

The impact of Political interference on Judicial independence.

1) Introduction.

Thesis statement

2) Tripartite division of powers: an impartial perspective.

3) Impacts of political interference on Judicial independence.

3a) Due to political interference in proceedings of judiciary, basic human rights cannot be fulfilled.

3b) Political Interference decreases cooperation between public and courts due to lack of trust by the public.

3c) When politicians^{ns} try to influence judicial proceedings, social contract between state and people is not safeguarded.

3d) Judiciary cannot ensure checks and balance between various branches of state due to political interference.

3e) Political intrusion into judiciary concentrates powers into hands of parliamentarians leading to democratic

dictatorship.

3f) As judiciary arbitrates conflicts between civil services and politicians, political interference can make civil services a stooge in hands of politicians.

3g) In case of political interference, judiciary cannot arbitrate on economic contract ^{signed} made by governments, which can have adverse impacts on economy.

4) ~~ways~~ ways to maintain Judicial independence free from political interference.

4a) Ensuring constitutional role of judiciary.

4b) Appointment of judges on merit.

4c) Maintenance of Judicial review in legislation.

4d) Formation of committee to resolve disputes between judiciary and politicians.

5) conclusion.

"The concentration of legislative, executive and judicial powers in one hand leads to violence and monarchy", argued Montessouue.

In a democratic state, devolution of powers holds critical importance.

It is because of the fact that concentration of powers is tantamount to destruction of democracy. These powers are wielded according to the constitution. In order to avoid breach of their defined limits, the system of check and balance is utilized.

However, political interference in judicial matters is a matter of concern for democratic society. The judiciary cannot independently check the abuse of powers by the state institutions.

It can sow the seeds of despotism in society. In this way, political interference in judicial matters can have devastating impacts on judicial independence. It confiscates judicial powers to uphold fundamental human rights, results

in trade deficit between judiciary
public, undermine judicial powers to
ensure check and balance etc. However,
limiting branches of state to their
constitutional role, ensuring meritocracy
in courts etc. are effective ways to
maintain judicial independence without
political interference.

Tripartite division of powers refers to division of powers between pillars of state. It is done so that no organ of state can overhaul the structure of other organ of state. The legislature ^{use} ~~is~~ is empowered to draft bills and enact laws.

Executive is vested with the powers of implementing policies of government in an effective and efficient way.

In the same way, judiciary is conferred with the powers of interpretation of constitution, and ~~possess~~ is also mandated to check conduct of other institutions if they contravene constitution. Therefore, political intrusion in judicial

proceeding can have devastating consequences for functioning of state.

Constitution of a country is safeguarded by judiciary. It is the constitution, which guarantees fundamental human rights protection by the judiciary. If politicians interfere in the conduct of judiciary, these rights cannot be protected.

It is because of the fact that whenever court will take up a petition regarding suspension of human rights by government, politicians will interfere and veto those proceedings. It can be done by favourite judges of politicians, undermining judicial independence to guarantee human rights. It is evident from **1975 emergency in**

India, when politicians of Congress ~~try~~ ^{tried} to undermine judicial independence by suspension of human rights. In a sum, presence of political

influence confiscates judicial independence to safeguard human rights.

Political interference decreases cooperation between public and courts due to trust deficit. It is because of the reason that people are reliant on judiciary against abuses of state. When it comes to their knowledge that these proceedings are marred by political footprints, they start to distrust their courts. It is gleaned from **gall up survey in 2019 about court proceedings in Pakistan**, where only 20% people have shown their complete trust in courts. A number of people cited reasons of politicians nexus with judges of the courts. In this political footprints can lead to trust deficit between st court and the public, undermining judicial independence.

social contract is a contract between people and their state

on condition of giving up their certain rights to state (Social contract:

Thomas Hobbes).

~~that~~ ^{whether} social contract between state and its people is being fulfilled. ~~or not~~. Political interference in code of conduct of judiciary leads to the situation, where judicial independence to overlook social contract is confiscated. Thus, all rights of society are favoured ^{to} ~~in~~ certain class of society. In this way, judiciary cannot independently assess the social contract between state and its people.

The incursions of politicians in the courts put in an end to the courts' powers to maintain check and balance. Courts are vested with the powers to maintain tripartite division of powers and arbitrates the conflicts between all these branches. Courts ensure that no branch ~~cannot~~ intervene in matters of other branch. However, political footprints

tilts all the verdicts of court in favour of politicians. **26th Amendment in Pakistan's constitution, 1973**

is a vivid testament to the fact that parliamentary overhaul has converted judiciary into a toothless tiger. Moreover, judicial ^{powers} proceedings to maintain checks on branches of state have been cut. In this way, judiciary independence to maintain check and balances have ~~be~~ been undermined.

Political intrusion is an attack on the judicial independence. It ~~has~~ concentrated ^s powers into the hands of parliamentarians, leading to democratic dictatorship. It is because of the fact that persistent interferences by politicians complicate the interpretation of constitution. Politicians always seek provisions from judiciary to further their ambitions and neglect the essence of democracy.

As proven, **UK has been declared democratic dictatorship** because most of the powers of judiciary are

vested in the hands of cabinet, which is chiefly composed of UK politicians. Thus, judicial powers to maintain essence of democracy is declined, when political interference is increased.

Civil services become a stooge in the hands of politicians due to attack on judicial independence.

It is because of the reason that judiciary arbitrates the conflicts between ~~brac~~ civil services and parliamentarians. Political assaults on judiciary, by different means, lead to biased verdicts. As proven that civil services of Pakistan is worst

performing in the globe (**sludge in Pakistan: Pakistan Institute of Developmental Economics**). It

is only attributed to inability of judiciary to mediate conflicts and ensuing dictatorship of politicians.

In this way, political interference undermines court's ability to independently

mediate the conflicts.

Political interferences also confiscates powers of the court to oversee economic contracts signed between governments. These economic contracts, sometimes, contain clauses which contravene constitutional provisions. Courts are also mandated to ponder over those contracts in line with fundamental human rights. However, when politicians dictate judiciary through intimidation or legislation, such economic contracts derail the economic growth.

In Tec vs Blochistan Government case 2007,

court ordered Tec to halt their operations in Barrick Gold, by the influence of local politicians. It resulted into international penalty to Government of Pakistan. In this way, judicial subversion by political interference can have adverse economic impacts.

Although political interference has far-reaching impacts on judicial independence, certain ways can

maintain judicial independence
free of political interference.

Judiciary must be limited to its constitutional role. According to numerous constitutions of state, judiciary is emblemized as guardian of constitution and human rights. Whenever a politician try to influence verdicts of court, court can invoke constitutional provisions to limit that influence. Moreover, court should proceed as per its own act instead of taking influence from outside. In 1937, court decided against the President **Franklin D. Roosevelt**, without in line with their constitutional role. In this way, courts in their constitutional role can limit interference from politicians.

Appointment of judges on merit is a significant way to maintain judicial independence free from political interference. When judges will be appointed on merit,

they will hold proceedings as per rules instead of political influence. They will deliver verdicts which will be in the interest of state instead of politicians. In 1977, Supreme Court of India ruled against Indira Gandhi, because political favour do not carry weight in judicial appointments. Hence, it is proven fact that political interference can be decreased by enhancing meritocracy.

Judicial review is an effective tool to maintain judicial independence. It is a reality because judiciary is empowered to review any legislation passed by politicians. Through judicial review, judges can annul any law by which politicians try to interfere in judiciary. In Constitution of US, 1789, concept of judicial review, has effectively kept political influence at bay. Therefore, judicial review is utterly needed to be incorporated in constitutions of the world. In a

nutshell, it can serve as shield against political interference.

Formation of committees to resolve disputes between judiciary and politicians can serve as an effective tool to maintain judicial independence. In affairs of the state, it is natural that conflicts erupt between branches of state.

For example, legislation of a law is annulled by Judiciary. It can lead to political and judicial deadlock.

In such a situation, committees serve an effective purpose. **In china,**

Judicial committee of Communist party of China (CCP), consisting

of judges and politicians, proved as an effective tool to maintain judicial and political independence. In this

way, committees can serve as effective platform to resolve disputes between judiciary and politicians.

In a nutshell, political interference yield destroy destructive

impacts on judicial independence.

It undermines powers of judiciary to ensure fundamental rights of citizens, provokes trust deficit between judiciary and public and destroys mechanism of check and balance.

However constitutional role of judiciary, meritocracy in courts etc. have proven to be effective tool to maintain judicial independence. Independence of judiciary. It is only possible by keeping political influence at bay.