

THE RELATIONSHIP BETWEEN THE RULE OF LAW AND SOCIAL JUSTICE IN CONTEMPORARY SOCIETIES

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<https://doi.org/10.5281/zenodo.15320857>

Abstract. *The rule of law, as one of the fundamental pillars of a justice-oriented governmental system, plays a crucial and significant role in the realization of social justice. This concept emphasizes that all individuals, including governmental authorities, must be subjected to the same, clearly defined laws, with no one being exempt from accountability or punishment. In order to secure social justice, the effective enforcement of laws, adherence to principles of equality and proportionality, and their application across various judicial, executive, and governmental spheres is essential. This research aims to address the question of whether the rule of law has a direct and impactful effect on the realization of social justice in contemporary societies. A law-abiding state, functioning according to transparent and just laws, can contribute significantly to the realization of social justice. The core principles of the rule of law encompass the limitation of power, the supervision of governmental authorities, and access to an independent judiciary, all of which must be implemented within the framework of valid legal sources. Furthermore, the alignment between legal frameworks and social norms, the respect for both individual and collective rights, as well as access to fair trials, are indispensable components for achieving social justice. Ultimately, the rule of law, alongside legitimate legal resources, particularly in democratic and human rights-based systems, can foster the enhancement of citizens' rights and freedoms, contributing to the establishment of a just and sustainable society.*

Keywords: *Rule of law, social justice, law-abiding state, social inequalities, individual and collective rights, governmental authorities.*

СВЯЗЬ МЕЖДУ ВЕРХОВЕНСТВОМ ПРАВА И СОЦИАЛЬНОЙ СПРАВЕДЛИВОСТЬЮ В СОВРЕМЕННЫХ ОБЩЕСТВАХ

Аннотация. Верховенство права, как один из основополагающих столпов ориентированной на справедливость правительственной системы, играет решающую и значительную роль в реализации социальной справедливости. Эта концепция подчеркивает, что все люди, включая государственные органы, должны подчиняться одним и тем же, четко определенным законам, и никто не освобождается от ответственности или наказания. Для обеспечения социальной справедливости необходимы эффективное исполнение законов, соблюдение принципов равенства и пропорциональности и их применение в различных судебных, исполнительных и правительственных сферах.

Целью данного исследования является рассмотрение вопроса о том, оказывает ли верховенство права прямое и действенное влияние на реализацию социальной справедливости в современных обществах. Законопослушное государство, функционирующее в соответствии с прозрачными и справедливыми законами, может внести значительный вклад в реализацию социальной справедливости. Основные принципы верховенства права охватывают ограничение власти, надзор за государственными органами и доступ к независимой судебной системе, и все это должно осуществляться в рамках действительных правовых источников. Кроме того, соответствие правовых рамок и социальных норм, уважение как индивидуальных, так и коллективных прав, а также доступ к справедливому судебному разбирательству являются неотъемлемыми компонентами для достижения социальной справедливости. В конечном счете, верховенство закона, наряду с законными правовыми ресурсами, особенно в демократических и основанных на правах человека системах, может способствовать укреплению прав и свобод граждан, способствуя созданию справедливого и устойчивого общества.

Ключевые слова: верховенство закона, социальная справедливость, законопослушное государство, социальное неравенство, индивидуальные и коллективные права, органы государственной власти.

Introduction. The law, as the foundation of all activities in a justice-oriented governance system, holds significant importance in regulating the relationships between the government and

its subjects within the governmental structure. In this context, the legislator, considering their position as a guardian of both individual and collective rights, is obligated to prevent potential abuses by judicial and governmental authorities that may seek to limit these rights.

Consequently, the realization of social justice requires accountability from the active institutions within the country's legal system, as well as adherence to the principles of equality and proportionality across judicial, governmental, and executive sectors, so that the relationship between the government and the people is based on justice and fairness.

Paying attention to three essential foundations in a social system is of paramount importance: first, the alignment of the law with the social environment and prevailing customs in a way that effectively establishes justice; second, consideration of the conditions and status of the parties involved in a conflict when imposing penalties; and third, the implementation of the law with effective enforcement mechanisms. In this regard, the consideration of justice, alignment with social realities, and the fair execution of the law are among the fundamental factors in achieving social justice and equality.

Given that throughout history, the statements of rulers and those in power have always focused on the implementation of justice, and although at certain points personal ambitions have hindered the execution of justice and led them to unlawful goals, social justice advocates have consistently warned against disregarding the law and violating the principles of justice and social equality, while emphasizing the crucial role of the rule of law in achieving justice.

It is evident that social justice and equality are realized when a democratic and accountable governance system assumes responsibility for managing public affairs. In such a system, the role of the rule of law in ensuring social justice is of special importance. However, several questions arise: How can the role of the rule of law in achieving social justice be explained? What are the criteria and principles for ensuring social justice, and how can they be correctly implemented in practice? These questions require precise and scientific analysis to achieve a clear understanding of the relationship between law and social justice. Furthermore, it is essential to note that social justice not only considers equality of opportunities and access but also acknowledges the differences and specific needs of individuals.

1. Rule of Law and Social Justice

The rule of law is typically contrasted with the rule of an individual or a person.

According to this view, rulers must act within the framework of a constitutionally-based order and behave in a way that aligns with the principles and rules set forth in the constitution.

Furthermore, these actions must be confined to procedures that are accessible and understandable to the public to ensure that the exercise of power aligns with the public interest and is subject to oversight (Malami, 2015, p. 23).

In this context, Joseph Raz, in an important discussion on the rule of law, points out that the broader meaning of the rule of law implies that people must obey the law, and the government must act upon them according to it. However, within the framework of legal and political theories, this concept also has a narrower interpretation, emphasizing that the government must operate under the rule of law and follow it. The ideal of the rule of law in this sense is often expressed as "government by law, not by individuals." This means that all governmental actions must be based on written laws, and any decision-making or exercise of power must be within the legal framework and with legal authorization, ensuring that no one, even the ruler, is above the law (Raz, 1979, p. 212).

The history of the rule of law is generally traced back to the thoughts of Plato and Aristotle in classical Greece. In the works of these great philosophers, there is a strong emphasis on the importance of law as a tool for establishing order and justice in society. Plato, in his "Republic," states that to achieve justice, the government must operate based on specific laws, not according to the whims of individual rulers. Aristotle, in his "Politics," believed that the rule of law should be a fundamental principle of democracy and should supersede individual will. Despite this, the tradition of the rule of law has persisted for more than a thousand years after the flourishing of Athens. In other words, Greek ideas on the rule of law have been recognized as exemplary models, sources of inspiration, and references for later periods, with their influence continuing in the formation of political and legal thought across various societies (Tamanaha, 2004, p. 7).

Justice is often interpreted as equality, sameness, and fairness (Ibn Manzur, B.B., 1, 436 – Raghīb Isfahani, 1383, 2, 565 – Azhari, 1421, 2, 218 – Ibn Faris, 1404, 4, 247). Justice, as a complex concept with a high level of abstraction, has occupied human minds for centuries. This issue has not only engaged various thinkers throughout history but remains one of the most significant and contentious topics in political philosophy. Questions like "What is justice?" and "How can justice be implemented in society?" have always led to intellectual debates. These questions have taken on different dimensions, especially in different societies, due to social, political, and cultural changes, and have received various answers from philosophers and

thinkers over time. Therefore, the concept of justice remains one of the central and key topics in political and social thought (Pour-Ezzat, 1380, p. 25).

Access to justice is considered a fundamental and natural need for humans. Since individuals have diverse economic, social, and even emotional needs, meeting these needs is usually possible through interaction and communication with others. Therefore, the criteria used to assess how these needs are met in complex social societies are essentially based on justice. In other words, justice is the criterion that determines how individuals can fairly and equally meet their needs.

The rule of law plays a fundamental role in realizing social justice because it ensures that all individuals in society are treated equally under the law, regardless of power, wealth, or social status. In societies where the law is formulated and implemented based on principles of justice, individuals enjoy equal rights and opportunities, and any form of oppression or discrimination is prevented. The rule of law ensures that justice is systematically and sustainably maintained throughout society, as laws clearly define the fair conditions for the distribution of resources, the resolution of disputes, and the provision of public welfare, thus preventing abuse and violation of individual rights. Ultimately, by adhering to the rule of law, public trust in the judicial and social systems is strengthened, and social justice is realized.

2. Preconditions for Achieving Social Justice

Two fundamental factors play a crucial role in achieving social justice: the rule of law and legitimate legal sources.

- The concept of the **rule of law**, first introduced by German philosophers, refers to a government in which all individuals, including officials and authorities, are subject to the same clear and transparent laws, and no one is exempt from punishment or accountability. This principle ensures that laws are applied fairly and impartially across all segments of society, preventing corruption and misuse of power. In other words, the rule of law refers to a legal system where the government and its officials act solely according to laws, and individuals enjoy their rights and freedoms within the boundaries of the law. This concept is based on three core principles:

1. **The idea of limiting power:** Each authority is only allowed to exercise its defined and specified powers, and the use of these powers must be in accordance with established laws. Granting extra-legal or unconstitutional powers to government entities or officials contradicts the foundational principle of the rule of law, which is the limitation of power in accordance with

statutory law. This principle demonstrates that, in a rule of law system, power must not only be legally constrained but must also operate within the framework of objective and statutory rules. The limitation of power cannot be determined solely based on ethical, moral, or philosophical norms. While moral rules are important, the aim of the rule of law is to restrict power using tangible, statutory legal norms.

2. The hierarchical nature of the exercise of power: This principle refers to the oversight of the actions of subordinates based on the actions of superiors. The hierarchical structure encompasses two aspects: political-administrative hierarchy and the hierarchy of laws. In democratic legal systems, laws are organized hierarchically, including the constitution, international treaties, ordinary laws, and administrative regulations. The constitution is the highest norm, and all other laws must be drafted in accordance with it.

3. The right to access justice and the possibility of recourse to a judge: Another key principle of the rule of law is the right of all individuals to access an independent court and the guarantee of fair trial procedures. In this system, all members of society should have the opportunity to approach an independent court if needed and to exercise their defensive rights. A fair trial requires at least five essential elements: the right of access to the court, the independence and impartiality of the tribunal, the guarantee of the right to defense, the right to public hearings, and a reasonable time frame for adjudication. These elements are the minimum conditions necessary for a fair trial, but each area of adjudication (criminal, civil, commercial, administrative, disciplinary, etc.) has its own specific regulations. Failing to adhere to these specific rules can deviate the trial from justice and fairness. For example, in criminal trials, principles such as the presumption of innocence, the right of the accused to be informed of the charges, and the opportunity to prepare a defense are also essential. (Gorji, 1389: 31).

Therefore, components such as the enactment of laws based on the will of the people, the qualitative nature of laws, their general and public applicability, their mandatory and binding nature, their clarity, their focus on the future, their alignment with the prevailing value system in society, their stability and durability, compliance, and public declaration must be observed when shaping a rule-of-law government. A critical issue that requires attention here is the compatibility of the concepts of the rule of law with Islamic principles. In Islamic thought, laws and rulings are primarily derived from the fundamental sources of Sharia, namely the Holy Quran and the Sunnah of the Prophet. Therefore, for a law to be considered Islamic, it is not

sufficient for the legislator to be a Muslim. In fact, it is necessary for the law to have a direct and tangible connection with the divine principles and rulings found in the Quran and the Sunnah.

Thus, the concepts of power limitation, oversight of authorities, and access to an independent court are similarly addressed in Islam in the same transparent and clear manner as in the rule of law. In this regard, Islamic theorists emphasize the necessity of linking the law with Sharia principles and believe that for achieving a just government, the laws must align with Islamic foundations and religious values. In other words, in both the rule-of-law model and the Islamic government model, the primary goal is to create a government in which laws are transparent, just, and applied impartially for all, authorities are subject to supervision and accountability, and the right to seek justice is guaranteed for all individuals, regardless of their social or political status. In this context, the relationship between the law and Islamic Sharia must be such that divine laws are not only in accordance with the people's will but also based on the principles and values derived from the Quran and the Sunnah.

• **Legitimate legal sources** include laws and regulations that are crafted based on human principles and justice, and must be executed precisely and fairly. These legal sources provide a framework that protects individual rights and prevents discrimination and inequality. Therefore, a rule-of-law government, by adhering to these legitimate legal sources, can facilitate the fair distribution of resources, resolve conflicts transparently, and ensure social rights for all citizens.

To put it more clearly, legitimate legal sources are a collection of laws and regulations crafted on the basis of human principles, justice, and fairness, aiming to guarantee individual and social rights, protect human dignity, and prevent discrimination and inequality. These legal sources form the foundation of a legal framework that supports individual freedoms and simultaneously safeguards social rights and justice within society. In a rule-of-law system, laws must be executed precisely, fairly, and equally for all individuals. In such a system, the government must consider itself obligated to follow these laws, and all governmental authorities and institutions must act solely within the framework of these laws. In other words, the rule-of-law government, by adhering to these legitimate legal sources, can contribute to the fair distribution of resources, transparent conflict resolution, and the protection of social rights for all citizens.

Today, in modern public law discourse, the rule of law is a central concept, according to which all political authorities and institutions must act in accordance with legal norms and regulations.

This principle, that no official or institution can restrict individual rights and freedoms except within the boundaries of legal frameworks, has been highlighted in many legal and philosophical theories. For example, John Locke, in his two treatises on government (Locke, 1689: 124), emphasizes the importance of natural rights and the separation of powers to prevent despotism. Similarly, Montesquieu, in his work "The Spirit of Laws" (1748), emphasizes the importance of the separation of powers and the need for the just application of laws. In line with this, the Universal Declaration of Human Rights, published by the United Nations in 1948, emphasizes the right to access justice and equality before the law, urging states to establish fair and transparent legal frameworks to protect citizens' rights and promote social justice (Montesquieu, 1748: 245).

Legitimate and fundamental legal sources, particularly in the fields of human rights and public law, also stress that states are obligated to formulate and implement fair and transparent legal frameworks to uphold citizens' rights. For instance, the Universal Declaration of Human Rights (1948) emphasizes principles such as equality before the law and the right to access justice, which play a crucial role in establishing rule-of-law governments (United Nations, 1948: 98).

In this regard, the rule of law, as a tool for organizing power and regulating relations between the state and citizens, is considered a fundamental principle of the legal state. The idea that governments must organize their activities in accordance with legal norms, without violating principles and legal rules, has been widely accepted in various legal systems around the world today (Javadi, 2018: 36).

The rule of law is effective in ensuring citizens' rights when three essential needs are met: first, an appropriate and just law that is in harmony with the social environment and norms of society must be enacted; second, this law must be effectively implemented; and third, the law must have suitable enforcement guarantees. In other words, only through the enactment of just laws, their effective implementation, and the provision of appropriate enforcement guarantees can citizens' rights and freedoms be effectively ensured (Rai, 1391: 127). Therefore, access to a set of legitimate legal sources, including international documents and national laws, can be considered an essential foundation for the realization of the rule of law.

The Implementation of the Rule of Law Principles

The implementation of the rule of law principles in a way that citizens feel security, equality, and social order is crucial, as these principles foster public trust in the legal and

governmental system. When laws are applied fairly and equally, citizens feel their rights are respected and they are protected from any form of discrimination or violation of their rights. This strengthens social order, prevents chaos, and provides a safe and stable environment for both individual and collective life. Clearly, as long as a law is not assessed by ethical and fair justice standards, one cannot expect the realization of social justice or the protection of citizens' rights and the adherence to laws.

Therefore, one can speak of a law based on ensuring social justice, in which fundamental values such as justice, freedom, and equality of citizens are considered as essential foundations, and legal rules are justified and evaluated based on these principles. Additionally, the realization of these principles requires effective oversight over the enforcement of laws and governmental accountability for their actions. Governments must continually reform and update their laws and regulations to stay in harmony with social developments and the current needs of society. Ultimately, in a society where the rule of law is fully respected, individuals not only defend their rights effectively but are also encouraged to participate actively in social and political processes, as they trust the legal system and feel that their views and rights are taken into account. (Zarei, 2001: pp. 61-60)

Thus, the foundation of the rule of law based on human rights standards and social justice involves recognizing the right to self-determination for all members of society, establishing necessary mechanisms to implement this right, and having an organized legal system that allows people to effectively express their collective will. (Habibzadeh & Toohidifar, n.d.: 13).

Collective Conscience and Social Norms

Respect for collective conscience and the transformation of informal norms into official and legal norms plays a significant role in the process of achieving social justice. Collective conscience refers to a set of values, beliefs, and norms that are commonly accepted within a society and influence individual behavior. These norms may initially exist informally and traditionally within society, but over time, and in response to social changes and new needs, they can evolve into formal and legal norms.

Transforming these informal norms into formal legal rules means formalizing principles that have been naturally and ethically accepted within society. This process can aid in the realization of social justice, as formal laws are more effectively enforced on a wider scale than informal norms and can prevent discrimination and injustice. For example, social norms such as gender equality, the rights of minorities, or the protection of children's rights may exist

informally in different societies, but when these norms are recognized as official legal rights, the groundwork for their fair and binding implementation is laid.

This process ensures that social justice is realized on a broader level, as formal laws act as effective tools for managing social relationships and safeguarding citizens' rights, especially in cases where ethical norms are threatened or violated. It also strengthens social cohesion and the sense of collective responsibility towards respecting the rights of others. The foundation of a rule-based system must be based on laws and regulations developed in consideration of public conscience and national values and norms. (Habibzadeh & Toohidifar, n.d.: 197).

Outcomes and Impacts of the Rule of Law on Social Justice

In addition to the rule of law, components such as transparency in government administration, the presence of independent oversight bodies, the right to access information, and active citizen participation in political and social processes are all factors influencing the realization of social justice. In advanced societies, these components are continuously strengthened and reformed to ensure social justice not only at the legal level but also at the practical and executive levels. Research on the impact of the rule of law, alongside other components, on the foundation of social justice in advanced societies examines the essential role of laws in achieving social justice.

Therefore, the rule of law, as one of the core pillars of modern states, is effective when it works alongside other components such as human rights, government transparency, public participation, and the fair distribution of resources. These components must be simultaneously and harmoniously implemented to create conditions where social justice is realized in society. The rule of law has two fundamental aspects. First, the government must be based on law, and second, the law must guide and direct the people. (Aslani & Kazemini, 2011: 271). In explaining the second characteristic, it is necessary for the law to have superior and more rational qualities, so that it can effectively guide individuals in society. This characteristic stems from the doctrine of the rule of law, which asserts that laws must be designed to effectively guide their subjects. Many legal scholars consider these characteristics as the basis for fair and legitimate law. (Danesh, 2010: 143).

However, the mere existence of a law cannot guarantee social justice in an advanced society; laws must possess specific characteristics and values. As Thomas Aquinas stated, "An unjust law is no law at all." Similarly, British philosopher H.L.A. Hart emphasized that "without the application of moral principles, a statute can never be called a law" (Shajaiyan, 2017: 76).

Based on this, elements such as universality and generality, binding nature, understandability, forward-looking, alignment with the prevailing value system of society, consistency of legal rules with contemporary realities and needs, stability, compliance, and public declaration of laws, must be present in laws to ensure their effectiveness in achieving social justice.

Conclusion. The rule of law in modern societies is recognized as one of the fundamental principles in achieving social justice. This principle acts not only as a legal framework but also philosophically as a guarantor of equality and human rights. One of the most important functions of the rule of law is the guarantee of legal equality; when laws are applied equally and without discrimination, every individual in society can achieve their rights, and no one will be immune from injustice or inequality. Similarly, social justice is realized when all individuals have equal opportunities, and no one is subject to injustice due to personal factors such as ethnicity, gender, or religion.

Another feature of the rule of law is the creation of transparency and accountability in government institutions. When government officials are subject to legal oversight and constraints, they are less likely to abuse power or engage in corruption. This fosters public trust and leads to increased social and political participation. Furthermore, the rule of law, through the creation of oversight mechanisms, helps preserve citizens' rights and prevent any form of corruption or rights violations.

Moreover, the establishment of social order and security is another important outcome of the rule of law. When laws are applied fairly and without discrimination, conditions are created in which individuals feel safer and more at ease. This security, not only in individual dimensions but also at the societal level, enhances cohesion and cooperation among community members.

The rule of law also prevents disorder and chaos, and in general, contributes to the growth and development of society.

The rule of law also guarantees the individual and social rights of citizens. Every individual in a legal system must be able to defend their rights against others and the government. This is not only a moral right but also a legal right that ensures social justice.

Within this framework, social rights such as access to education, healthcare, and housing are also protected, ensuring that all members of society have access to similar opportunities.

Finally, the rule of law plays an irreplaceable role in preventing discrimination and inequality. By implementing clear and equal laws for all individuals, any unjust discrimination based on religion, ethnicity, gender, or other factors can be avoided.

Therefore, the rule of law not only ensures justice for all individuals but also prevents the violation of human and social rights, creating the necessary groundwork for the growth of a fair and balanced society.

In conclusion, the rule of law, in its various dimensions, including legal equality, transparency and accountability, social order, and the protection of individual and social rights, guarantees social justice. Without it, achieving equality, welfare, and social security would be impossible. To achieve a just society, it is essential that not only laws be enacted and implemented correctly but that responsible institutions are continuously supervised and controlled to prevent discrimination and injustice.

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