

# **An Introduction to Iranian Constitutional Law**



Research Institute of the Constitutional Council

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## **Foreword**

The “Constitutional Council Research Institute”, as the legal advisory arm of the Constitutional Council, in addition to providing consultative opinions to the Council regarding the compliance or non-compliance of the Islamic Consultative Assembly’s legislation and government-approved statutes with the Constitution, also engages in theoretical and applied studies on various constitutional law matters.

This research institute, which operated under the name “Constitutional Council Research Center” from 1997 to mid-2013, underwent a rebranding and restructuring in 2013 to further enhance its research services to both the Constitutional Council and the country’s legal community. Upon this restructuring, it began new activities under the name “The Constitutional Council Research Institute.

In pursuit of its objectives, the institute employs young, talented scholars from both academic universities and Islamic seminaries (Hawzah ‘Ilmiyyah). Various research topics relevant to the Constitutional

Council's jurisdiction and the needs of the academic community were identified and prioritized accordingly. The results of these endeavors are presented to the nation's academic community in the form of academic research articles, reports, expert analyses, and various books.

The present book is part of a series of publications aimed at elucidating the various dimensions of the Islamic Republic of Iran's constitutional system, based on the principles and objectives of this legal framework. As one of the core initiatives of the Constitutional Council Research Institute, this work is structured into fourteen chapters, aiming to explain and analyze the principles governing the constitutional law of the Islamic Republic of Iran, based on the latest mandatory legal norms.

It is hoped that our esteemed readers will share their feedback on this work and other publications published by the Constitutional Council Research Institute in pursuit of its mission, thereby aiding us in fulfilling our responsibilities.

*And success comes from God, and upon Him do we rely*

The Constitutional Council Research Institute

June 2025

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**Chapter One:  
Sovereignty**

## Sovereignty

### 1. The Foundation of Sovereignty in the Constitution of the Islamic Republic of Iran

Political sovereignty, as one of the fundamental elements of State formation, has consistently been a focus of experts, with various proposed definitions of it. Political sovereignty refers to a supreme authority above which no higher authority exists in society. Accordingly, every State requires an authority superior to all other existing authorities within its territory and over its resident population to enforce its will in legislating laws and administering the State - this supreme power is called sovereignty. In addressing the concept of sovereignty, its foundations, and origins, the Constitution of the Islamic Republic of Iran uses the title "*The Right of National Sovereignty and the Powers Derived From it*" in Chapter 5. Therefore, it is essential to examine the concept of the right of national sovereignty and resolve its apparent contradiction with Divine sovereignty in the Constitution of the Islamic Republic.

## 1-1: Divine Sovereignty in the Constitution

Several Articles of the Constitution address the subject of Divine sovereignty and its boundaries. The Constitution of the Islamic Republic of Iran, while acknowledging Allah's absolute sovereignty over the universe and human beings, considers divine permission as the basis for the legitimacy of authority. It recognizes supreme political authority as belonging to Allah and His appointees, which during the period of Occultation is delegated to the qualified jurist (*Valī-ye Faqīh*). In other words, the root and foundation of sovereignty in the Islamic Republic system belong exclusively to "Allah"<sup>1</sup>, as evidenced in Articles 2, 4, and 5 of the Constitution. The exclusivity of divine legislation and the role of divine revelation in expressing divine law are referenced in Clause (2) of Article 2, while Article 4 guarantees the Islamic nature of all enacted laws in the Islamic system. Article 5 also assigns the duty of implementing these laws to an individual authorized by Allah, namely the qualified jurist (*Valī-ye Faqīh*)<sup>2</sup>. According to the provisions of these and other Articles of the Constitution, sovereignty in the Islamic Republic of Iran has a divine basis<sup>3</sup>.

## 1-2: National Sovereignty in the Constitution

In the title of Chapter 5 of the Constitution, the term "National Sovereignty" is employed, and Article 56 explicitly states: "*Absolute sovereignty over the world and humans belongs to God, and He has*

1 . Hāshimī, Sayyid Muḥammad. *Ḩuqūq-i Asāsī-yi Jomhūrī-yi Islāmī-yi Iran: Ḥākimiyat va Nahādhā-yi Sīyāsī* [Constitutional Law of the Islamic Republic of Iran: Sovereignty and Political Institutions]. Tehran: Mīzān Publications, 1387 SH/2008, pp. 3-4.

2 . For detailed information about the basis of legislation on Islamic Shari'ah, see: Ka'bī, 'Abbās. *Taḥlīl-i Mabānī-yi Niżām-i Jomhūrī-yi Islāmī-yi Iran Mubtanī bar Uṣūl-i Qānūn-i Asāsī* [Analysis of the Foundations of the Islamic Republic of Iran System Based on Constitutional Principles]. Tehran: Guardian Council Research Institute, 1395 SH/2016, vol. 1, pp. 205 onwards.

3 . Javān Ārāsteh, Ḥusayn. "Mabānī-yi Ḥākimiyat dar Qānūn-i Asāsī" [Foundations of Sovereignty in the Constitution], *Ḩukūmat-i Islāmī* Journal, Year 6, No. 3, p. 84.

*made humans sovereign over their own social destiny. No one can deprive humans of this divine right, or subordinate it to the interests of a particular individual or group. The people shall exercise this divine right in the manner outlined in the following articles.”*

Based on the provision of the above Article, it can be inferred that the Constitution, through the expression “*He has made humans sovereign over their own social destiny*,” advocates for the sovereignty of the people. While declaring the method of exercising sovereignty through subsequent constitutional Articles, it emphasizes the theory of national sovereignty. The provision for public participation through elections (Article 6), the permission to form political parties and organizations (Article 26), the emphasis on enjoining good and forbidding evil as a religious duty (Article 8), and other provisions demonstrate the recognition of various dimensions of national sovereignty within the Constitution of the Islamic Republic.

In reconciling these two aspects and explaining the Constitution’s final approach to the basis of sovereignty, it must be stated that humans, by divine existential will, are endowed with free will and thus choose how to govern their social life based on this freedom. No one can impose their will on society unless accepted by the people. In other words, even though Almighty God has made the establishment of a religion-based government a general duty, its actual realization depends on the people’s will and acceptance. Therefore, if people do not desire or accept an Islamic government, the establishment of such a government seems impossible, and it is the people who give concrete reality to the Islamic government<sup>1</sup>.

The actualization of Islamic government in Iran occurred in 1979. The people of this territory, through the establishment and consolidation

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1 . Šalāhī, Sohrāb. “Jāyigāh-e Mardom dar Tashkīl-e Ḥukūmat-e Islāmī” [The Role of the People in the Formation of the Islamic Government], Barresī-hā-ye Ḥuqūq-e ‘Ummūmī, 1392 SH/2013, p. 127.

of the Islamic Republic, expressed their will to be governed by Islamic rules and norms in various aspects of their individual and social affairs, as stipulated in the Constitutional Articles. In fact, the people, while acknowledging divine sovereignty, decided to exercise their will within the framework of rules derived from divine will (Shari'ah), as manifested in the Constitution. Therefore, based on the people's will and desire, the foundation of sovereignty in the Islamic Republic of Iran is inherently divine, and the people have willingly confined the exercise of their will to the rules and regulations contained within Shari'ah principles.



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**Chapter Two:  
The Rights of the People**

## The Rights of the People

The Constitution is the most significant political and legal document of a country, containing the highest principles that, on one hand, explain the rules and standards governing the political relationships between individuals, the state, and its political institutions, as well as the distribution of power among individuals and institutions. On the other hand, it guarantees citizens' rights and freedoms<sup>1</sup>. Accordingly, the Constitution of the Islamic Republic of Iran, believing that all resources and planning must be employed to comprehensively secure the people's rights, has undertaken to recognize, guarantee, and protect the rights and freedoms of the nation, dedicating its Chapter 3 under the title **“The Rights of the People”** from Articles 19 to 42. These articles explain important examples of people's rights and freedoms and the government's duties in securing and guaranteeing these rights, which will be further examined here.

1 . Qāzī Sharī'at Panāhī, Abū al-Faql. Bāyisteh-hā-yi Ḥuqūq-i Asāsī [The Requirements of Fundamental Rights]. Tehran: Mīzān Publications, 1388 SH/2009, p. 39.

## 1. Civil and Political Rights

The first category of rights and freedoms enshrined in the Constitution pertains to civil and political rights, which are examined in four sections: “The Right to Establish and Operate Associations,” “The Right to Assembly and Demonstrations,” “Right to Freedom of Publications and the Press,” and “The Right to Citizenship.”

### 1-1: The Right to Establish and Operate Associations

The “Right to Establish and Operate Associations,” aimed at providing a permanent space for individuals to gather, exchange information, and assist one another in various fields, is one of the rights explicitly recognized in international documents and the constitutions of many countries. This right is also addressed in Article 26 of the Constitution. According to this article: *“Political parties, societies, political and professional associations, and recognized Islamic or religious minority associations are free to operate, provided that they do not violate the principles of independence, freedom, national unity, Islamic criteria, and the foundation of the Islamic Republic. No one may be prevented from joining them, or forced to join one of them.”* This Article addresses the freedom of organizations and their related limitations. The intended meaning of the freedom of these organizations is the recognition of individuals’ freedom to join any of these organizations, where they continuously share their knowledge, information, and efforts in pursuit of designated objectives<sup>1</sup>.

The associations mentioned in Article 26 include political parties, societies, political and professional associations, and constitutionally recognized Islamic or religious minority associations. However, it should be stated that Article 26 is not meant to enumerate all authorized associations, but rather provides examples of the most significant associations under the categories of parties, societies, and organizations,

1. 'Abbāsī, Bijan. *Ḩuqūq-e Bashar va Āzādīhā-ye Bonyādīn* [Human Rights and Fundamental Freedoms]. Tehran: Dādgostar Publications, 1390 SH/2011, p. 132.

expressing a general rule regarding the freedom of political and social associations.

It should be mentioned that the freedom of parties and associations, like many other public freedoms in human society, is subject to certain restrictions due to the necessities of social life and the protection of the rights of others. In this regard, it can be stated that the freedom of associations is not considered absolute, and the legislator in Article 26, after stating the general ruling of freedom for associations, conditions them on not violating the principles of independence, freedom, national unity, Islamic criteria, and the foundation of the Islamic Republic of Iran.

As explicitly stated in Article 26: “*No one may be prevented from joining them (the associations)*,” the non-prohibition of anyone from participating in associations is based on the normal and initial status of individuals; however, exceptions to the general ruling of this article may be envisioned in two situations for certain individuals:

The first exception is that certain individuals, due to occupying specific social positions and assuming various roles in society, are prohibited from membership in associations in order to maintain neutrality and eliminate any form of partisanship. For instance, the prohibition of military personnel from political party membership, stipulated in Clause 4, Article 34 of the Islamic Revolutionary Guard Corps Statute, was approved on 06/09/1982.

The second exception includes certain individuals who, due to committing unlawful acts, have been prohibited by the legislator from membership in parties and associations as a supplementary punishment. For example, Article 23 of the Islamic Penal Code, enacted on 21 April 2013, stipulates that a person sentenced to fixed corporal punishment (*hadd*), retaliation (*qisās*), or discretionary punishment (*ta‘zīr*) of the first to sixth degree may be subjected to the supplementary punishment of

“prohibition from membership in political or social parties, groups, and organizations.”

### **1-2: The Right to Assembly and Demonstrations**

Article 27 of the Constitution addresses the freedom of assembly and demonstrations, as well as their limitations. An “assembly” is a temporary gathering of individuals who can freely participate in events such as speeches, meetings, rallies, and street demonstrations organized by specific individuals to exchange ideas or defend their interests. According to this definition, “freedom of assembly” means that every person has the right to convene a gathering at a specific location and time with like-minded individuals to express their opinions and viewpoints. This gathering may involve delivering speeches, holding meetings and conferences, or conducting debates, culminating in the release of statements containing general regulations and recommendations<sup>1</sup>. A “demonstration” refers to a group of people marching in an organized and cohesive manner through public spaces to express their collective grievances and demands<sup>2</sup>.

According to Article 27, the principle is the freedom of assembly and demonstration. However, this freedom is not absolute and is limited by the conditions of not bearing arms and not being disruptive to the foundations of Islam.

Although this Article recognizes only two limitations—*“not bearing arms”* and *“not being disruptive to the foundations of Islam”*—based on other Articles of the Constitution, additional limitations on the freedom

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1 . Parvīn, Kheyallāh va Fīrūz Aşlānī. Uşūl va Mabānī-ye Ḥuqūq-e Asāsī [Principles and Foundations of Constitutional Law]. Tehran: University of Tehran, 1391 SH/2012, p. 213.

2 . Hāshimī, Sayyid Muḥammad. Ḥuqūq-i Bashar va Āzādīhā-yi ‘Umūmī [Human Rights and Public Liberties]. Tehran: Mīzān Publications, 1384 SH/2005, p. 451; Islāmī, Reza and Muḥammad Mahdī Kamālvand. Āzādī-ye Ijtīmā‘āt dar Niżām-e Baynal Milal Ḥuqūq-e Bashar va Sīstem-e Ḥuqūqī-ye Iran [Freedom of Assembly in the International Human Rights System and the Iranian Legal System]. Tehran: Majd, 1394 SH/2015, p. 36.

of assemblies and demonstrations can also be identified.

According to Article 9, in the exercise of legitimate freedoms, including the freedom of demonstrations and assemblies, the slightest harm must not be inflicted upon the political, cultural, economic, or military independence, or the territorial integrity of the Islamic Republic of Iran.

Furthermore, according to Article 40 of the Constitution, the holding of demonstrations and assemblies must not result in harm to others or infringement upon public interests. Therefore, the formation of assemblies and demonstrations must not involve the bearing of arms or lead to disruption of the foundations of Islam, harm to others, infringement upon public interests, or compromise the political, cultural, economic, or military independence, as well as the territorial integrity of the Islamic Republic of Iran.

### **1-3: The Right to Freedom of Publications and the Press**

According to Article 24 of the Constitution: "*Publications and the Press are free to express views, provided that they do not violate the principles of Islam or public rights, the details of which shall be determined by law.*" The term "Publications" includes any subject matter that is "published." Books, articles, newspapers, quarterly journals, periodicals, yearbooks, and magazines are considered publications, which may be issued in either printed or electronic form. Accordingly, the output of a publication can take the form of text, audio, or visual content. The term "Press" refers to printed writings and is mentioned in Article 24 as a specific instance following the general term. In fact, the most prominent example of publications is the press, which the legislator has explicitly mentioned for emphasis.

Absolute and unconditional freedom leads to chaos; therefore, defining the boundaries of the freedom of publications and the press