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## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **THE COMPLEX RELATIONSHIP BETWEEN LAW AND JUSTICE**

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## **Abstract:**

The Universal Declaration of Human Rights (UDHR) 1948 motivated any remaining human rights shows and declarations embraced after its decree by the Unified Countries General Gathering. However most International and domestic Human Rights instruments come up short on universal incorporation of the embryo as an individual for human rights, they accommodate the security of a similar unborn child as an individual from the human family. The American Show on Human Rights for instance ensures the right to life and to the physical and mental honesty of the unborn child. Most nations have embraced it in giving legitimate measures to the security of human embryos under the law. Continuously, Target-4 of the third Manageable Improvement Objective (SDG 3.4) is positive on the point with a plan of "abandoning nobody" and that obviously incorporates the unborn child. Lamentably, a few nations have deliberately strayed from giving such defensive laws to the rights of an unborn child. This exploration expects to examine similarly the legitimate status of an unborn child in criminal law in four customary law nations. The goal is to feature the requirement for both international and domestic acknowledgment of the rights of an unborn child. The review takes on doctrinal plans utilizing similar methodologies with dependence on Resolutions, case law, law audits, and information from electronic sources.

# The Complex Relationship Between Law and Justice

## Introduction

*Understanding Law and Justice.* Even though a range of concerns is shared between the two, they operate under different principles (Tamanaha, 2019). Law is a knowledge of rules prized and embraced by society and government to control behavior which has the mandate to enforce compliance. These are the rules that are enacted and enforce the behavior subject to these organs of government: (the executive, legislature, and judiciary).

While the other is a much more ethereal and ambiguous idea, justice comprises honesty, equity, and morality. It requires on rule of law to be enforced in a just and impartial manner, taking in consideration the different interests and claims of the individual and community. According to Justice, responsible for proper rights and equality, the legal process concern is that they are not biased by giving more rights to some individuals and unfair prejudice to others.

Law and justice are both fluid; the prevailing social norms and values are constantly changing as society evolves. Usually, laws might be strict but perceptions of justice are rather a malleable thing and typically require legislative changes.

### *Purpose of the Article*

This article aims to explore the intricate relationship between law and justice, providing a thorough understanding of how they interact within various legal systems across the world (Amato, 2021). It seeks to unpack the philosophical foundations that underlie each concept and how these foundations influence the practical applications of law and the pursuit of justice in societal contexts.

The objective is to delineate the convergence and divergence between law and justice, highlighting cases where laws either uphold or undermine the principles of justice. Through this exploration, the article will also delve into significant legal reforms and social movements that have sought to address these divergences, ultimately aiming to foster a deeper appreciation of how legal structures can be utilized to achieve more equitable outcomes.



By examining the dynamics between law and justice, the article will provide insights into the continuous challenges facing legal systems and propose ways forward to ensure that justice remains a central goal in the administration and evolution of law. Through detailed analysis and case studies, it seeks to contribute to the ongoing discourse on making the law a more effective tool for justice, addressing contemporary issues, and anticipating future developments in the legal landscape.

## **Definitions and Distinctions**

### ***Law: Structure and Enforcement***

Law serves as the skeletal framework upon which societies build order and governance. It comprises a set of rules and guidelines that dictate what individuals can and cannot do (LEIDER, 2021). These rules are established by governing bodies and are enforced by designated institutions such as police, courts, and correctional facilities. The primary goal of law is to maintain social order, protect rights, and ensure the safety and security of citizens.

Laws are often codified in written statutes and regulations, making them accessible and enforceable. The process of creating these laws involves legislation by elected representatives and sometimes, through direct public votes in the form of referendums. Once established, laws must be upheld by the judiciary, which interprets and applies them in individual cases, ensuring that the enforcement is consistent with the written statutes.

### ***Justice: Moral Righteousness***

Justice is a broader and more abstract concept compared to law, rooted in morality, fairness, and ethics. It is concerned with the rightness of actions and conditions, emphasizing the equitable treatment of individuals within the society. Justice looks at the intent and outcomes of laws and legal systems to determine whether they meet the ethical standards of fairness and morality that society expects.

The pursuit of justice involves assessing whether individuals and groups are receiving what is rightfully theirs, be it in terms of resources, protection, rights, or opportunities. It addresses issues such as equity, equality, and need, striving to correct imbalances that might exist within the law or

its application. Unlike law, which can be clearly defined and observed, justice is often subjective and debated, varying significantly across different cultures and communities.

## **Interactions Between Law and Justice**

### ***Legal Formalism vs. Moral Reasoning***

Legal formalism is a theory in which the judiciary interprets and applies laws based strictly on the written statute, without regard for the broader implications for justice or societal impacts. This approach supports predictability and consistency in legal decisions, as it strictly adheres to the "letter of the law."

In contrast, moral reasoning argues that laws should be interpreted in light of broader ethical considerations and the principles of justice. It suggests that the judiciary should not only consider the exact wording of a law but also the outcomes of its enforcement and whether these outcomes are ethically sound and just.

### ***Cases of Convergence and Divergence***

There are many cases where law and justice align perfectly—laws that prevent harm to individuals or those that protect freedoms and rights are generally seen as just. However, there are also many instances where law and justice diverge. Laws that discriminate against certain groups or that uphold unjust historical practices are seen as legal but not just. This divergence often leads to public discontent and demands for reform.

### ***Legal Reform and Social Movements***

Social movements have played a crucial role in addressing the gaps between law and justice. These movements often arise in response to perceived injustices that are codified in or supported by the legal system (Welton & Harris, 2021). For example, the civil rights movement in the United States challenged and changed racially discriminatory laws.

Legal reforms motivated by such movements aim to modify or overturn existing laws to make them more just. This is often a challenging process, requiring significant advocacy, mobilization, and sometimes, changes to societal values and norms. These reforms are critical as they not only change laws but also contribute to the broader understanding of what justice should mean in a

constantly evolving society.

## **Philosophical Perspectives**

### ***Theories of Justice***

The philosophical exploration of justice has produced a variety of theories that attempt to define what is just and how justice can be achieved and maintained within societies. These theories often influence legal philosophies and practices, providing a foundational basis for legal systems around the world.

### ***John Rawls' Theory of Justice***

John Rawls, one of the most influential political philosophers of the 20th century, proposed a conceptual approach to justice in his seminal work, "A Theory of Justice" (1971). Rawls introduces the idea of 'justice as fairness,' which emphasizes two key principles: (1) each person has an equal right to the most extensive basic liberties compatible with similar liberties for others, and (2) social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all.

Rawls uses the original position and the veil of ignorance as thought experiments to determine what rules governing society would be universally accepted without knowledge of one's own position in that society. This framework aims to eliminate bias and achieve a truly equitable system.

### ***Robert Nozick's Libertarian Justice***

In contrast to Rawls, Robert Nozick's theory, articulated in "Anarchy, State, and Utopia" (1974), champions a minimal state limited to the narrow functions of protection against force, theft, fraud, enforcement of contracts, and so on. Nozick's vision of a just society is one where individuals are free to pursue their own goals and where the state does not redistribute wealth or resources to correct economic or social inequalities. His entitlement theory of justice asserts that a distribution of goods is just if everyone is entitled to the holdings they possess under the distribution.

### ***The Role of Law in Achieving Justice***

Philosophers have long debated the role of law in achieving justice. Some argue that laws are an essential tool for institutionalizing moral norms in society, making justice achievable on a large scale. Others contend that law, by its nature, imposes a form of control that might inherently conflict with individual freedoms and moral autonomy. The challenge lies in crafting laws that enforce justice while respecting individual rights and liberties.

## **Case Studies**

### ***Civil Rights Movement and Legal Change***

The civil rights movement in the United States during the 1950s and 1960s provides a clear example of how legal and societal pressures can converge to bring about significant changes in law toward greater justice. Through protests, civil disobedience, and legal challenges, activists such as Martin Luther King Jr. and others succeeded in pushing for the passage of landmark legislation like the Civil Rights Act of 1964 and the Voting Rights Act of 1965. These laws significantly altered the legal landscape of the United States by prohibiting racial segregation and discrimination, demonstrating how social movements can directly influence and reform legal systems to align better with justice.

### ***International Law and Human Rights***

International law, particularly regarding human rights, illustrates how legal principles can transcend national borders to promote justice on a global scale (United Nations, 2023). The creation of the Universal Declaration of Human Rights in 1948 and subsequent treaties like the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights have established a worldwide framework for promoting and protecting human rights. These legal instruments obligate countries to adhere to certain standards of behavior, providing a legal basis for claims of justice on an international level and offering mechanisms for redress when violations occur.

Both of these case studies reflect the dynamic and complex relationship between law and justice, showcasing the ongoing effort to ensure that laws not only govern society but do so in a manner that is fundamentally just and equitable.

## **Challenges and Controversies**

### ***Balancing Security and Freedom***

One of the perennial challenges in law and justice is the balance between maintaining security and preserving individual freedoms. This tension is often most visible in times of crisis, such as during national security threats or in the aftermath of terrorist attacks. Governments may enact laws that enhance surveillance, limit certain freedoms, or allow for increased governmental intrusion into personal lives, all in the name of security. Critics argue that such measures can undermine civil liberties and lead to abuses of power, while proponents contend that they are necessary for the protection of the public.

The challenge lies in crafting laws that effectively protect citizens without infringing unduly on individual rights. Legal systems must navigate these waters carefully, often under the scrutiny of the public and the international community, to uphold justice while ensuring security.

### ***The Role of Judicial Activism***

Judicial activism refers to the willingness of judges to depart from conventional precedents in favor of progressive and new interpretations of the law. Advocates of judicial activism believe it is an essential means of promoting justice, especially when legislative bodies fail to address fundamental inequities. Critics, however, argue that it can lead to judges overstepping their bounds and encroaching on the functions of the legislative and executive branches.

This controversy highlights a fundamental question about the role of the judiciary in a democratic society: Should judges merely apply the law as it is written, or should they interpret the law in a way that actively promotes justice and addresses societal needs?

## **Future Directions**

### ***Technological Impact on Law and Justice***

The rapid advancement of technology poses both opportunities and challenges for law and justice. Technologies like artificial intelligence (AI), blockchain, and the Internet of Things (IoT) are transforming how laws are enforced and how justice is administered (Murillo, 2022). For example, AI can help in predicting crime, improving the efficiency of legal processes, and personalizing the

delivery of legal services. However, it also raises significant concerns related to privacy, bias, and the potential for surveillance.

As technology continues to evolve, legal systems will need to address these challenges by developing new laws and regulations that safeguard rights and ensure fairness while embracing the benefits that technological advancements can bring.

### ***Globalization and Its Effect on Legal Systems***

Globalization has led to increased interactions between diverse legal systems, influencing domestic law, international law, and the global pursuit of justice. The harmonization of laws across borders can facilitate international business and combat global issues such as human trafficking, cybercrime, and environmental destruction. However, globalization can also result in conflicts between laws of different nations, such as when human rights standards clash with local cultural practices.

The future will likely see more international collaboration in developing legal standards that not only respect national sovereignty but also promote universal principles of justice. This collaborative approach could potentially lead to more robust mechanisms for enforcing international law and achieving justice on a global scale.

Each of these areas represents a dynamic intersection of law, technology, and global interconnectivity, suggesting that the future of law and justice will be deeply influenced by advancements in technology and the increasing integration of global economies and cultures.

### **Recommendations and Conclusion –**

There is need for a worldwide legal arrangement for the insurance and implementation of the rights of the unborn child. Aside different advantages, it will be a decent mind fetus removal too. Assuming that nothing is done universally to accord legitimate character to unborn children, the outcome is self-evident and may behorrendous and shocking. Early termination will carelessly be the thing to address continuously 2030 with its run of the mill complexities including optional fruitlessness, cervical or vaginal cuts, discharge, entrail or uterine hole, sepsis and auxiliary

regenerative lot contaminations, constant pelvic incendiary illness and so forth. However nations fluctuate in their method of concurring legitimate assurance to the unborn child. It is exceptionally enlightening to realize that the four nations considered above have respect for the fetus and have fostered a few legal arrangements for the insurance of the unborn child. In any case, it was exclusively in America that the unborn child has lawful personality so that he can sue through his watchman promotion litem. While a nations Nigeria and America start from origination to birth and thusly connect criminal obligation to acts that target ending the unborn child, others keep up with that such criminal responsibility ought to begin at a specific formative stage not really from origination. However, others don't see justification behind obligation by any stretch of the imagination in spite of the respect they have for the baby and the need to safeguard that element in his space in the belly. Notwithstanding, besides in America where all US States either by resolution, court rule, or case law license a watchman promotion litem to address the interests of the unborn,<sup>92</sup> the unborn child, however is viewed as deserving of legitimate security, such legitimate security can't be compared to post pregnancy life, to accord the unborn child a lawful solidly in the feeling of "a right to life". What an incongruity! There is a need to accord the unborn child lawful character basically to decrease the wanton end of the existence of the unborn child against his desire to live. Such legitimate acknowledgment will go quite far to similarly look at domestic brutality on ladies and assist with completing Objective 4 of the third Practical Improvement Objective (SDG 3.4) continuously 2030. This Manageable Advancement Objective (SDG 3.4) targets advancing both the decrease of untimely mortality and guaranteeing the emotional well-being and prosperity of both the mother and child. the holiness of human life.

Throughout this exploration of the relationship between law and justice, we've seen how these two fundamental concepts interact to shape societies, guided by a mixture of legal structure and moral reasoning. From the balance between security and freedom to the impact of judicial activism and the evolving role of technology and globalization, law and justice are dynamic entities that must adapt to changing societal values and challenges. Moving forward, the path for law and justice involves a continuous dialogue between established legal principles and emerging ethical standards, ensuring that legal frameworks not only maintain order but also advance fairness and protect human rights in an increasingly complex world. The future of law and justice will likely be characterized by efforts to harmonize these principles on both national and international stages, striving for a legal system that is just, equitable, and responsive to the needs of all individuals

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