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# The Role of State in the Process Changing Public Order to Legal Order (Considering Parsons Structural Functional Theory)

Dr Hossien Rahmatollahi<sup>1</sup>, Seyyed Shahaboddin Mousavi Zadeh<sup>2</sup> and Dr Ehsan Agha Mohammad Aghaei<sup>3</sup>

<sup>1</sup>PhD in Public Law, Assistatce of Professor ,faculty at law , Campus of Farabi, University of Tehran, Tehran. Corresponding author.

<sup>2</sup> PhD candidate of public law at Shahid beheshti university, Tehran.

<sup>3</sup>PhD in Public Law and Lecturer of Islamic Azad University, Tehran & Qazvin (Buin Zahra).

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## ABSTRACT

Present paper addresses the role of State Research problem is that legal discipline imposed by State is sometimes not admired by citizens and, consequently, political system faces with instability while laws and regulations should naturally establish public order. Therefore, the main question is that “what is the role of State in changing public order to legal order in responding people’s demands? Out hypothesis is that due to the emergence of human security and the rationality of structural functionalism theory, legal order by State can establish such function imposed by the concept of public order. Studies indicate that in general law, public order consists of citizens’ demands in the format of society’s value system. Since any legal norm should be implemented by political power support, the State which implements such rules is too important. Considering the existing values in the heart of new concept of public order and the possibility of changing society’s value system, State can provide such function committed to natural law approach and impartial in public arena. Such State should be also committed to the requirement of good governance theory in order to provide human security.

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## Introduction

### Problem description

State<sup>1</sup> is an instrument for human objective service to regulate political affairs of the society and is considered as one of hugest human achievements always discussed by scientists. There is no doubt that due to the authority of the State and its domination over natural and human resources in any country, one should consider function to run public affairs better. Otherwise, its *raison deter* will be questioned.

Historically, different theories such as public interests and public service attempted to determine functions for state entity in political society. Today, human security theory is the newest teaching in this field. Hence, the government should establish social system cohesion and prevents society’s scattering by playing its roles correctly.

Each function theory considers State as a political system and believes that that there is a supplementary and mutual relationship between government and other components of administration. Put it differently, the survival of any system depends on its relations to other systems. Therefore, if a part of political system breaks up its relation to other parts, the current discipline is scattered and crises are emerging one by one.

In this vein, governments attempt to perform their function by using such tool as decision making or lawmaking. Such rules which shape legal order of the society altogether are in line with public order establishment. Public order in public law differs from its common concept in administrative laws. Public law in

administrative laws includes public security and convenience, public health and so to which “administrative police” has the task to establish while in public laws, citizens’ demands along with current valued system in the society shape public order. Therefore, posing laws and regulation in the society should be based on the latter.

However, it is sometimes observed that provided legal order by State (administrative decision and laws) are not admired by citizens and they refuse obeying such rules in different ways (civic resistance, riots, ...) or discard them. Obviously, such situation is means government’s failure in performing its own defined function. Question: what role is played by government in the process of changing public order to legal one in responding citizens’ demands To clarify the problem and answering the mentioned question, we initially expound research theoretical basics including public order, legal order, government functional transformation and Parsons’ structural functional theory. Then, we will analyze the role of government in changing public order to legal one in terms of Parsons’ structural functional theory

### Public order

Order can be regarded in different aspects including individual order or social relations.

Public order is the same order governing social relations and is seen as an excessive ambiguous concept. However, it is obvious that retaining such order is the basis of establishing administration and imposing the laws. One can find two attitudes to define it: a typical attitude which considers public order as a natural law principle and believes that it is the same

<sup>1</sup> It means political system wholen which icludes three powers.

order in collective life; and a personal insight which looks for public order in the scope and essence of laws (Ahmadi Varestani, 1963: 32 – 42).

Public order is mentioned in different legal attitudes including in administrative laws under such titles as “administrative police” and “administrative law basics. Historically, public order has been considered a basis of administrative laws and the tool to implement it is administrative police and retaining public order and preventing its disorder is a basis to obey laws and regulations (Moosazadeh, 2012: 130).

In such mood, public order means a set of fundamental needs necessary to conduct public interests and to protect public security and convenience and to support people. Retaining public order and preventing its disorder is a basis to obey administrative laws and rules (Moosazadeh, *ibid*: 130). Public security, public convenience, public health and ethics are the components of public order which means that by playing the role of administrative police, the government prevents threatening such goals (Tabatabaei Motameni, 2011: 249 – 255). Therefore, government determines the implications of public order. In other words, such definition on public order is mostly “government – oriented.”

However, in public law scope, public order is raised differently. To conceive it better, one should look for its essence. By scrutinizing in various definitions on this concept, one can find that “public interest” has a special status in shaping public order. In a broader definition, Public interests which can be defined as the joint benefits of a group members include factors which pave the way for welfare, convenience and prosperity of society and its members (Madanian, Rahmatollahi and Khaleghi, 2011: 149 – 150; Husseinin, 2007: 28). Inclusion of public interest concept in the heart of public order means that, in other words, public order can be seen as public interests and demands that society’s members see their benefit in accessing it. The main aim of the State from establishing public order should be to supply interests of society’s members.

At the same time, some have interpreted public order as public interests. It means that public interest should be pursued in order without which justice cannot be realized (Katuzian, 2011: 482).

Importantly, analyzing public order far from accepted values and norms in the society is impossible (Husseinin, *ibid*: 28 – 29) since it is likely that State, on the one hand, and citizens, on the other hand, emphasize on a special predicament as the implication of society’s interest. Under such circumstances, what considered by final judge is determining public interest are public values.

As a main element of culture (Chalabi, 1996) and individuals’ personality, values play a vital role in impacting on intellectual patterns, behaviors and sociopolitical preferences. Comprehending society’s value system would make us familiar with its cultural elements which lead to actions and behaviors. Personality system of any society is hidden in the context of its value system and one can acquire it by more awareness and vision on such value system and its impacts (or impacted by) such system. Values are relatively stable objective – subjective behavioral patterns that their utility is accepted by people in a given time and act as guidance of human actions (Puryani, 2006: 51).

Therefore, when something is seen as a value, humans attempt to achieve it and it cause the emergence of do’s and don’ts for that value” (Shahbi and Hikoei, 2012: 106).

In public law, value system refers to fundamental principle and values rooted in human rights. They include people’s

administration (democracy), law administration (negating exploitation), and people rights (human rights and fundamental liberties). To which rules obey and the government is obliged to follow, execute and protect them in running public affairs and its relationship to people. However, there is no consensus in this regard but one can emphasize that the center of all of them is human and its right (Hodavand, 2012; Katuzian, *ibid*: 369).

Therefore, in public rights field, a set of citizens’ demands and existing fundamental values in the society constitute the concept of public order that the government should pay attention to implement it. In other words, public order can be seen as the commonalities of people in a territory on their fundamental values since demands are ultimately manifesting by considering society’s public values.

### **Legal order**

In a definition, legal order is a set of regulations which imposes public strength as the laws of social life. Legal order requires the administration of law on all aspects of collective life, an initiative to determine the rights of people and freedom from “natural society” or the same “lawless society” (Katuzian, *ibid*: 480).

To conduct all its functions, the state needs a legal order so that it can meet citizens’ demands and establish political stability by adopting administrative laws. Manifestation of such function is seen as a kind of administrative action. Overall, administrative action is emanated from lawmaking. Administrative actions are in line with lawmaking. Discussion on governance, administration, government, and the relations of governmental entities and decisions which should made in macro levels should be operated by administrative entities. More precisely, lawmaking generates administrative activities as the functions of lawmaking (Moosazadeh, *ibid*: 82). Here, meeting citizens’ needs is seen as an administrative action which needs laws and regulations to be realized.

One should note that modern legal order follows a hierarchy and it is adapted to government’s hierarchical system. As governmental officers and their competencies are not identical, the value of all laws and regulations is not similar in legal system too. Constitutional Law which shapes government and illustrates people’s fundamental rights is superior to all laws and no law can oppose it.

Austrian jurisprudent, “Kelsen” (absolute law theorist) considers Constitutional Law in the top of any legal system and believes the credit of all rules is emanated from its own hierarchy. According to him, Constitutional Law has rank one since it shapes government. Laws adopted by Legislative Power are in lower ranks followed by Executive Power. The laws should be compatible with each other and any law should have its own status. In such case, Constitutional Law dominates other laws due to its importance and, as a result, any contrary law is invalid. Legal system includes varied legal rules to which all respect in different degrees (Husseinin, *ibid*: 149 – 150).

Legal order is impacted by two approaches by which the content of laws and regulation is differed from Constitutional Law. They include:

(a) Natural rights approach: it believes in inner and cross-State justice. On this basis, natural law is beyond the wills of individuals and governments and it is emanated from axioms rooted in nature of universe. It believes that justice and human fundamental values are the basis of legal order. Likewise, laws are enforceable since they are the requirements of human constitution. Consequently, this approach emphasizes on the necessity of citizens’ fundamental rights (right of life, free expression, free work ...) and believes that a country’s legal

system should be based on such rights (Hussieni, *ibid*: 156; Ghary Seyed Fatemi, 2011: 101 – 130). The important result is the limitation of governments' governance to such fundamental values by which the state should run public affairs under superior principle of Constitutional Law. Undoubtedly, legal order is originated from such citizen – oriented approach and especially emphasizes on identifying citizenship rights and public liberties in Constitutional Law, because that Constitutional Law is in the top of laws hierarchy and its principles are manifested in downstream rules and regulations. In other world, in a legal order based on natural rights approach, cross-command principles (human right values) are supervising commanding principles (in Constitutional Law) and the rules and regulations should supply them. Naturally, such insight makes it possible for citizens to criticize and resist against it since administrative rules and regulations should illustrate fundamental rights; otherwise, they should be changes.

(b) Realized rights approach: some believe that the basis of rights is the power of administration rather than justice. They believe that legal principles are always respectful per se due to their reliance to government whether the aim is to retain order or to implement justice. Therefore, no one can resist or refuse executing legal rules in the excuse of injustice. Those who consider justice as the basis of rights believe in excellent and natural rules superior to the will of administrations and governments have only the task to acquire such rules and support them. The opponents of realized thinking believe that rights are instable and emanated from the status of administration and historical trend of any society. They say the fact is that ruling board enforces other to implement legal rules and they have no option rather than obeying it (Katuzian, 2004: 8). In other words, such legal order has no basis except than current expediencies and realities. Based on above descriptions, its basis is government – oriented. Under such circumstances, there is no room for resisting and criticizing the laws since government – oriented legal order does not believe in cross – command to be analyzed by an administrative law or decision.

Finally, it should be noted that although it is accepted that these rights are the products of government's will, the benchmarks to distinguish good from bad laws are such values as freedom, equality and justice (Katuzian, 1997: 51 – 54). In other words, legal order should be the product of society's value system.

#### **State's functional transformation**

Government is seen as the manifestation of domination that runs a group of public, political and official entities to keep order, security and defending citizens against foreign attack. Historically, different theories are provided to clarify state's concept. One of the most important approaches is "state's functionalism" theory.

The concept of function is the explicit and observable results and impacts in a social entity (Vosughi, et al, 1999: 193). By state's function, we mean such impact in the society or the same tasks performed by State.

Since governments tasked to meet their citizens' needs and defined functions, scientists tried to analyze them so that jurists provided two fundamental theories on State's functions namely public service and public interest theories (Rahami, 2012: 114).

Some connoisseurs used public interest theory to analyze the basics and State's function. The theory means that any initiative which leads to interests for public can justify government's actions (Mossazadeh, *ibid*: 126). The roots of the theory can be found in the works and thoughts of thinkers who

believe "utilitarianism" such as David Hume, James Mill and Jeremy Bentham without considering both as one entity.

According to Bentham, the only justification for state's existence is the possibility of realizing maximum prosperity for most people. In other words, the aim of establishing the State is to keep and increase public happiness and prosperity (Bashirieh, 1999: 19). An example of this theory is State's initiatives on public education or efforts to restructure ancient works.

According to some jurists, one should consider the opinions of all people in computing public interests rather than majority. This opinion was emanated from the crisis of considering public interest as equal as numerical majority of the society since, in such case, minorities' citizenship right could be negated in excess of majority's will. It is here that public interest is construed as superior interest or public expedience. However, there are problems in determining the implications of superior interest which seems that lawmakers should use sociology in order to learn the social needs and necessities (Katuzian, 2011: 139) or "society's public order".

It seems that since the concept of public interest is vague, the existence of a judicial procedure emanated from an independent judicial system can prevent interpretations by public authorities<sup>2</sup>.

Public interest theory is followed by public service theory. It believes that government should be seen as a set of organized and monitored public services by public officials. In defining public service, one can say that it is an activity by a public or private organ under the supervision of a public law practitioner who is incumbent to meet a public utility (Abbasi, 2011: 143 – 144). In other words, it looks at government's function theory in the society through the lens of meeting citizens' requirements. One should note that government and its function are transformed by "globalization" similar to phenomena in recent decades.

Apart from ideological judgments, we can say that "globalization is the process of time and space pressure due to technological progresses by which humans are merged in global single community in a relatively deliberated manner and, as a result, many geographical and political limitations and social and cultural are removed, reduced or mitigated" (Rahmatollahi, 2009: 331).

Noteworthy, due to diversity of public interest concept, proportionate to society's needs and transformations and owing to the fact that by starting shaping global identity and modern global culture to look for communication development, human networks, consumption culture and international labor division that has yielded to humans' further interdependence and the emergence of their joint values and interests (Rahmatollahi, *ibid*: 304), the way, domain and quality of service providing by government and the implications of public interests and, in one word, government's efficiency are all transformed.

It seems that such information is, on the one hand, emanated from a scientific revolution especially in information field and, on the other hand, impacted by today human's new needs and, however, global joint concerns. Today, due to the importance of such problems as time and costs, men demand for cheap and rapid services by States emanated from their awareness of their conditions and comparing the current circumstances with desired one. In today world, there are many joint issues that have caused that humans look for joint solution on such problems as

<sup>2</sup> See Adler, John, *Constitutional and Administrative Law*, 5<sup>th</sup> edition, Palgrave MacMillan, 2005: 466 – 467

environmental pollutions, Ozone layer destruction, fighting against illicit drugs mafia and terrorism irrespective of tribe, race and nationality (Moghimy and Alayi, 2011: 172; Harry, 2003: 74).

By expansion of global culture as well as shaping modern and joint political culture among all people and the importance of human legal values and the necessity to move toward bureaucracy, governments are involved in new concerns apart from strengthening their military power. Such concerns as social security, citizens' health and education, stability and possessing knowledge and technology (Clark, 1999: 112) caused that since 1980s, the concept of security widens so that it involves not only military and security fields but also untraditional ones such environment destruction and economic problems (Tadjbakhsh, 2008: 15). All these issues caused new discussions on studying the security as the result of expanding the concept of its security from government – orientation to human – orientation and the emergence of “human security” idea constituted by the link between two development and security fields.

In other words and in contrary to two past insights in government's function (public service and public interest), the government not only respond to needs but also it forecasts possible needs and problems in future to create maximum security for its citizens.

“Human security” describes a situation in which the way of removing material and spiritual needs is paved simultaneously and permanently. Such approach was put in the agenda of organs and people when traditional approach couldn't respond relevant challenges in this field and, in parallel to the expansion of global transformations, insecurities in international levels were increased and governments attempted to alleviate undesired impacts by estimating and preventing the dangers and protecting and compensating victims (King and Moory, 2004: 770, 795). In other words, human security changed the focus and attention to security from the level of government to humans as the potential victims and to protect them from physical violence and damage as the only threat (Gasper, 2005: 1).

On this basis, the function of human security as the most updated function of government was the offspring of globalization age and, in other word, it was the product of rethinking in government's aims in access to security proportionate to crises, needs, insecurities and political system efficacy.

It is obvious that the essence of human security theory is the emergence of new needs of humans and the necessity of meeting these needs by governments. Some psychological theories have highly helped to conceive such needs. US psychologist Abraham Maslow has clear opinions on analyzing the concept of “needs hierarchy”. We know that needs is a key concept to describe inner motivations (Karimi, 2004: 135). On this basis, Maslow achieved interesting results by studying the life of successful persons. He believed that all people attempt for their own splendor and he concluded that self – splendor can be achieved by satisfying lower levels of needs and when human is free from achieving higher ranks (Karimi, *ibid*: 135). In other words, Maslow believed in a kind of hierarchy in motivation toward needs so that the first four levels include preliminary or “shortage needs” and the final level is “growth needs”. In primary levels, an individual is looking for removing particular important needs and it will not think about removing higher level needs before satisfying them. Someone who is involved in his subsistence has no attention to facilitate the importation of cultural goods into the society, democracy or other levels of needs or if he pays attention, it is not yet a concern for him.

Those persons who look for responding their secondary needs in order to meet their primary ones are called as “self – splendor” by Maslow: “they have a clear understanding on reality. They accept themselves, others and the world for what they are. They are motivated by their thought and practice. They are problem – oriented rather than self – oriented. They empathize for the conditions and situations of other humans and attempt to improve public welfare level. They have a democratic perspective on the world. They are creative. They establish significant and profound relations with a few people rather than surface relations to many individuals. They have excellent experiences along with excessive stimulation, happiness and vision” (Karimi, *ibid*: 135).

It seems that such issues as relative improvement of global economic situation and informatics revolution had special impacts on the emergence of mentioned demands.

### **Structural functionalism theory**

In the past section, the key word was the function of government. It roots in structural functionalism theory as one the most important insights in sociology.

The primary roots of function integrity back to Emil Durkheim and Talcott Parsons. The main concepts of this insight including system and function are extracted from technical sciences.

System is a set of interrelated units and elements operate interactional to supply predetermined aims (Tavakoli, 2004: 48). Any system consists of elements as “subsystems”. For example, one can point out social system or “government subsystem”.

In structural functional perception, it is assumed that whole society is like a system of different sections with their own functions to which a supplementary and mutual relation exists. Any system is a set of interrelated components operating in a certain ambience with mutual associations (Bashirieh, 1995: 84 – 85).

According to Parsons as the most important functionalism thinker, social reality is a dynamic flow and to recognize its different parts that shape social structure, one should combine them and conceive social reality as a system. According to him, society is similar to mechanical and organic system as a set of elements with their mutual relations (Bashirieh, *ibid*: 85).

In structural functional thinking, mutual relations are clarified in this way: overall, systems are either open or close. Any system has four features:

- (a) Input or data, that is, what enters the system;
- (b) Output or outcome, that is, what exits the system;
- (c) Process, that is, operation on data to convert into outcome;
- (d) Feedback or control mechanism which either intensifies the performance of the system to its maximum potency (positive feedback) or decreases it (negative feedback) (Bashirieh, *ibid*: 84 – 85). This process paves the way in any system.

Parsons believes that to ensure social system survival, all subsystems should perform their functions well. These functions include:

1. Adaptability of social system with material world as economic system function
2. Merging, integrating and keeping discipline related to legal system
3. Latent pattern of keeping discipline and tension management as the task of cultural system
4. Realizing the aims in social system as the function of political system or government (Bilis and Smith, 2004: 46).

Therefore, political system survival depends on interdependency of subsystems and on performing the functions rightly. It is emanated from Parsons and his opponents. In analyzing the

systems, Parsons believed that any system or subsystem needs some functional prerequisites to play its own role:

First, any social system should be structured in a manner that it can act adapted to other system.

Second, any social system should enjoy the supports of other systems for its own survival.

Third, any system should provide important needs of actors sufficiently.

Fourth, a system should motivate sufficient contribution of its own members.

Fifth, at least, a system should monitor on potential destructive behavior of its members.

Sixth, the system should monitor on disputes if they are adequately destructive.

Finally, a social system needs a language for survival (Ritzer, 2003: 135). In other words, one can say that structural functional theory believes that any social system should communicate its subsystems well to prevent crises and to deliver proper deliverables by processing their data constantly.

For its proponents, there is a kind of “synergy” between different elements and parts of social system. It means that each part relates to others (Mosallanejad, 2010: 53).

Noteworthy, in Parsons’ theory, adaptability between political systems functions on the one hand and society’s value system, on the other hand, is necessary since political system which is obliged to keep the order and to create in the society has a special interdependency with cultural system and generates a pattern for tension and instability management by creating values.

In functionalism theory, society is defined as an organized network of cooperating groups and by a disciplined method based on a set of laws and values in which most members participate. Limiting impact by values from cultural subsystems on all social subsystems is a presumption of Parsons’ analysis and he specially believes that joint values organize collective and individual order through mutual interactions and expectations (Karimi, *ibid*: 107; Mohamadi Asl, 2008: 24).

For Parsons, cultural system controls and integrates other systems not emanated from individual and his action but from a broad pattern of meaning and value (Azad Armaki, 1997: 76 – 77). Parsons observed social world via people’s opinions on norms and values. For him, norms are socially accepted rules used by people to decide on their actions (Krayb, 1999: 59). On this basis, government is directly attached to values of cultural subsystems to provide stability.

#### **The role of State in changing public order to legal order in terms of Parsons functionalism theory**

In structural functionalism theory, political system or government is particularly important since it plans to meet social system goals. Government’s function should finally lead into security, health and welfare of citizens otherwise one cannot confirm political system efficiency.

Such thinkers as Charles Tilly, Michael Man and Talcott Parsons believe that government is full manifestation of the demands and requests of a country inhabitants that are created by their needs and problems (Billis and Smith, *ibid*: 583).

Parsons believed that the emergence of government is a part of structural diversity, institutionalization of the society and non-personification of political trends. Following to Durkheim, he argued that the government is the result of expanding labor division in the society. Specialized organizations are the result of labor division expansion (Vincent, 2002: 316).

As emphasized, in structural functional approach, the government should communicate other subsystems to play its

role. However, one should note that the government has its own functions. As mentioned, providing human security is the newest function of the government. For such important issue, it needs to adopt laws or make administrative decisions since manifestation the aims of human security theory needs administrative practice and administrative practice is conducted by law governance principle backed by a legal norm. We will discuss on the role of government in two parts.

#### **Requirements and conditions**

State is the highest authority of power and law which possesses legal usage of organized forcing power exclusively and is the most important entity to establish calmness, order and social security (Rahmatollahi, *ibid*: 58 – 59). The main part of human security supply is that government should identify their demands to ensure its efficiency.

It seems that government needs a special shape and content to perform such task. It should be neither too big that it threatens human civic and political rights nor too small that it ignores citizens’ economic, social and cultural rights especially vulnerable ones. In such conditions, political system “efficiency” is considered.

To realize abovementioned points, “good governance” model is recommended. Its concept is established in UN Charter and international laws. As a well – known entity, World Bank in its report (1989) coined good governance to provide efficient public services, trustworthiness judicial system and accountable administrative system (Stowe, 1992).

UN defines governance as “a set of individual and organizational, public and private initiatives to plan and run the affairs jointly and a constant process of creating understanding between different and contradictory interests moves in the format of contributive initiatives and includes official entities and unofficial arrangement and social capital of citizens (UN Habitat, 200: 5). Based on this definition, good governance includes mechanisms, processes and entities by which citizens, groups and civil organs pursue their interests, implement their legal rights, alleviate differences and execute their plans. Hence, good governance includes citizens’ contribution in decision making, accountability, transparency, law governance and government’s responsibility to institutionalize democracy in the society (Arayi, 2011: 89). In such governance patterns, “the quality of administration intervention” is considered and it is attempted that government and civil society remove their deficiencies (Moosazadeh, *ibid*: 133). Undoubtedly, the entrance of civil society in governance needs to recognize the rights of citizens on decision making process and contribution in it which requires the transparency of trends and accountability to public authorities.

It seems that such indicators as accountability, transparency, law governance, contribution, consensus orientation, political stability, corruption control and quality of regulations for good governance pattern are seen as a model to achieve human security and development has prevented threatening political and civil rights of people by government and by the existence of other components such as efficiency, efficacy, responsibility, justice and fairness in providing services pave the way to meet economic, social and cultural needs of people.

On the other hand, it is emphasized that citizens’ interests should be processed to be converted into legal order based on value system of the society as the second component of public order.

As mentioned before, an important point in Parsons’ theory is the necessity to adapt political system functions and values. In structural – functional patterns, all subsystems are not equal in

power. It is right that each system separates from social system but among them, the importance of social values is higher than other systems.

Cultural systems have cybernetics traits. Cybernetics means to control and conduct the society. In social system cycle which is the location of exchange and energy and information flow, culture is like a control device which conducts the society and other subsystems. The culture inserts inputs and symbolic information from family, religion, schools and so on into the society and acts to conduct social system (Billis and Smith, *ibid*: 57). According to Parsons, “four factors including values, norms, institutions and roles pave the ground for correlation of societies. Value means what called as ultimate reason by Aristotle. Ultimate reasons determine the direction of life. By determining such direction, people are conducted to ultimate reasons intentionally or in other ways” (Rahmatollahi, *ibid*: 137).

On the other hand, one of the important functions of government is to keep stability in the society and it should conduct its activities by considering value system to create order retain patterns. On the other hand, public rights fundamental values such as law governance, democracy, rights and personal freedoms should conduct government in establishing legal order particularly the fact that the emergence of human security concept originates from the waves of new demands for human. Therefore, a government committed to supply human security is obliged to personal rights and freedoms and attempts to ensure them by Constitutional Law and normal laws. Such government is the proponent of a set of value expanded by proper ensuring mechanisms. Such values have paved the way for internationalization of rights and global respect to human rights (Schualieh, 1999: 72).

Likewise, in terms of content, such government should base its legal order on natural rights and should be impartial. Such impartiality makes it possible for citizens to express their thought without any concern (George, 1994: 20; Morn, 2005: 191).

#### **The consequences of state's non-efforts in changing public to legal order**

The relationship between public order in public laws and government's function is a mutual one. One the one hand and as mentioned, meeting people needs should be through considering public order necessarily and, on the other hand, public order implies one of government's functions. On this basis, public order should be finally led into a government's function and should be seen as the ultimate of administrative decisions and/or lawmaking in the society (legal order).

To analyze the effects of government's disrespect to consider public order in legal one, we should again look at public order concept. As mentioned, public order concept in public order concept consists of demands shaped by value system of the society. Question: what is the status of this concept in analyses based on structural functional theory?

In this theory, society is an organized network of cooperating groups shaped by a disciplined manner based on a series of laws and values in most of which the member share. Limiting impact by values from cultural subsystems on all social subsystems is a presumption of Parsons' analysis and he specially believes that joint values organize collective and individual order through mutual interactions and expectations (Karimi, *ibid*: 107; Mohamadi Asl, 2008: 24).

For Parsons, cultural system controls and integrates other systems not emanated from individual and his action but from a broad pattern of meaning and value (Azad Armaki, 1997: 76 –

77). Parsons observed social world via people's opinions on norms and values. For him, norms are socially accepted rules used by people to decide on their actions (Krayb, 1999: 59).

On this basis, cultural formats of society play a special role in political system efficiency. Therefore, any shaking in cultural context of the society leads inner disintegration of social system since the culture of one country is consistent with its political system and one cannot separate other elements (Mosalanejad, *ibid*: 57). Therefore, government cannot plan and implement its affairs without respecting such points.

In globalization, by creating legal order, the government looks for playing its role as the supplier of human security in two administrative decision or law. The main audiences of these regulations are citizens and the government claims providing their interests. Despite of this, in many cases we observe that legal order is not admired by citizens or negate them or they obey just because of a dominating power. In other words, a crisis happens in the society.

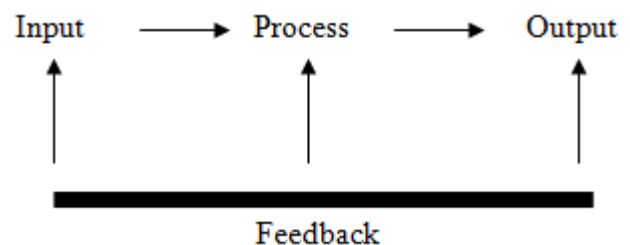
All laws should manifest public order in their public rights meaning. The relations of people with each other or with government can be divided into two categories in terms of their scope:

- (1) Relations or commitment with personal scope such daily buys and sells by people
- (2) Relations which cover cross – personal scope such as supplying public needs by government

In both categories public order sheds light on legal order.

One should note that in structural functional approach, if the government is going to establish legal order in the society, a value system should be considered for public order emanated from it and the government should pass a certain process to establish legal order (Bashirieh, 1995: 84 – 85).

It should take citizens' demands (demand waves) as data or inputs from the society, then to process such demands by considering society's value system and its arrangement, and to provide the society with outcome or outputs (under administrative decision making or legal order). Naturally, such output creates a reaction among citizens. Therefore, the government should receive and analyze the feedbacks in future policymaking. The process can be depicted as below figure:



Public order that its nucleus is shaped by people's demands in addition to value system of the society is in fact the participation of a territory's people in current values. In above figure, public order is seen so that in receipt stage, the inputs of citizen's demands are received by government and they are then processed by value system of the society. In other words, in structural functional approach, both parts of public order (demands + values system) should be considered to pose legal rules.

One should note that organizations and social systems are looking for normalizing the behaviors and structural functionalists have reminded that disorder in one element of social system would lead into disorders in the system as a whole (Dilini, 2008: 111).



In other words, disrespecting the requirements of such attitude by government would lead into different crises in political system. These crises can be categorized in three groups:

1. **Crisis in role:** it means that when political system is inefficient, citizens attempt to make a transformation by changing public authority, that is, they believe that by electing one political party all problems will be resolved.

2. **Crisis in structure:** in the cases of unsuccessfulness through changing the roles, citizens would lose their trust to current political structure and attempt to resolve the crisis by such guidelines as polling or changing Constitutional Law. For instance, it is likely they believe that changing political structure from centralized to decentralized mood would resolve inefficiency crisis.

3. **Crisis in value:** this is the highest level of crises due to government's disrespect to people's demands and public order by which citizens suspect current values due to political system inefficiency and despite of changing the roles and structures. This crisis finally leads into value system change. When selfish and capitalism become values in a society in which generosity and contentment have been already values, this problem can be yielded to revolutionary movements to demise political system. The reason of such crises can be different by each step of converting public order to legal order. In other words, disorder in each four steps of changing public to legal order can be seen as a context for political system instability. In the step of inserting inputs, disrespect to citizens' demands or receiving unreal information can interfere in the process of legal order based on public one. In processing step, disrespect to value system or citizens' real needs can interfere adopted administrative laws and regulations. Such interference in function as the implication of government's inefficiency would finally destabilize political system. Noteworthy, political system instability roots in crises created by government's failure in creating legal order based on public order.

### Conclusion

As the entity to supply public wellness, the government has been always a place of discussion and dispute. An important discussion between jurists and politicians is government's function. According to historical transformations, thinkers have considered special functions for government and have theorized in this respect. These theories are transformed by the emergence of globalization process and human security is today seen as the new function of the government. To perform such function, government needs to adopt administrative decisions and laws. Adopting legal laws is limited to the concept of public order. Public order in present study consists of citizens' demands which should be processed by considering value system of the society. In this case, public order is a partnership between people and government on society's fundamental values.

Respecting this important point would cause government's efficiency as the aims of human security. To achieve it, the government should be committed to good governance theory elements such people's partnership in running public affairs, transparency and responsibility, and natural laws theory including the priority of laws and individual freedoms. Such government should be impartial in public arena to show necessary flexibility to respect the laws of all groups.

Government's disrespect to such requirements would cause triple crises of roles, structures and values in political system since if government pays attention to its function well, it has in fact defined political system apart from other current systems/subsystems and it will ignore current real needs and values in the society. Based on structural functional approach all

systems/subsystems are exchanging and impacting each other as interrelated vessels and political system cannot play its function without paying attention to other systems and subsystems. Particularly, the role of cultural system in which current values in the society shape the main nucleus and play the most important function in social balance by drawing behavioral patterns for citizens is too important. Based on structural functional approach, any interference in inputs, processes and outputs or feedbacks can create crises which would lead into political system instability.

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