

The Transformation of Law and Justice in the Age of Globalisation

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Abstract

Globalisation has significantly transformed the concepts of law and justice by increasing international interconnectedness and influencing domestic legal systems through global institutions, human rights norms, and transnational governance. This paper examines the impact of globalisation on legal systems, justice delivery, legal pluralism, human rights, and international governance. It analyses major theories of justice proposed by John Rawls, Robert Nozick, and Amartya Sen, while also highlighting the Indian concept of Dharma as a foundation of ethical justice. The study discusses how globalisation creates opportunities for international cooperation and human rights protection, while also generating challenges such as inequality, corporate dominance, and unequal access to justice. The paper concludes that achieving justice in a globalised world requires stronger international accountability, inclusive legal reforms, and protection of human dignity across borders.

Keywords: Globalisation, Law, Justice, Human Rights, Legal Pluralism, Global Governance, International Law, Rawls, Amartya Sen.

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INTRODUCTION

In the contemporary era of rapid interconnectedness, the concepts of law and justice have undergone profound re-evaluation. Traditionally grounded in the sovereign authority of the nation-state, legal systems were long assumed to function within territorially confined and culturally homogeneous boundaries. However, globalisation has dramatically altered this landscape by intensifying cross-border social, economic, and political interactions. This transformation has not only reshaped legal frameworks but has also challenged our ideas about justice, fairness, and the role of institutions in safeguarding human dignity. As nations become increasingly interdependent, globalisation compels legal systems to face challenges which go beyond borders such as cybercrime, migration, environmental degradation, multinational corporate accountability, and evolving human rights standards¹. These developments make us reconsider of how justice can be made more accessible in a world no longer neatly divided by borders.

At the intellectual core of this discussion lies the intricate relationship between law and justice. Scholars such as Aristotle, John Rawls, Robert Nozick, and Amartya Sen have offered different frameworks to understand the moral foundations of legal order ranging from distributive fairness and entitlement to capabilities and realised justice. Indian jurisprudential traditions, especially the concept of Dharma², similarly emphasise justice as a guiding principle of social harmony and ethical conduct. Modern constitutional developments, including landmark judicial decisions, further makes justice as a procedural and substantive guarantee essential to the rule of law³. Yet, the pressures of globalisation complicate these understandings. International legal norms increasingly influence domestic policymaking, while global markets and multinational corporations often wield power comparable to states, generating tensions between economic imperatives and social justice. Thus, the pursuit of justice in the age of globalisation requires navigating competing value systems, diverse legal traditions, and asymmetric power structures.

¹ J.A. Scholte, *GLOBALIZATION: A CRITICAL INTRODUCTION* (2nd ed., Palgrave Macmillan 2005).

² M.B. Rao, *The Concept of Dharma in the Hindu Legal System*, 36(3) J. INDIAN L. INST. 305 (1994).

In this context, the examination of law, justice, and globalization transcends mere academic pursuit to become a normative obligation. Globalization provides opportunity for the alignment of legal norms, the enhancement of human rights protections, and the fortification of channels for international cooperation. Issues such as the legitimacy of international institutions, the democratic deficit in governance, the challenges of legal pluralism, and the widening “justice gap” for marginalised communities underscore the urgency of critically examining the evolving role of law in a globalised world. This research paper therefore seeks to analyse these interrelated dimensions, explore the theoretical and practical tensions they generate, and consider how justice can be effectively promoted in an increasingly global legal order.

Conceptual Foundations of Law and Justice

The notions of law and justice are intricately connected, while each has distinct historical, philosophical, and ethical bases. Justice, as the paramount objective of law, has held a pivotal role in legal and moral thought since ancient times. Classical philosophers like Aristotle regarded justice as a virtue that underscores fairness in both distribution and correction, asserting that individuals ought to receive what they are entitled to base on merit and equitable standards⁴. This fundamental comprehension shaped subsequent Western legal theory and persists as a foundation for assessing institutional frameworks. In the Indian intellectual tradition, especially within the Dharmaśāstra literature and the epic Mahabharata, the concept of Dharma represents a morally nuanced understanding of justice that transcends legality to include obligation, righteousness, and the preservation of social peace⁵. Professor Rao emphasizes this connection by noting that justice, understood as Dharma, represents the ethical framework that should direct both personal behavior and institutional administration in Indian law. Contemporary constitutional frameworks similarly incorporate justice as a fundamental principle, exemplified by Article 21 of the Indian Constitution⁶, wherein the Supreme Court has construed “procedure established by law” to necessitate fairness, reasonableness, and non-arbitrariness, thereby affirming that justice is not solely an outcome but a procedural endeavor. Landmark cases like *Maneka Gandhi v. Union of India*⁷ and *Hussainara Khatoon v. State Secretary of Bihar*⁸ established this idea by underscoring due process and the safeguarding of personal liberty, rendering justice an essential criterion for assessing the legality of judicial actions.

⁴ Aristotle, *NICOMACHEAN ETHICS* bk. V (c. 350 BCE).

⁵ M.B. Rao, *The Concept of Dharma in the Hindu Legal System*, 36(3) J. INDIAN L. INST. 305 (1994).

⁶ Baxi, U. (2010). *The Future of Human Rights*. Oxford University Press (India).

Philosophical discourse on justice evolved significantly in the twentieth century, offering a more rigorous analytical framework for understanding its relationship with law. John Rawls’ theory of “justice as fairness” introduced the idea that principles of justice should be chosen under a “veil of ignorance,” thereby ensuring impartiality and equal respect for individuals. Rawls’ distinction between basic liberties and permissible inequalities allowed only if they benefit the least advantaged influenced debates on social and global justice. On the other hand, Robert Nozick’s entitlement theory rejects redistributive principles and focuses on justice in holdings, arguing that a minimal state is sufficient to protect individual rights and makes it easier for them to deal interact with each other. Amartya Sen advances a yet different perspective through his distinction between Niti (institutional propriety) and Nyaya (realised justice), urging a shift from idealised models to the practical elimination of manifest injustices. His capability approach redefines justice as the enhancement of individuals’ substantive freedoms to attain preferred functioning, a notion that powerfully resonates with current discussions on development, inequality, and human rights. Together, these philosophical perspectives reveal that justice cannot be confined to legal formalism or institutional arrangements alone; rather, it encompasses moral reasoning, social context, and the lived realities of individuals. As globalisation reduces rigid legal boundaries and exposes inequalities across societies, understanding these conceptual foundations becomes essential for constructing legal frameworks that remain responsive, fair, and legitimate in an interconnected world.

Major Theories of Justice Relevant to Globalisation Rawls’ Theory of Justice as Fairness in a Global Context

John Rawls’ view of “justice as fairness,” presented in his major work *A View of Justice* (1971), is considered as one of the most impactful contemporary interpretations of justice⁹. Rawls develops a conceptual framework centered on the “original position” and the “veil of ignorance,” where rational persons, not aware of their social, economic, and natural characteristics, select principles to regulate their society. The objective of this curtain is to eradicate bias, guaranteeing that choices are rendered from a position of impartial fairness. This thought experiment gives two fundamental principles: equal basic liberties for all persons and the allowance of social and economic inequality solely if they advantage the least advantaged members of society. Rawls’ difference principle, which underscores egalitarian

⁷ *Maneka Gandhi v. Union of India*, A.I.R. 1978 S.C. 597 (India)

⁸ *Hussainara Khatoon v. Home Secretary, State of Bihar*, A.I.R. 1979 S.C. 1369 (India).

⁹ John Rawls, *A THEORY OF JUSTICE* (Belknap Press 1971).

opportunities, profoundly aligns with current discussions on inequality and distributive justice.

While Rawls initially developed his theory for domestic societies, globalization has broadened the applicability of his concepts to the international domain. Transnational inequality, global financial systems, climate change, and migration trends prompt the inquiry of whether Rawls' ideals need to extend beyond national boundaries. Rawls proposed a more tempered global perspective in *The Law of Peoples*, advocating for collaboration among "decent hierarchical societies" instead of complete worldwide egalitarianism¹⁰. Numerous scholars challenge this limitation, positing that global institutions such as the World Trade Organization, the International Monetary Fund, and multinational corporations now influence individuals' life prospects in ways that Rawls could not have anticipated. Thus, the ethical framework of the veil of ignorance can be utilized to address global systems that sustain poverty, labor exploitation, or climate susceptibility. In a globalized context, Rawls' paradigm offers a robust foundation for assessing whether international laws and economic systems truly foster equity or perpetuate established disparities between the Global North and Global South. His thesis thus remains a fundamental standard for envisioning a more equitable global order.

Nozick's Entitlement Theory and Its Influence on Global Market Structures

Contrary to Rawls' egalitarian perspective, Robert Nozick's *Anarchy, State, and Utopia* (1974) articulates a libertarian framework of justice grounded in robust individual rights, particularly property rights¹¹. Nozick articulates an entitlement theory that evaluates the legitimacy of distributions based on their historical roots rather than their results. Nozick posits that a distribution is just if it arises from legitimate acquisition and voluntary transfer, irrespective of the resultant disparity levels. This philosophical position denounces redistributive taxation, likening it to "coerced labor," and advocates for a minimum state whose principal duties are to safeguard individuals against violence, robbery, and deception.

Nozick's theory has significantly influenced neoliberal economic ideology¹², which has prevailed in global policy frameworks since the late twentieth century. The era of globalization which is characterized by deregulation, privatization, free trade agreements, and liberalized capital flows has a philosophical dedication to the minimal state interference. Multinational firms,

investor-protection frameworks, and international arbitration systems are all founded on ideals based on Nozickian libertarianism. Critics contend that the application of entitlement theory to global governance has legitimized inequalities exacerbated by globalization. Upendra Baxi's analysis of "trade-related and investment-friendly human rights" demonstrates how global economic systems frequently prioritize corporate liberties over labor rights, environmental protection, and social welfare. Strategic lawsuits against public participation (SLAPPs), corporate immunity in international litigation, and structural adjustment measures forced on developing nations underscore the conflict between Nozick's philosophical principles with the calls for global justice. Nozick presents a robust moral justification for individual liberty; but, his paradigm offers scant direction for tackling systemic disparities, historical injustices, and collective evils that surpass national boundaries.

Amartya Sen's Theory of Justice: Niti, Nyaya, and the Capability Approach

Amartya Sen presents a distinctly alternative perspective on justice, emphasizing practical evaluations of actual injustices over theoretical ideal models¹³. In *The Idea of Justice* (2009), Sen differentiates between Niti (institutional propriety and appropriate procedures) and Nyaya (actualized justice and prevailing social conditions). Sen argues that an exclusive emphasis on optimal institutional architecture is inadequate; the crucial factor is the degree to which individuals' lives genuinely enhance. This viewpoint is particularly significant in a global environment where formal acknowledgment of rights or procedural equity may not result in substantial well-being due to profound structural inequities.

At the core of Sen's scholarship is the capability approach, which conceptualizes justice not in terms of resources or utility, but via individuals' substantive freedoms their genuine capacity to live lives they have reason to cherish. Capabilities encompass access to education, healthcare, bodily autonomy, political engagement, and the liberty to seek significant opportunities. In the globalized era, Sen's theory provides a compelling framework for elucidating the persistence of inequities despite economic growth, and underscores the necessity for global institutions to prioritize not only resource distribution but also the enhancement of human talents. Challenges like climate vulnerability, gender inequality, digital exclusion, and global poverty demonstrate that justice need more than markets or institutions; it requires focus on the conditions that empower individuals to act, choose, and thrive. Sen's

¹⁰ John Rawls, *THE LAW OF PEOPLES: WITH "THE IDEA OF PUBLIC REASON REVISITED"* (Harvard University Press 1999).

¹¹ Robert Nozick, *ANARCHY, STATE, AND UTOPIA* (1974).

¹² David Harvey, *A BRIEF HISTORY OF NEOLIBERALISM* (Oxford University Press 2005).

¹³ Amartya Sen, *THE IDEA OF JUSTICE* (Harvard University Press 2009).

theory clearly corresponds with Professor Rao's¹⁴ focus on transcending procedural justice to tackle material and systemic inequities, particularly those intensified by globalization.

Comparative Reflections and Modern Significance

Each of these ideas presents a unique normative framework for comprehending justice in a globalized context. Rawls' emphasis on fairness offers a conceptual foundation for assessing the validity of global organizations and international economic frameworks. Nozick's libertarian framework articulates the ideological underpinnings of global market systems, while also highlighting issues of inequality and power disparities¹⁵. In contrast, Sen's capabilities approach emphasizes lived experiences and tangible enhancements, rendering it particularly relevant in the realms of global development and transnational human rights. Collectively, these theories emphasize the multifaceted essence of justice and accentuate the necessity for a diversified, contextually aware comprehension of justice's demands within a globalized framework.

Globalisation and the Transformation of Legal Systems

Globalisation has reshaped legal systems in unprecedented ways by increasing the movement of people, goods, information, and capital across borders. Earlier, law largely operated within the boundaries of the nation-state, where governments controlled legislation, enforcement, and dispute resolution. However, globalisation has weakened these rigid boundaries. Today, domestic laws are influenced not only by national needs but also by international trade rules, human rights standards, multinational corporations, and global civil society movements. Scholars such as Anthony Giddens and William Twining describe this as a world where local events are shaped by global forces, and global developments in return respond to local pressures. As a result, states must now consider foreign policy, international obligations, and cross-border impacts while making laws showing how globalisation has made legal systems more open and interconnected. Another important aspect of this transformation is the rise of new global actors that traditional legal theory did not previously recognise. Professor Upendra Baxi explains that law today is no longer shaped only by governments but also by multinational corporations, international organisations, global financial institutions, and transnational advocacy networks.

These institutions influence legal decisions through economic power, global norms, or rights based

claims. For example, multinational companies frequently negotiate investment treaties that give them legal protections even against sovereign states, while bodies such as the World Trade Organization or the International Criminal Court establish binding rules that member states must follow. At the same time, global civil society groups environmental organisations, human rights NGOs, indigenous movements push states and international bodies to uphold principles of justice, sustainability, and equality. This complex mix of actors has created what many scholars call a "multi-level legal order," where law is shaped at local, national, regional, and international levels simultaneously.

Despite its benefits, globalisation has also created tensions within legal systems, raising questions about justice, fairness, and democratic accountability. Many fear that powerful global institutions especially wealthy nations and large corporations are the ones which profit the most from globalisation while vulnerable communities face its social or environmental costs. For example, international trade rules may restrict choices that developing countries make, while global supply chains often depend on practices that exploit labour. Similarly, as globalisation increases interdependence, states sometimes lose power to independently make their own rules and struggle to balance local interests with global pressures which makes vulnerable sections weaker. These issues reveal that globalisation does not simply expand legal cooperation; it also exposes inequalities that require new forms of legal thinking. Scholars therefore argue that transforming legal systems must involve not only adapting to global markets but also strengthening access to justice, protecting human rights, and ensuring that global rules do not undermine social welfare. In this sense, globalisation challenges us to rethink how law can remain just, inclusive, and effective in an increasingly interconnected world.

Legal Pluralism and Justice in a Globalised World

Legal pluralism has become a key feature of the globalised world, where different legal systems exist and work together. Traditionally, states claimed monopoly over law-making and enforcement, but globalisation has changed this assumption. Today, people live under the authority of various legal orders at once state law, customary norms, religious laws, international treaties, global human rights standards, and even corporate rules shaped by multinational companies. Scholars like Sally Engle Merry¹⁶ and John Griffiths describe legal pluralism as a condition where different legal systems overlap, influence each other, and sometimes conflict. A clear example is seen in countries like India, where personal religious laws, customary tribal laws, and the

¹⁴ Srikrishna Deva Rao, *LEGAL AID AND ACCESS TO JUSTICE IN INDIA: A SOCIO-LEGAL STUDY* (LexisNexis 2015).

¹⁵ M. Sornarajah, *THE INTERNATIONAL LAW ON FOREIGN INVESTMENT* (4th ed., Cambridge University Press 2015).

¹⁶ Sally Engle Merry, *Legal Pluralism*, 22(5) *LAW & SOC'Y REV.* 869 (1988)

formal constitutional system all operate simultaneously. Similarly, Indigenous legal traditions in Canada, recognised in cases like *Delgamuukw v. British Columbia*¹⁷, show how local normative orders seek equal respect alongside state law. Globalisation further intensifies this pluralism by introducing new international norms such as environmental standards, migrant protections, and cyber regulations that states must incorporate into domestic law. This complex interaction challenges traditional notions of sovereignty, while also creating opportunities for more culturally grounded and socially relevant forms of justice.

However, legal pluralism also raises important concerns about fairness and access to justice. While multiple legal systems may give communities the ability to preserve their cultural identity and resolve disputes in familiar ways, they may also create confusion or unequal treatment when norms collide. People navigating more than one legal order may struggle to determine which rules apply or which institutions have authority. Moreover, powerful actors such as corporations or international bodies may exploit pluralistic systems to bypass stricter regulations or avoid accountability. For instance, global corporations often rely on international arbitration forums that favour investor rights over community welfare, illustrating how legal pluralism can reinforce imbalances in power. At the same time, marginalised groups may find their customary or community-based legal systems overshadowed by dominant state or global norms. Therefore, while legal pluralism presents valuable avenues for culturally sensitive justice, it also requires strong safeguards to ensure that all individuals receive fair treatment regardless of the legal system under which they are governed. In a globalised world, achieving justice means not only recognising diverse legal traditions but also ensuring that pluralism does not become a tool for inequality or exclusion.

Human Rights and Justice Across Borders

Human rights have become one of the most important areas where globalisation directly influences the idea of justice. As countries become increasingly interconnected, challenges such as migration, climate change, digital surveillance, and global inequalities demand responses that go beyond national legal systems. The Universal Declaration of Human Rights (UDHR)¹⁸ and the International Covenant on Civil and Political Rights (ICCPR) are examples of how the world is trying to define universal standards for human dignity. Yet, applying these standards across different cultural, political, and economic contexts remains difficult. Scholars highlight the ongoing debate between

universalism the belief that certain rights apply equally everywhere and cultural relativism, which argues that human rights should be understood through the lens of local traditions and social values. This tension often appears in issues such as gender rights, minority protections, and freedom of expression, where cultural practices and global norms may conflict. At the same time, new global concerns, especially those connected to technology and climate change, reveal gaps in existing human rights frameworks. For example, digital privacy, data protection, and the ethical use of artificial intelligence require global cooperation because national laws alone cannot regulate cross-border technology companies. In this way, globalisation both strengthens and complicates the effort to protect human rights.

Globalisation has also changed who participates in the enforcement and promotion of human rights. Traditionally, states were the main actors responsible for protecting their citizens, but today, international organisations, courts, NGOs, and transnational advocacy networks play equally influential roles. Institutions such as the International Criminal Court (ICC) can prosecute individuals for crimes against humanity, while global civil society groups like Amnesty International mobilise international awareness against rights violations. However, the effectiveness of global human rights protection is still limited by power imbalances. Powerful states may resist international scrutiny, and multinational corporations may use their economic influence to avoid accountability¹⁹. Upendra Baxi²⁰ warns about the rise of “investment-friendly” human rights, where corporate interests are prioritised over community rights, especially in developing countries. At the same time, weaker states often lack resources to implement global standards despite their willingness to do so. These issues show that while human rights are increasingly recognised as universal, access to justice remains uneven. Ensuring justice across borders therefore requires not only strong international norms but also equal global participation, fair institutions, and a commitment to protecting vulnerable communities from both state and corporate abuses.

Global Governance and International Justice Systems

Global governance has become essential in managing the complex legal and political challenges of an interconnected world. As globalisation reduces the ability of individual states to address issues alone such as climate change, terrorism, cybercrime, and large-scale migration international institutions play an increasingly important role in promoting order and justice. Bodies such as the United Nations (UN), the World Trade

¹⁷ *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010 (Supreme Court of Canada).

¹⁸ United Nations, *UNIVERSAL DECLARATION OF HUMAN RIGHTS* (1948).

¹⁹ Joseph E. Stiglitz, *GLOBALIZATION AND ITS DISCONTENTS* (W.W. Norton & Co. 2002).

²⁰ Upendra Baxi, *THE FUTURE OF HUMAN RIGHTS* (Oxford University Press 2002).

Organization (WTO), and the International Court of Justice (ICJ) help create rules and mechanisms that guide state behaviour²¹. The International Criminal Court (ICC), for instance, prosecutes individuals responsible for genocide, war crimes, and crimes against humanity, demonstrating how justice today can extend beyond borders. These institutions promote cooperation, encourage peaceful dispute resolution, and set standards that help nations align their domestic laws with global expectations. At their best, they act as platforms where states can jointly address problems that no country can solve alone, showing how global governance is crucial to maintaining stability and fairness in a globalised world.

Despite their importance, international justice systems face major challenges that limit their effectiveness. One of the biggest issues is the tension between global authority and national sovereignty. Many states are reluctant to give international institutions the power to enforce decisions that may conflict with their national interests. For example, powerful countries may resist joining or complying with the ICC, fearing it could be used to prosecute their leaders or military actions. Similarly, the UN Security Council often struggles to act decisively during global crises due to political disagreements among its permanent members, each holding veto power. These structural limitations raise concerns about fairness, representation, and accountability. Moreover, global governance occasionally mirrors imbalanced power dynamics, wherein economically dominant nations exert greater influence over decision-making than their weaker counterparts²². This imbalance can lead to outcomes that favour certain countries or multinational corporations at the expense of vulnerable populations. As a result, while global governance offers essential tools for justice, it also highlights the need for reforms that make international institutions more democratic, transparent, and responsive to the needs of all states, especially those in the Global South.

CONCLUSION

The relationship between law, justice, and globalisation reveals how deeply interconnected the modern world has become. The ideas of Rawls, Nozick,

and Sen help us see fairness and freedom in new ways. The fact that multinational companies and international tribunals have power reveals that legal authority is no longer limited to the nation-state. Issues such as human rights protection, legal pluralism, and global governance demonstrate that achieving justice today requires cooperation across different levels of law and society.

Although globalisation has created opportunities for improved human rights standards, international cooperation, and shared legal norms, it has also exposed deep inequalities between countries and within communities. Power imbalances allow wealthy nations and large corporations to benefit more from global systems, while vulnerable populations often face barriers in accessing justice. International institutions, though important, are not always effective due to political disagreements, limited enforcement powers, and unequal representation²³. The persistence of these challenges shows that justice in a globalised world cannot be achieved by law alone; it requires commitment, shared responsibility, and political will at both national and international levels.

Recommendations arising from this study highlight the steps needed to strengthen justice in an interconnected world. First, international institutions such as the UN, WTO, and ICC should undergo reforms to make decision-making more democratic and ensure equal representation for countries in the Global South. Second, states must prioritise human rights and social welfare in global trade and investment agreements to prevent economic interests from overshadowing justice. Third, national governments should expand access to justice by investing in legal aid, public awareness, and community-based dispute resolution systems, echoing the need for legal empowerment emphasised by scholars like Professor Srikrishna Deva Rao. Finally, global rules must hold corporations accountable for environmental harm, labour exploitation, and human rights violations, ensuring that economic globalisation does not undermine human dignity²⁴. By adopting these measures, the global community can move closer to a fairer and more inclusive legal order that reflects the values of justice in a globalised world.

²¹ Philip Alston, *Ships Passing in the Night: The Promotion and Protection of Human Rights and the Global Trading Regime*, 16(5) EUR. J. INT'L L. 947 (2005).

²² Thomas Pogge, *WORLD POVERTY AND HUMAN RIGHTS* (Polity Press 2002).

²³ Bruce Broomhall, *INTERNATIONAL JUSTICE AND THE INTERNATIONAL CRIMINAL COURT* (Oxford University Press 2003).

²⁴ John G. Ruggie, *UNITED NATIONS GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS* (United Nations 2011).