



Difficulties Of Rules Of Laws And Its Solutions

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ABSTRACT

One of the important principles that have been declared many times in the constitution of countries is the rule of law. Legal rules mean that government officials are always obliged to apply laws and regulations in their actions and activities. Based on this principle, government activities and all forces are under the supervision and rule of law. The establishment and implementation of laws that are incomplete in form and content make the way of governance difficult. A law that is against the culture and habit of the society and the religion of the country's citizens will never reach the government. Assessment and rooting of legal violations should be developed in the legal framework. Identifying the causes and factors of the difficulty of the rule of law and improving the quality of the laws and its ultimate goal will help to apply the law and good governance.

The difficulties and challenges of implementing relevant laws have been identified, and political and legal solutions for the rule of law and solving problems have been presented. This article is based on introducing the knowledge of the rule of law and mentioning examples of ineffective laws, while also explaining the difficulties of Afghanistan's laws. The findings indicate that the speed and multiplicity of low-quality laws and the creation of laws that do not comply with the rules of legislation and publication have brought irreparable costs, made it difficult for citizens to obey the law, and caused losses. Brought a lot the method of this research is descriptive and library.

Keywords:

law, governance, violation phenomenon, human competence, sovereignty and solution.

INTRODUCTION

Law is considered one of the main pillars of public culture and, accordingly, people's political culture. Human societies have the opportunity to grow and crystallize within the framework of legal and social standards and norms. Basically, the law is one of the main pillars of social life, and the society without this basic element is nothing but communities caught in chaos. The degree of respecting the law as a rule and norm regulating social behavior is a reflection of the level and social political development of the people of a society. The law must rule and become a value and be accepted by all members of the society. And make them believe that the law is a good thing. In other words, the benefit that comes from the

law and its rule is something good and is a value. The result is that the principles, rules and laws established in a society are derived from the norms or non-formativeness' of the verbs that refer to those laws. The phenomenon of breaking the law, like other phenomena of humanities and social sciences, has many and different causes and factors, each of which in turn or along with other causes behavior and speech that results in the violation of one of the laws and regulations. Criminal, civil, economic, etc.

People in their governments are eager to follow the law, because they obey their own rules and orders. When the law is established, citizens and nationals must obey it, it seems that justice is done in the best possible way. The

degree of freedom of a society can be measured by the number of people who are under the rule of law. If the rule of law does not become a legal rule, it is supposed to be a violation of the law without guarantee of implementation, then it is pointless to talk about the rule of law.

In general, in different countries, the rule of law has always faced a crisis from the distant past until now, and this has happened in many periods. It is the incorrect implementation or non-implementation of the law. The history of human social life shows that in the shadow of the rule of law, man has been able to take a step towards progress, development and progress, and in order for his life to improve, he must follow the law. It is useful and beneficial for man and society to follow the law. In other words, if he wants to embrace peace and get rid of chaos, he should turn to the law, and on the other hand, those who follow the existing regulations, which are in the interest of everyone. If they protest, they will be addressed and punished by law and punished.

The purpose of this article is to explain the concept of the rule of law, its causes, factors and obstacles to the rule of law. This article provides a basic solution to the rule of law. The issues mentioned above are presented for basic and orderly solution respectively.

1. Manifestations of the rule of law

Before discussing the difficulties of rule of law, it is better to discuss the concept and theory of rule of law. The meaning of the rule of law is that the actions and behavior of people in the society should be based on certain criteria and standards that the people have set in a logical and orderly institution and everyone should be based on it and within its defined framework and not on their own basis. Want, personal interests and personal tastes to manage their affairs and work. Laws and rules are for regulating people's lives. Law is used in the sense of lines and lines and gradually in the sense of any general rule accepted in science.

In the term of jurists, the law is the general principle that is accepted as a regulator of social relations by the governing body, the people of a society, and an executive guarantee is also given for it (Collection of Authors, 18381:291). Several things are certain about the

necessity and rule of law: Recognizing people's needs for the law will help in gaining people's support for the law, another attribute is the universality of the law, which means the law must be inclusive. Provide and regulate public interest law. The law must contain logical and wise issues in order to be respected and enforced. The situation of legislation in Afghanistan is the same. Civil law of Afghanistan is a translation of the civil law of Egypt. Most of the laws considering Islam in the state laws are made to silence the people. Therefore, any law or system and system that contradicts the certainties and certainties of Sharia, people will not trust this kind of law. For this reason, the attempt to realize the system of democracy and governance through democratic laws, in which the government has authority over the people, will lead to irreligion and anti-religion, and the result will be enmity against religious people (Saeed, 2004: 70).

The issue of rule of law is one of the general rules in law according to which government decisions are made based on known legal principles. The long period of human life has always undergone changes in the tendency towards the law, and the ruler's relationship with the law has gone through the following different stages:

1. In some political theories, the rulers were above the law, as Plato, for example, considered philosophers in his hypothetical city (Utopia) to be above the law, and Jean Beden had such an opinion in the dominant view.
2. In another long period of human history, the rulers and the law were in the same row. The law was simply what the ruler wanted.
3. In the third stage and in the third and more modern tendency, the ruler was under the rule of law. The first step in the direction of distancing from the tyranny of the rulers was the theory of "rule by law", which included the concept of "the supremacy of the law", the ruler's inferiority to the law, and his obligation to rule, including legal ways.
4. Democratic governments went further in this way by creating the theory of "rule of law" (not rule by law). The rule of law actually supports

political, social and economic rights (Lengroudi, 1388: 94).

2. The emergence of the phenomenon of violation of laws.

The ruling is that laws and regulations are formulated based on the needs of society, which consists of a group of people. In other words, the condition for solving the individual and collective needs of the people of the society is the implementation of the principles and their compliance by all the people who make up it. In this assumption, there may have been a rule against the wishes of few people. But it is a condition that everyone obeys it. One of the main and obvious characteristics of the law is the universality of its rules to all people. It means when the law is enacted in the National Council. All people from social class, from any social position with any level of literacy, men and women, old and young, have duties

Failure to meet the material needs of life has caused despair about the future and the impossibility of creating suitable conditions for life and disturbed the psychological balance of people, especially the fathers of families and young people. The direction of behavior that violates the law. The reasons that lead to violation of the rules are mentioned in a list:

1. Violation of laws has historical roots and causes;
2. The actions of some politicians or some intellectuals lead to violation of laws;
3. Violation of laws in some cases is considered a form of cleverness by people;
4. Lack of awareness of the good results of law enforcement;
5. Not feeling the need for the law;
6. Disintegration of the society system that is caught in chaos;
7. The effect of residence and peers on breaking the rules;
8. Parents' lack of care for their children (Langerodi, 2018: 59);
1. Absence of sufficient and suitable guarantee for violation of laws;
2. The speed and multiplicity of laws is the issue, which in turn causes the value of the law to disappear in the minds of the people and as a result leads to the violation of the law;

3. The lack of authority of the police in dealing with law breakers (Collection of Authors, 2015: 34).

The phenomenon of violation of laws, like other phenomena of humanities and social sciences, has many and different causes and factors, each of them in turn or along with other causes behavior and speech that results in violation of one of the laws. And criminal, civil, economic regulations. This is due to people's lack of information and awareness of legal provisions. Therefore, they do what they think is permissible. Or the person who violates the law is not aware of the prescribed punishment for the behavior against the law.

3. Violation of human rights laws

The rule of law is the first goal of governments and systems. But laws in countries generally do not reach real governance. The democratic systems have given several kinds of sanctity to the constitution and other laws, but the same state laws often become a toy in the hands of the rulers when they are prepared and approved, and bigger games when they are interpreted. It happens. Because its origin is ignorance, but some laws such as "Yasq" law, which was the law of the Mongol Empire. "Yasq" law is a collection of rulings that are taken from different religions such as Judaism, Christianity and Islamic Sharia and from other sources, and many rulings whose source is only theory and requests have been cited as sources. It is considered as the followed Sharia law, which precedes the book and the Sunnah

The oath that was taken in the establishment of the civil law of Egypt, which was made by the Egyptian Dr. Abdul Razzaq Al-Sehnhouri and "Edward Lambir" who was a crusader and French, and two other crusaders named "Stuit" and "Sass" collaborated in making it. 85% of the civil law is taken from the crusade laws. The said law allows the rulings such as interest and gambling which are forbidden in Islam. The law in him has been given authority over the Sharia law. Islamic materials and subjects that have approved the civil law have been taken and those that are not compatible with the principles of the current law have been left. Dr. Sanhoury says in relation to this issue: the rules of jurisprudence, whose

general rules and principles are taken into account by the civil law in a summary form, if the Islamic rules are against the civil law, they will not be taken away, so that the civil law loses its coherence and continuity. don't give This is the situation of legislators who set themselves as rulers above religion. They take Sharia law, which is compatible with contemporary laws, and leave what is against it. Some Muslims do not approve of the law that governs Egypt. Egyptian scientists have never approved this law at the time of its establishment, and there have been criticisms against him. History does not forget the stances of Professor Hasan al-Hadibi (deceased) and Sheikh Abdul Wahab Talat Basha and others in rejecting this democratic law (Saeed, 2004: 71).

4. Human incompetence in making laws

Humans have different worldviews and values, and perhaps this multiplicity of worldviews and differences in values has not only prevented them from cooperating with each other, but also forced them to confront each other. People's social relations and people's lives will not be regulated by a few incoherent, incorrect legal rules that are full of contradictions and conflicts. Therefore, legislation, as well as its approval, cannot be in the hands of human beings who have different and possibly conflicting views. Therefore, if the author of the law is the creator of human beings and invites people to observe it through revelation, such a law will be an ideal law. Every law, which is basically incomplete, relative and always subject to transformations and changes, is adjusted and abolished (Al-Mahdi. 2003: 56 and 276). The failure of human laws throughout history and its constant transformation lies in the fact that human laws have lacked the values desired by societies.

- The issue of selfishness, profit seeking and monopolization of humans is raised. This means that on the assumption that a person or people will recognize the sum of the advantages and disadvantages of affairs and obtain the secret of happiness. Develop a complete law according to the interests of the society and the individual. The problem that exists in this context is the acceptance of this law by other people, because if individuals and society do not accept the law

and do not value it, there will be no guarantee of implementation except through dictatorship and force, and that aside It is not compatible with the spirit of human beings and it is not compatible with the purpose and goal of legislation, because the law is meant to prevent coercion and is not meant to be imposed on people by force (Collection of Authors, 2015: 305).

- The third reason for human incompetence in making laws is the relativity of human knowledge and the limitation of his awareness of his own perfections and talents and that of other members of the society. Scientists themselves admit that their knowledge of the world and man is limited. And to many things and secrets that are hidden in the world, which human knowledge has not reached until now. Because man is a sensitive creature who suffers from a thousand desires, and such a creature may forget his creator at any moment and may forget others as well. For this reason, God calls him to His side through Islamic laws so that he does not neglect the remembrance of God (Al-Faqi. 2000: 33).

Montesquieu also says: Anyone who is reminded of this principle that the law of the earth is different from the heavenly law, people respect and believe in that divine law; But this principle is related to other principles which are explained below:

1) A: There are countries where there is nothing but the arrogance of the rulers, but if there religious laws are like the laws of the country, they become worthless and shaky, while in every society there should be fixed laws and regulations, they are laws.

2) b. People believe in religious laws, but they are afraid of national laws. Religious laws are older, so their influence is greater. Because new concepts and ideas do not penetrate into it, and on the contrary, the force of national laws lies in their freshness, because the legislators establish them by observing the existing requirements.

3) He also says: There is no legislator who does not have a private opinion on the law, and the reason is that every legislator has his own emotions and thoughts and wants to include his

opinions in the legislation (including the authors, 2015: 309).

5. People's lack of trust in the governments.

The rulers and the ruled do not refer to the law at first. Most of the time, applying the law to them is suggested when people's relationship to crises and disputes intensify. According to this Sharia Law, Islam is the only means and way to realize the reformation of individuals and peace in society. This is the truth and nature of Islamic law and the relationship of humanity with it, and its answers to it. This has a definite effect on the establishment of social peace and the search for all those guarantees and provisions that are necessary for the mass of the people to regulate their relations and take care of their situations. The law transforms all people into unity, connected, co-operative and synchronous with personality and independence, rather than leaving them to their own devices in the form of scattered individuals and groups without law, order and discipline. As long as the law is not enforced and obeyed. It cannot fulfill its duty, which is peace, unless everyone is sure of it and creates affection, love and friendship between themselves and the law (Al-Faqi, 2000: 131).

Rebellion against the law is usually caused by three important and fundamental factors, and the rest of the secondary factors are caused by these three factors:

A) Feeling that this law is not fair: because it was imposed against others for the benefit of the individual, or individuals or a class. And surely, the same group who feel the law against them and see that the law is for their drugging and driving others and does not give them the slightest benefit and fruit for their efforts, and they must work under the shadow of this law. Eat others!

b) Feeling of separation and distance: alienation between the laws or in the spirit of the law and the spirit of the people who govern it. This is if this law does not provide the intellectual and internal needs and material interests of the people, and does not behave according to the requirements of people's lives and internal conditions; Because in reality and the truth itself, it is alien from the soul of the mass of people (Salameh, 2005: 228).

c) The feeling of a person who revolts against the law: someone else has imposed the law on him, just to show his character! And of course, it doesn't matter if this law was enacted by an individual or a group or a group (Qutb, 222: 1342).

d) Exaggeration in the establishment of laws: the law regulates public affairs. The law restricts the private sector. The quality and quantity of laws and regulations are effective to some extent in the development and proliferation of law violations and also cause corruption in the government. One of the experts says: I don't think that corruption can occur without government laws and regulations (Collection of Authors, 2016: 27). It includes limitations, and seeking superiority over these limitations and limits - if the law is imposed by one person on another person - realizes the individual's personality in the mind of the person who openly or secretly acts against it. Make. It is not possible to find any law of the human condition that does not have at least one of these problems. Especially the first and third forms, which are usually gathered in the law of the land known to humanity. Basically, not the laws that are enacted in these parliaments and councils. Nor were the laws enacted by the proletariat and the governing body of workers in communist countries free from these problems. Basically, the laws are not free of defects (Boshari, 2022: 104).

6. The relationship between the rule of law and legislative bodies

the rule of law or lack of rule of law is related to the status of law-making institutions. The law and order is established by institutions, committees and commissions, the legislator or a designated person, and some other people approve or reject it. After all, law making is the monopoly of a few people and they are referred to as legislators. The status and power of parliaments and elected assemblies in capitalist countries is clear, and the nation's freedom and authority in choosing representatives is nothing more than a myth, and the people themselves are well and completely familiar with the fact that this freedom is a myth. The elector feels completely that Av is not free to express his true opinion and will, his life and the morsel of bread

that should be preserved is in the hands of the capitalists who elect them.

If we assume that it is impossible to say that the drafters of the law have complete freedom, and he can elect whoever he wants to the parliament, but it should be kept in mind that the same parliament was elected from a certain class, which is possible (Qutb, 1342: 223). that there are really many national elements in it. And there will be very few people who are from the mass of the nation and have risen from among the people because of the truth, not pretending. In this way, whatever law the parliament enacts, whether you like it or not, it will be in the interest of capital and capitalists, and it can never be out of their influence.

According to the previous plan, the rule of the working class in the countries where it is established, the "bourgeoisie class" should be completely destroyed and abolished. The working class is not in their favor, but this law is imposed against them on purpose and insistence. These are all in countries that are responsible for their own legislation and they do not import the law from abroad like some Islamic countries.

7. Excessive reliance on foreign laws while Establishing rules

A successful and better law is to use foreign laws in its preparation and incorporate the good and sound experiences of other countries into it. The opinions of international personalities should be studied in legislation. This is unique to the accurate and sound understanding of foreign law. The habit and imitation of that country should be in accordance with the culture of the country that wants to establish the law (Salameh, 2005: 220). For example, Islamic countries are culturally compatible with Afghan society.

Some legislators imitate. And they say: "This law has been enacted in a certain Islamic country, so we can enact such a law." Even if it is against Islamic rules, they enact it, such speech and reasoning is not permissible and is not correct. And this type of reasoning is against the public interest and society. Firstly: the legislation of the mentioned country should be studied to see if they follow Sharia rules while

enacting the law or not! If they have enacted laws contrary to Islamic jurisprudence, they must not have followed Sharia rules. So adapting and obeying such laws is wrong. Secondly: Probably, the mentioned country has reasons in mind in the legislation, which is not easy to know about all of them. It is wrong to follow without knowledge, and it is obligatory for the legislator to think only about the interest of the country and its citizens, to refine the laws according to the interests and interests of the country, and to get the approval of the competent authorities and approval of the governor (Bahadur, 2015: 34).

While enacting the laws, the legislator should not try to sanction the halal or vice versa, so as to create a permissive reason in front of him, because the establishment of the law as stated in the Constitution of Afghanistan should not be in conflict with the religion of Islam (Constitution of Afghanistan: Article III). Legislators in Afghanistan follow the constitutional provision that any law enacted against the Islamic Sharia is repealed. The legislator cannot enact a law contrary to Sharia law, but there is no mention of any religion in the Constitution. So that the personal situation related to the Shiites according to the Jafari religion is resolved (Rasuli, 2013: 49).

Opposing Islamic rulings in law making causes problems in implementing laws and diminishing people's support towards the law-making institution. Because the Afghan society is a religious society and adheres to the fundamentals of Islamic law. Therefore, any promotion of non-religious culture that is against Islamic ethics and not compatible with the reality of the society, harms the position of the government, institutions and law makers.

8. Solutions provided for the difficulties of the rule of law

The resistance of backward or developing societies, including Afghanistan, to the rule of law, has various factors that require a separate discussion. In the middle, the most important factors or obstacles to the rule of law of personal relationships are lack of access to institutions and organizations, the existence of a natural government and a fragile order that the ruler, in order to preserve it, has to give and forgive,

distribute and privilege. It happens (Mohammadi, 2019: 272).

Because the mechanism for ensuring social order in Afghanistan at the political level has already been clearly defined and implemented with the Afghan rule of dividing power on the axis of ethnicity, but since in natural governments, political presence and participation with the share and Economic benefit is balanced, tied and both are considered at the same time, to ensure social order, we cannot rely only on the mechanism of ethnic division of power at the political level. For this reason, attention should also be paid to the hidden level or other face of the social order mechanism. It seems that the hidden level of the case is more effective, more impressive and, in a way, more dangerous, especially in natural states. Because the main purpose of entering politics is to secure economic benefits, and if the opponents do not achieve economic benefits through politics and a peaceful life, the shortest possible way for them is to resort to war and opposition. Based on the logic of the natural state, power seekers will stop fighting only if they are sure. Their interests are better and more secured in a calm state; otherwise, their main choice will be war and opposition.

In addition to that, despite the emphasis on the rule of law, Afghanistan is theoretically the same society in practice that, according to Plato's view, the command of its narrators has more discernment and authority than the law. As seen in these twenty years. This is something that should be sought in the absence of legality culture, which is a requirement of a modern and progressive society.

CONCLUSION

From the explanations and speeches in this article, it is clear that the rule of law is established when the laws have the motive of obedience. Human beings are always subject to rebellion, sin, error and forgetfulness, therefore, it is possible that, on the assumption of knowledge of interests and intentions, it may actually go against the law due to negligence and personal tendencies and individual feelings and pursue a method that is against the interests of the society. It imposes laws based on personal and group interest. Ensuring justice by

a single law is the way to rule of law in every country.

Legal scholars believe that the laws on the subject of governance are applicable and enforceable in the society if they are established by specialized and reliable institutions. In summary, he opined that the obstacles and factors of violating the law refer to several results and solutions for the rule of law:

- Laws generally and inclusively provided the interests of the people of the society.
- It is the creator of mankind who has the right to interfere in the fate of his creation and this right is not given to anyone under any title or condition.
- The law should be established according to Islamic standards. Laws that are against Sharia are becoming global day by day, which creates difficulties in the way of implementing Sharia as the law of the Islamic world. If Muslims choose the Qur'an as the Islamic rules and laws of life and give it sovereignty, they will not only live a life full of happiness, salvation and decency, but they will all become scholars and jurists. The failure of democratic institutions in the field of practice and experience indicates the worthiness of Sharia rule.
- Preoccupation of nations and governments with laws that are contrary to their culture, habits and beliefs leads to people's mistrust and distrust of laws.
- Respect for the rules, laws should find a place next to other social values. People's awareness through publication and distribution of preventing the loss of the law; The law is kept in the memory of the people.

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