

Sociological Analysis of the Rule of Law in the Islamic Republic of Iran

Garineh Keshishyan Siraki¹; Shahram Ghazizadeh²

1. Associate Professor, Department of Political Science and International Relations, South Tehran Branch, Islamic Azad University, Tehran, Iran
2. Department of Political Science and International Relations, South Tehran Branch, Islamic Azad University, Tehran, Iran

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Abstract: Depending on which of the three sources of "collective representation," "divine law," and "rule of the people" is the origin of law, there are multiple perceptions, rights, and duties for the people and states. In the I.R of Iran, the law is nourishing by two sources: "infrastructural origin of divine law" and "superstructural origin of the rule of people." The I.R. of Iran's unique structure that puts the two axes of "Islamism" as divine law and "Republicanism" as a modern law together causes widespread paradoxes. In formulating rules and laws, the Iranian legislature, seeks to establish social and communicative laws for the Iranian semi-traditional semi-modern society, leading society to confusion. These contradictions have intensified in recent years, with the strengthening and expansion of cyberspace and social networks. Therefore, mutual interaction based on communicative rationality in the I.R. of Iran is still in its infancy.

Keywords: The rule of law; Constitution; Divine law; the Islamic Republic of Iran; the rule of people.

Introduction

Among many delineations of "the rule of law," it seems there is a consensus in which all narrations have crossed that point; "rule of law is essential for the political and social management." By this logic, from ancient times to the present day, all human societies with different cultures and political systems emphasize the rule of law. The fundamental question is why are there significant differences in the concept of the rule of law in different countries? Why do democracies accuse totalitarian regimes that claim the absolute rule of law of evading law? Afterward, the article's central questions on the origin of the rule of law in the I.R. of Iran are as below:

- From a sociological viewpoint, what are the characteristics of the concept of the rule of law in the Islamic Republic of Iran?
- Why does the I.R. of Iran disagree with Western countries in interpreting individuals and the state's rights and duties?
- Which forms of political, economic, or cultural development are the priorities for tracing a law-abiding society in the Islamic Republic of Iran?
- What is the role of intellectuals and aristocrats in political, economic, and cultural improvement in the Islamic Republic of Iran?

From a sociological perspective, a wide range of cultural and sociological diversities in the concept of law throwback to the "various origins of the rule of law" in different countries. In a general classification, three different sources may be considered for the rule of law; "Collective Representation," "divine law and sovereignty," and "rule of the people." Focusing on the Islamic Republic of Iran's Constitution represents the sovereignty is being fed by two different sources, "the infrastructural origin of the divine law" and "the superstructural origin of the rule of people." In the concept of divine law in the I.R. of Iran, the Law is God's legislative will, embodied in Islamic law, to attain human perfection and worldly and hereafter happiness. The necessity of this law is also justified on the rule of grace and proof of prophecy. At the same time, the rule of people is emphasized as a superstructure in this system. Thus, the people's vote and standpoints are acceptable only within the framework and foundation of divine

¹ Email: g_keshishyan@azad.ac.ir (Corresponding Author)

² Email: md_ghazizadeh@yahoo.com

law. (Shahram Nia, 2007, p.338). Because of the unique structural feature of the Islamic Republic of Iran, which combines the two provenances of "Islamism" and "Republicanism," The intersection of traditional discourse (divine law) and modern discourse (rule of people) violates the consensus view, bring into paradoxes in the domestic, regional and international levels. Over the last two decades, confrontations and contradictions in society have intensified by expanding globalization, Information and Communications Technology, and the development of cyberspace and social networks. The new situation has increased the political and social demands and applications of the civil society and superstructural originations. The domestic sphere has differentiated by expanding expectations and demands of the young generations who believe in people's sovereignty. In these circumstances, the rule of law in Iranian society had a sinusoidal function during the past twenty years; while in diplomatic relations, the innovative style of the rule of law in the I.R. of Iran challenges the common understanding and interaction with the international community based on Western democracy norms. Indeed, traditional and modern discourse polarization in the I.R. of Iran causes paradoxes at the political, economic, social, and cultural levels in domestic and foreign policies.

To get out of this situation, it is necessary to reconcile traditional and modern discourses, which, the different texture of these two discourse levels, make postmodern discourse in Iranian society seems inevitable. For this purpose, the realization of cultural development in society is emphasized as a priority. The certainty of cultural evolution is based on education, especially in childhood and in the family context. Aligned with the culturization, the family institution's promotion as the centroid of education for the next generation requires strengthening the middle class's population pyramid. For an influential middle class, economic development should be a national priority. This process and the interconnected chain will not lead to the desired result without the academics, intellectuals, elites, and aristocrats' evolution and discourse.

Literature Review

Throughout history, a cup of poison hemlock that the ancient Greek philosopher Socrates drank to prefer death to the accusation of "refusing the recognized Gods by the state" and of "corrupting the youth," and his obedience of the juror's verdict has highlighted the importance of the rule of law among Greek philosophers. It did not last long, the rule of law occupied Western philosophers' thoughts, and during the time, "supremacy of law" was defined as a strong barrier against irrationalism and tyrannical authoritarianism. Perhaps the most famous and complete codified statement of law is the one coined by A. V. Daisy in 1885, which defined the rule of law as "the government's adherence to equal rights and laws." This view was later echoed by great philosophers such as Locke, Hobbes, and Montesquieu, and the rule of law became one of the main topics of discussion in legal and political thoughts. (Zarei, 2012, p.125)

However, it can be claimed that until 2004 a precise practical definition of the rule of law was not provided. In that year, the United Nations defined: "the rule of law is a principle of governance in which all persons, institutions and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. Laying strong legal foundations for transparent, accountable, and efficient democratic institutions governed by this principle is crucial for establishing lasting and sustainable peace. An independent, impartial, and efficient judiciary is often seen as a necessary guarantee to political stability and security, indispensable to curb abuse of power." It is universally acknowledged that the rule of law is a cornerstone of all societies as one of the most important defining characteristics of democracy. Under the rule of law, everyone, both those who govern and those governed, is subject to the same law. It means that while the citizens of a democracy choose their leaders and representatives through elections, the rule of law defines the relationship between representatives and citizens. It all means that the rule of law has been important since the beginning of human civilization, and there is no sign of its decrement in the contemporary period, even though not everyone understands what it is all about.

Background of the rule of law in Iran

In the Iranians' political thought from ancient times to the Constitutional Revolution in 1905, the throne was a divine boon, and society was arising from God's providence and wisdom. The mutual relationship between the state and people was based on traditional patterns, namely the "king-helots scheme," according to which the king was the shadow of God on the earth. The life and property of the helots were under his control. The king's duty was to maintain the helots' security, and the task of the helots was merely obedience to the king. It means that the government's relations with the people were defined on the orbit of charisma and people in the serfdom system relationship framework. This situation met a severe legitimation crisis in the late 19th century when the idea of legislation and modernization in Iranian society came to some Iranian intellectuals and elites (both within the power structure and outside the sphere of power). By the victory of the Constitutional Revolution and the beginning of the National Congress's duties, the rule of law entered a new phase in Iranian society. Accordingly, a document with 51 articles was written as the "Constitutional Constitution" and signed by Muzaffar al-Din Shah Days before his death on June 28, 1906. As a result, after centuries and for the first time in history, Iran established its first parliament and written Constitution on August 18, 1906; Iran's society saw legislative reform as vital to its goals, and the Iranian monarchical government was transited to a constitutional monarchy.

In addition to establishing the National parliament as the legislature's central pillar, constitutionalists obtained economic and tax powers, including the exclusive right to use the country's natural resources, and made the validity of international and financial contracts conditional adoption the endorsement of the parliament. Afterward, the gap of the Constitution convinced the constitutionalists for supplementary constitutional law, and they attached new principles such as; "equality of the people, regardless of religion, sect or social class; liberty of the activities of press and parties; the separation of governmental power into three branches of legislative, judicial and executive; and accountability of ministers to the parliament." A few years after the Constitutional Revolution's victory - for reasons beyond this study's scope which goes back to the historical background and political culture - society's elites turned from their liberal and legalistic tendencies to theorizing the absolute monarchy. The result was that the Constitutionalists did destroy the traditional center of authoritarian power and instead established a new type of authoritarian Modernist government. (Katouzian, 1979, p. 533)

Lastly, the Pahlavi dynasty (1925-1979) used modern discourse to strengthen Leviathan's power and establish a new patriarchal system. (Abrahamian, 2011, p.130) The new patriarchy of the Pahlavi era changed society by the new social division of labor; the development of cities, the quantitative and qualitative enhancement in communications, and the population's spatial concentration altered the pattern of social solidarity from mechanical to organic. (Durkheim, 1990, p.279) However, during five decades, the Pahlavi dynasty's established institutions did not have the potency to meet the traditional part of society's demands and needs. As a result, social anomalies arose, and Islamic clerics and other religious forces organized the people against the established system, which led to the Islamic Revolution's victory in February 1979.

Method

The rule of law is one of the leading concepts in social sciences as a criterion in evaluating juridical and political systems. Undoubtedly, the way the rule of law is interpreted is the main element of the theoretical framework of the Constitution in a society. (Markaz Malmiri, 2006, p.7) The formal interpretation of the rule of law is the modality of state-citizen relations within a legal system. This interpretation (legal ruling) is inclined to the German interpretation of the law rule, called the legal state (government). In proper understanding, the democratic nature of a political system is not synonymous with the rule of law's reality, and the rule of law in a non-democratic system may be better established than in a democratic one. (Gozzi, 2007, p.237) The value interpretation of the rule of law goes further than the proper understanding, obliges the law to observe certain basic norms, and pursues goals beyond establishing order. In the value interpretation, the only state which is considered to follow the rule of law is the one that respects supra-legal norms (such as ethical, political, etc.) as well and regulates the exertion of authority on those bases. This concept has inspired many other principles like

constitutionalism, legalism, competence, responsibility, accountability and judicial control, separation of powers, and other related codes and ideas.

Principles of the Rule of law in the I.R. of Iran

- Ontology Principles

The pivot of the divine and monotheistic school and culture in the I.R. of Iran is "God," and man's prosperity and perfection are realized in His esteem and satisfaction. All beings, man included, are dependent on and needy to Him in their being and ideals. According to chapter 5 of the I.R. of Iran Constitution, absolute sovereignty over the world and man belongs to God. The Elevated God in the Quran (Muslim's Holy book) has said: "Say, "O Allah, Owner of Sovereignty, you give sovereignty to whom You will, and You take sovereignty away from whom You will. You honor whom You will, and You humble whom You will. In Your hand is [all] good. Indeed, you are over all things competent." At the same time, the Quran says that He has made man sovereign over his fate. The proof of this argument in verse 58 of Surah An-Nisa (women) of the Quran is: "Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice. Excellent is that which Allah instructs You. Indeed, Allah is ever Hearing and Seeing."

- Anthropology Principles

From the Islamic anthropological point of view, which is the legal and juridical basis of the I.R. of Iran, man is a combination of soul and body, and the soul is the essence. Man's humanity and reality depend on his soul, which is divine and celestial. According to the verses of the Quran and narrations (traditions), man is neither absolutely good nor bad but possesses many instincts and inclinations. (Aslani, 2011, p.258) On the one hand, he has a divine soul and essence, and on the other hand, to live in a material and finite world, he must have particular inclinations towards it too, although some human beings become imprisoned in these inclinations and worldly attachments and alienated from their divine nature. When free from human instincts and preferences, in the religious-monotheistic anthropology, man is "the word of God" because of his existence in the world, "Interlocutor for God" when in conversation (interaction) with divine signs and evidence, and from the viewpoint of knowledge to the truth of all divine beings and signs and names is the embodiment of the divine comprehensive Name "God's Vicegerent."

- Epistemology Principles

The monotheistic epistemology is neither irrational nor blind to experimental and empirical knowledge; but it considers empiricism and rationalism deficient and insufficient. These two refute all wisdom beyond them and reduce understanding of their horizons. That is why the monotheistic epistemology considers revelation as a source of knowledge and defines all other sources subordinate to it. The result of this wisdom is monotheistic ontology and anthropology. (Aslani, 2011, p.259) As mentioned above, the principles are cited in the Constitution and directly or indirectly referred to it. Article 56 of the Constitution considers God as the sovereign over the universe and man; "The absolute Sovereign over the universe and man is God, and He has made man sovereign over his fate. No one can divest man of this divine right or allocate it at the service and interests of an individual or group, and the nation will exert this right through channels which will be explained in the next articles."

The concept of religious democracy in the I.R of Iran

The analysis of events of the Islamic revolution of Iran in 1979 and widespread presence and participation in this event's formation shows that one of the Islamic Republic foundations was laid on democracy. After the revolution's victory, "religious democracy" was introduced as a statehood model based on divine legitimacy and people's acceptance in the framework of divine law and regulations. (Darvish, 2003, p.31) It operates to establish justice and create a base for man's material and spiritual growth. Religious democracy recognizes the essence of democracy and explains it by accepting the religious authority as a source of epistemology and introducing a specific statehood that combines value and instrumental rationalism. (Mirahmadi, 2009, p.207) In the background, the draft of religious democracy was first presented by Grand Ayatollah Naini (1860-1936) Iranian Shia Marja and then has considered by Imam Khomeini (1979-1989), the founder and late Leader of the Islamic Republic of Iran.

In Ayatollah Naini's view, a state is either a possession or a guardianship. A possessive form is a despotic political system where the ruler subdues his people. A state based on Guardianship is bound and restricted to law, and the law is formulated to secure the interests and aspirations of the people. According to the theory of the religious democracy of Imam Khomeini, the admissibility of the state, which is the result of the people's vote, is only the necessary condition but is not considered enough. From this perspective, the ruler must have the legitimacy to rule, which God gave him as the only legislator. When it comes to the executive level, other conditions (righteousness, justice, religious jurisprudence, sufficiency) must also exist determined by the legislator. Thus, what is aimed is admissibility through voting, among those who are ordained by the legislator. Today, the Imam Khomeini thought of religious democracy is implementing in the I.R. of Iran. The possession of power and authority in the Will of the Legislator (God) framework results from public decisions. According to the Constitution, no individual or group has the right to become a ruler without legitimacy. Although, the way to possess authority depends on people's selection, carried out through various elections or referenda or indirectly through their representatives.

About Supreme Leader of the Revolution as the Visualization of the Legislator's Will, the Assembly of Experts of the Leadership¹ appoints him as the custodian and oversees his performance. Article 107 of the I.R. of Iran constitution says: "After the demise of the eminent and great Leader of the Global Islamic Revolution and the founder of the Islamic Republic of Iran, Imam Khomeini, may God sanctify his noble spirit, who was recognized and accepted as Leader by a decisive majority of the people, the appointment of the Leader shall be vested in the Parliament of Experts elected by the people. These Experts will review and deliberate concerning all the qualified jurists' merits and possess the qualifications specified in Articles 5 and 109. Suppose they find someone more learned in Islamic ordinances and subjects of Islamic law or political and social issues or possessing general popularity or a special prominence with respect to the qualifications mentioned in Article 109. In that case, he will be appointed as the Leader. Otherwise, they shall elect one of them as the Leader. The Leader thus appointed [or elected] by the Experts shall assume the wilayat al-amr and all responsibilities arising from it. The Leader is equal to all other citizens in the eyes of the law".

In this regard, some political sociologists challenge the idea of religious democracy by laying more emphasis on the principle of admissibility. In this point of view:

- The mere presence and participation of people in elections do not interpret proof of religious democracy. In contrast, the role of the Guardian council² and approbatory supervision cannot be construed.
- Article 85 of the I.R. of Iran constitution has determined the parliament the sole legislative body. However, other state bodies like the Cultural Revolution, Supreme National Security Council, and Expediency Discernment Council participate in legislation. Although people may indirectly elect these bodies, this interference conflicts with legislation by representatives elected by the people. (Hashemi, 2004, p.332)

¹ The Assembly of Experts of the Leadership is the deliberative body empowered to appoint and dismiss the Supreme Leader of Iran. All candidates to the Assembly of Experts must be approved by the Guardian Council. The Assembly consists of 88 Mujtahids that are elected from lists of thoroughly vetted candidates by direct public vote for eight-year terms. The number of members has ranged from 82 elected in 1982 to 88 elected in 2016. Current laws require the assembly to meet at least twice every six months.

² The 12-member Council of Guardians is a body of jurists that acts in many ways as an upper legislative house. Half its members are specialists in Islamic canon law appointed by the I.R. of Iran's supreme leader, and the other half are civil jurists nominated by the Supreme Judicial Council and appointed by the parliament. The Council of Guardians reviews all legislation passed by the parliament to determine its constitutionality. If a majority of the council does not find a piece of legislation in compliance with the constitution or if a majority of the council's Islamic canon lawyers find the document to be contrary to the standards of Islamic law, the council may strike it down or return it with revisions to the parliament for reconsideration.

The council also supervises elections, and all candidates standing for election-even for the presidency-must meet with prior approval of the council.

- The supra legal authoritarianism and state decrees on the principle of religious democracy in the I.R. of Iran affect the functions.

In response to criticisms, it is justified that the power has been given to institutions by the Supreme Leader, who possess legitimacy by the legislator. The principal mainstay is that the Supreme Leader's permissibility comes through voting by people, but the Supreme Leader's legitimacy principle is the foundation.

The rule of law in the Constitution of the I.R. of Iran

It is noteworthy that based on the paradigm which dominates the Western legal system, especially in common law and Romano-Germanic Legal System, customary law, judicial process, and the parliament are considered as the sources of legislation, and the method of reaching it is empirical or rational. As respects, in the Islamic legal system and I.R. of Iran, the basis of the legitimacy of legal rules is the "Wise Will of the Legislator." It is argued that God, as a legislator, has determined rules which are suitable for man's social life, and by understanding and executing these rules, the man reaches worldly and hereafter prosperity. Rules which are established by the legislator are fair and encompass all dimensions of life. Consequently, the rule of law in the I.R. of Iran is based on the two components of "reliance on proof" and "legality." Reliance on proof means that it must be assured all the articles of the law are based on Islamic injunctions and religious sources and are in agreement or at least not in conflict with them. Legality, the second base of the rule of law, means that legitimate law is the one which has been passed by the parliament and approved by the Guardian Council.

Likewise, article 4 of the I.R. of Iran constitution states: "All laws and regulations pertaining to civil, penal, financial, economic, administrative, cultural, military, political and other spheres must be based on Islamic criteria. This article governs absolutely and generally all articles of the Constitution, as well as all other laws and regulations, and the duty to ascertain this matter devolve on the jurists of the Guardian Council." In this article, the conformity and reliance on proof are explicitly mentioned as the first condition of the law's validity. The reference of discernment of the law is the Guardian Council. Article 72 (based on the Wise Will of the Legislator) has also determined the Legislation boundaries in the parliament: "The Islamic Parliament of Iran may not enact laws contrary to the Constitution or the doctrines and laws of the country's official religion. The Guardian Council should determine any such violation, in accordance with Article 96 of the Constitution". Another principle of the rule of law is the rulers' accountability in violating the law, which is mentioned in many articles. For instance, in article 111, it is confirmed that the Religious Leader must be accountable to the Assembly of Experts for Leadership. The same applies to articles 88, 89, 122, and 134 in the President's political accountability to the people, the Religious Leader, and the parliament. In article 140, attention has been paid to his penal responsibility, and section 10 of article 110 is about his legal responsibility towards the board of ministers.

Results and Discussion

Earlier, we talked about the importance of the rule of law and its position in the I.R. of Iran's Constitution. The point that is significant and caused a different understanding of the law in various societies is diversified concepts and understanding of the "origin of the rule of law," which has ancient roots. Throughout history, there have been three critical theories about the origin of the rule of law, and the general belief of society in each of these three doctrines is the sustainability base of a theory.

Collective representation

According to Lucien Levy Bruhl (1857-1939) thought in his book, "Les fonctions mentales dans les sociétés inférieures," collective representation as a standard behavioral action of individuals in ancient society directly affects the public and political culture. Bruhl refers to two types of mentality; "Pre-logical mentality" and "logical mentality" that encompasses all aspects of individuals' social life. In this division, "language" and later "ideology," by focusing on extraterrestrial beliefs, are the most important structural factors influencing social behaviors. In societies attributed to a pre-logical mentality, society is not the source of understanding; thus, contact with reality is low. The historical view is less notable; extraterrestrial will interfere with sovereignty transfer power exercise to a particular

individual, group, or class. The pre-logical mentality framework has been widely exploited during history, and so many potentates, regardless of their source of power, tried to reach somehow this ideological support for their throne, family, and successors. As the shadow of God on the earth, the kings who were leaning to divine destiny propounded the symbol and embodiment of extraterrestrial power and claimed to be God, who has put on human clothes and descended on the earth to take the creatures' destinies and lives. (Ghazi Shariat Panahi, 2016, p.73) However, the logical mentality belongs to modern societies, which has a logical structure and is based on a rational and scientific mentality. The fundamental question is whether there are any significant differences in the way of thinking between Western and non-Western societies, traditional and modern, industrial and non-industrial, developed, and developing countries?

Divine law

Within the framework of the divine law, the most authentic way of thinking can be found in the idea of divine sovereignty and the sacred books and the thought of the great religions of the world, including Islam. Sovereignty essentially belongs to God; the prophets have a great mission to convey the divine rules and systems to human beings, and they guide the misguided to the truth and the goodness to attain human perfection and hereafter happiness. Therefore, the prophets are the bearers of the divine message and the eternal religious rules for guiding the people from the source of divine revelation. In this way, sovereignty over the world and man is appertained by the creature's creator; he gives power to whomever He wills and takes it away from whomever He wills. With this ideology, many princes legitimized their rule and received the monarchy's crown from the highest religious authorities. This approach penetrates the church fathers' political thoughts such as Saint Ambrose, Augustine of Hippo, Saint Gregory, and the two swords theory by Pope Gelasius. Within the framework of divine sovereignty, in religious systems such as the Islamic Republic of Iran, Sharia plays a vital role in the sphere of sovereignty and the political, economic, social, and cultural affairs of society; In such societies, religion and politics have complex and intertwined relations, and it is not possible to separate the spheres of authorities and influences in practice. (Hajipour, 2004, p.21)

Rule of the people

In the 17th century, proponents of the school of natural law proposed a new governance theory. According to natural law theory, all people have inherent rights, conferred not by legislation, but by God, nature, or reason. The famous 17th-century Catholic theologian Robert Bellarmine concludes by proving the principle of human equality; "There is no reason why one should dominate the other in the company of equal human beings; therefore, power and sovereignty must belong to all creators." In his book *Social Contract*, Jean-Jacques Rousseau considers each individual to have a share in sovereignty, and political sovereignty is the sum of all parts. He writes, "Suppose a society is made up of ten thousand citizens; the share of each member of society is one-tenth thousands of the ruling power." Under Rousseau's influence in the French Constitution of 1793, the doctrine of the people's sovereignty was practically objectified. According to this theory, which is known as "divided sovereignty" and is based on the social contract, the law is a set of rules that meet the needs of the majority, and the regulations are the instruments of governing the rule for the satisfaction of the majority's immediate interests. (Ghazi Shariat Panahi, 2016, p.75)

The causality of the difference in the origin of the rule of law

Given the above, regarding sovereignty's origin, the state and people's rights and duties differ from one society to another. Understanding the causality and rootedness of the spectrum of perceptions can refer to Ferdinand de Saussure's "system of language" theory. From Saussure's point of view, the language is an intertwined network that should be considered a whole existed before us, and we imagine, ideate, and think in its framework. (Bashiriyeh, 1987, p.130) On this basis, the mental construction of societies outside the will of individuals forms the source of the rule of law (collective representation, divine law, rule of people) and the system of rights and duties. Weber's methodology can also be used in the sense of rationality. According to Weber, the divine law is based on value rationality, subjective judgments, and manifested in a knowledge system of goodness; this approach contrasts with instrumental rationality

based on reality and objectivity. Thus, the different perceptions of the origin of law in various societies come from different rationality foundations.

The genesis of Rule of Law in the I.R. of Iran

Shiite Muslims thought extract on two political legitimacy bases; "direct divine legitimacy" and "divine legitimacy of people." In direct legitimacy, the divine Guardianship in political and social affairs has been delegated directly to the Prophet of Islam, and after him, the infallible twelve Imams were in charge. In the occultation of the latest imam¹, the Guardianship of the Islamic Jurist (Supreme Leader in the Islamic Republic of Iran) is the guardian of Muslims. (Mirmousavi, 2005, p.369) However, in the people's divine legitimacy, God has entrusted the people's political and social fate to themselves to exercise their sovereignty within religious rules. On this basis, the rule of the people is in the framework of the legislator's legitimacy. (Kadivar, 1997, p.49) Accordingly, the source of the rule of law in the Islamic Republic of Iran is a combination of "law and divine sovereignty" as a foundation, and "people's sovereignty" as a superstructure. In the philosophy of the I.R. of Iran, the law is the legislative will of God, which has been expressed in the form of Islamic law to achieve human perfection and worldly and hereafter happiness. The necessity of this law is also justified based on the rule of grace and proof of prophecy.

According to the sources of dual legitimacy, in the discussions of Article 56 of the I.R. of Iran Constitution, the relationship between "rule of the people" and "Guardianship of the Islamic Jurist" was discussed. In the skeleton of legislator's legitimacy, some of the experts were emphasizing the rationality of people, believe God had delegated the right of decision making to people to practice it within the framework of religion; another group believed that the ruling right in the occultation of the latest imam was delegated only to the righteous servants (Guardianship of the Islamic Jurist). Article 56 says: "Absolute sovereignty of the universe and man belongs to God, and it is He Who has made the human being master of its social destiny. No one may deprive the human being of this God-given right or subordinate it to some individual or group's vested interests. The people are to exercise this God-given right in ways specified in the following articles." While, Article 5 says: "During the occultation of the Waī al-Asr (i.e. the Twelfth Imam), may God expedite his appearance, the wilāyat al-amr, and leadership of the Ummah devolve upon the just and pious jurist, fully aware of the times, courageous, possessing administrative and problem-solving abilities, who will assume the responsibilities of this office in accordance with Article 107."

About the connection between Articles 5 and 56 of the Constitution, and the interpretation of the Guardianship of the Islamic Jurist determination in people's destiny, it was argued that there is no contradiction in these two articles; Because the appointment of Supreme Leader is done by the assembly of Experts of the Leadership who are elected from lists of thoroughly vetted candidates by direct public vote. (Kadivar, 1997, p.192) Lastly, the Islamic Republic of Iran's Constitution is created innovatively from the three sides of a triangle, the survival of which is guaranteed in balance with the other sides. The first basis, "the origin of legitimacy in the Islamic Republic," forms the side of "Islamism," the second basis, "how to exercise power in the Islamic Republic," forms the side of "Republicanism," and the third basis, "method of restriction of power in the Islamic Republic" forms the side of "civil society." (Mohajer, 2009, p.56) The interaction of the factors mentioned above forms the triangle of "Civil Society - Islamism - Republicanism" in the Constitution of the Islamic Republic of Iran. This unique structure faces domestic and international problems in practice.

Internally, the conflict between traditional and modern discourse creates paradoxes explaining the State and the people's rights and mutual obligations. Thus, the religious, ethnic, racial, linguistic, traditional-industrial economy, and most importantly, the civilization and cultural split among "Islamism-Nationalism-Westernization" continue. Today, with the increasing demands of new social forces, the

1 The Shi'a believe that Imam al-Mahdi is the only son of Imam Hasan al-Askari (the 11th Imam), who was born in 869 in Samarra, Iraq. Imam al-Mahdi went into occultation (disappearance, leaving among people while he is not identified) at the same time. He will re-appear when Allah wills.

activity and influence of virtual networks, the expectations of the growing middle class, the social participation of the women's movement, the increase in the level of knowledge in society, the relative promotion of public culture and its impact on political culture, be converted as a public demand. As a result, in recent years, the dominance of the political system in the I.R. of Iran over the economic system has decreased, and the socio-cultural system independence is being formed, and the structure is emerging from the "unconscious and metaphysics." In foreign relations, the novelty of the rule of law in the Islamic Republic has hampered common understanding and interaction with the international community, which is based on the norms of Western democracy. It can say that the wide-ranging contradictions of the I.R. of Iran with the Western world are rooted in this different understanding. As a result, influenced by the contradictions in traditional and modern discourse, the rule of law in Iranian society undergoes a sinusoidal process that indicates the basic paradoxes in the political, social, economic, and legal contexts. In the other words, despite the development of Information and Communications Technology, cyberspace and social networks have challenged Iran's collective representation in recent decades, and cosmic mentality that excludes interaction and dialogue has been abandoned, but the rule of law in Iran is still in an "anomic" position.

Conclusion

In the etiology of the concept of the rule of law and the repercussions of lawlessness in Iranian society, political sociologists have proposed several reasons, including; "people ignorance of their rights and duties, people and government's inconsistent narrations of law, a public belief of the rule of law as a violation toward people and privilege for authorities, a spirit of lawlessness consequences in public and political culture, psychological and sociological inconsistencies in society, contradictions among three pillars of Islamism-nationalism-democratization, weakness of independent political parties, a disorder of social classes and status, an imbalance among religious-tradition-modern discourse, diversified concepts of legitimacy and its effects on current laws, etc. " Some argue that in Iranian society, observing the law in principle costs far more than circumventing the law, emphasizing the legislature and law enforcement's weakness. Some structuralists cite long-term tyranny and nation-state historical conflict as the most important reasons for the rule of law challenges in Iran. According to this interpretation, in contemporary Iran, no organic link emerged between the nation and state due to the lack of participatory culture and the authoritarian method of reform.

From a historical perspective, the rule of law in ancient Iran was based on a prelogical mentality, fusion law, and collective representation. When the source of perception in society is collective representations, society's public and political culture's principles are directly affected by representations. Thus, in Iran's ancient society, the historical view of phenomena that emphasizes the level of contact with reality was less considered. By emerge of Islam in Iran in 650 AD, divine law and sovereignty came to power. According to divine law, sovereignty over the world and man belongs to God, and the will of the Almighty legitimizes authorities and opinions of the people find meaning in the framework of this legitimacy. By Constitutional Revolution's victory in 1905, the People's will as a new source of the rule of law entered Iran's political and social equations. Thus, the concept of sovereignty in Iranian society, which had a theological origin, took on new dimensions by relying on people's sovereignty and a social contract concept. Despite the origins of the rule of law in Iran rectified profound and far-reaching changes during hundred years, but the transition of society from one stage to the next did not mean a complete replacement of the new mental structure; It can be acknowledged that in the Islamic Republic of Iran morals and ethics dues to the different streaks of "collective representations, divine law, and public will".

After the victory of the Islamic Revolution and the drafting of the Islamic Republic's Constitution in 1979, which has put together the two axes of "Islamism" as the origin of the system's legitimacy, and "Republicanism" as the origin of widespread acceptance, this situation became more complicated. As a result, two traditional and modern discourses are officially and simultaneously playing in Iranian society and affect nation-state and nation-state relations. Over the past two decades, influenced by; "Role-playing civil society institutions, new social groups, the expectations of the growing middle class, NGOs global communications, social networks, cyberspace, etc.", the role of people's sovereignty has become

more prominent in periods. However, undeniable contradictions of traditional and modern discourse have left Iranian society in a state of anomie, and the "concept of the rule of law" is playing through a sinusoidal rhythm. Therefore, based on the concepts of value and instrumental rationality in Max Weber's methodology, it can be argued that in drafting laws, the Iranian legislature, with the mentality and presuppositions of value rationality, established the laws for the semi-traditional semi-modern society, which naturally leads to wide-ranging paradoxes. Simultaneously, modernism could not remove the traditional discourse and created a comprehensive discourse based on indigenous and Iranian norms. By this situation, the essence of two-way interaction in Iranian society (nation-state and nation-nation) based on communicative rationality as a manifestation of instrumental rationality has not reached maturity, and "Politicization of knowledge, expansion of administrative ethics instead of communicative ethics, the instrumentalization of religion to justify value rationality" embraces Iranian society.

Given the different structural foundations of traditional and modern discourses, it is necessary to strengthen society's postmodern discourse, accepting different views to get out of the current situation. Thus, Iranian society must pass the step of resistance and enter the participation, globalization, and internationalization stage. For this reason, the production and revival of social capital like altruism, companionship, participation, benevolence, forgiveness, self-sacrifice, happiness, and cheerfulness should be considered. It seems public and political culture can be rectified through culturalization and educational-orientation in childhood, while the family's role is indisputable; simultaneously, it is necessary to strengthen the middle-class pyramid as the engine of social change. According to many political sociologists, strengthening the middle-class pyramid is possible with the realization of economic development. At this stage, the presence of intellectuals and the academic elite as the symbolic capital is inevitable.

Regarding ancient Persian culture and civilization, we believe the elites and intellectuals' position in Iranian society as the forerunners of symbolic capital is more prominent than other social figures. Thus, the elites of Iranian society should engage in dialogue through dialogue to create a chain of; "economic development; strengthening the middle-class population pyramid; Promoting the culture of the family institution; culturalization; public and political culture building; a dominance of postmodern discourse in society, and ultimately the rule of law ". In contemporary Iranian history, especially at the beginning of the transition and modernization period, intellectuals played the main actors in forming the modern state, which was established after the Constitutional Revolution. The constitutional Constitution was mainly crystallizing the intellectuals' ideas in people's sovereignty, freedom, and equality. Therefore, the Iranian intellectual and elite class has the capacity and efficiency to create symbolic capital and take Iranian society to new horizons in which the rule of law as a common understanding is affirmed and emphasized

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