

The Political Responsibility of System Brokers in Light of Fundamental Concepts of Public Law and Good Governance: Looking for Excellent

مسؤولية وكلاء المنظومة السياسية في ضوء المفاهيم الأساسية
للقانون العام والحكم المطلوب

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Mohammad Sadeghi¹, Mostafa Azizi², Mohammad Taghi Yaghobi³

1. Assistant Professor in Economic Law, Hormoz Research Center, University of Hormozghan, Iran
2. Judge in Judicial Court and Researcher in Public Law
3. Researcher in Public Law

Email: mohammad.sadeghi@hormozghan.ac.ir

Abstract

Nowadays by development of society and diversity on public request, political responsibility has been manifested as main question in light of public law and good governance. Political responsibility could be defined as responsibility of ministers to members of parliament or control of parliament on the activities of executive in form of evaluating harmony of their activities. Furthermore, control of executive decisions with legislative and expected policy of parliament members.

In fact, legislative use its authority for controlling power of executive and such mechanism is only exist in the context of democracy-based systems. Permanent responsibility of executive organs and ministers through proper mechanisms and sanctions could be led to transparency, decentralization of powers from limited number of people or groups. Besides, it could be headed to provide appropriate links between political responsibility and the principle of separation of powers.

Responsibility and transparency have been highlighted as keystone and vital criteria to distinguish democratic society from other societies. In line with that, it has been prevalent and named as Good governance.

This article would examine the relationship between political responsibility of ministers and some fundamental principles of public law including democracy, the principal of separation of powers and good governance idea. It would be concluded with new proposal to tackle inconsistency of currency situations.

Keywords: Political Responsibility, Democracy, Separation of Powers, Good governance.

المخلص:

القص من المسؤولية السياسية لوكلاء النظام هو مسؤوليتهم مقابل أعضاء البرلمان أو إشراف البرلمان على أعمال الدولة ومجلس الوزراء، ومراقبة الإجراءات والقرارات الصادرة عن السلطات التنفيذية من حيث مدى التزامها بالقوانين والسياسات التي تم إقرارها والمتوقعة لممثليها بالإضافة إلى قضايا أخرى. في الواقع، تستخدم السلطة التشريعية قوتها للحد من السلطة التنفيذية.

بطبيعة الحال، لا يمكن أن تتحقق مثل هذه الحالة إلا في الأنظمة المبنية على الديمقراطية. إن استجابة أركان الحكومة ومجلس الوزراء لآليات التنفيذ الفعالة للانتخابات سيؤدي إلى الشفافية وتجنب تركز الفساد في السلطة في شخص معين أو مجموعة معينة ويتسبب في انتاج علاقة خصبة للمساءلة السياسية ولبدء الفصل بين السلطات.

ما يمكن له أن يكون معياراً للتمييز بين المجتمع الديمقراطي وأنواع المجتمعات الأخرى هو مراعاة بعض المعايير والافتراضات مع الدعم الدولي من قبل الحكومات حيث أن على رأسها الشفافة والمساءلة، وبالتالي فهي تعتبر نماذج حكم مرغوبة. ويطلق على ذلك اصطلاحاً الحكم المثالي المرغوب.

تبحث هذه الورقة العلاقة بين المساءلة السياسية لمسؤولين السلطات التنفيذية وعلى رأسها الوزراء، بالديمقراطية ومبدأ الفصل بين السلطات ونظرية الحكم المثالي المرغوب باعتبارها أهم المبادئ الأساسية للقانون العام.

الكلمات المفتاحية: المسؤولية السياسية، الديمقراطية، فصل السلطات، الحكم الرشيد.

Introduction

Inhibition or control of political power as legal issue has long roots in history of public law. Although power of the government to realize many values of society (like justice, freedom and equality) is necessary there is concerning that such possibility for government might be led to corrupt and destroy the values that were supposed to promote and strengthen. In the guideline of ideas (conditional on the constitution) has been emphasized that the government authority even if the government is democratic, it should be limited and controlled. Consequently, the government is a constitutional government consistent with well-defined principles and rules (Martin, 2000: 184) with this impression” public law is a branch of law whose main function is to limit and control the power of government and public law agents “(Wade, 2004: 28). Therefore, in democratic political systems “the public law instruments, whether in the branch of basic law or in the administrative law branch, have been designed to care for the government, control the public officials (including ministers), restrict their authority and bring them accountable to the people “(Hadavand, 2002: 2)

Political responsibility is, in fact, the practical result of the parliamentary political control over the functioning of ministers' cabinet. In contrast with that, legal accountability has a relatively simple structure, guidelines for political responsibility of ministers. In addition, it has a complex structure to comply with parliament enactments such as enforcing government policies (even its timeline) and so on. Political responsibility with the guarantees of implementation and mechanisms that exist both in constitution law and the public law, it is coherent and practically leads the government to the legitimate demands of parliamentarians – which are basically the extract of the virtues of the nation – and in this way, national demands will become operational in the society.

Given the position and status of the ministries and public institutions that directly or indirectly are in connection with people, in some manners, it could be claimed and recognized that all the executive processes of the country are dismantled. Therefore, democratic societies require their transparency and real responsibility. It is not deniable that, it could be review as a distinct subject

for democratic societies and its forms could be different based on different interpretation of constitutional law on separation of power (absolute and relative).

The point could be measure for dividing a popular community form other types refers to level of comply with some standards and assumptions which they are in in light of international support. In the other word the appropriate measure refers to standard which named as good governance. Given the important position of responsibility in the establishment of democracy and realization of the idea of good governance, also its various forms (with the criterion of separation of power), this article would examine its relation with the fundamental concepts and principles of public law. Therefore, there is lack of literature concerning the political responsibility of ministers – as one of the most important and most effective executive agents of today's societies. This research aims; to tackle the legal gap with appropriate conclusion and recommendations. This research has been classified in three parts; Part I consists democracy and in Part II separation of power would be deeply analysis. In the final Part, aforementioned parts would be linked with Good governance and appropriate conclusion with focus on political responsibility of ministers.

1. Democracy

Apparently, to highlight political responsibility of ministers it's requires consider democracy as one of effective elements. Democracy is borrowed from the Greek word for "Democracy" in terms of terminology. The lexical roots of these two words are "demos" 3 meaning "people" and "keratos" means the government, which collectively means the rule of the people (Craig, 2008: 103). In other words, democracy means the rule of the people, by the people and for the people. Indeed, in this form of government, "the right to decide on the collective destiny is for all. Individuals can share their destiny and participate in their political and social affairs with the equal right and free and competitive electoral process "(Afroogh, 2008: 26). Basically, "the realization of democracy in its rational sense is when people have quantitatively and qualitatively [the real] the right to participate in the administration of public affairs" (Hashemi, 2005: 46).

Nowadays, having a democratic and democratic government has become a global attraction and global legitimacy, and all the ideals of human rights, peace, freedom and development are in the broad sense of democracy. On the other hand, there is "no significant rival ideology on a global scale against democracy. All other ideologies have failed. Today, the widespread moral and legal movement around the world emphasizes democracy as a fundamental human right everywhere. From this perspective, the most important human right is the right to a democracy which enshrines and safeguards all human rights "(Bashiria, 2005: 90-89). This acceptance is such that even the most dictatorial and unpopular governments are not willing to call their government an undemocratic one, and "no government or party dares to walk unless it carries the word (democracy) on its flag." (Dubenova, 1372: 24).

From the point of view of fundamental scholars, a democratic and democratic system is based on four main pillars:

- 1) Free and fair elections
- 2) The existence of transparent and accountable government
- 3) Observance of civil and political rights
- 4) The existence of civil society

With regard to the above, the pyramid of democracy can be traced as:

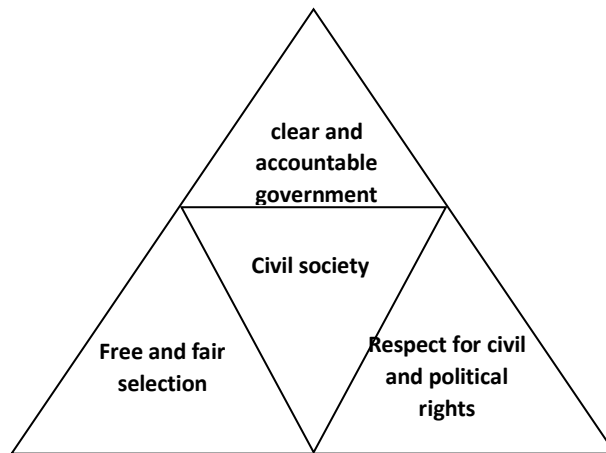


Chart 1: The Pyramid of Democracy(Beathema,2009:52)

Based on this, the existence of a free and fair electoral system is the main means for the political responsibility of government officials (including ministers as one of the most important executives of the executive branch) to the people and their elected representatives (parliament). In other words, one of the two general principles of democratic society, namely, universal monitoring of people decision-making through free and fair elections, is realized and its basic conditions are the right to equal (equal in political participation) the exercise of this right (to the title is the second pillar of the democratic system (ibid., 58).

In fact, the existence of free and fair elections guarantees the responsibility and commitment of government officials and ministers to their actions in various ministries and government departments.

The main objective representation of the transparent and accountable government (as one of the criteria of the democratic society) is to accept the political responsibility of the executive agents, who are headed by the head of state and the ministers, in front of the people, as well as parliamentary responsibility against legislative bodies and direct representatives and is the chosen nation (Austin, 1374: 14). Apparently, in a democratic system, transparent and accountable, it is not merely limited to the responsibility of executives to the people and the parliament. In this system, all authorities and political parties (political, judicial, and administrative) must be accountable to each other by independent authorities and civil society.

Regarding the answer to this question ,what is the reason for the obligation to respond by all the pillars of the democratic society (including ministers) towards political institutions (such as parliament), the people (civil society, the press, etc.), legal (judicial and administrative courts), It can be argued that in a democracy based system, when the government was formed through a healthy and fair election, it must constantly be held accountable to the people and their elected representatives about the actions taken and the decisions taken that affect the collective destiny.

In fact, the sovereignty of the society, especially in the area of executive administration, which is exercised through ministries and other governmental institutions, is the public powers granted to them from the real owners of the nation and must be applied in accordance with the general will (Beetham, 1383: 262).

The purpose of responsibility is to inform citizens about why and how elections and political options and processes are in place to help them judge and respond appropriately to government actions (World Bank, 2000: XIII).

In fact, responsibility provides citizens with a means of measuring the actions of the elected (head of government) and the agents under their supervision (ministers) in order to remunerate them or to punish them for their retaliation. On the other hand, there is a two-way relationship between democracy and responsibility. Moving towards democracy and the establishment of democracy in a potential way, will deepen responsibility and responsibility by opening up various ways to monitor the performance of government employees and exerting political pressure.

In a democratic system, the parliament (as well as all elements of the sovereignty), in turn, must be responsible for the duties and regulatory powers conferred by the constitution and ordinary laws, responding to public opinion, to determine whether Parliament considers the rule of law to be responsible to the ministers, or is parliaments and private interests prior to them? Or, to what extent is the lawful power of the parliament to enforce laws and to investigate and enforce the executive branch and how it is effectively and effectively enforced?

The responsibility of ministers in both forms of democracy is conceivable, with the difference that, in direct democracy, executive directors will be accountable to their actions against the people (law enforcement), and if they have met, ministers will be out of place or ineffective in executing expectations; With effective mechanisms, they will disassociate them. However, in the indirect democracy, the exercise of national sovereignty is carried out in the light of a free and fair electoral system. From this point of view, both the actors of the sovereignty and the lawyers and observers of the law do not have the right and option of themselves and their actions in the name of the nation are over. Therefore, both the spectrum of sovereignty must be in line with national legal expectations and their legitimacy continues as long as they order to achieve the goals and ideals of the constitution. Otherwise, the nation will replace them by holding elections again.

2. The Political Responsibility in Light of Separation of Powers

The principle of separation of powers, derived from the ideas of thinkers in the name of law in the recent centuries, has been recognized today as the underlying principle in many government systems in many countries of the world. This principle is undoubtedly a milestone in Western political history and an important source in the revival of the fundamental rights of nations.

The history of mankind has always witnessed a constant struggle between sovereign rulers, and people have always sought justice and freedom from each other. This constant and unequal struggle, when it provokes a lot of intimidation and repression, brings about the transformation and revolution and the displacement of the masters of power, and again with the increasing nature of mankind and the corrupting nature of power, the new rulers, with the passage of a

number of arguments for the consolidation of their power He went on to carry out impunity and autocracy as his predecessors on the people who were called their descendants. Similarly, the history of the social community of mankind is a series of stories that constitute the extinction and domination of self-governing and tyrannical governments (Ghamami, 2007: 97).

Until, finally, through the efforts of brilliant scholars and creative and philosophical philosophers, there were controversies in the way of governance and the rule of governing. After the seventeenth and eighteenth centuries, the theory of inhibition of power and the limitation of false government authority gradually became dominant in the minds of great thinkers such as Locke, Montesquieu, and Rousseau, and, with numerous theoretical challenges, the government was in a predetermined order circuit. The so-called "law" was proposed, according to which absolute power in the framework of the law was divided into three branches, which, according to their type of work, were called in the community, the legislative branch, the executive, and the judiciary Separation and relations between them were organized in such a way that, while preventing the interference of the power in the area of each other and opposite duties and powers, they also monitored and prevented the accumulation of power in each of them (ibid., 98-99).

Prior to the issue of separation of powers, the law was enforced and enforced, and its mode of administration, as well as the punishment of the perpetrators in a particular person or group. And "in terms of the nature of the objects and circumstances of the temperament of centralism, the one who held the power was continually in the temptation to exploit it, powerlessness brings an abusive power because, according to Lord Aktan, the power of corruption and absolute power is absolutely corrupted "(Judge Shariat Panahi, 2004: 294).

The corrupting focus of all forms of power in a particular person or entity, which was generally obtained through injustice and disorder, never provided the opportunity to question the implementation of it, and possibly did not provide responsibility and oversight. By accepting that responsibility and transparency are one of the main means of combating all manifestations of governance corruption (political, administrative, and financial), and accepting that, before the issue of separation of powers, the accumulation of power led to its concentration and eventually corruption, it must be acknowledged that before that, a transparent and accountable government cannot be noted.

In fact, the main philosophy of separation of powers was the elimination of fears that created a corrupt and self-centered concentration of power in a person or group. Therefore, in order to prevent abuse from power, it must be removed and dismantled from the state of concentration, because power that will not be divided in some way will lead to despotism. Effective separation of forces between different parts serves as an important barrier to the abuse of power. Ultimately, separation of powers as an organizational principle serves human rights and freedoms, and through the distribution and overthrow of political authority, creates a system of responsibility and mutual monitoring, which results in a responsible, transparent, and accountable government (Zakiryan, 2002: 142).

In relation to the relationship between responsibility and the principle of separation of powers: this principle, based on the slogan of the cessation of power by another, actually establishes the basis for monitoring, questioning and responsibility in a society governed by law. In other words,

in spite of the specialty of the duties and powers of each force and their separation from each other and despite the independence of the three forces in the performance of their duties in terms of social necessity and in order to unblock public affairs, they govern relations between them.

The monitoring and control of each one is inevitable. This naturally causes each one to control another and opposite power and, in the light of the legal protection afforded by the acceptance of the above principle in the fundamental laws of the countries, questioning one another and answering each other in an optimal manner establishment and realization of national goals will follow. All due, this issue will not be implemented in all political systems in the same way. In some of them, complete independence is achieved and as a result of the acceptance of an inflexible separation. In these types of systems, responsibility is mainly based on the state of externality and the tendency to internal control. In such a way that ministers do not have to be accountable to parliament in presidential systems, but since they are presidential colleagues, they must be accountable for their actions against him. But in systems based on the relative separation of powers (force co-operation), despite the adoption of intergovernmental hierarchical oversight, responsibility has also been taken out of context, in a way that can be called into question by the ministers (as an essential part of the executive branch) Speak to the parliament in this type of system.

From the point of view of the supporters of the parliamentary system, the influence and influence of power on each other facilitates government affairs and, as a result, establishes a system of inquiry and responsibility in government bodies aimed at creating an efficient, transparent and accountable government and an active, democratic and free parliament. And also the concrete and concrete crystallization of the demands of the nation in the state-parliamentary state.

3. Good Governance as Valuable Measure and Request

The researchers have defined a variety of good governance with approaches (the socialist and liberal process), dimensions (political, legal, economic, and social), and goals (political development, economic development, sustainable human development) (Hadavand, 2005: 52). In this way, they refer to the theory of good governance as an interdisciplinary topic.

From the point of view of public law, desirable governance, as its name suggests, also explains how governments are governed and the manner in which sovereignty is exercised by brokers and governing bodies based on internationally accepted norms and standards accepted by the international community. In fact, good governance is a concept that includes standards and standards and principles of governance in which governments conduct public affairs, manage public resources and ensure the realization of human rights (Zarei, 2006: 17).

Good governance is a close proximity to democracy and democratic processes, in which responsibility and transparency of executive agents is one of its fundamental principles and in other words, a set of criteria and attributes of the democratic political system in the process, structural and material dimensions, forms the ideal theory of governance (ibid., 29).

Good governance is a feature that appears in the form of its indicators. In addition to identifying good governance, these components also explain its functions. For example, since 1996, the

World Bank has been setting indicators for assessing good governance in different countries.

These criteria include:

Right to comment and answer

Political stability

Governmental Effectiveness

fight against corruption

Regulatory quality

Rule of Law

The UN Economic and Social Commission for Asia and the Pacific (UNES CUP) has defined eight characteristics for good governance, and believes that governance is based on good, responsible, participatory, unanimous, responsible, efficient and effective, just and fair And the rule of law function.

In 2005, the UN presented eight main attributes for good governance, with a clear and accountable government at the top.

Among the criteria and indicators above, responsibility, respect for rights, participation and non-discrimination are the backbone of good governance. If we want to depict the features of a government based on desirable governance in the form of a chart, it can be drawn as follows:

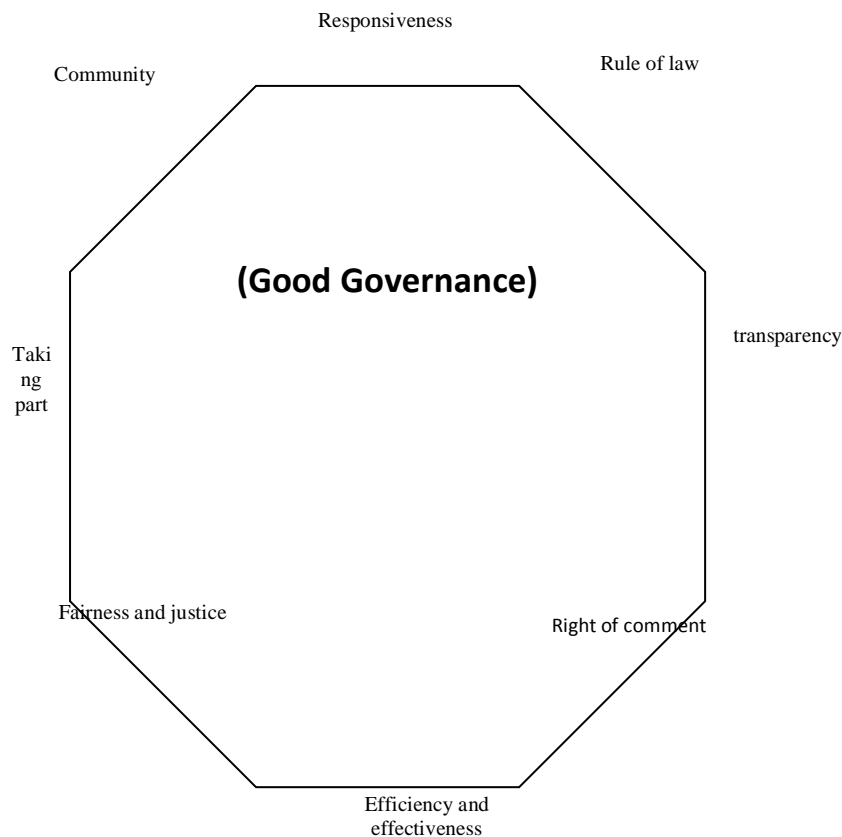


Chart 2: Proper Governance (Gholipour, 2007: 114)

As you can see, in all the indicators and criteria that have been examined from different perspectives, the "accountable state" is at the head of the pyramid desirable governance. The purpose of the government here is mainly government in the concept of government or executive that is important in political equations.

From the point of view of the theory of good governance, the accountable government includes a set of institutions and executive executives, and the ministries and the most important actors in the community of executive governance, ministers, in accordance with the requirements of good governance and effective responsibility (in all its dimensions) They are taking a long and genuine step towards objectifying the idea of good governance in society, thus leading the democratic and democratic society.

Regarding the relationship between ministerial responsibility and its relationship with the ideal governance theory, it can be said that the responsibility and responsibility of the ministers means that they (whether they are elected by the president in presidential regimes or in parliamentary and mixed regimes, With the proposal of the head of state and confidence in the parliament to come to work), They must explain to citizens about their decisions and actions (from channels of political parties, popular institutions and the media) and their elected representatives (parliamentarians) (Dario, 2007: 12). The ministers & opposite; responsibility to the idea of good governance is achieved through various mechanisms - political, legal, and executive - that are designed to prevent corruption and ensure that ministers and employees under their leadership remain accountable and accessible to the public. (Dario, 2008: 18). Because in the absence of such mechanisms, it is possible to grow corruption and, consequently, to abstain from the desires of good governance. From this perspective, the responsibility of the ministers (given their role and importance in the political environment of society) is critical to the issue of good governance.

On the other hand, from the point of view of good governance, the need for ministers to be accountable is to have responsibility (not just a ceremonial or advisory role). Therefore, as far as a power station is more powerful and responsibility and responsibility is low, its efficiency and effectiveness are reduced, and such a set cannot be called the accountable government (as one of the main components of good governance). (Nafibi Monfared, 1389: 126).

Good governance takes goals for government responsibility. If we accept that the ministry of the same government is shrinking in one dimension of executive governance, then these goals will be generalized to them (ministries), which can be the yardstick for the ministers to be accountable to the parliament. These goals are:

- Ensure proper operation and compliance;
- Correcting mistakes;
- Defining weaknesses to prevent them from repeating;
- Impact on behaviors;
- Effective use of physical, financial and human resources and maximizing efficiency;
- Obtaining benefits and benefits with the best economic value;
- To prevent the misuse of interests deliberately or in vain;
- Provide timely and accurate reports in the hierarchy of administration;
- increase the effectiveness of the measures;
- Obtain customer satisfaction of any device;
- The correct implementation of the rules (Gholipur, 1381: 15-16).

In sum, it can be said that the responsibility and responsibility of the ministers (with regard to their authority in the political community) are among the fundamental conditions of good governance. On the other hand, it should be noted that responsibility and responsibility cannot be carried out without transparency and the rule of law (as soft as the two characteristics of the theory of desirable governance) (Pedram Varahmanizadeh Dehkordi, 1381: 15). In other words, the totality of criteria that are named as desirable governance is necessary and necessary for the objective crystallization of its works.

Conclusion

One of the most important criteria for the differentiation of the democratic and humanitarian states of the various types is the political responsibility of the ministers to the members of the parliament. In these types of systems, political power is really a people who, through a fair election, to their representatives (the president and parliamentarians in presidential and parliamentary regimes in parliamentary and multi-parliamentary systems). The implementation of the political sovereignty of the society (in the parliamentary and non-parliamentary systems), from the parliamentary vote of the parliamentary delegation, has institutionalized the political responsibility of the ministers towards them. Eventually, this process of transition and control of political power has brought society and opposite movement into the demands of the nation, and it has caused crystallization and tangible objectivity the demands of the people.

The purpose is to establish the principle of separation of political authorities from the point of view of corruption and the concentration of political power in a particular individual or group. This principle, a turning point in the history of fundamental rights, is the foundation of the realization of many fundamental values of public law, including the "principle of the rule of law", against the rule of the individual or group. Public scholars and political science scholars have had different interpretations of the concept, in the sense that a group believes in absolute separation, which results in the creation of presidential systems.

Generally, in such regimes, ministers lacked political responsibility in front of parliament, and simple colleagues President are considered to be against the Ombudsman Against the background of others, taking into account the practical problems of the absolute separation of powers, they had the belief in the co-operation within the framework of the constitution, which was the very reason for the establishment of a parliamentary system. The requirement for the ministers to be accountable to members of parliament was a system that was adapted to mixed systems (half Presidential - half parliamentary) is also located. In such regimes, the ministers will take over the ministry when they are trusted by the majority of parliamentarians who are themselves elected by the people. Indeed, political life depends on the will of the majority of elected representatives of the people, which is the question of the members of the government and justifies the ministers in the direction of national interest as to how to exercise the executive authority of the community and to a large extent prevent the concentration of power and the lack of it. If we accept, the theory of desirable governance leads to the realization and establishment of a model of governance aimed at improving the quality of life of individuals by improving the political system of a country by transforming the thinking and behavioral characteristics of states, the responsibility of executive executives and transparency in the implementation of laws It is placed on them by the ones who find it. In other words, in terms of good governance, the state has the components of democracy, participation,

responsibility, transparency, the centrality of justice, efficiency and transparency, each with a special emphasis on fundamental values, with the condition of achieving them, creating a structure It is appropriate within the states. As much as the ministers - as the most important political actors of the political community - are genuinely accountable to the elected members of the nation, the same can be said about the proximity of society to the accepted criteria of universal governance.

Notes:

1-Responsibility is one of the main tools for combating corruption.

2-Demokratia

3- Demos

4-Kratos

5-A regime that people directly exercises are direct democracy. Of course, direct democracy, which was the ideal rule of Jean-Jacques Rousseau, has never really existed. Ultimately, people exercise authority over the rule of law. Among the countries that used to follow such a system in the past, one can name the state-the ancient Greek cities (like Athens-Sparta). In the contemporary era, there are three cantons of Glaris and Unterwald and Appetrel in Switzerland, where the General Assembly convenes once a year on a large square and people directly pass the laws and Shiyat Panahi, Seyyed Abolfazl, (2004), Basic Laws and Political Institutions, Twelve, Publishing Sama, Tehran, p. 472.

6-In indirect democracy, the exercise of sovereignty (instead of directly by the people themselves) comes from the area of elected representatives and based on their demands, embodied in a constitutional text, which makes them responsive to the nation.

7- Lord Acton

8-Good Governance

9-voice and Responsibility

10-Political stability

11-Government Effectiveness

12-Control of Corruption

13-Regulatory Quality

14-Rule of Law

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