

ESSAY

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Topic: Will Rule of law always remain an impracticable myth in our country?

All the best luck

You have unity of idea in your writing

OUTLINE

1) Introduction

"The rule of law has steadily eroded over the lifespan of the country. At this rate, the country's future looks entirely bleak with unequal application and high-handedness of the law by the governments, a dysfunctional law mechanism/structure and the rise of mob and agitational politics causing significant hurdles. However, all is not lost as working and developing human structures can change the tides in the country's favour."

2) Understanding the bone of contention in the pursuit of enforcing the rule of law?

(2a) Genesis of Pakistani Laws and

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and the attitude of the British Raj.

(2b) Is it an enforcement problem or a legislation problem?

(2c) Future of current trajectory

(3) Will the pursuit for role of law in Pakistan remain an impractical myth?

(3a) The Nature of the Law and Relationship between the Powerful

(3b) The Current Trust Deficit between the Sovereign and Public

(3c) Rise of Mob Violence and Vigilantism

(3d) Heavy-handedness and constant manipulation of the law by the government

(3e) A conundrum of inefficient and insufficient enforcing mechanisms

(3f) Rise of Encounter Politics

(3g) Increase in the Politics of agitation and subsequent victimization

(4) Steps for turning this 'impractical myth' into a 'doable reality'.

(4a) Capacity Building and Depoliticization of Enforcement mechanisms

(4b) Bridging the Trust Deficit

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(4c) Reducing Judicial Burden through
Alternative Dispute Resolutions (ADR)
mechanisms.

(4d) Ending the cycle of arbitrary
detention and ensuring the respect
of all citizens

(4e) Expediting High Profile cases

(4f) Initiating political dialogue to end
cycle of agitation and victimization

(4g) Introducing radical reform to bring
in 'humane policing'

(5) Conclusion

"The equal application of the rule of law distinguishes between a civil society and a pack of animals in the wild. By enforcing and rectifying the ills of these mechanisms, we can create a society that is better and more humane for our future generations."

Pakistan, the land of the pure is a country of 241.8 million strong. The country's founders envisioned it that would be based on the principles of Islam and modern democracy. However, throughout its course, it has struggled to uphold the core thing

Strong population

that is quintessential for both an Islamic and a modern democratic society - The Rule of Law. The Holy Prophet once remarked, "The decline in the rule of law led to the demise of previous nations." The absence of or diminishing nature of the rule of law has eroded the values of Pakistan envisioned by our forefathers. At this current rate, the country's future looks entirely bleak. With ^{the} growing unequal application of ^{the} law and the heavy-handedness of the government done under the pretext of upholding the rule of law, the public has grown increasingly distrustful of the law and its mechanism. They have taken up other avenues to literally and figuratively take the law into their hands through mob violence and agitational politics. Moreover, another thing impeding any progress is the insufficient and inefficient mechanisms of law enforcement. However, all is not lost as there is still some light visible at the end of the tunnel. By capacity building exercises and further depoliticization of the mechanisms and working on creating a humane police force, a path can be carved out to change their "impractical reality" into a doable one. With earnest and concerted efforts, both at the political realm and governance one; a future that is more humane can be laid for our next generations.

The first task in solving this

on the wrist. This unequal application of the law has led to this stage. The application of justice also varies as seen in numerous cases such as the Noor Mukadam case, Natasha Burroni case and most prominently the Shahrukh Jatoi case. In all of these, the accused belonged to the upper echelons and managed to either get reduced sentences or out of court settlements or complete immunity even though this type of application for the rest of Pakistanis.

Command over language and content are fine

This leads to the burgeoning trust deficit between Law Enforcement and the public. Many in the public believe that the law enforcement of the country cannot provide justice. This mere perception has wrecked havoc on the current state of Pakistan. It is important to note that the perception of law and justice/order is ~~extremely important~~. The US has cities that are more crime-ridden than ours, however they have maintained a perception of law and order. Pakistan has failed to cultivate a humane police force and justice system that can manage and maintain a positive image of the system. This failure results in a trust deficit that grows day-by-day. For the common ^{man} law, they are least concerned with flashy numbers or statistics or catchy soundbites. For them, the safety of their lives and the first interaction with the law determines

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the type of perception they will generate for the rest of their lives. The current performance of the sovereign in this matter is extremely poor. Leading to a lack of trust on and in the system and the personnel.

The current Rule of Law Index of the country, according to the World Justice Project, is 129 out of 142 countries in 2024. This has a lot to do with ~~poor performance of law and order~~ **With poor standing** across the country. With poor figures, it is no surprise to see mob violence and vigilantism spreading like wildfire across the country. If only there was one incident that could be quoted here. Mob violence is particularly prominent in cases involving blasphemy. The death of the Sri Lankan manager at the hands of a violent mob is just one of countless cases across the country. Similarly, in the beating heart of Pakistan, Karachi, mobs have resorted to punishing dacoits and street snatchers. This is a sign of a city's growing frustration when it comes to the law and justice system. In 2024, the city reported scores of instances where vigilante mobs have in one instance burned a dacoit and street snatcher to death. Ordinary citizens speak of the current trajectory have taken up this issue into their own hands, resulting in the crumbling of the justice system and law enforcement mechanisms.

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While the perception of law and order in the country is particularly bad, the state doesn't do much to fix it, rather it plays a role that aids in the further deterioration. It is no surprise that the state has often resorted to heavy-handedness while maintaining the rule of law. This approach often yields to the use of force and in odd cases extreme cases like the Sahiwal incident in 2019, where CTO mistakenly killed a family of 4 while they were traveling to a marriage doesn't help the government at all. The incident highlighted the state and its agencies incompetence in verifying the identity of the accused. Moreover, the response from the governments of the day towards protestors is extremely appalling. Time after time, the LEAs have resorted to baton charging and the use of tear gas, pepper spray to bring the protestors under control. All of this relays a picture in the minds of Pakistanis that the rule of law and humanity within the required ^{also} uphold is completely absent. The government has a knack of manipulating and arm-twisting the law to achieve its interest. That further erodes any confidence that was left in the system.

At the forefront of all this ^{are} the men and women working in the organs of the justice system and law and order enforcement agencies. Before one takes a deep into the structural

Inefficiencies of the system. One must understand that the distribution of staff across Pakistan. Adnan Naseemullah in the book, Policing Insurgencies, calculated the ratio of cops to the general population. He got a result of 1 cop per every 522 people or 19 cops for every 10,000 people. Moreover, the jurist F. Hossain calculated the ratio of judicial staff and found the number to be 1 judge for every 1 million people. The first conclusion one can draw is the current structure is not fit for any effective work. The second conclusion is that those that are available suffer from numerous deficiencies. The lack of funding and the burden of police work has led an overworked, understaffed, under-funded police in the country. The judiciary also faces the same at the lower levels. The level of efficiency are always going to be lower as the caseload is just too much for the existing system.

The Suiawal Incident was one of many 'encounters' that happen throughout the country, on a daily basis. Encounters or extrajudicial killings done by LEAs are a common sight or stories in Pakistan. The lack of accountability, weakness of the institutions has strengthened the reliance of LEAs on encounter for dispensation of justice. The police have found a novel way to dispense without going through the hassle of the

Implicating LEAs

problem requires a need to thoroughly understand the problem first of all. One needs to analyze, how the current situation came to be and what can history tell us about it. Moreover, one needs to pin down whether ~~it is an issue with~~ of legislative inaction or executive incompetence. This needs to be understood as the country is regarded by many as an 'overcodified society'. Lastly, one needs to chart out the trajectory of the country's ^{current} course of action/inactions and how in many years time will it impact the new generations that may be born in a lawless or law-abiding Pakistan.

It is an issue with

Pakistan was carved out of the Indian subcontinent in 1947. Before that, the British governed the land using a variety of laws that were intended to subjugate the masses and disenfranchise the many by keeping power in the hands of a select few. Punishments and ^{the} rule of law ^{were} enforced arbitrarily. During the Raj, the DC (Deputy Commissioner) was all-judge, jury and executioner. These posts were created with the intention to keep the natives in line. The most glaring example is the gap between arrival or promulgation of the penal code and procedural code. The Indian Penal code was promulgated in the year 1860 while, the Criminal Procedure Code (C.P.C) was brought forward in 1898. The sentence was carried out before
in essence,

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the 'act' could be defined. After partition, the country inherited these laws and, due to its turbulent past, made zero effort to humanize these laws. The country passed ^{in a strange turn of events} even more vague and arbitrary laws ^{that were} intended to quell the masses. The disconnect between the masses ^{grows} even more during the years the country was ^{under} dictatorial regimes. During the early years, a leadership crisis gripped the country; while, the later years, saw the curbing of freedoms under martial laws. All of these resulted in a crisis that led the rule of law to nose dive.

While Parliament has completed 16 terms, under both democratic and dictatorial regimes, it has made little effort to amend the rules that uphold the law. In a PILDAT report, it concluded that the Pakistani society was overly codified. That meant there was a law for almost everything. From judicial conduct to narcotics control to anti-terror laws, the country has legislated on almost every subject. However, the enforcement side has been left out of the equation while the legislative ^{process} was being done. Law enforcement never got an increased share in funding and capacity building. Moreover, the politicization of the entities or organs of law enforcement steadily increased and today, it has crippled the structure of justice in the country. The law when

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enforced is only done when the poor or helpless are considered threats. The LEAs (Law Enforcement Agencies) have become political pawns in the game of cat and mouse between the government and opposition.

Mapping the current trajectory in this quagmire is a complex task. However, one can surely say that the graph is going down. The rate at which it is going under can be debated, but one thing that is certain is that the situation is deteriorating.

"The (rule) of the jungle might provide more justice than the current rule of law being implemented in Pakistan", remarked Anwar Maqsood sarcastically at the Lahore Literature Festival. Such is the level of despair in the heads/minds and hearts of Pakistanis.

The average Pakistani prays that ^{they} do not get associated with the justice system or any of its organs. The police, which is the first line of control between the organs of justice and public, is feared (in a bad way) for its treatment ^{inflicted} on the poor catches. The justice system has also received a poor reputation, as the courts are unable to deliver justice to the common man. Those who swore an oath to provide justice to Pakistanis, have led themselves led to a case backlog of 2.26 million cases with 82% of the cases in the lower courts and the rest at the upper courts levels. These statistics alone diminish any hope that the situation will get any better.

If the current trajectory of the rule of law remains the same, then achieving any semblance of justice would be unimaginable. To gauge whether the pursuit of the equal application of the rule of law is a lost cause, one needs to analyse the causes and underlying factors that led to the situation in the first place. These factors or causes have led the rule of law to deteriorate in the first place. These range from the application and nature of the law, to the working of the agencies required to administer justice and one latest edition of this cyclical process of victimization by those at the helm.

There should be no doubt that the British Raj created laws that were used for subjugating the native population. However, the continuation of those laws, by those in power, baffles many, but eventually those in power made it all clear that these laws were just a tool for stifling dissent. The powerful elite used and, many in ways, bended these laws in their favour. The constitution of the land does contain the phrase - 'we the people' but, in all honesty, the 'people' benefiting from these were quite few. The average man on the street was subjected to harsher laws, crueler punishments and arbitrary detentions. While the powerful only got a slap

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courts. The encounters are sometimes genuine and most of the times fake. However, notorious figures in the police have emerged who conducted fake encounters to finish dissidents (political or others). The names of Raju Anwar, Abid ^{and} ^{others} are just a few that have sprung in the recent ^{decades} with regards to the police's brazen tactics. These actions undertaken by the police erode the ^{vital} public trust that enables them to do their job. These encounters have become a bone of contention between the state and the public.

Lastly, the police ^{or LEAs} has been an active player in the never ending game of victimization done by political players against one another. They are used to harass and carry out activities at the whims of the political bosses at the helm. Later when they are on the opposite row, they face the same heavy handedness from the LEAs. This cycle of political victimization has led to the downfall of effective policing in the country. Moreover, a mockery of human rights and self-respect is carried out on a day-to-day. This whole cycle has led to the further creation or the wider acceptance of agitation politics where methods like street agitation and other movements are used by political bodies to have their demands and voice heard. Suppressing these movements is role of the LEAs, who inadvertently get involved.

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When this happens, the public perception goes down the drain. Important police activities get hampered as all available manpower is shifted to contain these agitational movements. The overall effect is felt on the quality of investigation and the subsequent challan reports that is presented before the court.

All is not lost, as there is still some hope to salvage this situation and steer the doomed ship away from the iceberg. The most important step in correcting the current course is ensuring the complete depoliticization of the LEAs. Moreover, a concerted effort must be put in by all the stakeholders (political, LEAs and others) to humanize and update the old colonial laws that run and define justice system. Furthermore, a comprehensive campaign should be run in bridging the immense gap between the public and the state. By doing these, a genuine effort can start in the equal application of the law and courts can, in the process, become safe for all.

~~The biggest challenge that needs~~
The crucial challenge
to be overcome is the depoliticization of the LEAs. This is not limited to the police but all the stakeholders involved in upholding the rule of law. Institutions need to carve out space for themselves under the constitution of the land. Moreover,

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the political bosses must also cede space for the better functioning of the law and justice system of the country. Secondly, proper capacity building must be done. Currently, the LEAs are under-staffed and under-equipped. Given the immense fiscal resources required for this endeavor, the federation along with the states can share burden of rebuilding the LEAs capacity. The judicial staff also needs special mention as the current numbers are just too less for our population. Number of court officers need to be increased so that justice can finally be delivered. Moreover, performance-based incentives for all organs of the law and justice system should be put forward. In order to encourage efficient and effective dispensation of justice.

Once the goal of rebuilding the capacity of the LEAs has begun, special attention must be paid to bridging the gap between the public and the state. In this regard, public liaison committees can be set up that attempt to close the distance between the LEAs and the general public. Building rapport amongst the public is the most important task. Without it, the public will continue to believe in the fake news and narratives spread by those who do not wish that this gap be bridged. By doing so, a positive perception can be built firstly of the neighbourhood, then of the city, and finally the country. The positive perception

boost public trust and morale in the system. If we wish to achieve to the perception the US has maintained, the state needs to work on its outreach program. Mainly, the police needs to adopt a humane approach towards the public. This trust gap also needs to be bridged by the judiciary. Lower courts have had a long history of delaying cases and making decisions under duress. Judicial reforms need to be done to effectively bridge the trust deficit.

The current pendency rate is 2.26 million cases. The majority of these cases in the lower courts are civil cases. In Punjab the total backlog of criminal cases was only 4% of the total cases. Civil cases constitute a major portion of the backlog. In order to slowly chip away these chips, ADR or Alternative Dispute Resolution Boards should be put in every Union Council or village council to ensure quick and smooth dispensation of justice. By disposing of these cases at the local level, the courts' burden can be alleviated and the lost trust in the justice system can once again be regained. Majority of the suits filed before the court pertain to either property, inheritance or matters related to these two. These matters can be solved at the UC or village level ADR Boards. Through these commissions, the local governments can dispose matters before they even reach the court. Local ownership of the issue can be enabled and:

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faith in system can be restored. thereby putting another feather in the cap for the pursuit towards equal and effective rule of law.

The War on Terror opened the doors to extremist elements neighboring in Afghanistan, to take up arms against the Pakistani state. The state began a series of crackdowns, led by both foreign and local intelligence, to apprehend such elements. During the process, many personal vendettas were also fulfilled leading to the enforced disappearance of scores throughout the years. No doubt the state has a right to guard its border from internal and external threats, but every human/citizen also has a right to a fair trial and be treated with respect and dignity. To ensure, the rule of law is applied equally on all the state needs to abandon this practice. The alternative is to obtain the relevant required to detain any person. Due care must be taken to ensure that every person's self-respect is not hurt. To ensure the state turns this myth into a reality, it must ensure that it does the bare minimum - treat everyone with dignity. Through this measure alone, trust can be slowly rebuilt and regained into the system. These cycles need to end sooner or later, or else the entire building may come down crumbling.

Another area where the LEA team

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and courts can improve their performance is by expediting those cases which concern the general public or public safety. Cases which invoke public sentiments in a negative light must be dealt ^{with} and any sort of mob violence or vigilantism. Cases which involve blasphemy should be dealt in a way that enables justice to be dispensed and to ensure that no innocent person is wrongly sentenced. Moreover, crimes against women or children should be handled by dedicated staff or agencies that allow for quick and swift justice. The Zainab case and others laid the groundwork for special legislation for children that protect them against future incidents. Justice was swiftly delivered and the perpetrator was sentenced. However, much work needs to be done to ensure justice is dispensed at a much quicker rate. Criminal investigation techniques are also outdated and need the incorporation of the latest tools and gadgets to expedite the time required for completing and submitting the report.

Apart from reforms in the LEA and judicial sphere, a concerted effort must materialize to bring all political parties to the table for dialogue on doing away with the cycle of political agitation and victimization. The Charter of Democracy can be redrawn up and properly codified within the law, giving it the legal cover it requires.

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It is only through dialogue that this cycle of repression can end. No amount of street power can dislodge the government, if it doesn't provide them the opportunity to do so. The best way to get on the best course of political reform and change is by working towards the equal application and implementation of the rule of law. Moreover, depoliticization can be achieved only if political stakeholders sit down and decide on a future course of action. Else this cycle will continue till the rest of time.

Lastly, in a bid to breathe new life into the system, the police and all other LEAs must be humanized. Reforms must be done in order to bring their conduct in line with global policing standards. Policing is a necessity that can not be avoided; however their conduct can always be shaped and molded so that it mirrors the best values of the Pakistani system. Rather than emphasis on brute force, the emphasis should be on improving the investigation techniques, conduct with the victim and accused and lastly adoption of the latest technologies. Through these measures, a new era of modern and human policing can be achieved. In order for this to be successful, political and administrative will is required to overcome the hurdles. The end goal of reforming the police should be that the citizen-police interaction should go

as smoothly as possible. The police should not be viewed with a lens of fear or intimidation. Rather the police should be perceived as equals and compatriots. They should be viewed as protectors of public safety and of life and property. To cut the long story short, radical reforms must be done to sensitize and instill a sense that prevail over the LEAs while dealing with the public.

In conclusion, the current scenario is indistinguishable from the law of the jungle and law made by humans. The rule of law in our country is constantly going down mostly due to the lack of attention the country has paid to rectifying flaws that plague our law enforcing mechanisms whether judicial or executive. This has to end in order to guarantee a sustainable future in which people can view the LEAs as their friends and not oppressors. Lastly, it is not the sole responsibility of the state, rather it is both the collective responsibility of the nation to move forward and turn this 'empirical myth' into a 'doable reality'.