

# ENG ESSAY MOCK

DEC-24

تاریخ:

## 2. The Impact of Political Interference on judicial independence

### OUTLINE

#### 1. Introduction

2. Significance of judiciary as a neutral body in a vibrant democracy

3. Negative impacts of political interference on judicial independence

a) Political intervention dilutes judiciary's ability to act as a non-partisan and neutral arbiter of conflicts between political parties.

b) Political intervention jeopardizes judiciary's ability to uphold human rights and curtail human rights violations in country.

c) Political intervention curtails judiciary's capacity to serve as an effective oversight against immoral and corrupt practices of political elites.

d) Political intervention mitigate judiciary's power to challenge the laws and policies made by legislative.

e) Political intervention hampers the ability of judiciary to keep up the spirit of democracy by ensuring balance of power and checks and balance.

f) Political intervention dilutes judiciary's ability to serve as a neutral arbiter in elections related cases and ensure fair and square elections - the spirit of a vibrant democracy.

g) Political intervention weakens judiciary's ability to retain the trust of populace in its autonomy, ultimately leading to public apathy towards democratic institutions.

h) Political intervention concentrates the power in executive and legislative, making judiciary a mere extension of ruling party.

2) Political intervention ensures that the high rank judicial appointments are on basis of political loyalties rather than competence, compromising judicial autonomy

#### 4. Positive Impacts of political interference on judiciary

a) Political interference curtails judicial over-reach and allows judiciary to concentrate on its domain rather than the domain of legislative or executive

b) Keeps an oversight on judiciary against adversarial rulings e.g. Doctrine of Necessity by Justice Munir. Legitimized unconstitutional actions

5. So is political intervention a good or a bad omen for vibrant democracy?

6. Conclusion.

# Essay

تاریخ:

Separation of power and effective checks and balance serves as a cornerstone of a vibrant and a functional democracy. Lord Anton, a famous British historian famously said, "Power corrupts and absolute power corrupts absolutely". The quote encapsulates the negative repercussions of concentration of power and authority in few hands. In a functional democracy, the three pillars of the state serve as an effective check against each other. This ensures that no pillar of state over-reaches its purview and domain. However, things are never this simple and fair in any country. Like any other country, Pakistan is no exception too. History is replete with examples where political intervention has jeopardized judicial autonomy and diluted its ability to serve as a neutral and non-partisan arbiter of affairs. Political intervention surely has negative repercussions for the state and populace. It also has negative repercussions on judicial autonomy. Political intervention

dilutes judiciary's ability to serve as a neutral arbiter of political affairs. Likewise, it curtails judiciary's capacity to control human rights violence and weakens its ability to retain the trust of people in democratic institutions. This ultimately leads to public apathy and political disengagement by general public. Additionally, it curtails judiciary's capacity to serve as an effective oversight against immoral and corrupt practices of political elites or challenge adversarial policies and laws made by legislative. This ultimately dilutes the spirit of democracy. To add on, political interference limits judiciary's ability to serve as an effective oversight against elections related issues. Even the appointment of chief Justice is given as a prerogative to Prime Minister after 26<sup>th</sup> constitutional amendment. It is said that now judiciary will serve as a mere extension of executive. However, looking towards the brighter side the amendment may curtail the legitimization of unconstitutional actions by judiciary

Therefore, political intervention has curtailed judicial capacity of serving as neutral arbiter and has ultimately diluted the spirit of democracy.

Delving into judiciary's significance as neutral arbiter, if we see the trend of the world, judiciary serves as an effective check and oversight against executive and legislative over-reach and ensures that no policy or law is compromising the freedom of populace. However after 26<sup>th</sup> constitutional amendment, the ability of judiciary has been systematically curtailed. Even the International Court of Justice has vehemently condemned this move by the incumbent government. It has cited that this amendment has entirely curtailed judicial autonomy and has diluted the spirit of democracy. Therefore, the spirit of democracy has been compromised through the twenty-sixth constitutional amendment, that systematically jeopardises judiciary's autonomy.

Additionally, the negative repercussions of politicization of judiciary are manifold. One of the grave repercussions of political intervention is that it dilutes judiciary's ability to serve as a neutral arbiter between the political parties. History is replete with examples where judiciary has acted as an arbiter between political parties and has helped to reach an amicable agreement. However, now after systematic politicization of judiciary, judiciary will play a partisan role. If we reflect back to elections of 2024, the disqualification of candidates by judiciary was considered politically motivated. The same story has been mentioned by Benazir Bhutto Shaheed in her book Daughter of the East. Therefore, political intervention curtails judiciary ability to serve as neutral arbiter between parties.

Likewise, political intervention jeopardizes judiciary's ability to uphold human rights and curtail human rights violation by executive and legislative. Political intervention has obliged and

compell judiciary to align its rulings with political parties' vested interests. For example the recent imposition of Section 144 in Punjab was struck down by judiciary as it contravened with the right of assembly provided to people by constitution. But after systematic politicization of judiciary, specially after 26th constitutional ammendment, judiciary has to align with interests of political party in power. This will undermine judiciary's ability to uphold human rights.

Moreover, political intervention limits judiciary's ability to limit immoral and corrupt practices by political elites. History has been a testimony that judiciary has persecuted criminals of high stature, even from the mainstream political parties. However, political intervention limits the ability of judiciary to act as an effective check against corrupt practices of ruling party. Because, the appoin-



ment of highest judicial position is in the hands of the ruling party. Therefore, after the systematic politicization of judiciary through the recent amendment, role of judiciary as a check on political parties has been curtailed.

To add on, judiciary's role is generally to oversee and interpret the laws and policies made by the legislative. However, political intervention will dilute judiciary's ability to challenge any law or policy that does not commensurate with the interest of public or contravenes with the spirit of democracy. This is because, the autonomy of judiciary has been systematically compromised and this has acutely jeopardized its independence. Therefore, the interests of political elites will be considered in rulings.

Additionally, history has been a precedent that judiciary has most of the times acted as a

body separate from executive and legislative, which ensured that power was not concentrated in one pillar of state. According to Thomas Jefferson, The independence of judiciary is necessary of liberation. But after political intervention or systematic politicization of judiciary, the spirit of judiciary to uphold the spirit of separation of power is curtailed. This has hampered judiciary's ability to uphold spirit of vibrant democracy.

Moreover, the role of judiciary should be to be neutral in the elections related cases. Free and fair elections are the spirit of a vibrant democracy. But politicization of judiciary compels judiciary to be a partisan body. And it gives rulings that resonate with interest of ruling parties. Specially after, 26th constitutional amendment, the ability of judiciary to oversee the

elections related cases has been minimized. Therefore, political intervention limits the autonomy of judiciary in elections related cases and ultimately the spirit of election will be compromised.

To add on, the trust of people in democratic institutions has been a cornerstone of a vibrant democracy. Lack of trust in democratic institutions leads to public apathy and political disengagement. This is because people view democratic institutions as compromised and externally controlled. The recent political intervention in judiciary's autonomy has given people an impression that judiciary is no longer an oversight against corrupt and illegal practices and has lead to public apathy which can eventually lead to political disengagement in public.

Likewise, politicization of judiciary concentrates power in hands of executive and ruling party. This contravenes with the very spirit of democracy. Because a vibrant democracy emphasizes separation of power and defies the concentration of power in hands of one pillar of democracy. Politicization of judiciary ensures that judiciary serves as a mere extension of ruling party. Therefore, it can be said that politicization of judiciary limits judiciary's ability to have designated power.

In the same way, after 26<sup>th</sup> constitutional amendment, high rank judicial appointment will be in the hands of ruling party. Specifically the Prime Minister and parliamentarians. This will ensure

that appointment of judges is one the basis of political loyalties rather than competence. This acutely curtails the autonomy of judiciary as the appointments are based on political consideration. This compels judiciary to align with the interest of political party that is in power. Therefore, high rank judicial appointments by ruling party will undermine judiciary's independence.

However, according to some analysts, political intervention is not merely a negative amen. However, it has many positive impacts as well. For example, this will limit judiciary's ability to needlessly intervene in the affairs of executive and legislative. This will allow judiciary to remain in their domain. Concentration on their domain will definitely decrease the

backlog of cases. As it is said that justice delayed is justice denied, therefore limiting judiciary in their domain will have this advantage too.

Additionally, this will also curtail the power of judiciary to legitimise any unconstitutional actions. As in history we have observed that doctrine of necessity of Justice Munir legitimized the martial laws. The doctrine of necessity was misused in future for personal interests. Therefore a check on judiciary will ensure that judiciary doesnot repeat such mistakes which cause the harm to the democracy and the populace of the state. As it was practiced after the Doctrine of necessity.

So the question stands. Is political intervention always a bad omen for democracy. If we see critically, the recent politicization of judiciary is done with no good intentions. So overall this will negatively impact the democracy and autonomy of judiciary. However, if one remains optimistic, its positive impacts can be considered too. However, if we see holistically, it is a bad omen for the spirit of democracy and autonomy of judiciary because politicization of judiciary systematically concentrates power in hands of legislative and executive.

In a nutshell, political intervention has severe negative repercussions for the democracy of Pakistan. Recent politicization of judiciary through the twenty-

Sixth constitutional amendment has given raw power to the executive. This has really diluted the spirit of democracy as it challenges the principle of separation of power and confines power in few hands. A dedicated and coordinated effort is required to uphold the spirit of democracy in Pakistan and combat the challenges that are engendered from political intervention.

Power corrupts and absolute power corrupts absolutely

(Lord Acton, British Historian)

