

## Investigation of the Rights, Authorities, and Responsibilities of the King in the Constitutional IRAN

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### Abstract

The Constitutional Revolution is of great importance regarding its direct impact on the political system and legal developments in contemporary Iran, as well as the changing relations between the rulers and the people. One of the important issues is the transformation in the position of the king and his rights, powers, and responsibilities in the legal sources of the constitutional era; with the focus of the constitutional revolutionaries on curbing despotism and ultimately drafting and promulgating the constitutional law and its supplements, efforts were made to separate the three branches of the legislative, executive, and judicial powers and prevent the concentration of power in the person of the king by establishing new institutions. However, a reflection on the process of political and legal transformations in the subsequent stages of the constitutional era until the Islamic Revolution reveals the crystallization and continuation of old despotism within the framework of the constitutional system, from the period of minor despotism to the Pahlavi era, where absolute rule of the king was not based on law but enforced through the law. Hence, considering that the philosophy behind the drafting of the constitutional law and its supplements fundamentally aimed to limit the despotism of the monarchy, while witnessing the reappearance and reproduction of despotism in the subsequent stages of the constitutional era until the victory of the Islamic Revolution, the question arises: 'What role did the constitutional law and its principles play in the reproduction of despotism during the Pahlavi period?' The present study aims to examine the hypothesis that with the infiltration of the monarchist movement, both overt and covert, in the drafting of the constitutional law and its supplements, the previous powers and authorities of the king were preserved in various principles of the constitutional law and its supplements, and under favorable conditions and based on these principles, the despotism of the monarchy was reproduced.

**Keywords:** Monarchy, King, Rights, Responsibilities, Constitutional Era, Revolution.

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### Introduction

The Constitutional Revolution can be seen as the result of the dissatisfaction and resentment of the Iranian society towards the continued despotism of the Qajar dynasty and the oppressive rule of the rulers over the people, as well as the awareness of certain segments of the population of new ideas and constitutional movements in the world; the people's protest movement and the support of the clergy, culminating in the victory of the people and the issuance of the Constitutional Decree by Mozaffar ad-Din Shah Qajar in Sha'ban 1324.

Although the Constitutional Revolution took place during the reign of Mozaffar ad-Din Shah, it should be considered as the offspring of the half-century rule of Naser al-Din Shah. The corruption and mismanagement in the court of Mozaffar ad-Din Shah were, in fact, an extension of the same trajectory of the previous rule, which the weak and gentle personality of the new king facilitated the occurrence of the revolution (Same'i, 2018 AD/1397 SH: 182).

Until before the 14th of Dhu'l-Qadah 1324 (8th of Dey 1285), when the protests and unity of the people towards their rights led to the coronation of Mozaffar ad-Din Shah and the signing of the constitution by the Crown Prince and Prime Minister Mirza Nasrollah Khan Moshir al-Dowleh, all powers of the three branches of legislative, executive, and judicial were concentrated in the person of the king: "There was no rule of law in the country, and besides the executive power, the authority of the legislative and judicial powers was also in the hands of the king" (Agheli, 2015 AD/1394 SH: 26); even if there was a law, "There was no guarantee... and these types of regulations and laws were not only not in the direction of public interest but also lacked stability." (Nejad Najafian, 2016 AD/1395 SH: 53-54)

The king at the head of the three branches commanded without any limitations, and the people did not enjoy the lowest level of freedom.

The occurrence of the Constitutional Revolution changed previous relations and established new relationships between the people and the rulers. The constitution marks a turning point in the history of popular sovereignty in Iran (Adamiyyat, 2009 AD/1388 SH: 169; Rahbari, 2012 AD/1391 SH: 12). In fact, Iranians concluded that the prerequisite for social system reform is limiting the king's power, establishing a parliament, and rule of law (Nasri, 2011 AD/1390 SH: 1/48).

This event, which had a broad international impact, could have put an end to the rule of despotism and paved the way for achieving the desired government if the leaders of the awake movement were more vigilant (Maleki, 2014 AD/1393 SH: 39-40). Limiting the king to the law in the absolute monarchy that had deep roots in Iran's long history underwent

changes in the Constitutional Movement, so, constitutionalism is the most important period in Iran's history in terms of legal and political transformations.

Autonomous governments had no legitimacy and the constitutional political system alternated until the third coup of Esfand 1299, leading to a critical situation that was influential in advancing the establishment of a modern government (Akbari, 2014 AD/1393 SH: 107).

Achieving democracy, freedom, and rule of law is a long-term process that could highlight the constitutional changes towards the direction of rule of law and, in this regard, regardless of the normative aspects of Islamic constitutionalism, it reflects the initial foundations of today's legal history in Iran.

The Constitutional Movement, which was the first reformist movement of the Iranian people in the last century, initially pursued two fundamental goals: Establishing a modern nation-state, and forming a nation by transforming the people from subjects to citizens through political participation in the country (Ashraf, 2017 AD/1396 SH: 205).

These goals were achievable within the framework of a law; therefore, drafting the constitutional law to achieve these goals and limit despotism can be considered the most significant transformation. However, the intriguing point is that despite the survival of the constitutional legal structure in later eras (Pahlavi era), we witness the reproduction of despotism. Therefore, the question arises that since the philosophy behind drafting the legal sources of constitutionalism was fundamentally to limit the despotism of the monarchy, and we see the reappearance of despotism in the later eras (Pahlavi era), 'What role did the constitution and its principles play in the reproduction of despotism during the Pahlavi period?'

The present study examines the hypothesis that with the infiltration of the monarchist movement in drafting the constitution, the previous power and authority of the Shah were explicitly and covertly preserved in various principles of the constitutional legal sources, and under suitable conditions and based on these principles, the despotism of the monarchy was reproduced.

## **1. Background and Historical and Political Process of Drafting the Constitutional Law**

The constitution should be considered the most significant outcome of the Constitutional Revolution. After several thousand years of absolute despotic rule and the active governance in Iran, for the first time in the late thirteenth century AH, the rigid and deeply rooted relations of despotic monarchy underwent a transformation, and the basis and

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framework of power were established on a new legal system. In this regard, the constitutional law of the constitutional era was drafted. Contrary to some who considered the constitutional law a composite translation of the constitutions of Belgium, France, and Bulgaria, "The text of the constitutional law was not a translation, but the parliament formed a committee to prepare the draft of the constitutional law. The procedure was such that the parliament established two commissions: the "Translation and Compilation" commission for translating laws, which employed fifteen translators; the other, the "Rationality and Scholars" commission for refining laws." (Adamiyyat, 1981 AD/1360 SH: 5)

The Constitutional Quadrilateral documents, including the Constitutional Decree, the Constitution, its Supplement, and also the Electoral Law of 1324 AH, emerged in the midst of conflict and disputes among three factions: The royalists, the constitutionalists, and the proponents of legitimacy, to preserve the rights and powers of the king, taking into account the considerations of clerics and the opinions of intellectuals. In fact, the Constitutional Law was not the product of the political victory of a single political faction, and the ideology of a single faction did not crystallize in the Constitution; rather, it emerged from the confrontation of various political factions.

The Iranian protest movement that culminated in constitutionalism began on 22 Azar 1284 with the aim of combating the tyranny and injustice of despots and establishing a court of justice (Kasrawi, 2004 AD/1383 SH: 67).

In response to the people's demand, Mozaffar ad-Din Shah wrote: "The establishment of a governmental court of justice for the implementation of religious decrees is more important than anything else," but Prime Minister Ayn al-Dawlah did not see the establishment of a court of justice as expedient (Zerang, 2002 AD/1381 SH: 119).

The demand for a court of justice over time transformed into a demand for a Council of Justice and ultimately a National Consultative Assembly, practically shifting the people's justice movement towards constitutionalism. Mozaffar ad-Din Shah, with the dismissal of Ayn al-Dawlah, issued a decree to convene a consultative council on 14 Jumada al-Thani 1324 (Mohseni, 2009 AD/1388 SH: 7).

Then, on 18 Sha'ban 1324, the National Consultative Assembly was inaugurated by Mozaffar ad-Din Shah, and a committee was tasked with drafting the Constitution. Finally, the Constitution consisting of 51 articles was drafted on 14 Dhu al-Qa'dah 1324 (8 Dey 1285), and two days later, on 16 Dhu al-Qa'dah (10 Dey), it received the signature of Mozaffar ad-Din Shah (Amin, 2003 AD/1382 SH: 465).

It is worth mentioning that all the principles of this law pertained to the parliament and the parliamentary system, which is why it was initially referred to as the "Electoral Law," and topics such as government structure, separation of powers, recognition of the rights and freedoms of the people, etc., were not given attention.

Some believe that since Iranians were not familiar with legal concepts, the Constitutional Law was drafted incompletely in 1324 AH, while the introduction of the ideas and constituent elements of the new legal system in Iran, such as the concept of law, separation of powers, government, freedom, equality, origin and power of the state, form of government, government order, etc., had already taken place in the Iranian intellectual arena before constitutionalism and through the first generation of intellectuals, namely Yusuf Khan, the Grand Vizier, Akhundzadeh, Malkom Khan, and Talebof. The reason for the incomplete nature of the Constitution was the concern and fear of the return of despotism; as at the time of its drafting, Mozaffar ad-Din Shah was ill, and given the despotic nature of Mohammad Ali Mirza and the possibility of his rebellion against the prime minister (Ghamami, 2008 AD/1387 SH: 55).

Representatives sought to have the Constitution approved before the Shah's death. One week after the enactment of the Constitution, the Shah passed away, and Mohammad Ali Mirza ascended to the throne. The continuation of the autocratic behavior of the new Shah made representatives realize the weaknesses of the 51-article Constitution. Therefore, twelve days after the approval of the Constitution on 22 Dey 1285, a commission consisting of five graduates of European universities was formed to draft a supplement while preserving the constitutional principles.

The supplement aimed to elaborate on the rights of the nation (Articles 8 to 25), the powers and prerogatives of the Shah (Articles 35 to 57), the structure of the cabinet (Articles 58 to 70), and the judiciary (Articles 71 to 89). After eight months, a draft consisting of 107 articles was published (Daneshkia, 2009 AD/1388 SH: 6).

This draft was subjected to competition among three intellectual-political factions: Royalists, proponents of legitimacy, and constitutionalists, each striving to amend and approve fundamental provisions of the draft supplement regarding the origin of governance, the nature of power, government, and the distribution of power within society.

With the establishment of the constitutional regime, which accepted the constitutional monarchy, although the unlimited powers of the king were curtailed in terms of establishing a national government and his orders were deemed executable only within the bounds of the law, as expressed by Mohammad Ali Foroughi, "The exercise of power should be

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limited by the law," (Foroughi, 1993 AD/1372 SH: 32) yet the king still retained significant powers and privileges.

### 2. The Rights, Powers, and Responsibilities of the King in the Legal Sources of the Constitutional Era

Before examining the rights, powers, and responsibilities of the king in the legal sources of the constitutional era, it is necessary to provide a general explanation of the principles governing national sovereignty and the separation of powers.

A crucial concept in the constitutional laws of countries is the notion of national sovereignty. Given the continuity of the monarchy system after the constitutional period, the concept of national sovereignty received attention in the legal sources of the constitutional era.

According to Article 35 of the supplementary Constitution, "Sovereignty is a trust delegated by the nation to the person of the Shah." In fact, "It was based on this principle that after the capture of Tehran, Mohammad Ali Shah, who had sought refuge in the Russian embassy, was dethroned; because, according to the aforementioned principle, sovereignty is not absolute and is reclaimable." (Same'i, 2018 AD/1397 SH: 223)

The purpose of "Kingship" in this principle, according to the parallel texts of the public law of the constitutional era, such as the book "Fundamental Rights and Customs of Constitutional States" by Mohammad Ali Foroughi, is "Sovereignty." This principle was established after the intervention of the monarchist movement in amending the constitution, as follows: "Sovereignty is a trust delegated by the nation to the person of the king by divine gift."

However, the manner in which this right is delegated to the king by the nation is silent. This principle considers national sovereignty as a combination of the will of the people and divine delegation, and it can be considered the highest form of the right of sovereignty, which can be perceived as the right of "People's Sovereignty," referred to as "Trustee Sovereignty." "People's government is a type of government in which the administration of public affairs is not entrusted to one individual or a limited elite, democracy is the manifestation of the will of the people." (Adamiyyat, 2015 AD/1394 SH: 5)

It seems that the legislator has violated the intention and does not consider the origin of sovereignty as the nation, but rather considers the position of sovereignty as a command delegated by God to the king. In light of the oath mentioned in Article 39 of the supplementary Constitution, the legislator acknowledges that the king considers himself responsible only before God and therefore will never commit an unlawful act for which he can be held accountable.

Given the position of the king in the power structure in Iran, one of the challenging concepts in the supplementary Constitution was the concept of equality, which was mentioned in Article 8 of the supplementary Constitution, recognizing the "People of the Iranian nation as equal before the law of the state."

One of the important concepts in the legal sources of the constitutional era is the separation of powers, aimed at limiting the absolute power of the king and preventing the continuation of power concentration in the position of the king, as stated in Articles 2 and 27 of the Constitution. According to Articles 2 and 27 of the Constitution, the powers of the state are divided into three branches:

First, the legislative branch, which is responsible for the enactment and codification of laws, derived from his imperial majesty, the National Consultative Assembly, and the Senate, each of which has the right to enact laws; however, the establishment of these laws is subject to not conflicting with legal standards, the approval of both assemblies, and the royal endorsement; but the enactment and approval of laws regarding the national budget fall within the jurisdiction of the National Consultative Assembly. Additionally, the interpretation and explanation of laws are the specific duties of the National Consultative Assembly.

Second, the judiciary and executive branch, which consists of the distinction of rights, is specific to the religious courts in religious matters and to the judicial courts in customary matters.

Third, the executive branch is specific to the king; meaning that laws and regulations are enforced by ministers and government officials in the name of His Imperial Majesty, in the manner prescribed by specific laws.

**2.1. Rights and Authorities of the King in Terms of the Legislative Branch**  
According to Article 27 of the supplementary Constitutional Law, the function of the legislative branch is the enactment and codification of laws, in which the three entities of the king, the National Consultative Assembly, and the Senate have the right to enact laws; as Ayatollah Sayyid Hasan Modarres, one of the prominent representatives of the National Consultative Assembly in the fourth term, stated in line with this principle and in the direction of approving laws: "I submit that a law must have degrees to be fully legal, one of those degrees is the National Consultative Assembly, another is the commission, another is the Senate, and another is the king's signature, and all of them are only valid if not contrary to the religion." (Proceedings of the National Assembly, 2009 AD/1388 SH: 4, Session 72: 72)

Now, we turn to the enumeration and explanation of principles regarding the direct or indirect role of the king in the legislative branch.

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### 2.1.1. Issuing Election Decrees and Opening Legislative Assemblies and Preventing the Suspension of the Constitutional Foundation

According to Article 49 of the supplementary and Article 10 of the Constitution, the issuance of election decrees and the opening of assemblies were the responsibility of the king, and the purpose was not merely ceremonial and aimless, but the legislator implied the king's indirect supervision in ensuring compliance with the regulations of the National Consultative Assembly and the Senate.

Based on Article 49 of the supplementary, "Issuing decrees and orders for the implementation of laws is the right of the king without ever delaying or suspending the enforcement of those laws;" thus, he can issue the decree to start the elections and compel the government to implement it (Araqi, 1952 AD/1331 SH: 312).

If the order and sequence prescribed in the law for the opening of the two assemblies are not followed, the formation of the valid and legal assemblies is not valid. According to Article 32 of the Regulations of the Election of the National Consultative Assembly dated 19 Rajab 1324, "The elected representatives of Tehran will elect one president, two vice-presidents, and four secretaries among themselves and under the supreme leadership of his holiness, Shahriyari, Khaldollah Malakeh, the assembly will be inaugurated."

The 10th principle of the Constitution regarding the role of the Shah in the opening of the parliament states: "At the time of the opening of the parliament, a speech is addressed to his majesty, and the response to the speech is made by the honorable and illustrious royal representative."

Another important authority of the Shah in the legislative field and the beginning of a new legislative period is the responsibility of the representatives towards the Shah, as reflected in the Representatives' Oath: "We, the undersigned, call upon God as our witness and swear by the Quran to fulfill the duties referred to us with utmost honesty, correctness, effort, and dedication as long as the rights of the parliament and parliamentarians are preserved according to this regulations, and to be loyal and truthful to his majesty the just and glorious Shahanshah, and not betray the monarchy and the rights of the Iranian nation, and have no purpose other than the benefits and interests of the government and the Iranian nation."

One of the important and effective authorities of the king as the head of the executive branch is to ensure the implementation of the supplementary seventh principle of the Constitution by the Shah, according to which, "The principle of constitutionalism is not partially or completely suspended."

### 2.1.2. Order to Convene the Two Assemblies



"The convening of the legislative assembly may be ordinary or extraordinary; ordinary convening, which takes place after the expiration of the vacation days or after the renewal of elections, does not require the order of his majesty, as the members of the two assemblies must be present and the assemblies must be convened during the expiration of the vacation days or after the renewal of elections, as soon as more than half of the members of the National Consultative Assembly are present, the assembly is convened. In extraordinary convening, which takes place during vacation days, the order of the king is necessary. This convening is specified by the ninth principle of the Constitution and the supplementary fifty-fourth principle of the Constitution." (Adl, 2010 AD/1389 SH: 68)

The supplementary principle 54 states: "The king can order the extraordinary convening of the National Consultative Assembly and the Senate;" meaning that if the parliament is adjourned and the king deems it necessary to discuss and approve an important matter, he orders the convening of the assembly, and no one can arrange for the assembly not to be convened.

### **2.1.3. Separation of the National Consultative Assembly and the Renewal of the Members of that Assembly**

It is one of the important powers of the king and, in principle; his "Veto" rights include the separation of the National Consultative Assembly if the assembly creates a disruption in the approval of the government's proposed bill; by threatening to separate that assembly, the king compels the members of the assembly to accept the proposed government bill. According to the 48th principle of the Constitution, the king can order the separation of the assembly under the following conditions:

- 1) In case of a dispute between the two assemblies. Therefore, if it falls within the exclusive duties of the National Consultative Assembly, the Shah cannot order the separation;
- 2) The amended matter of the Senate does not reach the approval of the National Consultative Assembly, and also the Third Assembly composed of members of the two assemblies cannot resolve the dispute;
- 3) The king, taking into account the opinions of the Council of Ministers, the Senate, the National Consultative Assembly, and the Third Assembly, addresses the matter. If the decision of the National Consultative Assembly is accepted, they execute it, and if the assembly does not approve, they order a renegotiation;
- 4) In case of lack of agreement of the Senate with a two-thirds majority, the vote for the separation of the National Consultative Assembly is given;

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5) The Council of Ministers must also approve the separation of the National Consultative Assembly. If all the above conditions are met, the royal decree for the separation of the National Consultative Assembly is issued, provided that in the same decree of separation, an order for the renewal of elections is included;

6) In each electoral term, separation does not occur more than once.

It is worth mentioning that the right to separate may contradict the rights of the national sovereignty and the principle of the separation of powers. However, it seems that the result of the principle of the separation of powers is to create independence and freedom for each of the powers. Since the lack of oversight of each power over the others may lead to deviation, each power has a tool for controlling the other power. The most important means of controlling the legislative power by the executive power is the right to dissolve the assembly.

It is worth mentioning that Article 48 of the Constitution was revised in 1328: "The king can dissolve either the National Consultative Assembly or the Senate separately or both assemblies together." By granting this power to the king, the legislative power practically came under the control of the king, enabling him to suspend both assemblies whenever he wished and, through this revision, dictatorship was legitimized through legal means, violating the essence of the seventh principle of the Constitution, "The basis of conditionalism is not to suspend it either in part or in whole."

#### **2.1.4. The Appointment and Establishment of Half of the Members of the Senate**

The king appoints thirty of the sixty senators of the Senate, whose duty is to create balance and coordination between the government and the National Consultative Assembly. According to Article 45 of the Constitution: "Members of this assembly (Senate) are elected from knowledgeable, insightful, and respected individuals of the nation: thirty are appointed by his imperial majesty; fifteen from the residents of Tehran, fifteen from the residents of the provinces, and thirty by the people, fifteen elected by the residents of Tehran, fifteen elected by the residents of the provinces." Despite the privilege granted to the king, this right was reserved for the National Consultative Assembly to determine the exact role of the Senate in the future (Abrahamiyan, 2017 AD/1396 SH: 113).

During the constitutional period, for 43 years, no Senate was formed, and the king could not use this privilege; although, based on Article 46 of the Constitution and historical evidence, the court, pressured the assembly to be subordinate to the National Assembly under the Senate (Kasravi, 2006 AD/1385 SH: 204). The Iranian parliament was established based

on the principle of equality of the rights of both assemblies; however, in drafting the Constitution, efforts were made to give the Senate more authority than the National Consultative Assembly so that the National Consultative Assembly would be subordinate to the Senate.

In fact, for democracy to be established in governance, all members of the Senate should be elected by the people to adhere to democratic principles. However, with half of the members of the Senate being appointed by the king and the Senate's influence over the National Consultative Assembly, a kind of distortion of democracy occurred, and aristocracy continued to prevail. The rule within the framework of this constitutional government is essentially dictatorial.

#### **2.1.5. Enactment and Validation of Laws Passed by the Legislative Assemblies**

As mentioned earlier, one of the stages of the legislative process is the monarch. This right, derived from royal prerogatives, is based on the presidency of the king over the executive branch. According to supplementary Article 27, the king is considered one of the complementary pillars of the legislative power. With the phrase "Each of these three sources [the king, the National Consultative Assembly, and the Senate] has the right to enact laws," it can be argued that the monarchy can enact laws.

However, considering other principles and legal texts, it is understood that this means preparing a legislative proposal or a bill. The right to enact laws by the king as the head of the executive branch was exercised by presenting legislative bills through the government. When a law was enacted, the king formalized it and ensured its execution, meaning he ordered its announcement and implementation. This principle recognizes the king as one of the three pillars of legislation and grants him the right to enact laws passed by the two assemblies.

Therefore, it seems that the Iranian king could refrain from promulgating and implementing his approved decrees and this right should be considered an absolute right. However, it should be noted that Iranian monarchs have always enacted and promulgated laws of the National Consultative Assembly (Qasemzadeh, 2014 AD/1393 SH: 424).

It is worth mentioning that usually the enforcement order of a law is simultaneous with its enactment, but the timing of enactment and the order for its implementation may differ, such as the decree to start the National Assembly elections issued and promulgated every two years.

In this regard, supplementary Article 45 of the Constitution should be taken into account, which states: "All laws and decrees of the king in state affairs are implemented when they have been signed by the responsible minister, and the person responsible for the validity of that decree and

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signature is the same minister." However, it should not be construed that, according to supplementary Article 49: "Issuing decrees and orders for the implementation of laws is the right of the king without ever delaying or suspending the implementation of those laws," delaying the implementation of laws is the same as delaying in enacting laws, but the king had the right to enact laws whenever he wanted. Therefore, enactment is an absolute right that, after which, the legal effects pertain to the subjects covered by the law.

In fact, a constitutional monarchy is practically established when the right to veto laws or delay their implementation by the king is eliminated, as in the case of the First Article of the Declaration of February 13, 1688 in England. However, in Articles 15, 17, 27, 33, and 47 of the supplementary laws, reference is made to the validity and signature of laws by the king, but none of these articles state that the king can abstain from signing laws.

During the negotiations that took place when drafting the constitutional law on the fourteenth day of Dhu al-Qa'dah, 1324, between the nation's trustees and the state's guardians, especially the issue of the right to refuse to sign laws, significant problems arose, and extensive discussions were exchanged on this matter.

At the same time, the issue of the right of the National Consultative Assembly to secede also arose, and the statesmen wanted his majesty to have the right not to sign the relevant laws and to dissolve the assembly whenever they deemed it necessary. The nation's trustees did not bear this burden lightly, and public emotions ran high until the right to refuse to sign was fundamentally rejected, and it was decided that in each electoral cycle, the king should not have the right to dissolve the assembly more than once (Adl, 2010 AD/1389 SH: 177).

Given these discussions, it seems that the legislators' intellectual framework was such that in a constitutional monarchy, there should exist a stable and impartial center of power, which is the king, with the right of oversight and often the veto power that he naturally possesses, to prevent hasty and inconsiderate reforms that the unicameral assembly intends to carry out.

### 2.2. The King's Interference in the Judiciary

The judiciary and the judiciary power refer to the distinction of rights. According to the supplementary provisions of the constitutional monarchy, this power is specific to the religious courts in religious matters and to the civil courts in civil matters. Considering the important role of this power in the power structure, we will examine the role of the king in this power based on constitutional legal sources.

### **2.2.1. Issuing Orders for the Appointment of Heads and Members of the Judiciary**

According to Article 80 of the supplementary constitutional law, "Heads and members of the judiciary are elected and appointed by imperial decree in the manner specified by the judiciary law." Although the prosecutor must be under the jurisdiction of the judicial system, according to Article 83 of the supplementary law, the appointment of the prosecutor is with the king: "The appointment of the public prosecutor is in the hands of the king with the approval of the religious ruler."

This principle indicates a kind of interference by the king in the judiciary and the king's powers, and in the same vein, court rulings must also be issued in the name of the king. Therefore, since the dismissal and appointment of judges are with the king, this fundamental issue arises that "If the dismissal and appointment of judges are with the government, their opinions and rulings will inevitably to some extent be influenced by the government's interests. This leads to tyranny." (Foroughi, 1993 AD/1372 SH: 112)

However, Article 81 of the supplementary law in no way allows for the dismissal of judges without trial: "No ruler can exempt a judge from his position temporarily or permanently without trial unless the judge resigns." And according to Article 82 of the same law, "The judge's mission cannot be changed except with his consent;" however, the National Consultative Assembly in Article 1 approved on Mordad 26, 130 (during the reign of Reza Shah) interpreted this principle, making the king's authority in dismissing judges apparent: "The purpose of Article 82 of the supplementary constitutional law is that no ruler can transfer a judicial judge to an administrative position or any other position without his consent, and changing the place of judges' duties while respecting their rank is not contrary to the mentioned principle."

With the advent of Reza Shah and the failure of the constitutional goals, an example of the king's interference in the judicial system can be found in the amendment of a part of the Law on the Principles of Judicial Organization and the Employment of Judges approved on Dey 6, 1315. This law, which was aimed at combating the influence of religious law by the monarchy, officially deprived the clergy of holding judicial positions.

### **2.2.2. Right to Pardon or Mitigate Punishment**

Having the right to pardon or mitigate punishment for the king is certainly contrary to the principle of separation of powers. This right is granted to the king in Article 55 of the General Penal Law approved on 23/10/1304: "In political crimes, the king can, based on the proposal of the Minister of Justice and the approval of the Prime Minister, grant a full or partial pardon to individuals, and can also convert the punishment of individuals

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sentenced to death to imprisonment with hard labor in non-political crimes, reduce the punishment for other crimes by one degree, or pardon a part of it up to one-fourth."

### 2.3. Rights of the King in Terms of the Executive Branch Presidency

According to the supplementary constitutional law, the executive power is specific to the king; meaning that laws and regulations, as determined by a specific law, are enforced by ministers and government officials in the name of his majesty. Here we will discuss the principles governing the rights and powers of the king in the executive domain of the country.

#### 2.3.1. Implementation of Laws

As mentioned in the right to promulgate, validate, and enforce laws approved by the legislatures, "After a law is approved, it must be validated, meaning it must be signed by the king; validation and the signature of his majesty the King are for the registration and establishment of the law; because the king is the foremost figure in the state and the boundary between the legislative and executive powers. Therefore, the implementation of the relevant law in the legislatures must be by the command and permission of this figure." (Araqi, 1952 AD/1331 SH: 228)

Implementation of laws by the authority of the monarchy as the head of the executive branch is important. In the course of law implementation, the King issues commands that must be signed by the relevant minister. Therefore, it is possible that the legislator's intention in Article 27 of the supplementary law is not to assign the executive power to the person of the king, but rather to consider the executive power as composed and consisting of two distinct forces: The non-responsible force (the king) and the responsible force (ministers and government officials).

#### 2.3.2. Dismissal and Appointment of Ministers and the Appointment of Heads of Government Departments

According to Article 46 of the supplementary constitutional law, the King has absolute discretion in appointing ministers, but considering Articles 58, 59, 62, and 67 of the supplementary law and Articles 27 and 29 of the constitutional law, this appointment will be subject to the law. However, regarding dismissal, Article 27 of the constitutional law, which deems ministers responsible to the king in case of failure, supports the idea that the authority to dismiss and appoint ministers lies with the king.

Also, according to Article 29 of the constitutional law, even in the case of law violation and misconduct by a minister, the parliament cannot directly dismiss them, but can only request their dismissal from the king. Therefore, the king has the authority to dismiss ministers without any doubt or suspicion.

Considering that the king is the head of the executive branch and the foremost figure in the state with the right to appoint ministers, it is certain

that the selection and appointment of the heads of government departments will also naturally be with the king. Especially since Article 48 explicitly delegates such a right and Article 21 of the law approved on Azar 22, 1301, explains this right as follows: "The appointment of heads of departments and general managers and their equivalents, with the observance of the prescribed conditions, is subject to the approval of the minister and by the decree of his majesty, and the appointment of other officials with the observance of the prescribed conditions will be based on the proposal of the superior chief and the ministerial order."

### **2.3.3. The Supreme Command of the Armed Forces, Declaring War, Making Peace, and Establishing Military Rule in All or Part of the Country**

According to the 50th supplementary article of the Constitution, "The supreme command of the land and sea forces is with the person of the King." Additionally, as per the single article approved on Bahman 25, 1303, during the fifth term of the National Consultative Assembly, "The National Consultative Assembly considers the supreme command of the defense and security forces of the nation to be exclusive to Mr. Rezakhan, the commander of the Sepah, who is authorized to perform his duties within the limits of the Constitution and national laws, and this position cannot be revoked from him without the approval of the National Consultative Assembly."

Furthermore, the declaration of war and the conclusion of peace are also within the authority of the monarchy according to the supplementary Article 51: "The declaration of war and the conclusion of peace are with the King." However, the right to conclude peace is a contingent right, not absolute, as Article 24 of the Constitution makes the conclusion of any treaty or contract subject to the approval of both houses of the assembly: "The conclusion of treaties and agreements, granting commercial, industrial, agricultural, and other privileges, whether domestic or foreign, must be approved by the National Consultative Assembly, except for treaties whose secrecy is in the interest of the government and the nation." Therefore, this right of the King must be exercised in accordance with the supplementary Article 57 (which specifies that royal powers and authorities are only those stated in the present constitutional laws).

Regarding the establishment of military rule, it may be justified by the necessity of having supreme command over the armed forces, which includes the right to establish military rule; meaning these two rights are inseparable. However, this right, unlike the rights of the people expressed in the constitutional law, is conditional.

### **2.3.4. Bestowing Military Ranks, Honors, Decorations, and Minting Coins in the Name of the King**

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Thus is within the rights of the King, limited by the provisions of the specific law according to the 47th supplementary article of the Constitution. Granting honorary ministerial titles is stipulated by the 63rd supplementary article. Additionally, according to the 55th supplementary article, "Minting coins requires the approval of the law in the name of the King," and it is also the right of the King to have his name and effigy on the coins.

#### 2.3.5. Presidency in Foreign Relations

In the field of foreign relations, the King's authority encompassed all matters related to foreign relations, including: Political representatives, concluding treaties, declaring war, and making peace. According to the 48th supplementary article of the Constitution, "The appointment of the heads of government departments from inside and outside is within the rights of the King with the approval of the responsible minister." Political representatives and ambassadors of the Imperial State of Iran were appointed and commissioned by the King, and the King also received political representatives from foreign countries.

#### 2.3.6. Selection of the Crown Prince

The selection of the Crown Prince, in case the King did not have a son, was based on the 37th supplementary article of the Constitution: "The succession to the throne, in case of offspring, goes to the eldest son of the King whose mother is of Iranian origin and a princess. If the King does not have male offspring, the eldest member of the royal family, observing the principle of proximity, will be appointed as the Crown Prince, and if, in the above assumption, male offspring are born to the King, the right of succession will pass to him."

After the constitutional era and the coup d'état government of Rezakhan, despotism returned to the monarchy. This principle was amended as follows by a single article approved by the Constituent Assembly on Azar 21, 1304: "The succession to the throne will be with the eldest son of the King whose mother is of Iranian origin. If the King does not have male offspring, the appointment of the Crown Prince will be made based on the King's proposal and the approval of the National Consultative Assembly, provided that the Crown Prince is not from the Qajar family. However, whenever a son is born to the King, the right of succession will pass to him."

It is worth noting that to remove the obstacle of Mohammad Reza Pahlavi's marriage to Fawzia, who was not Iranian, the law dated Aban 14, 1317, interpreted the term "Of Iranian Origin" in the aforementioned article as follows: "The term 'of Iranian origin' mentioned in the 37th supplementary article of the Constitution refers to a mother who, according to the second clause of Article 976 of the Civil Code, has



Iranian descent, or a mother who, before marriage to the King or Crown Prince of Iran, has been granted the Iranian nationality by the government's proposal and the approval of the National Consultative Assembly through the King's decree."

### **2.3.7. Responsibility of the King**

One of the important issues discussed in explaining the rights and powers of the King in the constitutional legal sources is the responsibility of the King for these powers. In the constitutional laws, there is no ambiguity or doubt regarding the possibility of holding the King accountable for his actions and operations, and the King is considered immune and non-prosecutable for all his legal actions and decisions during his reign.

Furthermore, the King never commits unlawful acts or exceeds his rights based on the principle of immunity, and he is never held accountable for his actions, even for criminal offenses. In fact, the lack of responsibility of the King for his actions and powers violates the eighth supplementary article: "The people of Iran shall be equal before the law of the government." The King is not responsible for any of his actions, and no one can hold him accountable, even for criminal behavior (Esmati, 2010 AD/1389 SH: 48).

The lack of responsibility of the King towards his subjects may be attributed to the divine right of kings in justifying absolute monarchy, where the King can do no wrong. With these interpretations, justice in the sense of equality before the law, which was one of the ideals of the constitutionalists, was not achieved. As a result, class distinction, as it existed before the constitutional era, persisted, and injustice and inequality between the masses and the upper classes of society continued to be preserved (Esmati and Hasanzadeh Gorji, 2010 AD/1389 SH: 48).

This is because the authoritarian regime remained in place, which required a system where the government, and ultimately the individual at the head of the government, had no responsibility towards the nation, and in this system, the foundation of governance was based on lawlessness; not in the sense that there was no law, but that the laws and regulations were only effective to the extent that the despot deemed fit (Katoziyan, 2013 AD/1392 SH: 12).

## **Conclusion**

The public dissatisfaction with the oppression and tyranny of the Qajar rulers and the lack of refuge and shelter for the people's grievances became the starting point for an uprising against the despotic monarchy known as the Constitutional Movement. This movement later evolved with changes in ideals and thoughts, influenced by constitutional

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movements around the world and the roles played by various groups and societies, transforming into constitutionalism. The occurrence of the Constitutional Revolution marked new relations between the people and the rulers within the framework of a new legal system.

The drafting of a constitution focusing on the separation of powers and defining the rights and responsibilities of various entities, including the person of the king, within the framework of constitutionalism, signaled a determination to move away from despotism and heralded the Iranian people's aspiration for liberation from the oppression and tyranny of despots. However, as time passed and with changes in governments, society's hope for constitutionalism turned to despair and despotism was reproduced in a new form. The reasons for the continuation of despotism and the persistence of royal arrogance can be found in the legal sources of constitutionalism.

Although the philosophy behind the drafting of the constitutional law and its supplements, as well as the ideals of the constitutionalists, aimed to curb despotism, in the shadow of power struggles and the influence of the monarchist movement in drafting the constitution and its supplements, the power and authority of the king were preserved in various principles. With political transformations and reliance on these principles, the despotic regime reappeared in the form of the minor despotism of Mohammad Ali Shah and was reproduced during the Pahlavi era until the overthrow of the Shah's regime in 1357.

Deliberation on the various principles of the constitution and its supplements, as well as other legal sources of constitutionalism, indicates the preservation of the extensive powers of the previous king in the legislative, judicial, and executive domains. In a manner that, in the legislative domain, as a symbol of democracy, the king had the authority to issue election decrees, convene the parliament, and dissolve it until the oath of representatives before the king, as well as the promulgation, approval, and enforcement of laws passed by the parliaments, all were defined within the king's power. Additionally, in the judicial domain, the appointment of chiefs and members of judicial courts, as well as the right to pardon or reduce punishments, was under the king's jurisdiction. However, the crucial area of political power, the executive branch, according to the constitutional law of constitutionalism, operates under the presidency of the king, where the king holds important powers such as the dismissal and appointment of ministers and heads of government departments, the enforcement of laws passed by the two parliaments, overall command of the forces, issuing war and peace orders, granting military ranks and state insignia, minting coins, presiding over foreign

relations with various countries, and selecting the crown prince. With this description, the king had no responsibility for these extensive powers.

The inclusion of this wide range of rights and powers for the king in the legal sources of constitutionalism indicates the preservation of despotism and the authority of the despotic monarchy, and the absence of the rule of law and democracy in the constitutional legal system, which continued until the victory of the Islamic Revolution and the establishment of the Islamic Republic of Iran. In fact, despite the political transformations and the ups and downs of power relations that played a role in the perpetuation of despotism, what emptied the constitutional democratic system of the people's political rights and perpetuated despotism within the framework of constitutionalism was the preservation of the king's unlimited powers in legislative, judicial, and executive domains and his lack of accountability for these powers in various principles of the legal sources of constitutionalism.

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