**[Rule by law](https://www.dawn.com/news/1828563/rule-by-law)**

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IN recent years, the rule of law has become a buzzword in Pakistan’s political discourse, with a multitude of voices expressing support for this ideal.

For example, the election manifestos of all three major political parties — the PPP, PML-N, and PTI — contain claims of their commitment for ‘the rule of law’ and promises to prioritise it in their policies and legislation.

In practice, however, we see ‘the rule of law’ being weaponised and stripped of its fundamental values, taking on whatever meaning that fits the political objectives of those invoking it.

In its reply submitted before the Islamabad High Court earlier this week, for example, the Ministry of Interior defended its arbitrary ban on the social media platform X/Twitter, claiming the ban “upheld the rule of law and principles of democratic governance”.

We also hear government officials claim secret military trials of civilians accused of involvement in the May 9 riots and the conviction and seven-year sentence of Imran Khan and Bushra Bibi in a farcical case involving “fraudulently going through a marriage ceremony” are necessary for establishing “the rule of law” in the country.

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Earlier, we saw Nawaz Sharif’s political opponents and detractors celebrate his lifetime disqualification from contesting elections after a determination by the Supreme Court that he was no longer ‘sadiq and ameen’ as a victory for ‘the rule of law’.

As these illustrations show, like in other authoritarian states, the rule of law has been distorted to mean ‘rule by law’ in Pakistan. It is used to justify the arbitrary implementation of bad laws without adequate safeguards for the protection of fundamental rights or meeting due process requirements.

The authoritarian reconfiguration of the rule of law as ‘rule by law’ appropriates the language and rhetoric associated with the emancipatory, liberal idea of this concept to consolidate state power, undermine democratic values, victimise political opponents, and impede the fundamental rights of citizens.

Unlike the rule of law, ‘rule by law’ is almost always associated with the use of law as an instrument to serve the ends of those in power. It allows the state to use law to control its citizens, but never allows law to be used by the citizens to hold the state accountable.

It is, therefore, important to understand what ‘the rule of law’ means and identify its core values. Doing so would allow more effective support of the legal and political reforms to advance it and challenge perversions of the rule of law rampant in our political discourse.

Although the concept of the rule of law can be traced back at least to ancient Greece, it has become much more widely discussed in the last three decades, with engagement from jurists, scholars, international organisations, as well as the United Nations.

For the UN, the rule of law is “a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires measures to ensure adherence to the principles of supremacy of the law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency”.

This definition encapsulates at least eight distinct but related principles.

The first principle captures the essence of the rule of law dating back to Aristotle: The rule of law is a “government by laws and not by men”, which means no one is above the law and all persons and institutions, including the state, are accountable to the law.

Second, the law must be publicly promulgated so that people know the consequences of their actions.

Third, the law must be appropriately defined and government discretion sufficiently limited to ensure the law is applied in a non-arbitrary manner. A.V. Dicey, for example, warned against laws that gave people in positions of power “wide, arbitrary, or discretionary powers of constraint”. Vague laws also undermine the rule of law because they leave the door open to selective prosecution and interpretation, based on discriminatory policies of government officials and the personal predilections of judges.

Fourth, the law must be applied equally and without discrimination to all persons in like circumstances.

This fifth principle embodies a substantive rather than a procedural guarantee of the rule of law, and provides that the laws in a society that honours the rule of law must be just and consistent with international human rights norms and standards. This substantive requirement is essential, as it distinguishes a government under the rule of law from a government operating with a rule by law. In a number of authoritarian states, for example, some of the elements of the rule of law are present, but unless the laws are just, society is not governed by the rule of law.

Sixth, legal processes must be sufficiently robust and accessible to ensure the enforcement of such laws and human rights protections.

Seventh, the independence of the judiciary must be guaranteed. This means judicial power must be exercised independently of other branches of the state, and individual judges must adjudicate matters before them impartially.

And eighth, citizens and other members of society must have the right to participate in the enactment and refinement of laws that regulate their behaviour.

These principles — and consequently, ‘the rule of law’ — are largely absent in Pakistan. Instead, the garb of the rule of law is being used to establish its very antithesis — ‘rule by law’.

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*Published in Dawn, April 20th, 2024*