



Institute for National
Transformation



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LECTURE 12

THE ROLE OF JUSTICE AND THE RULE OF LAW IN NATIONAL DEVELOPMENT

OUR VISION: To develop value-grounded, no-excuse leaders that will transform their organizations, communities and nations to greater levels of performance and achievement.



Learning Objectives

1. What Is Justice?
2. What is Rule of Law (contrast with Rule by Law)
3. What Is the Origin and the Essence of the Law?
4. Tenets of Rule of Law
5. Relationship between Rule of Law and Justice
6. The Model application of Rule of Law and Justice (the Nation of Israel in the Bible)
7. Pillars of Rule of Law in History
8. Reflection on the status of rule of law and justice in Uganda
9. The role of rule of law and justice in National Development
10. Impact of absence of rule of law on National Development



Definition of Justice

1. The quality of being **righteous; rectitude**
2. Impartiality; fairness
3. The quality of being **right or correct**
4. **Sound reason; rightfulness; validity**
5. Reward or penalty as deserved; just deserts
 - the **use of authority and power to uphold** what is right, just, or lawful
 - the **personification of this**, usually a blindfolded goddess holding scales and a sword;
6. The administration of law; procedure of a law court (by a judge or justice of the peace).



Quotes on Justice

A true revolution of values will soon cause us to question the fairness and justice of many of our past and present policies.

On the one hand, we are called to play the Good Samaritan on life's roadside, but that will be only an initial act.

One day we must come to see that **the whole Jericho Road must be transformed so that men and women will not be constantly beaten and robbed as they make their journey on life's highway.**

True compassion is more than flinging a coin to a beggar. It comes to see that an edifice which produces beggars needs restructuring.

- Dr Martin Luther King Jr.

Quotes on Justice (cont)



I have a dream that one day men will not argue that the color of a man's skin determines the content of his character;

a dream of a nation where all our gifts and resources are held not for our selves alone, **but as instruments of service for the rest of humanity;**
the dream of a country where every man will respect the dignity and worth of the human personality

- Dr Martin Luther King Jr.



Definition of Rule of Law (ROL)

- World Bank Defines RoL as:

A system that attempts to protect the rights of citizens from arbitrary & abusive uses of Government power.

RoL operates on two levels:

- It imposes legal limitations on and coordinates the acts of government officials,
- it imposes legal limitations on and coordinates the behavior of citizen.

Definition of Rule of Law (ROL)



ROL has also been defined as **a principle of governance** in which **all persons, public, private institutions & entities, including the state are accountable to laws** that are consistent with international human rights norms & standards.

(Transitional Justice Report, 23rd Aug. 2004)



The Tenets of Rule of Law

RoL tenets as expounded by scholar Racheal Weinfeld Belton

- ☐ A government bound & ruled by law
- ☐ Equality before the law
- ☐ The establishment of law and order.
- ☐ The efficient & predictable application of justice
- ☐ The protection of Human Rights
- ☐ The separation of religion and state.
- ☐ The will of the people to enforce the basic principles of equality, fairness and Justice.

Belton defines ROL as:

- ☐ The existence of comprehensive laws (Constitution based on popular consent.
- ☐ A functioning judicial system
- ☐ An established law enforcement agencies with well trained officers





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Rule of Law versus Rule by Law

Rule of Law is the legal principle that **law should govern a nation** while Rule by Law is where a **nation is governed by arbitrary decisions** of individual government officials.

RoL is an intrinsically **moral notion** while Rule by Law is **despotic-used as an instrument of coercion**: where one rules by law not because the law is higher than oneself, but because it is convenient to do so.

Rule by Law simply means **rule by any law** which is laid down by the supreme law making authority of that country. One is not concerned about what the law is or what its purpose is. It's mostly seen in dictatorships and monarchies.



Rule of Law VS. Rule by Law....

Rule by law is where **oppressive laws** are used to limit the rights of the **common people**

On the other hand, RoL envisages that **the law will limit the power and rights of the state to impose restrictions** on the common man's basic fundamental Human freedoms

In Rule by Law, **repressive laws**, a political police force and administrative mechanism & Judicial systems under which **executive control are used by autocratic governments to repress and suppress the rights & freedoms of ordinary citizens,**

contravening the international standards of human rights and freedoms laid down by international laws & UN Conventions.



Relationship between Rule of Law and Justice

The rule of law Principles incorporate such elements as a strong constitution, an effective electoral system, a commitment to gender equality, laws for the protection of minorities and other vulnerable groups, and a strong civil society.

In this perspective, the rule of law, defended by an independent judiciary, plays a crucial function by ensuring that civil and political rights and civil liberties are safe and the equality and dignity of all citizens are not at risk.



Relationship between Rule of Law and Justice

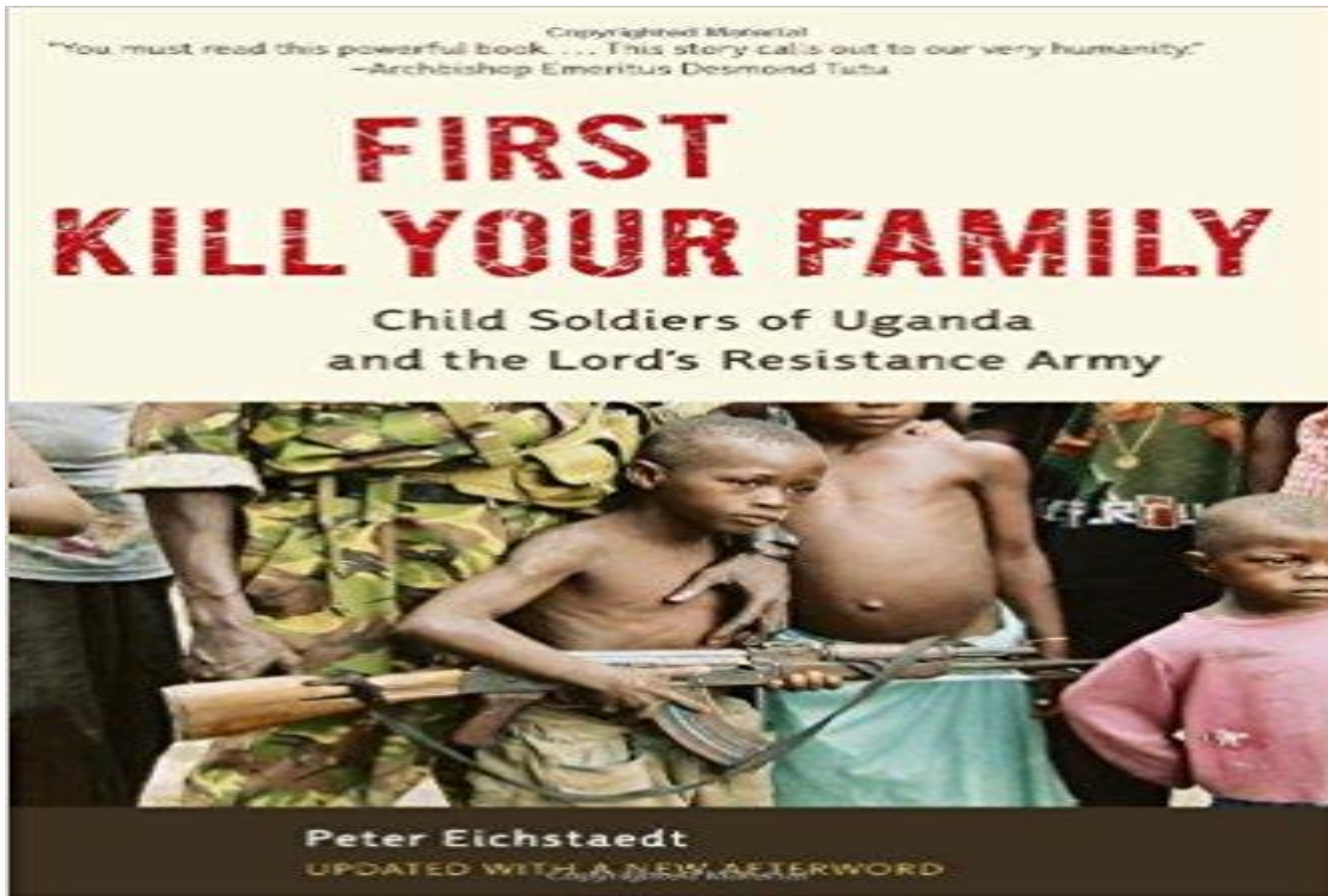
It also helps protect the effective performance of the various agencies of electoral, societal and horizontal accountability from potential obstructions and intimidation of powerful state actors. In this framework, the principle of government responsiveness to the interests and needs of the greatest number of citizens is strictly associated with the capacity of democratic institutions and processes to bolsters the dimensions of rights, equality, and accountability.



Relationship between Rule of Law and Justice

Therefore, the major mandate of a justice system is the pursuit of Rule of Law.

The establishment of RoL is the bedrock for National Development by creating a conducive national investment environment.





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The Essence of the Law

Deuteronomy 10:12 [¹²“And now, Israel, what does the LORD your God require of you”:

- but to fear the LORD your God,
- to walk in all His ways and to love Him,
- to serve the LORD your God with all your heart and with all your soul,
- ¹³*and* to keep the commandments of the LORD and His statutes which I command you today for your good?
- ¹⁷For the LORD your God *is* God of gods and Lord of lords, the great God, mighty and awesome, who shows no partiality nor takes a bribe. ¹⁸He administers justice for the fatherless and the widow, and loves the stranger, giving him food and clothing.



The Importance of Justice to God

Deuteronomy 16:18-20

Justice Must Be Administered

- ☐ You shall not pervert justice;
- ☐ you shall not show partiality,
- ☐ nor take a bribe, for a bribe blinds the eyes of the wise and twists the words of the righteous. ²⁰
- ☐ You shall follow what is altogether just, **that you may live and inherit the land which the LORD your God is giving you.**



The Importance of Justice to God

Exodus 23

Justice for All

- ☐ ¹“You shall not circulate a false report.
- ☐ Do not put your hand with the wicked to be an unrighteous witness.
- ☐ ²You shall not follow a crowd to do evil;
- ☐ nor shall you testify in a dispute so as to turn aside after many to pervert *justice*.
- ☐ ³You shall not show partiality to a poor man in his dispute.
- ☐ ⁴If you meet your enemy's ox or his donkey going astray, you shall surely bring it back to him again.
- ☐ ⁵If you see the donkey of one who hates you lying under its burden, and you would refrain from helping it, you shall surely help him with it.



The Importance of Justice to God

Exodus 23:6-9

Justice for All

- ☐ ⁶“You shall not pervert the judgment of your poor in his dispute.
- ☐ ⁷Keep yourself far from a false matter;
- ☐ do not kill the innocent and righteous. For I will not justify the wicked.
- ☐ ⁸And you shall take no bribe, for a bribe blinds the discerning and perverts the words of the righteous.
- ☐ ⁹“Also you shall not oppress a stranger, for you know the heart of a stranger, because you were strangers in the land of Egypt.



The Importance of Justice to God

Prov 31:4,8-9

⁹ Open your mouth, **judge righteously**,
And **plead the cause of the poor and needy**.

Psalms 89:14

¹⁴ **Righteousness and justice are the foundation of Your throne;**

Mercy and truth go before Your face.



The Importance of Justice to God

Micah 6:8

- 8 He has shown you, O man, what *is* good;
And what does the LORD require of you
- But to do justly,
 - To love mercy,
 - And to walk humbly with your God?

Isaiah 1:27

- 27 Zion shall be redeemed with justice,
And her penitents with righteousness.



4. Institution of Law and Order

- ❖ The first thing God did was to give them laws
- ❖ There was a transition from Moses to **the rule of law and institutions**
- ❖ God's laws were detailed and thorough
- ❖ They were robustly enforced without fear or favour - no one was above the law.
- ❖ They broke the laws of the oppressor to be free but now you must keep the law in your own country!
- ❖ They could not be a nation without law and order
- ❖ God was tough! An eye for an eye, an ear for an ear
- ❖ Even secret sins were found out! Many were stoned to death
- ❖ Even vacation (sabbath) was enforced otherwise you were put to death!
- ❖ Leviticus was written on Sinai; it had laws on everything



God's Laws

- Worship
- Property rights
- Enterprise
- Construction
- Health
- Dressing
- Environment
- Sexuality
- Agriculture
- Food
- Celebration
- Even toilet habits!



God's country

- Initially God provided social services and subsidies:
 - Free electricity
 - Free water
 - Free air conditioning
 - Free food

There were laws to take care of the vulnerable: widows, orphans, the destitute.

Importance of Law and Order

- It is the foundation of growth: law abiding countries grow
- Singapore: spitting, drugs, chewing gum,
- Switzerland: littering
- One of our greatest failures; there is pervasive lawlessness
 - Traffic
 - Building regulations
- African countries need to set up laws enforce them robustly and get out of the way of the people



The Ten Commandments (Ex 20: 1 -17)

Any civilization that will grow and prosper shall:

1. Never legalize witchcraft or occultism
 - Single reason for the collapse of all civilization
 - Place of Worship – Freedom of worship and Conscience
2. Swearing in vain – Integrity of the Law
 - The Law of God and that of the nation – must be honored
 - Integrity of contracts and agreements - legal and Judiciary and Lawyers and advocates
 - Let your yes be yes, and no be no
 - Do not speak empty words



Ex 20: 1 -17: The Ten Commandments

Laws and Ten Commandments.

3. Provide Rest for the People – leave from jobs

- no exploitation of man by Government
- weekend, public holidays, etc

4. Providing and defending the Senior Citizens and Retirees

- Pensioners, benefits, etc, despondent.
- welfare system, social services for the disadvantaged



Ex 20: 1 -17: The Ten Commandments

Laws and Ten Commandments

5.Sanctity of lives

- Respect for *human right!*
- Every man is endowed with certain inalienable rights to freely pursue liberty, happiness and fulfillment;
- National security should be devoted to the people

6.Defense for the Marriage Institute

- Family protection Act
- Children protection Act
- Women protection Act
- Rape



Ten Commandments 9Ex 20:1-17)

- ## 7. Protection of Individual and State Properties
- Productivity is discouraged
 - Justice
 - Guarantee the protection and security of individuals
 - Political Party



The Model application of Rule of Law and Justice

- Abraham's dealing with the Nations
- Sodom & Gomorrah
- Moses
- Saul
- David
- Exile of Israel and its restoration
- Jesus and the Pharisees



Back home in Uganda

WE THE PEOPLE OF UGANDA:

RECALLING our history which has been characterised by political and constitutional instability;

RECOGNISING our struggles against the forces of tyranny, oppression and exploitation;

COMMITTED to building a better future by establishing a socio-economic and political order through a popular and durable national Constitution based on the principles of unity, peace, equality, democracy, freedom, social justice and progress;

EXERCISING our sovereign and inalienable right to determine the form of governance for our country, and having fully participated in the Constitution-making process;

NOTING that a Constituent Assembly was established to represent us and to debate the Draft Constitution prepared by the Uganda Constitutional Commission and to adopt and enact a Constitution for Uganda:

DO HEREBY, in and through this Constituent Assembly solemnly adopt, enact and give to ourselves and our posterity, this Constitution of the Republic of Uganda, this 22nd day of September, in the year 1995.



Reflection on the status of rule of law and justice in Uganda

- 1995 Constitution – as amended
- Constitutional amendment (the spirit)
- Judicial independence (e.g. CJ Ruling, Raping of the Temple of Justice, pro-Kayihura demos, Presidential petition rulings)
- Handling of political dissent e.g. walk to work, Black Monday, etc
- Corruption
- Safe houses, illegal detentions
- Public Order Management Act (Rule by Law)
- Traffic laws



The role of Rule of Law and justice in National Development.

- According to National Development Plan 2015/16-2019/20, the main goal is to propel the country to middle income status in the next 05 years through **prioritizing investment** in 05 key growth drivers(areas) which are:
 - Agriculture
 - Tourism
 - Minerals (Oil & gas)
 - Infrastructure
 - Human Capital development.
- The judiciary as a sector in the NDP II is a key stakeholder in the implementation of the national development plan given its vital role in ensuring the rule of law for the economic development.



Role of Rule of Law..... Continued.

- Vision 2040 & the NDP II indicate that the **economic & social development is hinged on the stability and observance of the rule of law**, given the strong correlation between the tenets of the former and the latter.
- With the proper tenets of rule of law present, **the state can regulate the economy & empower private individuals to contribute to economic development** by confidently engaging in business, investment, and social transactions.



Role of ROL in National Development

1. **Development of a conducive business environment.**
 - Through improving the legal, policy & regulatory environment that is conducive for doing business to create wealth & employment.
 - Competence of courts of law affects comparative economic competitiveness.
 - Better performing courts lead to more developed credit markets
 - A stronger judiciary is associated with more rapid growth of small as well as with larger firms in the economy.



Role of ROL in ND- continued....

2. Mindset change:

The Rule of Law & Justice system can be relied upon to contribute towards incubation of values of honesty & hard work among the population.

This consequently helps in fighting corruption, promotion of hard work, patriotism and a saving culture which are key drivers to national development.

This also leads to improved service delivery.



Role of RoL in National Development....cont..

3. Rights Promotion for Accountability.

- The observance of ROL in a nation empowers the general public to ensure that the desired socio-economic transformation is realized through demanding accountability & effective service delivery from government and other relevant stakeholders.

4. Promotion of Investments and access to financing.

- An effective Judicial system will contribute towards making Uganda more credit worthy. Absence of investors or creditors' confidence would mean that vital infrastructural projects of national development will stall because of a dysfunctional judicial system emanating from difficulty of enforcing contracts in case of breach.
- ROL enhances the country's competitiveness to attract investors to the economy.



Role of RoL-continued.....

5. Promotion of peace and national security.

RoL ensures peace & security which are key pillars for national development. This entails defending & protecting people & their properties, the sovereignty and integrity of Uganda & for socio-economic development.

6. Ensuring Inclusive Growth.

The judiciary through enforcing RoL endeavors to enhance access to justice, law and order services to all people especially the vulnerable persons and fighting corruption in order to strengthen Uganda's competitiveness for wealth creation and inclusive growth.



Role of ROL

7. Independence of the Judiciary.

- Independence of the judiciary is key in promoting confidence of the public in the judicial system.
- **Structural independence:** the way in which government is constitutionally structured.
- **Behavioral independence:** individual behaviors of judges, able to take difficult positions and decisions, to resist corruption, make independent judgments.
- This independence determines the present and future investment decision of the country.



Impact of absence of rule of law on National Development

- Although the Law prevents the majority from arbitrary power, it should also protect the minority both from arbitrary power and the tyranny of the majority.
- The absence of RoL result in corrupted regimes & produce criminal groups within the government.
- In the absence of access to justice, people are unable to have their voices heard, exercise their rights, challenge discrimination or hold decision makers accountable.
- RoL is the foundation for both justice & security for national development.
- The absence of an independent and strong judicial system robs public trust and confidence, and is a threat to competitiveness and hinders investment.



The Rule of Law and Me as a National Transformer

- Article 20 (2) of the Constitution states that “the rights and freedoms of the individual and groups enshrined in this Chapter shall be respected, upheld and promoted by all organs and agencies of Government, and by all persons” .
- WHAT IS YOUR PERSONAL RESPONSE TO ISSUES LIKE:
- Corruption
- Traffic
- Domestic violence
- Influencing your sphere
- Environmental protection







Soweto Uprising
16 June 1976

1976 SOWETO RIOTS

- Agst education laws to teach only Afrikaans in secondary schools not English or any other local native African language
- Bitterly resented by teachers and students. Many teachers didn't speak Afrikaans
- Became a mass collective rejection of apartheid in RSA
- Most brutal and violent riots in RSA



1976 SOWETO RIOTS

- Police actions instigated world wide boycott of RSA
- Increased militarism in Black Youth
- Black protest march June 16, 1976 with 20,000 students
- Police opened fire and killed 13 yr old Hector Petersen
- Riots spread over RSA as many youth kicked out of school or had nowhere to go
- ¼ million students out of school marched rioted and set fire to Govt installations
- 360 black killed



FREEDOM RIDERS

- Civil rights activists who rode the interstate buses into the Segregated Southern United States in 1961 and following years
- Challenged non-enforcement by Federal Govt and Southern states of the US Supreme Court decisions *Irene Morgan V. Commonwealth of Virginia* (1946) which ruled that segregated buses were unconstitutional and *Boynton V Virginia* (1960) which ruled segregated restaurants and waiting rooms in terminals serving buses that crosses state lines unconstitutional





FREEDOM RIDERS

- Campaign decided a “ Jail – No Bail” campaign. Refused to pay fine or to be bailed out.
- Used Gandhian tactic of using the system against itself and forcing the nation and Federal Govt to confront and address Segregation
- Black and white, men and women and teenagers were arrested
- Went to dreaded Parchman max. Security cells for 6 weeks
- Finally interstate Commerce commission issued new regulations and a mandatory end to segregation in bus and train stations



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FREEDOM RIDERS

- 328 people between May 24 and Sept 13 1961 were arrested in Jackson Mississippi
- ½ Black
- ½ White
- ¾ men
- ¼ women
- 40% between 18 – 21
- 75% between 18 – 30
- Youngest 13
- Oldest 61



THE KADOGOS (NRA)

- Means “small one in Swahili”
- Reported 300 soldiers in NRA at time of take over
- Some as young as 5 years
- Allegedly not recruited by the NRA
- Said to have sought out NRA Camps or found in bushes as scorched earth policy of UNLA
- Without them, the NRA would not have won the war.
- Great labour force, fearless and daring







Do It Afraid!!