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### From Juridical Idealism to Institutional Decay: The Rule of Law Conundrum

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#### ABSTRACT

*This article examines the rule of law as a foundation of Pakistan's legal and constitutional system, endorsing fairness, accountability, and judicial independence. However, its enforcement is often weakened by political influence, inefficiencies in the judiciary, and unfair application of laws. Weak institutions, long court delays, and government overreach further reduce legal certainty and public trust in the justice system. The 26th Constitutional Amendment has raised serious concerns about judicial independence by changing how judges are appointed and increasing the risk of political control over the judiciary. This article also looks at how Pakistan's legal system aligns with international laws while highlighting repeated challenges in its implementation. Outdated laws, unfair enforcement, and lack of transparency in the judicial process create governance issues and limit access to justice. The absence of fair judge appointments, proper legal aid, and strong accountability measures makes the situation worse. This article finally suggests the need for institutional reforms to protect judicial independence, improve court efficiency, and introduce digital case management. Strengthening alternative dispute resolution (ADR), protecting marginalized groups, creating independent oversight bodies, and increasing public legal awareness would help uphold the rule of law. A truly independent judiciary, clear separation of powers, and a strong commitment to protecting fundamental rights are necessary for a stable democracy. Without urgent reforms, the decline of judicial fairness and legal equality will continue, weakening Pakistan's governance and social justice system.*



## **Evolution and Global Significance**

The theory of the “Rule of Law” is a universal recognition, yet it is subjective and weighed down by values. In modern discourse, it is widely regarded as a key source of governmental legitimation and understood as a political ideal. The genesis of this concept can be traced back to the Magna Carta, which established the monarch’s subjugation to the law.<sup>1</sup>

In England, the principle that individuals shall not be subjected to arbitrary action but rather be judged by their peers. This concept was further developed by scholars such as Bracton, Fortescue, and Sir Edward Coke. Attributed to Edward Coke, this notion asserts that even the sovereign is bound by the law, consequently sustaining the primacy of legality. He championed the supremacy of traditional common law over monarchical and executive authority.

This notion is derived from the French expression “la principe de legalite”, the “rule of law” denotes a governance paradigm predicated on legal principles rather than human caprice. The concept itself has a rich historical pedigree, traceable to medieval ideas of law as a transcendent force. Throughout history, humanity has invoked higher authorities; “Jus naturale,” “Law of God,” “Social contract,” or “Natural law” to legitimize the rule of law, a principle that remains a central principle of modern jurisprudence.<sup>2</sup>

Similarly, A.V. Dicey, a well-known legal scholar from Oxford, proposed the idea of the rule of law in British legal principles in 1915. He accentuated that in England, no one can be punished or held responsible for something unless it is clearly prohibited by law. This principle perpetuates that laws, not personal or arbitrary decisions, determine punishments. Instead, the ordinary courts determine the legal rights and liabilities, and the individual rights form the infrastructure of the constitution. Such perception aims to restrict government power and safeguard individual rights, endorsing the supremacy of law over both individuals and authorities.<sup>3</sup> At its core, the percept of rule of law authorizes that all persons, nevertheless of social status or designation , are subject to the law and treated equally. Furthermore, the rule of law is not just about having laws in place; it also perpetuates that individuals have fundamental freedoms, human rights are protected, and everyone is treated equally under the law, without discrimination or arbitrary decisions.

A.V. Dicey's distinguished contribution, “Introduction to the Study of the Law of the Constitution”, expounded five key principles that generally define the rule of law: (1) the outright preeminence of regular law over subjective and frivolous power; (2) the vacancy of discretionary powers and immunities; (3) the stipulation of a noticeable transgression and due process for punishment; (4) Equality before the law; perpetuates that all individuals, regardless of status or class, are subject to the same laws, with no special privileges, and are tried in ordinary courts. (5) Rights as the basis of constitutional laws; the constitution derives its authority from individual rights, which are defined and upheld by the courts.

The perception of the rule of law, often attributed to Dicey’s seminal work, has a rich historical pedigree traceable to ancient Greece, evident in the works of Plato and Aristotle. The principle was subsequently adopted and developed by the Romans and Christian thinkers, notably St. Thomas Aquinas. In the Western liberal democratic tradition, including the United Kingdom, the rule of law has been perceived as a cornerstone, but notably, Islamic tradition also embraced the rule of

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<sup>1</sup> The Myth of Magna Carta (c.1215–1272) 2023 · A Historical Introduction to English Law

<sup>2</sup> From a Principle to a Rule of Customary International Law? Simon Marr 2003 · The Precautionary Principle in the Law of the Sea

<sup>3</sup> A.V. Dicey (Introduction to the Study of the Law of the Constitution, 1915)

law long time ago, with the Prophet Muhammad (P.B.U.H) proclaiming that no one is superior or ahead of the law, exemplified by the caliphs Umer and Ali (R.A) submitting to judicial scrutiny. So, It is imperative to recognize that Dicey did not conceive the rule of law; rather, he proffered his own interpretation of this established concept. However, Holdsworth has substantiated, the rule of law holds its provenience in the medieval notion that law, regardless of its source, should govern the world.<sup>4</sup> Aristotle is recognized as the first to differentiate between the rule of law and the rule of individuals, arguing for the superiority of government by laws over government by men. Aristotle astutely observed that the Rule of Law is predominant over individual rule.<sup>5</sup> This idea also has historical roots in Bracton's 13th-century writings, which stated that Monarchs are also dependent on the law, with the emperor being accountable to God and the law, as ultimately, it is the law that makes the king, a king in true sense.<sup>6</sup> In essence, the rule of law assures that collectively the citizens, including policy makers (Parliament), are accountable and bound by the law, promoting an orderly and just society.

Moreover, the rule of law encompasses coordination before the law, fairness, supremacy of law, accountability, separation of powers, judicial independence, participatory decision making, good governance, legal inevitability, procedural rights like personal hearings and transparency.<sup>7</sup> Common law systems often invoke phrases like Audi Alteram Partem as an essential facet of the rule of law. As Lord Denning stated, a fair trial is essential, and a legal system failing to provide it is intolerable.<sup>8</sup>

### **Defining the Rule of Law: Principles, Applications, and Contrasts**

The rule of law principle posits that the entire society, in addition to governmental entities, are liable to be subjected to the legal authority. This concept secures freedom and liberty within legal boundaries. The social contract between citizens and rulers, as well as legislative purposes, also aim to achieve this. It establishes a fair and orderly society, applying universally and prospectively, benefiting individuals and collectives. For that purpose, it is a crucial component of good governance, and deviations from it have detrimental consequences for individuals, the public, and the state.

According to the United Nations, the rule of law is a governance principle that holds all individuals and institutions, including the state, accountable to publicly declared, uniformly applied, and independently adjudicated laws.<sup>9</sup> This principle requires consistency with cosmopolitan human rights criterion and standards, as well as norms endorsing adherence to key tenets such as equality before the law, predominance of law, equal accountability, separation of powers, fairness, participation in decision making, avoidance of arbitrariness, legal credence and legal and procedural transparency. At its core, the rule of law mandates that the ruling authority; be adapted solely in consonance with clear, written, publicly disclosed laws, adopted and enforced through

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<sup>4</sup> William Holdsworth (A History of English Law, 1922); Should the Rule against Perpetuities Discard Its Vest? Daniel M. Schuyler 1958 · Michigan Law Review

<sup>5</sup> Aristotle (Politics, 350 BCE); Rhetoric, Emotions and the Rule of Law in Aristotle Daniel Simão Nascimento 2018 · Law and Philosophy Library

<sup>6</sup> Alan Watson (The Evolution of Law, 2003); The Law of God and Law of the King Weiying Zhang 2020 · Ideas for China's Future

<sup>7</sup> Non-judicial legal accountability Guillermo Jiménez 2021 · Accountability and the Law

<sup>8</sup> Prejudicing a fair trial Lord Denning 1980 · The Due Process of Law

<sup>9</sup> Accountable Institutions, Trustworthy Cultures Onora O'Neill 2017 · Hague Journal on the Rule of Law

established procedures. As a substantive legal principle, it asserts that each and every person is subject to the regular law within a jurisdiction. This principle serves as a bulwark against capricious governance, encompassing: (1) the segregation of powers and the domination of traditional law; (2) legal certainty; (3) the principle of legitimate expectation; and (4) legal equality for all. These components collectively ensure the preeminence of rule of law, safeguarding individuals against discretionary exercise of power and upholding the convention of justice and fairness.

The antithesis of rule of law is the rule of person, which glares in two forms: firstly, the ‘rule of few persons’, characterized by tyranny and oligarchy, and secondly, the ‘rule of one person’, exemplified by dictatorship or martial law administration.<sup>10</sup> Conversely, it is underpinned by four fundamental principles: 1. Accountability: Both governmental and private entities are subject to legal accountability. 2. Just Law: Laws are transparent, stable, and just, endorsing equitable application, protection of fundamental rights, and security of individuals and property. 3. Open Government: The mechanisms of lawmaking, administration, including enforcement are transparent, objective, and adequate. 4. Easily Accessible, Impartial and fair dispute resolution: Just outcome is made in a prompt manner by impartial, ethical, competent, and independent representatives who are reachable, well-resourced, and reflective of the general public they serve.

### **Rule of Law and Human Rights in Constitutional and International Frameworks**

When drafting the Constitution in the 1970s, the National Assembly of Pakistan was cognizant of the global tendency towards widening the rule of law in domiciliary regimes. As Aristotle posited in “The Politics”, “Where there is no rule of law, there is no constitution,” stressing the intrinsic link between “Rule of Law” and the enforcement of basic civil freedoms.<sup>11</sup> Even if the Rule of Law solely limits government arbitrariness and perpetuates equality under the law, this definition inherently covers Human Rights. An action becomes arbitrary when it violates another’s rights, and without accountability, justice is compromised, and the legal system is undermined. Therefore, excluding Human Rights from the components of “Rule of Law” is unjustifiable, as without “Rule of Law”, Human Rights remain elusive and illusory. Hence, The shelter, preservation and stability of individual liberties is a crucial aspect of the “rule of law” doctrine, recognized by legal scholars, jurists, and various constitutions worldwide. The US Constitution, for instance, personifies the originators’ deduction in the rule of law, endorsing that the Executive and society are monitored by law, rather than subject to the passing thoughts of a potentially unpredictable monarch. Initially, the United States Constitution did not encompass fundamental rights, but subsequent amendments, particularly the 5th and 14th Amendments, assured rights to citizens and established the “rule of law and due process”. These amendments have been interpreted to limit not only arbitrary executive powers but also legislative powers, leading to the invalidation of statutes that infringe upon fundamental rights and incentives. The US Apex Court has upheld that Congress cannot encroach upon local rights of person or property, ultimately uplifting the primacy of the ruling of law.<sup>12</sup>

The international momentum towards basic human liberties protection inevitably influenced domestic spheres, prompting states to enshrine or bolster these central rights safeguards in their Constitutions or fundamental laws. A proactive judiciary subsequently emerged as a crucial

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<sup>10</sup> The Rule of Law Under Siege, but Which Rule of Law? Laura A. Dickinson 2020 · Hague Journal on the Rule of Law

<sup>11</sup> ‘Where the laws do not govern, there is no constitution’ – On the relationship between the Rule of Law and constitutionalism, Wojciech Włoch 2020 · Rule of Law, Common Values, and Illiberal Constitutionalism

<sup>12</sup> Dred Scott v. Sandford (1857)

guarantor of constitutionally entrenched human rights, endorsing their protection, advancement, and expansion. Notably, Western scholarship often attributes the genesis of human rights to Anglo-Saxon traditions, referencing key historical documents such as the Magna Carta {Greater Charter}(1215), the United States Declaration of Independence (1776), and the French Declaration of the Rights of Man and of the Citizen (1789) as fundamental precursors to modern discussions on human rights. The rule of law and basic human rights are inextricably linked, the former being a necessity for the assertion of the latter in a court of law. It has evolved into a universal obligation, transcending specific systems of government and now is widely recognized as a fundamental right, with the UDHR approving the intrinsic relationship between “the rule of law” and the “basic human rights”. The UDHR acknowledges the “rule of law” in its preface, vaguely asserting that basic individual rights should be guarded by the “rule of law”. Notably, the ICCPR and the ICESCR do not cover the “rule of law”. The Human Rights Council (HRC) has actively promoted “the rule of law” through various resolutions and special procedure mechanisms. The concept is ingrained in the UN Charter, aiming to enact prerequisites for maintaining justice and estimation for international law. The United Nations primary purpose is to resolve international disputes peacefully, conforming to legal principles of fairness & justice through the compliance of international law, thereby endorsing the “rule of law”.<sup>13</sup>

The 1948’s human rights universal declaration document accentuates the “rule of law” as crucial for protecting human rights, stating that its absence may lead to insurgency against authoritarianism and domination.<sup>14</sup> The acknowledgement sheds light on the “rule of law” as an intersectional issue, coupling the three pedestals of the UN: peace and surveillance, human freedoms, and advancement. The global human rights framework comprises criminal law, humanitarian law, refugee law, and international human rights law. The Human Rights Convention has guided the task of the “Inter American Commission” and “Court of Human Rights”. Similarly, the “Arab Charter on Human Rights (2004)” and “African Charter on Human Rights” and “Peoples’ Rights (1981)” have established important commitments in their respective regions. However, it is crucial to note that these declarations and treaties have an anthropocentric focus. In contrast, the 1972’s Stockholm Declaration and 1982’s World Charter for Nature headed internationally sanctioned environmental rights. The Rio Declaration (1992) and Johannesburg Principles (2002) built upon this foundation, accentuating sustainable development and specific consideration to Health, Energy, Water, Biodiversity and Agriculture as imperative for quality of life. The persistent commitment to poverty alleviation in Stockholm, Rio, and Johannesburg has solidified the connection between sustainable development and human well-being.

### **Jurisprudential Nexus of Rule of Law and Inviolable Rights in Islamic Paradigm**

Pakistan, an Islamic Republic, is founded on the principle of constitutionalism, which mandates that laws be made, administered, and interpreted in accordance with the guidance of the Holy Qur'an and the tradition of Prophet Mohammed P.B.U.H. This perpetuates an enabling environment for Muslims to practice their religion, which encompasses various aspects of life, including politics, economics, human conduct, human rights, law, and justice. The beauty of Islam lies in its protection of civil freedoms through just and due protections. The Preamble of the Constitution of Pakistan 1973 sets the tone for an all-encompassing, inclusive, diverse, and organic document that safeguards citizens' rights and perpetuates accountability. It embodies the conception of impartiality before the law, synchronizing with Islamic principles enunciated fourteen centuries ago. The crux value of “rule of law” is paramount, evident in a recently

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<sup>13</sup> 9 Decisions of the International Court of Justice on Disputes Concerning Internal Law Mariko Kawano 2014 · Enhancing the Rule of Law through the International Court of Justice

<sup>14</sup> United Nations (UN) (Universal Declaration of Human Rights, 1948)

published book that quotes from “the Holy Qur'an and Sunnah” to point out the importance of justice, equality, and basic human rights.

The verse from Holy Qur'an, Surah al-Nisa, Ch. 4: verse 135 is as under (p. vii):

“Believers! Be upholders of justice, and bearers of witness to truth for the sake of Allah, even though it may either be against yourselves or against your parents and kinsmen, or the rich or the poor: for Allah is more concerned with their well-being than you are.”

The text from a hadith # 681 from Vol. 4 Sahih Al-Bukhari, is as under (p. vii):

“...Those who came before you were destroyed because if a rich man among them stole, they would let him off, but if a lowly person stole, they would carry out the punishment on him. By Allah, if Fatima, the daughter of Muhammad stole, I would cut off her hand.”

Often overlooked is the significance of Prophet Muhammad's (PBUH) Farewell Address, which constitutes the earliest comprehensive enumeration of human rights in any society. In his farewell sermon, the Prophet accentuated the solemnity of “human life and property”, pushing for the protection of Muslim rights and the return of entrusted goods to their rightful owners.<sup>15</sup> He also stressed the importance of non-violence, equity, and kindness towards women, who have rights equivalent to their responsibilities. The Prophet Muhammad's (PBUH) teachings point out the unity of humanity, derived from a common ancestry, and reject superiority based on race, ethnicity, or color. Instead, piety and good deeds are the sole criteria for distinction. These teachings formed the foundation of crucial human rights, which have been advanced at domestic, territorial, and global levels.

### **Rule of Law in Pakistan and Constitutional Safeguards**

The “rule of law” is an intrinsic component of the 1973 Constitution of Pakistan, and is imperative for the realization of fundamental rights. It is a principle that permeates the entire constitution. It remains a crucial legacy in Pakistan's nation-building, seventy eight years postliminary its originating, having endured through 1956, 1962, and 1973 constitutions and various military interruptions. It thrives on the paramountcy of law, facilitated by a democratic, participative, and transparent system of governance, supported by an independent judiciary. Each Constitution has envisioned a theory of control committed to civil judicatory, fundamental rights, Provincial harmony, and federalism, with an undimmed split of prerogative among the Executive, Legislature, and Judiciary. The 1973 Constitution, currently in force, strengthens this vision, aided by interpretative guidance from the superior judiciary. It enshrines rule of law in Article 4, mirroring the United States Constitution's Fourth and Fourteenth Amendments. According to Former Chief Justice of Pakistan Muhammad Haleem, any application of Anglo-Saxon jurisprudence that could subvert the Rule of Law as enshrined in Article 4, must be discouraged.<sup>16</sup> Article 4 holds vital importance, providing the sole guarantee to citizens even when fundamental rights are suspended, such as during martial law.<sup>17</sup> The prominent case titled *Zafar Ali Shah v. Pervez Musharraf* (2000) addressed the judicial feedback to stratocracy and rule of law, reviewing the judiciary's crucial role in handling military interposings. In this case, Zafar Ali Shah, prominent member of the Pakistan Muslim League (PML) and prior senator, challenged the

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<sup>15</sup> THE FAREWELL ADDRESS OF PROPHET MUHAMMAD: A UNIVERSAL DECLARATION OF HUMAN RIGHTS, Abdul Azeez Yusuf, Abdullahi Saliu Ishola 2018 · Malaysian Journal of Syariah and Law

<sup>16</sup> Muhammad Haleem (The Rule of Law and Judicial Activism in Pakistan, 1985)

<sup>17</sup> David Dyzenhaus (The Constitution of Law: Legality in a Time of Emergency, 2006)

military coup of General Pervez Musharraf who had overthrown the elected government of PM Nawaz Sharif in Oct, 1999, consequently assuming the role of Chief Executive and proclaimed autocracy, suspending the Constitution. Raising questions as to the plausibility of military occupation under the doctrine of necessity, the limit of endorsing or restraining extra-constitutional measures of the said regime and the revocation of essential civil liberties during the suspension of the constitution. The apex court directed by Chief Justice Irshad Hasaan Khan allowed such iron rule but sanctioned it as a mere necessity, constrained with prescribed motives and peculiar agenda; moreover, ordered for holding elections within 3 years. The Court also refrained General Musharraf from altering the Constitution's underlying principles, protecting the authentic structure of rule of law. While allowing such takeover, the verdict gave rise to innumerable adverse arguments. However, all-embracing the decision contemplates a realistic viewpoint to confront crises in terms of governance and political stability, weighing judicial confirmation with precautionary measures against unbridled military actions.

This perpetuates that no detrimental actions are taken against body, life, liberty, reputation, or property, exempting the actions taken in accordance with the law. This encompasses three key principles: (1) No person shall suffer detriment to life, liberty, body, reputation, or property except amenable with law; (2) Individuals are free to do anything not rendered illicit by law; and (3) No person shall be considered or compelled to do what does not stand in need under law.

Hence, In a discordant speculation, it was contemplated that the rule of law is inherently incompatible with arbitrariness and is a hallmark of civilized societies, striking a balance between individual liberty and public order. Even in the halt of Article 4, the Sovereignty lacks the authority to deprive individuals of life or liberty without legal justification, which is a crucial tenet of the "rule of law" in all civilized nations. This principle is essential to distinguish between an anarchic civilization and one administered by laws. Furthermore, Article 25 of the Constitution of Pakistan, 1973, embodies the doctrine of equality of citizens, which is an indispensable prospect of the rule of law. This article perpetuates the equal standing of all citizens in the eyes of law and entitlement to equal preservation and safety, with no bigotry based on sex. This doctrine reflected in it, indicates the Islamic golden rule of equal treatment for all citizens, regardless of their circumstances. However, this does not mean that all laws must apply uniformly to all subjects or that all subjects must have identical rights and liabilities. Rather, the article guarantees similar treatment, not identical treatment, and perpetuates that laws are equally administered and applied, with no special privileges or denial of rights based on birth, creed, or other factors. The protection of equal laws means that all individuals and classes are subject to the ordinary law of the country, with fair subjection and no prejudice.

In the ambiance of Pakistan, rule of law should have three distinct meanings: Firstly, it should regulate government powers, providing checks and endorsing rational policy-making. Secondly, it must uphold equality before the law, endorsing that every individual, regardless of status or position, is governed by the same laws and falls under the jurisdiction of ordinary courts. Thirdly, it should encompass procedural and formal justice, achieved through consistent application of rules and procedures that shape the legal system's institutional order. This requires a complete set of fair, pre-announced rules, transparent and consistent application, and accountability from public servants as trustees of society.

The 1973's Constitution of Pakistan, in Chapter 1 enshrines the indispensable fundamental rights for all citizens, which are inviolable and supreme. Article 8 decrees that any law conflicting with or derogatory to these central rights shall be depicted void, thereby endorsing the primacy of these rights. This provision safeguards the citizens' basic freedoms and entitlements, such as equality,

liberty, and justice, which are essential for a just and equitable society. In the benchmark case labeled as *Benazir Bhutto vs. Federation of Pakistan* (1988), the highest tribunal declared that the confining amendments made to “Political Parties Act III of 1962”, and the “Freedom of Association Order 1978”, as void which were established during General Zia’s regime, stressing that any law or rule shrinking the fundamental rights will be lawful only when it is compatible with the Constitution. Those restrictive amendments forced curtailments on political parties, pushing concerns regarding potential infringements of citizens' inherent rights, specifically the “freedom of association” - joining any political party & contesting elections and equality before the law. The decision pointed out the need to ensure that all legal provisions, rules and governmental conducts must fall in with the constitutional directives; upholding the rule of law.

The Part II of the Constitution enshrines human rights, comprising those central human rights ranging from Article 8-27 and Principles of Policy from Article 29-40. The former includes justiciable civil & political rights encompassing the right to life, security and freedom of movement, assembly, association, and speech, mirroring United Nations UDHR (Universal Declaration of Human Rights) and ICCPR (International Covenant on Civil and Political Rights). Notably, these entitlements are enforceable by Pakistan's superior courts via Articles 8, 199(1)(c), 199(2), 184(3), and 187. In the eminent case titled *Shehla Zia v. WAPDA* (1994), inhabitants of particular locality alongside with Ms. Shehla Zia, called into question the WAPDA programme to erect a kinetic power station in an assigned area surrounding the urban neighbourhood, articulating agitation over possible health issues from electromagnetic waves; resulting in environmental declination. The key concern and issue was whether this particular building contravened the residents’ fundamental rights to life and dignity as preserved in A-9 and A-14 of the Constitution of Pakistan. The Supreme Court conceded their inherent right to life that expands besides mere physical existence, encircling the lawful right to a robust healthy habitat. Putting into application such preventive principle, the Court pointed out that the measures to control such disastrous harm should not be put on hold because of the absence of due scientific sureness. Ultimately the court ordered the WAPDA to discontinue such construction till the complete assessment as to the health risks is conducted. This case underlined the courts dynamic role in preserving and endorsing individuals constitutional rights, fortifying the “rule of law” by guaranteeing that state actions shall not infringe citizens’ fundamental rights.

The Principles of Policy aligning with the UNESCO (International Covenant on Economic, Social and Cultural Rights), serve as instructing markers for state organs, subject to resource availability (Article 29). Constitutionally protected fundamental rights secure significant importance in Pakistan's legal framework, with the High Courts empowered to directly protect these rights through writ jurisdiction (Article 199). Additionally, the Supreme Court can directly strengthen fundamental rights in those matters having public importance under Article 184(3). The realization of these aims is crucial for achieving justice.

### **Organs of State: Guardians of Governance**

The legislative branch, as the primary law-making entity, ought to enact laws that reflect citizen interests, public needs, and economic demands, in order to foster growth, stability, and civil order. Effective laws, crafted to address political, social, and economic needs, can frame capacity, drive reform, and endorse compliance. Conversely, ineffective or irrelevant laws can undermine good governance, exacerbate corruption, terrorism, and abuse of power, ultimately hindering economic development and consideration for the “rule of law”.



The Executive branch holds the responsibility of implementing legislative acts through various institutions, comprising departments and agencies created by the legislature to wield regulatory powers. These institutions execute laws in accordance with legislative mandates, formulating policies and implementing rules and regulations. Good governance, an extension of the principle of rule of law, is crucial for development and poverty eradication, as accentuated by Former UN Secretary-General, Kofi Annan.<sup>18</sup> Good governance as defined by the United Nations Development Program is the discharge of authority to administer a country's matters, encompassing structures, operations, and institutions that enable individuals and classes to define ways and means, exert legal rights, discharge obligations, and settle down differences, thereby endorsing effective management at all levels. The definition explains how government authority works through various institutions, guiding people who follow set rules. This is a fundamental pillar of any state, and if the executive branch functions in consonance with the leading law, the rule of law will prevail.

As in subject to “rule of law” in various countries, the “World Justice” with its assignment project named “Rule of Law Index” scores and ranks Pakistan 129th out of 142 nations, showcasing the alarming perception of impunity, even though the sense of government accountability varies across cities.<sup>19</sup> Regrettably, Pakistan's executive branch is ineffective, lethargic, corrupt, and self-serving, lacking a vision for the country's future. In safeguarding the citizens rights, promoting equality and endorsing their dignity, the judiciary organ of state plays a crucial role, by revivifying the “rule of law” through independent governing. The government responsiveness to citizen interests can be ensured only, when the “rule of law” is robustly defended. Legal frameworks establish protection against rights violations and misuse of power. The judiciary functions as a guardian of justice, endorsing laws are upheld and civil liberties remain secure.

The 1973's Constitution of Pakistan, currently in effect, strengthens the foundation of separation of powers, which has been interpretively supported by the apex judiciary. The milestone case of “Al-Jehad Trust vs. Federation of Pakistan” cited in PLD 1996 SC 324 clarifies this concept, stating that each branch of government - the Legislature, Executive, and Judiciary - must operate within their designated limits, exercising their capacity and jurisdiction without erring into others' domains. Hence, the Judiciary is responsible for endorsing that the Constitution and laws are upheld while preventing the transgressions by the Legislature or Executive. As asserted by the former Hon' Chief Justice of Pakistan, Ajmal Mian, the 1973 Constitution established a trichotomy of power among the three branches, with the Judiciary serving as a watchdog to guarantee that all organs and government functionaries comply with the Constitution and laws.<sup>20</sup> The Judiciary's independence and separation from other branches are essential to fulfilling this critical role.

The Constitution's provisions endorsing judicial independence empower the judiciary to fulfill its vital ‘watchdog’ role. However, as clarified by Chief Justice Hamoodur Rahman in “State vs. Ziaur Rahman”<sup>21</sup>, the judicial review power granted to superior courts does not imply supremacy over the Executive or Legislature. Rather, the judiciary acts as the administrator of public will, declaring legislative measures unconstitutional only when they conflict with the Constitution, which is the vital law. The judiciary enforces the Constitution to ensure its prevalence, stepping in

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<sup>18</sup> Kofi Annan (UN Secretary-General) (The Role of Law in Development, 2004)

<sup>19</sup> World Justice Project (The Rule of Law in Pakistan, 2024)

<sup>20</sup> The Independence of the Judiciary - What the Constitution Says on the Removal of a Serving Chief Judge, Richmond Idaebo 2018 · SSRN Electronic Journal

<sup>21</sup> PLD 1973 SC 49

only when the Legislature exceeds its constitutional limits. This power is not a manifestation of judicial superiority but a duty to uphold the Constitution's supremacy.

The 1973 Constitution of Pakistan perpetuates judicial independence through various provisions, including the Objectives Resolution, Preface, Article (2A & 175). Additional provisions support this independence, such as the composition of superior courts, parameters of qualification and eligibility criteria for judges, conditions of service, and removal procedures through the Supreme Judicial Council (Article 209). In the notable case titled "Asad Ali vs. Federation of Pakistan" cited in PLD 1998 SC 161, the bygone Hon' Chief Justice Saiduzzaman Siddiqui spotlighted the imperative role of judicial appointments in maintaining independence, stating that access to impartial courts is a fundamental right dependent on the inductions of individuals having high uprightness and competence, stringently following constitutional procedures. Remarkably, The selection of the Hon' Chief Justice of Pakistan is a cardinal and central prerequisite for endorsing autonomy and an uncomplicated approach to unbiased and even handed judicial forums. Deviation from constitutional appointment methods would infringe upon citizens' rights to free and equal access to independent courts, violating Articles 9 and 25 of the Constitution. Former Chief Justice Nasim Hasan Shah succinctly captured the consensus among jurists regarding judicial independence: (a) every judge must decide cases freely, without improper influences or pressures, and (b) the judiciary is self reliant, unconditionally free from the pressure of both Legislature and Executive, with absolute control and authority over all judicial matters.

In the leading cases of "Al-Jehad Trust vs. Federation of Pakistan" cited in PLD 1996 SC 324 and simultaneously "Asad Ali vs. Federation of Pakistan" cited in PLD 1998 SC 161, the supreme court fortified judicial independence by mandating that the President accept appointments to vacant judicial posts in the both superior courts based on the Chief Justice's endorsements and recommendations, otherwise in case of any conflictory opinion or objection raised, has to forward the valid and rational reasons behind that. Additionally, the selection of the Hon' Chief Justice of Apex court has to be made on the basis of seniority. The concession to such prescribed conditions will also be allowed only on the demonstration of sound and concrete reasons. The Supreme Court also ruled that the transfer to the Federal Shariat Court of judges of the High Court without appraising their approval infringes the Constitution. These guidelines aim to prevent political and bureaucratic dominance in judicial appointments, transfers and disqualifications, endorsing the independence of the judicial organ of the state.

The Constitution of Pakistan as the parent legal framework extensively outlines the powers and functions of all superior and subordinate courts, alongwith judicial reassessment and review; sweeping powers under Articles 184 and 199 to protect fundamental rights. Chapter I of Part II dedicates itself to enforceable Fundamental Rights, which cannot be abridged. Influenced by international human rights developments, the 1973 Constitution commits to protecting a broad range of fundamental rights. The superior courts serve as a defense against the invasions on these fundamental rights, with notable instances of *suo motu* interventions in public interest litigation to protect marginalized communities and address pressing social issues. This commitment to protecting these integral rights and the "Rule of Law" has been a hallmark of Pakistan's judicial system, showcasing its finest hour.

To attest the crucial values of justice, equity, morality and basic human rights, the doctrine of rule of law must be assured absolutely. Rule of law is at its finest when centered on people and structured on a rights-based model. It operates on two levels: theoretical, meeting substantive requirements of morality, justice, and human rights, and operational, where it is realized and

implemented.<sup>22</sup> The “political magnitude of rule of law” focuses that democracy is protected when everyone is equally bound by the law. The article specifically argues that the constitution confers adjudicatory and declaratory powers on the independent judiciary, hence the Judges must uphold the rule of law, regardless of public sentiment. The judiciary’s progressing stance on authoritarianism and constitutionalism can be witnessed in these two landmark citations. In the monumental case titled *Asma Jilani v. Government of Punjab* (1972), the verdict honored the dominance of rule of law and constitutionalism over authoritarianism by precluding the maxim of necessity or expediency supported by unjustified actions. The apex court’s justice Hamood ur Rehman while exposing the judiciary’s prejudice and complicity in *state v. Dosso* (1958), held the suspension of the constitution in states of emergency (in the immediate case - General Yahya Khan’s militarism), absolutely illegal. Drawing towards the facts, the captivity of Malik Ghulam Jilani - father of eminent lawyer and human rights activist Asma Jilani, under Defence of Pakistan rules, 1971 supplied by Yahya’s army regime; induced the cause. Consequently, urging Asma jillani to question the validity of unconstitutional regimes and suspension of central human rights in extraordinary circumstances. The military rule of Yahya Khan was declared unconstitutional and the releasing order of detainee was made, simultaneously, holding it unlawful. However, Various commentators contend that in order to showcase the mettlesome potency of the bench, such a decision must be confronted by active dictatorship rather than departed regimes.

### **Judicial Oversight and the Struggle for Legal Supremacy: the aftermaths of 26th amendment**

In Pakistan, the pursuit of the rule of law is compromised through politicization of society, resulting in disparate application of laws for different social classes. The judiciary, including its highest authority (such as the Chief Justice or Supreme Court), is not completely protected from the influence or control of an arbitrary government. If the judiciary itself can be subject to government overreach, then ordinary citizens are even more vulnerable to such arbitrary power. This contravenes the fundamental principle of just and fair administrative actions. The constitutionality of safety and protection is contingent upon individual resourcefulness, leaving the common man vulnerable. Ideally, there should be a division of powers among the government’s branches, but it often fails in its duty by confining its powers to favored individuals or groups.

A truly independent justice is vital for upholding the “rule of law”, as it perpetuates the dutiful enforcement of the Constitutional framework and regulatory laws. Another case concerning the Chief Justice Iftikhar Muhammad Chaudhry’s reinstatement pointed out the importance of the “rule of law” in the context of judicial independence. In 2007 President General Pervez Musharraf, while accusing him of corruption and abuse of power, suspended him from office. That suspension erupted the far-reaching protests, with cooperation from the legal community and civil society for his restoration and propounding judicial independence. The key question arose whether it is lawful for the executive branch to suspend the Chief Justice and If such an action sabotages the judiciary's independence, it weakens the very basis of “the rule of law”. In July, a 13 member bench of the apex court of Pakistan jointly declared the suspension of Chief Justice unconstitutional. The verdict strengthened that the judicial organ must act free of executive intrusion, securing checks and balance mechanisms within the government. The court pointed out that no individual or institution is above the law and the constitutional framework must be adhered to carry on legal order and autonomous pattern within the state.

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<sup>22</sup> Substantive rights—general comments, Rhona K. M. Smith 2019 · International Human Rights Law

There is no doubt that judicial independence, impartiality and accountability guarantee the rule of law, indirectly upholding democracy. But still, the recent 26th amendment in the constitution of Pakistan has fueled the substantial disputation over its influence on the judicial, executive and political objectivity. Therefore, there is a pivotal urgency to weigh whether such amendments stabilize or sabotage “the rule of law” in Pakistan. Coming to the notable changes that the 26th amendment brought in, these changes have proposed considerations over the political interventions and judicial independence. It features the alteration of the structure of the Judicial Commission of Pakistan, meanwhile, unveiling the new process for appointments. The prompt validation and implementation of it, has supposedly put Pakistan's judiciary at the risk of political interference, crumbling its capacity to ensure the supremacy of the constitution. Earlier on, Such supreme document of governance has struggled with various deviations that influenced judicial autonomy, most prominently, in 1985 - Zia ul Haq Era - the 8th amendment that fortified the executive authority on top of judicial appointments.<sup>23</sup> Similarly, the 2003's 17th amendment in the Musharraf era has sanctioned the presidential supervision over the judicial mechanisms. In that setting, Negating the 2010's 18th amendment that had enabled the judicial Commission of Pakistan to uphold the capability driven appointments, with alternating its composition has directly disrupted the merit based appointments of Judges, particularly chief justice of Pakistan. Beforehand, The judicial commission of Pakistan, governed by judges themselves, was responsible for the appointments on seniority basis, eliminating any prospect of political influence. In the preceding method, the top-most judge, based on age, by default became the Chief Justice of Pakistan.<sup>24</sup> In the new system, however, the recently introduced special parliamentary committee picks the Chief Justice from the nomination list of the top three senior judges of the Supreme Court. Political entities such as two representatives, respectively from the ruling and opposition parties in senate and national assembly, now possess significant and notable ballot strength in the commission, raising concerns about the intervention of legislative and executive organs of the state. Moreover, it includes the Chief Justice & four senior judges of the supreme court, the Attorney General of Pakistan, the Law Minister, and a representative of the Pakistan Bar Council. This, in turn, shatters the essence of the doctrine of the separation of powers, as mandated by the Constitution of Pakistan. The authority of the Supreme Court to commence legal actions *proprio motu* has been cut down, confining its range to resolving matters of public importance without any indirect influence or direction.<sup>25</sup> Additionally, the inclusion of the term 'inefficiency' as the justification or parameter for the removal of judges, without clarifying its underlying implications, exposes the potential for biased or unreasonable removals. This could be driven by political favoritism in appointing the country's highest judicial office-holder, aligning more closely with executive functions. Such a formatted bench setup, influenced by political factors, ultimately impairs the objectivity of the court, and places “the rule of law” at an alarming risk.<sup>26</sup> Such preferential appointments, influenced by political interests, contravene the UN Basic Principles on Judicial Independence (1985) and simultaneously breach Article 14 of ICCPR (the International Covenant on Civil and Political Rights.)

In other countries, such challenges to judicial neutrality are addressed optimally and proficiently. In India, the Supreme Court annulled the Judicial Appointments Bill, 2013, which allowed

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<sup>23</sup> Judicial Appointments in Pakistan, Sameer Khosa 2018 · Appointment of Judges to the Supreme Court of India

<sup>24</sup> JUDICIAL ACTIVISM AND DEMOCRACY IN PAKISTAN: A CASE STUDY OF CHIEF JUSTICE SAQIB NISAR ERA, Sajjad Ahmad Jatoti, Ghulam Mustafa, Muhammad Saqib Kataria 2022 · Pakistan Journal of Social Research

<sup>25</sup> Courting The Law (Does the 26th Amendment Threaten Judicial Independence and the Rule of Law?, 2024)

<sup>26</sup> Cass R. Sunstein (Legal Reasoning and Political Conflict, 1996)

political oversight of judicial appointments, deeming it an obstruction to judicial autonomy.<sup>27</sup> Similarly, the German Constitutional Court model and the British Judicial Appointments Commission ensure a merit based and transparent appointing process for selecting judges, free from parliamentary or executive interference. The head of the cabinet, Prime Minister Shehbaz Sharif, stated that the motivation behind the amendment was to address past systemic issues where the authority of Parliament and the democratic setup had been weakened through discretion-based judicial appointments and decisions. Meanwhile, the dissenters argued that it was a well-thought-out strategy to integrate the final decision-making power within the other two organs of the state under the guise of addressing reservations related to judicial encroachment. They further pointed out the timeframe within which the amendment was proposed and came into force, linking it to the forthcoming retirement of Chief Justice Qazi Faiz, suspecting an underlying agenda behind it.

The judiciary is the appointed custodian of the law, as mandated by the Constitution of Pakistan. In this regard, the expanded role of Parliament in finalizing judicial appointments; potentially exposing itself to political pressures and biases; could undoubtedly undermine its ability to maintain checks and balances over the other organs of the state. Such systematic appointments of judges and constant alterations in the judicial system can influence or erode public faith in the legal system and might trigger a deadlock in the rule of law.<sup>28</sup>

Another pressing concern is the restriction placed on judicial review by requiring the cabinet to forward recommendations to the President (the head of state) or the Prime Minister (the head of executive), thereby directly limiting the power to challenge decisions made. As stated above, Pakistan has faced such strain between the judiciary and other organs of the state since its foundation. Such fluctuations have always led to political turbulence, and they are likely to continue. All these changes could potentially insulate the executive actions from adjudicative evaluation or oversight and this could ultimately weaken “the rule of law”.

### **Historical and Contemporary Challenges to Legal Governance**

If we get into the post-independence events, there were also many occurrences that unfortunately showcase the disintegration of “rule of law” in our country and moreover, the challenges that are to be met in furtherance of upholding the rule of law, were seemingly emerged from such transactions. The assassination of Liaquat Ali Khan in 1951, because of political rivalries, and power struggles was massively the prominent example of failed implementation of rule of law. Such inability to protect the life of a prominent political leader and ensure justice for his murder was due to the weak criminal justice system that led to the assassination and subsequently the lack of accountability. In 1979, the unjust and politically motivated execution of former Prime Minister Zulfiqar Ali Bhutto, also demonstrated the lack of due process and rule of law. Political rivalry, personal vendetta, and a manipulated judicial process led to wrongful convictions and executions many times. The military coup by Ayub Khan in 1958, allowing the unconstitutional seizure of powers by the military while subverting the democratic institution was the absolute failure of rule of law. Military leaders enabling the coup because of weak political institutions, corruption, and a power hunger put rule of law at stake at many historical events. Similarly, the military coup by Zia ul Haq (1977) perpetuated a cycle of political instability, subverting democracy and exploiting the situation to seize control. In 1971, the failure to protect the rights & dignities of Bengalis and political and economic marginalization of them, accelerated the bloodthirsty civil war and ensuing split and withdrawal. Such liberation war and surrender of Pakistani forces was because of failure

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<sup>27</sup> A Committed Judiciary, T.R. Andhyarujina 2018 · Appointment of Judges to the Supreme Court of India

<sup>28</sup> Khan, Sanaullah. "The Rule of Law." Dawn, 2023.

of law and lack of accountability. The incidents like the systematic and widespread disappearances of political rivals from zia's regime (1977-1988) till today exposes the disintegration of "rule of law" and unassailable civil liberties. To silent opposition and strike power remain the key motives behind such forced disappearances. Similarly, the assassination of Benazir Bhutto (2007) and Salman Taseer (2011) narrate the tale of security lapses, religious intolerance, extreme ideologies, lack of accountability and rigor political rivalries. These repeated failures show how the rule of law has weakened in Pakistan, with political influence, weak institutions, and unfair judicial decisions blocking justice and accountability. Without strong reforms and a true commitment to fairness, the cycle of injustice and bad governance will continue, making it harder for people to trust the legal system.

In Pakistan, the "rule of law" remains a deprived model for ordinary citizens. The 1973's Constitution and legal system's ability to protect fundamental rights from exploitation by powerful elites is questionable. The executive branch's dominance and insufficient institutional accountability raise concerns. Socio economic challenges, including disenchantment with the economic system and concerns about elite domination, hinder discussions on legal systems in Pakistan. The Constitution projects a political system anchored in social justice, dispersion of control, and shielding of intrinsic rights and freedoms. However, frequent constitutional suspensions and transgressions by government branches have hindered the formulation of the "rule of law". A recent report concludes that Both military juntas and civilian regimes have prioritized "rule by law" over "rule of law".

Although our constitution guarantees equality before the law, safeguards opposing injudicious apprehension and detainment, and protection in contrast to retrospective punishment, these provisions are not effectively implemented. The need for practical effectuation of these provisions is pressing. Furthermore, the Constitution prohibits deprivation of property and life except in accordance with law, but these protections are largely meaningless in practice. The absence of fairness and equality enables agencies to abduct individuals on mere suspicion, subverting the rule of law and its essence in our country's jurisprudence.

Alleviating poverty, curbing corruption and favoritism, and endorsing economic progress, social equity, and development all depend on the "rule of law." It empowers citizens and perpetuates equality under the law. In its absence, the state risks descending into chaos, allowing the powerful to exploit and deprive the weak and marginalized of their fundamental rights, including life, liberty, and property.

### **Strategies for reform and enforcement**

Enhancing "the rule of law" in Pakistan requires a multifaceted approach to address systemic challenges and strengthen institutional frameworks. Building on previous discussions, the following recommendations are proposed in this article: Those in power must address the needs and grievances of the people, recognizing that law making and implementation are distinct processes. Substantive and procedural law are interdependent, and prioritizing one over the other can lead to arbitrary government power and threats to individual liberty. In fact, neglecting procedural justice can ultimately result in substantive injustice. In contrast, accentuating procedural justice curtails arbitrary power, protects freedom, and preserves substantive justice.<sup>29</sup> Therefore, implementation of laws must be strictly observed by all citizens, law makers, law enforcers, and interpreters, as this leads to harmony, peace, and tranquility in society. As Abraham

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<sup>29</sup> Richard Fallon (Law and Legitimacy in the Supreme Court, 2018)

Lincoln emphasized, reverence for the law should be deeply ingrained in every aspect of society, from education to legislation, and enforced in the courts of justice, becoming the political religion of the nation.

The primary step is to make efforts while launching a nationwide movement to educate citizens about their legal entitlements and duties, enabling them to seek justice and uphold the law.<sup>30</sup> Free legal aid camps and street legal awareness programs must be established to uphold the rule of law by providing affordable and accessible legal representation to marginalized communities and poor citizens, endorsing equitable access to justice. Steps must be taken to encourage collaboration between citizen networks and law enforcement agencies to resolve minor transgressions at the grassroots level, fostering a tradition of legal integrity and accountability. The “rule of law” cannot be fully established unless vulnerable groups, including women, minorities, and marginalized communities, are protected. They must be safeguarded against violence and discrimination to ensure fundamental human freedoms. The use of technology for electronic case management is the need of the hour to enhance judicial efficiency and accuracy. It can help reduce caseloads, prevent delays, and ensure proper record-keeping. Moreover, to genuinely preserve “the rule of law”, reforms in digital case management must also be advanced to ensure transparency. The implementation of e-courts can enhance accessibility to justice while reducing potential biases and endorsing public access to judgments. This can also be achieved by promoting ADR mechanisms to reduce the burden on courts and ensure timely and efficient dispute resolution. Merit-based appointments in ADR councils or committees must be made, considering legal competency, qualifications, and experience. Additionally, an independent watchdog committee should be established to oversee ADR bodies, maintain checks and balances, and ensure proper record-keeping of outcomes and implementations. Similar to the Citizen Portal designed for the Grievance Redressal System in police assistance, an online application must be developed for easy access to legal aid, court rulings, and basic laws, benefiting both citizens and lawyers. Additionally, it should serve as a platform for public feedback on the services of law enforcement agencies and the judiciary.

Legislative mechanisms play a crucial role in regulating and controlling the environment, establishing a directive that perpetuates the seamless coordination of human resources, regulations, initiatives, and capital. These mechanisms must promote individual growth, foster national development, and align with constitutional mandates. When such conditions are satisfied, the “rule of law” prevails. However, in Pakistan, many laws are outdated and fail to address the current needs of society. The lack of willingness to revise and update laws stems from a dearth of critical thinking, deliberation, and genuine concern for the populace among the elite class. So as to bring the machinery of “rule of law” in motion, it is the prerequisite condition to have the laws properly updated, matching the present-day requirements of the people. To ensure uniformity in legislation, outdated laws must be revised, and new bills passed to align with current needs and evolving expectations. If any ambiguity or vagueness is found in amendments, the option to revise such opposed challenged legislation must be on hand to impede the political misuse. Investors are drawn to economies with functioning institutions that ensure stability, legal certainty, and good governance. They prefer environments with consistent rules, stable laws, and respect for human rights, where due process is implemented and law enforcement capacity is developed. A stable and thriving setting for societal harmony and national growth is essential. Foreign policies should promote economic development, and the “rule of law” must prevail for such a system to exist. Similarly, A strong, independent judiciary is imperative for national development, as compliance with “the rule of law” and a robust judicial framework are crucial elements. Hence, The

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<sup>30</sup> Development Advocate Pakistan. Volume 4, Issue 3. 2017.

effectiveness of “the rule of law” hinges on our legal system's ability to resolve conflicts, apply laws equally to all citizens, and consistently uphold them over time. However, such disruptions caused by restricting the suo-motu powers of the court should also be addressed to ensure oversight of executive malfeasance and abuse of discretion. The suo motu powers of the higher judiciary must be protected with safeguards to uphold judicial review while maintaining strict oversight of unauthorized and illegal executive actions.

There is an urgent need to adopt appointment processes based on merit, similar to the UK Judicial Appointments Commission (JAC) model, Germany's Constitutional Court model, or India's collegium system, to ensure judicial independence and transparency. To balance power between the judicial and legislative branches, judicial appointments should be affirmed through a process similar to the UK JAC while incorporating the U.S. disciplinary approach of impeachment through a parliamentary session in cases of misconduct, based on justification and reasonable grounds. This approach would achieve both judicial independence and accountability simultaneously. To prevent impartiality or arbitrary practices in appointment processes, judicial nominations must undergo public scrutiny. Moreover, to address potential biases in judicial appointments and manage internal conflicts of interest, an independent committee of legal experts must be established to prevent political interference while endorsing judicial accountability. This committee should have the authority to assess and nominate judges based on their qualifications, past work, and competence. Instead of appointing judges based on specific backgrounds or preferences, efforts must be made to ensure the selection of competent judges from diverse and marginalized communities, including women and minorities from various ethnic backgrounds. Judicial training programs for continuous development and competence building of judges and legal personnel must be implemented to enhance proficiency and efficiency in the judiciary. To guarantee judicial autonomy and independence, clear and firm assurances must be embedded in constitutional laws, safeguarding the judiciary from external pressures and political interference.

Another urgent need is to establish a neutral and independent body, similar to France's Council of State, to oversee government decisions and determine whether they are just or arbitrary.<sup>31</sup> The administrative actions of law enforcement agencies, particularly anti-narcotics agencies, must be strengthened to build public confidence. Strict penalties for malpractices and misconduct must be enforced to restore the rule of law. Besides the judiciary, appointments and promotions of officers and employees in these agencies must be based on competence and merit to prevent favoritism, bias, and nepotism. Any external unverified information or threat campaigns against the democratic setup and judiciary must be countered through a strong policy framework and effective mechanisms to safeguard their integrity. No voice calling for justice should be silenced. Endorsing reasonable freedom of expression for the public, press, and media is crucial to upholding the rule of law. Any malpractice, injustice, or arbitrary action by the judiciary, public institutions, or political figures must be openly and accurately discussed, fostering responsibility, accountability, and constructive criticism. Finally, an independent commission should be established at regional, provincial, and international levels to review, monitor, implement, and assess the impact of reformed laws and state actions on the rule of law. To measure improvements in index points nationally and internationally, the committee should prepare annual reports to inform the public and international actors about progress in rule of law statistics, enabling targeted efforts to accelerate reforms.

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<sup>31</sup>How are arbitrary and deliberate decisions similar and different?, Jye lyn Bold, Liad Mudrik, Uri Maoz 2022 · Free Will.



The implementation of these reforms is only possible if the state, its three organs, the general public, and international actors collectively work towards creating a streamlined and enforceable legal system that upholds justice and the rule of law in Pakistan.

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