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Judicial Accountability and Immunity in Pakistan: Achieving Equilibrium to Reinforce Judicial Independence

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Abstract

In Pakistan, the three primary branches of government, the legislature, executive and judiciary fulfill distinct yet interdependent functions of lawmaking, law enforcement and adjudication, respectively. The judiciary, recognized as an independent institution and a fundamental pillar of the state, must uphold principles of fairness, impartiality and adherence to constitutional and legal frameworks. Judicial accountability and immunity are essential for maintaining judicial independence while ensuring integrity and public trust. These principles are not mutually exclusive but rather complementary; excessive judicial isolation may result in unchecked judicial discretion, whereas overly stringent oversight mechanisms could undermine judicial impartiality. This study critically examines the existing legal and institutional mechanisms governing judicial accountability and immunity in Pakistan. Study utilized a qualitative methodology to examine the structuring of these mechanisms that preserve judicial independence while ensuring accountability. Following the ethical standards, data is collected through open-ended interviews with ten participants associated with distinctive legal professions. It concludes that a nuanced understanding of these concepts is imperative for strengthening the judiciary, promoting justice and upholding the rule of law in Pakistan.

Keywords: Judicial Immunity, Judicial Accountability, Independence, Judicial ethics, non-liability

Introduction

In the recent few years all around the world including the Pakistan the concept of judicial immunity and accountability has been relevant issue for both the judges and judiciary (Kempfle, 2018). The notion of judicial immunity has been under discussion in Pakistan from past many years. The delusional aspect of this issue is that it is not only doubtful for common man but also creates reservations among legal experts (Khan,2022). When discussing judicial immunities, the issue of judicial accountability inevitably arises, as the two concepts are inherently interdependent. Judicial immunity serves to protect judges from external pressures and unfounded litigation, ensuring their ability to make



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impartial decisions. However, this protection must be balanced with mechanisms of accountability to prevent judicial misconduct and maintain public confidence in the judiciary. Thus, any discourse on judicial immunity is incomplete without a corresponding examination of judicial accountability, as both principles collectively contribute to the integrity and effectiveness of the judicial system (Shah et al., 2014). There exists a confusion in Pakistan related to these aspects of judiciary that necessarily be explained.

The main objective behind the study is to understand concept of judicial immunity and judicial accountability in Pakistan in order to find out the impact of judicial immunity and accountability over judicial independence in Pakistan and to analyze how judicial accountability and immunity in Pakistan can be ensured at the same time and how they can be reasonably evened. Gathering the data from semi structured interviews and discussion with legal expert, utilizing the available data, help to better understand diverse perspective of impact of judicial immunity and accountability on judicial independence in Pakistan. The findings of this study contribute to a better understanding of the concept of judicial immunity and accountability in legal system of Pakistan.

Methodology

This research employs a qualitative methodology. A selective group of ten participants was engaged in the study, including a retired judge, lawyers, prosecutors, a law professor and an officer from the Federal Judicial Academy (detail shown in table no,01). Data was collected through asking open-ended questions from nine participants in direct meeting while the official from federal judicial Academy participated through email. The data obtained from these interviews was transcribed and thematically analyzed to derive the final findings. Ethical considerations were meticulously upheld throughout the research process. All respondents voluntarily agreed to participate and share their insights. While they were well-informed about the study, they declined to be quoted directly; therefore, their confidentiality was fully respected and maintained. Prior to participation, all of them were thoroughly briefed on the research objectives and its significance. Additionally, they were assured that their contributions would be used solely for academic and research purposes.

Table no.01: detail of the participants

Participants	Designation	Work Experience
Participant no.01	Retired judge	Additional district and sessions judge (2003-2014) Judge anti-terrorism Court (2012-2013) District and sessions judge (2014-2017) Additional registrar (2015-2016) Judge national accountability court (2017-2022)
Participant no.02	Advocate	Advocate supreme court.
Participant no.03	Advocate	Advocate High Court. More than 15 year of practice.
Participant no.04	Advocate	Advocate high court practicing experience of more than 15 years.



Participant no.05	Member of federal judicial academy	Serving in directorate department in federal judicial academy
Participant no.06	Law professor	Law professor in KPK university from past 18 years
Participant no.07	Advocate	Advocate High court with 15 year practicing experience
Participant no.08	Advocate	Advocate High Court with more than 15 years practicing experience
Participant no.09	Prosecutor	08 years service
Participant no.10	Prosecutor	More then 6 years service

Literature Review

According to the Constitution of Pakistan (1973), the superior judiciary serves as the custodian of citizens' rights, as the fate of individuals and their fundamental liberties is closely tied to judicial decisions. Therefore, it is imperative to reconsider the judicial immunity granted to superior courts to ensure accountability in its true essence. In Pakistan, the concept of judicial immunity has been significantly misinterpreted, leading to a compromise in judicial integrity due to the absence of an effective system of checks and balances. The maintenance of judicial integrity necessitates a balanced approach, wherein superior court judges are granted reasonable judicial immunities that enable them to discharge their duties effectively while remaining subject to accountability. As judicial immunity and accountability are intrinsically linked, striking an appropriate balance between them is essential for upholding the credibility and effectiveness of the judiciary. (Quddus 2019) . The principle of separation of power is the most important feature of governmental structure that ensures the ability of government to perform its functions. The resolution passed by UN General assembly in 2004 put forward this concept that the principle of separation of powers along with judicial independence is the most important factor for democracy as the judicial independence is regarded as vital character and essential component of democratic achievement and also fundamental for assuring rule of law, rights and liberties. Independent judiciary is the main tool to attain equality without any discrimination (Zikira& Roofi, 2021).

In the current scenario the formulation and enforcement of judicial accountability rules are essential to safeguarding the independence of the judiciary. The Constitution of Pakistan acknowledges the significance of judicial accountability by establishing the Supreme Judicial Council (SJC), which serves as the primary forum for addressing complaints of misconduct against judges of the superior judiciary. This constitutional mechanism aims to uphold judicial integrity while ensuring that the independence of the judiciary is not compromised. The effective functioning of the SJC is crucial in maintaining public trust in the judiciary by striking a balance between judicial immunity and accountability (Hussain,2015). The constitution of Pakistan states that it is the right of every citizen to be protected and treated according to law and no one is above the law, whether it is an individual, judge or any other authority. The supreme judicial council is the constitutional institution where grievances against judges of constitutional court can be addressed. Judges are empowered



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to grant relief and settle disputes among litigants, along with this power there also comes a responsibility to decide the case fairly in accordance with law. Therefore, it is important to keep judiciary free and judges accountable (Zia et al., 2021). Judicial independence does not imply the absence of responsibility on the part of judges for their actions. Rather, independence without effective accountability can lead to the misuse and abuse of judicial authority (Shaheen, et al., 2017).

Therefore, judicial accountability is an essential component of both judicial independence and immunity. A judiciary that operates without accountability risks undermining public trust and the rule of law. Thus, a balanced approach, where judicial independence is preserved while ensuring mechanisms for accountability, is fundamental to maintaining the integrity and credibility of the judicial system (Kalanauri, 2020). It is essential that judges are granted certain immunities to enable them to perform their judicial functions fairly, independently, and without fear of external influence. Judicial immunity serves as a safeguard, protecting judges from specific legal liabilities that may arise in the course of their duties. Legal systems across the world incorporate provisions to ensure the protection of judicial actions, recognizing their significance in maintaining judicial independence. However, the concept of judicial immunity is not universally defined or explicitly explained. Importantly, such immunities must always be linked to judicial acts rather than to the individual judge. In Pakistan, the interpretation of judicial immunity has been broadened through various decisions of the superior courts. Nevertheless, it is imperative to clearly define the concept and scope of judicial immunity to prevent its misuse and ensure that it functions as a means of upholding judicial integrity rather than shielding judges from accountability (Munir, 2021).

Judicial accountability plays a crucial role in the independence of judiciary. Daily review of judicial progress is very much fundamental in order to avoid any gross misconduct or otherwise. It is through judicial accountability we can ensure the public confidence and trust upon judicial branch. Judicial independence is the basic element of fair governance and the rule of law but, it is also very important that judges should be independent from all the kind of personal interests, external influences, any fear and political interference so that they can fairly adjudicate disputes. This can only be done by establishing safeguards like tenure, removal procedure, job security as that they can only be removed from their offices on the solid grounds of misconduct or incapacity and also ensure that these measures should be taken for promotion of judicial transparency, accountability and independence (Hassan et al., 2023).

Judicial immunity safeguard judges from civil liabilities over the actions taken by them during the performance of judicial functions upon the issues over which they have jurisdiction. It also immunizes the judges from criminal prosecution even if his or her decision has been declared as wrong by superior courts. There are many significant rulings of Supreme Court and High Court declaring that judges are immune in the fair performance of their judicial functions (Munir, 2021). Judges in Pakistan have given legal immunity for their judicial actions under ordinary laws while superior judiciary enjoy privileges and protections under constitutional provisions (Shah, 2008)..

Judicial Accountability



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There is no extensive deep meaning of the term accountability as it differs according to context, but generally it describes as the liability to justify the performance of duties or action and answerability to person or authority. It usually describes the procedure that can make any body or institutions responsible to particular institution or authority. However, it is the role and duties of any institution or public officials that shapes the type of accountability keeping in mind legal and constitutional regulations. Same as the judicial accountability also differ from its other kinds. The procedure of judicial accountability differs according to constitutional legal, political, social and cultural situation and circumstances of the state (Huchhanavar,2023). Every branch of government has certain duties and also answerable to other organ. Government officials are accountable to judiciary but when the question of judicial accountability arises there are set principle and procedure that must be practiced while doing this. In modern day society it is pre requisite that all institutions should be accountable either to its principal body, other branch and most and most importantly to public because they all are for public service and could not be unrestricted. As according to basic elements of rule of law nobody is above law. Similarly, no organizations and institutions how much scared it be cannot be left uncontrolled (Karim, 2022).

Judicial Accountability and Judicial Independence

It is important that the judiciary remains independent of political, economic, or any other external influence. However, this does not imply that judges and judicial officers are free to act as they please. Undoubtedly, judicial independence is built upon public confidence, and for its preservation, judges must be held accountable whenever there is a suspicion of a breach of public trust by a judicial officer. In such cases, appropriate measures must be in place to conduct a proper investigation into the allegations (Chisholm,2014).

To uphold the rule of law, both judicial independence and accountability serve as fundamental pillars, ensuring a fair and transparent judicial system. Public confidence in the judiciary is not solely dependent on judicial independence but also on judicial accountability, which enhances the trustworthiness of judicial decisions. The enforcement of legal codes of conduct and ethical rules related to the judiciary serves as a fundamental basis for judicial accountability (Chandranegara,2019). In its true sense, accountability reinforces judicial independence and upholds the rule of law, as both principles are closely interrelated. Judicial accountability encourages judges to perform their duties in accordance with the law, while judicial independence protects them from unlawful influences (Huchhanavar, 2022). Furthermore, judicial accountability fosters judicial competence, as a fundamental principle of the rule of law is that judicial decisions should be reasonable and based on legal principles rather than being arbitrary. Judicial competence, independence, and integrity collectively strengthen the rule of law, making it essential to ensure both accountability and judicial independence (O'Connor, 2008)

Concept of Judicial Immunity

Judicial immunity is the protection of judge from personal suit for any of his or her official actions as a judge. It protects the judges and court officials which are employed in the judiciary from any liability resulting from their judicial actions.



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It ensures that judges must make their decisions without fear of any consequences. Judicial immunity protects the judge from the civil liability for the acts they perform which are in pursuance with their judicial actions function (Jurcena,2024). In Pakistan judges have been given wide variety of powers in light of judicial precedents. Chief Justice of the high court and the supreme court have been given a lot of powers with regard to the administrative executive and the legislative work of the relevant court. Higher courts have to make rules and procedures for the subordinate courts (Cheema,2018). According to the judicial officer protection act the immunity is only to the extent of civil liability when they are acting in good faith and there is no immunity from the criminal proceedings (Munir,2021). Immunity is basically the personal favor granted by the law. The judicial immunity is mandatory for resolving legal disputes protecting the rights of the citizens of the country and judicial immunity also restricts the illegal actions of the government (Quddus, 2019).

Judicial Immunity and Judicial Independence

Judicial independence is reinforced by granting judges immunity from civil liability, ensuring that they can perform their duties without undue pressure or fear of personal consequences. Judges enjoy absolute immunity from civil liability for actions undertaken as part of their official responsibilities (Kotby,2022). This protection is essential to prevent judges from being deterred in the vigorous execution of their duties. Judicial immunity is particularly necessary to safeguard judicial independence, as judges are often required to rule on controversial and complex cases. Without such protection, dissatisfied litigants could initiate litigation against judges in an attempt to seek financial compensation for perceived damages, thereby undermining the judiciary's ability to function impartially and effectively (Shaman, 1990).

Judicial immunity serves to protect judges from false imprisonment, malicious prosecution, and defamation, ensuring that they can perform their duties without fear of legal repercussions. Judges enjoy judicial immunity to shield them from civil liability, even in cases where an act is carried out with malice or intentional disregard for the law. This protection is essential for maintaining judicial independence, as it prevents external pressures from influencing judicial decisions (Judge et al.,1974).

However, it is necessary to establish a form of qualified immunity, similar to that granted to members of the executive branch, which provides sufficient protection for judicial independence while also holding judges accountable for wrongful acts. It is important to note that judicial immunity is absolute only when applied to actions that are judicial in nature (Baude,2018). However, there is no universally accepted definition of what constitutes a judicial act, and certain actions may fall outside the scope of judicial immunity. When an act is part of a judge's judicial function, absolute judicial immunity means that judges cannot be held liable, even if the act is performed maliciously or corruptly (Shaman,1990).

Judicial immunity is crucial for ensuring the independence of the judiciary and the proper administration of justice. If judges were held personally liable for their judicial decisions, they would be unable to perform their duties effectively and without external influence. Judicial immunity also plays a fundamental role in preserving the finality of court orders and maintaining the dignity of the judiciary. Recognizing the significance of this principle, the Supreme Court of



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Pakistan has ruled that the financial accounts of the superior judiciary will not be subject to audit by external entities, further reinforcing judicial independence and institutional autonomy. (Munir,2021). The National Judicial Policy (2009) was formulated in order to strengthen the independence of judiciary as well as to eradicate the evils like corruption from it through rules and regulations targeting the various loop holes in it and by making it accountable as well. The main goal of National Judicial Policy 2009 is to uplift the judicial Independence by enabling the judiciary to exercise its immunities independently and fairly. It also stresses upon the fair and proper judicial conduct of the judges to maintain the clean image of judiciary.

Findings

Below are given some findings through which both can be balance without compromising judicial independence.

Internal Accountability

Data revealed that judicial independence is a fundamental characteristic that upholds the judiciary as a symbol of justice. One of the participants stated that judicial independence reinforces public confidence by ensuring that the judiciary can adjudicate cases impartially and without external influence. Judicial independence necessitates that the judiciary remains free from control or interference by any other branch of government, particularly the executive and political entities. A relevant example is the Pakistan Bar Council, where complaints against advocates are addressed exclusively by its own disciplinary committee. This mechanism ensures the integrity and accountability of legal professionals while preserving the autonomy of the legal system. (Participant.no.08)

Balancing Accountability and independence

Balancing judicial accountability and independence explored as is another theme of the study. A few participants shared the same view that robust internal accountability mechanisms play a crucial role in ensuring judicial integrity and maintaining public trust. Independent judicial councils, composed of legal experts, serve as effective bodies for investigating complaints against judges in a fair and impartial manner. Operating free from bias and undue influence, these councils enhance judicial accountability while preserving judicial independence (Participants No. 10 & 04).

Others stated that Judicial oversight committees, consisting of judges, function as effective mechanisms for maintaining accountability while safeguarding judicial independence. Judges, as legal experts, possess a comprehensive understanding of both judicial immunity and accountability. These committees are entrusted with the authority to investigate allegations of professional misconduct within this framework, effectively balancing judicial immunity and accountability to uphold the integrity and independence of the judiciary (Participants No. 01, 04, 05, 07 & 10).

One of the participants stated that external accountability mechanisms risk exposing judges to undue external influences, potentially compromising their ability to adjudicate cases impartially. Judicial independence remains essential for fair and unbiased decision-making, and excessive external oversight could



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undermine this principle by subjecting judges to political, social, or institutional pressures. While accountability remains necessary, its structure must prevent undue interference in judicial proceedings (Participant No. 07).

Protective Role of Judicial Immunity

Protective role of judicial immunity explored as a major finding of this study. Participant no.09 of the study shared his viewpoint that primary responsibility of judges is interpretation and application of legal principles in adjudicating the cases. In performing their judicial functions, they are guided by established legal doctrines and precedents. Judicial immunity is granted to protect judges from legal liability arising from their official judicial actions, ensuring their ability to decide cases independently and without undue influence. However, it is crucial to recognize that judicial immunity should not serve as a shield for judicial misconduct. Instead, it must be carefully balanced with mechanisms of accountability to uphold judicial integrity and public trust in the legal system. Other participants stated that the contemporary legal systems emphasize the importance of simple and precise legislative drafting to effectively convey legislative intent while limiting excessive judicial discretion. Clear, comprehensive, and consistent laws can resolve many legal issues by minimizing ambiguities that may otherwise lead to judicial overreach. A significant concern associated with judicial immunity is the potential for judges to render unfair decisions under its protection, knowing they are shielded from accountability. This risk is particularly pronounced when laws are vague, incomplete or inconsistent, allowing judges to interpret statutes based on personal discretion rather than established legal principles (Participant no.01).

Clarity in application of laws

Clarity in application of laws explored as another significant finding that is essential for balancing judicial immunity and accountability. One of the participants shared that superior courts have, at times, interpreted laws in multiple ways in cases with similar facts, creating inconsistencies and misunderstandings. Such discrepancies pose a serious threat to fair adjudication as judges may apply interpretations that serve their own interests. In matters of constitutional interpretation, it is crucial to establish larger judicial benches to ensure a unified interpretation of the law, making such rulings binding on all courts. A legal framework characterized by clarity, unanimity, and consistency in interpretation serves as an essential tool for balancing judicial immunity and accountability. Judges may apply the law as it is written, without personal interpretation, thereby ensuring decisional fairness and reinforcing judicial accountability. Achieving this balance is complex without clear legislation, and its strict implementation is necessary to prevent judges from exceeding statutory limitations (Participant no.06).

Clear standards and boundaries

Findings revealed that a balanced approach to judicial immunity and accountability can be achieved by establishing clear and well-defined standards. Both principles function as safeguards, enabling judges to administer justice with confidence and responsibility within the framework of law and fairness (Participant no.09). To preserve judicial independence, it is essential to set clear boundaries, ensuring that neither judicial immunity is overly broad nor judicial



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accountability is misused as a tool for harassment. Establishing precise criteria is crucial to determine when judicial immunity applies and when it should be waived. Limiting immunity strictly to acts performed in a judicial capacity—excluding personal misconduct or corruption—reinforces judicial integrity (Participant no.04). The implementation of strong and unambiguous laws is necessary to maintain an equitable balance between judicial immunity and accountability, clearly distinguishing decisions made in good faith from those influenced by malice (Participant no.10).

Judicial Transparency

Findings revealed that Judicial transparency is essential in all aspects, from the appointment process to judicial proceedings. A fair, transparent and impartial accountability mechanism, particularly within the Supreme Judicial Council which is the primary body overseeing judicial accountability, can positively impact judicial independence. However, if inquiries against judges are influenced by political or external pressures, judicial independence is undermined (Participant no.10). Another participant expressed that disciplinary actions against judges must be conducted transparently and without undue interference. While both judicial immunity and accountability are necessary, they can also be misused; therefore, maintaining judicial excellence at every stage is crucial. Misconduct cases must be handled with transparency, excellence, and proportionality to preserve judicial independence while ensuring accountability (Participant no.04).

Balancing Discretion for fairness and justice

Balancing discretion for fairness and justice explored as main theme of the study. Two of the participants of the study expressed that fairness and justice are objective concepts that often give rise to differing opinions, particularly regarding the discretionary powers granted to judges. While these powers are essential for impartial decision-making, concerns arise about their fairness and potential for misuse. The exercise of discretionary authority is an integral aspect of judicial decision-making; however, it presents the potential risk of misuse, allowing judges to extend undue favors under the safeguard of judicial immunity. To mitigate this concern, discretionary powers may be regulated by well-defined guidelines that judges are obligated to adhere to. In instances of non-compliance, accountability mechanisms may be implemented to uphold the balance between judicial discretion and responsibility. The establishment and enforcement of clear guidelines distinguishing judicial misconduct from legitimate discretion are imperative for preserving judicial integrity and ensuring fairness within the legal system (Participant no.01 & 04).

Strong Oversight Mechanism

Finding revealed that a well-functioning system of judicial oversight and accountability is crucial for preventing the judiciary from exceeding its authority or engaging in misconduct. The establishment of oversight committees, composed of judges with the authority to investigate judicial conduct, enables adherence to legal boundaries. These committees must develop a comprehensive framework for evaluating judicial performance.

One of the participants stated that such mechanisms ensure that judicial



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independence is preserved while holding judges accountable for their actions, ensuring that judicial immunity is exercised responsibly. However, concerns have been raised that judges investigating their peers could disrupt judicial functioning by fostering internal criticism (Participant No. 08).

Another stated that unchecked authority can be misused for personal gain or blackmail, highlighting the necessity of a supervisory panel within these oversight bodies. This additional layer of regulation would ensure accountability within the oversight process itself, preventing abuse of power and maintaining the delicate balance between judicial independence and accountability (Participant no.01).

Collaboration of Stakeholders

To ensure judicial accountability and balancing judicial immunity, collaboration between stakeholders explored as one of the significant themes of the study. As one of the participants of the study clearly expressed his viewpoint that judiciary cannot effectively perform its functions without the support of the executive and legislative branches. Ensuring judicial independence and fair decision-making requires collaboration among all stakeholders. Balancing judicial immunity and accountability is particularly complex in Pakistan, where immunity often prevails in many instances. Given this context, fostering dialogue among the executive, legislature, judiciary, bar associations, and civil society actors is crucial for developing a mutual consensus on this issue. All stakeholders must engage in discussions, share practical insights, and propose solutions that not only harmonize judicial immunity and accountability but also strengthen other branches of the state (Participant no.06).

Misconception about Judicial Immunity and Accountability

Data revealed that one of the primary reasons for the tension between judicial immunity and accountability is the widespread misunderstanding of these concepts. One of the participants of the study stated that in Pakistan, misconceptions about judicial immunity often led to public criticism of the judiciary. Some believe that judicial immunity serves as a shield for corrupt judicial practices, while others view judicial accountability as a tool for political pressure and blackmail, exacerbating the conflict between the two. The more these concepts are misunderstood, the greater the tension surrounding them. Therefore, the judiciary must take proactive steps to address public concerns and criticism. (Participant no.07)

Another participant emphasized that conceptual clarity is particularly important in maintaining judicial independence. Judicial immunity is designed to protect judges from frivolous lawsuits that could undermine their ability to make independent decisions. Without it, judges could be subjected to constant legal threats from dissatisfied litigants, compromising their judicial authority. Simultaneously, judicial accountability is necessary for ensuring the fair administration of justice. Balancing these principles requires a clear and well-communicated understanding of their roles in a functioning legal system (Participant No. 09).

Judicial Accountability and Political Interference

Judicial accountability and political interference explored as a significant theme



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of the study. Three of the participants of this study openly expressed that in Pakistan's current legal landscape, judicial accountability is often misused as a tool for political victimization rather than serving its intended purpose. Executive and legislative overreach in judicial matters has weakened judicial independence, particularly following the 26th Constitutional Amendment, which has further extended such interference within the judiciary (Participants No. 05,03 & 02).

Another participant shared his viewpoint that a significant concern is that judicial accountability processes in Pakistan appear selective, often driven by political motivations and the interests of powerful individuals. This has turned accountability into a tool for political harassment rather than a mechanism for ensuring judicial integrity. Numerous instances highlight how judicial accountability mechanisms have been exploited for political purposes, with judges being investigated for misconduct primarily due to political biases rather than genuine concerns (Participant No. 09).

Limitations of Judicial Immunity

Data revealed that the notion that judges are absolutely immune from all forms of decisional liability and cannot be held accountable is a misconception. One of the participants stated that it is crucial to distinguish between illegal, irregular and void decisions to maintain a balanced approach to judicial immunity. Immunity should apply only to irregular decisions; those made in adherence to legal requirements but containing procedural errors, while illegal and void decisions must be subject to scrutiny and investigation (Participant No. 03).

A few participants expressed that Judicial immunity should be granted only when decisions are made in good faith and within the framework of the law. Judges, being human, are prone to errors; therefore, mechanisms such as appeal and review processes exist to rectify judicial mistakes without imposing personal liability (Participant No. 03). However, removing judicial immunity entirely could lead to constant legal threats from dissatisfied litigants, ultimately compromising judicial independence and decision-making (Participant No. 09).

Thus, judicial immunity must be limited to lawful and bona fide judicial actions, ensuring accountability for illegal or arbitrary rulings while protecting judges from undue pressure and frivolous lawsuits.

Conclusion and Recommendations

Study concluded that there exists an intricate relationship among judicial immunity, accountability and independence in Pakistan's judicial system. Judicial immunity is established to shield judges from undue influence, fear and interference, ensuring impartial and unbiased decision-making. However, excessive reliance on immunity may weaken judicial accountability, potentially undermining public trust.

Judges should be immune from liability for their judicial decisions, but this immunity should not extend to personal misconduct or unethical behavior. A balanced approach, preserving judicial independence while enforcing accountability ensures that judges deliver fair and timely justice while upholding high ethical standards. Both judicial immunity and accountability are interconnected and essential to an effective judicial system. The more precisely these principles are implemented, the greater the likelihood of ensuring justice.

However, following are some key suggestions for improving judicial



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accountability, preserving judicial immunity in a bonafide manner and achieving equilibrium reinforcing judicial independence, so it could be sustained in true manner.

- 1- The best technique to discipline judges is to promote internal regulatory mechanisms by establishing disciplinary panel and Committees etc. at all levels dealing with different judicial aspects. It will promote judicial independence and reduce external influences upon judiciary.
- 2- The enforcement of well defined, unanimous code of conduct that can be followed by all levels of judges. Judicial misconduct and disciplinary action may be made more well formalized. Formal criteria for the examination of judicial working and identification of misconduct can be introduced as in Belgium where the time line for decision have been given and judges are held accountable in case of delay in deciding case.
- 3- For evaluation of judicial performances, the inspections mechanism may be strengthened at all level. Evaluation may be skilled based rather than content-based.
- 4- Introduction of a refined mechanism by which judges who negligently doing decisional error could not enjoy immunity and be made liable.
- 5- Investigating teams comprising of legal experts and analysts may be created, for finding out the major barriers in attaining equilibrium and then bring out appropriate practical solutions of all these challenges.
- 6- Oversight bodies similar to the Supreme Judicial Council can be established at the provincial level, promoting independent accountability of lower courts.
- 7- Discretionary powers only be used within a defined framework, if a decision is made against these standards, the judge may be held accountable.
- 8- Limitations of judicial accountability and immunity may be well understood by all branches of states and by general public as well, which can only be created through clarified laws. It is necessary that parliament can play its proactive role in this regard by enforcing well defined laws.
- 9- Disciplinary actions can be limited up-to extend of their malicious decision. Judges can only be accountable in their administrative capacity not otherwise. All these would clarify the limits of judicial Immunity and the instances of judicial accountability.
- 10- The correctional criticism upon judiciary can be allowed in order to make it more functional and responsible. Open court proceedings may be promoted in order to gain public confidence and trust.
- 11- Publication of judicial decision may be promoted. Mechanism of registration of formal complaint can be introduced. Public access to justice in easiest way can be ensure.
- 12- State can play an active role and may take the responsibility by providing the compensations to the victim of judicial misconduct. Laws making state responsible can be introduced for providing other remedies to the victims of judicial misconduct.
- 13- The judicial training and educational programs through which judges could gain required professional skills, necessary knowledge can be introduced at all levels. Inclusion of training sessions for the judges enlightening them with the basic principles of Islamic law.



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- 14- There is need to review the doctrine of judicial independence. It is necessary to balance this doctrine in such a way the accountability of judiciary could be withheld without ignoring judicial immunity. There is a need of interpretation of this doctrine in such a way its essence could be unfold.
- 15- Legal awareness through seminars, educational program, workshops etc. in all sectors of society can be promoted.
- 16- Procedure of judicial appointments can be review. Meritocracy is needed at all levels. Lower courts appointment in conformity with constitutional value creating an independent body assigned with relevant task is important.

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