



# Recognition of the Relationship between Security and Law in the Light of Rule and Order Foundations

Vahid Ebrahimi<sup>1</sup>, \*Ebrahim Mousazadeh<sup>2</sup>, Khirollah Parvin<sup>3</sup>, Firuz Aslani<sup>2</sup>

<sup>1</sup> Ph. D Student at Public Law, Aras International Campus, University of Tehran, Iran,

<sup>2</sup>Associate Professor, Faculty of Law and Political Science, University of Tehran, Iran,

<sup>3</sup> Professor, Faculty of Law and Political Science, University of Tehran, Iran,

## \*Corresponding Author

**Abstract:** *The relationship between the law and security is quite a complex and controversial issue. It largely stems from the perspective differences in defining the concepts of security and law as well as the various ways these two are related to one another. In between, the incongruence of the existent literature about security accounts for the greatest share. The primary goal of the present study is elaboration of the fundamental relationship between law and security. The study is a subjective research conducted based on grounded theorization. Based thereon, to elucidate the relationship between law and security, meanwhile seminally pointing to the concept of security and defining it through taking advantage of interdisciplinary research, the selected concept of the author is subsequently offered for security. Next, the theory related to law and security is investigated under the general title of order/rule foundations. The aforesaid investigation signifies that, meanwhile assuming a default definition of rule and order, the perspective based on the mutual relationship between rule and order directs our attentions to the importance of the legal and philosophical indicators in understanding and offering a functional aspect of security and elaborates their role in creation of security.*

**Keywords:** *Security, Law, Order, Rule.*

## INTRODUCTION

The vast spectrum and evolutions of the security research have caused the offering and proposition of various and different approaches for the investigation and better comprehension of the security issues and problems. This is somewhat inevitable and originates from the relevance to the other scientific, general, complex and multidimensional branches of such issues as security. The other concepts similar to security, like power and interest, also share these same characteristics.

The legal perspectives and approaches to security along with philosophical, historical and social vistas have discussed and attended to certain aspects of security. In a legal perspective, as well, there are sub-approaches. The national law topics are the centers of theorization and investigation in some perspectives and the constitutional law is specifically investigated and analyzed in interaction with security. In another perspective, some aspects of the international law principles and regulations are underlined and security, particularly international security, is analyzed within the framework of these principles.

The other approach pays more attention to the philosophical and legal foundations and investigates the essential legal and constitutional and security premises or bases. Of course, due to the extensiveness of the interdisciplinary studies, a single approach can be scarcely attained and a mixture of various perspectives with

an emphasis on a certain viewpoint is usually taken into account. And, in other words, these approaches supplement one another when it comes to the analysis, investigation and examination. It is evident that investigation, analysis and offering of ideas in foundation aspects have had and have special stance in the development of sciences. Another point in the investigation of the research background is that interdisciplinary approaches to this issue of the fundamental aspect feature lower richness in contrast to the other approaches and this is an independent subject of research.

In this article, as well, the quality of the interaction between the constitution, security and national security is discussed as a main question in the area of the interdisciplinary research on security and law with an emphasis on philosophical-legal approaches. The importance of the current research paper is the recognition and clarification of the fundamental relationship between law and security that is used for the conceptual corroboration of this study field. In the present study, the main goal is the recognition of the relationship between law and security within the framework of the idea and rule/order. The secondary questions of the current research paper are:

- 1) How does the general and theoretical interaction of security form with law?
- 2) What are the foundations and laws of its indicators?
- 3) What type is the relationship between governance of law and order?
- 4) How are the concept, relationship and fundamental effects of rule-order foundation in terms of the relationship with security?

The study hypothesis has been the idea that there are conceptual and structural relationships based on the legal rule relationship with public order hence with security in fundamental aspect.

#### **Concept of Security:**

Security is the most essential human need and securing it is the duty of the governments. Confirmation of the predicate does not need any interaction and dispute and it is realized amongst the most evident principles in the contemporary political and sociological literature. Of course, its vividness is a concept that is not necessarily correlated with consensus in all the aspects related thereto and the issue's importance is not intertwined with the agreed definition thereof. Even, as put by Barry Buzan, it has to be called an undeveloped concept that cannot be simply defined. Now, the present study considers acceptable the common current definition of political culture for its posing that the lack of threat is the essential element. Since it is an unachievable definition, minimization of the social threats has been realized as the main concept of security that points to the relativity of security and, on the other hand, its multidimensionality. For example, since sociopolitical stability in some of the times and psychological-mental comfort in some other times are endangered, cultural security, as well, should be taken into consideration along with and even more than social security. The absent or declined threat, as an objective factor, is effective when its existence is felt because imagination of insecurity is per se followed by the most insecure conditions and, this way, security will not be actualized even in case of the absence of threat. Thus, the definition of security is an amalgamation of the physical situation and a mental state. As an example, according to Wolfers, security, in its objective sense, specifies the absence of threat to the acquired values and, in subjective sense, determines the absence of fear and horror of the attack to the values.

#### **The Relationship and Interaction between the Law and Security:**

Normally, law is amongst the pillars and preps of security elaboration. Laws specify the scales and framework of legitimacy. The laws clarify the way decisions are made and requirements and controls are set and important parts of fundamental and vital values are determined by law at minimum. On the other hand, laws can also determine the extents of violating these methods and the importance of each. Moreover, law touchstones are present in all the governmental organs, including the executive branch, judicial verdicts, parliamentary enactments and foreign contracts. Therefore, the law is largely generalizable and vast and definition of national security can be very important in this respect (Rahpeyk, 2000, 10).

In the governmental arena, the law, or in other words, decision-making plays two roles and, in fact, these are roles constantly and consecutively observable. The first of these is the structural and foundational role of the

law. In this role, the law creates the institutions, procedures and guidelines based on which other decisions are made. So, it can be observed from this perspective that how much the role is engaged with national security and how does it influence security.

The second effect of law on security is via its instrumental role. From this panorama, the law forms the society's public order in a constant process and regulates the executive, judicial and guaranteed decision in line with the preservation of the countries' stability and security [Ibid, 11]. However, there are criteria and attributes needed in security and proper suggestions should be offered and the required regulations should be codified according to these features.

To safeguard public order and social comfort, the states are incumbently obliged to enact regulations so as to regulate the citizens' interrelationships in such a way that everybody can enjoy certain privileges without threatening those of the others. It is due to the same reason that Rosco Pound, the founder of the American law sociology, calls law a social engineering with the definition that the primary goal of law is preservation of security (in national law, internal security, and in international law, global security). This is why no rule of the law should be left without "legal mandates" and punishment should be the definite outcome of its violation. The issue was expanded so much so that a topic named "international criminal law" was proposed. Thus, the public order or security (in all social, cultural and economic aspects and others) is considered as the concrete border of each law and rule even if left unsaid. The domain of all freedoms and authorities in national and international levels is only to the extent that the public security should not be harmed and, thus, in the interstate relations, each government accepts the enforcement of the global regulations in its own territory to the extent that it is not contradictory to the basis of the formations and/or internal security and the emotions of its citizens.

In the meanwhile, the formal and decisive norms are posited in a society when they are naturally confirmed by the majority of the society within the format of certain regulations (especially the constitution) in case of the government's democratic nature (Faber, 2006; 68)<sup>1</sup>. Another part of these principles incorporates the norms and informal and inherent scales of every society and appears within the cast of ethical, normative and cultural mores. The collection of these scales can form the unity of a society (Padfield, 1989, 1)<sup>2</sup>. Although the role of the second set scales is undeniable and its importance is clear, the first set of the norms, to wit the legal and right-based criteria, become more important from other aspects:

Firstly, these scales are accepted and agreed by the society with a higher degree of requirement; secondly, these scales are general and continuous; thirdly, these scales and criteria feature legal aspects hence surely in possession of executive grounds and methods; fourthly, these scales have legal mandates and are explicit, definite and clear-cut guarantees supported by force majeure; fifthly, these scales are more vivid and more well-established than the others hence less disputed (Padfield, 1989, 220)<sup>3</sup>; sixthly, in these scales, problems are usually put forth along with solutions, so resolution of discrepancies and, in other words, creation of public order is more efficient.

Therefore, the legal and law instruments feature a high efficiency in establishing order and preservation of the public unit provided that they are per se set based on logical regulations and they along with the other instruments can secure and guarantee the objectives of a political unit.

Amongst the legal scales, constitution plays the first role. In the new era, the majority of the countries, instigated by elucidation of the frameworks of a political system as well as safeguarding of the people's rights before the governmental institutions, have taken measures in line with codification of constitutions. Since the constitutional regulations of the countries point to the most important principles and bases of a political system, their acceptance by the people can be recognized as one of the most important axis of consensus, unity and order moduli and the identity and quintessence of a society. But, as it was mentioned above, multiplicity, unity and

---

<sup>1</sup> Faber, 2006: 68

<sup>2</sup> Padfield, 1989, 1

<sup>3</sup> Padfield, 1989, 220

national coherence are not relational issues and they exist for certain corresponding real and external entities. Therefore, the mere acceptance of the principles' concept is not sufficient and practical acceptance is needed.

- **Constitution, the Main Foundation of Law:**

The constitution enjoys a high position and importance in all the political systems because it is assigned with the duty of elaborating the duties and rights of the leaders and subordinates. Based on the general principle of law stability necessity, the constitution should also be provided with persistence and stability and, its dynamicity should be preserved meanwhile preserving its reliability. To do so, the qualified authorities are required to exercise due care both in the selection or appointment of the individuals responsible for the codification of the constitution and in interpretation and coordination of the constitution with temporal and spatial expediencies and, at the same time, special and particular formalities should be predicted for making revisions therein.

The constitution contains the objectives and ideals of a political system and it is also commissioned to the regulation of the leaders-followers interrelationships as well as the securing of the people's constitutional rights and freedoms that are sometimes existent in written form and occasionally in an unwritten commonly accepted practices. Numerous issues can be proposed in an investigation of the aspects of the constitution.

Although the fundamental and infrastructural regulations pertaining to the government and the quality of their formation and the duties and limits of the governors' authority and the people's rights and freedoms have been pointed out in the definition of the constitution (Mehrpour, 2012, 25) and the other regulations have been predominantly substantiated in formative scales in its distinction (Ghazi, 1998, p.43 on), the fact of the matter is that the political societies will necessarily have constitution when they leave the initial stage of evolution behind and reach maturity and coherence (Ghazi, 2002, 40). Though a codified context might not exist under the title of the constitution, the definition of the constitution based on the material and formative scales would encompass many of the constitutional regulations that have existed sometimes in written form and some other times in the form of common practices and occasionally as a combination of the two.

- **Legal Rule, a Rule Accompanied by Legal Mandate:**

The principle "the rule of law" is amongst the important general law principles. It is a general concept embracing all the governmental branches and institutions meaning that all the general activities, including legislative, judicial, administrative and executive, should be carried out in adherence to the law. The rule of law in all the normative actions requires the superiority of the upstream regulations inserted in the norms over all the others because these senior regulations are the products of the most excellent manifestations of the governing will and the other governance phenomenon should be brought into existence in pursue and following them.

It has to be noted that the identification and announcement and enactment of the constitution and placing of it in the apex of the legal regulations' hierarchy is but one stage of work. The essential stage is the legal mandate and the mechanism that can secure and guarantee the enforcement of the constitution by the governing body and exhibit legal reaction to its violations. Guaranteeing the enforcement of the constitution is suspended on the idea that a supreme, independent and impartial authority supervises the observance of the constitution and prevents the contingent abuse by the governing branches and the political and executive institutions of the constitution and the principles stipulated therein.

In the legal system of Islamic Republic of Iran, the constitution legislator, besides considering the constitutional principles, pays attention to the preservation and guarding of the Islamic regulations (as the most excellent legal norms) and finds itself bound to the agreement between the canonical rules and the laws (Musazadeh, 2010, 326).

- 1) **Legal Mandate: a Fundamental Property of the Regulations:**

Legal mandate illuminates the border between the law and the other social regulations. Legal statute is a regulation featuring legal mandate, whether general or constitutional and whether related to a specific or an

ordinary case (Ja'afari Langarudi, 2002, 4, p.2846; and, Ibid, 2004, p.19). The regulations enjoying legal mandates are called statutes (Langarudi, 2004, p.83).

Legal regulation is the rule concomitantly accompanied by legal mandate. Indispensability is amongst the characteristics of the legal rules but the other regulations, while not being of the nature of the former, also have this binding nature such as the ethical and religious regulations assigning the followers with certain duties and followed by requirement in its broad sense but they lack the material legal mandate like that of a (legal) rule which is guaranteed by the government.

According to Hobs, a well-known English jurist and philosopher, law is not recommendation; it is order. The goal of law is not defining concepts; the primary subject of the legal verdicts is the creation of requirement and duty in mutual social behaviors as particular instances of dos and don'ts backed up by legal mandates (Katouziyan, 1999, p.185).

A legal rule is characterized by four attributes: it has to be indispensable and its observance has to be guaranteed by the government and its general and public contents and, finally, its goal should be regulation of social relations. Therefore, the rule lacking the legal mandate cannot be enumerated amongst the legal statutes (Amid Zanjani, 2004, p.49).

As put by Montesquieu, the power of a state's regulations lies in the people's fear and horror of the political force existent behind it (Montesquieu, 1991, p.815). And, as put by Jean Jacques Rousseau, the statutes would be rendered ineffective in case of not being supported by the legal mandates and this would be harmful to the just individuals and fruitful to the villains (Russo, 2001, p.187).

## **2) Legal Mandates in the Constitution:**

This law is considered as the superior norm in all countries equipped with constitutions. To ensure this superiority, the legal mandate systems have been specified and the actions falling under constitution-based control are: 1) regulations; 2) procedures and regulations stemming from the volition of the executive branch; 3) judicial decisions; and 4) the disqualification of the authority that has performed the action. Corresponding to the rule of law principle, the primary duty assigned to the codified constitution includes the curbing of the governmental institutions. The enforcement of the governmental authorities that is required for the actualization of the communities' values has to be controlled so that the authorities cannot destroy the values for the promotion of which they have been created.

- **Rule of Law, an Introduction to Establishment of Order:**

### **1) Rule of Law as Conceptualized in the Constitution:**

According to the abovementioned basics and principles, the fundamental and common concept of rule of law should be elucidated in the same framework. The two preliminary indicators and predicates constituting the rule of law are fundamental substantiation and legality. Of course, other approaches might, as well, be observed in other legal systems in comparative regards.

Substantiation means that, for instance, all Islamic Republic of Iran's regulations are enacted and arranged based on Islam's verdicts and religious resources and their agreement or, at least, disagreement to the aforesaid verdicts is evaluated. The issue and its mechanism have also been clearly stated in the Islamic Republic of Iran's constitution as pointed out earlier. Legality, as well, is the second pillar of the rule of law meaning that a law enjoys legality that has been passed by the parliament. In other words, it has to be the result of an authentic legal process.

Now, according to the preliminary concept, the rule of law and the various perceptions thereof are dealt with in the forthcoming sections.

## **2) Perceptions of Rule of Law:**

### **1. Ultimate Perception:**

In this perception, the law and obedience thereto are the important subjects and the enforcement and the necessity of obeying the law matter more than it being related to the quality of the law and its match with the fundamental indices and principles. In the ultimate approach, long-term and ideal goals of the law and its

governance are replaced by primitive rather mid-term goals. Put differently, the value and importance of law enforcement and abidance and establishment and preservation of order in the society become more important than such fundamental values as justice. The notable point is that the preliminary predicates of the rule of law, to wit substantiation and legality, exist in this perception like the opposite (instrumentalist) perception but this theory has been the result of the analysis, elaboration and perception of the concept.

Worries about unrest, chaos and mutiny are amongst the most important side effects of such a perception (Aslani and Kazemeini, 2011, 282).

## **2. Instrumentalist Perception:**

Instrumentalist perception is deployed in opposition to ultimate approach towards the rule of law. From this perspective, the law and its governance are not justifiable rather they are instruments meaning that the rule of law is an instrument or a tool for the objectification of the essential and radical goals and ideals and it has to be changed or discarded in case of being opposed to those ideals. Of course, it has to be noted that this type of approach should not be used as an excuse and/or reason by the statesmen and/or citizens thereby to justify disobedience of the law. The approach to the law in this perception is superior and based on the norms accepted in the society meaning that the law is a means of actualizing justice and the other of its ideals in the society.

Therefore, it seems in instrumentalist perception as if the regulations are, on the one hand, rooted in the ethical teachings and divine verdicts and, on the other hand, are applied in line with the actualization of the long-term objectives and such ideals as justice and high veneration of the mankind. The issue is completely evident in the constitutions of many of the countries (Aslani and Kazemeini, 2011, 285).

It can be asserted herein that both the ultimate and instrumentalist perceptions share the common aspect of security actualization in the light of the constitution based on what will be pointed out below.

### **Fundamental Investigation of the Main Foundations:**

Based on what was mentioned, law is a collection of rules and principles aiming at establishment of order and balance in an assumed system (Blair J. Kolasa et al, 1983, 3). The noteworthy point in this collection is that there is always seen a special form of substantiation in law and, due to the same reason, the legal rules, including the constitution (and generally all the laws) or international conventions and treaties live longer (Joel Feinberg and Jules Coleman, 2000, 51). Unlike some of the other areas, the legal theories are transformed into practices; in other words, the legal rules should pay attention to the real and external examples and they cannot be entrapped in world of abstracts. The external phenomena and examples, as well, have always been in need of a legal solution and statute. Nowadays, not only human beings but also animals, things, air, space, technology and others have been subjected to legal rules in various respects. Rapid change and evolution in the legal regulations would be in opposition to justice hence causing legal insecurity for the possessors of rights and obligations. Of course, this does not bar the redefining, reproducing and reinterpreting of the regulations in different periods of time. But, even such a type of revision, as well, is accompanied by a sort of stability and slow and lazy move. Such an imagination and depiction is an intellectual method that has been implemented in nearly all human communities in various times and spaces and it has been continued up to now; but, the essential question is that why such an intellectual choice has been made and how have various communities agreed thereupon. It appears that the humans' intellect knows it necessary to determine common criteria and generally accepted principles as the primary frameworks of the social behavior (in its general sense) for the establishment of order and security. Considering the aforesaid materials, these criteria can be examined based on a foundation named rule/order. This solution, as investigated in its constitutional and natural properties, is the acceptance of the constitutional foundation of rule/order as a presumption for the construction of a community. The foundation possesses two parts: the first, i.e. rule, is its instrumental aspect and the second part, i.e. order, constructs its ultimate aspect; it means that, drawing on this foundation, the collective intellect intends reaching order and balance via legal rules. Now, it remains to further contemplation as to whether the order is more prominent in its ultimate perception or in its instrumentalist perception.

- **Order Defined:**

Experience has taught the mankind that living in a natural society does not get him to his ideals, to wit creation of security, justice and peace, and that a sort of order has to rule over the society. The civil society and the government in fact mean the regulation of humans' social life. Legal order entails the governance of law on all the social life's manifestations. In a regular and organized society, the standpoints of the government and the people and the relations of the real power sources are clear based on any mindset and executive diagram of it. Nowadays, almost everyone knows his rights and obligations in the society. The possessor of a right knows that s/he is supported against any sort of offence and that s/he can demand the assistance of the government's power via filing a lawsuit. The obligor, as well, is sure that s/he will be finally forced to the fulfillment of his or her obligation with which the trial is ended. In an organized society, the limits and boundaries of power and the relations of the threefold branch are clear and the executive wheels of the government machine features the required coordination; forces are not wasted and each assist the other for reaching the ultimate goal of the civil society. The creation of such a society is the foremost goal of the law.

- **The Necessity and Importance of Order:**

Historically, the necessity of preserving order was felt since the day that the government and law were first proposed. This is still in a continuous progress. No jurist and sociologist and wise person are doubtful about the necessity of the existence of order in the government and its structure. However, some praise order for its own sake and some others find a sort of order favorable that serves the achievement of an optimum goal. Favorable order and coordination of the power's huge wheels should bring about integration and corroborate the spirit of cooperation; they have to move towards justice. Order in jail is also an order but not a value and it is only desirable in case it is for the purpose of law enforcement (Katouziyan, 2006, 481).

In fact, the discrepancy lies in the case that the observation of order and security is in conflict with justice; as a specimen, failing to hear a time-barred claim is inconsistent with justice and the possessor of the right should not be deprived of litigation; but, order in trial makes it necessary that the old claims are not adjudicated. In such cases, the idealists prefer justice and the material and legal schools like order better.

The other visage of discrepancy appears in the face of the question that whether the laws can alone uphold the society and guarantee the government's persistence and creation of order or they should rely on justice and assign each person with certain rights and obligations s/he deserves?

Two answers can be provided to the foresaid question:

- 1) Many of the sages have said that the law is basically laid on justice: the legislator should obey the rules of justice and the law abiders can be urged to enforce it only in case that they find that the government's orders are fair. The rule that is not based on its primary foundation (justice) only has the countenance of the law and the individuals would not find themselves conscientiously obliged to obey the law even if they are apparently forced to do so.
- 2) The followers of the positivism know government's power or public conscience not the justice as the foundation of law. The legal principles are always respected by themselves and for their reliance on the government's will whether they aim at preserving order or serving principles of justice. So, nobody can violate the enforcement of the legal rules or resist the law for the excuse of being confronted with injustice.

But, disregarding these discrepancies, there is no doubt in the necessity of creation of order, as an introduction to the attainment of security or as the primary goal of the rules as mentioned above. Those who have become accustomed to disorder and try making it worse are the rebels who only think of their own interests and, because they find no worthwhile benefit in a healthy competition and in an organized environment, they want to fish in the troubled waters. Not a single wise searches order in disorder and everyone knows that disorder would jeopardize social peace and renders impossible the actualization of justice. It has not been useless that some have interpreted public order as public interests; metaphorically indicating that public interest should be sought in order.

The special characteristic of this foundation (rule/order) makes it distinct from the other criteria and regulations and, in fact, these same properties cause a common norm to be constructed in the society. These features are: being overall, indispensable, guaranteed and formal.

The rationale of the collective intellect has come to the conclusion that the overall, indispensable, guaranteed and formal regulations can create a common norm and social principles. Of course, the followings should be taken into account in this regard:

- A. Legal regulations take advantage of various cultural, social and historical sources of the communities;
- B. Alongside with the legal regulations and formal norms, the other informal norms also work in this system.

It can be stated as a general principle that the more the abovementioned descriptions are intense in the legal regulations, the more it will work strongly for the establishment of order and construction of the common norms. Due to the same reason, instability and struggle are more frequent in the international system than in the domestic systems because some characteristics like indispensability and legal mandate are weak and imperfect in the international law regulations. But, the constitution is more observed as a norm and axiom, as it was mentioned in the domestic system, due to its being characterized by more strength, order and balance. Of course, the status of the domestic and national systems is also different and degrees of difference in stability and order can be seen in them but there is, however, a significant difference between the types of domestic and international systems.

The notable remark is that the rule/order foundation is the attachment point and the shared premise of the security and law in this approach. On the one hand, coherence and stability of security is obtained from a common norm and, on the other hand, disregarding the system's content, balance and order of a system are reflective of the main visage of security.

In fact, the goal in security is seeking for rule/order and the more this foundation can be strongly and prominently produced according to the preparatory works and the default environmental conditions, the more the security is generated and corroborated.

Therefore, the abovementioned legal mechanism, i.e. construction of commonly general, binding and formal norms in proportion to the system, is an important and stable innovation featuring an age as the human life in the human communities.

The other general effect of rule/order foundation is that it organizes multiplicities and differences and it is via laying the foundations of the principles and constitutional frameworks that it regenerates and reinterprets and guides the various theories and tastes in line with solidification of the foundation for the achievement of the system goals.

#### **The Foundation-Function Relationship of Rule-Order:**

The concepts' fundamental and functional aspects are taken into consideration in analyzing them because it is in this case that imaginary conflicts come about between the concepts. Rule/order foundation serves a different function in any system for the achievement of its goals. The present writing places more stress on the actualization of the national security. The principles of the aforementioned functions can be divided into two parts, namely antecedent and subsequent functions.

- **Antecedent Functions:**

It is meant by antecedent functions that the foresaid foundation provides preps for the regularization and organization of the system before the launching of the decision-making system and earlier than being confronted with the examples for the actualization. The antecedent functions of the foundation can be explained in two parts:



**1) Determination of the decision-making system and organization and the quality of coordination between the components and dispute-resolution mechanisms:**

Decision-making needs the determination of decision-making frameworks and regulations in national level. Moreover, the qualifications of each of the components and the amounts of their credibility, the methods of coordination between the decisions and ideas as well as the resolution mechanisms of disputes, in case of emerging, should be clear beforehand. The rule-order foundation is responsible for the determination of these factors. Such a function is usually posited through the countries' constitutions, though problems and lower levels of it can also be considered in the other legal provisions, as well.

This part is of a greater sensitivity in regard of national security; and, the transparent proposition of the security components and decision-making stages are very important. The institutions that can somehow get involved in security decision-making system are identifiable in the constitution of the majority of the countries. Therefore, in a legal, administrative and institutional classification, governments can be considered as the major institutions inherently qualified and responsible for making national security decisions assisted by the other institutions.

**2) Delimitation of the Essential concepts:**

Some of the basic and essential concepts are predicted as the key to discourse order in every assumable government. These concepts, as well, are analyzable within the framework of rule/order because the concepts would act as attaching chains and important gangways of constructing a dominant discourse upon being designed in the form of an axiom with certain characteristics and this will be followed by order and balance.

These essential concepts are also existent in the area of security; such topics as national interests, vital values, security issues and so forth are considered completely essential and fundamental for this system. Concepts, as well, play a preparatory and introductory role like decision-making frameworks and the numerous moves of the system are based on the clarification of the aforementioned preps.

The weakness of the rule-order foundation is well-clear in the essential security concepts in international level. Due to the same reason, disorder and instability of different forms are frequently seen in international levels. The conceptual challenge in such titles as terrorism and human rights disorders the function of international security decision-making systems like Security Council of the UN.

On the contrary, the national systems usually try delimiting the constitutional concepts and constructing them based on collective intellect for the preservation of the internal stability. For example, the delimitation of such a concept as crime in the internal criminal laws is the necessary and essential condition for the establishment of public and penal order and none of the human communities even imagines the establishment of order without this introduction.

Part of these concepts can be inferred from the constitution; the terms applied in the principles of the constitution induce examples of the values and vital interests; but, it is deemed more appropriate, under any circumstances, to create the required legal concepts for the description of the constitutional concepts so that the rule/order foundation and be reinforced.

- **Subsequent Functions:**

After the determination of the essential frameworks and basic concepts in every decision-making system, the assumed system should be naturally expected to offer certain products and outputs. The rule-order foundation's function is twofold in its method of confrontation with these outputs and the primary subject of these functions is reduction of the discrepancies and creation of more coordination and order.

**1) Adherence to the Principles and Validation of the Outputs:**

The rule-order foundation has been attentive to the point that the essential and important institutions cannot be all fall on the same level and that they have various longitudinal and latitudinal ratios in respect to one another; thus, it is necessary to systematically classify the validity of the various and diverse decisions made by different institutions in the area of the governance. The national security system decisions, as well, contain various hierarchies.

## **2) Decisions' Interpretation:**

The other function of rule-order foundation in subsequent stage is the interpretation of the regulations and decisions. Since the human regulations, rules and decisions are not complete and immune of brevity and ambiguity in any state and this same issue is the source of discrepancy and disorder, the collective intellect devises regulations for interpretation based on rule-order foundation so that the discrepancies could be reduced to a minimum and the system can preserve its balance with its internal mechanism in case challenges and tensions come about in stages after decisions were made. Several issues are critical in regard of decision interpretation the most important of which are interpretational methods and qualified interpretation authorities. Amongst the most important questions that have to be answered regarding interpretation is the following: why new statutory provisions are not enacted in lieu of interpretation so that the doubts and dilemmas can be resolved regarding their significations as well as the emerged problems? In other words, why law interpretation is needed? Furthermore, the human relations have neither remained constant in the course of history nor are they plain like the primitive eras rather the human life, unlike the animals', has become characterized by numerous changes and complexities. These variable and complicated relations need their own specific regulations. Why showing retrospection and not enacting new laws and decisions instead of interpreting the old decisions and regulations?

The answer is that it is not always possible to make new regulations; as an example, the legislating institution's job is terminated with the completion of the constitution's composition. Secondly, as it was mentioned before, the law has been arranged for the regulation and organization of the humans' life in the social grounds and the philosophy of the law enactment is stabilization of their life. But, the enactment of the new regulations is not necessarily a suitable solution of responding to the their varying needs; because the enactment of new regulations, first of all, causes tensions in the society's stability for a while and, secondly, not only the legislature is incapable of enacting specific regulations for the entire people's interrelationships but also the extreme detailing of the regulations would be followed in itself by numerous other problems (Katouziyan, 2006, 204-205). Third of all, due to the legislator's inability in predicting the prospective needs and making a legal predicate forcibly effective on the other regulations, it is better to resort to the interpretation of the existent regulations and make efforts through correct interpretation to apply the existing regulations to numerous examples.

The aforesaid points should be taken into account plus the idea that, in order to be able to preserve its dynamicity in the course of time, the law is required to be written in a general and all-inclusive manner so that no need comes about for changing it with the changes in the conditions and this is the philosophy of writing procedures and guidelines in the administrative system for the enforcement of law. The issue becomes more important and more accentuated in regard of the security decisions and regulations due to the necessity of the existence of order in the society.

But, in discussions on the interpretation authority, the principle is that the decision-maker should be itself the decision-interpreter unless otherwise has been stipulated in the regulations. Of course, as it was mentioned before, the rule-order foundation is related in all its stages with the other areas of the science and the higher the degree of its specialty and relevance, the more the foundation flows in every assumed stable environment. Concerning interpretation, it has to be noted that the recognition of security doctrines and the correct understanding of the national security issues and subjects are very important and determinative along with the legal regulations and principles' comprehension and that the rule-order foundation is more looking for the formulation of robust molds and containers to attain system's solidarity and this pattern is in need of the containers and the complicated relationships of the other sectors, as well.

## **3) Creation of Specialized Security Law and Safe Society Regulations:**

The final and important function of the rule-order foundation is the creation of the specialized and legal security law hence safe society regulations. The security laws or the national security laws are collections of formal regulations and criteria expressing the vital and security principles and values of a country thereby to actualize,

preserve and expand security. Therefore, an image of a safe society can be envisioned following the elaboration of the legal regulations related to national security.

In some of the studies, the safe society has been defined as follows: “a safe society is the one that, meanwhile being stable, digests in itself the logical evolutions. The principles should overshadow the strategy and decision-making and, on the other hand, the political changes and decision-making should be accompanied by results favoring the correction of the strategies and even principles.

In addition, the safe society is the one capable of objectifying in the outside world the coordination between the principles in abstract legal stages. For instance, the perfect functioning of the economic principles is imaginable with the coordinated actualization of the social justice” (Rahpeyk, 2000, 9-10).

The point that has to be considered here is that the actualization of the safe society should be seen in the special legal container of the society’s security. The axiom of rule-centeredness and legality, in general, and in regard of security, in specific, is useful in that the interpretations and readings are first of all politically constrained and, secondly, a certain authority can resolve the disputes. From this perspective, the safe society is the one administrated by the laws and rules.

“The necessary condition for the actualization of the safe society is guarding and preservation of the general legal principles and essential strategies that, meanwhile guaranteeing the frameworks and the pillars of the political system, brings the power for absorbing and administrating the changes via making proper decisions” (Ibid, 9-15).

A safe society enjoying security should possess indices and characteristics and these cases are in authentic legal relationships with rule-order foundations. In the safe society, the management of the social system should feature optimal authority and supervision. This also holds about the controlling of the changes. Although the reasons and instruments of creation of a great many of changes and evolutions are outside the supervision and even prediction scope of the sociopolitical system’s management, part of the changes and/or, at least, the quality of their growth and quantities are somewhat controllable. One index of a safe society is that the sociopolitical system’s management endeavors with prediction awareness and competency and also with the authority required for controlling, guiding and moderating the changes and it always assesses its capacity in the face of the evolutions and has this issue involved in the codification of its political strategies and decision-making in a serious manner. The ponderable point in this regard is that the optimum authority and supervision of the law should be obtained in the light of law-orientation.

The lesser the distance between subjectivity and objectivity of the principles and ideals, the higher the security coefficient in this regard and the safer the society and, conversely, the wider the gap between the subjectivity and objectivity, the more the insecurity would be intensified and the sociopolitical problems and crises can be better predicted for such a society (Ibid, 9-15).

## **Conclusion:**

Although security is attributed more than any other area to international policies and relations, it is not limited to politics rather it has various dimensions, components and variables and it is related to many vaster areas. Security should be recognized as one of the interdisciplinary knowledge types connected with various scientific branches and attitudes and each of these sciences attempt to somehow decrypt this ambiguous concept and its indicators. One of the knowledge types related to security is law. Security is intertwined with politics the same way it is collocated with law.

Law and security are two important and key concepts in the administration of a political system. The society’s discipline is disordered in the absence of security and the tasks cannot reach their completion point. The rules, especially the constitution, as well, are codified with the intention of defining norms, regulating social relations, establishment of public order and comfort and security amongst the society members. So, the rule-order foundation, legal scales and criteria can be applied in the interpretation of the discussions on security.

In many of the cases, the governments have no other way but to resort to legal instruments for restoring security and extinguishing the fire of social unrests. Thus, the law and security are interwoven in that they are both tied to the social life. These two are interrelated from the political system's duct. The governments sometimes resort to security for constricting and expanding affairs and they happen occasionally to seek refuge in the shelter of security for advancing their intentions. However, there would be no way other than the application of legal and law-based means in case that the mere resort to security is found incapable of and inadequate for resolving a situation. Such a lever is capable of substituting requirement by agreement to drive away the barriers on the government's path. So, the law and the security are related to one another by way of politics. More importantly, from functional perspective, the governments' structures and the authority and responsibility domain of the governing powers are amongst the issues related to national interest and security in the constitutional laws. The aforesaid cases are suggestive of the authentic relevance of the laws to security. Therefore, the legal ground and foundation of rule-order can be largely generalized and expanded and the definition and elucidation of security in this container can be very important.

## References

1. Amid Zanjani, Abbas Ali, (2004), "political jurisprudence (the entire course)", Tehran, Amir Kabir.
2. Aslani, Firouz and Kazemeini, Sayyed Muhammad Hussein, (2011), "concept of law governance and its perception with an emphasis on the Islamic Republic of Iran's constitution", seasonal journal of Islamic Revolution, no.26.
3. Blair J. Kolasa & Other, Legal Systems, Prentic-Hall, Inc, Englewood Cliffs, United states, 1978, p.3.
4. Fabre, Cecile, Social Rights under Constitution, Government and Decent Life, Claredon press, Oxford, New York, 2000.
5. Ghazi Shari'atpanahi, Abolfazl, (1998), "constitutional law and political institutions", Tehran, Tehran University Press.
6. Ghazi Shari'atpanahi, Abolfazl, (2002), "the dos of the constitutional laws", Tehran, Yalda.
7. Ja'afari Langarudi, Muhammad Ja'afar, (2002), "general philosophy of law", Tehran, Ganj-e-Danesh.
8. Ja'afari Langarudi, Muhammad Ja'afar, (2004), "law terminology", Tehran, Ganj-e-Danesh.
9. Jacques Rousseau, Jean (2001), "social contracts", tr. Morteza Kalantariyan, Tehran, Agah.
10. Joel Feinberg, Jules Coleman, Philosophy of Law, six edition, Wadsworth, 2000, p.51.
11. Katouziyan Naser, (2006), "basics of general law", Tehran, Ganj-e-Danesh.
12. Katouziyan, Naser, (1999), "an introduction to the science of law", Ganj-e-Danesh.
13. Mehrpour, Hussein, (2012), "a brief summary of Islamic Republic of Iran's Constitution", Tehran, Dadgostar.
14. Montesquieu, Charles De, (1991), "the spirit of law", tr. Ali Akbar Mohtadi, Tehran, Amir Kabir.
15. Mousazadeh, Ebrahim, (2010), "eschatological analysis of the act four of the Islamic Republic of Iran's constitution", journal of the private law research, 40(9).
16. Padfield, CF, Law (made simple), Oxford, 1989.
17. Rahpeyk Hassan, (2000), "security laws, political decision-making and safe society", seasonal journal of strategic studies, 3(9).
18. Rahpeyk, Hassan, (2000), "scientific conversation between law and security", seasonal journal of strategic studies, 3(4).