**Safeguarding Judicial Impartiality**

[Sajjad Rustamani](https://dailytimes.com.pk/writer/sajjad-rustamani/" \o "More Articles by Sajjad Rustamani)

May 6, 2024

The Supreme Court’s ongoing suo motu hearing into alleged interference in the judiciary has sparked a crucial conversation about the importance of judicial impartiality. The case, initiated following a letter from six judges of the Islamabad High Court, aims to protect the integrity and independence of the judicial process.

The Supreme Court’s suo motu notice has brought together a six-member larger bench to address the concerns raised by the Islamabad High Court judges. The bench has also entertained 11 separate petitions seeking to become parties in the proceedings, all urging the Supreme Court to investigate the alleged interference and ensure the independence of the judiciary.

During the military dictatorships of Ayub Khan, Yahya Khan, and Zia-ul-Haq, intelligence agencies were used to suppress political dissent and opposition. The judiciary was seen as a potential threat to the military’s grip on power, and intelligence agencies were used to keep judges in line. Judges who refused to toe the military’s line were often harassed, intimidated, and even removed from their positions.

Chief Justice and the Supreme Court must act beyond formal hearings and rhetoric to truly safeguard judicial impartiality.

This interference continued even after the return of democracy in the 1980s. Intelligence agencies continued to exert pressure on the judiciary, using tactics such as surveillance, wiretapping, and blackmail to influence judicial decisions. Judges who refused to cooperate were often subjected to harassment and intimidation, and some were even forced to flee the country.

A notable example of intelligence agency interference in the judiciary is the case of Justice Maulvi Mushtaq Hussain, who was removed from his position as Chief Justice of the Sindh High Court in 1996. Justice Hussain had been critical of the government’s handling of the judiciary and had refused to bow to pressure from intelligence agencies. He was subsequently removed from his position and forced into exile.

Another example is the case of Justice Iftikhar Muhammad Chaudhry, who was removed as Chief Justice of Pakistan in 2007. Justice Chaudhry had been a vocal critic of the government’s interference in the judiciary and had refused to take oath under the Provisional Constitutional Order (PCO) imposed by General Pervez Musharraf. He was subsequently placed under house arrest and subjected to harassment and intimidation.

The interference in the judiciary has had a profound impact on the rule of law and the independence of the judiciary in Pakistan. It has undermined public trust in the judiciary and has led to a lack of confidence in the legal system. It has also led to a culture of fear and intimidation, where judges are reluctant to speak out against injustice or challenge the government’s authority. Around the world, there are countless countries, that have faced similar challenges and have taken bold stands to safeguard judicial impartiality.

In South Africa, the Constitutional Court has consistently pushed back against political interference in the judiciary, including a landmark ruling in 2017 that upheld the independence of the judiciary.

In India, the Supreme Court has taken a strong stance against executive interference in the judiciary, including a 2018 ruling that struck down a law aimed at curtailing judicial independence. In the United States, the judiciary has a long history of asserting its independence, including a 1958 Supreme Court ruling that established the principle of judicial review.

These lesson-learned examples demonstrate that bold action is necessary to safeguard judicial impartiality and ensure that the judiciary remains a beacon of hope for the people. The Supreme Court’s suo motu case is a crucial step towards safeguarding judicial impartiality, but it must be followed by concrete actions to address the systemic issues that have led to external interference in the judiciary.

Islamabad High Court’s six judges’ letter against alleged interference in the judiciary is a crucial step towards safeguarding judicial impartiality and ensuring that the judiciary remains a beacon of hope for the people of Pakistan.

However, it is crucial to note that the Chief Justice and the Supreme Court must act beyond formal hearings and rhetoric to truly safeguard judicial impartiality. They must take concrete steps to address the systemic issues that have led to external interference in the judiciary and ensure that the judiciary remains independent and impartial.

*The writer is a freelance columnist.*