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SOCIAL PROTECTION

THE DYNAMICS OF THE RIGHT TO SOCIAL PROTECTION IN THE ARAB REGION:

EXPLORING THE ROLE OF THE STATE IN CHANGING TIMES



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Introduction

Most Arab countries are currently experiencing a critical juncture in their history, encompassing not only political, social, and economic aspects but also legal dimensions. In contrast to many other regions, Arab societies are undergoing significant transformations, influenced by two fundamental factors: the digital revolution and economic globalization, and their wide-ranging social implications. Moreover, Arab countries are witnessing profound political shifts, with some experiencing complete state and institutional collapse, as in Lebanon, Tunisia, Iraq, Sudan, Yemen, and others. Security crises have emerged in certain Arab countries while economic and financial difficulties plague others, further complicating matters. Furthermore, the relationship between governance and society in some nations, as well as the nature of governance itself, poses its own set of challenges.

Amidst this transitional period, the role of law and its capacity to safeguard society emerges as a common thread, constituting a significant challenge in this critical phase of Arab history. These challenges exacerbate the severity of crises and underscore the delicate nature of the current stage, necessitating a comprehensive approach at the intellectual, scientific, and societal levels. When dealing with political systems, it is imperative to acknowledge the indispensable role of legal principles, as they form the foundational tools of governance.

The study of law extends beyond the mere examination, interpretation, and application of legislative texts and the rights they aim to safeguard; legal studies delve deeply into the fundamental aspects and essence of the rule of law and the mechanisms required for its effective implementation. This line of reasoning holds great importance, recognizing as it does that the source of legal norms lies with those in authority, as highlighted by Bernard Teyssié during a legal conference held at the French Senate in 2004.¹ The connection between the enforcement of laws and political power, complicated by issues of jurisdiction, underscores the gravity of this relationship. Traditionally, both the issuance and enforcement of legal rules have been the exclusive domain of the state and its constitutional institutions.² However,

in the modern era, the most prominent and contemporary force shaping these dynamics is the end of exclusive state authority, largely influenced by the impact of neoliberalism.

The exploration of the sources of law and their efficacy has traditionally been the domain of social sciences, politics, and philosophy until the positive school³ of law defined them, with the exception of customs, within formal constitutional frameworks. However, the evolving landscape of postmodern societies, the prevalence of neoliberalism, and the rise of social individualism have thrust this issue into the forefront of research, work, and contemplation across various societal actors. These transformations have not only altered the roles of individuals and groups but also impacted their very existence.

The term “actors in society” encompasses a wide spectrum of individuals and entities. It includes citizens and residents, both as individuals and as collective groups. It also comprises civil society organizations, political parties, and

system. These powers work together to govern society through legislation, ensuring equal application of the law to all individuals. The legislative authority creates laws, while the executive authority enforces them without bias. The judiciary’s primary role is to oversee the proper implementation of laws and ensure justice is achieved. These powers are traditionally associated with the state’s authority and are granted the exclusive use of force to maintain social order, which is the ultimate objective of the law.

3 Positive law refers to a system of binding rules that are established in advance with the purpose of governing individuals within a specific society and age. Its formulation is closely associated with the elected authorities within a democratic system in modern states. The concept of positive law gained prominence during the French Revolution, which sought to detach legal rules from religious or divine sources as espoused by the theory of natural law. In this framework, the issuance of legal rules became the responsibility of the state authorities, who continuously adapt and amend them to meet the evolving needs of society. The field of legal science distinguishes between official and imaginative sources of law. Official sources encompass written rules, such as laws enacted by the legislative authority and decrees issued by the executive authority to enforce those laws within their constitutional powers. Legal reasoning, therefore, is associated with the role of the judiciary as a practical and realistic source of law. Customs, on the other hand, represent the social dimension of legal rules. It emerges from prolonged and consistent social practices, transforming societal norms into binding rules, even if they were not formally issued by state authorities. See Henri Batiffol, *La philosophie du droit*, collection : Que sais-je, 7eme éd. Paris: PUF, 1960.

1 Bernard Teyssié, « Qui édicte la norme, gouverne la Cité », French Senate, 2004.

2 The modern state is founded upon three distinct constitutional powers that typically govern their interactions within the state’s constitutional

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economic actors ranging from small-scale local businesses to multinational corporations and economic projects. This purview also extends to all state institutions that play a role in shaping and implementing legal frameworks.

Welfare: Between Politics and Society

The development of legal studies cannot be divorced from political and societal transformations, as well as the evolving role of the state, its components, and its powers. Laws are a product of elected-representative authorities, namely the governing bodies established within the framework of a modern democratic state. They serve as binding and general rules, and their activation and enforcement are intrinsically tied to the exclusive authority granted to legitimate state institutions to exercise force.

In examining legal rules, we must not overlook their contents, which pertain to the protection of both human and citizenship rights. However, in the past, there was a distinct division between the civil and political dimensions, on one hand, and the social and economic dimensions, on the other. This distinction took shape during the previous era of modern history, following the European and American revolutions, as well as the aftermath of the two world wars and the subsequent establishment of international human rights instruments. However, in the contemporary era, these classifications no longer provide a clear basis for distinguishing between different parties and their interests. The traditional association of parties and interests with political representation in democratic systems, as well as the nature of rights embedded in positive laws, makes it undeniable that radical transformations have impacted the concept of democracy, electoral systems, and the principles of fair representation. These transformations have also affected the ideals underlying the sources of laws.⁴ These shifts have resulted in a significant disruption in the guarantees protecting rights, marked by changes in their nature, classification, and their relationship to mechanisms and tools for ensuring those rights.

Among the categories of rights, the right to social welfare has arguably been the most affected. Firstly, its collective nature stands in contrast to individualism. Secondly, the roles of the welfare provider, namely the state, have changed.

4 (In Arabic) Azza Hajj Suleiman, "Transformations in Contemporary Judicial Systems, Lebanese Women in the Judiciary: Strengthening the Prevailing and Neglecting the Margins", (A. Suleiman and A. Beydoun), *Arab Center for Research and Policy Studies*, 2023, Chapter I.

And thirdly, economic actors' weak commitment to bearing the costs of social security and welfare has contributed to this transformation. This three-dimensional change has engendered a conflict between economic rights and social rights, despite having been complementary in the past – conflict stems from the clash of interests between public officials and economic actors.

I. Changing Contexts and Roles: Risks and Challenges

The "mutation" of the role of government in Arab nations has resulted in changes to the nature and functions of the state, which in turn have increased the risk of erosion of citizenship guarantees and the resurgence of authoritarian control. How do we explain this phenomenon within the framework of rights and social protection?

1. The Value of Social Protection

Social protection emerged as a response to the industrial revolution and the subsequent development of labor laws, collective rights, and the establishment of trade unions.⁵ The concept of social protection became closely associated with the welfare state, which solidified its foundations and roles during the rise of liberal regimes following World War I and the introduction of the International Bill of Human Rights.⁶ As a result, many states embraced economic, social, and cultural rights as a framework for collective rights, committing themselves to providing economic support and legal and institutional protection based on their capabilities, powers, and sovereignty.

Notably, the Universal Declaration of Human Rights issued in 1948 and the two International Covenants adopted in 1966 – the International Covenant on Economic, Social,

5 (In Arabic) - Azza H. Suleiman, "Realism in Labor Systems", *Journal of Law and Political Science*, Faculty of Law at the Lebanese University, No. 21, 1/2019.

6 (In Arabic) Ramez Ammar and Nemat Makki, *Human Rights and Public Freedoms*, 1st Edition, 2010, DN, Beirut.

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and Cultural Rights, and the International Covenant on Civil and Political Rights – played crucial roles in crystallizing the special dimensions of social protection. The significance of these rights was particularly notable during the 1968 youth revolution in France, where efforts were made to enshrine them in legal frameworks. This influence extended to legal systems affected by the French model, such as Lebanon, Tunisia, Morocco, and Algeria.

This evolution in the global understanding and acceptance of social protection gave rise to what was commonly referred to as the rule of law and institutional state, which embodied the ideals of the modern state. Democracy became intertwined with active political party representation and was founded upon elections conducted through an approved electoral system, thus perpetuating representative democracy. These values became a cornerstone in the theory of positive law, particularly within the internal European perspective, which adopted the written law system of the French model (known as the Romano-Germanic model).

Arab states were established in the aftermath of World War I, and their legal frameworks were also established during this period. They attained independence following World War II and embraced the global transformations taking place at the time. However, these states did not fully implement the principles of the rule of law and institutional state. In certain countries, such as Lebanon, nascent democracy was not built upon the foundation of representation and its implications concerning legislation and the accountability of human rights in the enforcement of laws. Laws and administrative systems were formal criteria for acquiring international legitimacy, but by themselves are insufficient for constructing a democratic state meeting the proper criteria.

At the societal level, Arab countries experienced impactful political and trade union movements, influenced by international developments, which led to the emergence of rights pertaining to labor protection. During that period, legal provisions concerning labor laws and protections were formulated, and their implementation was grounded in the establishment of a comprehensive social system, distinguishable from a merely specialized legal framework. This system encompassed autonomous sources, actors, and competent courts, all with the aim of promoting the highest level of public interest within society.

Trade unions and social movements played a significant role in advocating for a range of rights and establishing institutions that safeguarded fundamental human rights. These rights included access to healthcare, education, and decent standards of living. The efforts of these groups aimed to ensure the well-being and welfare of individuals within

society.⁷

2. The Challenges of the Neoliberal Transformations

The political, economic, and technological developments that emerged in the 1990s have had profound implications for the foundations of social and economic rights and the principles of public social order. Neoliberal ideas, or modern liberalism, can be succinctly described as advocating for a reduced role of the state in economic and social affairs, accompanied by the privatization of various public-sector entities responsible for safeguarding citizens' rights. Consequently, a new concept of the state emerged, emphasizing greater involvement for business entities and economic establishments while diminishing the state's responsibilities towards its citizens. The state's role became primarily focused on organizing and managing these relationships,⁸ with the judiciary and security institutions assuming central roles within this framework.

This shift sparked renewed discussions among political science centers in Europe regarding the risks of regressing into a police state – thereby sacrificing the welfare-oriented nature of the state – instead of progressing towards a new phase of democracy.

In the face of the neoliberal transformation – and its consequent redefinition of roles and accompanying contraction of state provisions, protections, and welfare – there has been an intertwining of the functions of the state and large corporations. This overlap has been driven by the influence of economic globalization and the digital revolution. Furthermore, the interests of economic stakeholders have intersected with those of public officials.⁹ In society, the law and the judiciary, as the authorities responsible for ensuring the proper application of the law and protection of democratic principles, have played pivotal roles in safeguarding the rights that guarantee citizens' dignity.

However, in Arab countries where the rule of law and a robust institutional state are lacking, and where a legal culture within society is absent, laws and decisions issued by public authorities no longer reflect the needs of citizens. Instead,

7 (In Arabic) Abdel Salam Shoaib, Transformations of the Social Public Order, Sader Human Rights Publications, Beirut, 2022, Azza Suleiman, Realism in Labor Systems, *Journal of Law and Political Science*, published by the Faculty of Law at the Lebanese University, Issue 21, 1/2019.

8 *L'État de droit*, Collection in honor of Guy BRAIBANT, Dalloz 1996, Paris.

9 Arnaud Teissier, « Le droit souple et l'ordre public supranational ressenti (suggéré) », *JCP-S*, no 16, 25 Avril 2017, 1130.

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they often reflect the balance of interests among influential groups, without necessarily aligning with the principles of rights. As a result, the movement towards implementing laws and achieving desired goals has been hindered and confined to a literal interpretation of legal texts based on the principle of separation of powers.¹⁰ With the weakening of democracy and the dilution of its essence, laws have been transformed into tools serving the interests of ruling elites who are often intertwined with capital. This has widened the gap between laws and rights, causing a disconnect between the two.

While individual rights, including civil, political, and economic rights, have found avenues to assert their presence in the realm of individualism and radical freedom, social and economic-social rights have faced significant challenges in Arab countries due to economic and political collapses and the compounding crises.

Business actors have gained excessive influence particularly in political and economic decision-making processes, as well as in the utilization of public resources that were previously under the state's control, as they were tied to services that guaranteed human rights. It is worth noting that in its management of these services, the state did not prioritize profit-making, in contrast to companies, which have the right to pursue profits through the provision of these services. Consequently, services that are essential for safeguarding rights have been transformed into commodities, and citizens accessing these services have been reduced to mere consumers.

Present discussions revolve around the role of companies in development and their social responsibility while acknowledging their right not only to generate profit but also to maximize it. This raises controversy and necessitates careful consideration and deliberation in approaching and discussing these matters.

In contemporary times, laws have become the embodiment of legitimacy when it comes to safeguarding the rights of citizens and residents, ensuring their access to a decent quality of life and upholding their human dignity. This function has become a crucial measure of legal legitimacy.

Consequently, the influence of clientelism has expanded, leading to the emergence of intertwined interests between business actors and those in positions of power within the state. This shift has also brought about changes in legal frameworks, giving rise to new branches of law that pertain

to competition regulations (or antitrust laws) and consumer protection. Furthermore, corruption has become pervasive, leading to the introduction of the UN's Convention against Corruption. However, the international legal discourse has yet to elevate the classification of corruption crimes to acts against humanity. Instead, the legal framework primarily addresses these crimes as components of money laundering offenses, considering their connection to illicitly obtained wealth through the exploitation of public resources, tax evasion, and the abuse of power.

II. Between Legal Legitimacy and Social Welfare: The Missing Link

Traditionally, legitimacy has been closely associated with the principles of Western democracy. It is rooted in the laws enacted by elected authorities and seen as a manifestation of the popular will, which can be held accountable through periodic elections. Its purpose is to promote societal interests and protect individual rights.

The principle of legitimacy should not be at odds with social stability and security, as it serves to reduce chaos and ensure harmonious social relationships. In the traditional concept of the rule of law, legitimacy was tied to the authority's ability to enforce laws. However, contemporary transformations have challenged the exclusive control of the state, giving rise to alternative forms of organization emerging from society itself. This new paradigm is characterized by power-sharing and a balance of power, rather than a monopoly on the use of force. Consequently, a clear distinction has emerged between two notions of legitimacy. The first pertains to the respect and adherence to decisions derived from statutory laws, which have been proven to serve individual interests. The second relates to the legitimacy of these decisions in terms of their alignment with human rights and their evolving nature. In light of social movements witnessed in Arab countries, questions have been raised regarding the legitimacy of legal texts and the authorities that issue them. The legitimacy of these authorities is now contingent upon their effectiveness in serving society's needs and aspirations.

10 Frédéric Rouvillois, « l'efficacité des normes, Réflexions sur l'émergence d'un nouvel impératif juridique », *Fondation pour l'innovation politique*, 2006, published online [L'efficacité des normes \(fondapol.org\)](http://L'efficacité_des_normes_(fondapol.org)).

1. The Priorities of Modern International Organizations, and their Challenges

The neoliberal transformations of recent times have given rise to contemporary legal instruments that reflect the growing influence of non-governmental entities, especially multinational corporations. These legal frameworks deviate from the traditional sources of state sovereignty and official legitimacy, and are instead characterized by their flexibility and adherence to market and competition rules. In this context, law in the business realm is treated as a commodity, subject to free agreements between parties. Consequently, legal obligations have lost their binding force, giving way to the principles of ethics. States have shifted their focus towards issuing regulations aimed at attracting investors, often at the expense of social protections, under the guise of global trends and recommendations from international financial institutions.¹¹

In response to this reality, the UN has put forth new initiatives to address the impact of these transformations on human rights. The International Bill of Human Rights has expanded beyond its original scope to include the protection of the environment, sustainable development, and the fight against corruption. At the beginning of the 21st century, under the leadership of Secretary-General Kofi Annan, the UN announced the Millennium Development Goals, followed by the launch of the 2030 Agenda for Sustainable Development in 2015. These initiatives reflect a new approach and a shift in social and legal culture, emphasizing governance and participation among the three key actors: the state, the private sector, and civil society. Democracy has taken on new dimensions, and governance principles have become integral to the modern concept of democracy and the management of societies.

This plan aims to establish new standards for democracy, emphasizing the importance of the rule of law, transparency, accountability, and the active involvement of both the public and private sectors. It also recognizes the significant role of civil society as a crucial partner in societal development, aligning with the 17th of the Sustainable Development Goals: “revitalizing the global partnership for sustainable development”. Consequently, civil society has emerged as a

key actor alongside traditional political entities, representing diverse issues and groups. It is worth noting that these stakeholders are not necessarily bound by the principles of the social contract that underpin the modern state. Instead, contemporary state structures emphasize a balance of power and participatory democracy to achieve order, sustainable development, and social justice. Consequently, the tools for promoting social justice and their potential for implementation have evolved from the predominant approaches of the latter half of the 20th century,¹² which relied on state intervention and the active involvement of trade unions representing workers in the production process and operating under a subordinate relationship to private business actors.

However, these transformations have led to a reconfiguration of fundamental rights, sparking a renewed discussion on the concept of “natural rights.” Certain individual rights, traditionally classified as civil and political, have become increasingly intertwined with economic rights, particularly with the emergence of new business models such as one-person companies and entrepreneurship in various forms. Consequently, conflicts have arisen among rights holders vying for the supremacy of their respective rights, while the roles of companies have become differentiated between large corporations and small-scale enterprises.

These changes have had an impact on the nature of protected rights, encompassing both economic and political dimensions, as well as the categories of rights that extend to include environmental protection and the well-being of future generations. The incentives for safeguarding these rights have shifted from being enforced through the authority and sovereignty of the state to being based on ethical considerations.¹³ Power dynamics and roles have become more diversified, with business entities being conflated with state institutions, receiving a similar level of legal sway and sometimes exerting even greater influence. Consequently, this transformation has weakened social protections, which have become contingent upon the will of large corporations as the new development partners. An illustration of this can be seen in the context of the Covid-19 pandemic, where the rights and interests of pharmaceutical companies in developing and distributing drugs and vaccines have sometimes taken

11 Alain Supiot, « La gouvernance par les nombres », Courses delivered at the Collège de France (2012-2014), Fayard, Paris, 2015.

12 Alain Supiot, « État social et mondialisation : analyse juridique des solidarités », courses delivered at the Collège de France, (2014-2016); Frédéric Rouvillois, « L'efficacité des normes, Réflexions sur l'émergence d'un nouvel impératif juridique », *Fondation pour l'innovation politique*, 2006, published online [L'efficacité des normes \(fondapol.org\)](http://L'efficacité_des_normes_(fondapol.org))

13 (In Arabic) - Azza H. Suleiman, “Realism in Labor Systems”, *Journal of Law and Political Science*, Faculty of Law at the Lebanese University, No. 21, 1/2019.

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precedence over society's right to health. Furthermore, trade unions have experienced weakening, with their structures dismantled and their influence diminished, resulting in an overlapping of political and trade union interests.

The weakening of the state has also resulted in a decline in public order, particularly in its connection to the state's role.¹⁴ The erosion of the state's influence has had a significant impact on the relationship between the social system and the economic system. The collective protections and rights associated with the working class, which are vital for maintaining a robust social order, have been overshadowed by individual rights pertaining to decent work and living conditions. This shift is based on the understanding that human rights are indivisible and interdependent.

Consequently, the mechanisms for ensuring social public order have transitioned from being solely reliant on the enforcement of laws to embracing principles of legitimacy that emphasize respect for rights and the delicate balance between them. This shift has introduced the concept of "soft" or "flexible" rules and regulations that can complement and activate more stringent legal provisions.¹⁵ These soft rules, although lacking binding status or punitive measures for non-compliance, often take the form of international recommendations within UN instruments or conditional requirements imposed by international financial institutions as part of their support to countries. However, these conditions often overlook the foundations of social justice within these countries. Moreover, they may remain optional, conventional, or ethical guidelines rather than binding rules that enforce compliance through the revocation of support. As a result, the realm of social protection laws, once regarded as binding regulations, has diminished, prompting a return to the starting point in the legal discourse on striking a balance between economic rights and social rights. Additionally, rights-holding citizens have become entangled in internal conflicts rather than collectively addressing the authority responsible for safeguarding their rights. With the merging of political and economic interests, the state and its institutions have forfeited their role as impartial defenders of rights, unless stringent standards of integrity are upheld by public officials. Citizens, and humanity as a whole, have become victims of power imbalances and the inefficiency of positive law.

14 *L'ordre public à la fin du XXe siècle*, Dalloz, Paris, 1996; Arnaud Teissier, « Le droit souple et l'ordre public supranational ressenti (suggéré) », *JCP-S*, no 16, 25 Avril 2017, 1130; *L'État de droit*, Collection in honor of Guy Braibant, Dalloz 1996, Paris.

15 Arnaud Teissier, « Le droit souple et l'ordre public supranational ressenti (suggéré) », *JCP-S*, no 16, 25 Avril 2017, 1130.

It is crucial to highlight that the legal landscape in certain Arab countries, particularly Lebanon, significantly differs from that of France. In Lebanon, economic freedom is constitutionally guaranteed, serving as a fundamental principle that politicians adhere to, while the absence of constitutional provisions addressing social justice remains evident. Economic rights have been explicitly defined and protected by direct legal texts, whereas the achievement of social justice remains contingent upon flexible criteria and classifications, leading to contradictions and conflicts stemming from divergent social and economic theories.

2. Transformations in Governance and the Role of Law in the Arab Region

In response to this situation, the UN has embraced the concept of the "rule of law" in societies, replacing the previous term "state of law". This shift acknowledges the need for a "culture of law" to permeate society, from the practices of various state institutions to the everyday behavior of citizens. This new expression reflects a fundamental distinction regarding the role, effectiveness, and enforcement of laws. It underscores the prerequisite of establishing a foundation based on institutionalized governance and legal frameworks that foster a culture of law in society. However, the most significant challenge arises in countries where the development of law as a crucial element of democratic practice has been lacking. In liberal democratic systems, there exists a clear theoretical relationship between law, the state, its institutions, and society. In contrast, in repressive regimes, the law becomes a tool manipulated by those in power to serve their interests, rather than representing the needs and interests of the citizens. Consequently, there is a call to embrace a realism theory of law, moving away from a positivist approach. This approach emphasizes an interactive and harmonious relationship between key actors in society and the legal framework, encompassing its creation, application, impact, feasibility, and the vital role of the judiciary.

Additionally, the concept of the rule of law prevails in countries that follow the customary Anglo-Saxon legal system, which relies on customs, precedents, and legal interpretation or jurisprudence. In this system, legal rules interact with society, and the judiciary plays a significant role in establishing and developing rules that respond to social needs. Therefore, this legal system is deeply rooted in the culture of law within the society it serves and impacts.

As a result, these transformations have had a particularly profound effect on legal systems that rely on written rules originating from parliament or on the supremacy of written

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rules issued by the state. These systems tend to stagnate when faced with the demands of social reality and developmental needs, unlike legal rules that emerge from society itself.

In previous eras of contemporary Arab history, the influence of positive law, particularly the European-French school or the system of written positive law, was evident. However, there are exceptions to this trend, such as Sudan, which adopts a positive-customary law system influenced by the British school. Nevertheless, as new elements enter the existing relationship between political power, the law, and society, the dynamics become increasingly complex.

In many Arab countries, there is an increasing reliance on soft rules that hold a more significant influence on the daily lives of citizens, as the absence of effective hard legal rules becomes apparent, undermining the foundation of society. The most critical issue in this context is the lack of a meaningful relationship between the law, citizens, and political authority, largely due to the historical absence of democracy. Instead of serving as a language of rights that articulates societal demands, the law has become a tool of power.

Contemporary democracy necessitates a culture of law as a fundamental basis for ensuring a functioning society and facilitating interactions among economic, social, and official groups. Without this culture of law, Arab societies risk being trapped under the control of a security state from which they have long sought liberation. However, the danger lies in the fact that power is no longer solely wielded by the state apparatus, which governs through force while providing basic needs to citizens. Power now also rests in the hands of private businesses and technological actors, whose primary concern is the exploitation of citizens, rather than their protection, in exchange for services rendered.

Therefore, when assessing the Arab citizen's relationship with the law, we cautiously question the changes that may occur within the legal system in countries that have adopted the positivist theory of written law. We wonder if the law will continue to serve as a mere formal element for ruling authorities, in their various forms and manifestations, to secure international recognition that reinforces their authority.

Conclusion

Undoubtedly, state authority and positivist law still maintain a certain level of importance. However, their effectiveness has been diminished due to various factors, including:

- **Weakness of public order:** Public order, which is established through the social contract, plays a crucial role in binding societal groups and individuals together. It creates a common space where individuals agree to relinquish certain rights in exchange for others doing the same, ultimately ensuring stability and security. However, the weakening of public order limits the effectiveness of state authority and the enforceability of laws.
- **Inability to address entrenched business interests:** Laws often struggle to effectively regulate entrenched business interests. These interests can exert significant influence, creating obstacles to the implementation and enforcement of laws that aim to promote public welfare or protect the rights of citizens.
- **Slow legislative processes:** The speed at which positive law is developed and enacted often fails to keep up with the rapid pace of societal changes and emerging challenges. This lag in legislative response can hinder the practical interventions needed to address pressing issues effectively.
- **Legislative inflation:** Over time, there has been a proliferation of laws and repeated interventions, leading to legislative inflation. As a consequence, laws may lose some of their value and effectiveness, as they become numerous and complex. This can create challenges in their implementation and result in a diminished impact on societal practices.
- **Weak representation of parliaments:** In many cases, parliaments lack adequate representation due to factors such as the failure to hold elections or a lack of public confidence in the role and legitimacy of these legislative bodies. This weakens a parliament's ability to effectively address societal issues and enact laws that reflect the diverse interests of the population.
- **Social developments and multiplicity of interest groups:** Arab societies have witnessed significant social developments and the emergence of various interest groups pursuing their own agendas. These groups may not align with the historical development of the state and its social contract. As a result, there is a lack of consensus on societal norms and values, making it challenging to establish a cohesive legal framework that adequately addresses the needs and aspirations of all segments of

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society.

- **Emphasis on private economic rights:** There has been a strong emphasis on promoting private economic rights, often accompanied by calls for deregulation and reducing controls on business activities. This emphasis on economic rights, sometimes at the expense of social rights, can lead to imbalances and challenges in achieving a harmonious legal framework that protects the interests of all stakeholders.
- **Influence of non-legal rules:** Arab societies have rules and norms that operate alongside or even supersede legal rules in terms of their effectiveness and impact. These non-legal rules can be of various types, including economic rules, consensus-based rules, or social and religious rules associated with specific ethnic or religious groups. These flexible rules often play a significant role in shaping behavior and decision-making within society and cannot be ignored when considering the effectiveness of legal rules.

Considering these challenges, four key recommendations are crucial:

- **Explicitly enshrine social guarantees as constitutional rights:** Given the changing times, it is necessary to update and explicitly incorporate social guarantees as part of constitutional rights. These guarantees should be transformed into binding rules that guide effective actions and decisions under the framework of the Constitution. This ensures that social rights are protected and upheld as fundamental pillars of society.
- **Establish a fair tax system and promote corporate social responsibility:** It is essential to implement a fair tax system that ensures corporate social responsibility. This system should not rely solely on the voluntary actions and ethical considerations of stakeholders, but rather establish clear obligations for corporations to contribute to societal well-being. By holding businesses accountable for their social responsibilities through taxation, the role of the state in ensuring a just and equitable society is strengthened.
- **Develop a legal framework for corporate social responsibility:** To ensure that the private sector adheres to the principles of corporate social responsibility, a comprehensive legal framework needs to be established. This framework should outline the obligations and responsibilities of businesses towards society, encompassing environmental sustainability, social welfare, and ethical business practices. By setting clear legal guidelines, it promotes responsible behavior and encourages businesses to prioritize societal interests

alongside their financial goals.

- **Promote legal education and a culture of law:** Educating the public about the importance of law in society and its role in safeguarding rights is crucial. This includes raising awareness about the relationship between the law and individual rights and emphasizing the significance of a legal culture in promoting justice and social welfare. Additionally, legal professionals should be equipped with knowledge about the evolving legal landscape and the transformations impacting effective legal rules. Emphasizing flexibility within the judicial system and transitioning towards a culture of law can foster a comprehensive understanding of legal systems and contribute to achieving social justice.

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About Arab Region Hub for Social Protection

We are a space in and through which professionals dedicated to exploring, understanding and advocating for better social protection in the Arab region exchange ideas and explore and initiate collaborative action. We envision an Arab region in which all people, regardless of their identities, are guaranteed social protections that secure their access to the essential goods and services needed to ensure their well-being and decent standards of living, which in turn gives them the opportunity to prosper and contribute as active members of society. We aim to facilitate the development of equitable and sustainable social protection systems in the region by: executing, encouraging and facilitating the production, analysis, collation, and dissemination of interdisciplinary knowledge about the topic; facilitating dialogue within professional spheres and awareness raising among the wider public; and enhancing collective action that amplifies advocacy efforts with the different stakeholders and decisionmakers.

Social Protection Program

The Arab Reform Initiative's Social Protection Program, which gave birth to the Arab Region Hub for Social Protection, aims to place social policy and its impact on the socio-economic rights of citizens and residents in Arab countries center stage in the research and advocacy efforts seeking to achieve social justice and social equality. By mobilizing and coordinating a community of practice and knowledge on social protection, the program aims to create a safe space for regular and systematic dialogue between the different stakeholders, in order to help addressing the problem of fragmented, non-inclusive, ineffective, and unsustainable social protection systems in the region. While doing so, the program adopts different perspectives – from addressing the necessary policy, programmatic, institutional, financial, legal and legislative reforms; to the political economy involved in the feasibility of these reforms; passing by social activism around welfare policies.



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About the Arab Reform Initiative

The Arab Reform Initiative is an independent Arab think tank working with expert partners in the Middle East and North Africa and beyond to articulate a home-grown agenda for democratic change and social justice. It conducts research and policy analysis and provides a platform for inspirational voices based on the principles of diversity, impartiality, and gender equality.