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English Essay

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Made in Pakistan

# THE IMPACT OF POLITICAL INTERFERENCE ON JUDICIAL INDEPENDENCE

## THESIS STATEMENT:

Political interference impacts judiciary in numerous ways. However, certain measures may be taken to ~~independent~~ enhance the prospects of an independent judiciary.

## OUTLINE

### 1. Introduction

### 2. How does political interference impact judiciary?

2.1. Frequent political influence in judicial proceedings lead to biased judiciary

2.2. Persistent intervention of politics in judicial processes threatens the doctrine of separation of powers,

2.3. The entrenched political ~~inf~~ interference in judiciary diminishes the spirit of the rule of law



2.4. Political interventions - threaten the transparency in judicial appointments

2.5. Political bias in judicial processes compromise the judicial accountability

2.6. Influenced judiciary works towards the political cause instead of ensuring compliance of human rights

2.7. Increased political influence in judicial processes diminishes public confidence in the justice system

2.8. A politically influenced judiciary threatens democracy and often paves way for authoritarianism

### 3. Certain measures that can be taken to ensure independence of judiciary are:

3.1. Ensuring transparency in judicial appointments

3.2. Constitutional safeguards for judiciary should be ensured

3.3. Educating public on the judiciary's role ~~for~~ can foster judicial accountability

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3.4. Judiciary should be financially empowered in order to ensure an unbiased justice system.

3.5. Fostering independence of judiciary is requisite to ensure compliance to the doctrine of separation of powers.

#### 4. Conclusion.



Judicial independence is one of the fundamental needs for any country to flourish. It fosters democratic governance, ensures impartiality, strengthens the rule of law and ensures strict compliance to human rights. However, political interference in the judicial processes undermines judicial autonomy in numerous ways. It leads to a biased judiciary and also threatens the doctrine of separation of powers. Beside this, the persistent acts of political interference in judicial system undermines the spirit of law. A politically influenced judiciary <sup>also</sup> threatens transparency in the appointments of judges and other judicial staff. Moreover, a politically biased justice system compromises the judicial accountability. This in turn causes the public to lose its confidence in judicial processes and decisions. To add to it, political interference in judiciary also threatens the democratic governance and often paves way for authoritarianism. In order to enhance the prospects of an independent judiciary to flourish, countries ~~may~~ <sup>can</sup> take a number of measures. Judicial transparency can be enhanced by ensuring smooth judicial appointments, similarly, ensuring constitutional safeguards for judiciary, ensuring public



awareness on judiciary's role, financial empowerment of judiciary and fostering independence of judiciary can ensure a transparent and unbiased judiciary. In the greater scheme of things, it can be rightly asserted that there are numerous ways in which political interference impacts judicial autonomy and these need to be addressed ~~at the~~ immediately.

First and foremost, frequent political interventions in judicial proceedings result in biased judicial processes. It often undermines the right to fair trial of citizens as well. When external political pressures impact case outcomes, it raises questions with respect to fairness of judiciary and the due process. For instance, Syed Sami in his book "The Trial of Zulfiqar Ali Bhutto" criticizes the outcome of the proceedings in the case of Zulfiqar Ali Bhutto (1979). He calls it a politically influenced verdict and puts into question the fairness and due process of the judicial system in Pakistan. Hence, the foregoing argument ~~then~~ establishes that frequent political interventions impacts fairness of judiciary.



Subsequently, the persistent intervention of politics in judicial processes threatens the doctrine of separation of powers. By compromising the judiciary's authority of keeping checks and balance on executive outreach, the balance of power between the branches of the government is disrupted. This can be further illustrated by keeping in view the rule of President Erdogan in Turkey. The President's attempt on consolidation of powers included suspension of ~~to~~ thousands of judicial officers of different positions and appointments of loyalists in their place. This imbalance led to destabilization of governance in the country. Therefore, it can be safely asserted that political influence on judiciary undermines the separation of powers and in turn destabilizes all branches of the government.

Similarly, the entrenched political interference in judiciary diminishes the spirit of the rule of law. It compromises the judiciary's ability to enforce laws impartially. Politically influenced decisions enable powerful individuals or groups to avoid accountability. Example of Pakistan in this regard is quite prominent. Judicial rulings in the high profile cases of



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The country, like the case of Nawaz Sharif's Panama papers revealed political divides in the country. Dr. Zahid, a regular columnist of Dawn Newspaper criticized the judiciary's bias in his article in 2017. He held the opinion that political pressures on judiciary had undermined the spirit of law. Therefore, it won't be far from truth to assert that political influence compromises the rule of law and undermines judicial autonomy.

Moreover, a politically influenced judiciary lacks transparency in judicial appointments. Politically influenced judicial appointments weaken the judiciary's impartiality. The case study under consideration in this regard is of Hungary. Victor Orbán's government in the country faced backlashes from internal and international bodies for altering the processes of judicial appointment. By amending the processes, Victor prioritized the elites to be appointed in the constitutional courts. This undermined the independence of judiciary to a great extent. Hence, politicization of judicial appointments create dependency on political entities and undermines the role of judiciary as an autonomous and impartial body.



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In addition to this, political bias in judicial processes compromises the judicial accountability. Political shields the judiciary from genuine accountability. It diminishes transparency and causes corruption to persist in judicial officials. In Russia, for example, a prominent example of such influence can be found. In the case of Alexei Navalny, the courts dismissed the valid claim of misconduct to protect politically motivated verdict. The ruling of the case was greatly criticized by the Amnesty International. President Putin even launched a campaign in this regard called "Free Navalny". The foregoing arguments further that political influence in judicial processes compromises judicial accountability and leads to politicized verdicts.

To add to it, an influenced judiciary works towards the political cause instead of ensuring compliance of human rights. This leads to selective application of justice particularly in the cases of minority groups. In India, for example, the Citizenship Amendment Act of 2019 faced public outrage and severe criticism. This was because the Amendment Act increased the delays in hearing cases of



police brutality against public protestors. It was perceived by international media as favoring government interests and keeping the fundamental human rights at a lower priority. Hence, it can be safely affirmed that political interference in judiciary leads to politicization of verdicts and ignorance of fundamental and human rights.

Further argument to <sup>strengthen</sup> the stance is that increased political influence in judicial processes diminishes public confidence in the justice system. When judicial decisions are perceived as biased, citizens lose faith in judicial integrity. This can be illustrated by considering the example of Venezuela. In the country, public trust significantly declined after judiciary was accused of favoring Nicolas Maduro's government by blocking opposition led laws in 2017. This resulted in public's lack of confidence in judicial processes and the people were then driven to seek justice through alternative or unlawful means. This in turn led to societal, judicial and political instability. Therefore, it can be right to affirm that political interference in judiciary ~~erodes~~ erodes public trust in the latter.



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Furthermore, a politically influenced judiciary threatens democracy and often paves way for authoritarianism. A weak and influenced judiciary becomes a mere tool at the hands of those with authority. The example of Pakistan in this regard could not be ignored. The country faced a prolonged period of ~~total~~ authoritarian rule in the years 1958, 1977 and 1999. Due to this prolonged authoritarian rule in the country, the autonomy of judiciary was greatly compromised. The first constitution was delayed for nine years. This continuous period of instability in the country resulted in democratic backsliding and judicial political unrest. Hence, weak and influenced judiciary is a threat to democracy.

In order to eradicate the foregoing challenges and ensuring judicial autonomy in any country, it is requisite to ensure transparency in judicial appointments. There should be appropriate and clear criteria for appointment of judicial officials in the constitution and a commission shall be at all times constituted to regulate these appointments. For example



The Judicial Appointments Commission of the United Kingdom in this regard is quite prominent. It ensures merit-based judicial appointments and strengthens judiciary. Hence, ensuring transparency in judicial appointments is requisite.

Moreover, constitutional safeguards should be ensured for an autonomous and independent judiciary to function ideally. Legal frameworks should be strengthened to shield the judiciary from political pressures. For example, the constitutional amendment of South Africa after apartheid enshrined the independence and impartiality of judiciary for all. This helped the country to eradicate injustice and strengthening its judiciary. Hence, introducing constitutional safeguards is requisite to ensure an autonomous and impartial judiciary.

Furthermore, educating public on the judiciary's role can foster judicial accountability—thereby, reducing the political influence in judicial processes. These initiatives to foster awareness in public should be



caused out by both Government and non-government organizations. Some of the prominent ~~among~~ international organisations that are working for the cause include Amnesty International, United Nations Development Programme (UNDP), International Court of Justice (ICJ) and many more. Hence, it is requisite to foster public awareness to ensure judicial accountability.

Similarly, Judiciary should be financially empowered ~~to~~ in order to ensure an unbiased justice system. The financial dependence of judicial wing of state on the executive also reduces the prospects for an impartial and autonomous judiciary. For example Canada's judiciary enjoys financial independence which ensures its impartiality. This is evident by its ranking as a 12<sup>th</sup> country in the Global Law and Justice Index. Therefore, in order to empower judiciary it is requisite for ~~a~~ the branch to be financially autonomous.

Reflecting on the foregoing arguments it can be deduced that there are



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a number of ways in which political interference can impact judiciary. These include a partial and biased judiciary which lacks autonomy and is influenced by other organs of the state. Subsequently politicization of judiciary also diminishes the spirit of law, puts questions to the merit based appointments of judicial officials and compromise on judicial accountability. An influenced judiciary fosters political favors and ignores human rights. This diminishes public confidence in state institutions and paves way for authoritarianism. However, certain measures can mend these challenges. These include ensuring transparency in judicial appointments, enforcing constitutional safeguards for the organ, spreading words in public fostering judicial awareness, and last but not the least, financially empowering the judiciary to be an autonomous institution. This analysis underscores that despite numerous challenges confronted by judiciary due to political interference, appropriate measures can enhance the prospects of an autonomous judiciary.