

Date: 18 Dec, 2024

Essay

Day: Wednesday

Name: Saliha Malik.

Essay: The Impact of Political Interference on Judicial Independence.

Outline:

Introduction

Forms of Political Interference:

Problems:

→ Appointment and removal of judges

→ Pressure from Legislation and Executive Branches.

→ Manipulation of legal frameworks

Consequences of Political Interference:

→ Erosion of Public Trust

→ Political Polarization

→ Undermining human rights

→ Undermining rule of law

Solutions for protecting judicial independence:

→ Judicial Accountability

→ Separation of power

→ Merit-based appointment

→ Security of tenure.

Conclusion.

Judicial independence is the cornerstone for democratic values.

Judicial independence refers to the principles on which judges make decisions on the basis of laws and these verdicts are free from any external pressure. There is no interference in the judicial matters. The interference in judicial matters causes the polarization, erosion of public trust, undermining of rules of law and human rights.

Any kind of political interference destructs the independence of judiciary. Judicial independence is essential for maintaining public trust, democratic values, and preventing the society from polarization.

As stated by United Nation, judicial independence is essential for ensuring fairness and impartiality, which is necessary for upholding the rule of laws and human rights. According to the basic principles of UN on independence of judiciary, security of tenure, separation of power, freedom from external pressure, and financial independence are the key elements of judicial independence. The relationship between judicial independence and rule of law

is directly proportional. The more the independency of judiciary, the more the rule of law in country is. The country which has dependent judiciary is on the way of destruction and has no rule of law.

There are different forms of political interference. The direct political interference includes the attempts for influencing the rules, the arbitrary intervention just for the sake of ego satisfaction, and the appointment of judges or removal of judges on its own. Indirect political interference involves the public pressure, media campaign, etc. Public intervention in judicial matters is the most destructive form of political interference. For example, shoot someone on in case of blasphemy. There are many cases in Pakistan in which people take the laws in their hands and give punishment to suspect.

Legislative interference is also the form of political interference. That type of laws which undermine the judicial authority and independence. Legislature make ^{such} ~~the~~ type of laws and through constitutional amendment which made the judiciary handicapped.

Executive interference in judicial matters also snatch the independency of judiciary. In this form of political interference, executive attempts to control the judiciary. It overreach the judiciary. This form of political interference has more influence on the judiciary organ of the government. For example, the 26th amendment of constitution in Pakistan made the judiciary dependent. As per this amendment, parliament will decide the chief justice from top three judges. In the appointment of chief justice, the executive will intervene in this process.

As the political interference and its forms discussed earlier, it has consequences on the judicial system of country.

Erosion of public trust is the impact of political interference. Public trust on judiciary is vital for the maintainance of country but political interference erodes the public trust on judicial independence. The political interference questioned the credibility of judiciary. It reduces the confidence of public on legal

system. Because of interference, public do not trust the judgments of judiciary. Any type of interference made the judgments biased.

- Political interference causes the political polarization. Political polarization is the conflicts between political system that is marked by the radicalization of views and beliefs. When political parties intervene in judicial system, it causes the polarization because every party has its own interests and opinions; every party try or attempts to influence the state matters. This is the heinous game of politics.

Consequences of interference involve the undermining of human rights. Because the judicial system in country is for the justice of rights, if public face the violation of human rights.

- If the decisions of judiciary are not fair or free from any external pressure, the human rights would undermined.

Undermining of rule of law is the major impact of political interference in judicial independence. Judiciary has some

basic principles in which independence is most important because it is directly related to the rule of law. If there is no independence, there would be no rule of law. Rule of law is important for balancing the governmental power. The interference disrupts the balance. In developed countries, the judicial system is very powerful as having separate constitutional bench and courts for criminal matters. These countries have proper rules of law. In Islam, there is proper rule of law. In Islamic rule and law, there is check and balance on human rights and has no any kind of interference; based on the teachings of Quran and Sunnah.

There are some solutions that are vital for protecting the judicial independence:

Judicial accountability is essential because it refers to the responsibility of judges to justify their actions to ensure that whether they are according to the laws or not. This maintains the ethical standards, public trust, uphold the rule of law. Judges must be independent

and unbiased in decision making. They should be accountable to laws. There should be fairness and transparency in the decision making process.

Separation of power is very necessary because this makes the judiciary independent from other organs of government. Its independence ~~will~~ prevent it from the dominance of legislature and executive branches. That's why separation of power between the three organs is very important.

There should be a merit based appointment of judges. On the basis of qualities and competency, a judge should be appointed. Appointment should not be on the basis of interest. There should be a right person for the right job.

Security of tenure is the important solution or the safeguard for the judicial independence.

There should be a constitutional guarantee in which protections of judicial independence is enshrined.

This can include the all basic fundamentals of judicial independence like judge can only be removed under strict and transparent

circumstances. Under the vague conditions, there should be no appointment or removal of judges takes place.

Judicial independence can be maintain by having self-regulation which means that judiciary should regulate itself.

There should be institutions like judicial council which can help to prevent from corruption and external pressures.

By concluding, the political interference can undermine the human rights, fairness, and public trust which is a serious threat to democratic govern^{ance}~~ment~~. To safeguard the judicial independence, there should be proper rule of law, constitutional guarantee, judicial accountability, and merit-based appointment.

The preventive measures must be adapt to the contemporary challenges like populism and authoritarianism is rising in society.