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The Conceptual Framework of the Rule of Law.

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Dr. Rahmani Radia[1]

[1]Faculty of Law and Political Science, University of Blida 2, Digitalisation and Law Research Laboratory, Algeria, Email: hadia.1990@outlook.fr

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Abstract:

The rule of law is one of the foundational elements of any just political system. It ensures the legitimacy and credibility of the state, and authority cannot be envisioned without the supremacy of law. This requires both rulers and the ruled to submit to legal frameworks. The rule of law also involves providing several guarantees, the most notable of which are ensuring constitutional supremacy and creating mechanisms to review the constitutionality of laws. This ultimately leads to the protection of rights and freedoms, which form the cornerstone of the rule of law.

Keywords: law, rights, freedoms, constitution, oversight.

Introduction:

One of the most important principles of modern democracies is that authority must respect the law. Respecting the law involves more than mere enforcement; it encompasses its broader significance, including establishing rights, protecting freedoms, and ensuring the constitutionality of laws. The rule of law can only be achieved through the concerted efforts of various interconnected elements.

The concept of the rule of law has evolved significantly over time. Philosophers have long sought to subordinate authority to the law, leading to the development of various supporting theories. In modern times, this concept has evolved through several schools of thought that have helped to define the essential components of the rule of law. These components are reflected in most contemporary constitutions, albeit with slight differences in application based on the nature of each state's political system.

This study aims to delineate the various aspects that define the rule of law by addressing the following research question:

What is the concept of the rule of law?

The discussion will be divided into two main sections. The first will address various philosophical and

theoretical approaches to subordinating authority to the law. The second will explore the modern concept of the rule of law, reviewing key Western schools that established its fundamental elements.

Section One: Intellectual and Philosophical Theories of Subordinating Authority to Law

This section will explore the theoretical justifications for the subordination of the state to law, reviewing various relevant theories.

Subsection One: Natural Law Theory

"According to natural law theory, the sovereignty of the state is constrained by the principles of natural law, which predate the formation of the state and embody absolute justice. These principles can be understood through human reason. Legal scholars La Fur and Michoud argue that the state's will is not absolute; it is subject to a higher force embodied in natural law (Droit Naturel) that transcends and supersedes its own will. Through reasoned inquiry into social relationships, humans can uncover and identify the rules of natural law that govern and structure society.[1]"

"However, natural law theory has faced several criticisms. One major critique is that the principles of natural law cannot be considered legal rules because enforcement mechanisms must be established for them to qualify as such. The state is the sole entity with the authority to impose binding rules governing individuals' behaviour and their relationships with one another. Consequently, many thinkers, particularly Carré de Malberg, view natural law theory merely as a moral or political constraint rather than a legal limitation on state authority. Furthermore, the theory of individual rights posits that these rights existed prior to the establishment of the state. These rights are considered to transcend any political authority and should not be subject to restriction.[2]"

"Furthermore, the theory has been criticized for its ambiguity and lack of specificity. Dr. Kamel Leila considers it a vague and difficult concept to define, which has led to conflicting opinions on the matter. Therefore, it should not serve as the basis for defining other concepts. Nevertheless, the theory's contribution to limiting state authority is undeniable. For example, the French state invoked natural law principles in its Declaration of the Rights of Man and of the Citizen, asserting that individuals possess natural rights and freedoms that the state cannot infringe upon. This is stated in Article One of the declaration: "The aim of any political association is the preservation of the natural and imprescriptible rights of man".[3]"

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[1]- Ahmed Helmy Khalil Hindi, The State in Political and Constitutional Systems, Dar Al-Fikr Al-Jami'i, Alexandria,2015, p. 272.

[2]- Kazou Muhammad Akli, Lessons in Constitutional Jurisprudence and Political Systems, Dar Al-Khaldouniya, Algeria,2003, p. 110.

[3]- AlyanBouzian, The State of Legitimacy Between Theory and Practice, A Comparative Study between Sharia and Law, Dar Al-Jamia Al-Jadidah,2003, p. 229-230.

"Attempts to revive natural law have produced a contemporary understanding of it. The German jurist Rudolf von Jhering sought to establish a new meaning for natural law, describing it as having variable content. He termed this approach “natural law with a variable content,” emphasizing that individuals should base legal judgments on the idea of justice by assessing positive laws as just or unjust. The notion of justice is ingrained in human conscience and is understood as fixed and inherent to human nature. However, it is also variable, as conceptions of justice change over time. Thus, natural law can be distinguished from positive law, enabling us to evaluate positive laws through the lens of justice.[4]"

Section Two: The Theory of Individual Rights

"This theory posits that individuals possess inherent rights from birth, predating the formation of states. During their original, instinctual lives prior to the formation of organised political communities, individuals enjoyed these rights and experienced complete and absolute freedom in exercising these natural rights. When individuals sought to leave their primitive existence behind in order to form an organised political society, their goal was to establish a power that would protect these rights and prevent conflicts arising from their exercise. Therefore, individual rights predate the establishment of the state, which is created solely to protect and preserve these rights while resolving any conflicts that arise.[5]"

"This theory gained extensive support from the leaders of the American and French Revolutions. The United States Declaration of Independence, adopted in 1776 after the Philadelphia Convention, states that “all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.” Governments are instituted to secure these rights.” These principles were later incorporated into the U.S. Constitution of 1787 and the French Declaration of the Rights of Man and of the Citizen, issued in 1789.[6]"

"However, critics of this theory argue that it is based on flawed assumptions. They assert that there is no historical or empirical evidence supporting the notion that individuals lived in isolation while enjoying natural rights. On the contrary, communal life has always been integral to human existence. Furthermore, the theory is founded on individualism, which has promoted economic freedom and contributed to social stratification. This stratification, in turn, led to the global economic crisis that

[4]- Omar Hamid Faradj el-Alawati, The Subjection of Political Authority to Law within the Framework of the Rule of Law Concept, Master's Thesis, Middle East University, Faculty of Law, 2019, p. 65.

[5]- Ahmed Helmy Khalil Hindi, ‘Previous Reference’, p. 275.

[6]- ZahiaHelfaya, "Constitutional Transformations in Algeria and Their Implications on the Rule of Law," Doctoral Thesis, University of ZianAchour, Djelfa, Faculty of Law and Political Science, 2020/2021, p. 104.

facilitated the rise of socialism and the demand for state intervention. Dean Léon Duguit sharply criticized the theory, arguing that it contributed to the emergence of socialist ideas and propagated the notion of the state being above the law.[7]"

Subsection Three: The Theory of Self-Determination of Sovereignty

"This theory emerged within the framework of German legal scholarship, led by Ihering and Jellinek, and supported by French scholars such as Carré de Malberg. It is therefore known as the German theory. According to Ihering, the state enacts laws because it possesses sovereignty, yet it also voluntarily accepts limitations on its powers. Thus, the theory is based on the premise that the state creates laws, to which it commits itself, thereby limiting its own sovereignty. Therefore, the law must be binding on both individuals and the state.[8]"

"Essentially, the state can only impose limitations if they stem from its own volition, constituting its sovereignty. Therefore, legal rules that define the scope of state authority can only be imposed by the state itself. This does not contradict the state's sovereignty, since it is solely the state that determines the legal rules outlining the boundaries of its authority by its own will.[9]"

"German legal scholars justify this viewpoint by asserting that law is not an end in itself, but rather a means to an end: ensuring the security and existence of the state. Without this, chaos ensues and the state risks collapse. Furthermore, the principle of the state's subordination to the law does not prevent the state from repealing this law at any time. The essential aspect is the state's commitment to respecting the law while it remains in effect and is enforced. If the state annuls a law, it must enact a new one and adhere to it. This does not infringe upon the state's sovereignty because the authority to do so arises solely from the state itself.[10]"

"However, like other theories attempting to explain the state's subordination to law, the theory of self-determination has not escaped criticism. Advocates of natural law critique it based on the premise that the concept of law precedes and is distinct from the concept of the state. They argue that it is incorrect to assert that the state creates and submits to law of its own volition. Instead, the

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[7]- AlyanBouzian, 'Previous Reference', p. 232.

[8]- Ahmed Helmy Khalil Hindi, The State in Political and Constitutional Systems, Dar Al-Fikr Al-Jami'i, Alexandria, 2015, p. 277-278.

[9]- 9. Naaman Ahmed Al-Khatib, The Concise Guide to Political Systems, Dar Al-Thaqafa for Publishing and Distribution, Jordan, 2011, p. 177.

[10]- Hamdi Abu Al-Nour and SayyidOweis, Contemporary Political Systems and the Islamic System, Dar Al-Fikr Al-Jami'i, Alexandria, 2015, p. 123.

state is constrained by an external force that exists prior to its own authority. This force is termed natural law.[11]"

"Furthermore, according to Dean Léon Duguit, submission to one's own will does not constitute true subordination. He claims that it is inaccurate to assert that the state voluntarily submits to law because it alone can create, amend, or annul this law at will. Duguit believes that the logic of this theory leads to inconsistent and fractured public law, resulting in boundless state authority because its adherence to the law would only occur at its discretion. Duguit questions what could motivate the state, which monopolizes the use of force, to comply with the laws it establishes.[12]"

Subsection Four: The Theory of Social Solidarity

"The essence of the theory of social solidarity is that the foundation upon which the state is subjected to law is social solidarity itself. This solidarity is seen as the reason for the state's emergence, necessitating that rulers adhere to the law to achieve the same goal. Furthermore, punishment reflects the collective reactions of the community against those who undermine the concept of solidarity.[13]"

"Léon Duguit advocated this theory, positing that the state arises from four fundamental factors: social choice, political differentiation, coercive force, and social solidarity". [14]"Proponents of this theory argue that law is a social phenomenon that emerges from human life in society. Law is rooted in essential life needs and is a necessary outcome of solidarity among individuals and communities. It aims to satisfy the diverse needs that arise with human existence. This solidarity dictates the principles and rules of law imposed by those in authority to maintain cohesion among individuals and strengthen their bonds. This prevents the disintegration of the community and facilitates progress and development.[15]"

"According to Duguit, the concept of social solidarity originates from the individual's need for community. While individuals maintain a sense of uniqueness, they must interact with others to fulfill their needs and collaborate. This collective living, known as social solidarity, arises from the feelings and connections established among individuals. Social solidarity first appeared within the family unit,

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[11]- Mohammad Kazem Al-Mashhadani, Constitutional Law of the State: Government, Constitution," Culture University Foundation, Alexandria,2008, p. 58.

[12]- Ahmed Helmy Khalil Hindi, 'Previous Reference', p. 279.

[13]- Ghribi, Fatima Zahra. Foundations of Constitutional Law and Political Systems. Dar Al-Khalduniyah. Algeria.2016, P. 101.

[14]- Al-Amin Sharit, A Concise Overview of Constitutional Law and Comparative Political Institutions, Dar Al-Matbu'at Al-Jami'ah, Algeria, 2002, p. 36.

[15]- Abd Al-Fattah Abd Al-Razaq Mahmoud, The Proclamation of the State: A Foundational and Analytical Study in International and Constitutional Law, Dar Majallah, Iraq, p. 171.

particularly in defense of family beliefs and assets. It then extended to cities, states, and ultimately the global community as feelings of connection among families increased. Although this global aspect may be characterized by weakness and ambiguity due to divisions among peoples, it nevertheless exists and is poised to evolve as individuals recognize their need for cooperation. Solidarity emerges from factors that promote collaboration, emphasizing that individuals cannot fulfill their needs without shared living experiences.[16]"

"Furthermore, social solidarity is a tangible foundation on which law is based, giving it its binding nature. The community's conscience is considered the origin of legal norms. Individuals' awareness of the necessity to respect solidarity among themselves constitutes the penalty for violating these legal rules.[17]"

"Despite emphasising the concept of political differentiation between rulers and the ruled when defining the state, Dean Léon Duguit consistently highlights the separation between law and the ruler's authority. A legal norm acquires its binding quality not merely because it is issued by a public authority, but because it aligns with the requirements of social solidarity and the common perception of its fairness. According to Duguit, legal norms can be modified if the collective sentiment indicates the need for reconsideration, given the diversity of environments and generations. This understanding contrasts with natural law principles, which are considered idealistic and eternal.[18]"

"The theory has faced criticism from legal scholars. Dean HauricriticisedDuguit for labelling his theory as 'realistic' while lacking realism in his own assessments. Hauri suggested that Duguit denied the state's personality and authority, adopting an anarchistic viewpoint. Professor Carré de Malberg also critiqued the theory, arguing that it bases the enforcement of laws on how they are perceived by the community. This makes the legitimacy of state actions contingent upon public sentiment regarding those actions after the event, rather than relying on an established legal system with pre-existing, systematic rules governing governmental actions.[19]"

"Furthermore, critics have pointed out that Duguit's theory places the social order solely on the foundation of social solidarity. While solidarity is an undeniable reality, it is not correct to assert that community life is based solely on this principle, as there are other important realities to consider,

[16]- Said Bouchaïr, Constitutional Law and Comparative Political Systems, Dar Al-Matbouaat Al-Jami'a, Algeria, p. 95.

[17]- Hamid Abu Al-Nour and SayyidOweis, 'Previous Reference', p. 164.

[18]- Naaman Ahmed Al-Khatib, Previous Reference', p. 180.

[19]- Ahmed Helmy Khalil Hindi, Previous Reference', p. 283.

including competition and conflict among individuals.[20]"

Subsection five: The Islamic Approach

A close examination of Western thinkers' ideas about the origins of the state reveals profound differences in their foundational assumptions. Each scholar attempts to establish their theory as the basis for legitimizing their views. The pertinent questions arise: Where do these thinkers draw their ideas? Are these perspectives realistic and practical, or merely speculative? Do these ideas stem from human thought and reason, or do they carry other connotations?

Throughout history, various civilizations have emerged, and in each era, God has sent prophets to correct human behavior. Through these prophets, God instituted rules similar to legal norms that promote peaceful coexistence. Islam, for example, did not begin with the Prophet Muhammad (peace be upon him), but rather traces back to Prophet Ibrahim, as indicated in the Quran: "Ibrahim was neither a Jew nor a Christian, but he was a monotheist, a Muslim." This suggests that individuals have historically derived their rights and submission to law from divine scriptures, even though some have tried to attribute them solely to human reasoning.

Western thinkers who have long advocated for secular ideas that separate religion from the state seem to deny the existence of God. The modern rule of law, as conceived in Western thought after centuries of development, is essentially rooted in divine law, which these thinkers often reject while simultaneously appropriating its ideas. Thus, the pursuit of a rule of law in the West may be an illusion, constrained by the limits of human reasoning driven by personal whims. Consequently, one could argue that the true source of the rule of law lies in Islam.

There is often a noticeable gap in academic discourse regarding the role of Islam in establishing the rule of law. This gap is characterized by intellectual evasiveness that positions the West as the origin of this concept. In reality, the West has appropriated and reinterpreted these ideas, often in an attempt to deny divine authority. This obscures the central tenet of submission to God, which is the foundation of governance. This concept is echoed in the Quranic verse: "The judgment is only for Allah. He has commanded that you worship none but Him. This is the correct religion, but most people do not know."

Departing from divine governance enables them to manipulate people according to their preferences and control their minds. Sometimes, they claim to follow the law while evading it when it does not serve their interests. A prime example is the concept of religious freedom, which the West has long

[20]- Mohammad Kazem Al-Mashhadani, Previous Reference', p. 60.

championed. However, the West imposes restrictions on Muslims practicing their religious rites. For instance, fining women for wearing hijabs in European countries contrasts sharply with their proclamations of religious freedom when traveling to Islamic countries, where they advocate for the same liberties.

In conclusion, one could argue that the Western rule of law is fundamentally pragmatic and aimed solely at achieving specific objectives through disseminating and normalizing ideas that serve their interests. Thus, the rule of law can be seen as an illusory framework whose underlying goal is to distance society from religion by manipulating public opinion.

Section Two: The Modern Concept of the Rule of Law

The concept of the rule of law has evolved significantly through several key stages in modern times, with notable contributions from French, German, British and American schools of thought.

Subsection One: The German and French Schools

"The rule of law emerged as a pressing necessity arising from social developments. The concept began to spread gradually in the late Middle Ages. The Magna Carta, established in Britain in 1215, defined a series of rules and rights aimed at protecting individuals from arbitrary authority. Similarly, the US Declaration of Independence in 1776 asserted that governments should derive their just powers from the consent of the governed. Influenced by the ideas of philosophers such as Jean-Jacques Rousseau and Montesquieu, the French Revolution declared that no authority in France should be above the law.[21]"

"From September 9 to 13, 1957, the International Scientific Law Association held a conference in Chicago under the auspices of UNESCO. Researchers aimed to define the “Western concept of the rule of law.” They determined that the confrontation between the American, English, German, and French systems revealed that, despite slight variations pertaining to each system, this concept shares a unified meaning. However, when viewed internally within each legal system, it becomes clear that these meanings differ, reflecting closely related currents that accompanied their long development.[22]"

"The concept of the rule of law primarily emerged from the German school under the term Rechtsstaat as a counter to the police state (Obrigkeitsstaat), thanks to legal scholars such as R. von Mohl, F.J. Stokel, Ihering, and Laband. These scholars advocated for the state to base its relations

[21]- KarimaYoussefi, "Administration and the Rule of Law in Algeria," Master's Thesis in State and Public Institutions, University of Ben Youssef Ben Khedda, Faculty of Law, 2006/2007, p. 1.

[22]- Saleh Djjal, Protecting Freedoms and the Rule of Law, Doctoral Thesis in Public Law, University of Algeria, Faculty of Law, 2009/2010, p. 32.

with individuals on pre-existing rules and standards. Thus, the difference between a state based on the rule of law and a police state is that the latter views law merely as a tool wielded by the administration and used at its discretion to subjugate individuals without adhering to any higher principles.[23]"

"It is important to note that the idea of the rule of law.As formulated in German constitutional jurisprudence in the late 19th century, it was part of the efforts to establish a constitutional monarchy in Germany that would ensure greater freedoms for its citizens. State institutions were responsible for upholding these freedoms by imposing constitutional constraints on state authority. During this period, the concept of the rule of law was also associated with the notion of a rational constitutional state, in which the law was considered to be abstract and general. These principles were originally established by the German philosopher Immanuel Kant (1724–1804). [24]"

"This German conception of the rule of law explicitly emphasises that public administration must adhere to it, committing to a set of legal standards and criteria that form the basis, framework and limits of its actions and decisions. Effective judicial oversight is the only way to guarantee this adherence. The German doctrine also posits that the formal concept of the rule of law rests on three pillars: the separation of powers, administrative subordination to the law and the supremacy of law.[25]"

"At the beginning of the 20^(th) century, the Austrian thinker Hans Kelsen reformulated the concept of the rule of law, defining it as a state in which legal norms are hierarchically organised and limit and constrict its authority. In this model, the state embodies a political project represented by a specific hierarchy of rules, culminating in a constitution that defines rights and freedoms and ensures equality before the law. This framework establishes appropriate appeal mechanisms that ensure legal norms are consistent with the required hierarchy. These mechanisms are overseen by independent judicial bodies that verify constitutional compliance. The guarantee of a hierarchical structure of legal norms ensures the continuity of the state.[26]"

"Legal scholars agree that the German concept of the rule of law was largely unknown to the French

[23]- ZahiaHelfaya, "Constitutional Transformations in Algeria and Their Implications on the Rule of Law," Doctoral Thesis, University of ZianAchour, Djelfa, Faculty of Law and Political Science, 2020/2021, p. 7.
[24]- Kamal djellab, "The Democratic Rule of Law: Conceptual Issues and Constitutional Requirements," Arabic Policies Magazine, Issue 52, Volume 9, September 2021, p. 9.
[25]- FaridAit Said, "The Mediator Between Social Demands and Building the Rule of Law," Master's Thesis in Administration and Finance, Institute of Law and Administrative Sciences, Ben Aknoun, 2000/2001, p. 67.
[26]- QadiAnis Faisal, "The Rule of Law and the Role of the Administrative Judge in Establishing It in Algeria," Master's Thesis in Public Law, Mentouri University, Faculty of Law, Constantine, 2009/2010, p. 12.

until the early 20th century. This is reflected in the writings of legal scholars such as Léon Duguit and ÉmileIhering. However, the practical utilization of the concept emerged through the work of French scholar Carré de Malberg, who published the influential text Contributions to a General Theory of the State. De Malberg formulated an independent theory of the "rule of law" based on the French institutional legacy that was closely aligned with the realities of French intellectual and political life.[27]"

"De Malberg distinguishes three models: the police state (L'état de police), which prevailed in France before the Revolution. In this model, the administration acted at its discretion and imposed measures it deemed appropriate on individuals. The second model is the legal state (L'Étatlégal), which was known during the Third Republic. In this model, the administration adhered to the principle of legality, and Parliament was responsible for drafting laws that expressed the general will. In this model, however, laws had no material limits or superior laws, making constitutional oversight impossible.[28]"

"De Malberg considers the rule of law the third and most significant phase in the evolution of the legal state. He defines it as a system that focuses on individual rights. De Malberg asserts that the constitution specifies and safeguards these individual rights, which must remain superior to legislative encroachment. Consequently, the rule of law not only restricts administrative authority, as in the legal state, but also constrains legislative power. Thus, the transition from a regulatory state to a legal state occurs when an independent judge ensures compliance with the law in administrative actions. The transition from a legal state to a rule of law occurs when an independent judge guarantees that legislative authority respects the constitution.[29]"

Subsection Two: The British and American Schools

"Unlike the German and French schools, Britain uses the term 'rule of law', a concept rooted in the Magna Carta issued in 1215. This document asserted for the first time that the king was not above the law, and aimed to limit royal power and establish the supremacy of the law.[30]"

"The conflict between Parliament and the monarchy provided the groundwork for the rule of law. Even after the Magna Carta was signed, there was still much debate about the true meaning of

[27]- Saleh Djjal, Previous Reference'," p. 41.
[28]- Zahiahelfaya, "The Rule of Law Between Organization and Application," Academic Magazine for Legal Research, Issue 03, 2021, p. 130.
[29]- Kamal djellab, Previous Reference', p. 10.
[30]- www.parliament.uk

sovereignty and how authority should be exercised by the ruler. Although it was acknowledged that the King of England had to respect the law, he retained the royal prerogative to administer justice according to his interpretation of it. The Bill of Rights of 1689 formally established parliamentary sovereignty, obliging the king to adhere to the law and preventing him from interfering in judicial processes.[31]"

"A. V. Dicey is one of the most prominent scholars to have elaborated on the rule of law in England, linking it to three essential elements:

1. The absolute sovereignty of law: an Englishman is governed solely by the law and can only be punished for violating it.2. Equality before the law: all social classes are subject to the law, and no one, including officials, is exempt from legal obligations.3. The law is the origin of individuals' rights.[32]"

"Conversely, the concept of due process of law serves a similar purpose in the United States. American legal scholars often emphasize judicial neutrality and independence, democracy, and human rights, particularly the rights to fairness and justice, while countering administrative discretion. Compared to the German school, there is less emphasis on philosophical interpretations of these principles due to comparatively weaker interest in legal philosophy in the U.S.[33]"

"Friedrich Hayek defines due process as a system in which the state operates through a set of general, abstract, and permanent rules that are clear, non-contradictory, and publicly available without retroactive effects. This system also operates through individual rules and decisions, reinforcing the principle of the hierarchy of laws. A separate and independent authority manages the imposition of material penalties for violating these rules, ensuring that both the legal rules established and the orders they generate conform to general principles and are distinct from the regulatory power.[34]"

Subsection Three: The Islamic Perspective

As discussed, the West has lagged in comprehending the rule of law according to modern standards, whereas Islam has long addressed these concepts more objectively, balancing the establishment of rules with the safeguarding of individual interests.

While the West has recently acknowledged that the concept of the rule of law entails more than mere obedience to the law, several principles must converge to realise it. These include the separation of powers, the recognition of freedoms, and the existence of institutions that protect the

[31]- MatthieuBurnay, Chinese Perspectives on the International Role of Law, Edward Elgar Publishing, 2018, p. 13.
[32]- Helen Gauble, The Role of Law, www.austli.edu.au.
[33]- HelfayaZahia, Previous Reference', p. 131.
[34]- QadiAnis Faisal, Previous Reference', p. 21.

hierarchy of legal norms. However, these principles are flawed because they rely on human judgement. In reality, the assertion of the principle of separation of powers is a mere illusion; it is impossible for powers to remain completely independent of one another. This contrasts sharply with Islam, which strictly implements this principle. In Islam, God is the ultimate legislator, as reflected in the Quranic verse: 'We have sent down to you the Book as clarification for all things, and as guidance, mercy, and good tidings for the Muslims.' Consequently, individuals are obligated to apply the rules provided in the Quran. Since these instructions originate from Allah, they are perfect — unlike rules established by human intellect, which may favour certain individuals while conflicting with others.

Quranic law strikes a balance between subjugation and individual benefit, ensuring that submission to these divine rules is not discriminatory, regardless of an individual's status even if they are a prophet. This leads to the significant concept of judicial independence, where judges are accountable only to divine legislation, as stated in the verse: 'Indeed, We sent down to you the Book in truth, so that you may judge between people by that which Allah has shown you. And do not support the deceitful."

Regarding rights and freedoms, which are key principles of the rule of law, we find countless legal rules established in Islam over 1,500 years before the Western concept of the rule of law emerged. Despite Islam's early recognition of rights and freedoms, the West continues to take a superficial, individualistic approach to liberties. In contrast, Islam's perspective is objective, balancing the acknowledgment of rights and freedoms with their societal impact and demonstrating the scientific miracle of the Quran.

For example, the Western notion of equality asserts that women and men have identical rights, equating their statuses. However, this perspective is flawed because it fails to recognize women's unique physiological attributes that must be respected. Islamic law addresses this issue by preserving women's financial rights as caregivers and exempting them from economic obligations. Instead, men are responsible for providing for them. Thus, the Islamic viewpoint on rights and freedoms aims to achieve justice, as conveyed in the verse: "Indeed, Allah commands you to be just and to do good." Justice is a profound concept that considers all surrounding circumstances.

In terms of ensuring respect for legal norms, Islam takes a deeper approach than positive law by blending disciplinary measures with moral awakening. For instance, violations of legal rules under positive law may result in penalties, yet they do not inherently deter individuals from breaking these rules; individuals may exploit loopholes to evade compliance without facing consequences. In contrast, Muslims operate under the awareness that there is divine oversight. Therefore, in addition

to worldly penalties, Muslims believe in an afterlife reckoning, which fosters an internal moral compass that discourages legal violations.

Conclusion:

Throughout history, philosophers and legal scholars have sought to establish a clear definition of the rule of law that protects individual rights and freedoms. This endeavor has required significant effort over time. Initially, the focus was on delineating state authority to prevent rulers from abusing their power. This exploration led philosophers to seek a foundation upon which the state would be subject to the law.

In modern times, this concept has evolved through the identification of the various elements and components that comprise the rule of law. The concept extends beyond mere compliance with the law by rulers and subjects; it encompasses protecting individual rights and freedoms and respecting constitutional supremacy through oversight mechanisms that ensure adherence. It also involves implementing principles that prevent arbitrary governance. The most notable of these principles is the separation of powers. This principle distributes authority across various institutions, enabling each to fulfill its function while fostering harmony, cooperation, and oversight, thus ensuring justice. The Islamic model of the rule of law is a commendable framework given its comprehensive treatment of the concept from multiple perspectives. In fact, one could argue that this model predates Western nations in articulating the dimensions and elements of the rule of law, establishing a comprehensive approach that balances governance with the protection of individual rights.

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