

## DEMOCRACY UNDER THE RULE OF LAW: BETWEEN LEGAL FORMALISM AND SOCIAL JUSTICE

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### Abstract

This research departs from the tension between the idealism of the rule of law and the reality of legal formalism, which often overlooks social justice. This research aims to understand the relationship between democracy and the rule of law in bringing substantive justice to society. The method employed is a qualitative study with a normative-juridical approach, utilizing data sources from both primary and secondary sources. Data analysis is conducted using descriptive and analytical techniques. The study's results indicate that the rule of law does not fully reflect social justice, as legal formalism remains strong; therefore, a more humane and value-oriented reinterpretation of the law is necessary.

Keywords: democracy, rule of law, legal formalism, social justice,

### 1. Introduction

Ideally, modern democracy rests on the principle of the rule of law, where the law is the highest guideline in the administration of the State.<sup>1</sup> Within this framework, the law functions not only as an instrument of controlling power, but also as a guarantee of the protection of human rights, justice, and equality of citizens before the law. A democracy that operates under the rule of law should present a system that is transparent, accountable, and in favor of the public interest, rather than the interests of a particular political party or group.<sup>2</sup>

However, in the reality of constitutional practice, the rule of law is often reduced to mere normative formalities. Law tends to be understood rigidly and procedurally without considering the substance of social justice.<sup>3</sup> This phenomenon is seen in various cases of discriminatory law enforcement, blunt upwards but sharp downwards, as well as in public policies that do not fully reflect substantive democratic values. When legal formalism dominates without being accompanied by social sensitivity, the law loses its function as a tool of liberation and instead becomes an instrument of justification for injustice.<sup>4</sup>

As a result, democracy loses its substantive meaning. Social inequality is widening, public trust in legal institutions is declining, and public participation in the democratic process is weakening. This condition reveals that the rule of law, when carried out rigidly and formalistically, is unable to guarantee social justice, which is at

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<sup>1</sup> Jarot Digdo Ismyo et al., *Modern Legal State Theory* (Pt. Sonpedia Publishing Indonesia, 2025).

<sup>2</sup> Ridwan Syaidi Tarigan, *Constitutional Law Reform: Towards Justice and Balance* (Ruang Berkarya, 2024).

<sup>3</sup> Ahmad Heru Ramadhon and Mh Sh, *Constitutional Dynamics* (Jakad Media Publishing, 2023).

<sup>4</sup> Ridwan Syaidi Tarigan, *Towards a Just Rule of Law* (Ruang Karya Bersama, 2024).

the heart of the democratic spirit. Therefore, it is essential to reaffirm the relationship between democracy and the rule of law, ensuring that both are not only procedural but also oriented towards human values, morality, and social justice as the essential goals of a democratic and civilized State of law.

Several previous studies have been conducted. Soesi Idayanti's research.<sup>5</sup> It shows that the rule of law places the law as the highest power to uphold justice, strengthen democracy, and protect the rights of every citizen. A study of Mandala Kuryadi and Nuril Firdausiah reveals that the rule of law is supreme, but corruption and weak legal awareness hinder its effective implementation. A study by Richard Anggi Pamungkas et al.<sup>6</sup>) reveals that legal inequality exists due to political influence and weak integrity, underscoring the need for ethical reform in the pursuit of justice. Research by Tyas Winny Pralampita.<sup>7</sup> He stated that Indonesia's history recorded violations of the rule of law and democracy, so it was necessary to strengthen autonomous institutions and law enforcement. Research by Udiyo Bauki and Rudi Subiyakto.<sup>8</sup> Stating that the rule of law and democracy are the mandate of reform to build a just society through strengthening institutions, public participation, and fair law enforcement.

Previous research has focused more on the position of law as the supreme power, the challenges of law enforcement, as well as normative recommendations such as strengthening institutions and increasing legal awareness. However, there has been no in-depth research examining the tension between legal formalism and social justice ideals that often arise in Indonesian democratic practices. Thus, this study fills this gap by analyzing how the rule of law interacts with the principles of social justice in the framework of modern democracy, as well as how a formalist approach to law can hinder the realization of substantive justice. This focus makes a new contribution to enriching the theoretical discourse and praxis of law enforcement oriented to the values of justice and humanity in the Indonesian democratic system.

The *novelty* of this research lies in its analytical and critical approach to the reciprocal relationship between the rule of law and democracy in the context of social justice in Indonesia. This research not only discusses the rule of law as a normative principle but also examines in depth the impact of legal formalism on the realization of social justice in a democratic system. Through this approach, the research presents a new paradigm that situates the rule of law not solely as a tool for legitimizing State power, but as a moral and social instrument that must be aligned with human values, justice, and public welfare. In addition, this research presents a conceptual contribution by integrating the dimensions of substantive democracy and the rule of

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<sup>5</sup> Soesi Idayanti et al., "Enforcement of the Rule of Law through the Implementation of Democratic Values," *Dictum: Journal of Law* 8, no. 1 (2020): 83–93. doi : 10.24905/dict.V8i1.85

<sup>6</sup> Richard Anggi Pamungkas et al., "Legal Justice in Practice: Testing Idealism against Reality," *Integrative Perspectives Of Social And Science Journal* 2, no. 03 June (2025): 4324–32. <https://ipssj.com/index.php/Ojs/Article/View/564>

<sup>7</sup> Tyas Pralampita, "The State of Law and Democracy Related to Its Implementation in Indonesia," *ISO Journal: Journal of Social, Political and Humanities Sciences* 4, no. 2 (2024): 18–18. Doi: <https://doi.org/10.53697/Iso.V4i2.1987>

<sup>8</sup> Udiyo Basuki and Rudi Subiyakto, "25 Years of Reformasi: Overseeing Efforts to Realize the Rule of Law and Improve the Quality of Democracy in Indonesia," *Staatsrecht: Journal of Islamic State Law and Politics* 3, no. 1 (2023). Doi:<https://doi.org/10.14421/Statsrecht.V3i1.3366>

law that is just, thus opening up space for the renewal of thinking about how law can be a means that is responsive to social reality without losing its juridical legitimacy. Therefore, this research offers a new perspective that is more humanistic and transformative in understanding the rule of law under the framework of Indonesian democracy.

This research aims to critically analyze the relationship between the application of legal formalism and the principle of social justice in the context of Indonesia's democratic implementation. This research aims to reveal the extent to which a legal orientation that overemphasizes procedural aspects and formal legality can hinder the realization of substantive democratic values that favor the interests of the people. In addition, this study aims to provide a new perspective on the importance of a more humanistic and contextual legal paradigm, so that the rule of law not only serves as a symbol of law enforcement but also functions as an instrument of social and moral justice in the State's life. Thus, this research is expected to contribute to strengthening a just democracy that is oriented towards the benefit of the wider community.

## **2. Methods**

This research employs a qualitative method with a normative-judicial approach, focusing on legal analysis as a norm that governs people's lives and their relationships with democratic values and social justice. This approach was chosen because it can explain the relationship between the rule of law, legal formalism, and social justice in the context of Indonesia's democratic implementation.

The data sources in this study comprise both primary and secondary data. Primary data sources include laws and regulations and official State documents that are the basis for the implementation of law and government, such as the 1945 Constitution of the Republic of Indonesia, Law Number 39 of 1999 concerning Human Rights, Law Number 48 of 2009 concerning Judicial Power, as well as decisions of the Constitutional Court and the Supreme Court relevant to the issue of the rule of law and social justice. Meanwhile, secondary data sources were obtained from various scientific literature, including books on law and legal philosophy, national and international scientific journals, research reports, and academic articles discussing democracy, the rule of law, legal formalism, and social justice.

The data analysis employs a descriptive-analytical method, which involves describing the facts and legal phenomena that occur, and then analyzing them critically and in-depth. This analysis aims to find a substantive understanding of how the rule of law can strengthen democracy while realizing social justice in the practice of State life in Indonesia.

## **3. Result and Discussion**

### **3.1. Dialectic of the Rule of Law and Democracy in the Socio-Political Context of Indonesia**

The rule of law and democracy are the two primary pillars of the modern legal State, which support each other in achieving justice.<sup>9</sup> In Indonesia, the rule of law demands the obedience of State administrators to the law, while democracy affirms the people as the source of legitimacy of power. However, in practice, there is often a

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<sup>9</sup> Achmad Fauzan Ramadhan, "Law and Democracy: Synergy of the State of Law and Citizen Participation," *Islamic Law: Siyasa Journal* 10, no. 2 (2025): 192–202.  
DOI:<https://doi.org/10.53429/iljs.v10i2.1814>

tension between formal legal certainty and demands for social justice. Following the 1998 reform, law enforcement efforts were implemented through the establishment of independent institutions and the application of the principle of the rule of law; however, political and economic interests continued to influence the enforcement of justice.<sup>10</sup> Therefore, the rule of law is not sufficiently understood formalistically, but must reflect the moral and social dimensions that favor the people and ensure the protection of human rights.

The following table illustrates the dialectical relationship between the rule of law and democracy in the Indonesian socio-political context:

Aspects	Rule of Law	Democracy	Dialectical Relationships
<b>Philosophical Foundations</b>	Law as the highest power ( <i>rule of law</i> )	The people as a source of legitimacy of power ( <i>rule by people</i> )	The law must serve to protect the rights of the people and limit power
<b>Ideal Destination</b>	Certainty, justice, and social order	Participation, freedom, and social justice	The two met in an effort to realize welfare and equality
<b>Practical Problems</b>	Political intervention and weak law enforcement	Manipulation of people's votes and money politics	Social inequality lowers the quality of law and democracy
<b>Contemporary Challenges</b>	Law enforcement that is still discriminatory	Procedural democracy without the substance of justice	It is necessary to integrate moral and social values so that the law is not rigid and democracy is not permissive
<b>Strengthening Direction</b>	Reform of legal institutions and the legal culture of society	Strengthening public participation and social control	Synergy of law and democracy towards substantive justice

The table above explains that the rule of law and democracy must complement each other to realize justice and order. Without democracy, the law becomes authoritarian; Without laws, democracy turns into anarchy. Therefore, a legal paradigm that is not only formalistic but also socially and democratically oriented is needed for the sake of upholding substantive justice.

### 3.2. Criticism of Legal Formalism and Its Implications for Social Justice

Legal formalism emphasizes adherence to texts and procedures without considering moral values or social context.<sup>11</sup> In practice in Indonesia, this approach is often seen as a guarantee of legal certainty, but in reality, it distances the law from its

<sup>10</sup> Moh Bagus, "The Variety and Development of Law Enforcement in Indonesia after the Reform," *Al-Jinayah: Journal of Islamic Criminal Law* 8, no. 2 (2022): 141–64. DOI: <https://doi.org/10.15642/Aj.2022.8.2.141-164>

<sup>11</sup> Riki Nurdiansyah, "Ethical Dilemmas in the Judiciary Aligning Legal Certainty and Substantive Justice," *HARISA: Journal of Law, Sharia, and Social* 2, No. 1 (2025): 217–30. DOI: <https://doi.org/10.62281/G1f6ss61>

primary goal, which is substantive justice.<sup>12</sup> Rigidly enforced laws often result in procedurally valid but socially unfair decisions. In a complex society like Indonesia, legal formalism creates a gap between legal norms and the social realities that exist in society.<sup>13</sup> It is at this point that several important questions arise that need to be studied in depth:

1. Positive law often loses social sensitivity because it focuses more on legality than on benefits.
2. Overly formalistic legal practices have the potential to entrench the dominance of power and ignore justice for the weak.
3. Law enforcement that does not consider moral and human values will distance the law from noble ideals as an instrument of welfare and social justice.

The law often ignores the social, economic, and cultural realities of society, thus losing its moral and humanitarian functions. As a result, the law has become an instrument of power, rather than a means of justice and protection for the people. Therefore, a paradigm shift is needed towards an empathetic, humanistic, and contextual approach to law, with people and justice at the center. Law enforcement officers must play a role not only as enforcers of the rules, but also as genuine seekers of justice who understand social conditions. The rule of law should incorporate moral values and impartiality towards the people, so that the law does not stop at formal legality, but becomes a genuine instrument of social justice.

### **3.3. Reconstruction of the Rule of Law as an Ethical and Social Instrument in Democracy**

a The reconstruction of the rule of law is an urgent need in strengthening the foundations of Indonesian democracy.<sup>14</sup> So far, law has often been positioned solely as a tool of power, legitimacy oriented towards formal certainty, not substantive justice. As a result, the law loses its ethical and social dimension, failing to serve as a means of liberation for structurally disadvantaged groups. The rule of law must be understood not only as a normative principle, but also as a moral value that ensures that the law functions to protect human dignity and ensure common welfare.<sup>15</sup> For the reconstruction of the rule of law to be effectively realized in the Indonesian democratic system, a renewal direction based on the following principles is needed:

1. Integration of Moral and Social Values: Any application of law must be oriented towards substantive justice by considering the humanitarian dimension, not just formal legality.
2. Balance between Certainty, Utility, and Justice: The valid rule of law must harmonize normative aspects with the social needs of society, ensuring that the law is not separated from reality.

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<sup>12</sup> Faiz Rahmanto, "Legal Political Relations, Moral Values, and Legal Certainty in the Perspective of the Principles of Justice in Indonesia," *Scientific Journal of Advocacy* 13, no. 2 (2025): 440–58.

<sup>13</sup> Laurensius Arliman, "Law and Society: The Role of Legal Sociology in Understanding the Interaction of Legal Systems with Social Realities," *Encyclopedia Of Journal* 6, No. 3 (2024): 10–12. Doi: <https://doi.org/10.33559/Eoj.V6i3.2255>

<sup>14</sup> Ali Muhdi, "Reconstructing Indonesia's Democratic Civilization Without Money Politics," 2 (2024): 765–794. Taken from <https://proceedings.uinsa.ac.id/index.php/iconfahum/article/view/1854>

<sup>15</sup> Haekal Amalin Firdany Putra et al., "Building a Strong Legal Culture to Support the Rule of Law," *Al-Zayn: Journal of Social Sciences & Law* 3, no. 2 (2025): 983–90. Doi: <https://doi.org/10.61104/Alz.V3i2.1256>

3. Public Participation in the Legal Process: The public needs to be involved in the drafting and supervision of the law so that a sense of ownership and trust in the legal system is created.
4. Paradigm Transformation of Law Enforcement: Law enforcement must shift from an elitist and repressive approach to a participatory, empathetic, and socially just approach.

In modern democracy, the valid rule of law demands a balance between legal certainty and social justice.<sup>16</sup> The integration of moral values and empathy makes the law not only juridically valid, but also ethically and contextually just. On this basis, the law functions as an emancipatory means that strengthens democracy, guarantees equality, and realizes sustainable social justice for all citizens.

### 3.4. Integrative Model between Substantive Democracy and the Rule of Law

The integrative model between substantive democracy and the rule of law offers a solution to the tension between legal certainty and social justice.<sup>17</sup> Substantive democracy emphasizes participation and equity, while the rule of law controls power to be in harmony with the principles of justice and the constitution.<sup>18</sup> The two must work together so that the law does not lose its social legitimacy and democracy remains based on moral values. The law in this model serves as an ethical and social mechanism to protect the public interest and ensure equitable justice.

The following table illustrates the comparison of characteristics between *procedural democracy*, *substantive democracy*, and *the rule of law* in an integrative framework:

Aspects	Procedural Democracy	Substantive Democracy	A Just Rule of Law
<b>Main Orientation</b>	Political processes and procedures (elections, institutions)	People's participation and well-being	Social justice and humanity
<b>The Role of Law</b>	Guarantor of political procedure	Protector of citizens' rights and freedoms	Moral and social instruments for public welfare
<b>Community Engagement</b>	Limited to elections	Active in public policy	Supervision and participation in law enforcement
<b>Final Destination</b>	Legitimacy of political power	Equitable distribution of justice and human rights	A law that is humane, fair, and with integrity

This integrative model emphasizes that justice is not born from formal compliance with the law alone, but through the active participation of the community in legal processes and public policies. The synergy between democracy and the rule of

<sup>16</sup> Moody Rizqy Syailendra et al., "The Role of the Constitution in Maintaining the Principles of Democracy and the Rule of Law in Indonesia," *Multilingual: Journal Of Universal Studies* 4, no. 4 (2024): 250–64. <https://ejournal.penerbitjurnal.com/index.php/multilingual/article/view/999>

<sup>17</sup> At the end of the day, and the last sight of Nur Hidayati, *Instrumentalization of the Law and Resilience of Democracy*, 4, No. 1 (2025). Doi:<https://doi.org/10.53038/Tsyr.V4i1.420>

<sup>18</sup> Wardatul Mutmainnah and Siti Tiara Maulia, "The Application of the Democratic System to Maintain Unity and the Constitution and Law Enforcement," *Journal Of Practice Learning And Educational Development* 4, No. 2 (2024): 111–17, <https://doi.org/10.58737/Jpled.V4i2.284>.

law creates a system that is adaptive and oriented towards human values. Thus, the rule of law serves not only as a guardian of legality but also as a protector of social justice, thereby facilitating democratic, inclusive, and equitable legal governance.

#### 4. Conclusion

This research emphasizes that the rule of law and democracy are two fundamental pillars of the modern constitutional system, which ideally operate in a balanced and complementary manner. Based on an analysis of the dialectical relationship between the two, it was found that legal practice in Indonesia remains dominated by a formalist orientation, which prioritizes procedural certainty over the substance of social justice. This condition causes the rule of law to lose its moral meaning, while democracy is trapped in superficial proceduralism without any real substance of justice. The main findings of the study indicate that rigid legal formalism actually undermines democratic values, as it fails to address social realities and the needs of the people adequately. The valid rule of law should not only guarantee legality but also promote substantive justice that favors humanity and the common good. Therefore, a more humanistic and contextual reconstruction of the legal paradigm is needed, one that places moral values, social empathy, and public participation at the core of a democratic legal system.

The main contribution of this research lies in efforts to build an integrative model between substantive democracy and the rule of law that is just. This model offers conceptual advances in the fields of law and political science, as it proposes a new perspective that law is not merely an instrument of power, but also a moral and social instrument for realizing public welfare. This research also contributes to the theoretical discourse on the importance of striking a balance between legal certainty and social justice in fostering an inclusive and civilized Indonesian democracy. As a further direction for research, an empirical study should be conducted to test the effectiveness of applying the principles of the rule of law and justice in judicial and political institutions. A cross-disciplinary approach between law, philosophy, and the social sciences is needed to strengthen the moral and sociological foundations of a legal system that truly serves the interests of the people and sustainably guarantees social justice.

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