



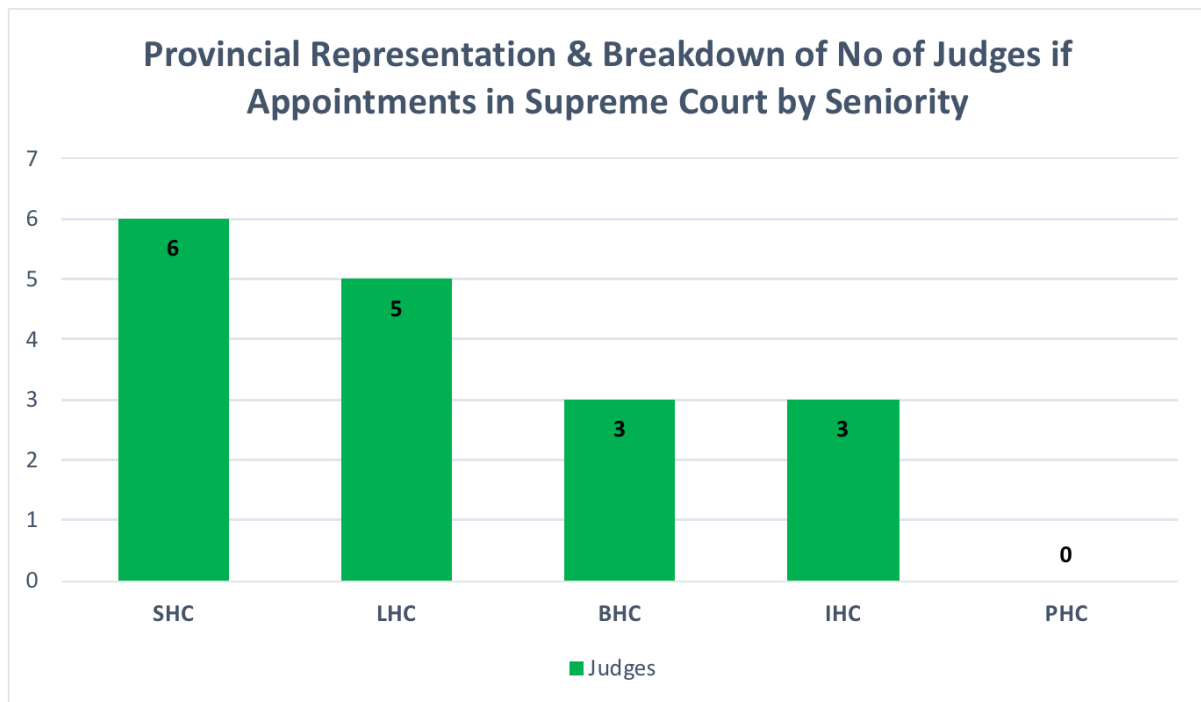
WOMEN IN LAW INITIATIVE PAKISTAN

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Impact of Seniority on Representation in Supreme Court

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We took a quick look at what would happen in terms of representation if appointments to the Supreme Court indeed start being made on the basis of seniority. Here is what we found and we analyse below:



Source: High Court Websites and Dates of Retirement of Judges in the High Courts and Supreme Court. Data Calculated by Women in Law Initiative Pakistan team based on Seniority of High Court Judges vis a vis Dates of Existing and Future Vacancies arising in the Supreme Court of Pakistan between 2023 – 2031.

We found that Sindh stands to have the highest number of judges 'elevated' if seniority is applied whereas KP will have 0 representation at all between 2023-2031 if seniority is followed.

Interestingly, Hon' J Qazi Faez Isa put forth Justice Mussarat Hillali's name to be proposed for appointment against the existing vacancies which is in lieu of seniority principle in strict sense of the term.

If this happens, KP won't just have representation in SC for next 3 years but, number of women in SC will also increase from 1 to 2 and then with Justice Aalia Neelum's 'elevation' on basis of seniority in 2026, the number will increase to 3 women in SC by 2026 till Justice Hillali retires

on August 7th 2026. Upon J Hillali's retirement at age of 65 (if she is elevated now) there will again be only 2 women in SC till 2028.

After 2026 the next appointment of a female too will become much delayed and uncertain as the 3 of remaining 4 females judges (who won't get elevated on basis of seniority between 2023-2031) in the HC are set to retire by 2024 whereas only 1 is set to retire in 2038. Some 21 male judges will be senior prior to that 1 female so it is unlikely she will have the chance of being 'elevated' to the Supreme Court.

As the data shows however, if Seniority is strictly applied Khyber Pakhtunkhwa will have NO representation for the next 8 years at least i.e. till 2031. Seniority is therefore, anti-representation particularly for some provinces.

If appointments process is not reformed with a gender and inclusion lens, or worse, if seniority is entrenched, then this is what is the likely outlook and prospects of the court's composition.

To the argument that seniority has not been argued by anyone in the strict sense that we have applied here to make a point and insist that,

"Demands have all been for seniority as between judges of a particular High Court (and not on nationwide basis). Obviously, that's because all smaller provinces want defined representation/quota in Supreme Court too."

We say that there can be no either/or, either it is 'seniority', or it is other factors that impress upon the decisions for judicial appointments rooted in 'representation'. If it is the latter then why only provincial representation, why not gender or ethnic or religious for that matter?

It is disingenuous to only argue for provincial representation mixed with seniority and ignore these other important stakeholders that need to be represented in Supreme Court as well.

If demands have been made for seniority as between judges of a particular High Court for provincial quota, well then so have they been for gender and other representation of minorities etc so why be selective and ignore our demands? Are we (women, minorities etc) not stakeholders enough?

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