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RULE OF LAW, LEGAL DEVELOPMENT AND ITS EFFECTS ON ECONOMIC GROWTH IN PAKISTAN

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ABSTRACT

The role of legal systems is considered a pre-condition for sustained economic development. Their relative weakness in the under-developed world is considered as the main obstacle to economic development. Strengthening Rule of Law and legal systems has, therefore, become a standard advice from the developing community. Pakistan, too, has witnessed a surge in demand for Rule of Law and legal system in recent years. Capitalizing on this domestically garnered mandate, this paper reviews the legal obstacles to economic growth in Pakistan. It finds significant impediments for growth and market development due to legal shortcomings in the case of Pakistan. Recent times have witnessed an increased demand for Rule of Law in Pakistan. The movement for restoration of judiciary, which basically emerged and was sustained by the urban centers of Pakistan and later evolved into a broader consensus for strengthening Rule of Law, has been considered 'elitist' by its critics. Their arguments connote Rule of Law as a luxury that is demanded by the urban elites only, while the poor in both urban and rural areas are concerned more about their livelihoods. This debate rages on in Pakistan at a time when the development community is unanimous in its prescription about Rule of Law as a solution to the ills of under-development[1]. This paper argues that Rule of Law and a strong legal system are necessary conditions for economically progressing and socially 'just' societies – both essential for improving the living conditions of masses in Pakistan.

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INTRODUCTION

Since, economic growth and improvement in the welfare of its citizen is a prime concern for the Government of Pakistan, and realizing that "economic development does not take place in a vacuum", the Government vows to develop an "orderly framework for carrying out its economic reforms". It has undertaken an extensive reform of the laws relating to the banking and financial sector, commerce and industry, energy, information technology, social as well as administrative and judicial system. The area, however, begs scholarly attention. The paper tries to fill this gap.

> "Rule of law as a concept seeks to ensure that government power is limited and that individual rights are protected. The essence of the rule of law is the sovereignty or supremacy of law over people and governments. The rule insists that every person, regardless of position or status in society, will be subject to the law and will be dealt with equally. The rule of law is more than your regulation by law but a guarantee of freedoms, human rights and equal treatment before the law" [Watson (2003): 4].
>
> "All the organs of state – the executive, legislature and judiciary – have a shared responsibility for upholding the rule of law…the rule of law will only have real meaning in practical terms in a society in which all organs of the state aremindful of their obligations to respect it." [Goldsmith (2006): 11]

> "Modern economy needs effective laws to promote cooperation among people" [Cooter (1996): 5]
>
> "When the rule of law is undermined, both the economy and the whole system grows sick." [Ruli (1999): 46]

Adam Smith in Wealth of Nations writes

> "Commerce and manufactures can seldom flourish long in any state which does not enjoy a regular administration of justice, in which the people do not feel themselves secure in the possession of their property, in which the faith of contract is not supported by law…" [Adam Smith, Wealth of Nations (V, iii)].

There is overwhelming evidence from around the world that legal rules affect economic growth6. Research has particularly sought to understand the impact of property rights (and contract enforceability), of government regulation, and judicial independence on market development and economic performance. Differences in legal systems cause different political and economic outcomes [Glaeser and Shleifer (2002)]. Evidence suggests countries with legal systems derived from Roman civil law have more interventionist governments than those that have roots in the more flexible "judge-made" common law system. Consequently they offer less secure property rights, worse regulation; and inefficiencies in terms of bureaucratic delays and little tax compliance [La Porta, et al (1999)]. Further, civil law countries are subject to judicial delays, corruption, and unfair judicial decisions [Djankov, La Porta, Lopez-de-Silanes and Shleifer (2003)]. Number of studies have also found a positive relationship between freedom and growth [Ali and Crain (2002), Alan and Chase (2005), Berggren (2003), Cole (2003), Farr, Lord, and Wolfenbarger (1998), Grubel (1998), Gwartney and Lawson (2006), Norton (1998), Prokopijevic (2002), Stocker (2005), Tures (2003), Vega-Gordill and lvarez-Arce (2003).

The graph (Graph 1) depicts that countries where Rule of Law prevails have higher income7. Much evidence supports the proposition that 'Secure property rights' and 'Rule of Law' induce economic growth [Acemogle, Johnson, and Robinson (2001, 2002, 2003, 2005a, 2005b), Rodrik, et al. (2004), Rigobon and Rodrik (2004) Easterly and Levine (2003) and Kaufmann and Kraay (2002) Markets do not exist in a vacuum. They are supported by a complex web of institutional infrastructure [Grief (2005)]. Any exchange in the market requires a complex legal structure ensuring that the property rights of buyers and sellers are recognised and enforced.

Exchange within the market domain requires property rights and contracts. Though formal legal institutions are not essential for an exchange to take place – economic activity/exchange occurred in primitive societies in the absence of such institutions, but as one moves away from a simple exchange problem where goods are exchanged simultaneously to a situation involving impersonal exchange problems arise. Impersonal exchange, characterised by the separation of quid and quo, is fraught with numerous contractual problems. The separation of the quid and the quo creates possibilities of opportunism when one party, instead of honoring the deal, finds it to his advantage ex post to reopen the bargaining [Dam (2006)]. Some mechanisms of contract enforcement are required. Clear and predictable rules, transparency in procedures and third-party enforcement of the complex impersonal contractual relations are necessary for expansion of markets. Good law and good institutions augment markets [Summers (1999)].

PROBLEM STATEMENTS

Recent times have witnessed an increased demand for Rule of Law in Pakistan. The movement for restoration of judiciary, which basically emerged and was sustained by the urban centers of Pakistan and later evolved into a broader consensus for strengthening Rule of Law, has been considered 'elitist' by its critics. Their arguments connote Rule of Law as a luxury that is demanded by the urban elites only, while the poor in both urban and rural areas are concerned more about their livelihoods. This debate rages on in Pakistan at a time when the development community is unanimous in its prescription about Rule of Law as a solution to the ills of under-development1. This paper argues that Rule of Law and a strong legal system are necessary conditions for economically progressing and socially 'just' societies – both essential for improving the living conditions of masses in Pakistan.

RESEARCH GAP

In Pakistan many other ground research would be conducted but the basic and necessary element of society economic growth of state and rule of law is neglected. Recent days it is witness that condition of

Pakistan economy is declined because of law-and-order condition. It seems that rule of law in Pakistan is very weak and no any other protection given to any person and his property. So I want to make work on these gapes to improve rule of law condition which help to improve the economic and social condition in Pakistan. Without rule of law and legal development economic growth in Pakistan cannot be guaranteed, so we need efficient legal and economic order to improve the depressed economic condition of Pakistan.

RESEARCH OBJECTIVES

The main objectives of the study to improve the condition of rule of law in Pakistan and develop new legal system to protect the foreign investment and industrial for economic growth. Recent days Pakistan economic growth is going to negative rank so that for improving economic condition new laws and guarantee to investor make sure their investment in Pakistan and establish new industry.

- To recommend legal and economic framework.
- To improve legal structure.
- To improve industrialization policies and their practical aspects

LITERATURE REVIEW

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Development of markets is essentially a legal challenge. Markets do not exist in a vacuum. They are supported by a complex web of institutional infrastructure [Grief (2005)]. Any exchange in the market requires a complex legal structure ensuring that the property rights of buyers and sellers are recognised and enforced. Exchange within the market domain requires property rights and contracts. Though formal legal institutions are not essential for an exchange to take place – economic activity/ exchange occurred in primitive societies in the absence of such institutions, but as one moves away from a simple exchange problem where goods are exchanged simultaneously to a situation involving impersonal exchange problems arise. Impersonal exchange, characterised by the separation of quid and quo, is fraught with numerous contractual problems. The separation of the quid and the quo create possibilities of opportunism when one party, instead of honoring the deal, finds it to his advantage ex post to reopen the bargaining [Dam (2006)]. Some mechanisms of contract enforcement are required. Clear and predictable rules, transparency in procedures and third-party enforcement of the complex impersonal contractual relations are necessary for expansion of markets. Good law and good institutions augment markets [Summers (1999)].

Rule of Law and Judicial Systems An independent, impartial and efficient judiciary is imperative for rule of law and a peaceful, ordered society. In its ideal form the (legal) "machinery consists of competent, ethical, and well-paid judges who administer rules that are well designed for the promotion of commercial activity. The judges are insulated from interference by the legislative and executive branches of the government. They are advised by competent, ethical and well-paid lawyers. The judges are numerous enough to decide cases without interminable delay, and they operate against a background of rules and practices...that enables them to resolve factual issues relating to legal disputes with reasonable accuracy and at reasonable cost to the disputants [Posner (1998)]. The judicial system must ensure that judges are independent of the executive control and influence of the powerful elites, and are not susceptible to coercion (threats and violence) by the litigants. Feld and Voigt (2003) have found a positive association between de facto judicial independence and economic growth.

METHODOLOGY

Research Design

This research will adopt a mixed-methods approach, combining qualitative and quantitative methods to address the research objectives effectively. Moreover, this study will adopt a qualitative research design, utilizing case studies, content analysis, questionnaire and to address the research objectives effectively.

Data Collection

Data will be collected through the following methods by applying both primary and secondary sources:

- Case Studies: In-depth case studies of key events, and democratic transitions in Pakistan's history will be conducted to understand the dynamics of Economic Growth.
- Content Analysis: Analysis of policy documents, speeches, media reports, and scholarly articles to identify fundamentalist tendencies, garrison outlook, and their implications.
- Interviews: Interviews with law authorities, businessmen, political analysts, scholars, and policymakers will provide insights into the relationship between fundamentalism, and rule of law.
- Questionnaire: A series of questions will be employed to a target audience, common folks of Pakistan, lawmakers, businessmen to determine Pakistan's.

1. *Concept of Rule of Law*

The rule of law is based on several key principles:

1.1 Equality Before Law

Every citizen, regardless of status or position, is subject to the same laws.

1.2 Legal Certainty

Laws must be clear, stable, and predictable to ensure fairness in economic and social dealings.

1.3 Independent Judiciary

An independent court system ensures impartial justice and protection of rights.

1.4 Protection of Rights

Fundamental rights such as property rights, freedom of contract, and personal liberty are protected under the law.

In Pakistan, although these principles exist in the Constitution, their practical implementation remains weak.

2. *Legal Development in Pakistan*

Legal development refers to reforms that improve the efficiency and effectiveness of the legal system.

2.1 Judicial Reforms

Pakistan has introduced several judicial reforms, including case management systems and alternate dispute resolution (ADR) mechanisms. However, the backlog of cases remains a major issue.

2.2 Legislative Improvements

New laws have been introduced in areas like banking, cybercrime, and corporate governance. However, enforcement remains inconsistent.

2.3 Institutional Weaknesses

Institutions responsible for enforcing laws often suffer from corruption, lack of training, and political influence.

2.4 Access to Justice

Limited access to courts, high legal costs, and lengthy procedures discourage ordinary citizens from seeking justice.

3. *Economic Growth and Its Link with Rule of Law*

Economic growth depends heavily on a stable legal environment. Investors prefer countries where laws are predictable and contracts are enforced.

3.1 Investment Climate

Foreign direct investment (FDI) is directly affected by the strength of legal institutions. In Pakistan, weak enforcement of contracts and property rights reduces investor confidence.

3.2 Business Environment

Small and medium enterprises (SMEs) face difficulties due to complex regulations and bureaucratic hurdles.

3.3 Corruption and Informal Economy

Weak rule of law increases corruption and expands the informal economy, reducing tax revenues.

3.4 Financial Sector Stability

Banks and financial institutions rely on legal systems for loan recovery. Weak courts increase non-performing loans (NPLs).

4. *Effects of Weak Legal System on Pakistan's Economy*

4.1 Low Foreign Investment

Investors avoid countries where legal disputes are time-consuming and unpredictable.

4.2 Slow Economic Development

Projects face delays due to legal disputes, land acquisition issues, and regulatory uncertainty.

4.3 Tax Evasion

Weak enforcement allows individuals and businesses to evade taxes, reducing government revenue.

4.4 Inequality and Poverty

Weak legal protection for workers and consumers increases economic inequality.

4.5 Reduced Innovation

Entrepreneurs are discouraged from innovation due to lack of intellectual property protection.

5. ***Effects of Weak Legal System on Pakistan's Economy***

   5.1 Political Interference
   Judicial and administrative systems are often influenced by political actors.

   5.2 Corruption
   Corruption within law enforcement agencies reduces public trust.

   5.3 Delayed Justice System
   Cases in courts can take years or even decades to resolve.

   5.4 Lack of Resources
   Courts and legal institutions lack modern infrastructure and trained personnel.

   5.5 Weak Enforcement Agencies
   Police and regulatory bodies often fail to enforce court decisions effectively.

6. ***Reforms for Legal Development and Economic Growth***

   6.1 Judicial Efficiency
   Introduce digital case management systems to reduce backlog.

   6.2 Strengthening Institutions
   Ensure independence of judiciary and accountability of law enforcement agencies.

   6.3 Legal Awareness
   Educate citizens about their legal rights and procedures.

   6.4 Anti-Corruption Measures
   Implement strict anti-corruption laws and transparent governance systems.

   6.5 Economic Legal Reforms
   Simplify business regulations and improve contract enforcement mechanisms.

   6.6 Alternative Dispute Resolution (ADR)
   Promote mediation and arbitration to resolve disputes quickly.

DATA ANALYSIS

Qualitative data from case studies, content analysis, and interviews will be analyzed thematically to identify recurring patterns, causal relationships, and implications.
Quantitative data will be analyzed using statistical methods to ascertain the myth of praetorian militarized democracy.

DISCUSSION

There is overwhelming evidence from around the world that economic growth is conditioned by the legal setting. Markets thrive in an environment where property and contractual rights are protected and enforced, and disputes are resolved efficiently by the judicial system. An independent, impartial and efficient judiciary, which protect the fundamental rights of the citizens, and to limit the discretionary powers of the state, is imperative for Rule of Law and a peaceful, ordered society.
In Pakistan, legal system poses substantial impediments for the growth process as well for the development of markets. Our land, equity, and credit markets face several inefficiencies on account of weak laws and legal infrastructure. Removing these obstacles can unleash the growth potential of the economy. Reforming our judicial system is even more important for guaranteeing fundamental rights of the ordinary Pakistani citizen. 'Law and Economics' is still an underdeveloped and little researched discipline in Pakistan. Scattered research exists that looks at various dimensions of legal development and growth, but there is a need to bring it under the umbrella of a larger research initiative on 'Law and Economics'. This paper has sought to pioneer this effort. It was not the purpose of this paper to do an exhaustive research, but to set a research agenda for understanding the linkages between legal system and economic growth in Pakistan. Policy input from carefully investigated issues in future would be a welcome respite.

CONCLUSION

The rule of law and legal development are essential for sustainable economic growth in Pakistan. Weak legal institutions, corruption, and inefficient judicial systems have negatively impacted investment, business confidence, and overall economic performance. Strengthening the rule of law requires comprehensive reforms in judiciary, legislation, and enforcement agencies. If Pakistan ensures transparency, accountability, and efficiency in its legal system, it can achieve long-term economic stability and growth.

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