

## The purpose of the Law?

Before the law was established:

- People subjected themselves to rules that would enable social and economic activities to be ordered
  - Sometimes by cooperative agreement
  - Sometimes under threat of force
- As societies evolved from close-knit kinship groups to larger and more diverse communities with more complex activities, the need for more formal rules increased.

In modern states, law serves three critical governance roles:

- First, it is through law and legal institutions that states seek to *order the behavior* of individuals and organizations so economic and social policies are converted into outcomes.
- Second, law defines the structure of government by *ordering power*—that is, establishing and distributing authority and power among government actors and between the state and citizens.
- Third, law also serves to *order contestation* by providing the substantive and procedural tools needed to promote accountability, resolve disputes peacefully, and change the rules.

The *rule of law* has been established that:

- Requires that government officials and citizens be bound by and act consistently with the law
- Is the basis of the good governance needed to realize full social and economic potential

As everyday experience makes clear:

- The existence of formal laws does not lead to their intended effects
- In many developing countries, the laws on the books are just that
  - They remain unimplemented
  - Or they are selectively implemented

Law itself may be used as a means of perpetuating insecurity, stagnation, and inequality For example:

- For decades South Africa sustained a brutal system of apartheid rooted in law

It also has become common for political leaders in illiberal regimes to legitimize nondemocratic rule:

- Through changes to the constitution, such as:
  - Amendments that extend term limits every day actions
- That exert power over others such as:
  - Displacing the poor from their land

- Detaining dissidents
- Denying equal opportunities to women and minorities, are taken within the authority of the law.
- In well- documented cases, laws intended to secure property rights have served to privilege powerful actors by allowing them:
  - To seize land and register it at the expense of rural farmers
  - To perpetuate class systems and power relations

Law can be a double-edged sword:

- It may serve to reinforce prevailing social and economic relations
- It can also be a powerful tool of those:
  - Seeking to resist, challenge, and transform those relations at:
    - The local, national, and global levels,
- States, elites, and citizens increasingly turn to law as an important tool for:
  - Bargaining, enshrining, and challenging norms, policies, and their implementation.

By its nature, law is a device that provides a particular language, structure, and formality for:

- Naming and ordering things, and this characteristic gives it the potential to become a force independent of the initial powers and intentions behind it, even beyond the existence of independent and effective legal institutions.

Law is thus simultaneously a product of social and power relations and a tool for challenging and reshaping those relations.

- It can change *incentives* by establishing different payoffs
- It can serve as a focal point for coordinating *preferences and beliefs*
- It can establish procedures and norms that increase the *contestability* of the policy arena.

### **Applying the law in the courts and the aim sentencing**

1. The punishment of offenders
2. The reduction of crime
3. Act as a deterrent
4. The reform and rehabilitation of offenders
5. The protection of the public
6. The making of reparation by offenders to persons affected by their offences

### **Bibliography**

World Bank - Governance and the Law - World Development Report 2017 The role of law, Chapter 3 – at : <https://www.Worldbank.org/en/publication/wd2017>

