

Comparative study of "The Rule of law" in the international discipline and in the Nahj of Imam Ali (AS)Hossein Ale Kajbaf¹, Hassan Faraj Donyavi²¹. Assistant professor, Payam-e Nour University. Tehran, Iran². Ph.D. Student of international law, Payam-e Nour University. Tehran, Iran
donyavi_h59@yahoo.com

Abstract: Ruling of law in its real meaning and with broad concept means people should obey rules and it should be dominant on them. Referring to law concept as a tool to control power has been attractive from past times. The concept of Ruling of law in international level is still completing and has always been a debatable topic. The more important is that Ruling of law should be defined in the term of desired government and help completing and implementing other parameters of desired government. The practical and theoretical emphasize on law mainly Quran orders and prophet's procedures indicates the theological aspect of Imam Ali's government. Imam Ali accepted to be governor in order to implement fairness and equity as pronounced manifestation of law and to lead the society toward ideal, growth and maturity. At the present time, there is no global and comprehensive definition of Ruling of law in worldwide. It can be said the main reason is to consider the personal interests by the governors of the different nations, not people interests. But Imam Ali didn't trade the humanistic values and principles in politic market and he scarified his life for it. No his friends and relatives and their numbers could affect on Ruling of law in his government. In this paper we aim at answering the question whether the concept of Ruling of law is known in international system? And whether it is comparable with concept of Ruling of law in Nahj olbalagheh or not?

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Introduction

The fundamental concept of rule of law has not been easily understood, and has ever been a contradictory issue at different times and places. In about 1200 AD, preparation of a set of documents of type of Magna Charta was started which led to establishing the Human Rights. International discipline was conceptually enhanced after the emergence of desired governance theory which is visible in the whole International legal foundations, including: the United Nations Charter, the global announcements of the Human Rights, and the other International Documents. But due to the different policies of member countries of the International Community, and the contradiction of benefits of the countries in regard to their different policies, a common definition of the rule of law, acceptable for the International community, has not been presented so far, but certainly countries have a tendency to follow this concept. Thus in the present study we investigate the rule of law in two separate chapters, one from the view of the international discipline, and other, in the second chapter, from perspective of the noble/virtuous book of Nahj. Then we try to answer the question that: is the concept of rule of law taken into consideration by international discipline, compatible with that of Nahj? Rule of Law in the International Discipline.

A. The history of the rule of law

The concept of law has been considered as "a tool for controlling the government power" since the era of the ancient Greece. Indeed, the substantial rebellions of the powerful governments and violation of fundamental human rights has had a significant role in establishing the law. In such a space, rule of law is considered as "a fundamental concept in the legal-political literature".

Now the main question is that what is desired: the government based on individual preferences, or the government based the law? (Richard Bellamy, 2001, p.221).

Aristotle believed that government based on law is preferred than government based on individual preferences. The legal foundation/base for the government was developed by Roman Lawyers after the Greeks, until in the middle decades, theory of the universal law, and the governance of it over the whole globe was put forward. "Bracton¹", a thirteenth-century thinker, believed that the rulers shall obey the law; "The king shall not be subject to men, But to God and the law, since law makes the king".

In England, the Magna Charta, and the afterwards approved documents, showed that, the rule of law theory pursues compensation of damages

¹ - Henrici Bracton(d.1268)

caused by different social classes and different relationships between them.

Perhaps the concept characterized by Albert Van Dicey (1832-1911) is the most reputable and perfect compiled statement for the concept of the rule of law. In his classic work "An Introduction to the Fundamental rights", Dicey has presented three classic definitions for the rule of law, which are as follows (p.180-1885· Dicey):

First, the government should not be based on personal preferences, but must act in accordance with the general rules. "First no one should be financially or physically punished, Except for certain violations of the law laid down by law in the common and regional courts (Ibid, pp.183-184).Second, all citizens are equal before the law. The rule of law means equality before the law or equal Compliance of all social classes with common land administered by the courts. In this sense, the rule of law prevents the idea of exception of officials or others from the applicable law for citizens or judicial procedures of common courts (Ibid, p.198).

Third, the fundamental principles of the British Constitution are results of judicial decisions relating to individual rights based on ordinary law. "Constitution is a product of ordinary² land law" (Naghibi, 118:1389).

Dice's view about the rule of law was considered as a basis for further investigation about this issue. Although after the advent of philosophers of the seventeenth century such as "lock", "Hobbs", "Montesquieu" and ... rule of law has always been one of the major issues for discussions, but the idea of the rule of law has entered a new and challenging era after the advent of Dice theory. (Malmir Center, 29:1385).

B. The concept of the rule of law

The concept of the rule of law has always been a topic of debate in different times and places. In light of the idea of desired governance, Rule of law must be defined in a way that helps the development of other components of desired governance including: participation, responsibility and transparency. Although there is no universally accepted definition of the rule of law (Dandurand, 2007, p.248), there is a common component of the rule of law in all definitions. Therefore, the concept of the rule of law can be stated as follows:

²- "Dice" intended mean of customary law (ordinary law) is common law of the courts in the "common law" discipline. These laws are not passed by Parliament but have been formed by the votes of the judges over time.

First, the power of government cannot be applied arbitrarily. This means rejection of "personal government". This requires the exercise of power in no particular order but requires the law to be transparent and available in the future. Second, the law must be applied also for the ruler and the government agencies, and an independent institution like the judiciary should apply the law to specific cases. This means that the rule of law is different from the "rule by law". Third, the law must be applied to all people and it should support them equally and without discrimination.

These three aspects of the rule of law are the same features that "Dice" has mentioned them for the rule of law in domestic systems. Dice definition of the rule of law has been widely welcomed in the scope of international law and it has been used as a basis for legal studies, reviews and analysis on the international rule of law (Salehi, 68:1388).

C. the conceptions of the rule of law

In general, conceptions of the rule of law can be evaluated in two major spectrums: formal³ conceptions and substantive⁴ conceptions. In the formal conception, the most important principle is the adherence to the statute law or ensuring and applying the principle of "legality". But in the substantive conception of the rule of law, other ethical principles and standards such as principles of natural rights and principles of justice are important and considered as an integral part of the rule of law theory. (Malmir Center 57:1385)

D. The concept of international rule of law

The concept of the rule of law at the international level can be explained in three different forms. First, "international rule of law" means applying the principles of the rule of law to the relationship between governments and the other participants in international law compliance. Second, "the rule of international law" means that international law has a priority over domestic law, such as priority of human rights covenants over civil rights arrangements.

Third, "the rule of international law" means "global governance of law" in which the people are directly, subjected to a global legal system, without the mediation of national institutions. Off course, in the idea of desired governance, the first definition is the intended meaning of the rule of law.

³ - formal conception is also stated in different forms such as: narrow, thin, negative conception

⁴ - substantive conception is also stated in different forms such as: broad, thick, and positive conception

E. Implications of the rule of law for the desired governance

The rule of law is not only a legal theory but it is a fundamental ethical principle integrated in the constitution-based democracies. The rule of law is exercised and developed through the judicial control and it is not the only measure of a constitutional democracy. However, it has much practical importance in promoting fair decision-making and preventing the abuse of authorities. In the following sections, we will briefly describe some basic techniques that are indeed the implications of desired governance for the rule of law.

1. Legality

The rule of law requires the legality, which means obeying the law. It has two aspects:

First, the law must be followed. This action is often emphasized by those who seek enforcement of law to deal with nonchalance enforcement of law. This aspect of the rule of law is related both to the public (who are expected to support the law) and law executors (who are expected to implement the law).

Second, as legality depends on decisions and actions of public officials, it requires them to act in the scopes allowed by law. So, all of decisions and actions of public officials should be in line with law. Therefore, the legality prevents arbitrary decisions. In other words, it prevents "the improvised justice of despots" (Hadavand, 186:1386).

2. Certainty

The rule of law requires that the law is already clear. Manyland said "the general laws, even if they are bad, are less harmful to freedom than decisions which are not made based on pre-defined rules." Also, Hayek said: when we behave in a same manner, there in no matter to drive at right or left side of the street." The important issue is that the rule should allow us to be able to accurately predict the behavior of others. This requires that the rule should apply to all cases, even though sometimes we feel that the rule is unfair (Jewell, Jeffery, 2007, p10). Studies show that the rule of law has a direct relation to reduction of the corruption that is an institutional barrier for the economic development. Under the rule of law, ability of executive officials to perform arbitrary actions is limited.

Based on a study about corruption, which was conducted in Russia after soviet collapse, it was explicitly stated that lack of the rule of law can even obscure the concept of ownership (Hough, Carla and estigelniz Josef, Karimi, 2005:283-256).

3. Consistency (Uniformity, integrity and cohesion)

Implementing the policies through legal rules can enhance fair application of standards, and therefore similar cases can be treated with the same

action. Stability and integrity of the decisions are important factors for realization of the desired government. Having Different behaviors in similar cases means that government and public officials are unfair, which is, in turn, considered as violation of one of the basic principles of the desired governance.

4. Effectiveness

Although it seems that it has not been predicted in the law, acting based on law leads to more effectiveness. Rules, declare public policy for the people who are affected by them. Deceleration of the public policy facilitates the implementation of rules. Therefore the rules reduce distress and anxiety and prevent the energy loss caused by decision making for individual cases.

According to Max Weber description, because the court applies the rules impartially and without the pressure of emotions, so this ensures fair and non-emotional approach to the legal framework, and allows isolation of decision makers from any pressure of frequent revisions (Unescap 2004.p.1).

F. Inherent and consequential principles of the rule of law

Two groups of principles can be derived in order to the rule of law can regulate people's behavior and laws have the ability to set the behavior⁵. The first includes the inherent and essential principles of the rule of law and the second set includes consequential principles which are necessary to apply the inherent principles.

1. Inherent and fundamental principles of the rule of law

- Generality: Laws should be general.
- Promulgation: Legislation should be publicly announced.
- Clarity and sleafity: Rules must be explicit and clear.
- Prospectiveeness: The rules must look forward and future.
- Stability: Laws should be relatively constant and stable (Zarei, 56:2001-55).

2. Consequential principles of the rule of law

The second set of principles of the rule of law, are those principles required for applying the first set of principles. These principles include:

⁵ - For more information about descriptions and elements of the rule of law, please see following references:

- Joseph raz, the authority of law, ibid
- Stephen battomley and Stephen parker law incontext(zed edn 1994)pp046-59.
- Andrew ashworth, principles of criminal law(zed edn.1995) claredon press,oxford.England.pp.64-83

- Independency: the judiciary should be independent.
- Natural justice: The principle of natural justice must be observed.
- Procedural fairness: Natural justice and procedural fairness.
- Judicial review: Courts should have authorization to revise.
- The right of access to competent courts: People should have the right of access to competent courts. (Zarei, 58:2001).

G. implications of desired governance in regard to the rule of law

The rule of law is one of the key political and legal principles that human has long sought its realization. Vast material has been provided about meanings and features of this concept from the period of ancient Greek up to now. Sometimes it is interpreted as the equality before the law, sometimes as law-based governance compare to dictatorships and absolute monarchies, and sometimes it is related to generality, persistency, and explicit features of the laws. We can summarize them into this fact that according to the rule of law principle, arbitrary and despotic use of power in government decisions is rejected. Accordingly, the rulers and politicians are known as guardians and servants of the law and they are themselves under the law.

Legitimacy of their rule depends on their loyalty to the legal criteria (Ibid, 52). In this regard, the outcomes of the rule of law as one of the components of desired governance are discussed in regard to the three aspects: legal, political and economical.

1 - The legal implications of the rule of law

First, the rule of law will lead to a legal regularity which is one of the main components of the social and political regularity. In this legal regularity, formation and activity of government institutions is possible and their interactions and relationships with citizens are institutionalized and regulated. The main objective of the law is that the regulations be obeyed voluntarily instead of obeying the rules forcedly. The difference between governments based on the rule of law and governments based on the principles and norms other than the rule of law is the deferent legal regularity of them (Simmonds, Rasekh, 27:1384). The most important legal outcome of the rule of law is that it makes situations predictable. This feature allows one, by knowing the available rules and regulations and having a general awareness of the consequences of his actions, to engage in planning for the future and to pursue his goals and ideas.

Commitment of governments to the rule of law theory, respecting the principles of natural justice in judgments, and in general, implementing and

ensuring the rights and freedoms of citizens are of other legal outcomes of the rule of law.

To further explaining the legal consequences of the rule of law, it is noteworthy that the principle of "legitimate expectations" is perceived by many experts as one of the aspects of the rule of law. (Malmir center, Ibid: 195)

As "John Rawls" believes, one of the most important consequences of the rule of law with respect to the previous matters is the provision of a framework for cooperation among the community. In a legal system, legitimate expectations of the citizens can be defended and by creating equal opportunity for all to pursue their goals, social collaboration is improved.

2. The political consequences of the rule of law

Separating the political from legal consequences is very difficult and perhaps it is impossible. But in this classification, the emphasis is on how to apply the governance. The most important objective and also the most important outcome of the rule of law is to create a framework for political power. The theory of the rule of law helps to achieve this goal in different ways. One of them is the role of the rule of law in providing appropriate situation for a free and fair electoral competition, which is one the major tools for preventing the power centralization and also considered as a prerequisite for realization of democracy. The role of the rule of law is significant in providing conditions for free elections in one hand, and ensuring fair conditions for holding an election on the other hand. The rule of law provide conditions for free election by guaranteeing the fundamental rights and freedoms such as the freedom of expression, freedom of establishment of associations, the right to participate and other rights and freedoms (Ibid. :197-196). Another issue that can be considered as one of the political consequences of the rule of law is the enhancement and improvement of efficiency of the governments which are based on the rule of law.

3. Economical consequences of the rule of law

One of the most important economic implications of the rule of law is to provide equal context for economic competitiveness. As "Weber"⁶ also believes, in a society in which the possibility of competition exists, the rule of the general laws is essential because it is assumed that such a society is composed of a large number of policy makers which are more or less equal in terms of economic power (Neumann, Frants, Foladvand, 80:1373). A range of other economic consequences of the rule of law is related to effective implementation of policies and supervisory tools to apply control over the financial

⁶ - maximilian (max) carl emil weber(1864-1920)

affairs of government and the private sector and reducing financial corruption. Transparency of laws and regulations related to the activities of companies and economic institutions and appropriate operation of courts in fairly implementing the law are considered as the tools for realization of the mentioned issues. Today, the rule of law is one of the essential components of desired governance, and thus, it is a factor that guarantees the human rights, particularly economical, social and cultural rights and the right for development, which requires governments to be more regulated in acquiring the incomes and expending the expenditures (Malmir Center, Ibid: 202-203). The rule of law from the perspective of Nahj.

A. the concept of the rule of law in Nahj

The rule of law will emerge and continue in a society where there is a recognized and respected set of "rights" and "constraints" for all sections of society including politicians and ordinary people. In fact, "mutual rights between the government and the people" and the commitment of both sides to respect the rights lead to create the "rule of law" in a community. Mutuality of these rights means that the rights of each party are limited by the other party's rights. Reviewing the history of governments of different countries of the world shows that "rulers' rights" and "peasants' rights" were recognized rather than mutual rights between government and citizens. (Midri, Ahmad, and Khairkhahan, JaFar, 492:1383). Ali Pasha Saleh said, "Power was one of the most important factors that led to establish the law in ancient times, and according to historical evidences, weak people were dominated by ideas of powerful. Although this issue is very clear and obvious in the period of barbarism and savagery, it is still applied in the age of civilization by different ways and methods. (Ali Pasha Saleh, 1348:16-15)." The concepts of "right", "limit" and "mutual rights" have a history of less than four centuries in the West political idea. This idea was first presented as "social contract theory" by Dutch lawyers "Hugo and Krosious", and then followed and completed by people such as, "Thomas Hobbes", "John Locke" and others (Taheri, 17: 1375).

In the literature of political thought, the rule of law has two meanings which are closely related to each other. First, it means respecting the applicable norms by state and citizens which regulates the relations between them. Second, it means the establishment of principles and features of the regulated government. (Midri and Khairkhahan, Ibid: 494). In the Political thought of Islam, the concept of the rule of law has both the above meanings:

1 - Mutual Rights

In Islam, the concept of "Mutual rights" has a history as old as the "Islamic government"; In other words, concepts such as "people's rights" and "limits of the Government" and "mutual rights between rulers and peoples" have been associated with Islamic Government since Islamic Government was initiated. Imam Ali (AS) in a social contract with people who freely chose him as their leader says said:

"People! I have a right on you, and you have a right on me. Your rights on me include: I should be your benefactor, I should try to improve your property (welfare and comfort), to educate you to get rid of ignorance, to train you the customs (individual life style and social behavior) to become wise. But my rights on you include: to be loyal to your allegiance with me, to be my benefactor and advisor in front of me and behind me, when I call you answer, and when I issue a command obey." (Dashti, sermon 34:87)

In the sermon 216 Nahj, Imam Ali (AS) refers to the absence of law and says: "God assign a right for me, as ruler, on you and also assign a right for you on me... the right is applied in favor or against any one, and it is not applied against one unless it is applied in favor of him" (Dashti, Sermon 216: 443).

Also it is important to note that in the religious literature the meaning of right and law, at least in part of social interactions and relationships, is a law and right that has a divine and revelational origin. Of course, there are large areas where the definition of right in the legislation has not a celestial origin directly and it originates from social contract between citizens and their rulers.

Allameh Tabatabai in *Almizan* (a series of books about Quran interpretation) quotes a sentence of Imam Ali (AS) (quoted from Soyoti Shafee) in which Imam Ali (AS) mentions both types of rights (divine-origin rights and people-origin rights) (Midri and Khairkhahan, Ibid: 495).

The ruler of society should govern based on divine laws and his actions should be in accordance with the contract between him and the people. If the ruler acts so, then people should obey him" (Tabatabai, 385:1394).

2-Respecting the mutual rights

According to Imam Ali viewpoint, for the establishment of the rule of law in a society, the mutual rights must be respected and obeyed. Imam Ali (AS) in sermon 216 says:

"When people observe the right of government and the government observes the right of people, the right (law) will be respected in the society." (Dashti, sermon 216, p.443). This statement corresponds exactly to today's concept of "the rule of law" in the society. Mikhail Fabricius, an IMF researcher,

explains the rule of law as: “the extent to which the government and people of a country respect the institutions are established for the purpose of the law enforcement and resolution of disputes.” (Mikhail Fabriciu, p.65, 1998).

We see that the definition that Western thinkers provide for the concept of the rule of law is very similar to the definition provided by Imam (AS) (Midri and Khairkahan, 496).

B. legalism with focus on justice and right

Strong commitment of Imam Ali (AS) to law, i.e. Quran’ commands and the Sunnah (customs and practices) of Prophet, indicates divine aspects of his rule and distinguishes his leadership from other three caliphs. Unconditional commitment of Ali (AS) to the commands of Allah and the Prophet (PBUH) and his firmness in applying these commands are considered as unique and inherent personality of Imam Ali (AS). Legalism, as a requirement for political freedom, is a source of inspiration for all positions, decisions and practices of Imam Ali (AS) throughout his lifetime in various areas and also it is one of the main causes of problems in his government. (Ibn Abi al-Hadid, Volume 7: 36).

Subject 1: Enforcement of Islam’s law is the main goal of establishing the government by the Imam (AS) Political behavior of the Imam (AS) is a part of his religious behavior and his henchmen against the divine command and Sunnah of Prophet (PBUH). Imam Ali (AS), either when he accepted resignation for 25 years or when undertaken political leadership of the Muslim community, seeks to establish the religion of Allah and saves the Sunnah of the Prophet from being trampled (Dashti, former sermon 131:132-131). Ali (AS), who undertakes the leadership with the aim of realization of the right and justice as the most prominent manifestation of the law to bring the community to grow, says that one of the requirements to reach this goal is the compliance of leaders with law. He says: “Once I accepted to rule, I considered the Book of God and its commands and the sunnah of the Prophet (PBUH) and then I followed them.” (Ibid, Sermon 205: 427).

C. centrality of law

1 - The centrality of law in practice

Imam (AS) says in the Nahj: “I take responsibility for what I say and I am committed to it... now that I accept to be your governor, expect serious changes in the system of government and I will change the system of government and the society.” (Dashti, Mohammad, sermon 6, Ibid: 59).

Also the Imam (AS) says more: “People! I swear to God that I do not request you to respect any law unless I have respected it before you, and I do not prohibit you from any sin or violation unless I have already putted it aside” (Ibid, sermon 175:333).

Imam Ali (AS) in this Sermon emphasizes on the centrality of law, either for himself or people, and he has derived it from the divine law that says: “Do you invite people to be righteousness and you forget yourself while you are reading the book of God. Do not you think?” (Sura Al-Baqara, verse 44). How is it possible that Ali (AS) who is “talking Quran” ignores the law himself and then invites people to it?

The Imam stressed on the implementation of law and started his work on the basis of law and In this regard, he did not run the command of anybody and did not consider the order of anybody. He said: “I have a clear sign (in regard to my legitimacy) from my Lord, and I will walk through the revealed way of my Prophet”. (Dashti, Muhammad, Ibid, Sermon 97: 127).

2 – Centrality of law in the principle of meritocracy

One of the objective manifestations of justice and one of the other interpretations of commitment to law is to consider the principle of meritocracy. According to Meritocracy stated by Imam Ali (AS) which is based on the general principle of justice, the goals of government are fulfilled when it has competent agents. Imam Ali (AS) believes that the people's affairs will not be organized unless by competent rulers (Ibid, sermon 131:249-247), and most deserve people to take the rule is one who is more powerful for it and better knows the commands of Allah (Ibid, sermon 216:243). The Imam (AS) believes that someone who has the highest and best skills for leadership and performing community affairs is competent for the rule (Abdul Kareem ibn Mohammad Yahya Ghazvini: 67).

The best and most obvious example of this is the case where the ruler of Egypt, Muhammad ibn Abubakr, was replaced with Malek Ashtar.

3 – Centrality of law in the financial aspects of economic

The most important and the most challenging aspect associated with law centrality of Imam Ali (AS) is his adherence to the law in the field of economic and financial issues. According to historical events, what more damaged Muslim community after the Prophet (PBUH) and developed exponentially in the community almost immediately after him was financial and economical violation in terms of discrimination in public property. Ibn Abi al-Hadid describes this situation. The summary of his description is as follow: “existence of discriminatory practices for 22 years after the Prophet in distributing the treasury made people to be accustomed to these practices and Increased motivation and interest in worldly material, so that accepting any behavior opposit to that practices was difficult” (Ibn Abi al-Hadid, Ibid vol. 7: 44).

Overall, in the view of Imam Ali (AS) Islamic community leaders should not accumulate wealth even if it is Halal. Accordingly, Imam Ali (AS) warned the judge "Shorayh" for buying eighty dinars house and blamed him and mentioned the Day of Resurrection. (Dashti, Mohammad, Ibid, Letter 2: 481).

D. Decisiveness in law enforcement

Absolute commitment of Imam Ali (AS) to the law as a red line is considered as one of the most prominent governmental features and also as an overall personality of the Imam (AS). It can be claimed that all or at least a portion of the events and problems of the time of the Imam (AS) governance, especially in the political issues, was related directly or indirectly to these personal characteristics of the Imam (AS).

In the time of Prophet (PBUH), Imam Ali (AS) showed frequently that in implementing the law, he does not act indifferently and he tries hard to enforce the law. Imam's strictness for expending public property led some people to complain him before Prophet (PBUH). But the Prophet (PBUH) praised his right-oriented and law-oriented behavior: "do not complain Ali, because he is strict and uncompromising in the way of God" (Al-Tabari, History of Tabari, vol 3: 196, Al-Majlesi, Baharalanvar, Vol 41:116).

Resoluteness of Imam (AS) to realize the rule of law and to cope with all behaviors contrary to Quran and Sunnah increased after he achieved the power. The Imam (AS) states: "I swear to God that I will return the looted treasury to its original owners, even if the looters have spent it for their marriage or have bought a bondwoman, because development of social affairs depends on the Justice and one who justice is restrictive and difficult for him, injustice will be more restrictive and more difficult for him." (Dashti, Mohammad, Ibid, sermon 15:39).

E. fidelity to the law (preferring the justice and right rather than the survival of the government)

with regard to this paper, It was clear that in The view of Imam Ali (AS), the government itself is not an end-target but it is just a tool to achieve high goals of protecting people in various aspects, provide services for them to achieve worldly and otherworldly felicity, and guiding the society from current situation to the desired situation through the implementation of the provisions of the Quran and the Sunnah of Prophet (PBUH). According to Bertrand Russell, there is a difference between desire for power as an instrument and desire for power as a goal. One who sees the power as a tool and tool, he has essentially a higher goal, but one who sees the power as a goal, bases his goal on the possibility of achieving the power and therefore he permits all

possible means and methods to achieve power (Bertrand Russell, Darya Bandary, 1374: 322).

According to Imam (AS) the right is preferred over all other values. In the Imam Ali (AS)' government, meeting the demands of the public and public satisfaction is important. In this regard, the Imam (AS) says: "you should choose an action, among all available actions, which is nearer to justice and is more pleasant for people" (Dashti, 53:569).

When Imam (AS) complained the defection of people toward Moavieh, Malik Ashtar suggested that it is because of Ali's (AS) commitment to justice and the right. Thus, he suggested that in order to the stability and survival of the state, Ali (AS) should overlook the implementation of law: "You treat them with justice and you do not consider superiority for nobles and you deal with all in the same manner. Thus a group of people, who were with you, did not stand and they tended to Moavieh. Therefore, if you give them money they will tend to you and they will love you."

Imam Ali (AS) in his response, defended his practices and said: About what you've proposed for giving financial property, we do not have permission to give anyone more than his quota, as Allah has said: "often a small group can, by the permission of God, defeat a large group and God is with those who are tolerant" (Baqara, verse 249).

Imam Ali (AS) rejected his proposal but he also emphasized that Malik is one of the best and most faithful companions. Imam Ali (AS) said: "I accept that part of your opinion which is in line with God satisfaction" (Ibn Abi al-Hadid, vol 2: 197-198).

Absolute commitment to law, inflexibility of Imam Ali (AS) against gentle folks, and precedence of justice over everything else, even the security and survival of government, can be seen in assigning the executives and their positions.

F. equal legal justice before the law and punishing all outlaws

According to Imam (AS), all of the Islamic Ummah including rulers and subordinates are equal before the law and have equal rights. Before the law, factors such as ancestry, social class or group, position, wealth and etc. cannot be considered as a indication of superiority of some people over other people.

In view of Imam Ali (AS), even state officials and leader have not allowed to consider themselves preferable than ordinary people or assert special privileges or more rights before the law. In other words, the concept of the "Above the law" has no meaning.

Therefore, Imam Ali (AS) in the field of generality of law scope as the right manifestation and its mutuality said: "the right is more broaden than to

be described but it has limitations during implementation. If it is applied in favor any one, it will also be applied against him, and if it is applied against anyone, it will also be applied in favor him' (Ibid, Sermon 216: 441). The Imam (AS) mentions the equality of all, including rulers, before the law: "do not consider a preference for yourself in matters where all people are equal." (Ibid, letter 53: 591).

Conclusion

The rule of law is one of the key political and legal principles that human has long sought its realization. Vast material has been provided about meanings and features of this concept from the period of ancient Greek up to now. Sometimes it is interpreted as the equality before the law, sometimes as law-based governance compare to dictatorships and absolute monarchies, and sometimes it is related to generality, persistency, and explicitness features of the laws. We can summarize them into this fact that according to the rule of law principle, arbitrary and despotic use of power in government decisions is rejected. Accordingly, the rulers and politicians are known as guardians and servants of the law and they are themselves under the law.

Rule of law is a broad topic and interests of states are different in this case. Therefore it can be concluded that the concept of Ruling of law in international level is still completing and has always been a debatable topic. The more important is that Ruling of law should be defined in the term of desired government and help completing and implementing other parameters of desired government.

Strong commitment of Imam Ali (AS) to law, i.e. Quran' commands and the Sunnah (customs and practices) of Prophet, indicates divine aspects of his rule. Ali (AS), who undertakes the leadership with the aim of realization of the right and justice as the most prominent manifestation of the law to bring the community to grow, says that one of the requirements to reach this goal is the compliance of leaders with law. He says: "Once I accepted to rule, I considered the Book of God and its commands and the Sunnah of the Prophet (PBUH) and then I followed them." (Ibid, Sermon 205: 427).

The Imam's (AS) commitment to law is to the extent that he does not violate the law in favor of his closest relatives (his children), his agents and executives, and even his enemies and he applies the law equally for his friends and enemies. He did not worry that his friends joint his enemies because he always believed that lawfulness of ruler cause to provide a required base to growth and development of society. In the presence of equality which its limits are determined by the law, knavish and indifference

people cannot gain the government posts, because incompetent people use the legal defects and special situations to gain the managerial posts and commitment to law can prevent them.

Compliance with the law, even if that law is "bad", will be better than clutter and anarchy. If the law is bad, it is better to replace it. Instead of being lawless that will lead to anarchy in the society.

"equality of rulers with people" in the life and before the law makes the rulers gain people's trust on the one hand, and on the other hand, makes the "rule" to be a "public service" not a tool for "getting the power". In this case, authoritarians will be prevented from achieving the power and those who consider the rule as a tool to provide "service for people" will undertake the government posts.

With regard to the above discussions, during the adaptation of this component of desired governance in the international arena with Ali (AS) ideas, we found that no comprehensive definition of the rule of law is presented in the international arena. The main reason for this is the personal interest of the rulers of different nations rather than the interest of the people. But Imam Ali (AS) never transacted principles and human values in the political market and even, he sacrificed his life in this way.

Increasing or decreasing the number of his friends Never did not affect his commitment to law And did not weak him, as the Imam (AS) said: "When all had weakness for doing the jobs, I was working, and when all hid themselves, I Made myself apparent, and when all was quiet, I spoke clearly and, when all stopped, I moved in the way by the light of God" (Plain, old, sermon 37:91).

References

1. Ibn Abi al-Hadid, description of Nahj, Volumes 1,2,5,7,17,29
2. Ibn Shar Ashob, virtus of Abi Talib Dodman, Najaf Alashrf, Motiat-al-hedayah, Vol. 1,1995
3. Al-Bahr Al-Ameli, Rasael Al-shia, Vol 18
4. Al-Tabari, History of Tabari, vol 3, p 196, Al-Majlesi, Bahar-Al-anvar, Vol. 41
5. Al-Zein, Hassan, translated by Naderi Maritza, human rights in Nahj, Quarterly Journal of Nahj researches, Year VI Number 29, 2010
6. Ahmadi, Dahir, Azadi and responsibility in Nahj perspective, approach rhetoric, Andishe Sadegh, Number 1, 2000.
7. Babapour, Mohamed Mahdi, Introduction to government and policy in Nahj, Tazhib Publication, 2010.
8. Bertrand Russell, Dariabandari, Najaf, Kharazmi, Tehran, 1995.

9. George Jordaq, Imam Ali, Voice of Justice, Humanity, Seyed Hadi Khosroshahi, Tehran, Farahani Press Institute, 1965, Vol 5.
10. Jafari, Muhammad Taqi, the wisdom of the political principles of Islam, Nahj Foundation, 1990
11. Bahraini Hosseinzadeh, Mohammad Hossein, On desired governance, Development Foundation (collection of articles), by efforts of: Darmideri, Ahmad and Khairkhahan Jafar, good ruler, Development foundation, Majlis Research Center 2004.
12. Sayyed Ali Khan Madani, Al-darajat Al-rafiah, Qom, Basirati, 2000.
13. Dashti, Mohammad, Nahj, Parsian Publication, 2000.
14. Dashti, Mohammad, Imam Ali (AS) and judicial affairs, Amiralmomenin (AS) cultural and research institution, 2000.
15. Rasekh, Mohammad, Theory of international human rights, Journal of Legal studies, No. 41, 2005.
16. Zarei, Mohammad Hussein, desired governance, governance and government in Iran, Journal of Legal studies, No. 40, 2004.
17. Zarei, Mohammad Hussein, the rule of law in legal and political ideas, Quarterly journal of Mofid, No. 26, 2001
18. Sharifzadeh, Fattah and Gholipour, Rahmatullah, desired governance and the role of government, management culture, No. 4, 2003.
19. Sharif Tarazkahi, Hussain (Krstyan Tamoshat), Human Rights, Development Foundation, Mizan Legal publication, spring 2007
20. Sanei, Mahdi, The new concept of desired governance in public management, journal of Tadbir, No. 187.
21. Salehi, Ataullah, Statesmanship in the international system, PhD thesis, University of Shahid Beheshti, 2009.
22. Tabatabaei, Mohammad Hussein: Al-mizan fi al-tafsir al-Quran, Volume 3, Ismailis publication, Qom, 1974
23. Taheri, Abu Al-ghasem., local governments and lack of concentration, Ghomes Press, third edition, 1996
24. Zamiri, Abd Al-hussain, desired governance in the political thought of Imam Khomeini, printed by Saghar, 2009.
25. Ali Pasha, Saleh, History of Law, Tehran University, 1969.
26. Katouzian, Nasser et al, the rule of law and civil society, published by the Faculty of Law and Political Science of Tehran University, 2006.
27. Kanz al-Amal, Vol 5, the second chapter of the book of Caliphate, Hadith No.1286
28. Kasseh, Antonio, International Law in non-united world, translated by Morteza Kalantarian, office of international legal services, vol 1.
29. Mideri, Ahmad and Kairkhahan Jafar, good ruler, Development foundation, Majlis Research Center, 2004.
30. Motahari, Morteza, Review of Nahj, Sadra publication, 1982.
31. Motahari, Morteza, Truthful story, Sadra Publications, Printed 1998, vol. 1
32. Montazeri, Hussain Ali, Juridical basis of Islamic Governance, translated by Mahmod Salavati, Tafakor Publications, Vol. 5, edition 1, 1995.
33. Hashemi, Dr. Seyed Mohammad, Human rights and Fundamental freedoms, Mizan Publications, 2005.
34. Movahed, Mohammad Ali, right and justice from natural rights to human rights, Karnameh publications, 2002.
35. Naghibi Mofrad, Hesam, desired governance in the light of internationalization of human rights, Shahr Danesh publications, 2010.
36. Noiman, Frants, Freedom and power and law, collection and edition of preface by Markozeh, translated by Ezatoallah Foladvand, Tehran, Kharazmi, 1994.
37. Hadavand, Mahdi, desired governance, Development, Human rights, journal of primary rights, No. 4, 2005.
38. Monfared, Laili, Statesmanship in legislature, Master thesis, Shahid Beheshti University, 2006.
39. Hadavand, Mahdi, legislative supervision on official affairs in the view of desired governance with reference to Iran juratory, PhD thesis, Shahid Beheshti university, 2007.
40. Hadavand, Mahdi, Desired governance, Development, Human rights, Journal of primary rights, No. 4, 2005.
41. Huff, Carla and Estigelniz Josef, "Barriers to the rule of law in the former socialist countries" in "several articles regarding institutional barriers to economic development", translated by Dr. Zahra Karimi, Majlis Research Center, 2005.
42. Ioan m.nelson (ed), economic crisis policy choice: the politics of adjustment in the third world (princeton on; Princeton university press, 1990).

43. International law association (ILA) Resolution3/2002: "new Delhi declaration of principles of international law relating to sustainable development" in ila, report of the seventieth conference, new Delhi (London: ila, 2002), Available online: <http://www/ila-hq.org>.
44. Kaufman, Daniel; "rethinking governance", world bank, 2000
45. Undp strategy .note on governance for human development 2004
46. Our global neighborhood, the report of the commission on global governance: oxford university press,1995.p2
47. Joah m.nelson (ed), economic crisis and policy choice: the politics of adjustment in the third world (Princeton: Princeton university press, 1990).
48. Asian development bank, elements of governance. on : www.adb.org.
49. Report of 70 the conference of the ila, new Delhi 2002,at 174. online: <http://www.cisd.org/pdf/new-delhi-declaration.pdf>.
50. Report of 70 the conference of the ila, new Delhi 2002, at 174. on: <http://www.cisd.org/pdf/new-delhi-declaration.pdf>.
51. www.worldbank.org/wbi/governance.
52. www.unescap.org
53. Shapiro,m. "judicial review in development democracies", in gloppen sand gararella, r and skaar, e. (eds) democratization and the judiciary, (London: frand cass, 2004), pp021-23.
54. Jowell, jeffery, "the rule of law on its underlying values", in the charying constitution". jowel, Jeffery and oliver dawm[ed], oxford university press 2007, p.10.
55. Yuon Dandurand. The role of Prosecutors in Promoting and strengthening the rule of low. erime law so change (2007) 47:p.248. on: <http://www.ucfv.ca>.
56. See schonherg, s.j. legitimate expectation in administrative law, (oxford: oxford university press, 2000), pp.10-13.

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