



Rule-Ordered Relationships

Equality under the law is critical to the fair treatment of all individuals. This article uses historical cases to analyze how rule-ordered relationships should be organized to develop and sustain this important goal in the struggle for liberty for all. Important cases are drawn from non-Western societies.

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Introduction

Equality under the law has taken center stage in [“the struggle for liberty” for all individuals](#). It materializes when human relationships are ordered by rules such that elites and non-elites enjoy the same privileges, and no rule-breakers are immune from sanctions. Indeed, equality under the law upholds impartial treatment for all citizens when rules or laws are consistently applied irrespective of citizens’ sociopolitical and economic status. Conceived and enforced this way, equality under the law represents a major component of the rule of law, which subjects citizens and their leaders, as well as their decision centers, [to the law](#).

The equal standing of individuals under the law mimics the equal access to God’s Kingdom by Christians. Entering God’s Kingdom represents the goal of Christians. Generally, the entry rules are twofold. First, individuals [must accept Jesus Christ as their personal Savior](#). The privilege of accepting Jesus Christ equally extends to all willing individuals irrespective of age, gender, ethnicity, race, nationality, and other forms of socioeconomic and political standing. Secondly, the followers of Jesus Christ

complementary access rule of holiness by [declaring](#) that “But he that shall endure unto the end, the same shall be saved or shall finally enter God’s kingdom,” irrespective of when and where the individual accepted Jesus Christ as the personal Savior and irrespective of the role of the individual in the church. Living on these terms and conditions gives Christians equal access to God’s Kingdom.

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As important as equality under the law and faith is, one pertinent question turns upon how human relationships within political systems should be ordered to develop and sustain equality under the law. A wide divergence of opinions marks the landscape of this challenge. This article engages two perspectives: Leviathan rule-ordered relationships—or the violence explanation—and polycentric rule-ordered relationships. Leviathan rule-ordered relationships represent interactions in political systems where elites—or the Leviathan—operate as the source of laws and cannot be subjected to the same sanctions as non-elites or common citizens. When the submission of non-elites to elites peaks for sociopolitical reasons and concomitantly threatens the privileges of elites, elites would [voluntarily transition to equality under the law](#) for elites and non-elites.

Even though equality under the law for elites and non-elites is antithetical to Leviathan [rule-ordered relationships](#), the violence explanation literature fails to address the mechanisms for sustaining equality under the law once it emerges. In sharp contrast, polycentric rule-ordered relationships turn upon relationships of self-governance in which people govern with one another as coequals while developing their own rules to organize their relationships with one another, mediate and moderate conflicts, facilitate cooperation, and deal with public policy problems [in ways that fit both their circumstances and the scale of public policy problems](#). In polycentric systems, the multiplicity of functionally independent and overlapping decision centers interact at multiple levels within a [covenant-driven system of overarching rules](#). Indeed, equality under the law and polycentric rule-ordered relationships [sympiotically function and exist](#). This essay, therefore, critically examines the plausibility and implications of these two perspectives for how political orders should be organized to develop and sustain equality under the law. It uses historical examples that include non-Western cases that are obscured in the literature.

It is often argued that the emergence of equality under the law fundamentally hinges on violence associated with the organization of human relationships that enforces the conduct of public affairs with reference to an elite-controlled center of power. The elite-guided center of power, which Hobbes calls the Leviathan, serves as the only route out of the chaotic state of nature in which people individually exercise unlimited freedom and disregard the social bonds and civic duties that can force people as coequals to pursue their own interests and, at the same time, consider the interests of others. The fear of all-against-all, therefore, necessitates central control by an undivided and unlimited sovereign power to whom non-elites or common citizens must equally submit to break out of the insecurity of the state of nature. The Hobbesian view underlies the modern-day centralization of power by which public affairs are conducted with reference to a single center of power controlled by privileged elites. It is presumed that the greater the power captured by the central authority the more it can build mutual trust among diverse individuals and ensure prosperity for all.

Indeed, Leviathan rule-ordered relationships imply that elites, as the source of laws, are above the law. As privileged citizens, elites cannot be subjected to the same sanctions as non-elites. Strictly considered, equality under the law and elite-controlled centers of power are antithetical to each other. It is then puzzling how Leviathan rule-ordered relationships can yield and sustain equality under the law. Yet it is often argued that elites would voluntarily choose to be bound by the same laws as non-elites—equality under the law—when “the extent of coercive punishments that can be imposed on deviators decreases—for technological, political or social reasons.”

The experience of Athens from the sixth century has been used to illustrate this proposition. Before the invention of iron weapons, Athenian elites monopolized expensive bronze weapons as an instrument of domination over non-elites. The tide, however, allegedly turned sharply when the growing availability of cheaper iron weapons paved the way for Athenian non-elites to bear arms. The radical shift in military technology significantly reduced the ability of elites to monopolize the use of violent means at a time when non-elites successfully mobilized uprisings against elites. The sociopolitical and technological transformations allegedly forced institutional change that eventually pushed elites inevitably in the direction of equality under the law. However, this violence claim is troubling in the sense that equality in Athens appears to be less of the result of voluntary action by Athenian elites than of

Athens' rival state, did not produce the same result for all citizens.

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Similarly, if successful uprisings by Athenian non-elites motivated Athenian elites in the direction of equality under the law for all, successful uprisings against colonial elites in Africa that led to independence should have meant equality under the law for all in African countries. Those uprisings in Africa, however, ended up producing new African elites. Since independence, African elites have controlled and deployed the monopolized instrument of violence to repress the freedom of common citizens. It is also puzzling why easy access to weapons and arms proliferation in the African Sahel, which have threatened elites' control, as in Athens, have not motivated African elites to the point of having the same privileges and rights as non-elites, including the right to bear arms against cross-border terrorist groups in the Sahel countries of Burkina Faso, Chad, Mali, Niger, and Nigeria.

Another aspect of the violence argument maintains that when elites realize that their control over non-elites keeps the Leviathan political system technologically and economically backward, elites are more likely to transition to equality under the law. It is often claimed that the transition can unify elites and non-elites as equals and strengthen the state institutions against external political and economic threats. Those who subscribe to this view usually reference 19th century Japan under the hierarchical structure of the Tokugawa shogunate within which non-elites were not entitled to certain privileges and rights, including the right to bear arms. The Japanese Leviathan system "kept Japan technologically and economically backward, a problem that was laid bare when Commodore Matthew C. Perry sailed into the Bay of Tokyo in 1853–4 and forced Japan to open to foreign (especially American) trade." In efforts to strengthen the Japanese political system against foreign threats, the perceived risk of Perry's fleet allegedly forced the Japanese elites to extend the same rights to common citizens as elites, including the right to bear arms.

In sharp contrast, the weak economic and technological standing of African countries has yet to yield the same result as in 19th century Japan. Irrefutably, African countries are economically and technologically weaker than Euro-American countries, which are global command centers for international trade and cutting-edge technology. For over 100 years African countries have operated as raw material producers—or primary

their primary products. In fact, most Africans wallow in abject and crushing poverty, with the external debt stocks of African countries estimated at over \$600 billion in 2021, which were 24% of their combined GDP and more than the combined gross domestic product (GDP) of 40 out of 54 African countries. The debt stocks, whose debt servicing obligations tower over revenue for individual African countries, are [steadily on track](#) to exceed one trillion dollars by the end of 2023. Yet the economically and technologically weak standing of African countries has yet to translate into motivation for African elites to voluntarily follow the path of equality under the law for all citizens.

Overall, the violence explanation ignores the mechanisms for sustaining equality under the law, even if equality under the law emerges from Leviathan rule-ordered relationships. Without mechanisms for sustaining equality under the law, equality under the law may be short-lived or completely fade out of existence as quickly as it emerges. The Yoruba state of Ile-Ife in southwestern Nigeria demonstrates this crisis. During the 19th century, Ile-Ife operated a hierarchical political system where Ife—a Yoruba group—enjoyed landowning rights that were not extended to Modakeke—another Yoruba group. Ife were the main Yoruba group in Ile-Ife until 1827 when Modakeke migrated to the Yoruba state.

Before 1827, Modakeke had been part of the Old Oyo Empire, which was invaded and destroyed by Hausa-Fulani from today's northern Nigeria. In assuring Modakeke of the same landowning rights as Ife, "Ife leaders went as far as to exploit the ancient traditions which represent Ile-Ife as the ancestral home of all Yoruba peoples, in order to persuade many of the refugees [Modakeke] to come back home now that things were bad abroad."¹ However, Ile-Ife's hierarchical political system, which privileged Ife in landholding, lacked the mechanisms for sustaining equality under the law.

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In about 1835, the extension of equality in landholding to Modakeke crumbled when Ife began to treat Modakeke as strangers because Modakeke demanded more equality. In treating Modakeke as strangers, Ife denied Modakeke landowning rights. The resultant tensions peaked when members of the two Yoruba groups distanced themselves from the geographical area controlled by the hostile group. In showing resentment against Modakeke, Ife whipped up anti-Modakeke sentiments and made

[and 2000.](#)

Polycentric Rule-Ordered Relationships

Admittedly, equality under the law is not inherent to Leviathan rule-ordered relationships, which cannot sustain it because force, as in *Ile-Ife*, strikes fundamentally at the constitutional roots of elite-controlled polities, in which authoritarianism [serves as](#) the hallmark of control. For equality under the law to survive once it emerges, the weaknesses of Leviathan rule-ordered relationships, therefore, demand a different form of organizing human relationships and force critical thought about a challenge Alexander Hamilton [poses](#) in *Federalist Papers* No. 1: "...whether societies of men are really capable or not of establishing good government—equality under the law—from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force." In this regard, studies have shown that polities organized through reflection and choice—covenanting—foster and sustain equality under the law and evolve as self-governance systems.

Covenanting—reflection and choice—is the process by which humans, as equals, deliberately come together to form self-governance systems, commit to their fundamental equality under the law, and retain their basic rights. The process, sometimes, manifests as mutual agreement among individuals who rebel against centralized systems of subordination and/or settle in new places that do not have established governance systems suited to the desire for equality for all. As excellently captured by John Kincaid in 2002, covenants [yield](#) "a system of voluntary self-rule and shared-rule [based on] a binding partnership among coequals in which the parties to the covenant retain their individual identity and integrity while creating a new entity, such as a family or a body politic, that has its own identity and integrity as well."

The development and sustainability of equality under the law are, therefore, inherent to self-governance. Self-governance is people governing with one another who, as coequals, develop their own rules to organize their relationships with one another, mediate and moderate conflicts, facilitate cooperation, and deal with public policy problems in ways that fit both their circumstances and the scale of public policy problems. Self-governance [tends to prevent](#) Leviathan rule-ordered relationships because of its focus on the primacy of people's interests, creativity, and values that are not "[ever being concentrated in a single mind, or being subject to those processes of deliberate coordination and adaptation which a mind performs.](#)" The prospect of

as coequals "[depends...upon the emergence of patterns of polycentricity](#)" or polycentric governance "[that might apply to the whole system of human affairs](#)."

To be sure, polycentric governance neither has a place for unqualified decentralization nor necessarily implies the absence of a central authority. Instead, polycentric governance involves a multiplicity of functionally interdependent and overlapping decision centers that interact at multiple levels within a system of overarching rules, laws, norms, and/or shared values as the rule of law to which decision centers and their citizens are similarly held accountable. The key features of polycentric governance then [include](#) multiple decision centers, the autonomy of decision-making authority for each decision center, overlapping jurisdictions among decision centers, multiple levels of interactions among decision centers, an overarching system of rules. As [a reflection](#) of the equality of decision centers under the laws, the territory of decision centers [cannot](#) be altered without the consent of the people within the respective jurisdictions of those centers. Polycentric rule-ordered relationships, therefore, [facilitate](#) horizontal and vertical cooperation, by which decision centers may exert their equality under the law by decentralizing responsibilities to other decision centers and recentralizing those tasks without usurping the decision-making authority of the other constituent decision centers.

Decision centers are not necessarily uniform but can vary in size and type and interact horizontally and/or vertically through processes of cooperation, competition, and conflict and conflict resolution. Diverse decision centers can work together horizontally and/or vertically to [plan and provide](#) mutually beneficial services by communicating with each other as well as by [mobilizing and sharing](#) resources. Interdependence and overlap among decision centers arise inevitably from services and functions that affect more than one decision center in "[endless shifting configurations of competition and collaboration](#)" that prevent long-term control of decision centers by central and local despots. Therefore, functional interdependence and overlap at multiple levels would make it necessary for decision centers to interact with each other at multiple levels while making their own decisions as coequals under the law.

As evidence has shown, polycentric rule-ordered relationships provide people with multiple means of mediation and moderation to address and improve policy outcomes. However, studies have acknowledged that "[we cannot have the best of all possible worlds](#)" because "[no governance system is perfect](#)." As a result, there may be

governance when local tyrannies size control of those decision centers for their private benefits. Local tyrannies may be dominant groups and/or local leaders “[who only change rules that they think will advantage them](#).” However, these threats of local elite control, unlike in systems of Leviathan rule-ordered relationships, tend not to be systemwide because polycentric governance systems exhibit duplication and redundancy that in turn generate backup mechanisms to reduce the vulnerability of the whole system of polycentric governance to despotism.

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Overall, “[polycentric systems have considerable advantages given their mechanisms for mutual monitoring, learning, and adaptation of better strategies over time](#).”

Monitoring is critical to imposing effective limits on public officials and sustaining equality under polycentric rule. In achieving this goal, polycentric rule-ordered relationships provide mechanisms for mutual monitoring as a way of checking that citizens and their leaders equally follow laws. Rule-following behavior tends to uphold and strengthen equality under the law as violators receive sanctions based on the seriousness and context of the violation and as citizens have rapid access to low-cost arenas to resolve disputes such that nobody can be shut out or no concerns are ignored or repressed. For effective limits on public officials—and the rule of law—to survive in polycentric governance systems, James Madison, in *Federalist Papers* No. 51, therefore, [opines](#) that “a dependence on the people is, no doubt, the primary control on the government” as well as “the necessity of auxiliary precautions” as a system of checks and balances that citizens can utilize to subject leaders to effective limits.

The 19th century polycentric rule-ordered relationships in Abeokuta and Ibadan—two Yoruba polities in southwestern Nigeria—illustrate how equality under the law can emerge and, at the same time, be sustained. Restless soldiers and outcasts, who founded Abeokuta and Ibadan in 1830 and 1829, respectively, were tied together by the shared experiences of oppression and [covenanted](#) or mutually agreed to the development and sustainability of equal standing in political and property relationships for all individuals. In fostering equality for all individuals, the belief that landownership was the nontransferable ancestral right of the founding lineage, unlike in Ile-Ife, was deemphasized through mutual agreement. As experts have confirmed, there was no lineage land and no landless person in [Abeokuta](#) and [Ibadan](#), which prevented the concentration of economic and political power in the hands of a few



individuals as citizens in each polity. In Ibadan, for example, “everybody belonged or was attached to a compound [a local government] and each compound had sufficient land to give its members.” In enhancing equality under the law for natives and newcomers, the Egba Yoruba in Itoko, Ijemo, and Ikopa townships in Abeokuta waived “their rights to the land so that all the newcomers might have some land to cultivate,” with successive waves of newcomers given land to own.

Traditionally, political office-holding was hereditary and created a citizen-stranger dichotomy in some Yoruba states, including Ile-Ife . As a covenant term for sustaining equality under the law in Abeokuta and Ibadan, however, merit or “personal achievement rather than ascription became the criterion for holding office.” This covenant tradition not only prevented the concentration of leadership prerogatives in the hands of few individuals or groups but also promoted individual liberty by giving diverse individuals an equal chance to compete for leadership positions in the two Yoruba polities. In the final analysis, “the Yoruba idea of hereditary office had little meaning.” In attracting more diverse individuals as coequals, the tradition guiding group allegiance was voluntarily relaxed in Abeokuta and Ibadan during the 19th century. Overall, the covenanting process yielded and sustained equal standing for all individuals in Abeokuta and Ibadan.

Conclusion

Empirical evidence and theoretical insights show that Leviathan rule-ordered relationships may yield equality under the law. However, this type of rule-ordered relationships lacks the mechanisms for sustaining equality under the law. In sharp contrast, polycentric rule-ordered relationships can give birth to equality under the law and sustain it, due essentially to the symbiotic interaction between polycentric governance and equality under the law. It is, therefore, important for those who care about equality under the law to take seriously the polycentric governance mechanisms for fostering and sustaining equality under the law.

NOTES

¹quoted in S.A. Akintoye’s 1970 essay “Ife’s Sad Century,” featured in *Nigerian Magazine*.



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