

Role of Judiciary in shaping nation's political trajectory

1- Introduction:

Pakistan's

Judiciary has played a vital role in shaping the nation's political trajectory. Since its inception, the judiciary has faced many challenges including military interventions, political crisis, and attempts to manipulate its independence.

Despite these obstacles, the judiciary has played a crucial role in upholding democratic norms and promoting rule of law.

2. An Analysis of Historical context of Judiciary:-

2.1) Post Independence (1947)

↓
Role of Judiciary in interpreting the constitution and shaping country's legal framework.

2.2) Martial Law Regimes (1958 - 1971, 1977 - 1988, 1999 - 2002)

↓
Challenges faced by Judiciary during these periods with some judges supporting military rule while others opposing it.

2.3) Political Instability (1988-1999, 2002-onwards)

Judiciary played a key role in resolving matters despite having troubles regarding its independence.

3. Role of Judiciary in Notable Case Laws:

* State v. Dosso case (1958)

* Bhutto Vs. The State case (1971)

* Nawaz Sharif Vs Federation of Pakistan

* Pakistan Lawyers' Movement (2007-2009)

* Panama papers case (2017)

Amran Khan's case

3.1) State v. Dosso case (1958):

Supreme court validated the first martial law regime and set a precedent for future military interventions.

3.2) Bhutto v. The State (1977)

Supreme court heard Zulfikar Ali Bhutto's death, leading to widespread criticism.

3.3) Nawaz Sharif v. Federation of Pakistan: (1993)

The Supreme court restored Nawaz Sharif's government, limiting the president's powers.

3.4) Pakistan Lawyer's Movement (2007-2009)

The Judiciary, led by Chief Justice Iftikhar Chaudhry, resisted General Musharraf's attempts to manipulate the judiciary.

3.5) Panama papers case (2017)

The Supreme Court disqualified PM Nawaz Sharif for corruption, leading to a significant political shift. Imran Khan was acquitted in this case.

3.6) Molvi Tamiz-ud-Din case

The Judiciary ruled in the favor of Governor General. Judiciary dismissed Molvi Tamiz-ud-Din's petition.

challenging the dissolution of the 1st constituent Assembly of Pakistan by Ghulam Muhammad in 1954.

9- Suggestions for the efficient efficacy of the Judiciary

Case Management

Judicial Activism

way forward for efficient Judiciary

Judicial Independence

Legal Education and training

constitutional reforms

The Criminal Procedure Code (CrPc) and the Pakistan Penal Code (PPC) presume an independent judiciary to ensure fair trial and justice.

The Civil Procedure Code (CPC) and the constitution of Pakistan guarantees the right to a fair trial, which includes an independent judiciary.

1- Way forward for the Independent Judiciary

- strengthening judicial independence through merit based appointments.
- Encouraging judiciary restraint and focusing on constitutional

Interpretation

- Enhancing legal education and training for judges, lawyers and court staff.
- Establishing robust accountability mechanism to address corruption and misconduct.
- Considering constitutional reforms to strengthen democratic norms and limit military intervention.
- Fostering greater public understanding and engagement through different programmes and media interaction.

5- Conclusion:

In a nutshell, Pakistan's judiciary has been a significant player in country's political landscape. By addressing the challenges and implementing the suggestions, the judiciary can further strengthen its independence, enhance its operational efficacy and promote the rule of law.

As Brett Kavanaugh has beautifully said:-

"I believe that an independent judiciary is the crown jewel of our constitutional republic"