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Topic: The Impact of Political Interference on judicial Independence

1) ~~Introduction~~

plz write down thesis statement here also

2) ~~Thesis Statement~~

3) Deciphering the term ~~Interfer~~ Political Interference on judicial Independence

4) Impacts of Political Interference on judicial Independence

a. Erosion of judicial Autonomy

Case study of Poland

b. Undermined rule of law

90% cases never brought to court: Mexico  
case study

c. Misimplication of Doctrine of Necessity  
Coups of Pakistan (1958, 1977, 1999)

d. Question mark on the capability and transparency of judiciary

Hanging of Bhutto (1977): The controversial case of history

e. Judiciary is used for the safeguard of political regime

f. Violation of <sup>everyday</sup> fundamental and human rights

2M cases are still pending in various courts

g. public confidence in judiciary shrinks and it lead to chaos in country

Lawyers movement in Pakistan 2007-2009

h. 26<sup>th</sup> Amendment of Pakistan  
judicial reforms case study

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i) Lawlessness, corruption, nepotism, inefficiency of lawyer lead to promote more crimes in country. According to American bar association

#### 4) Positive Impacts of political Interference on judicial Independence (Opponents view)

- a. It foster smooth running of state without chaos because contradiction cause instability  
Nawaz sharif vs Supreme court (1997)
- b. Appointment of chief justice by executives is transparent process (26<sup>th</sup> Amendment) 2024

#### 5) key factors enabling Political Interference.

- a. Weak Institutional Framework
- b. Judicial appointments based on political reference help politics to intervene in judiciary
- c. Validation of Doctrine of necessity

#### 6) Suggestions for Independent judiciary

- a. Autonomy of ~~state~~ Government organs should be maintain, work independently
- b. Rule of law should be supreme instead of legislation

plz enhance the number of suggestion

u can also add some points in your conclusion

#### 7) Conclusion

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It is rule of nature, when someone influence from other and start copying another person or allows him/her to dictate ultimately it will destroy persons own creativity and personality. Same is the case of Government when the three independent organs of Government start intervention in one others duties ultimately the one which is Pressured lost its supremacy, creativity, Law and credibility. Political Interference negatively impact judicial independence in so many ways there is no space for politics in judiciary because every one have there own domain. Due to pressure of Political Interference there is problems / evils like erosion of judicial autonomy, undermined rule of law, misimplication of doctrine of necessity, loss of public trust, increase in crime rates and ultimately judicial reforms like 26<sup>th</sup> Amendment takes birth in the constitution. While on the other side, proponents of this concept support political interference in judiciary by saying that it will reduce conflicts, contradictions and chaos in society or generally in state. According to them it help as catalyst in speed up of decision making as well as in appointments. The question is what are the elements which help politics to interfere in judicial decisions, the answer is authority of judicial appointments, misuse of doctrine of necessity and weak institutional framework backing them in this interference.

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The foremost impact of Political Interference on judicial Independence is erosion of judicial autonomy, every institution require its autonomy and Independence to work accordingly to the set rules regulations. But when any other organ interven it loss its autonomy Poland case study is the best example of erosion of judicial autonomy because in new judicial reforms of poland

There will be proceedings against judges for questioning the ruling party, The law allows the Government to fire judges, cut their salaries for speaking against legislation.

(Reforms affecting the National Council of the judiciary)

The intervention of politics directly weak the decision making power of judiciary. To ensure fundamental Human Rights, to take once right back and raise voice against crime all these are possible only at that time when there is transparency in judicial system.

Secondly, political interference undermind rule of law. Rule of law should be above everyone in any state, rule of law was first established by Holy Prophet and then in 1215 in the name of "Magna Carta" where first time constitutionally law

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Supreme than king. But now it is 21<sup>st</sup> century where we are taking our steps back instead of moving forward by pressuring and influencing judicial decisions through politics. This process undermines rule of law.

In Mexico, more than 90% of crimes are never brought to court. One of the main challenges has to do with prosecutors' willingness and capacity to investigate. Judges are pre-selected by congress or elected by popular vote in Mexico.

#### Mexico Case Study

Countries where nepotism, favoritism and relations matter while merit is least priority will fall in while, because the base of states are legislation, executive and judiciary. And if there will be no transparency, accountability, independence and rule of law ultimately country will fall.

Thirdly, in case of Pakistan doctrine of necessity is shield for corps in Pakistan, every military dictator's corps is legalized and required by judiciary in the name of Doctrine of necessity. Though it was Ayub's era (1958), Zia's era (1977) or Bhutto's era (1999) it is clear and transparent evidence of political interference in judiciary.

Corps of 1958, 1977, 1999

are legalized according to judiciary by using doctrine of necessity.

Public always raise their concerns and questions regarding the delays, transparency and capability of judiciary. It creates chaos, mistrust and contradictory environment.

Handling of Bhutto (1979) under the regime of Zia-ul-Haq's regime is a question mark in the transparency of judiciary

(The controversial case of history)

In countries where rule of law is less important than parliament and political leaders, judges of such countries are unable to implement the laws which ultimately create a gap between public and government. Because state is a father for citizens and if state is unable to prevail justice in society, unable to give due share to people then where do citizens go? where do they knock the door? They are unable to reach international courts. The concerns and questions of citizens for historical events as well as today are still unanswerable.

On the other hand, the impact of political interference in judicial independence is the security of contemporary regime of political party. Political party recruits such judicial members who are in alliance with politicians, because they want to protect their own self from any threat of judiciary.

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Furthermore, violation and delay of fundamental human rights are an alarming impact of this interference.

2 million cases are still pending in various courts.

(Report published by Bar Council)

2 million cases are pending in session, High, Federal and Supreme court of Pakistan why? Because judiciary is busy in handling cases of constitutions, reforms, amendments and in solving allegations of political leaders then ultimately this will happen cases will last for decades.

One person got justice after his death. According to Dawn news published in 2016

People who apply their case for justice are not living any normal or comfortable life not only that individual but whole family suffers mentally, physical, emotionally and economically. It ultimately impacts state as well, they become burden on state instead of contributing to state because they left their profession to seek justice in this way some way other individual, family and state face effect from this influential process.

Besides this, public confidence in judiciary shrinks and it leads to chaos in country. The best example to understand this is 2007-2009 situation of Pakistan.

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Lawyers movement in Pakistan

2007-09 when General Pervez Mushraff remove justice Iftikhar Chudary with other 60 judges from their post without any critical issue.

(Lawyers movement 2007-09)

This one intervention of military rules in judiciary create two years of chaos, restlessness and instability in civil society, legal authorities as well as in politics.

Because this two years period was the period of protests, movements and negative public opinion of public for government. In such situations country not grow normally it effect economics, international image of country and such circumstances decrease the foreign direct investments because no investor want to invest in such country where nepotism, lawlessness and chaos prevail and country is under civil war like situation.

The most important and controversial amendment of 2024 is 26<sup>th</sup> Amendment which pass in October 2024 by the Parliament of Pakistan. This reform is clear indication of political interference in judiciary.

The International Commission of Jurists described the amendment as a "Blow to judicial independence"



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UN Human Rights chief expressed concerns about its potential impact on the judiciary autonomy after 26<sup>th</sup> Amendment.

According to 26<sup>th</sup> judicial Amendment these will be one constitutional court, which will deal with the constitutional matters while supreme court will deal all other matters. Furthermore, chief justice will be elected by parliament this is clear indication of political activism in judiciary.

In addition to this, such interven of politics in judiciary will lead countries toward lawlessness, crime rates will increase and deterrence of judiciary will reduce.

After 2014 Peshawar incident 2024 is the year when Pakistan face most of the terrorist attacks, suicide bombing and target killings.

Terrorist groups like Al-Qaeda, Tehrik Taliban Pakistan and Daesh know very well that there will no significant action against them so, they commit such actions.

We should implement some rules of Saudi Arabia in our countries as well because crime rate in Kingdom Saudi Arabia is very less because of strict rules and implementation of law.

Case study of Saudi Arabia

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On Contemporary to it, According to the proponents of political interference on judicial independence, interference between these two organs of government foster smooth running of the state without any chaos and contradiction.

Advantage of state is greater than advantage of citizens  
(Concept in political science)

According to the concept of political science if there are two options, in which<sup>on</sup> one side states advantage on the other side citizens advantage, then state advantage should be prioritize instead of citizens advantage. It means that when both political members and judicial members work combinely there will be peace in society it is opponents view.

When there is contradiction between political party and supreme court situation like 1997 held in state

Newaz Sharif vs Supreme Court  
(1997)

When court give contradictory decision to political leader Newaz Sharif, people stand against Supreme Court for Newaz Sharif.

Nevertheless, there are many factors which enable political interference in judiciary those are firstly, weak institutional framework which allow two spread organs to intervene in others jurisdiction. If one organ

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is capable enough to protect its autonomy other unable to overshadow it. But, Political Interference is only possible when there is weak Institutional framework.

Second Step to show influence of politics in decisions of judiciary Parliament, Executive and legislation primarily appoint such members who work for political leaders, and accordingly to their instructions.

Thirdly, In 1954 Mulvi Tamizuddin Case where doctrine of necessity was used for first time, is the base for political leaders they pressure judiciary to give decisions on the bases of doctrine of necessity and then use power of *sic motto*.

These impact are long lasting and alarming for not only citizen but also for state because states which are not working on merit will fall in no time.

So, for such reasons state organs should work independently, Rule of law should be supreme instead of legislature Executive should be accountable to legislation in its jurisdiction and at the time of requirement or need legislation should be accountable to judiciary.

Every organ should work independently which will ensure law, order and peace in country.