

# The impact of political interference on judicial independence

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Conclusion.

In every country, constitution either in written or unwritten form gives the organs of the state, their concerned jurisdictions & power. And they working on the matters by keeping within their power and in this way, a country runs its affairs and institutes works. But when these institutions, start interfering in the matters of others, all the structure of that country impact. Like, political or executive organ interfere in the matters of judiciary, its independence become a question mark. Political interference is basically the situation in which executive or members of parties start intervention in the matters of other institution either for their own purposes and so on. It means its working now outside of their jurisdiction, that are prescribed in constitution. Judiciary independence means that they are free in their decision making's provision by ~~institutions~~ not working under any pressure. Politization of judiciary is existing in such a way, that in appointment of judges of courts by political parties for their self interest. By passing laws of their own interest. Politics against

is undermining the impartiality components of the judiciary function. Likewise, it's impacting the ability of judiciary on human rights provision, diminishing the concept of transparency and accountability of the individuals, organizations... It eroding the Democratic value of the country. Political interference is affecting the fair & sovereign decision making of the courts. There is no doubt, that political interference is affecting the judiciary independence by no. of ways,

Politics is interfering in the judiciary by appointment of judges and also involve in their removal process. Appointment of judges & their removal is a process in which judges of either higher court, lower courts are appointed according to the procedure mention in the constitution, mean a fixed term for their appointments and after their retirement age as well as removal in case of violation of fundamental rights are properly mention in the constitution.

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Political ~~partitions~~ are involve in appointment of the judges, beside, it's not their power or jurisdiction directly, to appoint or remove the judges of any court, by appointing the judges, they are exceed their limits and interfere in matters of judiciary. Like, the recent case in constitution of Pakistan the 26 Amendment, the appointment of judges are now done by the parliamentary committee, from 3 most senior judges. Hence, proved that politics in interfere in judiciary & affect their jurisdiction.

Passing laws of their interest is another way of interference of politics in judiciary matters & it's ability of the interpretation. Laws are passed by parliament including both houses in case of Pakistan Indian have bicameral legislature and any law/bill is passed by 2/3 majority, then it require signed of the president of the country - on case of Pakistan, laws are passed by politicians & parliament for their own interest & benefits. They pass and enforce those laws that are beneficial their own government -

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According to rule of law index - Pakistan is at 129/142 countries - This means that the laws are pass or enforce for their interest of the politicians and not they made for the welfare of General Public. Hence, it is clear now, that judiciary is facing interference from the politicians or other institutions.

The impartiality of judiciary is undermining by the interference of the other organ. The impartiality of judiciary means that, the judiciary is free in taking of decisions, that are not biased, and ensure the equality and impartiality in their decisions & ruling, means not favoring any one party. The political interference is diminishing the judicial impartiality concept, like in many cases, by undressing of the executive and other, judiciary give biased decisions. These decision were one sided, favoring, and it leads towards the loss of trust of the people on the court ruling. In Pakistan, the recent case of case incidents, in which the powerful elite & politicians has pressure the judiciary to give decision in the favor of the offender. Hence, proved, interference do business in judiciary matters.

Another way, in which the politics can interfere is in the matter of jurisdiction of the judiciary. Jurisdiction means the boundary or limit of any institution, through which by keeping inside, they exercise their powers without overexceeding their limit. In past, the executives have interfered in the judicial matters. Like in Doss case, the court decision were not as such operationalised. Therefore, when an organ exceed its limit, and interference in the matters of other, the ability of that organ of fair decision-taking, and working within its prescribed limit is undermined.

By controlling the judiciary budget is another way of politics involve in the matter of judiciary and challenging its independence. The controlling of the budget means that the govt mostly federal is responsible for the distribution of money for different sectors and institutions for the proper working of the institution. when the control of finance is in hand

of few persons or institutions then the ability of the other institutions in transparent & independent decision making is undermined. Due to fall of finance on judiciary, the court trail, the investigation process, and all other matters of the court couldn't performed in the smoothness.

For instance, in police sector of Pakistan, the budget finance for per case investigation is 250 rupees approximately. It means that the politicians, Sulehs are not provide judiciary, courts, LEAs their due budget for proper investigation and that result in, poor case investigation, and million of case are pending. Hence, the control of the budget is impartly the courts decisions.

The interference of the politics is impartly the judiciary function of provision of human rights and protection of fundamentals rights. Humans right provision & protection of fundamental rights is the function of courts, law enforcement agencies, the rights such as the right to freedom



of speech, associations, assembly, right to information, right to free trial all are the responsibility of the courts to provide & ensure it's protection to the persons. By interference of politics, the judiciary's ability to provide those rights will be minimized & impeded. Due to this, there will be violation of fundamental rights of citizens in the country. For example: The recent incident of PFI protest in the country, lost of people died approx 200, due to political interference of judiciary & they were finally at their own citizens. Hence, politicization of judiciary, lost it's ability of fair decision & protection of Human rights.

Another impact is that, it demolishes the transparency & accountability of individual & institutions. Transparency means the openness and right of citizens to information about the Govt decisions whereas, accountability means to hold person responsible for their actions, same in case of the institutions. Due to interference of politics, the political change the system of accountability and transparency, due to which they do

what they want to do without  
 the fear of being held accountable.  
 As they know that are they not  
 responsible for their actions as the  
 back hand for their laws, courts,  
 ps, they know that the law & the  
 court cannot do anything against  
 them, just because they are powerful  
 & controlling the independence of  
 the judiciary. For instance, Pakistan  
 ranked at 132 in Democracy Index.  
 Therefore the impact of politics is  
 undermining the good governance &  
 democratic practices in the  
 country.

Another impact of influence  
 of judiciary is that it dismisses  
 the democratic type & values  
 within the country & in the  
 institutions. Democracy means the  
 form of govt, of the people, by  
 the people and for the people,  
 means that where citizens are  
 empowered to elect their leaders  
 & their representatives of their  
 choice. When there are imbalance  
 b/w the separation of institutions,  
 one institution will exercise its  
 power, there will be curbing of independence

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In the matter or working of others there democracy will be not flourish. Democracy characterist are that there should be peace and non-interfere in matter of others, so, interference into another institution mechanisms & functions, will impart the democratic values & there will be law & order situation in the country.

For instance, man's capacity for justice make democracy possible, but man's inclination to injustice makes democracy necessary. by Kael Paul.

That why, it is important that, ensure non-interference and the interference of politics undermine the democratic values of the institutions.

The political interference in another way impacts the judiciary by influence the fair & sovereign decision making of courts. Fair & sovereign decision making of court means the ability of the courts to make unbiased, impartial, fair decisions without undue influence of any other institution or the factors. This interference is decrease the power of courts to make fair decision and

uphold the rule and law. This will lead to biased decision making, the due process, the trials procedure, the court decision will be favoured and the beauty of fair decision & justice will be undermined. For instance: in case of the Bhutto murder charges, the court gave the biased decision, without giving him the right to free trial, just because under influence of the politicians & elite of the country. Because of this, interference the ability or capacity of the courts to take decision independent is definitely undermined.

Moreover, it creates hurdles in provision of justice. Justice means that the state of being equal, give punishment to the offenders and compensate the victims and give everyone their due. Due to interference of politicians or other members, the court gave biased decision, like the culture of unfair practice like corruption, nepotism will be on rise, and the law will be only implement on the poor.

Injustice will be rife in the society and due to this, there will be chaos and tension prevail in the society. For instance; In 1980s Mukadam case, the court was influenced by the powerful elite, and the influence of political aspect in the court decision, the court has changed the decision of death sentence to the rather Jaffrey, and gave him the imprisonment. From this it is proved that the influence of the politics, will undermine the ability of the judiciary to give fair ruling and provide justice to the victims.

In addition, the other factors or way of influence is that politics are interfering in the matters of state writs. writs means the power or right of any person, to file it's case to the high judiciary, if he feels, that the decision of the concerned court is not validate or biased. Again there the influence is on the rise, as if a person is not getting justice at their level, or in case of any form of writs, still the influence of politics are in that, and

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can impact the ruling of the court. For instance; A writ was filed in Petal case, the court gave PT's decision, but it was political as, the mere pressure by the no. of factors. Hence, the writs impact is also impacted by the influence and judiciary cannot take sole more power in many cases.

The other way of influence or impact is on the rule of law component. Rule of law means that the equality, equity of citizens before the law, means everyone is equal before the law. The society where the rule of law prevails as undenied, there will be creation of chaos, and injustice will be on high. The influence of political is seen on any angle of the country like, rule of law is not equal for everyone, rules is not for elite, many unfair practices are existing and impact the judiciary. Principle of judicial review, due process also on. For instance: According to Rule of law Index by WJP, Pak stand 129/142 with. This means that rules are not followed in country. Hence proves that rule of law impact by influence of political factor.

The influence of politics is underlying the independence of judiciary in no of ways, but by taking pragmatic measures they can be resolved & the balance can be achieved.

By ensuring the separation of power aspect, the impact can be minimized & the balance can be achieved. Separation of power means that the organs of state include the executive, legislature & judiciary should work in their prescribed limit and exercise their power in their own domains not interfere in matters of each other. The separation of power will ensure the interplay of one institution into another jurisdiction. In this way the democratic beauty of each institution will flourish. For instance, in USA, their strong separation of power, and their form of govt is very strong along with all other institutions, such separation of power ensure non-interference. Hence, proved that the separation of power component also given by mechanism, the non-interference of institutions can be achieved.

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Another way, by promoting check and balance of the institution on each other, check and balance means that the organ of the state, should impose check & balance on each other, in order to ensure that they are not over exceeding their jurisdictions and not interfering in matters of other. Check & balance will ensure the component or institution to remain in their precluded power, and not involve in any other matters. In this way, the institution will be in order and will have fear of consequence if they over exceed their limit. For instance, Nigeria is on the worst runs because of their policies, where the country where, check & balance, are ensure, the Democracy are there's like in case of USA. Therefore, proved, that check & balance is important.

Good Governance is another aspect for improving the Democracy and the works of the institution to limit within their own jurisdiction. Good Governance means the way of exercising power in the country



economic & social reform for development, in order to have the effectiveness, efficiency, responsiveness, rule of law, participation, free media and so on. When there will be good governance in the country, every organ will work according to their power and limit and the influence of one in other will be controlled. Good governance ensures the ability of state institutions to work to perform in their best manner for the welfare of the citizen and the country. For instance, Estonia is on the world 1<sup>st</sup> global governance ranking and also led toward the e-governance ranking, where their political stability & peace in country have proved, good governance ensure political stability & non-intervention.

Alike wise, there is need to de-politicize of judiciary from the one exercised by its jurisdiction. De-politicization means that every institution needed to work in their limit and not to influence by political or any other factor and involve the external factors from their ruling.

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De-politization will ensure that the judicial including courts, judges, LJA are not under influence and the constitution is all above. The respect of the constitution will be ensured. For instance, Pakistan is ranked on 123 on corruption perceptiveness index. which means that the corruptive law because of political of judiciary and the constitution was provide protection to them. Hence, proved, the De-politization of judiciary will regulate the rule of law and excel constitution in its true meaning.

The Political interference in the judiciary is impact its independence by multiple ways. As we have mentioned, that the interference of political factors in the matters of judiciary is undermining its ability of free jurisdiction. It undermines the ability of the judiciary to take impartial decisions and to be fair and not favor any one party during their ruling. Another way, it is impacted by interference in jurisdiction & ruling of

the judiciary. moreover by controlling the budget of the judiciary, it influences the economic power of the judiciary to take independent decisions and make ruling more transparent. it creates hurdles in provision of justice to the citizen, and by influencing the court decision, it creates an injustice and chaos in the society. it also affects the writ of the judiciary and undermining the democratic value of the country. since independence, our country especially has faced many hurdles, there was rising of undemocratic practices, no. of military coups, no. of undemocratic era, we had faced a no. of wars, internal & external challenges, despite of all, we are standing more firm and strong just like other states. In case of other countries, no. of countries have faced the interference of one institution into another, although it is undemocratic, but not something that cannot overcome or not achieved.

By taking pragmatic measures, every country especially Pakistan can lead the way of glory.