

# The Impact of Political Interference on Judicial Independence

## 1. Introduction:-

- i) Attention grabber
- ii) General statement
- iii) Thesis statement

An Independent judiciary is the cornerstone of democracy. Political interference in judicial affairs not only undermines judicial autonomy but also jeopardize fundamental rights. widens judicial gap, erodes public trust and weakens democratic instituti

Only focus on judicial automatically aspect. That the only thing asked.

## 2. Historical Background of Political Interference in the Judicial Affairs in Pakistan:-

- i) Recent scenario of 26<sup>th</sup> amendment in the constitution of Pakistan and its implications on Judicial Independence

Don't make the topic about Pakistan, when the name of the country is not mentioned in the title.

How is this historical background

## 3. How Political Interference is Impacting Judicial Independence:-

- i) Certain legislative measures

You are to write the impacts not how it is impacting.

and political pressure compromise  
the judicial autonomy  
→ Article 175A, 183 under 26<sup>th</sup>  
amendment in the constitution of Pakistan

ii) Rise in judicial ~~biasness~~ leads  
to violation of fundamental human  
rights

a) Marginalization of minority ~~groups~~  
→ Dred Scott decision (1857):  
a landmark case in US Judicial  
History

iii) Politicisation of judiciary ~~widens~~  
the judicial divide that is a  
threat to national integration

→ Case story of Pakistan  
Supreme Court on reserved  
seats case 2024

iv) Judicial corruption and favouritism  
erode the public trust in the  
judiciary and rule of law

→ Reference from "Pakistan  
A Hard Country" by Anatol

Levers

v) Lack of judicial autonomy weakens the democratic institutions and increases despotism

→ Case study of North Korea

vi) Emergence of 'doctrine of Necessity' to back the unconstitutional acts of political elites.

→ Molvi Tamizzudin case, a notable example

vii) Insurgence of judicial activism and judicial movements as a counter measure

→ Lawyers movement in Pakistan (2007-2009)

→ Reference of a research article "The Impact of political Interference on the Judiciary: India vs. Pakistan"

**Conclusion :-**

These are either impact on state or judiciary not on judicial independence

## The Essay

Judiciary is an important organ of a democratic government. As per the theory of separation of power, propounded by the Montesquieu, the three functioning organs of a democratic state must be free from the subordination of one another. All the effectively governed states follow the rule of separation of power.

But in the developing countries, Pakistan among one of them, judiciary is highly subdued by the political parties. Political parties meddling not only compromises the judicial autonomy but also impacting other social and political affairs. The notable impacts of political interference on judicial independence include judicial biasness, violation of fundamental rights, politicisation of judiciary,

Unrelated to the context.

Don't start a sentence with "but" or "and"

These are not impact on judicial independence

~~erosion of public trust in the judiciary and rule of law, weakening of democratic institutions, emergence of doctrine of necessity and resurgence of judicial activism and legal movements as a counter measure.~~

As rightly stated by Justice Ruth Bader Ginsburg, **The judiciary**

**must be independent, impartial, and free from political influence. Without this, the rule of law and democracy itself are undermined.**

No quotations in the introduction

~~To ensure the good governance, effective policies and rule of law — necessary elements of democracy, politics should be separate from judiciary.~~

Before moving toward the impacts of political interference on judicial independence, it is necessary to have a look on <sup>the history of</sup> judicial

Why only in Pakistan?

independence in Pakistan. Pakistan  
judicial system is the legacy of British  
colonial rule in the subcontinent. Historical  
pages are filled with the incidents  
when the judicial verdict favoured the  
political elites, in the same way, as  
in the British controlled subcontinent.  
Either through back door talks or  
direct legislative acts, political  
influence multiple times has impacted  
upon the judicial autonomy and  
decision making. In the recent  
phenomenon, Pakistan legislature  
has passed 26<sup>th</sup> amendment that  
is deemed to curbe on independent  
judiciary. During the framing of  
1973 constitution, article 175 was  
added to ensue free and  
impartial judiciary in Pakistan. While  
in the 26<sup>th</sup> amendment, article 175  
has been completely amended  
in such a way that undermines

How is this historical background

Judicial separation and independence  
from other two branches of government  
The poor rule of law, political  
polarization and fragile democracy  
in Pakistan are the repercussions  
of lack of independent judiciary  
in Pakistan.

Political influence at a  
limited extent serves as a  
check on judicial authorities but  
greater meddling of political parties  
in the decision-making process  
of judiciary negatively impact  
the judicial autonomy and  
independence. These impacts are  
given below:

On the top of these impacts  
is the decline in judicial  
autonomy in the decision-making  
process either due to political

This is not a paragraph

Sentence structure is incomplete. These

pressure on legislative and executive are the tactics that are largely used in power politics to subvert judiciary so that wanted decision can be made. (For instance **Dred Scott decision 1857** is a landmark case in the history of USA when southern political parties pressurized the judges). For instance **Article 183** which granted the right of *Suo moto* decision to the judges, has taken away in 26<sup>th</sup> amendment so that judiciary would not interfere in the governmental affairs to regulate and check governance policies. Likewise, **reconstitutional of Judicial Commission of Pakistan under article 175A** is regarded as a successful attempt to control judiciary as well justice by the legislature and executive. Thus, these kinds of tactics are

How do they undermine judicial independence?

Does not relate to the discussion in the paragraph



used to undermine judicial power and autonomy.

The other major impact of political involvement in judiciary is the surge in ~~judicial biasness and favoritism, which jeopardizes the fundamental human rights.~~

Not impact on judicial independence

Political or ideological biasness results in granting patronage to a specific group and marginalizing the minorities. These kinds of activities erodes the supremacy of law and thus act as a hurdle in the provision of free and fair justice. To illustrate,

the scenario, **Dred Scott decision** serves as a correct example.

~~Dred Scott decision is a landmark case in the history of United States judiciary. This decision highlights the impact of judges~~

ideological biasness, through which the majority regarded the black free slave as a permanent slave, even not a citizen of America. Therefore, judiciary decision violated the fundamental rights and marginalized the blacks in the country. They were considered as a property of south for a noticeable timeperiod due to judicial ideological and political biasness. In the summary, judicial biasness is a major threat to fundamental rights of humans and this partiality can be only be reduced by declining the political intervention in judicial affairs.

Furthermore, politicisation of judiciary splits the judges on the legal matter that is creating disharmony and

Unnecessary detail

Your topic is not politicization of judiciary

disintegration in a country.  
Politicisation of judiciary means  
where a judge political stands  
influence his ruling. The objective  
of independent judiciary completely  
fails when politicisation of  
judiciary occurs. If the judges  
divide on political matters rather  
than on legal issues then  
the supremacy of constitution starts  
dwindling. Same has been seen

Irrelevant  
to the  
topic

in Pakistan where the  
senior judges of Supreme  
Court including Chief Justice  
of Pakistan divided on  
the reserved seats case 2024  
in pro-government and anti-

Unrelated to political  
interference and to  
judicial independence.

government. This politicisation  
based divide has eroded the  
judicial and constitutional supremacy  
because public does not prioritize  
judges on the basis of merit

while ~~on the basis of their~~  
~~political vision.~~ This is also increasing  
~~paternalism and thus endangered~~  
national harmony and integrity.

Additionally, ~~judicial corruption~~  
and patronage to elite class  
undermines the public trust in the  
judiciary and its decision. All over  
the world judges are elected  
to higher position as per merit  
and their salaries, provided by the  
state, are much higher than the  
basic needs to thwart corruption  
and mischievous attitude. The fact  
is ~~if the judiciary - the guardian~~  
~~of constitution - conducts bribery~~  
~~and corruption then how it can~~  
~~judge misconduct and violation of~~  
~~rules of law. Because judicial~~  
~~corruption not only erodes the~~  
supremacy of constitution by disrespecting

That's not impact on judicial independence

Don't start a sentence with "but" or "and" or Because

the rules but also undermines  
citizen's trust in country's law  
and justice system, and promotes  
self-justice by military groups and  
tribal leaders. As stated in a book

**'Pakistan: A Hard Country' by**

**Anatol Leiven:** "In Pakistan, Taliban

justice is more prudent and

fair than the courts justice. And

they provide a free justice within

three days while courts would

empty your pockets without providing

justice." This proves the stance

that justice in Pakistan is only

for elites and political personnels

due to political patronage and

kinship. The poor does not have

access to free and fast justice

and there is a resource proverb

**Justice delay is Justice**

**denial.** To retrieve the

trust of public in judicial

*Israel*

system, political interference must need to be limited as much as possible in judicial matters.

Another impact is weakening of democratic institutions due to judiciary dependence on political parties in their decision-making.

Irrelevant

Not impact on judicial independence

The democratic institutions include popular sovereign parliament - a legislative body, and executive office of the state head. These institutions strengthen by public trust and when rule of law prevails in the country then citizen's trust in these democratic institutions diminishes. The public start protest to restore democracy but the political officials instead of meeting their concerns, deal with them heavy hands and try to establish an authoritarian regime to stabilize

North Korea is not a democracy

its control and maintain the pillar  
of its authority. History has witnessed  
the ~~same instance in~~ the ~~North~~  
~~Korea and Egypt~~. North  
Korea declares itself as an  
authoritarian and dictatorial  
~~state~~ while Egypt has de facto  
democracy but de jure authoritarianism.  
All kinds of anti government protests  
and ~~movements~~ are banned in  
Egypt. Critical censorship of media  
and newspapers, patronage to political  
elites ~~and centralization of power~~  
along with the dependent judiciary,  
all are ~~the indicators of~~  
authoritarianism. To restore  
democracy, ~~judicial independence~~  
is a first and foremost step  
in this way.

In the same way, emergence  
of 'Doctrine of necessity' is

Not a universal thing

also the beholder itself to the subordination of judiciary to the political powers. Doctrine of necessity in Pakistan evolved in the spirit to back the illegal and unconstitutional actions of political elites. Throughout the historical context of Pakistan judiciary, this doctrine has been used by the judges to constitutionalized military rule in Pakistan, that is by no means, can be considered constitutional. In all the developed and democratic nations, this doctrine is considered as an illegitimate act while the developing nations are still under the debris of British colonialism. First time in Pakistan, after the independence, this doctrine takes birth in the **Molvi Tamizuddin case** when the judges of supreme court

Irrelevant



legalized the unconstitution dissolution of 1<sup>st</sup> Constitution assembly of Pakistan, to favour the political elites, under the Govt. of India act 1935. Since then, the doctrine of necessity has been utilized by the political parties to fulfill their desire to rule over the judicial decisions.

In the last but not the least, judicial activism and legal movement are indebted to the declining judicial power. Judicial activism and legal movement rise due to political interference in the legal matters as a counter measure. Judicial activism empowers the judges to intervene in the governance issues and ensure effectiveness of policies. Judicial activism

first time used in USA **Marbury**  
**vs. Madison case** when American  
judges realized their responsibility  
to intervene in executive and  
legislative affairs while acting  
as a watchdog of constitutional  
supremacy. With the rise in  
political interference in judicial  
affairs with erosion of judicial  
independence, a surge in judicial  
activism in the form of judicial  
review has been seen. In **India**

as per citation of the article  
**The Impact of Political**  
**Interference on the Judiciary:**  
**India vs. Pakistan**, resurgence  
of judicial activism has been  
seen as a counter measure to  
political interference in the judicial  
decisions. Similarly, in Pakistan

**Lawyer movements from 2007-**  
**2009** were initiated to reinstate

the then chief justice who was removed by the President Pervez Musharraf on not following his commands. Thus, the legal lawyer movements initiated to restore democracy and judicial independence had achieved their little success by reinstating the chief justice Iftikhar Chaudhary at his position but failed to achieve its longtime goals. Democracy and judicial independence would only be possible when the political intervention in the judicial matters diminished.

In a nutshell, judicial independence is very important ~~to reestablish~~ and ~~strengthen~~ democracy in Pakistan. Because the political parties and their political agendas compete with the judicial independence in the field of

No consistency in paragraph length

power politics. Thus, political influence directly undermines the judicial authority and indirectly impacting the fundamental rights provision, judicial unity, public trust, democratic institution in a negative way. And consequently results into <sup>the way</sup> doctrine of necessity, judicial activism and legal movements in the way to restore judicial independence. As rightly said by the Justice Sonia Sotomayer;

Don't break paragraph for quotes

**An Independent judiciary is the corner stone of democracy**

No proper structure

And it is not impossible to establish judicial independence in an independent, democratic and sovereign country.