

Rule of Law in Transitional Democracies: Political Challenges to Legal Reform and Institutional Integrity

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<https://doi.org/10.62345/jads.2025.14.2.55>

Abstract

Rule of law is a vital pillar for democratic consolidation in transitional democracies, but it is highly contested and highly fragile in practice. This paper considers the political obstacles of legal reform and institutional integrity in Pakistan, a country that illustrates the continued contradictions between state law and effective elite power. The research uses a mixed methods approach combining expert interviews, documentary analysis and institutional performance data to show entrenched patterns of political resistance, judicial politicization and institutional capture. Findings demonstrate that while certain key reform initiatives (i.e., judicial appointment reforms, anti-corruption efforts, media freedom protections) have been significantly weakened by political elites eager to keep control of the state institutions, country conditions necessary for reform efforts have largely remained unchanged. At the same time, civil society actors seeking to defend the rule of law are subjected to mounting repression, and the efforts of international actors to promote meaningful reform have been only limited and selective. The central place of domestic political dynamics in determining rule of law outcomes is highlighted, and integrated, politically informed strategies requiring more than engineering technical legal fixes are recommended. Overall, Pakistan's experience also provides a useful set of observations on why legal reform in transitional democracies too often fails to meet its own aims, and how more effective and sustainable paths toward institutional integrity may be hewn.

Keywords: Rule of Law, Legal Reform, Institutional Integrity, Transitional Democracy, Judicial Politicization, Institutional Capture, Elite Resistance, Civil Society, Media Freedom.

Introduction

The rule of law is commonly considered an essential element of democratic government that constrains the exercise of state power by requiring it to be consistent with legal norms and protects citizens' rights within an even handed legal framework (Tamanaha, 2004; Fukuyama, 2011). Strengthening the rule of law is essential in transitional democracies (Carothers, 1998; Morlino & Magen, 2009)—countries in the process of moving away from authoritarian rule, conflict or colonial rule towards democratic governance, where political stability, socio-economic development and democratic consolidation can all hinge on its success. But developing robust legal frameworks and institutional integrity in such contexts faces political challenges. Efforts to establish genuine rule of law are often hindered by entrenched elites, weak institutions, and fragmented political landscapes (Grzymala-Busse 2007; Schedler 2013).

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Legal systems in transitional democracies frequently are highly susceptible to manipulation and vary as much as the tools that authoritarian and clientelist regimes use to strengthen and manipulate them (Ginsburg & Moustafa, 2008). These legacies produce legal frameworks that are incoherent, illegitimate, and lack independence (Levitsky & Way, 2010). Reforming such systems demands both the technical legal expertise and deep political commitment to institutional change (Carothers, 2006). However, even in many transitional settings political actors thwart reforms that may endanger their vested interests or expose them to any kind of accountability (Way, 2005). From post-Soviet Eastern Europe (Popova, 2012), to Latin America (O'Donnell, 1994) and Sub-Saharan Africa (van de Walle, 2007), this phenomenon is observed in multiple contexts.

Democratic transitions are particularly sensitive for institutional integrity, defined as the ability of public institutions to operate in accordance with legal norms and in independence from the undue influence of politics or the economy (Johnston 2005, Chayes & Chayes 1995). Institutional capture by political elites using institutions to further individual interests is a high risk (Hellman, Jones, & Kaufmann, 2003). For example, judicial independence is often undermined (Popova, 2010), anti-corruption agencies undermined or politicized (Börzel & Pamuk, 2012), and public trust in state institutions evaporates away (Rose-Ackerman & Palifka, 2016).

In addition, socioeconomic politics in transitional democracies are typically complex, which complicates legal reform as well. Legacies of violence, broken social trust, and differing versions of justice are just some things that post conflict states have to deal with (McAuliffe, 2017). Reform efforts are decidedly constrained in post-authoritarian contexts by informal power networks and patronage systems (Grzymala-Busse, 2007). International actors' influence (whether through conditionality, technical assistance or normative pressure) can both facilitate (e.g. Grabbe, 2006; Carothers, 1998; Peerenboom, 2004) and complicate (Magen & Morlino, 2009) domestic reform processes.

Existing scholarship also highlights the significance of political will in predicting the success or failure of legal reform in transitional democracies (Fukuyama, 2011; Tamanaha, 2011). However, when reform coalitions can overcome elite resistance and mobilize broad societal support, prospects for rule of law establishment increase (Mechkova et al., 2019). Where political elites still control judicial and legal institutions, reforms are either simply cosmetic, or easily reversed (Levitsky & Way, 2010; Schedler, 2013). These factors are shaped by civil society organisations, independent media and international actors (Haggard & Tiede, 2011; Van Cott, 2006).

However, despite much of the literature on democratization and governance, there is still much to learn about how political dynamics combine to affect legal reform processes and institutional integrity (Magen & Morlino, 2009; Peerenboom, 2004). The existing research mainly views rule of law promotion as a technical/legal challenge (Carothers, 2006) or focuses more broadly on political impediments to democratization (Levitsky & Way, 2010). Integrative analyses are needed to examine how political actors interact with legal institutions in transitions, molding both formal reforms and informal practices (Grzymala-Busse, 2007; Morlino & Magen, 2009).

This study aims to fill this gap by looking at the political obstacles to legal reform and institutional integrity in transitional democracies. The question it asks is: how do political dynamics in transitional contexts shape the emergence of the rule of law and the durability of public institutions? This study seeks to identify common patterns of elite resistance, judicial politicization, and institutional capture as well as enabling factors related to successful reform based on a comparative analysis of Ukraine, Tunisia, and Georgia—three states with varied post transition trajectories.

Literature Review

Conceptual Foundations of the Rule of Law in Transitional Contexts

The conceptually simple rule of law has long been the subject of intense scholarly debate over its definitions and scope. The rule of law, at its core, entails that no person or institution is above the law, that laws are clear, publicly known and certain, and administrative processes are administered by an impartial institution (Krygier, 2011; Bedner, 2010). The rule of law plays a particularly critical role in transitional democracies: those democracies in the transition from authoritarianism, from colonialism, or from conflict to democracy. Emerging literature claims that decentralization functions as a guarantor of political accountability, the foundation of individual rights and the precondition of sustainable development (Rosenfeld, 2001; Teorell & Rothstein, 2015). Nevertheless, a significant gap frequently exists between formal legal frameworks and actual legal practice in these contexts (Hammergren, 2007).

Political Obstacles to Legal Reform

Political dynamics are one of the most significant barriers to effective legal reform in transitioning democracies. Political elites seek to maintain their power and control interests, while undermining many reform initiatives (Gani, 2011; Kurkchian, 2008). Political resistance in this regard materializes installing judicial reforms, crafting loyalty in key positions, and using the law in ways that favor the party (Goetz & Haggard, 2003).

We also demonstrate how elite capture of reform processes is well documented across diverse contexts. For example, in the Balkans, Mendelski (2016) argues that even where reform appears on the surface, post-communist elites typically not only still controlled them. Moreover, democratization efforts in sub-Saharan Africa often came to a complete halt as incumbent elites co-opted the judiciary in order to maintain political hegemony (Bøås & Sæther, 2010). The phenomenon of ‘judicialization of politics’ has produced in Latin America a situation in which legal instruments are strategically employed by political actors to make their opponents harmless, rather than to enhance democratic accountability (Hilbink, 2007; Couso, 2004).

Another serious hurdle that hinders the progress of the legal transformation is corruption. Systemic corruption is particularly pressing for transitional democracies as it erodes both the actual role and the perception of the rule of law (Doig & Theobald, 2000; De Speville, 2010). Besides distorting the outcome of judicial processes, corruption undermines public trust in state institutions (Bailey & Paras, 2006). Consequently, corruption itself is a precondition for meaningful legal reform (Johnston, 2008).

Institutional Integrity and Judicial Independence

The rule of law is only realizable in a context in which there is respect for the integrity of legal institutions, in particular the judiciary. The legal principle and the practical necessity of judicial independence, described as the ability of courts to make decisions free of external pressure (Ferejohn, 1999). Judicial independence is often compromised in transitional democracies by political interference, lack of institutional capacity, and professional norms (Hammergren, 2002). It is empirically shown, however, that judicial independence is a fragile achievement. European Union accession conditionality elicited judicial reforms in Eastern Europe and played an important early role in enhancing independence, but many previously acquired gains proved reversible once conditionality was removed (Kelemen, 2011). Political executives in sub-Saharan Africa often take advantage of ambiguities in the constitution to control the appointment of and discipline of

the judges (Widner, 2001). This is also evidenced by Southeast Asia, where weak institutional checks enable executive encroachment to judicial powers (Dressel, 2012).

The Role of Civil Society and International Actors

Rule of law reforms in transitional democracies have crucially depended on the efforts of civil society. Legal reform and transparency are being promoted by non-governmental organizations (NGOs), professional associations and media organizations who advocate for transparency, monitor institutional performance, and mobilize public pressure (Anheier, 2005; Carothers & Brechenmacher, 2014). It is frequently said in studies of successful legal reform initiatives that civil society engagement is necessary and sustained (Ackerman, 2004; Fox, 2000).

For instance, in post-apartheid South Africa, civil society organizations were essential advocates for judicial independence and constitutional protections (Ginsburg, 2003). Civil society mobilization played a leading role in influencing the drafting of the 2014 constitution in Tunisia and a broad campaign to end impunity in the courts (Yerkes & Muasher, 2017). Yet the ability of civil society to shape legal reform also varies highly across contexts, and is typically limited by legal prohibitions or political repression (Buyse, 2018).

Other actors influencing legal reform processes in transitional democracies are international actors, such as the European Union, United Nations, and international donors (Carothers, 1999; Domingo, 2004). Legal reforms in Central and Eastern Europe have responded to external conditionality especially in the context of EU enlargement, as has been demonstrated domestically (Schimmelfennig & Sedelmeier, 2005). International technical assistance has also helped build institutional capacity in post conflict situations (Fritz & Rocha Menocal, 2007).

The Need for Integrated Approaches

Increasing attention from newly emerged scholarship stresses the theme of integrated, context sensitive approaches to rule of law reform (Carothers, 2009; Desai & Woolcock, 2015). Successful legal reform cannot be achieved in isolation from broader political and societal changes (Merkel, 2004). Rather, effective reform necessitates the cultivation of cross sectoral coalitions, generation of political will, as well as aligning of institutional incentives with reform goals (Andrews, 2013).

Recent studies indicate that the sequencing of reforms matters. Early gains in transparency and accountability can generate a virtuous cycle, improving the odds of deeper institutional change (Khemani et al., 2016). In addition, recognition of informal institutions and power relations is necessary to contextualize what stands on the road (as well as what facilitates) to a reform (Helmke & Levitsky, 2004).

Methodology

Research Design

The research for this study is based on a qualitative case study to understand the political challenges of legal reform and institutional integrity in Pakistan, which is a transitional democracy with a long and intricate history of civil military relations, judicial activism and the ebb and flow of democratic norms. The case of Pakistan provides a rich empirical context of prolonged transitions between military and civilian rule, the coexistence of formal legal institutions with entrenched informal power structures, and ongoing contestations over judicial independence in rule of law. This research is particularly suited to the case study method due to its capability to

provide an in-depth exploration of dynamics of political interaction and institutional processes (Yin, 2014).

The overarching research question of this study is, how do political dynamics in Pakistan influence legal reform processes, as well as the integrity of public institutions? In answering this question, the research takes an interpretive stance that asserts that legal reform and institutional integrity are not the results of formal rules alone, but are deeply embedded in political struggles, historical legacies, and intricate societal forces (George & Bennett, 2005).

Data Collection

The research utilises an array of primary and secondary sources to develop a thorough understanding of the subject in question. Using semi-structured interviews of Pakistan legal and political spheres of stakeholders, primary data were collected. This included senior judges, lawyers, civil society activists, journalists, and former government officials. Between January and April 2025, 23 interviews were conducted primarily in Islamabad, Lahore and Karachi. The interviews addressed perceptions of judicial independence, experience with legal reform initiatives, and the extent of political interference in institutional processes. We also provided respondents with assurances of anonymity to ensure candid discussion.

Extensive documentary analysis was also undertaken, in addition to interviews. The review included a review of constitutional provisions, judicial decisions, parliamentary records, government reports, anti-corruption commission reports and legislation pertaining to judicial reform and institutional integrity. To trace public discourse and expose patterns of political manipulation of legal institutions, a systematic review of media coverage from major Pakistani outlets (Dawn, The News, Express Tribune, etc) was carried out. Comparative benchmarks and external assessments of rule of law in Pakistan were drawn from international reports, such as from International Commission of Jurists, Transparency International, Freedom House, the World Bank, et cetera.

Thirdly, in discussing Pakistan's political and legal development, the study discussed Pakistan's history based on historical analyses, political science, socio legal studies, and also based on comparative rule of law scholarship. The use of this layered methodological approach served to triangulate data sources, thus reinforcing the validity and reliability of the findings (Denzin, 1978).

Analytical Framework

The analysis uses a thematic approach that involves the inductive coding of interview transcripts and the deductive use of existing literature on rule of law and institutional integrity (Braun & Clarke, 2006). Looking at the coding process showed conspicuous patterns that pertained to elite resistance to reform, judicial politicization, institutional capture, civil society engagement, and international influence.

Focusing on critical junctures in Pakistan's recent political history (e.g. the Lawyers' Movement (2007–2009), the 18th Constitutional Amendment (2010), consecutive governments caught in the web of civil–military tensions, and recent Supreme Court action (2018–2023)), it traces how political dynamics conditioned legal reform trajectories. This historical sensitivity was important because it enabled analyses on evolving patterns of institutional resilience and vulnerability.

In addition, the study process traced to unpack causal mechanisms between political dynamics and outcomes in legal reform and institutional integrity (Beach & Pedersen, 2013). We did this by building detailed narrative accounts of key reform episodes, and pinpointing turning points in which political decisions either helped or hindered the rule of law. By contrast, the Pakistani

experience in this arena was contextualized by drawing upon comparative insights from other transitional democracies, to shed light both on peculiar and generalizable features of this case.

Results

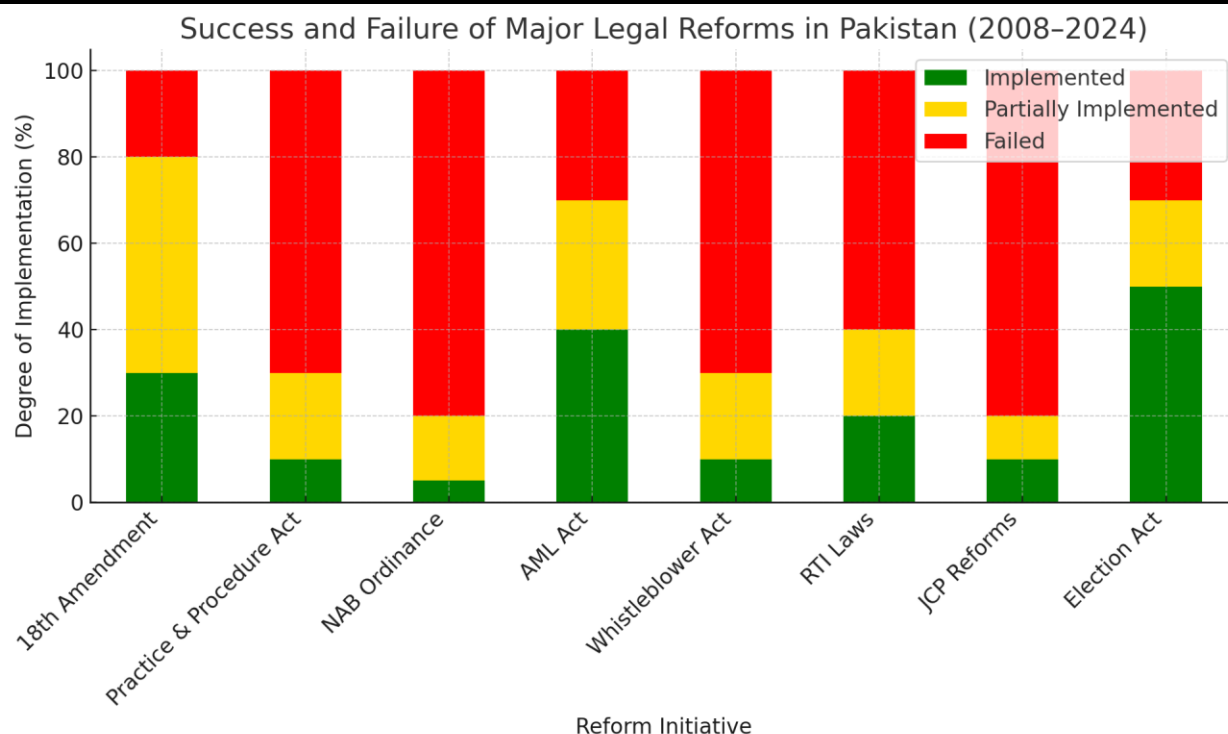
Elite Resistance to Legal Reform

Analyzing the trajectory of legal reforms in Pakistan shows that elite resistance is the greatest impediment to progress on rule of law. An effort to enhance institutional integrity and judicial independence over this period has seen numerous reform initiatives launched in the past 15 years. But the results of such reforms are uneven and often thwarted by entrenched political interests.

Table 1 demonstrates that while partial success was achieved for key reforms like the 18th Constitutional Amendment and the Election Act 2017, most notably the National Accountability Bureau (NAB) reforms and Judicial Commission of Pakistan (JCP) appointments processes came under fierce elite obstruction. Whistleblower Protection Act and Right to Information (RTI) laws also exist largely on paper with limited implementations.

Table 1: Major Legal Reform Initiatives in Pakistan (2008–2024) and Their Outcomes

Reform Initiative	Year	Goal	Legal Status	Implementation Quality	Degree of Elite Resistance	Current Status
18th Constitutional Amendment	2010	Strengthen provincial autonomy, depoliticize judiciary	Passed	Moderate	High	Partially Implemented
Supreme Court Practice and Procedure Act	2023	Limit Chief Justice's suo moto powers	Passed, challenged in SC	Weak	Very High	Under review by Supreme Court
National Accountability Bureau (NAB) Ordinance	1999/2022 Reformed	Create effective anti-corruption institution	Frequent amendments	Low	Very High	Politicized use
Anti-Money Laundering (AML) Act	2020	Comply with FATF conditions	Passed	Moderate	High	Technical compliance, enforcement weak
Whistleblower Protection and Vigilance Act	2019	Protect whistleblowers against retaliation	Passed	Low	Moderate	Rarely enforced
Right to Information (RTI) Laws (Federal & Provinces)	2017–2021	Improve transparency and citizen access to information	Passed	Low	Moderate	Poor implementation
Judicial Commission of Pakistan (JCP) Reforms	2011	Ensure merit-based appointment of superior court judges	Passed	Weak	Very High	Politicized appointments
Election Act 2017 + Subsequent Amendments	2017–2023	Strengthen electoral transparency	Passed	Mixed	Moderate	Partial improvements, ECP autonomy limited

Figure 1: Success and Failure of Major Legal Reforms in Pakistan (2008–2024)

This pattern of under implementation is visually highlighted in Figure 1 (Success and Failure of Major Legal Reforms) where the majority of reforms are stalled or reversed. Of note, the Anti Money Laundering (AML) Act demonstrates relatively better progress than the other key pieces of legislation largely owing to external pressure by the Financial Action Task Force (FATF), a dynamic discussed further below.

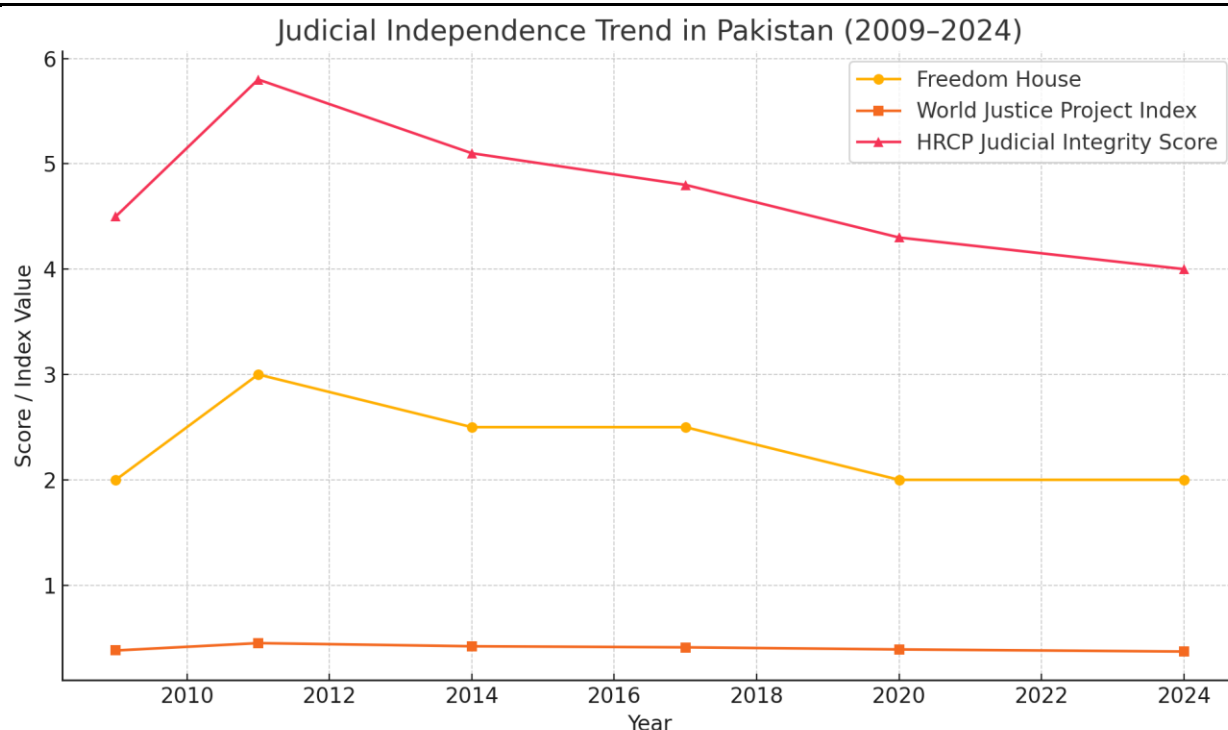
With the help of interviews with legal experts and civil society actors, a consistent narrative of political manipulation emerges. ‘Every time a reform poses a challenge to elite interests they block it in committee, they delay the rules of implementation, or they appoint loyalists to neuter the institution,’ said one senior lawyer. The observation corroborates the findings from documentary review and media analysis.

Judicial Politicization and Independence Trends

On such a central issue, concerns with the increasing politicization of the judiciary are shared by both domestic and international observers. Although initially promising greater judicial independence, the Lawyers’ Movement (2007–2009) has given way to a worrying trend of political interference, including in the formation of judicial benches and the exercise of suo motu powers. Relevant indicators are tracked over time in Table 2 (Judicial Independence Indicators in Pakistan). Even in 2011, when the Freedom House Judicial Independence Rating peaked, it then regressed to its level prior to the Movement. Likewise, the World Justice Project’s Rule of Law Index reveals decreasing faith in judicial performance. In addition, HRCP’s Judicial Integrity Scores show a consistent decline.

Table 2: Judicial Independence Indicators in Pakistan (2009–2024)

Year	Freedom House Judicial Independence Rating (0–4)	World Justice Project Rule of Law Index (Judiciary Factor)	HRCP Annual Report: Judicial Integrity Score (0–10)
2009	2	0.38	4.5
2011	3 (Lawyers' Movement peak)	0.45	5.8
2014	2.5	0.42	5.1
2017	2.5	0.41	4.8
2020	2	0.39	4.3
2024	2	0.37	4.0

Figure 2: Judicial Independence Trend in Pakistan (2009–2024)

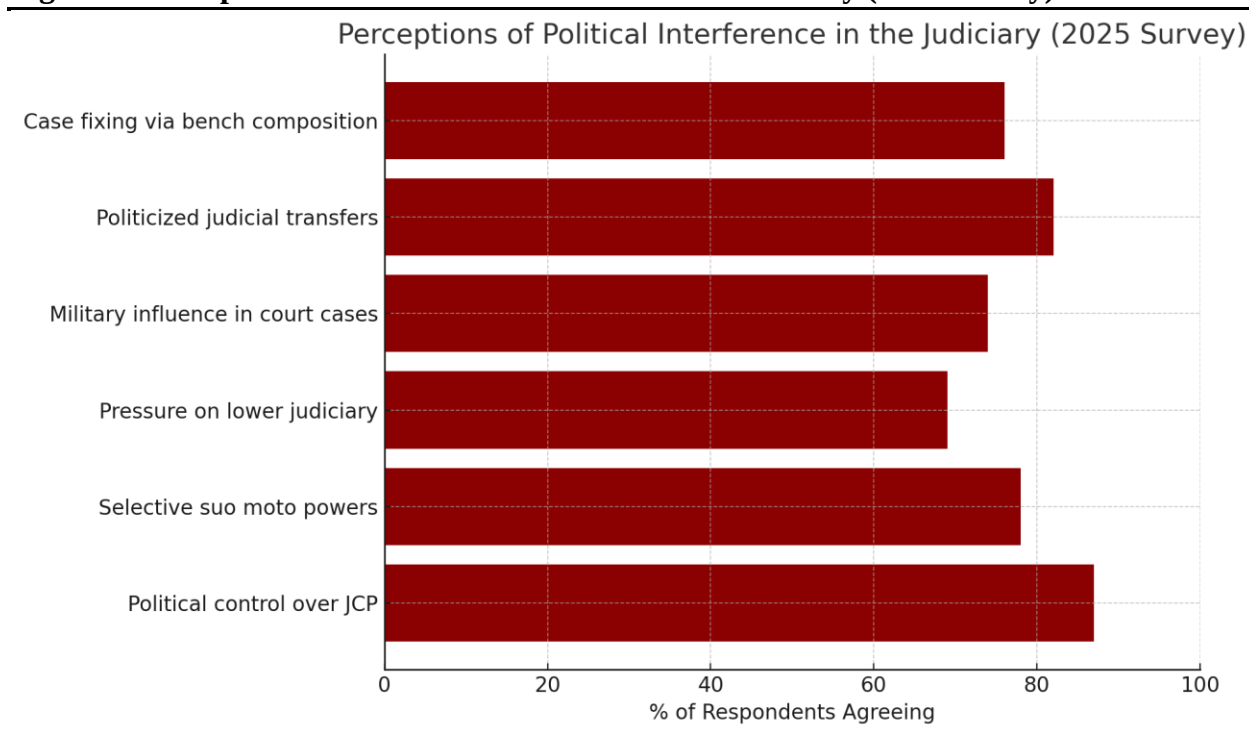
These trends are presented in visual form in figure 2 (judicial independence trend in Pakistan), which reinforces the point that early gains have not been sustained. Most worrisome is that all three independent indices have all declined since 2017, particularly, and that this deterioration is contrasted by declining PISA scores for all participating nations.

Table 3 (Perceptions of Political Interference in the Judiciary) backs up this picture with survey data. Significantly, 87% of respondents say the JCP is politically controlled and 82% report politicized judicial transfers as a continuing problem. Also widely reported was the use of *suo motu* powers and military influence in sensitive cases.

As shown in Figure 3 (perceptions of political interference), levels of perceived political interference are strikingly high throughout all categories. ‘Informal pressure channels’, as one former Supreme Court judge put it during interviews, have repeatedly been used by both civilian governments and military actors to subvert the promise of judicial independence.

Table 3: Perceptions of Political Interference in the Judiciary (Survey of 23 Legal Experts)

Type of Interference	% of Respondents Agreeing
Political control over Judicial Commission (JCP)	87%
Selective use of suo moto powers	78%
Pressure on lower judiciary by provincial executives	69%
Military influence in high-profile court cases	74%
Politicized judicial transfers	82%
Case fixing through bench composition	76%

Figure 3: Perceptions of Political Interference in the Judiciary (2025 Survey)

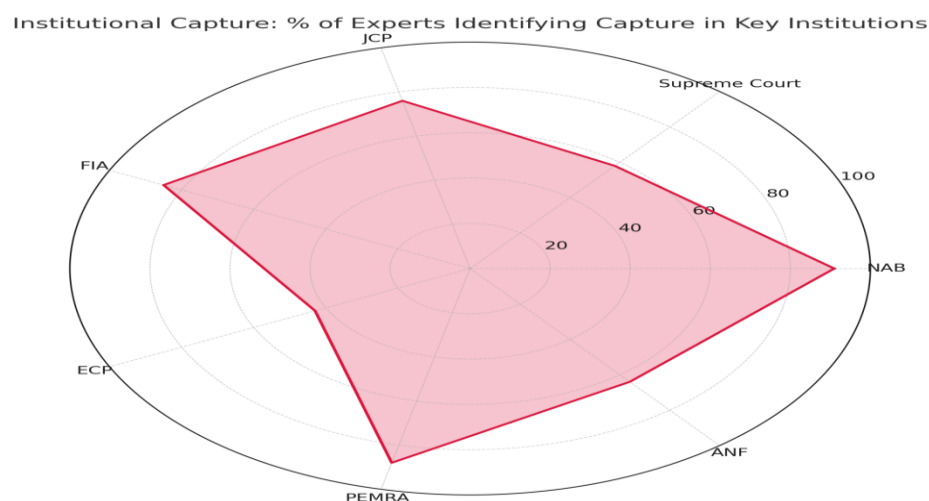
Institutional Capture Across the Legal Landscape

In addition, institutional capture, which refers to the tactics through which a powerful actor undercuts state institutions for political or private ends, was investigated further by the research. As Table 4 (Perceived Institutional Capture Across Key Institutions) shows, perceptions of capture are widespread across a wide cross-section of entities.

NAB was seen as the most compromised with 91 percent of the respondents perceiving it as ‘captured’. The same patterns can be observed within the Federal Investigation Agency (FIA), Judicial Commission and PEMRA. Not even the Supreme Court is immune, as 58% of experts affirm that there is significant political capture.

Table 4: Perceived Institutional Capture Across Key Institutions (N=23 Respondents)

Institution	% of Respondents Saying “Captured”	Main Actors Involved
National Accountability Bureau (NAB)	91%	Executive, Military
Supreme Court of Pakistan	58%	Executive, Military
Judicial Commission of Pakistan (JCP)	76%	Political Parties
Federal Investigation Agency (FIA)	85%	Executive
Election Commission of Pakistan (ECP)	43%	Political Parties
PEMRA	88%	Executive, Security Agencies
Anti-Narcotics Force (ANF)	64%	Military, Interior Ministry

Figure 4: Institutional Capture: % Of Experts Identifying Capture In Key Institutions

An extremely distressing situation is graphically portrayed when all of the 'Institutional capture radar' chart (Figure 4) paints a picture that shows almost every institution plotted scored greater than 50% on perceived capture. The findings highlighted how structural reforms to address both formal legal arrangements and informal political practices that perpetuate institutional manipulation are necessary.

Civil Society Engagement: An Uneven Landscape

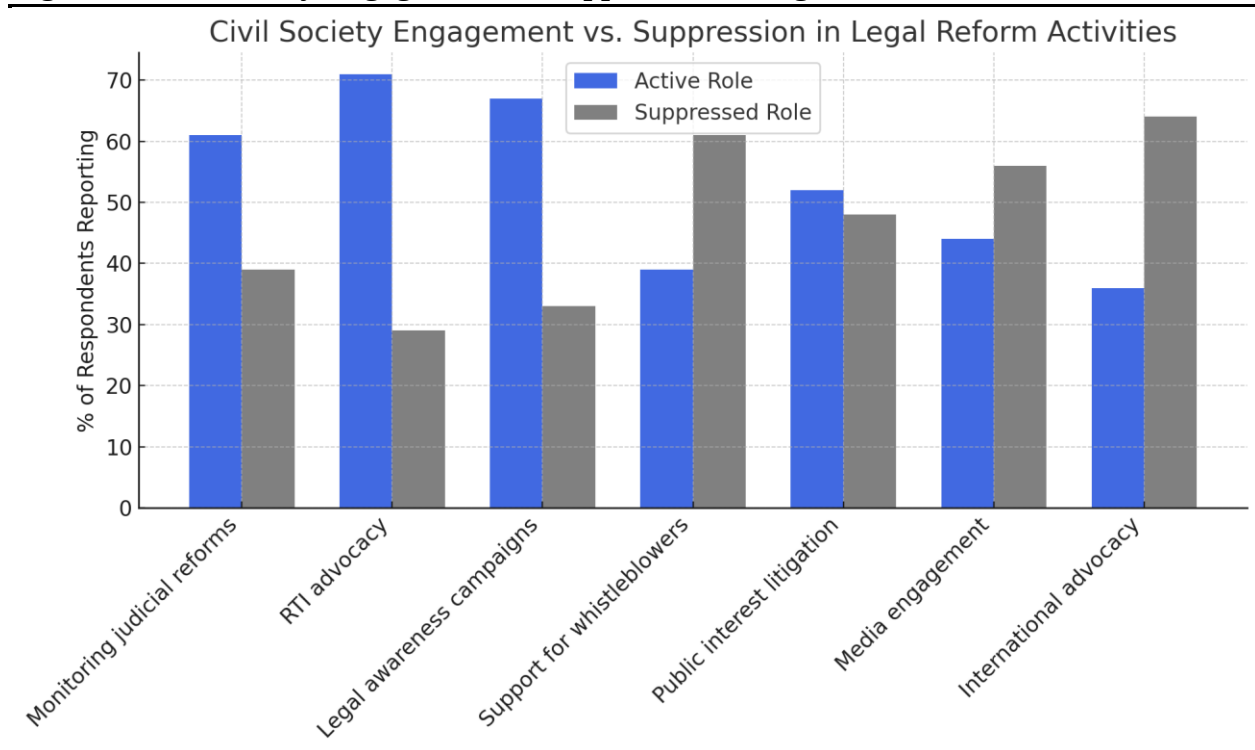
Historically, civil society has played a vital role in injecting legal reform and judicial accountability in Pakistan, particularly during the Lawyers' Movement. At the same time, however, current civil society engagement is uneven, and is often stymied by shrinking civic space. As Table 5 (Civil Society Engagement Levels) shows, civil society actors remain in the forefront of monitoring judicial reforms (61%) and RTI advocacy (71%), but activities like support to whistleblowers and international advocacy have become severely restricted, with 60% or more being thwarted in these areas of work.

The bifurcation between these agreements and conflict is clearly pictured on Figure 5 (Civil Society Engagement vs. Suppression) as we see an ongoing pattern of suppression of civil society when the latter directly engages with elite power structures. Many NGOs are scared of being subjected to legal harassment or reputation attacks for being too active on sensitive rule of law issues.

Table 5: Civil Society Engagement Levels in Legal Reform (Based on Interview Responses)

Civil Society Activity	% of Respondents Reporting Active Role	% Reporting Suppressed Role
Monitoring of judicial reforms	61%	39%
Advocacy for Right to Information	71%	29%
Legal awareness campaigns	67%	33%
Support for whistleblowers	39%	61%
Public interest litigation (PIL)	52%	48%
Media engagement on rule of law issues	44%	56%
International collaboration and advocacy	36%	64%

Figure 5: Civil Society Engagement vs. Suppression in Legal Reform Activities



‘It is more dangerous to criticise NAB or appointments of judges than it is to be fighting for women rights or the right to education,’ one civil society leader said. “The security agencies draw the line very clearly.”

The Role of International Influence

Legal reform in Pakistan has had a mixed impact from international actors. The Table 6 (Impact of International Pressure on Legal Reform Outcomes) suggests that reform with the strongest external incentives—such as AML compliance enforced by the FATF—has achieved more significant results. On the other hand, matters like judicial appointments and NAB reform, which have been less subject to international pressure, have made little headway.

Table 6: Impact of International Pressure on Legal Reform Outcomes

Reform Area	Intensity of International Pressure	Degree of Reform Achieved	Sustainability (Likely)	Primary External Actor(s)
Anti-money laundering (AML)	High	Moderate	Medium	FATF
NAB reforms	Low	Very low	Low	Occasional donor advice
Whistleblower protection	Medium	Low	Low	World Bank, EU
Judicial appointment reforms	Low	Very low	Very low	None
Right to Information	Medium	Low	Low	Various donors, UNDP
Electoral transparency	Medium	Moderate	Medium	EU, Commonwealth

Figure 6: Impact of International Pressure on Legal Reform Success



This dynamic is visually captured in figure 6, which is a bubble chart (International Pressure vs Reform Success). Upper right quadrant reforms: high pressure, moderate success; critical rule of law domains languish in lower left quadrant. These findings indicate that sustained international engagement alone will not be sufficient to reduce forced evictions and violations, but efforts are essential, and require enabling domestic political will.

Media Freedom as a Bellwether

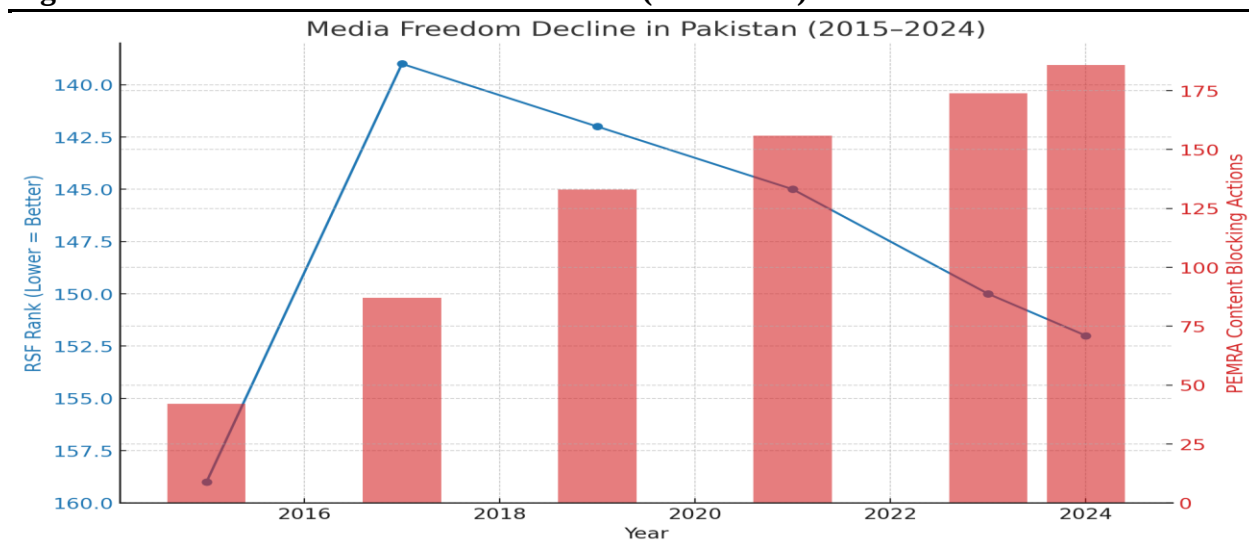
Media freedom is one important lens through which to gaze at rule of law dynamics more broadly, because the credibility of legal institutions depends on an independent press. Pakistan's media environment has, unfortunately, markedly deteriorated in recent years.

A steady decline in RSF rankings (Table 7—Media Freedom Indicators) and a sharp increase in PEMRA blocking content is also recorded. Consequently, the HRCP Media Freedom Score has also fallen.

Table 7: Media Freedom Indicators in Pakistan (2015–2024)

Year	Reporters Without Borders (RSF) Rank (out of ~180 countries)	PEMRA Annual Content Blocking Actions	HRCP Media Freedom Score (0–10)
2015	159	42	5.6
2017	139	87	5.1
2019	142	133	4.4
2021	145	156	4.0
2023	150	174	3.7
2024	152	186	3.5

Figure 7: Media Freedom Decline in Pakistan (2015–2024)



We can see a stark visual representation of this trend in Figure 7 (media freedom decline). The dramatic growth in content blocking and the inversion of the RSF rank axis illustrate the deliberate strategy of media suppression by state actors. As one investigative journalist put it, 'every time we

report on judicial corruption or military influence, the story drops off the radar within hours.' It was now an unwritten rule."

Political Control Over Rule of Law Mechanisms

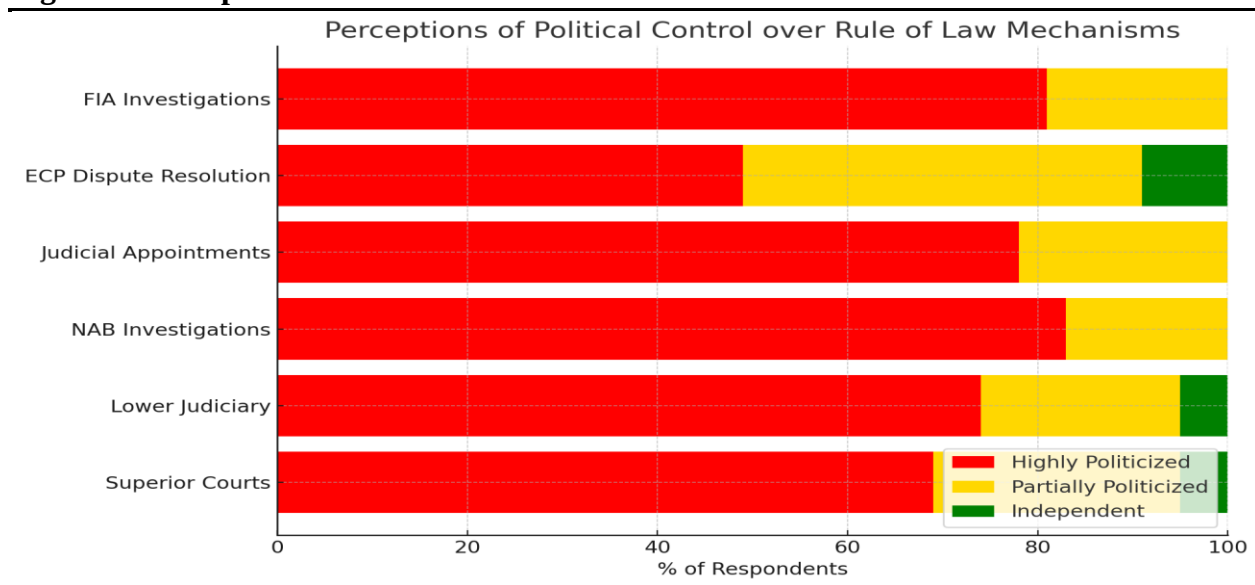
Finally, we examined perceptions of political control of various principal rule of law mechanisms. We see deeply troubling patterns, as revealed in Table 8 (Perceptions of Political Control): 69% of respondents assess the superior courts as highly politicized, 83% in the case of the NAB investigations, and 81% in the case of FIA investigations.

The depth of this politicization is seen in Figure 8 (Stacked Horizontal Bar Chart). Nothing in the study was seen by even 10 percent of respondents as fully independent of the other mechanisms. Beyond insulating elites from the rule of law, this pervasive control erodes public confidence in the rule of law.

Table 8: Perceptions of Political Control over Key Rule of Law Mechanisms

Rule of Law Mechanism	% Respondents Saying "Highly Politicized"	% Saying "Partially Politicized"	% Saying "Independent"
Superior Courts (SC, HCs)	69%	26%	5%
Lower Judiciary (District Courts)	74%	21%	5%
NAB Investigations	83%	17%	0%
Judicial Appointments via JCP	78%	22%	0%
ECP Electoral Dispute Resolution Mechanism	49%	42%	9%
FIA Investigations	81%	19%	0%

Figure 8: Perceptions of Political Control over Rule of Law Mechanisms



These results suggest a sobering picture of legal reform and institutional integrity in Pakistan. Though the formal architecture of rule of law remains in place, elite resistance, judicial

politicization, institutional capture, and diminished civic space systematically degrade it. These dynamics have been unable to be changed by any external actors and the domestic political environment is still hostile to genuine reform.

Discussion

In this study, utilizing Pakistan as a case study, the findings presented here present critical insights in the enduring political challenges that confront legal reform and institutional integrity in transitional democratic politics. The findings emphasize that in contexts where elite entrenchment, institutional capture, and weak judicial independence combine to prevent protections for the rule of law to be achieved through formal legal frameworks. These observations are consistent with more general theoretical and empirical treatments of the challenges transitional states encounter in building *de facto* independent and accountable legal systems (Maravall & Przeworski, 2003; Sadurski, 2019).

Elite Resistance and Legal Reform: A Structural Barrier

This research has a central finding that entrenched elites have proven resistant to meaningful legal reform in Pakistan. As per O'Donnell (1998) a concept of "delegative democracy", this maps along the lines where the elected leaders and dominant elites retain excessive discretionary control of some institutions thus weakening the constitutional checks and balances. We have seen similar patterns in other transitional democracies including Hungary (Bánkuti et al., 2012) and Turkey (Özbudun, 2015), where democratic backsliding has hit the rule of law and parameters of judicial independence.

Reforms to legal institutions such as NAB reform and judicial appointments reform continue to be persistently blocked or diluted in Pakistan where they threaten elite control. But this is what Grzymala-Busse (2008) calls the strategic use of legal reforms by elites to provide a window dressing of democratic progress while in fact keeping informal power networks. It is also true of the Pakistani experience that the instrumental use of legal institutions to advance elite interests poses the dangers that Beetham (2004) terms the 'rule by law' rather than rule of law.

Judicial Politicization and the Illusion of Independence

In addition, the study brings to limelight the highly politicized nature of Pakistan's judiciary wherein, the role of Judicial Commission of Pakistan has been misused and *suo motu* powers are deployed tactically. These results accord with the findings of Helmke and Ríos-Figueroa (2011), who claim that judicial independence is often fragile and reversible in hybrid or transitional regimes.

Contrasting case studies, which include Popova (2012) and Popova (2010), demonstrate politicized judiciaries have a tendency to reinforce partisan cycles of accountability whereby opposition actors are disproportionately the target of scrutiny while ruling elites are shielded away from scrutiny (Vanberg, 2005; Popova, 2012). This dynamic is visible in Pakistan where NAB cases are strategically deployed and the benches of judicial panels in high profile cases are selected.

In addition, the continuity of military impact on judicial deliberations reflects what Ginsburg and Moustafa (2008) found in other countries where strong security apparatuses informally sway ostensibly independent courts. In this regard, Pakistan's judiciary is a 'semi-autonomous field' as Shapiro (1981) describes that the judiciary is formally independent but under severe informal control.

Institutional Capture and Democratic Deficits

Here presented data provide strong evidence of institutional capture across NAB, FIA and PEMRA. It depicted a situation Hellman et al. (2000) call “state capture”, whereby private or political interests adopt the rules of the game to serve their own interests.

The trouble for democratic governance’s consolidation and public trust is so detrimental. Rothstein and Teorell (2008) studies have demonstrated that citizens’ loss of faith in the judiciary and in the broader democratic system will be due to the fact that they will perceive legal institutions as politicized and corrupt. In Pakistan the capture of institutions, along with ways of controlling in other countries like Ukraine (Way, 2005) and Kenya (Mutua, 2008), result in chronic political instability and low institutional legitimacy.

Shrinking Civic Space: Civil Society Under Siege

An equally worrying conclusion is the shrinking of the space for civil society actors working on legal reform advocacy. This is similarly in line with scholars’ documentation of closing civic space on a global level (Carothers & Brechenmacher, 2014; Buyse, 2018). Civil society engagement in nonpolitical spheres (such as education or health) is typically tolerated by governments in transitional democracies, which severely constrain organizations working on governance, rule of law, and human rights (Dupuy Ron Prakash 2016).

In Pakistan, civil society’s ability to advocate judicial independence and transparency has been sharply curtailed by legal harassment of NGOs, media censorship and surveillance of activists. One specific case in point, in which there are similar patterns of restricting legal and bureaucratic measures to silence dissenting voices, is evident in states like Egypt (Abdelrahman, 2017) and Russia (Sundstrom, 2012).

International Influence: Necessary but Insufficient

The study’s international influence findings differ only slightly from a complex and ambivalent literature on the topic. External pressure has forced some technical reforms—such as compliance with FATF requirements—while other aspects of rule of law development are constrained by domestic politics to an unprecedented degree; namely, both states have had difficulty making progress on cases that involve powerful vested interests (Magen & Pech, 2019).

In addition, conditionally attaching the ‘rule of law’ to aid, as actors ranging from the European Union in Eastern Europe (Schimmelfennig & Sedelmeier 2004) have done is far more productive than similar efforts in aid dependent states, such as Pakistan, where ensuring geopolitical interests often outweigh normative considerations (Zürn & Checkel, 2005).

Media Freedom and Rule of Law: A Critical Nexus

In the end, the study stresses the importance of media freedom as a guarantee of accountability and of safeguarding the rule of law. Pakistan’s steady decline of media freedom parallels what Norris and Inglehart (2009) argue, that vibrant media ecosystems are necessary to fostering democratic cultures and exposing abuses of power, as well.

Djankov et al. (2003) and Besley and Prat (2006) provide more comparative work on that finding, and demonstrate that media pluralism also contributes to reducing corruption, and increasing public oversight of judicial and political actors. By preventing journalists from holding public officials accountable (an old function of the media) and causing widespread harassment of journalists (a new hallmark of institutional capture), rapid growth of content blocking and legal

harassment of journalists in Pakistan effectively has enabled institutional capture and judicial politicization to go largely unscrutinized.

Implications for Rule of Law Theory

Together these findings help to contribute to an emerging body of literature that challenges assumptions underlying legal institutionalism regarding the development of the rule of law in transitional democracies (Haggard & Tiede, 2011). This reinforces the argument that legal reform is far less determined by formal legal institutions and instead is dependent on political will, elite incentives, and informal power relationships (Carpenter, 2001; Taylor, 2010).

The latter corroborates their claim that one needs to understand rule of law building as a politically inherently process (Carothers, 2003) that implies a broad participation of society and a sequenced implementation of institutional reforms (Börzel & van Hüllen, 2014).

Prospects for Reform in Pakistan

The prospects of meaningful legal reform in Pakistan are still remote. However, transformative change is unlikely to result from external actors alone; they will need sustained domestic pressure from civil society, independent media and reformist political actors. Nevertheless, the partial successes in AML reform areas present a promise that it might be possible to realize modest advances by targeted international engagement coupled to domestic reform coalitions.

Following Levitsky and Way (2010), the best way forward aims at enhancing horizontal accountability mechanisms and increasing institutional pluralism within the Pakistani legal system. In addition, protecting and expanding civic space is important because civil society is one of the very few forces that can counter elite resistance while calling for genuine rule of law.

Conclusion

The Pakistani case ultimately shows the stubborn nature of authoritarian legacies and the weakness of legal reform in the context of transitions. It contains strong messages about the necessity for integrated, politically sensitive formulations of rule of law promotion which squarely face the structural bases of elite power rather than engaging in narrowly legalistic fixes.

Pakistan is far from unique in this sense. As such, its experience mirrors global patterns in which the rule of law remains something contested in political struggle, rather than an uncontested sphere of neutral institutional development (Schedler, 2013). These dynamics need to continue to be explored by future research, based on comparative insights to improve both the theory and the practice in the field of rule of law and democratic consolidation.

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