

Chapter 6

From the State of Nature to the Rule of Justice^{*}

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Abstract: This chapter aims to analyze how, through the harmonious connection between the rule of law and the proper application of the concept of *social order*—referred to by Thomas Hobbes as the *state of nature*—it is possible to avoid chaos and the so-called *war of all against all*, thus advancing toward a culture of peace. The relationship between the rule of law and the state of nature will be examined as a conceptual dichotomy whose reconciliation can yield a positive rule of justice, characterized by the formal enforcement of the law in favor of equality and equity. The analysis will be grounded in the approaches of Kelsen, Rawls, and Hobbes to the aforementioned concepts, highlighting their contributions.

Keywords: Rule of law; harmonization; social order; rule of justice

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Introduction

The question that traditionally accompanies the theses of legal scholars seeking to establish a balance between the rule of law and the political state is this: Is law an end in itself or a means to achieve justice? In this context, this chapter delves into the framework of this debate to address a central question: How does the interaction between a legitimately constituted rule of law and a normatively structured system of social order contribute to achieving a stable and sustainable rule of justice?

Context and Theoretical Framework

In order to answer the question posited—that is, how can the exercise of a legitimate rule of law, complemented by the appropriate application of the instruments of social order, contribute to the consolidation of a permanent state of nature, whose fulfillment facilitates access to and enjoyment of a positive rule of justice? A reformulation of the original question is presented below to facilitate a coherent, logical approach.

How is it possible to achieve a positive rule of justice, based on the appropriate application of the following normative precepts: i) the legitimate and effective exercise of the rule of law; ii) the active participation of a society committed to respecting institutions, complying with social norms, and fulfilling its duties; and iii) the performance of a government legitimized by its unrestricted adherence to democratic principles, constitutional supremacy, and the principles of legality and order?

Throughout this chapter, the legal, conceptual, doctrinal, and structural aspects discussed by various authors will be examined, supported by a critical analysis of their principles. The goal is to highlight the key elements that enable the reinterpretation of legal tools and normative principles, whose proper functioning affects the balance of the State's role in protecting security and advancing social progress.

The achievement of a positive rule of justice, based on these principles, therefore requires the implementation of a series of actions and approaches:

- To consolidate the legitimate exercise and effective development of the rule of law, it is necessary to:
 - guarantee the independence of the judiciary, in order to ensure impartiality, objectivity, and autonomy in the interpretation and application of the legal system;
 - promote transparency in legal proceedings and establish effective control and accountability mechanisms in order to prevent and punish corruption within the judicial system;
 - promote legal education and raise legal awareness, with the goal of enabling individuals to understand, value, and fully exercise their rights and duties.
- To achieve a society committed to respecting institutions and complying with social norms, it is necessary to:
 - promote awareness-raising campaigns and civic education programs aimed at strengthening respect for public institutions and compliance with social norms;
 - encourage citizen participation in decision-making processes and in the oversight of government actions;
 - establish effective accountability mechanisms that allow citizens to verify compliance with the rules by all members of society, including authorities.
- To ensure that the nation is actively involved in the election of its leaders, prioritizing the selection of government proposals grounded in ethical principles, such as unwavering respect for the Constitution and the rigorous application of legal frameworks.
 - Ensuring legal equality for all citizens, without privileges or discrimination
 - Promoting transparency in public administration and strengthening accountability mechanisms

- Fostering citizen participation in the formulation of public policies and in the oversight of government administration

Ultimately, positive justice is achieved when the State, society, and government act in a coordinated manner to guarantee the fair and equitable enforcement of the laws. This joint effort must ensure respect for the rights of all citizens.

Theoretical Framework

This chapter is developed within a theoretical framework that incorporates the ideas of thinkers such as Hobbes, Dworkin, Kelsen, and Rawls. Addressing the challenge of establishing a rule of positive justice, based on the three pillars mentioned earlier, requires a comprehensive analysis of the relationships among the state, society, and government.

According to Hobbes, the establishment of a social contract constitutes the basis of the rule of law, conceived as a mechanism to prevent chaos and guarantee collective security. For his part, Dworkin emphasizes the importance of integrity and consistency in the enforcement of the law, as well as a legal interpretation oriented toward ensuring equity.

According to Kelsen (1934), establishing ethical communication is fundamental to sustaining institutions and guaranteeing the fulfillment of legal duties. Within the framework of his pure theory of law, Kelsen conceives of this communication as a legal relationship between state organs, in which each issues a norm that grants another the power to issue subordinate norms:

The individuals whose actions give rise to this peculiar imputation are the organs of the State, and the common point of convergence for all lines of imputation stemming from acts qualified as those of the organs is the will of the State. So, if we ask ourselves what principle governs this type of imputation and what acts are subject to it—in other words, what acts are acts of the State—the answer will be provided by the legal norm: it is the law—understood as the body of legal norms—that expressly establishes how the State intends to act and under what conditions it acts through its organs.

On the other hand, Rawls posits justice as fairness, an approach in which the legitimacy of government is grounded in respect for the Constitution and the pursuit of collective well-being, with particular attention to the least favored sectors. His central argument is that the principles of justice must be chosen

under the so-called *veil of ignorance*, a hypothetical condition in which individuals are unaware of their particular circumstances—such as their social position, their natural talents, or their interests. From this position of impartiality, Rawls maintains that people may adopt rational and equitable principles to structure a just society.

In short, integrating these theoretical perspectives would enable analysis of how the interaction among the state, society, and government contributes to the consolidation of a positive rule of justice. This approach would promote the proper application of the principles of the rule of law, foster civic engagement, and guarantee respect for the Constitution and the laws.

Ultimately, the combination of a strict rule of law and an effective social order is fundamental to achieving a genuine and sustainable rule of justice. Through the consolidation of robust institutions, the empowerment of citizens, and respect for the law, an enabling environment is created that guarantees all individuals access to justice and the opportunity to contribute to the common good.

Rule of Law and Justice

Theories

These concepts complement one another, forming a legal and regulatory framework that not only guarantees the protection of individual rights and promotes social welfare but also fosters civic responsibility in building a just and equitable society.

The Rule of Law

Undoubtedly, the rule of law is a normative system whose application is vital to guaranteeing the proper functioning of society. In turn, the rule of law—based on Hobbes's notion of a state of nature—provides security, trust, social cohesion, and protection of individual rights, elements that contribute to collective well-being and the community's progress.

In this regard, Borda (2007), in his work *Estado de derecho y Estado social de derecho*, states:

For a state to be considered a true rule-of-law state, it must meet certain requirements. The Declaration of the Rights of Man and of the Citizen, analyzed in the previous section, already established the first two: 1) the separation of powers; 2) the guarantee of fundamental rights; 3) the primacy of the law as the expression of the general will over all other legal norms; and 4) national sovereignty. (p. 36)

The separation of powers must be clear and effective. The Executive, Legislative, and Judicial branches must not only operate autonomously but also implement mechanisms of mutual control. In a true rule of law, all persons—including political leaders and authorities—are subject to the law. Likewise, fundamental rights must be protected and respected at all times. The principle of legality requires that laws be clear, predictable, and fair, and that they be enforced impartially.

It is essential to have an independent, competent, and accessible judicial system that guarantees the prompt and effective resolution of disputes. Finally, a true rule of law must be based on a culture of legality, in which citizens actively participate in democratic life and exercise their rights and duties responsibly. These requirements are essential to safeguard individual rights, social stability, and good governance.

The Rule of Justice

The aspiration towards a rule of justice can be understood as the search for a superior form of the rule of law: a more perfect, accessible, and concrete form of social organization. The rule of justice plays a fundamental role in the construction and stability of society, and its legitimacy rests on the concepts of the *state of nature* and the *rule of law*.

In *Leviathan*, Hobbes argues that order is necessary to avoid the chaos and violence inherent in the state of nature, in which individuals act solely out of self-interest, without a sovereign to constrain their actions. In this sense, the rule of justice is presented as a normative and ethical framework that establishes rules and principles to regulate peaceful and equitable coexistence.

Moreover, the rule of law is based on the principle that all people, including those who wield power, are subject to the same laws and norms. This means that both political power and authority must be exercised within the limits established by law, thus guaranteeing respect for fundamental rights and access to a fair trial. In this regard, Salazar and Woldenberg (1997) state:

The modern state had to be configured as a state governed by the rule of law, that is, as a power responsible for creating and enforcing laws, yet also as a state subject to those laws. The sovereignty of the state, of political power, was thus transformed into the sovereignty of legality, in which state institutions are legally constrained in their powers and responsibilities. (p. 26)

In this context, the rule of justice must be conceived as the guarantor of the impartial enforcement of the laws and the equality of all individuals before the legal

order. Schmitt's work highlights the importance of establishing a constitutional order that defines the powers and responsibilities of state institutions, while guaranteeing the protection of individual rights and the balance of power. Along these same lines, Agesta (1989), analyzing the crisis of the parliamentary regime in Schmitt's work, argues:

Such were the most important ideologies and ideas at the time that this and other works by Schmitt (including his *Theory of the Constitution*) were published; and the enduring relevance of his thought entitles him to be considered, if not the most important thinker of the 20th century, then certainly one of the great thinkers of the century, who also did not shy away from the delicate problems of his time and his people, even in contradiction with such astute thinkers as Max Weber, Radbruch, and Thomas.

Schmitt's theory, as expounded in *Constitutional Theory*, argues that state institutions are legally constrained in exercising their powers and responsibilities to establish a constitutional order that guarantees the protection of individual rights and preserves the balance of power.

This theory maintains that such limitations are fundamental to preventing the abuse of power and preserving the legitimacy of state action. Schmitt argues that the separation of powers, along with the definition of competencies and responsibilities, constitutes a set of mechanisms aimed at containing and controlling state power. In this way, both the protection of citizens' rights and the proper functioning of the institutional system are guaranteed. These normative restrictions establish a legal framework within which state institutions must operate, thereby preventing arbitrary decision-making and safeguarding popular sovereignty.

The rule of justice plays an essential role in guaranteeing the legal order, promoting social equity, and protecting citizen security. First, it protects citizens by establishing a legal framework that regulates conduct and punishes criminal acts. This system contributes to maintaining public order and preventing violence, essential conditions for the development and well-being of society.

Rawls (1971) states that "a rule of justice is essential to establishing a framework in which citizens can have equal opportunities and enjoy fundamental rights and freedoms" (as cited in Caballero, 2006). In *Los derechos en serio*, Peidró (1986) notes that Dworkin (1977) emphasizes the importance of "the state acting as an impartial arbiter and enforcing the law fairly and consistently to protect the rights of individuals and safeguard the integrity of the legal system."

The rule of justice fosters trust and social cohesion. When people trust that they will be treated fairly and equitably, they are motivated to comply with the law and to actively participate in public life. This climate of trust strengthens community ties and contributes to peaceful and harmonious coexistence.

Furthermore, the rule of justice plays a fundamental role in safeguarding individual rights and freedoms. Through an independent and impartial judicial system, access to justice and the protection of citizens from potential abuses of power must be guaranteed. This is essential to promoting equal opportunities and respect for human dignity within a democratic society.

Towards a Rule of Justice

Achieving a rule of justice requires consolidating the rule of law, which, in turn, is supported by social order. A robust rule of law establishes a legal framework that guarantees equality before the law for all and the impartial enforcement of the law. This approach reduces arbitrariness and strengthens trust in the judicial system, essential elements for equitable and consistent justice.

However, an efficient rule of law cannot operate in a vacuum. In this regard, the existence of a social order that complements it is fundamental. This concept refers to a society committed to respecting social norms and fulfilling civic duties. Citizens educated in exercising their rights and responsibilities tend to abide by the law and help build a just environment. Social cohesion and mutual respect are pillars that strengthen the rule of law by promoting a culture of legality, solidarity, and shared responsibility.

The connection between a robust rule of law and a solid social order brings additional benefits. This synergy fosters conflict prevention and peaceful resolution, strengthens political and economic stability, and creates a safe and predictable environment that encourages investment. It also promotes citizen participation in decision-making, allowing their voices to influence the formulation of public policy and the consolidation of a transparent and accountable government.

Difficulties in Achieving a Positive Rule of Justice

Despite the prevalence of the rule of law in many contemporary societies, obstacles persist that hinder the realization of a true rule of justice. This limitation becomes evident when society does not actively collaborate in consolidating a genuine social order. The lack of commitment to civic duties and the reluctance to obey authority contribute to disorder and social disintegration. According to Hobbes (2009), when

every man does what seems convenient to him, "the life of man [is] solitary, poor, nasty, brutish, and short" (p. 62).

Resistance to social norms and precepts creates an environment characterized by persistent conflict, diminished security, and interactions marked by distrust. In this sense, a society that does not adopt mechanisms of social discipline—such as compliance with norms, respect for authority, and an ethical conviction oriented toward duty—will hardly succeed in consolidating a true social order. As a result, society is exposed to processes of social fragmentation and a lack of justice, which contradicts the essential principles of peaceful and equitable coexistence.

To achieve a true rule of justice, the guarantees of the rule of law are not enough. It is essential that society internalize and fulfill its duties. While the rule of law provides the normative framework that regulates social life, justice cannot flourish if citizens do not adopt a culture of responsibility and active participation in its observance. In the absence of a civic consciousness oriented toward duty, laws risk being reduced to abstract formulations that lack real effectiveness, rather than becoming living principles that underpin equality, social cohesion, and mutual respect.

Hobbes (1986) argues that cooperation and mutual respect are fundamental to escaping the chaotic state of nature. In a society in which each individual prioritizes their personal interests without regard for their duties to others, conflicts tend to intensify, and the notion of justice becomes diluted. Unfortunately, this situation only partially describes the reality in Colombia. The consolidation of a culture oriented toward fulfilling civic duties strengthens individual and collective responsibility. It establishes a solid foundation for each citizen to recognize their role in preserving a just and equitable social order.

Relationship between the Rule of Law and Social Order

Although the rule of law plays a fundamental role in establishing a legal framework that guarantees equal rights and protects individual freedoms, it is not sufficient to achieve a true rule of justice. This is because, while the rule of law defines the principles that should govern coexistence, its effectiveness largely depends on citizens' willingness to obey and respect these laws. In the absence of a social order that promotes the internalization and voluntary observance of the law, the ideal of justice is seriously compromised.

Furthermore, a genuine social order presupposes the internalization of shared norms and values that promote mutual respect, cooperation, and peaceful coexistence. Without a solid social foundation, laws risk being ignored, manipulated, or even violated, thereby undermining trust in the legal system and distorting its enforcement.

In this regard, the connection between a robust rule of law and social order is fundamental to ensuring that laws are respected and enforced equitably, thereby advancing a true rule of justice. Regarding this idea, Russell (2023) states:

Education should serve to provide education, and not merely to eliminate impediments to development. This immediately raises the question of whether education should form good individuals or good citizens. It could be argued, and anyone with Hegelian leanings would maintain, that there is no antithesis between the good citizen and the good individual. A good individual is one who is concerned with the good of the community, and the good of the community is shaped by the good of individuals.

In this line of thought, Russell (2023) conceives of social order as an organized, structured system in which individuals interact predictably and coherently, following established norms. According to the author, such order is indispensable for the harmonious functioning of society, as it helps prevent conflict and chaos.

Russell argues that social order is based on both shared ethical and moral principles and a normative framework that guides citizens' behavior. According to the author, this structure enables peaceful coexistence and cooperation within the community, maintaining a dynamic balance between individual rights and collective well-being. Within this framework, ethical values and respect for the rules stand as essential pillars of a just and cohesive society.

Consequently, for Russell (2023), social order does not imply blind conformity or the suppression of individuality, but rather the construction of an environment in which individual rights and freedoms can coexist harmoniously, within rational limits that guarantee collective well-being and security.

From the Rule of Law to the Rule of Justice

The rule of law and the rule of justice are complementary but conceptually distinct notions brought together within contemporary political and legal theory. The rule of law refers to a system in which the exercise of state power is subject to the law and grounded in the protection of individual rights and freedoms, as well as in respect for the principles of legality, impartiality, and predictability. In contrast, the rule of justice transcends the merely formal compliance with the law by orienting itself toward the active promotion of equity, human dignity, and the realization of substantive justice as guiding principles of the social order.

In his work *Law's Empire*, Dworkin argues that the rule of law is based on respect for individual rights and freedoms, as well as on the equality of all before the law. From his perspective, the rule of law must establish an objective, stable, and predictable legal framework that allows citizens to develop in a just society. However, Dworkin warns that this framework is not sufficient to guarantee complete justice. This also requires an interpretation that considers the circumstances and needs of each individual.

According to Gracia (2014),

Dworkin's conception of law is principle-based—open to moral considerations—and is clearly interpretivist, as he understands law from the perspective of the judge's role in resolving cases. His position also implies an ideological conception of the State, hence his critique of utilitarianism and the view that individual rights should always prevail over the dictates of the State's cost-benefit calculations. (p. 549)

In this regard, the difference between the rule of law and the rule of justice lies in that the former is primarily oriented toward compliance with and respect for legal norms, whereas the latter aspires to the realization of substantive principles of equity and justice across all spheres of social life.

Tension between the Rule of Law and the Rule of Justice

While a functioning rule of law represents a significant step towards consolidating a rule of justice, there are contexts in which this condition is insufficient to guarantee a truly just and equitable order.

When the rule of law operates adequately, but society does not actively contribute to strengthening order and social discipline, the consolidation of a full rule of justice can be compromised. According to Rawls (1971), complete and effective justice between the parties cannot be achieved when the norms of social cooperation are not generally accepted.

Although the existence of a solid and equitable legal framework is a necessary condition for achieving justice, society's commitment to respecting the rules, fulfilling civic duties, and promoting the common good is equally indispensable. In the absence of a social internalization of the values of order, responsibility, and cooperation, even a well-structured rule of law will face serious difficulties in guaranteeing substantive, stable, and lasting justice.

The phenomena that can distort the relationship between the rule of law and the rule of justice, posing significant challenges to the development of an equitable and effective legal system, are described below. Ultimately, these factors can compromise fairness, erode public trust, and weaken both the legitimacy and effectiveness of the established legal order.

- **Corruption and lack of impartiality:** When the legal system is vulnerable to corruption and lacks impartiality, law enforcement may favor certain groups or individuals to the detriment of others. This undermines trust in the justice system and weakens the rule of law.
- **Judicial inefficiency:** The slowness and high costs of court proceedings create a significant gap between the legal framework and effective justice. The lack of timely and efficient access to the judicial system weakens citizens' trust and undermines the perception that justice is truly attainable and effective.
- **Lack of resources and inequality:** Disparity in access to legal remedies and quality legal representation gives rise to profound inequity in the exercise of the right to justice. This asymmetry undermines the relationship between the rule of law and the rule of justice, leading to unbalanced procedural outcomes that violate the principles of fairness and equality.
- **Political interference:** When political power interferes in the functioning of the judicial system or influences legal decision-making, the independence of the judiciary is compromised. This, in turn, affects its capacity to ensure impartial, objective justice within the legal framework.
- **Changes in legal interpretation:** Excessive flexibility in the interpretation of legal norms can lead to unpredictable decisions and the perception of arbitrariness in the administration of justice. Divergent interpretations, especially when they lack solid doctrinal foundations or jurisprudential uniformity, affect the coherence and stability of the legal system, weakening public confidence in its impartiality and legitimacy.
- **Lack of legal education and awareness:** The absence of basic legal training and civic awareness among citizens limits their ability to exercise their rights, fulfill their duties, and actively participate in democratic life. This deficiency hinders effective access to justice, weakens the rule of law, and reduces the prospects of consolidating a true rule of justice grounded in informed participation and respect for the law.

- Discrimination and prejudice: Despite the existence of the rule of law, social prejudice and discrimination can persist, negatively affecting impartiality and fairness in the administration of justice. This problem manifests itself in biased judicial rulings that categorize or exclude people based on their race, gender, or sexual orientation, thus violating the fundamental principles of equality before the law and universal justice.
- Technological advances and new challenges: Rapid technological evolution poses legal and ethical challenges that demand constant updating and adaptation of the legal system. The inability to respond adequately to these transformations can cause uncertainty and undermine perceptions of justice.

How to Achieve a Positive Rule of Justice

To achieve a full rule of justice, a strict rule of law and a stable social order are essential, in accordance with Hobbes's theory in *Leviathan*. Hobbes argues that, in their natural state, human beings are inclined toward conflict and competition over resources, resulting in chaos and insecurity.

To escape this precarious state, individuals must enter into a social contract, relinquishing a portion of their freedom in exchange for the protection and order provided by a centralized sovereign power. This social contract, along with sovereign authority, is an indispensable safeguard against anarchy and the unchecked exercise of power.

However, the existence of the rule of law is not enough to guarantee full justice. While it establishes the normative framework that regulates the conduct of citizens and the government, a social order grounded in shared values and collective commitment is also indispensable. This commitment implies the internalization of mutual respect, cooperation, and the voluntary observance of laws and norms. In the absence of a social order founded on shared values, laws risk being ignored or manipulated, undermining justice and compromising the equitable functioning of the legal system.

For Hobbes (1986), the state of nature refers to a hypothetical condition prior to the establishment of civil society, in which individuals live without a central government or any legitimate authority to enforce common laws or norms. In this sense, Hobbes argues that human beings are driven by their own interests and passions, leading to a state of permanent insecurity, conflict, and mutual distrust.

According to Orozco (2009),

Hobbes uses the term “natural,” which, in his works, generally refers to the classic opposition with the artificial, understanding the former as that which is a product of nature without human intervention, and the latter as that in which humans intervene, as imitators of creation. Thus, the “natural condition of man” refers to his bodily constitution, as a being endowed with “bodily strength, experience, reason, and passion,” without considering anything else. From the natural condition of man, at most, one can conclude that, in general terms, all men are equal.

According to Hobbes (1986), social order, also known as the *state of nature*, is characterized by features that, when contrasted with the behavior of contemporary societies, demonstrate how the concept of *order* has been relegated to ostracism.

For Hobbes (1986), the state of nature is characterized by a constant struggle for resources, the lack of regulatory mechanisms, the supremacy of the instinct for self-preservation, constant rivalry among individuals, equality in terms of vulnerability, and the absence of objective principles of justice and morality.

Faced with this bleak outlook, the author emphasizes the need for a social contract that enables the overcoming of these adverse conditions. Thus, it is clear that contemporary citizens still operate in contexts that reflect aspects of this state of nature, often marked by a passive expectation of almost messianic leadership. Meanwhile, these societies struggle to survive in environments deteriorated by profound social dysfunctions, the overcoming of which requires effective and equitable governance of collective resources.

Hobbes (1986) identified six essential characteristics of the state of nature:

1. a state of conflict and competition;
2. insecurity and absence of rights;
3. unlimited freedom;
4. a condition of self-preservation;
5. lack of justice and morality;
6. the need for a social contract.

Each of these characteristics gives rise to distinct dynamics that significantly influence social behavior, causing interaction patterns characterized by distrust, violence, or the individualistic pursuit of power and survival.

This chapter will address two of these characteristics to identify tensions and parallels with observable social behaviors today.

Regarding the state of nature, Hobbes posits a scenario in which individuals compete relentlessly for scarce resources, resulting in a permanent state of conflict and rivalry. The absence of a central power responsible for mediating and resolving disputes only intensifies this condition of instability and insecurity.

The state of constant conflict and competition manifests itself when individuals, guided solely by their self-interest, interact in an environment without legal limits or institutional structures to regulate their behavior. In the absence of a sovereign authority to establish clear rules and guarantee their enforcement, each person is compelled to compete to ensure their survival and well-being. This situation gives rise to a society characterized by distrust, instability, and the inability to sustain cooperation.

A concrete example of this state of conflict and competition could be a group of people shipwrecked on a desert island. In the absence of a central authority to regulate behavior and distribute resources, individuals would be compelled to compete for survival, resorting to struggles over scarce goods such as food and water. In this context, the absence of institutionalized norms would foster a climate of distrust and fear, prompting individuals to act in their own self-interest, even at the expense of collective well-being.

Hobbes (1986) argues that permanent conflict and unbridled competition give rise to a climate of insecurity and instability that makes peaceful and just coexistence impossible. Faced with this situation, individuals, driven by the need to preserve their lives and achieve a minimum of stability, would be willing to relinquish certain freedoms voluntarily in favor of a social contract. This covenant implies the transfer of power to a sovereign authority capable of imposing common norms, resolving disputes, and guaranteeing collective security. Thus, the state of nature becomes the theoretical justification for the establishment of government and social order.

In the context of insecurity and the absence of rights, the lack of a sovereign authority or an institutional framework to regulate coexistence means there are no guarantees of personal security or the protection of rights. In this context, each individual has the unrestricted freedom to act according to their own will to preserve their life, thereby fostering distrust, fear, and vulnerability.

Hobbes describes a hypothetical scenario in which there is no government or central authority to establish rules and guarantee order. In this state of insecurity and lack of rights, individuals live in constant danger, as there are no institutional safeguards to protect their safety or property. Peaceful coexistence becomes virtually impossible due to widespread distrust and the constant threat of

aggression. A concrete example could be a group of people living in an environment completely devoid of government control.

Consider a region where there is no legal system or authority responsible for enforcing the law. In that context, each individual would act solely on their own will and personal interests, without regulatory constraints or legal consequences. The absence of an institutional framework to regulate social conduct and guarantee fundamental rights would create an environment marked by insecurity, distrust, and the constant threat to personal safety.

In the absence of a legal framework or an authority to guarantee the protection of rights and property, individuals would be forced to defend themselves. This would lead to constant conflict, as each person would act in their own interests and out of survival instincts. In such an environment, physical strength or personal resources would become the primary mechanisms of power, allowing the strongest to prevail over the most vulnerable. As a result, a climate of structural insecurity, social instability, and widespread distrust would emerge.

In this state, Hobbes argues that individuals would act out of fear and self-preservation. In the absence of guarantees of personal safety and of an authority to regulate coexistence, people would choose to cede part of their individual freedom through a social contract. This agreement would establish a sovereign authority capable of imposing order, establishing norms, and guaranteeing the protection of fundamental rights. Thus, the state of nature provides a theoretical justification for establishing a legitimate political authority that ensures stability, peace, and collective security.

The state of nature, in essence, is characterized by constant conflict, widespread insecurity, unlimited freedom, and the primacy of self-preservation. It lacks objective principles of justice and morality, thereby rendering the social contract the sole means of overcoming these adverse conditions and achieving a stable civil and political order.

Justice and Law: A Contradictory Relationship

Traditionally, the legal community has debated whether law is an end in itself or a means to achieve justice. This chapter will examine various positions, drawn from legal and philosophical theory, that reflect the complexity and multiplicity of approaches to the relationship between law and justice.

The debate on whether law is an end in itself or a means to achieve justice has been analyzed by numerous jurists and philosophers. Some argue that law is an

end in itself, considering its primary purpose to be establishing a normative system that guarantees both justice and social order. In this regard, Kelsen (1934), in his work *Pure Theory of Law*, posits that law should be understood as an autonomous system whose purpose is to create a coherent and functional legal order. He also rejects the dualism between law and the State, maintaining that they cannot be conceived as separate entities. For him, the State is reduced to a system of legal norms that emanate from the law itself.

Conversely, Rawls (1979), in *A Theory of Justice*, distances himself from the Kelsenian conception by characterizing law as an instrument serving distributive justice. According to Rawls, law is not an end in itself but a means of guaranteeing an equitable distribution of resources and opportunities. He maintains that a just society requires an institutional structure that respects and promotes equal opportunities among its members. In this sense, Rawls affirms that each person possesses an inviolability founded on justice, which cannot be sacrificed even in the name of the collective good.

In conclusion, the relationship between law and justice has been addressed from diverse theoretical perspectives, reflecting the complexity of the debate in both legal and philosophical fields. While some schools of thought maintain that law is an end in itself, oriented toward the construction of an autonomous and coherent normative order, others conceive of it as a means to realize justice in terms of equity and respect for fundamental rights.

With regard to the rule of law and the political state, it is essential to recognize that this link transcends a mere formal hierarchy. The legal order is structured hierarchically by normative precepts, within which relationships of superordination and subordination are established. A norm belongs to a specific legal order insofar as its validity derives from a superior norm that authorizes its creation. However, this structure raises the problem of potential conflicts of interest between norms at different hierarchical levels, especially when a lower-level norm comes into tension with the principles or provisions of the higher-level norm on which it is founded. In these cases, the following question arises: Which of the two should prevail as the legitimate expression of law?

The conflict between norms of different hierarchical levels has been extensively addressed in legal theory. Kelsen, in his work *Pure Theory of Law*, argues that a norm is valid to the extent that it conforms to a norm of higher rank within a hierarchical normative system. Ultimately, every norm derives its validity from a fundamental norm—the *Grundnorm*, or basic norm—which, while not a positive norm, serves as

the logical presupposition that provides the foundation and legitimacy of the legal order. This presupposed norm establishes the original authority from which the normative system is hierarchically structured.

Contradictions between Kelsen and Rawls

Pure Theory of Law and *A Theory of Justice* are two fundamental approaches in contemporary political and legal philosophy. On the one hand, Kelsen argues that law constitutes an autonomous normative system, independent of ethical or moral considerations. From this perspective, justice is irrelevant to legal analysis, since the study of law focuses exclusively on the structure and internal functioning of the legal order, without engaging in value judgments about what is just or unjust from a moral standpoint.

In contrast, Rawls argues that justice should be the guiding principle of any legal system. Social and economic inequalities are legitimate only if they benefit the least advantaged members of society and are established through an equitable distribution of resources and opportunities. His conception of justice as fairness seeks to guarantee equality of rights and conditions, prioritizing the interests of the disadvantaged.

To achieve an adequate state of justice in contemporary societies, it is necessary to promote effective conflict resolution processes. These mechanisms not only contribute to building a culture of peace by valuing citizen consensus but also foster the rebuilding of the social fabric. In this regard, it is essential to commit to conflict transformation as a decisive instrument for achieving peaceful and sustainable coexistence.

For Galtung (1999, p. 9), peace is "everything we have when it is possible to transform conflicts creatively and non-violently." Transforming conflict entails transcending the objectives of the conflicting parties by defining alternative objectives, without becoming accustomed to a static discourse. It is clear that this transformation process occurs in mediation, since the neutral and impartial third party becomes a true facilitator for conflict resolution, a genuine peacemaker. (Pérez, 2015)

It is important to recognize and respect the diversity of opinions and forms of expression within a democratic environment. In this context, pacifism, conceived as a political proposal, should be oriented toward the constructive transformation of conflicts through the pursuit of negotiated solutions that contribute to the development of a more equitable and just society.

When a society attains civic awareness, it establishes a framework conducive to the effective protection of human rights and the fulfillment of the State's essential purposes. This civic awareness constitutes the starting point for realizing the values, principles, and rights enshrined in the Constitution, guaranteeing a coherent, structured, and, above all, just political order. Such an order is characterized by a harmonious relationship between the social duties of the State and those of its citizens.

Furthermore, building a culture of peace requires establishing and consolidating a legitimate rule of law. This must be a matter of justice for the State and its representatives. In fact, it constitutes one of the essential purposes of every State, since, through its authority and power, it must guarantee its citizens the full exercise of their rights. These rights, which are inherent to the dignity of each person, must be afforded the utmost protection and are recognized as inalienable, inviolable, and non-waivable.

In a democracy, the legitimacy of constitutional governance depends on the rule of law, which establishes a normative framework of laws that are clear, fair, and enforced impartially.

According to Rodríguez (2019),

Hobbes's sovereign, who may be a man, a small group of men, or an assembly, is legitimate because his power derives from the will of the contracting parties and not from some kind of divine decision. The laws that the sovereign promulgates will therefore be just laws insofar as they will be seen as an extension of the will of the men bound by the contract. (p. 41)

Likewise, the rule of law must be supported by strong, autonomous, and reliable institutions that guarantee the promotion of equality, transparency, and accountability. The consolidation of a robust and coherent legal framework not only ensures the effective protection of fundamental rights but also provides citizens with confidence that all disputes will be resolved in accordance with the principles of justice, impartiality, and peaceful settlement.

To promote a culture of peace, an essential aspect is the proper application of the concept of *social order* or, as Hobbes termed it, the *state of nature*. This concept aims to prevent chaos and widespread conflict by establishing norms and principles that regulate coexistence and foster harmony among members of society.

Therefore, it is necessary to promote fundamental values such as respect, tolerance, and solidarity. In a state of nature, citizen participation and the peaceful resolution of conflicts must be encouraged in order to prevent the escalation of

tensions and acts of violence. In this way, a balanced social environment conducive to peaceful coexistence is created, thus laying the foundation for the sustained development of a culture of peace.

The preeminence of the social rule of law grants democracies a fundamental role and provides citizens with the strongest guarantees for the protection of their rights. In Colombia, the 1991 Political Constitution marked a milestone by replacing a constitution that had been in effect for more than a century. One of the most significant events was the proclamation of Colombia as a social rule-of-law state, founded on respect for human dignity and the State's commitment to guarantee and protect fundamental rights. These principles were enshrined in Article 2, which establishes that one of the State's essential purposes is to ensure the effectiveness of the laws, rights, and duties recognized within the institutional order.

Furthermore, a fundamental element for strengthening a culture of peace is the active promotion of citizen participation in consolidating a robust social order. This order seeks to prevent the chaos and conflicts typical of contemporary societies. In this sense, civic duties—understood as the set of norms that regulate coexistence and social tranquility—play a central role.

However, among younger generations, there is a perceived lack of commitment to fulfilling civic duties, creating an imbalance between exercising rights and assuming responsibilities. Given this situation, it is essential to design and implement public policies focused on civic education and social development. This will help cultivate a sense of responsibility for peaceful coexistence and respect for the democratic order.

"When a man becomes aware of their own rights, it is necessary that they also become aware of their own duties" (Pope John XXIII). Being responsible for one's own actions (what one does, what one does not do, what one says, what one does not say) implies a judicious exercise of self-awareness, defining one's commitment to the social structure in which one lives, dreams, and brings into being every day, with one's family, at work, in one's city, with one's friends, and in society at large. This could result in an invitation for each individual to value their rights, grounded in love as a unilateral act of free will, and to pursue continuous growth based on their behavior. (Moreno, 2020)

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values, principles, and rights enshrined in the Constitution, guaranteeing a coherent, structured, and, above all, just political order. Such an order is characterized by a harmonious relationship between the social duties of the State and those of its citizens.

In this regard, Moreno (2020) states:

If each citizen attains awareness and acts in accordance with their responsibilities to ensure the effective enjoyment of their rights, we could envision a genuine alternative to harmonious coexistence, security, and, consequently, peaceful communities. If each citizen is aware of the world they create day by day, they could truly be a change-maker.

Hobbes (1651) argues that, to achieve harmonious coexistence, it is essential to establish rules that regulate life in society and foster harmony among its members. Within this framework, the aim is to promote values such as respect, tolerance, and solidarity. In a state of nature, the state must promote citizen participation and the peaceful resolution of conflicts, thereby preventing the escalation of tensions and recourse to violence. From this perspective, a suitable social order is fundamental for preserving peace and guaranteeing collective well-being.

The core of Hobbesian political philosophy lies in the conception of the natural state of humankind as a condition of permanent war and chaos. In this scenario, each individual acts in their own interests, without a higher authority to impose rules that regulate social coexistence. In this context, Hobbes (1651) proposes the formation of a sovereign state to which citizens owe obedience and loyalty, thereby guaranteeing order and stability.

According to this conception, modern citizenship is defined primarily by the acceptance and fulfillment of the rights and duties imposed by the sovereign state. Political participation, by contrast, is limited to preserving order and avoiding conflict. These elements shape his perception of social organization and the relationship between individuals and political power.

For Hobbes (1651), social order requires the establishment of a centralized, sovereign power, legitimized by a social contract, whose primary function is to enforce compliance with the law and guarantee the security and well-being of all members of the community. From this perspective, social order is not only a mechanism for avoiding the conflict and violence inherent in the state of nature, but also an indispensable condition for peaceful, stable, and lasting coexistence.

However, Gallegos (2011) states:

Some believe that Hobbes ultimately negates the concept of the citizen with his proposal of a sovereign with absolute power. For others, however, it marks the beginning of political modernity, whose advent, in turn, inaugurates a new conception of citizenship: that of the modern citizen. This conception is characterized primarily by privileging the individual freedom of citizens within the State and, unlike the classical and medieval conceptions, being a citizen signifies the condition that an individual has in relation to the state entity; that is, the legal bond of belonging to the State in which one acquires duties of one's own free will in order to be guaranteed certain rights within the territory in which one lives. (as cited in Plaza, 2018)

In metaphorical terms, it could be said that the sum of the rule of law and social order necessarily leads to the virtues of a rule of justice. The latter is configured to guarantee equal opportunities, protect fundamental rights, and promote the general welfare.

To achieve this ideal, it is necessary for both the state and its citizens to assume the responsibility of respecting and promoting the principles of justice, equity, and solidarity. This implies values-based education from the earliest stages of development, as well as the implementation of policies to promote social inclusion and eradicate all forms of discrimination. Thus, the construction of the rule of justice stands as the fundamental pillar for the consolidation of a lasting and sustainable culture of peace.

In conclusion, a society can cultivate a culture of peace by establishing a legitimate rule of law and effectively implementing a just social order. The combination of these elements enables the formulation of a rule of justice that fully respects the rights and guarantees of all citizens.

To achieve this, it is necessary to promote citizen participation, foster an education grounded in democratic and ethical values, and strengthen robust, transparent, and trustworthy institutions. A culture of peace is based on mutual respect, the peaceful resolution of conflicts, and the continual promotion of equality and justice as fundamental pillars of social life.

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