

The Impact of Political Interference on Judicial Independence

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Thesis Statement:

Political manipulation of judiciary through appointments and transfer of judges, judicial pressure from political parties, and the influence of military and intelligence agencies, not only erode public trust, but also impede justice process, accountability, democratic development and worsen the law and order situation in the country. Therefore, judicial reforms, accountability, and public awareness are needed to balance remove political interference from judiciary.

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Essay

Judicial Independence is the cornerstone of any democratic society, providing the necessary foundations for the rule of law and protection of individual rights. In countries with political instability like Pakistan, however, the judiciary often faces immense pressure from political actors, which can undermine its ability to act impartially. Political interference in Pakistan's judiciary is a critical issue, stemming from both civilian and military involvement in judicial process. Political manipulation of judiciary through appointments and transfer of judges, judicial pressure from political parties, and the influence of military and intelligence agencies, not only erode public trust, but also impede justice process, accountability, democratic development and worsen the law and order situation in the country. Therefore, judicial reforms, accountability, and public awareness are need to remove political interference from

Judiciary.

Pakistan's judicial system, rooted in British colonial rule, was initially designed to be independent, with clear boundaries between legislature, executive, and judiciary. The Government of India Act 1935 and the Constitution of 1973 granted independence to judiciary. Article 175 of 1973 Constitution emphasizes that the judiciary shall be separate from executive, and the courts have the power to review actions taken by government. However, this judicial independence continued only for few years as the military coups and authoritarian regimes threatened its autonomy.

Moreover, following the Pakistan's independence in 1947, the judiciary was expected to function independently, free from political interference. However, political instability marked the weak government and constant changes in leadership, created an environment where the judiciary's independence was undermined. The constitution assembly's inability to

Finalize the country's constitution, alongside political struggles between executive and legislature, left the judiciary vulnerable to external pressure.

In addition, military played a critical role in weakening judicial independence during periods of military rule. General Ayub Khan's 1958 coup led to a concentration of power in military, with the judiciary being co-opted to justify military decisions. Ayub Khan's government sought the approval of judiciary for constitutional amendments and decisions that aligned with the military's interests. Notably, the Supreme Court of Pakistan under Ayub Khan validated the new 1962 constitution, which granted him sweeping powers as president. Similarly, during General Zia-ul-Haq's military dictatorship, political influence over the judiciary grew, exemplified by his dismissal of judges who were deemed insufficiently loyal to the regime. For example, Justice Yaqub Ali was forcefully removed from the office after he agreed

to re-hear the petition filed by PPP chairwoman Nusrat Bhutto in 1977. Further, Zia-ul-Haq also intervened court and got judiciary helped implement his controversial Zina and Hudood ordinance. Hu Pervez Musharraf also during his regime also dismissed Chief Justice **Iftikhar Muhammad Chaudhry** in 2007. In this way military interfered judiciary and halted their independence during Martial laws.

Furthermore, some steps were taken ^{in past} to ensure judicial autonomy. Though, these were not followed, but provided basis for separation of powers. One of them was 18th amendment to the Constitution of Pakistan, passed in 2010. This amendment was aimed to strengthen judicial independence by limiting executive powers in judicial appointments. It transferred the power of judicial appointments to judicial commission composed of representatives from various branches of government and the legal community. While, this

amendment was the step in right direction, political interference has continued as political parties often try to influence judicial decisions through strategic appointments. Therefore, Ishrat Hussain quotes, "Pakistan is the country, where politicians do everything except executive jobs and judges do everything except judgements. Thus, leading to politicization of judiciary, and judicialization of politics."

Politics interfere in judiciary in various ways. The first is, appointment and transfer of judges by politicians. It is one of the most direct form of interference. In many cases, political leaders appoint judges based on loyalty rather than merit. A study by the International Commission of Jurists (ICJ) in 2014 stated that, "Judicial appointments in Pakistan have been marred by political interference, with political elites often ensuring the elevation of judges who align with their views." This undermines the integrity of judicial system as judges may feel compelled to make decisions

that favour the political interest of those who appoint them. Furthermore, judicial transfers, especially high profile judges, are often used as tools for political pressure. The transfer of judges perceived as politically independent can be seen as a way to suppress judicial dissent. For example, in 2007 Chief Justice Iftikhar Chaudhry was unceremoniously dismissed by then President Musharraf, a decision that caused a nation wide outcry. Therefore, the judges who are appointed and transferred by politicians, ^{also} fulfill the interest of them.

Second, politicians often exert pressure on judges to influence the outcome of important cases. Public statements or private lobbying are commonly used to sway judicial decisions. One prominent example occurred in 2012, when politicians from various parties attempted to influence the Supreme Court's decision in the NRO (National Reconciliation Ordinance) case, which sought to annul the controversial amnesty given to corrupt politicians. Similarly, in 2016, the Panama

Case, also saw immense political pressure from both ruling and opposition parties. These examples highlighted how politicians routinely attempt to sway judicial decisions either by carrots or sticks.

Last, the military's role is not unseen in impacting judicial decisions, particularly in cases involving national security or military personnel. Either these ^(military related) cases are dismissed or transferred to military courts and continue for years without decision. Similarly, in April 2024, all judges of Islamabad High Court agreed that intelligence agencies were interfering in their judicial functions. After the allegations, superior judiciary and executives started throwing burden of this on each other's shoulders and no outcome came in front.

Political interference in judiciary is not mere an allegation but a fact which is evident from cases of the past. One of the most significant episode was dismissal of Iftikhar Muhammad Chaudhry, Chief Justice of Pakistan in 2007. He was

appointed by Pervez Musharraf in 2005. But, due to CJP's persistent opposition of Musharraf's policies, he forced him to withdraw from his office. This dismissal was widely perceived as politically motivated, led to massive protests by lawyers, civil society organizations, and citizens. Resultantly, the CJP was restored to the office. However, this coercive act of unconstitutionally removing a chief justice demonstrates how vulnerable the judiciary is to political manipulation when powerful political actors target judges who are seen as obstacles to their agenda.

Another case that sparked criticism of political intervention in courts is Panama Papers Scandal that revealed Nawaz Sharif and his family members held offshore accounts and properties. The Supreme Court of Pakistan was tasked to investigate the matter, leading to a landmark case that culminated in Sharif's disqualification. While the case was seen by many as a victory for judicial independence and others

criticized). opposition to alter courts decision.

Political interference in judiciary has severe impacts. It erodes public trust in legal system. When judges are seen as politically motivated or beholden to political actors, the perspective of the judiciary as an impartial body is severely undermined. As Professor Niaz Ahmed writes, "The Judiciary in Pakistan has suffered a crisis of legitimacy, partly due to perception that it is manipulated by political forces." (Journal of South Asian Politics, 2012).

This erosion of trust weakens the very foundations of democracy, rule of law and people commit crimes against state to challenge its writ.

Moreover, a politically compromised judiciary is less effective in holding government officials and powerful elites accountable. This leads to an increase in corruption, impunity and injustice, as the legal system fails to protect the rights of

ordinary citizens. Moreover, political interference in judiciary can be in the favour of one party, while other may feel threatened. This will lead to political instability in the country and provincial - provincial rift. Therefore, it is said, "A house divided against itself cannot stand." The failure to check executive overreach and political corruption has led to a perception that the rule of law does not apply equally to all citizens. Judicial independence is essential for the functioning of democracy too, as the judiciary serves as a check on political powers of the executive and legislature. Political interference erodes the judiciary's ability to act as an impartial arbitrator of justice thereby weakening separation of power that is central to democratic governance. In the long term, this undermines the credibility of Pakistan's democratic institutions and impedes political and social progress. Pakistan's global image is also affected due to this intervention. As, missing persons cases

are halted from being heard in courts. This leads to chaos among people. This is evident from the case of Balochs who long sit in Islamabad and then in Baluchistan. Global media showed the atrocities faced by masses in Pakistan. Furthermore due to delayed prevalence of justice separatist organizations like BLA (Baluchistan Liberation Army) emerge and try to destroy country's social, political and democratic infrastructure.

Surely, every problem has a solution. Similarly, this independence of judiciary can also be achieved again as it was during the initial years of independence. The first step to curb intervention should be judicial reforms. To safeguard judicial independence, Pakistan must institute judicial reforms that reduce the executive influence over judicial appointments. Judiciary should be given more powers. USA is the most successful democracy because its government is mostly governed by judges and executive and legislative branches.

are under strict check of judges.

In the same pattern, Pakistan should also power judge to imply its power and law over other branches. Moreover, a more transparent and merit-based process for appointment of judges is essential, ensuring that judges are chosen for their professional qualifications rather than affiliation. The judiciary itself should have greater control over its appointments and transfers, with minimal interference from political bodies.

While judicial independence is crucial, accountability is equally important. Thomas Sowell says:

"An independent judiciary does not mean judges independent of the constitution from which they derive their power or independent of the laws that they are sworn to uphold." Political interference is not always forced, but judges also misuse their powers to feather their nest. So, Pakistan needs to establish independent oversight bodies that can investigate complaints.

against judges. The establishment of National Judicial Commission could serve as an independent body to oversee the conduct of judges, ensuring they maintain ethical standards without being influenced by political considerations.

Masses of the power of society and backbone of democracy. Their role in any campaign can change the status quo of the political system. Therefore, public should be made aware of political interference in judiciary. To do this task, media, authors and civil societies can share the responsibility. Raising public awareness about the importance of an independent judiciary and involving citizens in advocating for legal reforms can help reduce political interference. The judiciary must also be seen as part of a larger democratic process, where its role is understood and supported by the public.

To conclude, Political interference in the judiciary of Pakistan has had a profound impact on the independence of legal system. From

military coups to civilian political pressure, external forces have continually shaped judicial decisions, undermining the rule of law and the separation of powers. While there have been notable movements and reforms, such as lawyer movement 2007 and the 18th amendment, political interference remains a significant challenge. To protect judicial independence, Pakistan must implement comprehensive reforms that ensure judges are appointed based on merit, that mechanism for accountability are established, and that public trust in the judiciary is rebuilt. Only then can Pakistan strengthen its democratic institutions and ensure a fair and impartial legal system for all its citizens.
