

English Essay

Impacts of Political interference on the Judicial independence.

Outline:

1. Introduction:

i. Thesis statement:

Judicial independence is the cornerstone of a democratic society as it ensures a lawful decision, free from political or personal biasness. The impacts of political interference not just influence the legal system rather it effects the governance, public confidence on judiciary and stability of democratic institutions.

2. Judicial independence and Pakistan:

- i. Repeated suspension of constitution under martial laws and forced removal or retirement of judges.
- ii. Maulvi Tamizuddin case
- iii. Removal of CJP Sajjad Alishah by President Farooq Leghari
- iv. martial laws and forced validation by supreme court of Pakistan

3. Judicial independence and constitutional act 2024:

- i. Control given to political authorities over judicial appointments and removal
- ii. clipping power of judiciary

4. Impacts of Political interference on Judicial independence

- i. Violation of Article 175 of constitution
- ii. Trichotomy of power has been disrupted.
- iii. weakened rule of law
- iv. Politically influenced judgments
- v. selective justice
- vi. delay of denial of justice
- vii. Judiciary as puppet in band of ruling party.
- viii. Frequent disruptions in government
- ix. Fear of Retribution to Judicial officials
- x. lack of check and balance on executive
- xi. Damaged reputation of Judiciary
- xii. Public disillusionment
- xiii. minorities marginalized
- xiv. local justice system promotion and resultant social unrest
- xv. mob justice.

5. conclusion.

Judicial independence is the cornerstone of any democratic society as it ensures decisions on basis of law, free from political or personal prejudices. The political interference in the judicial system has far reached consequences that not only impact the legal system of a country rather goes beyond affecting the governance, public confidence and the stability of democratic institutions. For example, Pakistan since its inception faced

persistent and profound interference under military regimes by implementation of 'Doctrine of Necessity' to legitimize the unconstitutional acts which severely eroded the judicial independence.

This interference played a pivotal role in instable governance and judicial system of Pakistan. One of the recent development in constitution of Pakistan is another prime example which exacerbated this issue by granting greater control to political authorities over judicial appointments and removal. The impact of this interference not only affecting the judiciary but the whole social ~~sys~~ and political system.

~~Judicial~~ Pakistan's history has been marked by struggle for judicial independence. After independence, multiple times the constitution was abrogated. For example in 1958, General Ayub Khan's military coup, in 1977 General Zia and Musharraf's emergency rule suspended the constitution and declared martial law.

The judiciary was severely curtailed, leading to the removal of judges or forced retirement.

Similarly, the dissolution of constituent assembly by Governor-General Ghulam Muhammad and the validation of this dissolution by Chief Justice Munir set a precedent example for judicial subservience to the executive. Another case was

the removal of Chief Justice Sajjad Ali Shah by President Farooq Leghari from office citing the allegations of misconduct which was more widely seen as an

interference of executive in judicial matters.

The very recent development in the constitution of Pakistan - called constitutional act, 2024 of Pakistan or 26th amendment of constitution of Pakistan has also raised concerns about its impacts on the judicial independence, rule of law and human rights. The considerable changes made to selection and management of judiciary, changing the composition of judicial commission of Pakistan and procedure of appointing chief justice of Pakistan. This amendment may have been designed to address specific problems within judiciary but ~~it~~ it has eroded the judicial autonomy by politicizing the judiciary as powers of appointment and removal of judges has been granted to executive. It has opened the door to politicization of judiciary and political retribution against judiciary where ruling party does not like a particular decision made by judges. This amendment ^{creates} has a profound threat to the exercise of democracy in Pakistan and it may decrease public confidence in the legal system because people may view justice as afflicted with politics and not serving justice.

The impacts of political interference on judiciary are far reaching because it cuts the power and independence of the judicial system. Firstly, it is the violation of Article 175 of constitution of Pakistan which emphasize the separation of power of judiciary, executive and

legislature. secondly it undermines the democratic principle of trichotomy of power. The stability of a democratic country lies in the fact that the three organs of the state work independently. If not then it leads to instability in the system. Following are the direct and indirect impacts of the executive activism in the judiciary.

First of all, Political interference in judicial matters weakens the rule of law because when decisions are made under political pressures the strength of the judgment is compromised. For example, in case of former Prime Minister Nawaz Sharif who was disqualified from holding public office due to corruption allegations by supreme court of Pakistan. Despite his conviction and sentencing in corruption case, Lahore high court granted him permission to travel abroad for medical treatment due to PMLN's significant influence over the Lahore High court. This decision was criticized for undermining the rule of law and independence of judiciary from political pressure.

secondly, judgments are politically influenced in the cases where judicial rulings are aligned with political agendas. In such cases judiciary cannot safeguard the rule of law. This in return challenge the judicial impartiality in the politically sensitive cases which are fundamental to the legal system. For example the decision of murder case of Zulfiqar Ali Bhutto in which Bhutto was sentenced was believed to

be influenced by the military regime of General Zia-ul-Haq to overthrow the Bhutto's democratic government in 1977.

Thirdly, when there is political pressure over the judiciary, there are chances of selective justice application in which some of political figures receive favourable judgments while others, particularly in opposition, may be treated more harshly. This selective approach diminishes public confidence in the judiciary and the broader legal system.

For example, during former government of PTI several corruption cases were filed against the PMLN leaders and ~~former~~ president Zardari which was observed to be politically led cases by the ruling party against the opposition. Similarly, in the current government similar cases are filed against the opposition party of PTI by the ruling party PMLN creating a cycle of treating the parties harshly.

Fourthly, delays in judgments are another issue arise from the political interference. The cases in which the political parties are involved are delayed by the judiciary due to political pressure exerted over the judges. For example the case of Noor Mukaddam was delayed and years were taken to get the decision of sentencing. This also observed to be politically influenced due to elite relations with the ruling party.

Another impact is that Judiciary becomes a puppet in the hands of executive whatever goes in favor of the ruling party becomes the reality. Due to fear of retribution (transfers, suspension or physical harm) by political parties judges do whatever ruling party favors which erodes the authority of the judges which impacts the public trust over the justice system.

Another indirect impact of political interference is marginalization of minorities. They felt unprotected by judicial system. minorities like Hindus, Christians and Ahmadis are confronted with discriminations, blasphemies, mob justices and alienation from society. For example, the burning of Christian village by extremists.