

# RULE OF LAW: A PRIME MOVER IN ESTABLISHING PEACE

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**ABSTRACT**

A strong rule of law, which protects human rights, helps prevent and mitigate violent crime and conflict by providing legitimate processes for the resolution of grievances and disincentives for crime and violence. The rule of law dictates that all persons obey the constitutional provisions and resolve conflicts in accordance with law. Rule of law is instinctive and indeed appropriate to see it as a guiding principle of peace building activities. A solid and legitimate rule of law system protects the human rights of people, holds power accountable, prevents violent crime and provides fair and legitimate avenues to resolve conflict. A strong rule of law system includes trusted and fair judicial and correctional institutions, along with accountable police and law enforcement agencies that fully respect human rights. In particular, justice systems must be accessible to all people and must vindicate rights within a legitimate system. Where justice and the rule of law exist, and courts and judicial systems function to resolve conflicts peacefully, there is trust and social cohesion on the basis of equal rights. Establishing such conditions is equally important for peace and security, human rights, and sustainable development. In

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societies where the rule of law does not exist, there is a greater tendency towards violence and social insecurity. The aim of this paper is to investigate into the relationship between rule of law and peace. In doing so, it considers the basic concepts of rule of law and the role of rule of law for establishing and maintaining peace in a society. Finally, it comes up with some directions in relation to identify the necessity of rule of law in ensuring peace and justice.

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### **INTRODUCTION**

Though the establishment of a comprehensive and sustainable state – of peace and justice, security and development, social and economic progress – is the foremost goal of a just, philanthropic and benevolent governmental, it is literally unrealistic to find a world without conflict and wrong doings. However, the fundamental aspects of peace and human rights, security and development and the so needs to be upheld by the governments to make the world a better place to live in. But to attain such goals, the government needs to have an effective mechanism – the application of the rule of law.

The application of the rules of law envisions a society that upholds the fundamental human rights, offers greater social stability, promotes all inclusive development, and ensures peace and justice. It requires everyone to follow the obligations of the legal framework as the supreme guideline in conducting their daily affairs. And it is only when our actions can be justified through the legal framework; we can have a peaceful and just society. Establishment of the rule of law guarantees accountability, offers dispute resolution, and provides remedy against violation of rights. Accountability, equality, justice and human rights – be it individual or social, economic or cultural, civil or political – all are the fundamental parts of the rule of law. Hence, it becomes clear that establishing the rule of law is an absolute necessity in the domains of peace and justice, security and development, and social and economic progress.

### **CONCEPT OF LAW**

The conception of law originates from the ancient tradition of the American Legal Realists which encompasses an all-inclusive process of authoritative judgment. (Lasswell & McDougal, 1971) It is the opposite of arbitrary and illegitimate intimidation and use of violence, and it requires uniformities in judgment in accordance with social expectation. Hence it refers to authority's legitimate control, not authoritative control. According to Jaruma (2013) the rule of law can be classified in 3 different meanings. To begin with, it is a device that limits the arbitrariness and corruption of the government and makes it more rational and fair. Secondly, it is a compelling

principle which ensures that no one is above the law. Any finally, it is a formal or procedural justice.

However, law that is relevant to peace cannot be marginalized in the state level only. A befitting law would encompass all the attributes and the whole global process of decision making that would lead and regulate human activities across borders. And this process of decision making includes and interrelates all the means, variables and stakeholders of establishing peace – international, national or governmental organizations, diplomacy and negotiation, conflict mitigation, social management, security and so on.

### **CONCEPT OF PEACE**

The term peace connotes to the nonexistence of conflict, hostility, and violence. It refers to an acknowledgment of equality and fairness, as well as a situation where there exists a healthy relationship. It goes beyond the state of conflict, violence and anarchy and encompasses a state of repose, security, public order and decorum. It also refers to the least possible application of violence and intimidation to the members of the society, and to the individual's full access to all the human rights and other cherished values.

### **RULE OF LAW IN PEACE AND JUSTICE**

Desmond Tutu says "Strengthening the rule of law is an essential ingredient to enhance justice, peace and economic and social progress." Issues like conflict of interest and culture, disrespectful and arbitrary mentality towards others, and so on can have a damaging effect upon peace. However, the rule of law administers a set of rules and regulations for the state government to follow in conducting their affairs of the state – both internal and external. As for internal affairs, the rule of law concerns with issues like people's fundamental, civil, social, economic, political, cultural and religious rights, as well as others issues like environment, employment, health, fair trial and justice, privacy, safety etc. The rule of law also concerns the external affairs of a country. It regulates issues like conflict mitigation, negotiation, arbitration, judicial settlement with other countries and so on. From the Magna Carta to the Universal Declaration of Human Rights, the legal system safeguards the fundamental rights and freedom of the people. Its principles of impartiality and equality stand tall against tyranny. Tyranny drives conflict; but enforcement of law ensures peace and justice.

Establishing the rule of law requires the eradication of complete discretionary power from the government. It takes for granted that governments do not interfere with or violate its people's lawful rights like rights to property, to freedom of association, to freedom of free expression, to protection against discrimination, to equality in the eyes of law, and so on. If people are unable to defend their basic rights and fall victims of corrupt and powerful wrongdoers, they may easily lose trust with their government.

According to the Article 1 of the Charter of the United Nations, the United Nations aims to “bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.” Moreover, Article 33 of the Charter advocates for the prevention of conflict and the peaceful settlement of disputes. The stakeholders of any international dispute have access to various means and procedures for dispute resolution including negotiation, mediation, judicial settlement, and so on. Hence it is clear that it is only through law that we can attain sustainable peace and justice.

### **RULE OF LAW IN SECURITY AND DEVELOPMENT**

*“There will be no development without security and no security without development. And both development and security also depend on respect for human rights and the rule of law.”* The Secretary-General of the UN (2005)

Development refers to such a sustained state of situation that ensures the standard of living and security of a particular area. Irene Khan, the Director General of the International Development Law Organization (IDLO), mentions (2014) that there are three specific ways in which the rule of law facilitates sustainable development:

- Firstly, it helps to create the conditions for development by establishing the appropriate legal framework and the institutions for development.
- Secondly, it provides transparency and equity to the development process and enhances inclusion.
- Thirdly, it is an outcome of development - a just legal order with laws and institutions based on internationally recognized and nationally owned values and principles.

Strict application of the rules of law provides proper solution to grievances, crimes and violence and thus strengthens the protection of human rights, prevention of violent crimes and mitigation of conflicts. In the 2005 World Summit Outcome, the UN General Assembly emphasizes on the vocal and steady presence of the legal and human rights institutions at the national level. It is to ensure that the Governments are equipped with all the necessary mechanisms to uphold their commitment to protect their citizens from every possible type of injustice and oppression - and ensure security.

Establishing a sturdy rule of the legal institutions is essential in ensuring the security and stability required for development to take place. Based on faith, solidarity and equal rights, establishing such sturdy rule of the legal institutions facilitates restoring peace and security, allows for establishment of justice, and encourages peaceful mitigation of conflicts. Moreover, it is one of the topmost priorities of the United Nations to uphold human rights, both within and beyond the geographical borders. And, as any such safeguarding measures must be taken within the legal framework, it is

important for the state governments to strictly adhere to all the international and national treaties and legal frameworks to establish a sustained state of security and development.

### **RULE OF LAW IN SOCIAL AND ECONOMIC PROGRESS**

*“the rule of law and development are strongly interrelated and mutually reinforcing, that the advancement of the rule of law at the national and international levels is essential for sustained and inclusive economic growth, sustainable development, the eradication of poverty and hunger and the full realization of all human rights and fundamental freedoms, including the right to development, all of which in turn reinforce the rule of law”*Declaration of the High-level Meeting of the UN General Assembly (2012)

Khan (2014) mentions that the 2012 Declaration applauds the value of having an established and fair legal framework for *“inclusive, sustainable and equitable development, economic growth and employment, generating investment and facilitating entrepreneurship...”* Enforcement of law ensures the establishment of peace and order that is essential in maintaining social and political stability and economic development. It creates equal opportunities for all, generates more scope of employment, boosts up investment and attracts more tourists, and the more.

Moreover, the end of conflict does not automatically bring in peace and security, or an end to violence and human sufferings, let alone social and economic progress (Arbor: 2008). Post-conflict societies require judicial reforms for a variety of reasons like providing means for addressing the recurring human rights violations, settlement of disputes, and the smooth functioning of institutions and mechanisms for social and economic progress and development. It is universally recognized that to execute any reform, we require the legal texts, and hence an established state of the rule of law, to transform and bring about the desired changes (Ndulo: 1984).

The Sustainable Development Goals (SDG) – also known as the Global Goals – developed by the United Nations in 2015 requires all the member governments to end poverty, protect our planet and deliver equal access to justice to all by 2030. In particular, Goal 16 offers a guideline for making an inclusive, just and peaceful society. However, this can only be achieved under a lawful and philanthropic government. And it is only through the establishment of a robust and unbiased judicial system that any government can make a difference between oppression and liberty, empowerment and enslavement, desperation and dignity, vulnerability and security – and make the world a more livable place for its people.

### **CONCLUSION**

To have a clear understanding of what and how law can contribute in establishing peace, we need to focus on the larger picture of the global processes of interaction that integrates both law and peace. The rule of law ensures accountability and access to justice, offers conflict mitigation, and

provides remedy against violation of rights. Accountability, equality and respect for human rights – be it individual or social, economic or cultural, civil or political – all are the fundamental parts of the rule of law. Hence, establishment of the rule of law is an absolute necessity in the domains of peace and justice, security and development, and social and economic progress.

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