionally mandated tenure of judges and curtailed executive overreach (Jatoi et al., 2022).

Conversely, periods of judicial restraint in Pakistan reflect caution under politically volatile conditions. During military regimes or politically sensitive moments, courts have often deferred to executive authority to preserve institutional legitimacy and avoid confrontation, even if this results in delayed justice or unaddressed rights violations (Finkelstein & Painter, 2022). This oscillation highlights that in developing democracies, judicial philosophy is frequently contingent upon external political pressures and institutional fragility.

### **South Africa: Context-Sensitive Hybrid Approach**

South Africa's Constitutional Court demonstrates a calibrated, context-sensitive approach that blends activism with restraint. In the post-apartheid era, the Court has employed judicial activism to enforce socio-economic rights and promote equality. For example, *Government of the Republic of South Africa v. Grootboom* (2000) required the government to provide adequate housing for the homeless, reflecting the Court's willingness to enforce constitutionally guaranteed socio-economic rights (Mudau, 2025).

At the same time, the Court exercises restraint in areas where legislative policy-making is complex or politically sensitive. By doing so, it preserves democratic legitimacy, avoids unnecessary conflict with the legislature and ensures that judicial intervention complements rather than supplants elected authorities. This hybrid approach illustrates that activism and restraint are not mutually exclusive; rather, their calibrated use enables courts to fulfill their constitutional mandate effectively while maintaining institutional credibility (Hoexter & Penfold, 2024b).

### **Comparative Observations**

A cross-country comparison reveals several patterns:

1. **Context Matters:** Judicial activism is most pronounced when political institutions are weak, social inequalities are severe, or rights violations are widespread. India and South Africa demonstrate that courts can act as corrective mechanisms in such circumstances. Conversely, judicial restraint is prevalent in politically unstable contexts, as seen in Pakistan, where courts prioritize legitimacy and survival.
2. **Effectiveness Depends on Institutional Capacity:** The impact of activism or restraint is contingent upon the judiciary's ability to enforce rulings. Courts with strong institutional foundations, such as India and South Africa, can use activism effectively without destabilizing governance. In contrast, in fragile states, overactive courts risk political confrontation and may undermine their own authority.
3. **Hybrid Approaches Enhance Legitimacy:** Courts that adopt a context-sensitive combination of activism and restraint are better positioned to protect rights while preserving institutional credibility. South Africa's Constitutional Court exemplifies this strategy, using activism selectively in areas of socio-economic justice while exercising restraint in politically charged domains.
4. **Public Trust and Socio-Political Stability:** Judicial philosophy influences public perception of legitimacy. Courts that strike a balance between activism and restraint enhance trust in the judiciary and contribute to the consolidation of democracy. Conversely, extreme activism or excessive restraint may erode confidence in the judiciary's impartiality or relevance.

### **Lessons for Emerging Democracies**

The comparative analysis suggests several lessons for developing democracies:

- Courts must adopt a calibrated approach, choosing activism or restraint based on socio-political context, institutional strength and the potential impact on governance.

- Judicial interventions should be guided by the principle of proportionality, ensuring that rulings advance constitutional objectives without unnecessarily encroaching on legislative or executive prerogatives.
- Hybrid models that combine selective activism with strategic restraint can enhance rights protection, accountability and legitimacy, contributing to the long-term consolidation of democratic institutions.

In general, the comparative analysis points out that judicial philosophy cannot be evaluated without references to other things. Its impact and efficiency is closely interwoven with the political, social and institutional state climate. The advantage of developing democracies is the existence of not strictly activist or restrained courts, which can make decisions dynamically and context-sensitive to balance the protection of rights and the stability of the ruling (Ahamed, 2025).

## **Conclusion**

In the comparative analysis of judicial activism and judicial restraint in the emerging democracies, the central importance of the judiciary in the context of constitutional governance, protection of rights and institutional legitimacy is highlighted. The Indian, Pakistani and South African courts are examples of courts that have a wide range of judicial philosophy influenced by socio-political background and history and institutional development. Through these cases, a few important lessons can be drawn on the effectiveness, benefits and constraints of activism and restraint in new democracies.

Judicial activism is an important tool that ensures the promotion of fundamental rights, accountability and the promotion of social justice especially in situations where legislative and executive institutions are ineffective or unresponsive. The broad interpretation of primary rights and judicial review of the public interest in India has allowed the Supreme Court to fill systemic inequalities, environmental matters and human rights abuse, and often close gaps in the institutions left by the legislature or the executive. Likewise, the Constitutional Court of South Africa has used activist interventions to implement socio-economic rights so that the marginalized groups are provided constitutional protection during the post-apartheid period. Such instances are a testament to the fact that judicial activism when used wisely can be a transformative element in the adoption of democratic politics and the promotion of social justice.

However, there are obstacles to judicial activism. Overaction may also create judicial overreach, which may vitiate the separation of powers, and lead to political reaction and influence on the judicial system. Activist courts in developing democracies have a delicate balancing act to perform because political institutions are in most cases weak and thus their moves should not destabilize governance and must not be seen as partisan. This highlights the need of adopting a context-dependent decision-making approach, in which the judiciary will have discretion in deciding whether and how to interfere in issues conventionally handled by the elected government.

Judicial restraint, on the contrary, highlights submission to elected branches, institutional stability and democratic predictability. The courts avoid intruding into the legislature and executive, thus conserving their independence and avoiding the risk of a political clash and improving their credibility over the long term. In Pakistan, temporary judicial restraint has enabled the courts to legitimize the court during periods of political necessity, especially when under military regimes or when there is a political crisis. The restraint will see the judicial decisions respected, sustainable and consistent with the democratic principles even though some of the rights can be under-defended in the immediate future.

The comparison of the two extremes of activism and complete restraint shows that both are not universal bests in the process of evolving democracies. As the most useful strategy, a hybrid, context-sensitive one is emerged. The courts are free to embrace activism in spheres where there is need to



protect rights or take action against violators and restraint when it comes to matters that are politically sensitive or policy intensive. An example of such a careful balance between socio-economic justice and legislative prerogative that ensures effectiveness and legitimacy is the Constitutional Court of South Africa. Likewise, India and Pakistan show that the philosophy of judicial practice needs to be attuned to political, social and institutional realities in order to produce the greatest impact with the least institutional risk.

Based on these observations, a number of recommendations on how the judicial conduct should be in developing democracies can be drawn. To start with, any court ought to use proportionality and contextual analysis in deciding the extent of intervention so that the judicial activism does not trespass on the roles of the legislature and executive. Second, judicial restraint cannot be understood as a lack of action, but rather denotes that courts are required to be more cautious in ensuring the constitutional values and the rights are safeguarded but at the same time delegating the authority to the elected figures where necessary. Third, legitimacy can be increased by way of public involvement and openness of judicial rationale so that courts are seen as fair dispensers of justice and not partisan institutions. Lastly, there is the need to focus on institutional capacity-building by developing democracies where courts can make rulings well without necessarily involving activists.

In conclusion, the issue of judicial activism versus judicial restraint is the key to the centralization of democracy in developing countries. Activism enables courts to play their constitutional role and protect rights, and restraint maintains stability and legitimacy. Through the complexities of politics, social and institutional contexts, a developing democracy can overcome the challenges of judicial review in developing democracies by adopting a context-sensitive, hybrid approach that ensures that interventions of judiciary can not only bring justice, but also consolidate democracies. The Indian, Pakistani, and South African comparative experiences share a great deal to be learned, showing that the power of the judiciary is not in its clinging to a single philosophy but its ability to find an adaptive compromise between activism and restraint in the service of constitutional governance.

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