



## RULE OF LAW AS A PRIORITY OBJECTIVE IN THE NATIONAL SECURITY POLICY 2022-2026

### Author(s):

*Alamgir Gul (Intern)*

### Edited by:

*Brig Muhammad Tariq Niaz*

Innovative ideas and vision lie at the heart of human evolution and progress. Policies that reflect these contribute to energizing national sentiments in keeping with the vision and objectives a nation sets for itself. The first comprehensive National Security Policy of Pakistan is a significant development in this regard.

The National Security Policy 2022-2026 includes provisions to safeguard citizens' constitutional rights and to protect them from extremism, crime, terrorism and violence, including war. The National Security Policy comprises eight sections. In order to highlight Internal and Human Security, the 'Rule of Law,' which has been narrowly defined in Section VI,<sup>1</sup> is an essential component of state machinery but has not been given due emphasis. The rule of law ensures that the legal system is just, easily accessible, and efficient from the time laws are created through their implementation and eventually to the judicial process. Ensuring the rule of law augments the social contract between the state and its citizens.



Dicey defines Rule of Law: "No man may be punished or legally forced to suffer in body or property unless for a specific violation of the law that has been proven in a court of law."<sup>2</sup> Due process of law is defined as "Fair treatment through judicial system, especially a citizen's entitlement to notice a charge and a hearing before an impartial judge." The terms 'Rule of Law' and 'Due Process of Law' are significant. Both guarantee the effective operation of a state's institutions within their respective spheres of influence, foster peace and prosperity, establish a stable social order, and confirm service delivery to a state's subjects, among other things. Pakistan's Constitution promotes the rule of law and due process, but the nation has not had much progress in guaranteeing their actual application under the legislation.

Pakistan's Constitution specifies the procedure for carrying out the duties of each organ of the state. The law facilitates the governance of a state in accordance with established legal principles, maintenance of peace, provision of rights to all citizens, explanation of duties and imposition of punishment in the event of a violation, and so on. It also serves as a foundation for establishing institutions and developing political, economic, social and cultural structures, among other things. The issue here is not only one of lawmaking but also a matter of effective supervision and implementation. The rule of law in Pakistan has been worsening day by day. A number of factors contribute to it are:<sup>3</sup>

Ensuring Rule of Law augments the social contract between the state and its citizens.

- Encroachment of one office's jurisdiction over another is a major issue. Interfering with or performing the work of another may result in confusion and chaos.
- It has been observed that a matter is politicized in order to achieve one's ulterior motives. As a result, a problem remains unresolved, and confusion reigns.
- Delays in delivering justice or providing rights to a state's subjects erode their trust in the state. As a result, people try to resolve their disputes without resorting to the legal system.

### Disclaimer

The views expressed in this Insight are of the author(s) alone and do not necessarily reflect policy of the NDU.

- Increased number of laws, but poor enforcement and implementation have had detrimental effects on society and the nation. People now tend to disregard the law. Protection of rights and upholding peace are impossible when the rule of law is violated.
- Personal or group interests have gained priority over national interest. It appears that either people are consciously ceasing to think about national interest or they are unaware of it.

Adopting the due process of law and enforcing it uniformly across the board is need of the hour. Rule of law is an essential element for any coherent society, as it is rightly said by Hazrat Ali (R.A) that “The system of disbelief can work, but not oppression.” Investigating the idea of the rule of law is necessary before we can comprehend the concept of law implementation. As per World Justice Project (WJP),<sup>4</sup> Pakistan is ranked 129 out of 140 in the rule of law index, which is lamentable. The overall low score is due to the following: Low public confidence in the system, unfair dispute resolution processes, weak law enforcement due to resource constraints, low salaries, unfilled positions due to unrealistic qualifications, and a backlog of cases in courts are all factors that contribute to delays in the justice system, high litigation costs, corruption, and a protracted and arduous legal process.

A vigilant and efficient civil and criminal justice system is essential to the rule of law. Speedy justice is a crucial component of the rule of law since it is the traditional method of resolving complaints and bringing criminal charges against people who have committed crimes against society. In order to deliver justice effectively, the system must be simple to use, reasonably priced, devoid of biases and corruption, and free from unwarranted delays. The rule of law is fundamental to human rights and democratic efforts. It seeks justice based on complete

respect for human dignity rather than just describing formal legal structures. To ensure the rule of law, there are certain ways to consider:

- Integrating services according to the needs of citizens and standardizing the quality of public service delivery.
- Small courts should be established to deal with minor local disputes and to reduce pressure on higher courts.
- Empowering Jirga System at the government level for rapid justice and to settle local cases.
- Promote public awareness and advocacy campaigns.
- The civil and criminal justice systems must be improved.

Better implementation of the rule of law requires an effective mechanism of law enforcement that needs an independent judiciary, as it is the bedrock of the rule of law. Courts in Pakistan are dealing with a huge backlog of 2.144 million cases.<sup>5</sup> Delay in the judicial process is an antithesis of justice. To overcome such a burden, the government should utilize the western model of Alternative Dispute Resolutions (ADR), which is known to be speedier and can assist in enhancing access to justice. By promoting ADR, the number of pending cases in courts may be reduced. Developed countries like Singapore have made ADR compulsory for citizens, which has proved vital in reducing cases and providing speedy justice.

The rule of law has not been given due emphasis at par with the importance accorded to the economy in National Security Policy 2022-26. The rule of law is suggested to be made a main policy objective under National Cohesion as part of the National Security Policy. It should be implemented from top to bottom, applicable to all and sundry, and state and society should collectively work to ensure its implementation. It is also important to implement laws in a true sense which will be fruitful for the peace and prosperity of Pakistan.

## References

<sup>1</sup> *National Security Policy 2022-2026*. Islamabad.

<sup>2</sup> M. Walters. (2021). “The Spirit of Legality: A. V. Dicey and the Rule of Law.” In J. Meierhenrich & M. Loughlin (Eds.), *The Cambridge Companion to the Rule of Law* Cambridge: Cambridge University Press. pp. 153-170.

<sup>3</sup> Dr. Khalil ur Rehman Sheikh,. “Poor rule of law: causes and remedies.” *Daily Times* (March 11, 2018).

<sup>4</sup> <https://worldjusticeproject.org/rule-of-law-index/global/2022/Pakistan/>.

<sup>5</sup> Ishaq Tanoli, “Over two million cases pending in courts across country.” *Dawn* (July 13, 2022).