

Law and Society

القانون والمجتمع

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• **Abstract:**

The law is seen as the key tool for regulating behavior in society, ensuring the rights and duties of individuals while upholding principles of justice and equality. As social beings, humans depend on interactions with others to meet their needs, creating relationships that can sometimes lead to conflicts driven by selfishness. These clashes disrupt societies, causing insecurity, injustice, and instability. To address such issues, comprehensive rules and regulations are essential to resolve conflicts and balance competing interests. Humans tend to prioritize their own desires, which makes it necessary to have principles that define freedom in a way that considers the welfare of all members of society. This creates a system that controls individual selfishness and fosters social harmony. Without legal regulation, subjective behavior dominates, undermining societal stability.

Keywords:

Law and Society; Human Society; human freedom; Islamic law

ملخص

يُنظر إلى القانون على أنه الأداة الأساسية لتنظيم السلوك في المجتمع، وضمان حقوق وواجبات الأفراد، مع الحفاظ على مبادئ العدالة والمساواة. وبما أن الإنسان كائن اجتماعي، فإنه يعتمد على التفاعل مع الآخرين لتلبية احتياجاته، مما يؤدي إلى نشوء علاقات قد تُفضي أحياناً إلى صراعات ناتجة عن الأنانية. وتؤدي هذه الصراعات إلى اضطراب المجتمعات، فتشيع حالة من انعدام الأمن والظلم وعدم الاستقرار. ولمعالجة هذه القضايا، لا بد من وجود قواعد وأنظمة شاملة لحل النزاعات وتحقيق التوازن بين المصالح المتعارضة. وبما أن الإنسان يميل إلى تغليب رغباته، فلا بد من وجود مبادئ تحدد الحرية بطريقة تراعي مصلحة جميع أفراد المجتمع، مما يُنتج نظاماً يكبح الأنانية الفردية ويُعزز الانسجام الاجتماعي. وفي غياب التنظيم القانوني، يسود السلوك الذاتي، مما يُقوض استقرار المجتمع.

الكلمات المفتاحية: القانون والمجتمع؛ المجتمع البشري؛ الحرية الإنسانية؛ الشريعة الإسلامية.

• **Introduction:**

The law is considered the agreed-upon tool to be the most effective means on which societies rely to regulate the behaviors of their members, in accordance with their rights and duties, as well as the principles of justice and equality.

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Since humans are social beings by nature, unable to isolate themselves due to their inability to fulfill their needs alone, this requires interaction with others of their kind, creating multiple and diverse relationships in which conflicting interests, driven by excessive selfishness, result in inevitable clashes that disrupt societies and expose them to fear, injustice, insecurity, and instability. “Human socialization is essential for people to cooperate with one another in achieving the material necessities for their lives and survival”¹

These 'non' (such as injustice, insecurity, etc.) and others call for the existence of comprehensive rules and regulations that can resolve various conflicts and opposing interests. Humans, by their nature, are inclined to love themselves, often granting themselves excessive freedom to achieve what they perceive as their right, even at the expense of others. This necessitates the presence of principles that give freedom its true social dimensions, based on a concept of freedom that considers the interests of everyone, while controlling the individual's selfish tendencies within a social system. Such a system does not respond automatically to order; rather, it requires a process of social control that balances and refines the individual's instincts. “Order in society is not an instinctive or automatic behavior; it arises from social control and depends on it”²

The absence of legal regulation in the actions and behaviors of individuals through their various activities with one another inevitably leads to the emergence and dominance of the principle of subjectivity, which undermines the stability of societies.

The law creates rights and protects them by criminalizing any violations. From this perspective, Daneru argues, “The law should be viewed as a system of rights, not a system of claims, as the Romans used to view it. Legal claims are merely the legal means by which a right gains its power and ensures a penalty if violated”²

The process of social control and the organization of various interests and freedoms can only be entrusted to the law by establishing fixed rules and regulations. However, it can be noted that the law is not the only means; it may be the primary means, but it shares this goal with synonymous concepts such as religion, customs, ethics, culture, and literature, although these do not carry the same binding force as the law. Roscoe Pound was right when he described the law as the science of social engineering, which is achieved through organizing human relationships in a politically organized society.

Chapter One: The Need for Law in Human Society

From this, we understand the relationship between the law and the general behavior of individuals in society, whether the societies are advanced or underdeveloped. The reality has proven that human instinctual behavior, such as the desire to dominate and subjugate others to one's power, is almost universal evident at the individual level in underdeveloped societies, and at the level of states and governments, both in underdeveloped and advanced nations alike. It is inconceivable, under any circumstances, to imagine the existence of law without society (individuals). The law's movement, its interactions, and the emergence of its effects can only occur within the framework of a society (the community).

¹ Ali Filali, Law and Human Society, Journal of the Faculty of Law in Beirut, mentioned in the Introduction to Law, p. 10

² Hassan Al-Sa'ati, Legal Sociology, p. 13

Section One: The Subject of Law

The subject of law is society; there is no law without society, and no society without law. As Professor Fillali says:

“The rules that regulate the relationships of individuals with one another, in isolation or individually, do not constitute law. This regulation must be based on the fact that these individuals belong to a group, both in terms of its formation and its governance.”³

However, there are those who oppose this view, arguing that society is fundamentally made up of individuals, and that a group is simply a collection of individuals. Therefore, the law is not merely a temporary construct created to restrain human impulses, but rather, in our opinion, it is inherent within human nature. Humans have an innate readiness to accept discipline in their own decisions; otherwise, divine scriptures and heavenly laws would not have been revealed, addressing the individual within the context of their community.

Imam Al-Shirazi says:” human beings need the law because they are individuals with personal and social needs in various aspects. Even if we assume that a person lived alone in a forest or cave, they would still need the law to regulate their behavior with themselves, with their Creator, and with the universe in general. The law is necessary to organize the affairs of society, regardless of whether the society is primitive, intermediate, or ideal. There must be a standard that guides both the individual and society in all aspects of life.”⁴

This inherent human dimension within the individual, along with their innate readiness to be addressed by the law, is what has enabled humans to rise and evolve and to accept the law. This is because they deeply understand that the law is the regulating force that ensures the continuity of human life. The prophets and messengers were the first to attempt to regulate societies through a legal means embodied in divine laws.

An individual may be selfish and authoritarian, yet at the same time, they are capable of receiving the law’s message. However, Hobbes offers a contrasting view in his interpretation of human nature, where he states: “Man is naturally inclined to evil, and were it not for the acquisition of social virtues, he would become a beast, acting solely according to the law of the strongest. Society would never have formed or survived. For man, by nature, is savage and selfish, and his natural state is one of war and aggression, a state without justice, law, or property. These systems are the creation of the state.”⁵

If the primary purpose and subject of the law is social organization and control, this leads us to address the two main aspects of this idea: the authority of the state, the supremacy of the law, and the aspect of coercion and punishment in the law.

If the law is the sovereign of the world, as expressed by Gaston May in his statement: “le droit et le souverain du monde”⁶(law is the sovereign of the world), then the law is a social necessity and an absolute truth in all societies, without dispute. It is the civilized means for organizing societies, and this means must be supported by two essential elements:

³ Mohamed Abu Zaid, Legal Sociology, p. 27

⁴ Imam al-Shirazi, Law and Jurisprudence, p. 50

⁵ Hassan Al-Sa'ati, Legal Sociology, p. 30

⁶ Gaston Moy, Introduction à l'Étude du Droit, Paris, 1932, p. 2

- There is no law without a state (authority).
- There is no law without punishment

Section Two: No Law Without Governance

The authority of governance is based on the supremacy of the law, and the strength of the law depends on the power of the authority. The existence of a sovereign authority over the individuals of society, with the right to enforce and compel compliance with the established system of social regulation, is fundamental to the construction of societies. The German legal scholar Ihering (1818-1892) laid the foundation and developed a key idea in his book “La lutte pour le droit”, which asserts that law finds its source and existence only in governance.

For Ihering, law is a set of rules through which coercion is exercised within the governing system. The principle of the supremacy of the law in society leads to the establishment of equitable relationships among the members of society, which enables the law to play its proper role. The enforcement of the rule of law cannot be widespread and sustained unless authority is unified within society. The division of powers is seen as a clear indication of the state's weakness and failure, leading to a decline in its prestige, and consequently, opening the door wide to violence and instability.

The fragmentation of authority within a single state inevitably leads to multiple centers of decision-making, which negatively impacts the state's prestige. As a result, the principle of the supremacy of the law or the rule of law ceases to exist, leading to rebellion among individuals who feel the weakness and division of authority, and thus refuse to submit.

Jean-Jacques Rousseau pointed out that authority in society is a unity that cannot be divided, for if it were, there would be no authority at all. Public authority is entrusted with the power and responsibility to compel all members of society to respect the law, ensuring both the rights of individuals and the stability of society itself.

Section Three: No Law without Punishment

The efficacy of the law asserts itself through the punishment it imposes, which the governing authority ensures is carried out. It is almost universally agreed that the law (legal rules) loses its power and sovereignty if it is not accompanied by penalties. Indeed, one of the essential characteristics of the law is that it should be deterrent and corrective.

Since humans, by nature, tend to prioritize their own self-interest, the law must be equipped with punishment to curb these instincts that lead to violations of others' rights. Otherwise, we would be faced with a warrior stripped of their weapon in the middle of a battle. A law without penalties becomes non-binding and is disregarded by all.

Durkheim's view of law emphasizes that coercive law is a means of social control, and punishment is the primary mechanism that targets the individual and subjugates them. Fear of punishment is what drives individuals to fulfill their duties and perform their functions. Punishment governs humanity, and it is also what protects it.

From this standpoint, it is essential to instill the concept of power and punishment in the individual's mindset. When this idea is present at the moment of action or decision-making, it becomes an effective deterrent and barrier against violating the law, ensuring that societies enjoy stability and security. When an individual realizes that punishment is imminent and inevitable, they are more likely to comply and obey. This is why we find that civilized societies strive to instill terms, principles, and ideas framed by law, all of which convey the importance of respecting others and human rights in building societies that believe the law exists to protect them and provide security and stability, not as an enemy, as is often believed in many underdeveloped societies. This belief, however, has its own motivations and reasons.⁷

Islamic law (Shariaa) has placed great emphasis on punishment, as the legislator understood that there are some individuals whose condition can only be corrected through the imposition of punishment. Punishment in Islamic law is framed with wisdom, and it is based on clear evidence, facts, and testimonies that must be present before it can be justly applied. This prevents the collusion of false witnesses who might lead an individual to punishment without just cause.

The purpose of punishment in Islamic law is to protect society and reform the offender. As Abd al Qader Aouda states: 'God revealed His law to the people and sent His messenger among them to teach and guide them. He ordained punishment for those who disobey His commands to compel people to do what they dislike as long as it serves their interests, and to prevent them from doing what they desire if it leads to their corruption. Punishment is intended to reform individuals and to protect the community and preserve its system⁸.

Chapter Two: Human Societies between Acceptance and Rejection of the Law

Throughout its historical stages, the law has proven to be the regulator of societies and the relationships between individuals during their activities and conflicts. The law in our study refers to those legal rules that impose a certain order within society through government, which, in turn, was responsible for the creation of the law.

A comprehensive legal system that is respected by everyone and accepted by people as a material and moral regulator cannot be established unless it carries within it the factors for its own continuity. The first foundation for the success of the law as an acceptable regulator for societies is the subjugation of the state to the law. This was emphasized by the German jurist Ernst Ehring in his book *La lutte pour le droit* (The Struggle for Law), where he stated: "The system is neither respected nor guaranteed unless the state itself respects the system that created it"⁹

The despotic authority that holds the rod of law uses it to oppress and enslave peoples, or when the government's law does not represent the interests of the various social groups, it leads peoples and societies to revert to an unspoken law, rejecting the law because it no longer reflects the principles of society or serves the public good.

Here, the purpose of the law becomes unclear to members of society or rather, the concept of the rule of law or "law above all" fades.

⁷ If dictatorial regimes have ingrained in our societies the idea that the law is nothing more than a prison, a court, and coercion without rights, then we cannot blame these societies if they view the law only through this narrow, distorted, and terrifying lens

⁸ Abd al-Qader Aoudah, *Islamic Criminal Legislation Compared to Positive Law*, Al-Risalah Foundation, 1987, p. 609

⁹ Michel Bonchérin, *Introduction to Law*, translated by Mohamed Arzqi Nasib, Dar Al-Qassabah, 2004, p. 28.

The powerful elites and those with influence harm their societies when they do not hesitate to use the law to serve their interests, justify questionable legitimacy, or infringe upon individual freedoms. As a result, people reject laws altogether not because of the laws themselves but because of the corruption of those entrusted with their enforcement.

The law that is obeyed is the law that plays an essential role in society by preserving its unity. This is achieved by ensuring that the law is rooted in its environment and that it guarantees justice, security, and freedom. Otherwise, the rule of law will never reach the nations of underdeveloped societies.

Section one: the Law is the Product of its Environment

One of the reasons for the success of the law is that it must originate from its own environment. The law is a specific social phenomenon, limited in time and place, which stems from lived reality. In this regard, we can refer to Karl Marx's critique of legal theorists who believe that the law has an independent existence and that it shapes reality, rather than being shaped by it. Despite this, the primary concern of legal scholars is to understand social reality, and the law is an integral part of the forces that create it, as expressed by Georges Ripert.¹⁰ From this perspective, it becomes clear that the law must reflect the environment in which it is applied.

This is achieved by ensuring that the law aligns with the social, religious, ethical, scientific, and literary characteristics and values of the people. This point is often overlooked by many systems in developing countries, which have focused on studying Western laws, laws that originate from environments very different from their own. They have imported these laws into their societies without scrutiny, which has led to their rejection, as they conflict with and contradict the beliefs, ethics, and customs of the people. The closer a legal rule is to the social reality, in terms of its beliefs, ethics, and values, the more it will be accepted, making it easier to organize and regulate society through it.

The law reflects the civilization of society.¹¹ The legal rules governing the behavior of individuals within a community are based on religious, social, cultural, scientific, ethical, literary, and artistic phenomena that are unique to each society. These characteristics, which vary from one society to another and from one era to another, constitute what we call civilization¹².

When the law originates from its environment and does not contradict it, it finds acceptance within society and becomes a powerful tool for ensuring individuals' compliance, thus guaranteeing the society's lasting stability.

The law is the collective conscience of society, expressing a comprehensive social reality, which is essentially embodied in customs, traditions, beliefs, and moral values. One of the conditions for the law's acceptance in society is that it should stem from the community itself, reflecting the convictions of its members. Therefore, it is understandable for individuals to reject a law that contradicts their personal or social beliefs.

¹⁰ Michel Bonchérin, *Introduction to Law*, translated by Mohamed Arzqi Nasib, Dar Al-Qassabah, 2004, p. 28

¹¹ Abdel Moneim Farag Al-Sadd, *Foundations of Law*, Dar Al-Nahda Al-Arabiya, Beirut, p. 15.

¹² Ali Fillali, *Introduction to Law*, Mufam for Publishing, 2010, p. 14

Some argue that the problem of underdevelopment or the gap between law and society only becomes evident when there is a clear discrepancy between social behavior and the sense of obligation to legal norms, contrasting with the actions and behaviors prescribed by these norms.¹³

Therefore, when formulating and drafting legal rules, it is essential to consider various aspects that ensure the success of these rules. For instance, the rules should be general and abstract, applied without retroactive effect, and the rights and duties should be clearly defined so that both individuals and the public can understand them. Additionally, the specific characteristics that distinguish each society¹⁴, such as its beliefs, principles, traditions, and other unique features, should be taken into account.

Section two: The Law as the Protector of Freedoms

Freedom has always represented the highest aspiration for human beings throughout history. People have struggled for their freedom in its broadest sense, striving to free them from any constraint they perceive as limiting their potential and freedom to move within the world. The enslavement of bodies and minds is, in fact, the stripping away of human freedom, which is the key factor in holding individuals accountable for their actions.

Freedom is a lived reality that individuals and groups shape according to different concepts. The Second World War, for example, was fought in the name of freedom and respect for the individual¹⁵. The idea of absolute freedom, in its traditional sense, is considered a privilege that justifies the ability of its holder to do whatever they wish without restriction or prohibition, which opens the door wide to chaos, conflict, and a "war of all against all." This is what is known as "natural freedom," which is unrestrained and was ultimately abandoned by humanity in favor of civil freedom, achieved through the social contract.

This shift led to the establishment of laws and rules to temper the concept of absolute or natural freedom, to enable peaceful coexistence within a framework of mutual respect and shared values. Legal systems were put in place to frame freedom, regulate its scope, and protect it from violations.

Thus, freedom must manifest in lived reality; otherwise, it remains an idealistic and abstract principle. A person only experiences their freedom when they are able to move, travel, express themselves, and act according to their own convictions, without disturbing the general framework of freedom established by laws that ensure that individuals are subject only to those laws.

Therefore, freedom is a regulated behavior, and its true nature and essence can only be realized within the framework of communal behavior. This leads to a fundamental dialectic, which is the central issue of our inquiry: the relationship between law and freedom, and the relationship between freedom and law.

The concept of freedom is expansive and elusive; whenever we attempt to define or grasp it, it slips away. Philosophical theories on freedom vary widely, with different thinkers offering diverse interpretations. For example, Al-Farabi distinguished between freedom and will, while Montesquieu saw it as encompassing a broad range of meanings and implications. The American

¹³ Ali Marah, *Jurisprudential Trends in Interpreting the Legal Phenomenon*, Dar Houma, 2011, p. 25.

¹⁴ Ali Fillali, *Introduction to Law*, Mufam for Publishing, 2010, p. 114

¹⁵ 1- Henri Patiefol, *Philosophy of Law*, translated by Samoudi Foug al aIdah, Ouaydat Publications, Beirut, 1984, p. 93.

philosopher Arendt, on the other hand, argued that freedom is closely connected to everyday life and should not be separated from political life.

For the general public, the concept of freedom often means "doing whatever I want," but this is radically different from the political and legal meaning of freedom, which is "I have the right to do whatever the law permits" the right not to be subject to anything other than the law itself.

The discovery of the mechanism of law was not a matter of chance, but the result of experience. As an organized system, society faces competing and conflicting interests, as well as various freedoms and concepts that could lead to the collapse and fragmentation of societies if left unchecked and unregulated. Law, therefore, is an unavoidable necessity. It restricts the freedom of some individuals and organizes freedoms, not for the sake of restriction, but to create peaceful coexistence among us. In fact, every law is, to some extent, a limitation on individual freedom or, more precisely, a narrowing of the options available to a person in order to ensure peaceful and just coexistence among all.¹⁶

Freedom from the constraints that bind and restrict human thought and eliminate reason is a natural right, without which life would be devoid of meaning. Otherwise, human actions would not stem from conviction and choice.

Islamic law (Shariaa) recognized the true meaning of freedom, both in terms of intellectual and mental freedom, and aimed to instill this concept in the minds of individuals so that they could make decisions, even in the most difficult matters such as beliefs and convictions, according to absolute intellectual freedom. Allah says: "So whoever wills let him believe; and whoever wills, let him disbelieve." ¹ and "You are not charged to oversee them"¹⁷.

In fact, Islamic law acknowledges the jurisprudence of differences and emphasizes the necessity of respecting the beliefs of others. Allah says: "For you is your religion, and for me is my religion"¹⁸. It goes even further in respecting the beliefs of others and prohibiting any form of disrespect, even if the object of worship is not Allah. Allah says: "And do not insult those they invoke other than Allah, lest they insult Allah in enmity without knowledge."¹. Law, in general, is the framework that governs the practices of individuals, ensuring the legitimacy of actions and their compliance with the law.

Freedom, with all the concepts it encompasses, varies depending on people's understanding of it. It finds no refuge to protect itself from the excesses of the transgressors, the tyranny of the unjust, or the despotism of the oppressors, except under the rule of law. The law is the protector of freedoms within society. This is the essence of the social contract theory, which was articulated by the French thinker Jean-Jacques Rousseau, as well as the English philosophers Thomas Hobbes and John Locke. They proposed the idea of the emergence of politically organized societies and the formation of states.

In this context, Islamic law (Shariaa) has focused on reforming the mechanisms and tools of human thought, working to train and direct them towards their primary function. This allows individuals

¹⁶ Surah Al-Kahf, verses 28-29.

¹⁷ Surah Al-Ghashiyah, verses 21-22.

¹⁸ Surah Al-Kafirun, verses 5-6.

to engage in thinking effectively and to achieve the benefits that come from it.² The law is the protector and organizer of individual freedoms within the social fabric. It also safeguards freedom from the overreach of a ruler who may, following a Machiavellian perspective, claim the right to be above the law and exempt himself from the laws prevailing in society.

Section three: Law and Justice (Fairness)

If we emphasize a societal and political principle or value, such as the value of justice, on which no two people would disagree, we are not exaggerating. Social movement, with its various directions, individuals, and interests, requires the intervention of the law in matters of regulation through the achievement of justice and fairness, ensuring that all are equal before the law. This is because the law serves as the general framework in which all violations are dissolved based on right.

As Professor Fillali says, "The preparation of legal rules is not based only on the will of the state, but also takes into consideration the reality of society and the achievement of justice. The judge does not apply the law mechanically, but rather rules on each case individually, taking into account the pursuit of justice through his authority to assess facts, qualify them, and interpret legal rules. He may rule on a dispute for which there is no specific legal provision, and he may be guided by the principles of natural law and the rules of justice"¹⁹. The ultimate goal of the law is to achieve justice, as it is the legitimacy that makes individuals in society respects it.

Aristotle says, "Justice is the natural law upon which the laws enacted by the legislator should be based"²⁰. Justice is a supreme value that transcends all other values and contains them." The law itself does not contradict justice, as long as it seeks to achieve and establish it within societies.

The idea of justice, in its essence, finds its place only within the society and its interactions, according to the laws that aim to establish high ideals of value, with justice at their core. During its interaction with individuals, the law seeks to ensure justice in its broadest and most comprehensive sense, which is equality among people.

When the law is able to enforce respect for itself by placing everyone on an equal footing, where an individual with a right can claim it while knowing that they stand on the same level as their opponent, regardless of their social status, it has achieved its goal. Islamic law has been a pioneering approach in this regard, as it established that justice is the measure of societies that believe in the principles on which humanity is based. Justice is not a charitable act of the state, but rather its duty, exercised in the name of its people, through the establishment of justice, fairness, and equality among people.

God, in His glory, described His sacred essence with justice and fairness: "*Allah bears witness that there is no god but Him, and so do the angels and those endowed with knowledge, standing firm in justice. There is no god but Him, the Almighty, the All-Wise*"²¹. Ahmad Al Sharbassi, in his commentary on this verse, says: "Allah is the One who ensures justice in religion and in the universe. He commands with knowledge and judges with wisdom, and His law achieves justice between the demands of the body and the soul."²²

¹⁹ The same reference.p. 173

²⁰ The same reference. P .173

²¹ Ahmad Al-Sharbasi, Encyclopedia of the Ethics of the Qur'an, Dar Al-Ra'id Al-Arabi, 1981, p.23

²² Hannah Arendt, Le systeme totalitaire, 1972

The philosophy of the Qur'an, from the moment it was revealed, explicitly affirms equality and makes it a fundamental principle that it calls upon all of humanity to follow, even imposing it as a duty. Allah says: *“O mankind, indeed we have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is All-Knowing, All-Aware”*²³.

The first to command justice was the Prophet Muhammad (peace be upon him), as Allah says: *“ So call [to the way of your Lord], and remain steadfast as you have been commanded, and do not follow their inclinations, and say, 'I have believed in what Allah has revealed of the Book, and I have been commanded to judge among you with justice ’”*²⁴. Then, the command comes for everyone to judge with justice, as Allah says: *“ Indeed, Allah commands you to render trusts to whom they are due, and when you judge between people to judge with justice. Excellent is that which Allah instructs you. Indeed, Allah is ever Hearing and Seeing”*

The texts that urge justice, fairness, and equality are almost innumerable, found in both the Quran and Hadith, forming a foundation for this principle that successive civilizations have sought to establish in their societies to be a factor in stability, security, and progress. In this context, Abdullah Al-Qader Aouda says:

“It was not only social life and the needs of the community that drove the establishment of the theory of equality, but also the drive to raise the level of the community and push them toward progress and advancement.”²⁴

The achievement of justice in Islamic law is broader than in positive laws because Islamic law, through its texts, has proven that it takes into account justice in all aspects of life related to individuals and their interactions with one another.

The Quran commands justice in speech and logic, as Allah says: *“And when you speak, be just, even if it concerns a near relative”* It also commands justice in writing, particularly in the verse on debt, where Allah says: *“O you who have believed, when you contract a debt for a specified term, write it down, and let a scribe write it between you in justice.”*²⁵

The Quran also commands justice in testimony, particularly in the case of divorced women, as Allah says: *“And when they have reached their term, either retain them in kindness or part with them in kindness, and bring in two just witnesses from among you and establish the testimony for the sake of Allah”*²⁶.

It also commands justice in the testimony for a will, as Allah says: *“O you who have believed, testimony [should be taken] among you when death approaches [any] of you at the time of bequest: two just men from among you”*

Allah also made justice obligatory in reconciling between disputing believers, as He says: *“And if two factions among the believers fight, then make peace between them. But if one of them wrongs*

²³ Surah Al-Imran, verses 17-18.

²⁴ Abd al-Qader Audah, Islamic Penal Legislation Compared with Positive Law, Dar Al-Risalah, 1987, p. 26.

²⁵ Surah Al-Baqarah, verse 282

²⁶ Surah At-Talaq, verse 2

the other, then fight the one that wrongs until it returns to the ordinance of Allah. And if it returns, then make peace between them in justice and act justly. Indeed, Allah loves those who act justly"²⁷.

The Quran also adopts an approach that no one had followed before, which is the establishment of justice even with one's enemies. This is the pinnacle of civility and sophistication that Islamic law aims to achieve in raising humanity, as Allah says: "*And let not the hatred of a people prevent you from being just. Be just; that is nearer to piety*". The meaning of this verse is that we should not deviate from justice because of hatred toward a people or enmity between us, as it is an elevation of the human soul to refrain from injustice, even toward enemies.

Islamic law places great importance on justice due to its significant impact on marital relationships, especially in terms of respecting emotional and psychological well-being. The issue of polygamy (having multiple wives) is regulated by Allah's command to ensure justice between wives; otherwise, a man is to marry only one.

This is to protect the feelings of a woman who may suffer from injustice in her relationship with her husband compared to the other wives, as Allah says: "... *then if you fear that you will not be just, then [marry only] one..*".

Love is an emotional feeling that may cause a man to lean toward one wife over the other. To prevent oppression, injustice, and favoritism, Allah limits polygamy to one wife if there is any fear of unfair treatment. This ensures protection for both the man and the woman, as it prevents harm and ensures fairness in their relationship.

Islamic scholars and jurists have paid great attention to the issue of justice and equality, establishing and emphasizing the importance of considering even the smallest formalities to ensure equality among people.

To uphold the integrity and fairness of the judge, and the need for impartiality between disputing parties, Al-Shafi'i states: "The judge should treat both parties equally in five things: in approaching him, in sitting before him, in turning toward them, in listening to them, and in ruling on them.

The judge should not prompt one of them with their argument, nor should he instruct a witness on what to testify, nor should he guide the plaintiff in making their claim, nor should he guide the defendant in their denial or admission".

If we were to continue enumerating the legal texts from the Quran and Sunnah, we would delve deeper into the subject, but this serves to clarify the main point.

Conclusion:

The essence of what has been previously mentioned is that law and society interact together to achieve security, stability, preserve freedoms, and establish justice and equality among people.

However, in our view, law is a neutral mechanism or tool that can be shaped by the just to serve their community, or by the tyrant to serve their own interests and oppress their people. This raises a significant issue opening the field for research to safeguard the legal framework from various violations that affect the advancement of nations and the realization of the rule of law.

²⁷ Surah Al-Hujurat, verse 9

Opened to specialists, including legal experts, politicians, and sociologists, to address the idea of safeguarding the legal framework, grounding it, and solidifying it in societies so that it becomes resistant to tyrants who cannot use it to harm their people. The issue lies not with the people themselves, but rather with the policies of states that do not believe in the rule of law.