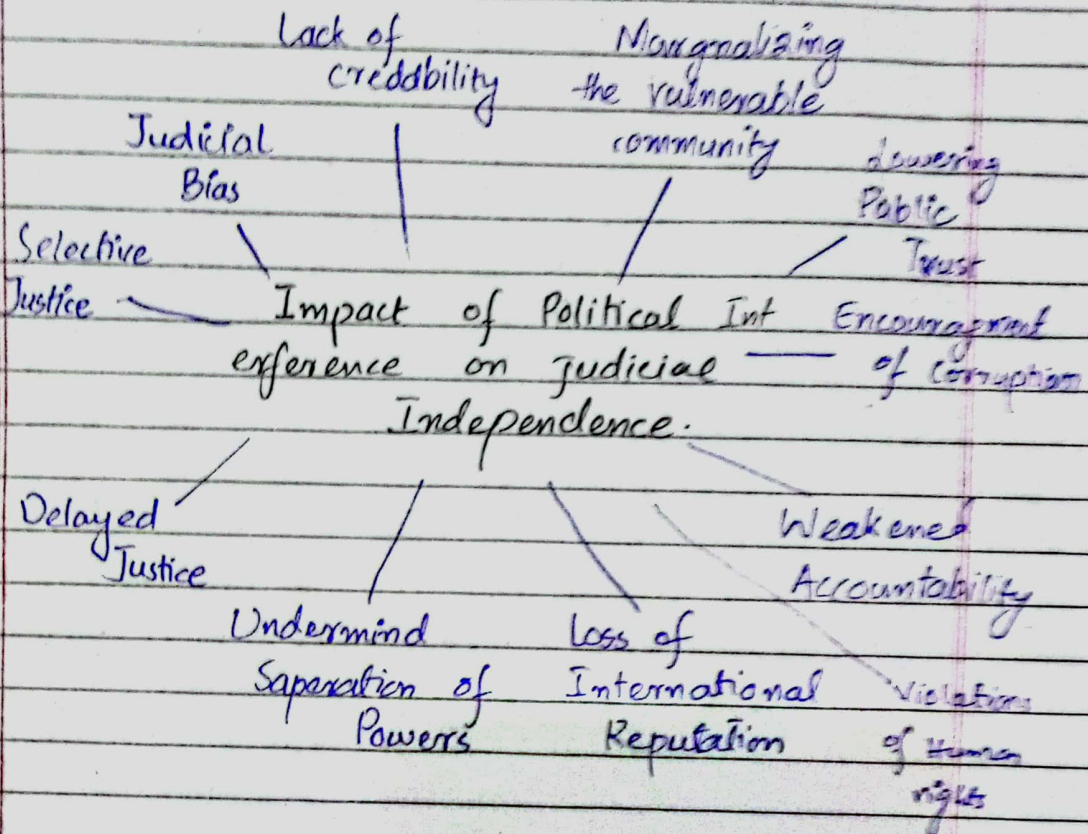


# Impact of Political Interference on Judicial Independence:



## Outline:

### I. Introduction:

- i- Judicial Independence and its significance in a democracy.
- ii- Political Interference and its historical influence on Judiciary.
- iii- Thesis statement;  
Political Interference has undermined judicial independence compromising justice in Pakistan.

## II. Impacts of Political Interference on Judiciary:-

### a. Erosion of Public Trust:

- i. Delayed Justice
- ii. Biased Decisions
- iii. Sidelineing Public interest.

### b. Compromised Rule of Law:

- i. Selective justice
- ii. Favouritism
- iii. Serving Political Agendas.
- iv. Pressure by the political elite.

### c. Weakened Democratic Institutions:

- i. Weakened Accountability.
- ii. Encouragement of Corruption.
- iii. Undermining separation of powers.
- iv. Undermining checks and balances in governance.

### d. Impact on Human Rights:

- i. Failure to safeguard fundamental human rights.
- ii. Marginalizing vulnerable communities.

### e. International Repercussions:

- i. Weakened state identity in the international arena.
- ii. Loss of international investments.

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## f. Internal Divisions in Judiciary:

- i. Polarisation
- ii. Affiliation to different political parties.
- iii. Battle for the throne.

## III. Measures of Ensure Judicial Independence;

- i. Transparent and reformed judicial appointment processes.
- ii. Strengthened institutions: autonomy.
- iii. Public awareness and engagement of civil society.
- iv. Lowering political interference.

## IV. Conclusion:

- i. Significance of judicial independence and its situation in Pakistan.
- ii. Judiciary as cornerstone of the justice and call for systematic reforms.

## Introduction:

Judiciary, one of the three pillars of a state's government, is known to be the cornerstone of the democracy, that ensures justice being administered impartially, clearly free from any kind of external influence. In Pakistan, however, this pillar has always been unstable and suffered from the political interference repeatedly throughout the history due to a persistent challenge i.e., political instability and chaos. The judiciary, that's sole purpose is to keep check and balance on executive and legislative powers, is often found stuck under the influence of political conflicts, in turn compromising the rule of law and separation of powers. It has been manipulated by appointment of judges, pressure on the judges for favourable verdicts, and support of judiciary for purely political aims. Where judiciary is responsible for protecting rule of law and human rights, this interference has severely impacted judiciary's credibility, leading towards an erosion of public trust, weakened democracy and damage of reputation in the international arena.

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Finally, the political interference has undermined judicial independence, compromising justice and democratic stability. The impact of this interference has vast implications, from eroding public trust to weakening the democratic institutions, from international criticism to the weakening of internal structures of judiciary along with compromised rule of law and basic human rights. These implications could be controlled by following some measure to ensure judicial independence.

The first and foremost implication is erosion of public trust. There are three main reasons eliminating public trust from the judicial system. When the judicial system is under political influence, its interest in public matters lowers and the justice for the people is delayed. The cases remain pending for years and decades even, extending upto 63 years, resulting in disappointment of the public from the judicial processes. Furthermore, after delayed trials the decisions are often biased politically leaving local masses in a dismay and trustlessness, creating a sense of hatred for the judicial system. Moreover, the judicial system under the influence of the political parties, sidelines the

public interest, letting the political elite dominate the rights of the public. For instance, the judiciary is not autonomous to make a decision or ruling that is in favour of the public interest when the public and political interests

contradict. The most prominent example is the doctrine of necessity, judiciary has multiple times eroded public trust and invited public criticism for legalising, military coups and curfews violating basic human rights and destabilising the democracy.

The favouritism in judicial appointments further worsens the dissatisfaction of public from the judiciary. Judiciary has faced backlash from public due to calling / delaying some religious parties as terrorists and arresting prominent political figures of opposition in different governments.

The second implication that results from the independence of judiciary on political elites is the compromised rule of law. The rule of law has been jeopardized by factors like favouritism, selective justice, serving political agendas and the pressure imposed by the powerful elite on the judiciary. The establishment of military courts for

trail of civilians in 2015 in response to APS attack is an example. Which is a clear and apparent challenge against the rule of law. This implies that the civilian judiciary does not hold power to account the military courts for unlawful and non-transparent trials and politically influenced decisions. Analyzing the further historical events, the 2017 National Reconciliation Ordinance (NRO), that provided amnesty to politicians, bureaucrats, and other officials accused of corruption and other crimes, even extending it to money laundering. It blatantly disregarded the principles of accountability and rule of law. Moreover, there is a factor "Favouritism" which is causing hurdles for the judicial system to work properly and implement rule of law. Analyzing the most recent constitutional amendment i.e. the 26th amendment, it is clear that the judges loyal to a certain political party in Government would be appointed as the CJPs and other important positions. The most favourable judges would be appointed the high-profile cases, which in turn undermines the judiciary's neutrality, leading to delayed justice and service for the political purpose of the elites.

Thirdly when judiciary is dominated by the executive and legislature the democratic institutions lose their credibility. This can be proved as the accountability gets inept, which results in encouragement of corruption. The current situation clearly reflects the weak accountability and helplessness of NAB in certain high-profile cases, like that of Asif Ali Zardari's fake bank accounts case, that is still pending without any resolution. This reflects the judiciary's inability, or unwillingness to hold the powerful individuals accountable. Furthermore, the judiciary is helpless in solving the Karachi's water and land grabbing issues by powerful land mafias with strong uphold in politics still remains a persistent problem. In addition the reports of financial irregularities in PIA have surfaced decades ago, but no significant convictions have occurred due to political interference. Besides all this the 2020 sugar crisis implicated prominent political families but investigations stalled reflecting institutional weakness. On top of that the Judicial Commission's report on 2013 elections highlighted procedural flaws but did not result in significant accountability. The events above shows how the democratic institutions fall a prey to the crimes of corruption and money laundering when the judiciary loses



its independence. In Pakistan, historical records have been constantly revealing the fact that the judiciary in Pakistan never got a chance to strengthen its self and <sup>hold</sup> accountable the other democratic institutions for the crimes and misconducts that is directly effecting a fair and stable democratic process, resulting again in political instability like a cycle. As

Further elaborating, the weakened democracy, there comes a more concrete thing that is, the separation of powers and checks and balances in governance. Separation of powers is a fundamental principle of democracy where the three branches of government operate independently to prevent concentration of power in a single branch, maintaining an equilibrium. The judiciary here acts as an impartial arbitrator, monitoring the laws and actions of other two branches are within the constitutional bounds. However, when the judiciary gets dominated by the political interference, this disrupts the equilibrium, and when one thing in equilibrium is disrupted, it's a phenomenon, that the whole system would fall down. Same is the case with Pakistan.

This makes clear that why have been martial laws overthrowing the whole democracies several times in Pakistan. As judiciary fell a fragile, to the elite, resulting in passing the doctrine of necessity, which <sup>in turn</sup> resulted in failure of the democracy. Furthermore, the checks and balances on the government is weakened as emphasized during General Musharraf's rule when the executive dominated the judiciary by implementing emergency rule. Moreover, the passing of 17th amendment was also a move to condense all the power in executive leaving the parliament vulnerable. It is like if one pillar collapses the others would also collapse one after another, creating a domino effect, which results in demise of the democratic government.

Fourthly, Human Rights violations is another critical issue that surfaces due to a non-sovereign judiciary. As an independent judiciary is corner stone of democracy ensuring and protecting fundamental human rights. However, it fails to provide some most fundamental rights that are, right to fair trial, free speech, non-arbitrary detentions, fair and humane treatment and so on, when its

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under political influence. There are several cases that unrecalls the truth that judiciary has been under the influence of the power holders. The prosecution of generalists like Hamid Meer and Imran Khan, the execution of Arshad Sharif gives a clear picture of how vulnerable the condition of judiciary has become under the influence of politically empowered individuals. Furthermore, there have been enforced disappearances and forceful detentions of civilians, especially from the marginalised areas like Balochistan and FATA. The case of Sardar Balach Masih, who disappeared in 2009 and whose family has continuously sought justice, exemplifies how frail and untrustworthy the judiciary has become for the common masses, who has the foremost right for justice. Furthermore, judiciary has been reluctant to hold law enforcement accountable for torture and inhumane treatment. One notable case was that of Iqbal Masih, a young child labourer who was allegedly tortured by the police. Adding to this there are cases like property rights violations, for example Behria Town's land dealings and women rights violations like honour killings are still not addressed by the judiciary due to political polarity and lack of interest in human rights issues.

The fifth repercussion is that when a judiciary is heavily influenced by political factors, it faces serious backlash from international arena externally as well as internally. There are two main reasons the first one is weakening of the state identity. The loss of judiciary is viewed as loss of credibility of a state which impact the perception of the state's governance, both domestically and internationally. In 2018, FATF grey-listed Pakistan, which was a partial consequence of weak legal and regulatory frameworks. Pakistan is still ranked as 129<sup>th</sup> of 142 countries in the rule of law index. This results in lack of diplomatic trust from the other states negatively affecting the identity of Pakistan. The second and far more important reason is the lack of international interest for investments in any of the sector of Pakistan, which return have economic implications. In recent years CPEC projects, which are crucial for Pakistan's economic future, has faced delays and disruptions. These attributes have been often related to the politically dominated judiciary which could not ensure, secured land rights, and delay in project

clearances. The privatisation of state owned enterprises has been marred by legal battles, with courts delaying or obstructing privatisation efforts. These disruptions contribute to a loss of investor confidence in Pakistan's economic stability and governance. Thus, political instability coupled with a judiciary perceived as weak, has discouraged long term investments in key sectors of the economy.

At last, internal divisions within Pakistan's judiciary have deepened due to political interference, leading to a compromised system of justice. Political influence over judicial appointments and decisions has created rifts among judges, undermining the judiciary's credibility. A prominent example is 2007 judicial crisis when President Pervez Musharraf attempted to dismiss CJP Iftikhar M. Chaudhry, leading to widespread protests and eventual restoration of judiciary's independence. Despite this, political pressures continued notably in high profile cases that of Nawaz Sharif's disqualification in 2017, which raised concerns over the impartiality of judiciary. Divisions within the bench were clearly seen during that period, as certain factions seemed to align with political

elites, while others pushed for the rule of law. Additionally, the appointment of judges often faces political influence, as seen in controversial appointments of Justice Qazi Faez Isa in 2019 and now the appointment of current CJP Justice Yahya Afridi, superseding Justice Mansoor Ali Shah only due to political bias towards the government in power, following the recent 26th constitutional amendment. Dr. Maleeha Lodhi while writing for Dawn called it a game of thrones, where there would be a competition among judges for appointments on the basis of who is more loyal to the people in power. These divisions have not only weakened the judiciary's ability to function independently but has eroded public trust and confidence in its ability to deliver impartial justice, hindering the rule of law in Pakistan. Finally, the political interference continues to fuel these fractures, undermining the judiciary's role in upholding justice.

To ensure judicial independence in Pakistan several measures need to be implemented. First, transparency in judicial appointments is crucial. A

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clear merit-based process should replace the current system, which is often influenced by political considerations. Establishing an independent commission for judicial appointments, free from political interference, could enhance credibility. Secondly, strengthening institutional autonomy is essential for the judiciary to function without external pressure. This includes adequate funding, protection from political reprisals, and safeguarding judicial decisions from political manipulation. Third, promoting public awareness and engagement of civil society can create greater accountability. By educating civilians on the importance of an independent judiciary, civil society can act as a watchdog, pressuring the government to respect judicial decisions. Lastly, it is imperative to reduce political interference in judicial matters. Political leaders must refrain from influencing judicial outcomes, while the judiciary should assert its autonomy through legal reforms and internal resistance. Together, these reforms can contribute to a more robust, independent judiciary that upholds the rule of law and protects citizens' rights in Pakistan.

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In conclusion judicial independence is a cornerstone of any democratic system, essential for ensuring fairness, accountability, and the rule of law. In Pakistan, the political interference in the judiciary has significantly compromised its role as impartial arbiter of justice. The consequences are far reaching, eroding public trust, weakening the rule of law, and diminishing credibility of democratic institutions. When political forces exert undue influence the judiciary's ability to make unbiased decisions is severely compromised, leading to selective justice and undermining the legitimacy of legal outcomes. This not only damages the internal government but also affects Pakistan's standing on the global stage, deterring foreign investments and harming its international reputation. Judicial independence in Pakistan is further challenged by internal divisions, politicized appointments and lack of transparency in legal proceedings, these issues highlight the urgent need to comprehensive judicial reforms. To restore the judiciary's credibility, Pakistan must prioritise the establishment of an independent judicial commission, enforce transparent judicial appointments and safeguard the autonomy of judicial institutions from political interference. Public awareness campaigns and active engagement from civil society can



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also play a pivotal role in ensuring the judiciary remains accountable. Ultimately strengthening judicial independence is crucial for Pakistan's democratic future, ensuring justice for all citizens and reinforcing the integrity of its institutions. Without meaningful reforms, the continued erosion of judicial independence will hinder the country's progress and the effective delivery of justice.