



Structural Requirements in the Constitutions of Afghanistan

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Abstract

The constitution plays a crucial role in establishing the rule of law and effective governance as the most important national document. The effectiveness of the constitution is closely related to its acceptance and respect by the public. In fact, the level of respect for the constitution reflects the collective nature of the law, the representation of public interests, and the guarantee of fundamental rights for all citizens. Therefore, prioritizing public interests and considering the requirements of social structure are important aspects of the constitution. Despite more than a century of constitutional experience in Afghanistan, the lack of credibility and acceptance of past constitutions has been one of the major challenges in political reform and the rule of law in the country. A future constitution can only be effective if it has public acceptance and national credibility based on past experiences. This can be achieved when the constitution addresses the requirements of Afghanistan's social structure. The religious and ethnical nature of the social structure of Afghanistan and the ethnic, religious, and linguistic diversity in the country, are most important characteristics of the social structure that have specific and important requirements.

Keywords: *Constitution, Social Structure of Afghanistan; Traditional and Tribal Structure; Traditional Political Culture*

1- Introduction

Afghanistan is one of the Third World countries that, despite more than a century of constitutional experience, has yet to have an accepted and credible constitution. If we consider the rule of law as one of the most important prerequisites for political reform and effective governance, the absence of a valid and legitimate constitution with public acceptance can be seen as one of the major challenges in the process of rule of law in the country. A constitution can only have public acceptance and collective respect if it guarantees the fundamental rights of all citizens, ensures social justice and equality of citizenship rights, and pays attention to the requirements of the social structure. Compared to other countries in the region, Afghanistan has a long historical background and extensive experience in constitutional law and entering the field of political reform. However, in the past hundred years, it has been unsuccessful in terms of the rule of law and has faced serious obstacles. According to this paper, the neglect of the requirements of the social structure of Afghanistan in past constitutions has been one of the

fundamental factors in the failure of the rule of law process and political reform in this country. The result of this paper, with an emphasis on the structural requirements of Afghan society, is that attention to social structure requirements such as the religious nature of society, ethnic, religious, and linguistic diversity, and traditional and tribal political culture is one of the most important requirements of the constitution that should be seriously considered in the drafting and approval of the constitution.

2- Concepts and Theoretical Discussions

The concept of social structure, traditional and tribal political culture, and structural requirements are fundamental concepts in this paper. Given the relative and fluid nature of concept definitions in social sciences, it is necessary to refer to the intended definition of these concepts.

2-1- Social Structure

A relatively common definition of social structure states that when there is a relatively stable and enduring relationship between the elements and components of a set, we refer to it as a structure. Therefore, social structure has two aspects: the constituent elements and the stable relationships that connect these structural elements to each other. (Gholam Abbas Tavassoli, 1992, 125) Beliefs and cultural values are among the most important elements of social structure. Therefore, social structure refers to the set of stable social beliefs and values that go beyond the political system and individuals and define the roles and social positions of individuals based on mutual relationships. Based on the above definition, in this discussion, social structure refers to the population and biological framework of people who establish relationships with each other based on traditional and tribal values. These relationships are formed in traditional and tribal societies based on tribal beliefs and criteria, and therefore, it is referred to as a tribal society.

2-2- Tribal Structure in Afghan Society

The tribal structure, as mentioned, refers to a framework of population and social beliefs and values that interact with each other based on tribal beliefs. A brief review of the traditional beliefs governing the political and social behavior of individuals, social relations between tribes, and the nature of government and politics in Afghanistan clearly reflects the tribal nature of Afghanistan's social structure. In fact, the foundation of government formation in Afghanistan has been based on tribes to the extent that the government and tribes formed a unified system and complemented each other. This two-way relationship indicates the important role of tribal support in establishing political power on one hand, and the instrumental nature of political power in the hands of powerful tribes on the other hand. In social relations, the weakness of national cohesion and the prominence of tribal cohesion are symbols of the tribal structure of Afghan society. In this society, where the government and national sentiment are weak, tribes determine dependencies and create groups supportive of the government, playing a significant role in political games. Religion and ethnicity are two fundamental variables in the political and social life of Afghan society. Historically, political developments in the country have always been based on these two fundamental elements. According to Ludwik Adamiec, religion has always played a role in mobilizing people, while ethnicity has been a factor in political and social cohesion. It was in the name of tribal solidarity that Abdul Rahman of the Durrani asked the people to settle in northwestern Afghanistan and sent a message to them in 1928 to recover the lost crown and throne from Kandahar. It was in the name of tribal solidarity that Nadir Khan recaptured Kabul from Bacha-i-Saqao in 1929. Tribal and traditional beliefs and values, along with ethnocentric thinking, have serious and important implications in the political life of society. Ethnocentrism is an inclination that places the theoretical and practical criteria of one ethnicity in a superior position to other ethnicities, leading to a negative view and suspicion towards other ethnic groups, and is considered a serious factor in ethnic conflicts. Traditional and tribal culture with this conflicting characteristic is reflected in the political thoughts and behaviors of individuals and political institutions, giving them an identity. The process of formulating, approving, and adapting the

constitution in Afghanistan has always been influenced by this structural factor, posing serious obstacles to national integration and the credibility of the constitution. Rule of law in a traditional and tribal society like Afghanistan requires more than legislation and policy; it requires social and political transformation, as freedom policy precedes life policy; freedom policy aims to remove obstacles and contradictions, while life policy aims to increase the ability to act and freedom of choice. The former aims at societal transformation, while the latter aims at life transformation. Life transformation is superficial and foundational, allowing for regression, while societal transformation eliminates the possibility of regression. What is observable in the process of the Afghan constitution and efforts for governance is a focus on life policy. From the modernization and reform process of Amanullah Khan to the constitutional process in Afghanistan, from the experience of the constitutional decade in the country to the modernization process of the Chub Movement and the People's Democratic Party, from the governance of the Islamic Mujahideen government to the establishment of the Islamic Republic of Afghanistan, all can be explained in the direction of life policy. In all the mentioned stages and efforts made for social and political change and development in Afghanistan, freedom policy has not been a significant focus. Politics and governance in Afghanistan have always been and continue to be trapped within the narrow confines of traditional and tribal politics, posing a significant challenge and obstacle to effective rule of law and governance. Instead of seeking solutions to overcome tribalism, governing policies in Afghanistan have focused on strengthening tribal political culture and intensifying ethnic tensions as tools to consolidate their power base. Policy-making and efforts to overcome the contradictions of traditional and tribal structures and modern governance are missing links and absent policies in the country.

2-3- Requirements of Afghanistan's Social Structure

Religion and ethnicity are important and constructive elements of Afghanistan's social structure. Both of these elements play a crucial role in the political life of Afghan society. As mentioned in the definition of social structure, social values and beliefs are constructive elements of political identity that influence behavior and interpretation of various aspects of life. Among the many factors influencing the political thoughts and behaviors of individuals in Afghan society, the roles of religion and ethnicity are very prominent. In Afghanistan, no significant transformation has occurred without the presence and role of Islam. The rise and fall of kings, resistance to invasion and colonization, and internal political conflicts have always been associated with religion or exploited in the name of religion. On the other hand, there is the element of ethnicity. This element also plays a significant role in the political life of Afghan society. Distinguishing between ethnic politics as a goal or a tool is difficult, but ethnic politics has mostly had an instrumental nature. Within the framework of ethnic politics, an institution called

3- Religious Structure

Religion and faith are influential factors in social life. Islamic beliefs play an important role in the political thoughts and behaviors of individuals in Afghan society. Almost all people in Afghanistan have been Muslims from ancient times to the present, and Islamic beliefs are considered the main reference for them. Islamic beliefs and faith have had a serious impact on the behavior and conduct of Afghan society. Despite ethnic, religious, and linguistic diversity, Islam is the only universal reference and support for all people in Afghanistan. (Rowa, 1375, 55) The deep belief of the people in Islam as the ultimate decision-making reference and the highest source of political authority has made political power always have a religious nature or be associated with religion. In a religious society like Afghanistan, social phenomena are inevitably intertwined with religious and sectarian issues, making the sociology of religion an important part of social studies in this country. (Sajadi, 1395, 51) The rise and fall of political systems in domestic politics and victories against colonialism and external powers in foreign affairs have been influenced more than anything by the religious factor. The fall of Amanullah Khan (1929), the collapse of the People's Democratic Party, the emergence of the Mujahideen government(1992), the rise of the Taliban (1996) and the return of Afghanistan Islamic Emarat(2021), all have been indebted to the religious

authority in the political life of Afghan society. In the foreign dimension as well, the three Afghan wars against the British and the wars against the former Soviet Union and the United States in contemporary times, which have been successful with the support of the Afghan people, have been influenced more than anything by the religious element. In fact, Islam, under the title of Islamic jihad, has played an important role in creating the motivation for war, mobilizing the public for defense against occupation and foreign aggression. According to some writers, relying on the religious interests of Afghan society is considered the most effective element in the stability of past rulers. It was the support of religious sentiments that led to the successive occupation of this country by British soldiers being unsuccessful. (Riazi, 1372, 130) As it is evident, religion, in its general sense and Islam in particular, plays a dual role in the political life of human societies. The positive and negative role of religion in the political life of humans and human society is related to the nature, content, and interpretation of religion and religious teachings. Rational and intellectual interpretation versus literal and textual interpretation are the only two common approaches in understanding and interpreting Islamic teachings, which have different positive and negative implications in the political life of humans. The exclusivist and monopolistic approach to religious views versus the expansive and tolerant approach, each has specific effects on human life. Despite the fact that religion and Islamic beliefs always have a positive and constructive role in human life, the narrow-minded interpretation and understanding of religion have always been painful and problematic. Exclusive and dogmatic religion that confines Islamic identity to a specific religious interpretation and negates different interpretations in other Islamic sects naturally leads to religious destruction, which has negative consequences and harmful results in human political life. On the other hand, literal and outward-looking religion with literal interpretation, emphasizing legal texts and based on the opposition of modern civilization and scientific and rational achievements of humanity with Islamic law, only leads to the denial of renewal and modern aspects of contemporary civilization and creates resistance and reluctance in religious society. In the midst of this, secularism, which seeks to eliminate religion from political life and marginalize religious beliefs from society, has emerged in response to incorrect extremist and exclusionary interpretations in Islamic society. Secularism in the Western world was anti-clericalism against the dominance of the church, which was in open confrontation and opposition with human reason, science, and human knowledge. However, in the Islamic world and Islamic countries, due to the political and social nature of Islam, this anti-clericalism itself is a new poison for the sick and ailing body of the Islamic community. The fundamental problem of Afghan society is not religion but rather the traditional and outdated interpretation of religion. Religion in Afghanistan, in its traditional version, is still prevalent and common. The traditional interpretation of religion is literal, dogmatic, and sectarian. The literal interpretation of religion leads to contradictions between religion and modernity, religiousness and renewal, and ultimately contradictions between religious values and achievements of modern civilization. The dogmatic interpretation believes in its absolute truth and denies others, leading to the expulsion and excommunication of other Islamic sects. The sectarian interpretation empties religion of its human, rational, and intellectual content and reduces it to the level of specific sectarian interpretations. All three of these indicators are characteristics of the traditional interpretation of Islam, which unfortunately has deep and profound roots in our country. This kind of view of religion has had destructive effects and consequences in the political and social life of our country. The combination of dogmatic and popular religiosity with ethnicity and politics, reducing the lofty and valuable human and ethical beliefs of religion

Religion plays a central role in creating social equality and justice as a set of beliefs, commandments, values, and divine beliefs. Justice, as the most important philosophy of divine message and heavenly book, goes beyond tribal and racial differences as the most important divine command, creating the infrastructure for a fair and equal political and legal system. In fact, Islamic teachings are both supportive of legalism and the principle of the rule of law, as well as serving as an executive guarantee for legal obligations. Just as legal equality is one of the fundamental principles of the rule of law, human equality is one of the most important Islamic teachings and religious doctrines. Just as the principle of justice is the philosophy of the existence of law and unjust laws have no legal validity, the principle of justice is the philosophy of the mission and the most important reason for the sending of

messengers and the revelation of heavenly books. However, the negative relationship between religion and the rule of law leads back to a narrow and dogmatic interpretation of religion and a dogmatic religious approach. Religious conflicts, religious exclusivity, and the denial of religious identity are considered some of the main consequences of this approach. Our country's experience with a religious approach to politics and government has been bloody, negative, and detrimental. The instrumental use of religion and the combination of religious beliefs with tribal and nationalist beliefs, the policy of eliminating and suppressing religion using religious fatwas based on the excommunication of followers of the Ja'fari sect, religious exclusivity, and the formal recognition of the Hanafi sect, as well as marginalizing the religious views of Shiites, have been some of the consequences of this approach in our country. Therefore, respect for religious diversity, moving towards a broader and rational interpretation of Islamic teachings, is a necessity for the religious structure that must be considered.

4- Requirements of the Traditional and Tribal Structure

Since its establishment until the period of Amanullah Khan, Afghanistan had an absolute monarchy system. The absolute monarchy system has a dialectical relationship with the traditional and tribal political culture. On the one hand, tribal culture contributes to the production of national political power, and on the other hand, absolute political power reinforces the traditional and authoritarian political culture. In the traditional and tribal political culture, politics and government are perceived as the personal property of the ruling monarch, and the king is considered the owner of the lives and property of the subjects. In tribal political culture, political identity is defined within the framework of tribal and lineage boundaries, where individuals within the tribe are trustworthy and reliable, while those outside the tribe are considered foreign and untrustworthy. Non-tribal citizens have no place in political power and are subject to oppression and discrimination. Imposing tribal and religious identity is a characteristic of the traditional and tribal political culture that has had painful historical manifestations in our country. Individuals outside tribal identity are defined as foreign, untrustworthy, and dangerous. They were "sold as slaves, and any opposition to their cruelty was suppressed." (George Arney, 1370, p. 10)

Personal will of the monarch instead of the rule of law is a feature of the traditional political culture, as well as the absolute and extra-legal monarchy system. Although Amanullah Khan, for the first time, changed the political system of Afghanistan to a constitutional monarchy by granting the first constitution to Afghanistan, the structural requirements of Afghan society were not addressed in this constitution. Despite some aspects of modern political life such as civil liberties, the right to education for girls, housing freedom, and personal life immunity being addressed in this constitution, all of these issues are expressed within the framework of traditional and national politics. In the traditional and tribal approach to politics, just as the politics of personal monarchy is perceived as the king's personal rule, on the other hand, the king is the highest authority absolute power, and everyone is accountable to him, but he is not accountable to anyone. In the sixth article of Amanullah Khan's constitution, it is stated that "the government is only accountable to the king, and the king is not accountable to anyone." (Moshtaqi,2009)

The tribal and traditional political culture is inherently anti-development and innovation. If we consider indicators such as the rule of law, legal equality, expertise, and structural differentiation as the most important principles of the constitution of any country, the existence of traditional and tribal political culture in Afghanistan is one of the main obstacles to the constitution. An overview of the most important features of traditional culture reveals the unfavorable and negative relationship of traditional and tribal culture with legalism. The most important feature of traditional and tribal culture can be discussed from the perspective of legalistic thought in the following.

4-1-Contradiction of National and Ethnic Identity

Nation-building is a process that, while respecting and accepting ethnic, racial, and linguistic diversity, defines itself and others across major boundaries. A nation refers to a group of individuals who,

while diverse internally, define their collective identity by their own and others' definitions at a macro level. In fact, nation-building, which signifies the establishment of general loyalties over particularism, is one of the manifestations of renewal and modern thought. What existed before economic and political modernization were ethnic groups. It was this modernization that led to the creation of more diverse and integrated units called nations. (Allen Torn, *ibid*, 317) Therefore, ethnic identity is related to pre-modern conditions and before the establishment of national identity. While the basis of citizens' cohesion in modern society is political goals and interests, in traditional culture, the basis of social cohesion is blood and race, and the ruling ethnic group tries to create a formal cohesion at a macro level using coercive policies.

This contradiction prevents the establishment of the concept of modern national identity. The crisis of national identity is the source of the crisis of national participation, the crisis of fair distribution of national resources, and the crisis of political legitimacy and influence. Essentially, a constitution is only respected and enjoys public legitimacy when it has a general and comprehensive view and is responsive to the demands of all citizens based on national identity. National policies hinder common understanding and agreement on national concepts and principles such as national security, national development, national interests, national identity, and national threats. In our country, important and necessary issues of the government have always been interpreted with a tribal perspective and have been reduced to the level of national interests, ethnic identity, national security, etc. This poses serious challenges to the rule of law and diminishes national trust to tribal and clan trust.

The experience of past constitutions also reflects this serious contradiction between national identity and ethnic identity. Pursuing a policy of ethnic imposition and uniformity has led to discrediting the constitution. A constitution will only be respected and enjoy public legitimacy when it emphasizes general concepts and symbols rather than those belonging to a specific ethnic group. The dispute over the use of the term "Afghan" as the identity of the people of Afghanistan, the definition of national terms, the recognition of historical achievements, etc., are just examples of this challenge. National homogenization policies lead to exacerbating social divides and ethnic conflicts, as, according to Allen Torn, "the more powers centralize identity formation based on uniformity, the faster society descends into the hell of totalitarianism." (Torn, *ibid*, 243)

4-2- Oral Culture and Unaccountability

The traditional culture governing the political and administrative affairs of our society is oral and unwritten. Oral culture is an important feature of traditional and tribal culture. In traditional political culture, oral and informal commands and orders play a more important and influential role than written and formal guidelines. Oral culture is uncritical and unaccountable, and therefore, oral governance is not accountable to the people. The author, during his tenure as a representative in the Afghan Parliament, has recorded numerous instances of this. In many cases, a minister or the highest official of a government institution would give orders and sign documents based on specific considerations in response to the demands of representatives, but in the absence of the said representative, they would verbally issue orders contrary to their signed documents. Such orders, due to their unwritten nature, are neither subject to review nor legally accountable. Oral culture, which reflects the true face of traditional culture, has important implications in political life. Providing the most space for favoritism and the dominance of individuals' will over the law, lack of oversight and accountability to society and supervisory institutions, corruption, and promotion of political and administrative corruption are some of its important consequences.

In the absence of a written law, the principle of the rule of law cannot be realized, and in oral culture, oral and unwritten commands and guidelines are the basis of governance instead of written laws. On the one hand, legalism means the rule of law over political and social life, while in oral culture, the will of individuals and holders of power governs instead of the will of the law. In Afghanistan's

experience, the precedence of the ruler's will and the holders of power over the law can be observed in various aspects. In the Afghan Constitution (1964), this precedence is explicitly stated in the constitutional provisions. In the Constitution of the Islamic Republic (2003) although the power holders and the president are recognized as accountable to the people based on the law, in practice, this accountability does not exist. Disagreement over an article that made the president accountable to parliament was one of the challenging issues in the Loya Jirga on the constitution (2003). This matter did not reach a desirable conclusion due to the opposition of the Karzai government.

4-3- The Culture of Lawlessness

Legalism, in its positive aspect, ensures social equality, guarantees citizens' rights, secures basic rights of the people, and establishes social order and justice. In its negative aspect, legalism is the most important barrier and inhibiting factor against personal preferences and the rule of individuals and ruling classes. The rule of individuals and personal preferences is the cause of discrimination, inequality, weakening of social order and justice, and the neglect of basic rights of the people. The incompatibility of traditional and tribal culture with legalism and the serious inclination towards the rule of individuals instead of the rule of law are serious challenges to the constitution. The writer remembers the political disagreement between parliament and the presidency over the impeachment of Foreign Minister Mr. Karzai (Dr. Rangin Dadfar Spanta 2007) where the government's refusal to accept the impeachment result challenged the outcome. A group of heads of commissions and elders of parliament, in which I was also present, was appointed to resolve the issue through negotiations with the president. President Karzai, holding his trademark Karakul hat as always, upon entering the room, addressed the attendees by saying, "Lawyers of the owners! Have you come to pressure me? As long as I am the president, Spanta is the foreign minister." This means Karzai's rule of will instead of the rule of law. Afghanistan's government's lack of compliance with the provisions of the constitution was one of the problems of legal governance in the country. This issue stems from the requirements of the tribal structure that should be considered in the drafting and implementation of the constitution.

4-4- Culture of Authoritarianism

Authoritarianism is an important feature of traditional political culture. Authoritarianism promotes a culture of flattery, sycophancy, and bootlicking in society. Unlike modern political culture where individuals' political and administrative positions in the country's political and administrative structure are determined based on expertise and merit, in traditional and tribal political culture, individuals' positions are determined by their proximity and closeness to those in power. Seeking proximity to those in power is the main mechanism for assuming political and administrative positions, mainly through flattery, sycophancy, and kissing up. Authoritarianism, on the other hand, instead of constructive criticism and policy reform, leads to the suppression of truth, presenting a distorted view of events, and ultimately the inefficiency of the political system. Authoritarianism, with a deep inclination towards power concentration, leads to the exclusion of others from politics and ultimately political monopoly. This hinders universal participation, meritocracy, and good governance, while strengthening a culture of flattery, nepotism, and tribalism. The principle of the distribution of political power and prevention of political monopoly, ensuring meritocracy instead of nepotism, should be seriously considered in the constitution. Therefore, it is necessary for the constitution to focus on the distribution of power instead of power concentration.

The culture of authoritarianism breeds extreme individualism and egocentrism. Negative individualism refers to focusing on the personal and familial status and position of individuals. In Afghanistan's tribal political culture, politicians prefer their personal views and individual will to always be the basis for decision-making. On the other hand, the employment of individuals is also based on personal relationships and nepotism; to the extent that in some periods, the government takes on a familial nature. Nepotism is considered a criterion for the employment and appointment of individuals, which

contradicts meritocracy, where the capacity and capability of individuals are considered the main principle in employing individuals in developed societies. Furthermore, the promotion and consolidation of ethnic politics are carried out, as politicians usually exploit ethnic and religious divides as a source of political power. Therefore, to consolidate their political power, they employ relatives and trusted individuals. This is in clear opposition to the rule of law, which emphasizes the legal position rather than the personal position of individuals.

4-5- Conflict between Tradition and Modernity

Traditional political culture is monolithic, dogmatic, and absolutist. It rejects modernity and Western civilization as manifestations of modernity in conflict with religion and Islamic beliefs. Therefore, modernity in Afghan society has always been portrayed in opposition to tradition and religious beliefs. Initially, modernists were seen as challenging religious beliefs and atheism. However, modernity in Afghan society failed to bring rationality and wisdom within tradition. If it had succeeded, modernists would have focused on societal renewal and cultural transformation based on the characteristics of Afghan traditional society, rather than engaging in conflict with traditionalists, who have a broad popular base. The failure of the modernist movement in Afghanistan is attributed to its traditionalism and disregard for the indigenous needs of Afghan society. The experience of Islamic countries, including Afghanistan, reminds us of the historical lesson that when the modernist and reformist movements negate social traditions, they face failure and ultimately defeat. Another aspect of the problematic nature of modernism in Afghanistan is that it is often associated with the rejection of tradition. However, tradition, due to its deep historical roots, cannot be easily dismissed, and rejecting tradition can lead to societal fragmentation and historical discontinuity, leaving society rootless and devoid of cultural and civilizational capacities. Furthermore, the conflict between tradition and modernity is fundamentally lacking in scientific and logical basis. Therefore, revisiting tradition and religious beliefs and adapting them to new conditions and requirements is essential for addressing the structural challenges.

One of the requirements and consequences of the confrontation between tradition and modernity in Afghanistan, from the perspective of the present discussion, is the emergence and spread of a negative approach in managing social conflicts. In every society, there is one or more social gaps. These gaps do not necessarily lead to social conflicts unless the way of dealing with them is conflict-prone and confrontational. Social gaps in Afghanistan have intensified due to the negative and tribalistic approach and the policy of imposing ethnic identity. A positive approach to establishing collective identity and a homogeneous society is done by creating and strengthening commonalities as a link between ethnic and religious diversities. Over time, attachment to major axes and national identity replaces attachment to minor axes and ethnic identity. However, the negative approach, which denies and negates ethnic identities and seeks homogenization by eliminating diversity and differences, activates social gaps and consequently intensifies political and social conflicts. Based on historical experience, "the attempt to create homogeneous groups that seek to protect their unity through strict political controls and the elimination of deviant minorities has always led to bloody wars." (Thorn, *ibid*, 250)

Given the aforementioned characteristics, it can be understood that the existence of tribal and traditional cultural elements poses serious challenges to the rule of law in the country. The existence of these challenges and a tool-oriented view of the constitution make it difficult and impossible to move towards national development and progress. This challenge becomes more pronounced when the political and ethnic elites use a tool-oriented and political approach in political competitions. Political elites have always contributed to strengthening tribal political culture in order to sideline their rivals and increase their political power. Illiteracy of the majority of the population and lack of collective awareness, alongside the traditional structure of society, lead political and ethnic elites to constantly pursue their personal and political interests through the presentation of ethnic demands. In my opinion, the existence of traditional and tribal culture is the root of fundamental problems in governance and political management in Afghanistan. The most important issue for the establishment of a lawful political life in

Afghanistan is finding a solution to move beyond tribal political culture. Tribal culture and nationalist politics may prevent the activation of ethnic and religious gaps in the short term, but in the long run, these gaps will emerge as factors of social conflict. (Husain Bashiria(1399, 101)

The next step is to support justice, equality, and guarantee the fundamental rights of the people. In the future constitution, necessary measures should be taken to ensure and guarantee the fundamental rights of the people in accordance with the structural requirements of society. Defining common elements and national cohesion as constructive elements of national identity and agreed upon by all ethnic groups residing in the country, and avoiding the expression of sensitive and divisive elements, employing official government institutions for practical education in defining, promoting, and strengthening common national components, fair distribution of power based on political agreements as a transitional phase towards power distribution based on political competition, defining the political structure of the future political system in a way that ensures maximum participation of all ethnic groups at various levels of political decision-making, strengthening and ensuring the principle of national, religious, political, cultural, and linguistic pluralism, and defining a practical mechanism to counteract ethnic, religious, cultural, and linguistic monopolies are among the most important requirements of the future constitution of the country.

Conclusion

The social structure of every society has specific requirements and consequences for political life. The social structure of Afghan society is shaped under the concept of traditional and tribal structure. Religion and ethnicity are important and fundamental elements of the traditional structure of Afghan society, and both elements play a significant role in the political life of our people. The religious and ethnic nature of politics and government is a requirement and consequence of the social structure of our society. Since the majority of our people are Muslims, Islam plays an important role in establishing social cohesion in our society. A narrow and narrow-minded interpretation of religion turns this important and constructive element into a destructive element. Religious diversity and diversity of religious views are requirements of the religious structure of our society that must be addressed. On the other hand, ethnicity plays an important role in the political life of our society. The traditional and tribal structure, with features such as tribalism, individualism, authoritarianism, and resistance to modernity, is a fundamental obstacle to the principle of the rule of law. The rule of law believes in the principles of citizenship rights equality, justice, expertise, accountability, and transparency. The traditional and tribal political culture is in clear contradiction with these indicators. Ignoring structural requirements such as ethnic and religious diversity, imposing religious policies, and focusing on specific and attributed axes to a particular ethnic group deprive the constitution of respect and public legitimacy. Attention to these structural requirements, taking legal measures to move beyond tribal culture, is essential for national development and social progress and should be seriously considered in the future constitution.

References

- Alan Thorn (1992) *Equality and Difference*, translated by Salman Sadeghizadeh, Tehran, Thaleth Publications, third edition.
- Bashiri, Hossein (1993) *Political Sociology*, Tehran, Ney Publications, second edition.
- Danesh, Sarwar (2019) *Collection of Afghan Constitutional Laws*, Andish Foundation Publications, Kabul.
- Farhang, Sadegh (1988) *Afghanistan in the Last Five Centuries*, Aryana Offset, Peshawar, Pakistan.

- George Arney (1991) *Afghanistan, Gateway to the Conquerors*, translated by Seyyed Mohammad Yousuf Alami, Afghan Jihad Translation Center.
- Giddens, Anthony (1995) *Sociology*, translated by Manouchehr Sabouri, Tehran, Nashr Ney, second edition.
- Kashkaki, Sabahuddin (1991) *Decade of Constitutional Law*, Center for Islamic Culture of Mujahideen, Peshawar, Pakistan.
- Katib Hazara Mullah Faid Mohammad (1991) *Saraj Al-Tawarikh*, Qom, Ismailian Publications.
- Marger, Martin (1998) *National Politics*, translated by Eftakhari, Strategic Studies Quarterly, first issue.
- Moshtaqi, Ramin (2009) *Fundamental Rights of Afghanistan*, translated by Hossein Gholami, Max Planck Institute, Volume One, third edition.
- Riyazi, Mohammad Yousuf (1993) *Ain Al-Waqayeh*, Qom, Ismailian Publications.
- Roya Oliwa (1993) *Afghanistan, Islam and Political Modernism*, translated by Abolhasan Sarooghad Moghadam, Qods Razavi Publications.
- Sajjadi, Seyyed Abdulqaium (2016) *Political Sociology of Afghanistan*, Kabul, Khatam Al-Nabieen University, third edition.
- Tousi, Ghulam Abbas (1992) *Theories of Sociology*, Tehran, Samt Publications, third edition.
- 15-Olison-Osta, **Islam and politics in Afghanistan**, Curzon Press, British, (1998).

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