



The Concept of Law in the Second Constitutional Parliament

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Extended Abstract

1. Introduction

The concept of law held a significant place as a key notion in the thought of Iranian intellectuals and constitutionalists. The Second Constitutional Parliament, in the relatively open political atmosphere following the capture of Tehran and the deposition of Mohammad Ali Shah, provided a suitable arena for the elaboration and deepening of this concept. The main research question of this study is: What understanding and perception did the representatives of the Second National Consultative Assembly, as legislators, have of this fundamental concept? This research aims to analyze the understanding of the concept of law, its characteristics, the representatives' concerns about its implementation, and their proposed solutions for institutionalizing law in Iranian society. The necessity of this research lies in the fact that by directly examining the detailed minutes of the Parliament, one can move beyond generalizations about Iranian thought regarding law and gain an objective, evidence-based understanding of the perspective of one of the most influential institutions in Iran's modern history.

2. Methodology

This research was conducted using a descriptive-analytical method, primarily relying on the detailed minutes of the Second National Consultative Assembly. The required data were extracted by searching through the speeches, debates, and arguments of the representatives in various parliamentary sessions and were subsequently categorized and analyzed. The analytical approach of this article is to identify and extract the recurring and key characteristics and concerns from the direct statements of the representatives, thereby reconstructing their intellectual framework regarding law. This method allows for an immediate understanding of the concerns and concrete discussions during the period under study.

3. Results

The examination of the detailed minutes indicates that the representatives of the Second Parliament had a relatively precise understanding of the concept of law. Their statements can be categorized into two main groups: 'Formal Characteristics' and 'Substantive Characteristics' of law, along with a focus on 'Law Implementation.'



Formal Characteristics of Law: The representatives emphasized principles related to the process of legislation and the form of law. These principles included: enactment by a competent authority (the Parliament), official publication (pursuing the establishment of an official gazette), generality and universality (application throughout the country), observance of formalities (royal assent), being written, being in the Persian language (for public comprehension), clarity and precision (avoiding ambiguity), and prospective nature (non-retroactivity).

Substantive Characteristics of Law: In addition to form, the content of the law was also important to the representatives. They considered a desirable law to be one that was enforceable and aligned with societal realities, compatible with the constitution, in the interest of the state and for the public good, oriented towards justice, binding and possessing enforcement guarantees, efficient and responsive to societal needs, reflective of the majority's opinion, not opposed to fundamental freedoms (such as freedom of trade and the press), and, ultimately, one that led to the establishment of order and the organization of state affairs.

Law Implementation: The most significant concern of the representatives, frequently reflected in their speeches, was the issue of law implementation. They had clearly realized that enacting a law was not the end of the road. In this regard, two main viewpoints emerged: one group believed in prioritizing the preparation of infrastructure and prerequisites for implementation over legislating, while the other group believed that laws should be enacted first, and their executive foundations provided gradually. This disagreement, in fact, indicated a more fundamental problem: the lack of a modern state, an efficient bureaucracy, and the necessary institutions for implementing law in Iran during that period. The practical experience of the Second Parliament demonstrated that the absence of these foundations was the greatest obstacle to the realization of the 'rule of law.'

4. Conclusion

The representatives of the Second Constitutional Parliament possessed a deep and remarkable understanding of the various dimensions of the concept of law, ranging from formal characteristics to substantive components and the necessity of implementation. Their statements indicate familiarity with many foundational principles of Western law and an effort to localize them. However, confronting the realities of a society lacking modern institutions presented them with a major challenge: the gap between theory and practice. This experience gradually revealed a key truth: legislation, while necessary, was insufficient for establishing the rule of law, and its realization required the creation of powerful and coherent executive, judicial, and administrative institutions. In other words, the Second Parliament was, on one hand, the heir to intellectual idealism regarding law, and on the other hand, the pioneer in confronting the practical obstacles to its implementation, an experience that provided valuable lessons for the history of law in Iran and left behind the enduring question: "What must be done to implement the law?"

Keywords: Law, Constitutional, Second Parliament, Formal Feature, Substantive Feature.



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