ENFORCING POLITICAL ACCOUNTABILITY FOR DECISIONAL INDEPENDENCE ON APPOINTED JUDGES

A Discussion on The Rights of Judges Facing an Impeachment (or similar) Proceeding

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Judges exercising the power of judicial review engage in policy determination, thus, encroaching upon the tradition domain of the executive and legislative branches of government. Executive branches of emerging democracies exhibit an observable resentment towards judicial interference. Courts which are deemed to have abused their decisional independence are subjected to institutional attacks by impeaching judges antagonistic to the regime in order to neutralise the judiciary. This seminar seeks to determine the relationship between the exercise of the decisional independence of judges and abusive demands for judicial accountability in emerging democracies. It proceeds from the assumption that although impeachment and similar proceedings are administrative in nature, they are highly political and are consequently politicised. In this seminar, the speaker will compare identified trends between impeachment (and similar) proceedings in Malaysia, Peru, Pakistan, the Philippines and Sri Lanka, identifying specific areas that should be addressed. Despite recognising that an impeachment proceeding is a domestic political matter, the speaker also argues that the international community must step up its efforts to protect judicial independence by safeguarding the fundamental rights of judges facing impeachment proceedings.