insan & toplum
the journal of humanity and society
Research Article

The Relationship Among the Rule of Law, Morality, and the Modern State

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Abstract: At the heart of modern society and states is the concept of the rule of law as a fundamental principle. In the context of Stoicism, it is considered as a moral principle and Roman legal philosophy for removing arbitrariness from political judgments, practices, and processes. Accordingly, this article's main goal is to examine the phenomenon of modern states, which began in Europe but has since spread to many other regions of the world, in terms of the rule of law as this notion is the basis for all modern states (i.e., positive law). A comparative study is conducted in this regard in order to compare and contrast Western legal precedents such as Stoicism, *Rechtsstaat* [rule of law], also known as *État de droit* in French and *Stato di diritto* in Italian, with respect to its philosophical and historical development over time. The relevant literature was analyzed in order to determine the best method. In this framework, the study explores the notions of *Rechtsstaat* as the German, *État de droit* as the French, and *Stato di diritto* as the Italian philosophy of law.

Keywords: Rule of law, modern state, stoicism, ethics.

Öz: Hukukun üstünlüğü kavramı temel bir ilke olarak, modern sosyal hayat ve devlet olgusunun merkezinde yer alan oldukça belirleyici bir olgudur. Siyasal karar, uygulama ve süreçlerde keyfiliği ortadan kaldıran, hukukun yönetilenler kadar yöneticileri de bağladığını ifade eden mezkur kavram, ahlaki bir ilke olarak Stoacılık ve buna bağlı olarak Roma hukuk felsefesi bağlamında tartışılmıştır. Bu makaledeki temel amaç, Avrupa'da ortaya çıkan ve oradan İslam dünyasını ve dünyanın geri kalan hemen her coğrafyasındaki devlet olgusunu şeklen belirleyen modern devlet olgusunu "hukukun üstünlüğü" ilkesi bağlamında tartışmaktır. Zira modern devletin temel felsefesi çağdaş hukuk (pozitif hukuk) kavramına dayanmaktadır. Hukukun üstünlüğü fikrinin felsefi ve tarihsel gelişimi metodolojik olarak Batı hukuk düşüncesinde *stoacılık*, *Rechtsstaat*, *Etat de droit*, *Stato di diritto*, *rule of law* gibi temel kavramlar bağlamında karşılaştırmalı olarak tartışılmıştır. Bu amaca matuf olmak üzere ilgili literatürde yer alan yaklaşımlar değerlendirilmiştir. Bu çerçevede Alman hukuk anlayışını ifade eden *Rechtsstaat*, Fransız hukuk görüşünü yansıtan *Etat de droit* ve İtalyan hukuk felsefesini yansıtan *Stato di diritto* kavramları, İngiliz hukuk felsefesinin ifadesi olan *rule of law* kavramıyla bağlantılı olarak tartışılmıştır.

Anahtar Kelimeler: Hukukun üstünlüğü, modern devlet, stoacılık, etik.

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DOI: 10.12658/M0684
insan & toplum, 2023; 13(1): 281-306.
insanvetoplum.org

Received: 15.07.2021
Revision: 15.10.2021
Accepted: 19.05.2022
Online First: 18.07.2022

Introduction: The Main Question

Rule of law is one of the most essential and frequently invoked topics in contemporary political systems. It has also been used to express the fundamental means of preventing arbitrariness in state administration, as well as the internal logic of democratic administrations, particularly in the context of efforts to prevent the suppression of individual rights and freedoms. The importance of the concept of the rule of law has gained steam in politics, law, and economics will be discussed in terms of contemporary political systems within its transformative, constructive, and protective effects on the emergence of political regimes.

In order to achieve this goal, the historical development of the concept of rule of law has been approached from a more philosophical and theoretical perspective. As a starting point, the study examines the concept of law in the context of Roman legal theory. In this context, the concepts of *Rechtsstaat* as the expression of German legal thought, *État de droit* as the expression of French legal thought and *Stato di diritto* as the reflection of Italian legal understanding are compared with rule of law as the expression in English legal philosophy, and *al-Adl* as the expression in Islamic legal understanding are compared and contrasted with one another (Costa, 2007, pp. 73–85).

The meaning of law as a concept is ambiguous and thus creates confusion. Instances of arbitrariness may occur in the interpretation and application of law. While law on one hand refers to positive legal regulations, it corresponds to normative and therefore ethical concepts such as justice on the other. Positive law has the ability to enhance a new synthesis by connecting with moral or natural law to the extent that it establishes justice in this context. Although having positive law establish justice is desirable, it is not a legal obligation. Setting a schedule for modern society in order to maintain social order and attain justice is an example of positive law in action. As such, people are not completely powerless in the quest for justice simply because individuals do not have a moral commitment to respect the law. Political intrusions into the process of establishing justice have been observed in several historical contexts. Because of the constructive character of opposition between friends and foes, occasions are found where having laws that sanction intrusions is important. This is because the sovereign's rule (i.e., positive law) becomes a political tool in unusual circumstances when applied to a particular situation (Schmitt, 2005). In fact, in the context of Nazi German Law as a historical example, the uncertainty surrounding the meaning of the concept of law served as the foundation for oppression rather than justice. The answer to the question of what is law becomes the most significant issue that arises in this frame of reference. As a result, classifying every

written and dictated legal system that is valid in a matrix environment and time period as law is not possible.

One can simply ask the question at hand, "Does a particularly association exist between the rule of law and the principles of morality?"

That this issue is not a leading priority at the moment would not be an implicit assumption. The answer to this question reveals the significance and necessity of maintaining a minimum level of loyalty or obedience to the law. The manner in which this question is answered will once again determine the overall quality of legislative activities. In terms of historical experience, a real connection exists among law, order, and morality. Over time, moral and religious codes that maintain order in small groups and societies with few face-to-face interactions have also served as laws in a variety of contexts. As a result of increasing populations, natural relations have become alienated, and the complexity of production and consumption activities has entailed the development of a new legal system in the context of different power relations.

In addition to issues such as how to establish and maintain social harmony and social order as well as prevent chaos, different cultures have developed legal codes to protect individual rights and determine responsibilities. These processes have revealed the existence of the legal institutions as well as the legal systems that have been created and implemented by such power structures. The Enlightenment thesis considers this dynamic of change that has emerged over time as a journey toward betterment and also progress as a result and has produced significant results despite being highly controversial. The philosophy of the Enlightenment altered the nature of law in order to bring about the revolutionary change in the natural sciences that was also happening in the social field. This is because, in this sense, creating the desired human being as well as establishing a more scientific society would be possible in light of research on law as opposed to traditional morality. The most important invention of the Enlightenment rationality was positioning law as a transformative device and as the primary interventionist force. This invention gained significance as a project for reshaping contemporary thought and the world in addition to society and was implemented in this capacity (Maris & Jacobs, 2011, pp. 1–33).

As a result of the customary law possessed and developed by the Germanic tribes, who played a role in the fall of the Roman Empire in the 5th century, positive law practices based on the idea of natural law as framed by the Stoic ethics in the Roman Empire had remained lost to posterity until the 13th century. Combining the Roman legal system with modern-secular state theory to create the idea of a contract (constitution) as the ideal for creating the ideal state, society, and individual dates back to the early 13th century. The central question here is what was the moral

foundation upon which the concept of contract was founded. Natural rights theory was developed by the Stoic moral philosophy and can be interpreted as a theory of moral rights at its core. Moral rights are those rights that, as granted rights, correspond to the grace of nature or the grace of God. These rights cannot be strongly positively justified in this situation unless positive laws are based on natural rights. According to L.A. Hart (1994, p. 110), who advocated and factually justified the separation of law and morality, law in the modern world cannot be completely separated from morality. As a result, the relationship between positive law and morality is ineluctably revealed under certain circumstances. Due to the overlaps existing between moral value judgments and positive legal rules, distinguishing between the two categories of judgment is not always necessary. Legal systems are not founded on a belief in a supremely powerful ruler but rather on the belief that any primary rule is legitimate in any given situation once accepted as such by all individuals. Moral rights such as civil liberties, life, freedom, and equality express normative value judgments that are bestowed upon human beings in the form of constitutionally guaranteed fundamental rights. Roman Stoicism was the philosophical school that developed the systematic historical narrative of this issue. Its origins go back to Ancient Greek philosophy, which will be discussed further below (Algra, 2003).

Historically formed by modern legislation, the phenomenon of modern states can be seen as an expression of contemporary scientific and philosophical ideas and practices. This has resulted in the emergence of official institutions throughout Europe, as well as the bureaucracy class that controls these organizations and have replaced the role of the Church here. The clergy, who had played a crucial role in the functioning of the church, lost their moral, political, and legal legitimacy and their functions were taken over by the bureaucracy, as the rise of experimental science in the 18th century had given rise to the notion of controlling and recreating nature and society. In this context, the concept of progress gave rise to the notion that the desired human and society could be created through legislation. The society being aimed for would be possible if enlightened ideals such as freedom, equality, and democratic deliberation were included in the new constitutions, and this assumption proved to be correct. As far back as the 19th century, legal regulations have defined individual liberties and had the effect of mandating freedom within that context. The welfare state approach emerged in the 20th century as a result of this approach. Ultimately, bureaucracy emerged as a fourth power to be considered alongside traditional powers such as the legislative, executive, and judicial branches of government. A legitimate and effective bureaucracy actually did exist in Athens, where the tendency toward regulation was strong, and a legitimate and effective bureaucracy also existed in the Roman political regime that emerged later. In recent decades, however, new developments have emerged

that have created systems that determine the moral good in the context of modern states and necessitate the adoption of a predetermined lifestyle. These developments have also resulted in the emergence of modern totalitarian political regimes, which have their roots in the 18th century.

Law and Liberal Democracy

A new dimension in contemporary political philosophy debates such as on democracy and freedom is created by the tense relationship established between law and morality in the modern political imagination. Democracy has evolved into a method of appointing political power to various forms of government that have gained political legitimacy based upon the concept of the rule of law (Gaus, 2011, ch. 22). According to the current debates on democracy, two fundamental criteria exist that must be met before political power can be considered democratic. The first is that administrators have legitimate authority as a result of being elected to their positions. The second point to mention is that political power is generally formed and changed through regular and peaceful elections, rather than through coups, wars, or other forms of violence (Simmons, 2001, ch. 7). However, totalitarian democracies, which ironically portray themselves as the democratic model, can also be mentioned. Through the use of literature, Tilly identified four types of democracy that are essential to the functioning of a democratic state:

> Observers of democracy and democratization generally choose, implicitly or explicitly, among four main types of definitions: constitutional, substantive, procedural, and process-oriented… A constitutional approach concentrates on laws a regime enacts concerning political activity. Thus, we can look across history and recognize differences among oligarchies, monarchies, republics, and a number of other types by means of contrasting legal arrangements. Within democracies, furthermore, we can distinguish between constitutional monarchies, presidential systems, and parliament-centered arrangements, not to mention such variations as federal versus unitary structures. For large historical comparisons, constitutional criteria have many advantages, especially the relative visibility of constitutional forms. (Tilly, 2007, p. 7)

According to this brief history of democracy, the concept of democracy can be traced back to Ancient Greece as its linguistic source. When referring to democracy in the classical sense, which is also referred to as the Athenian (police) experience, democracy is a term derived from the Greek word *demokratia*, with *demos* meaning people and *kratos* having power as one meaning. In fact, the secular power of feudal lords was also effective during this time period. Given medieval Europe's fragmented organizational structure, city-states developed their own democratic models. In this context, many

city managers were elected through a democratic process. The political, religious, and scientific structure of this period paved the way for the Renaissance and Reformation movements and also laid the groundwork for modernity (McClelland, 2018, pp. 3–48).

In ancient Greece, Rome, and the modern world, the role of democracy has always been a source of contention and assertion, particularly in the process of transitioning power. Determining what the will of the citizen is and how it will be formed is difficult in the context of the perceptual reference upon which the concept of the republic was founded, as well as in the context of historical experiences that emerged in the form of empire or kingdom. One can see that democracy does not necessarily have an essential relationship with republicanism when only taking into account the experiences of democracy as presented by the Roman, Ottoman, or British examples; instead, democracy gains significance when considered in relation to the concept of law. For example, Polybus had evaluated the parliamentary experience in Rome in the context of a kind of separation of powers and revealed the legal framework of democratic legitimacy prior to Montesquieu in a clear and compelling manner. Indeed, Charles-Louis de Secondat, Baron de Montesquieu and French philosopher, is widely credited with creating the system for balancing power. His book, *Spirit of the Laws*, has frequently been referred to as the authoritative source of information. However, Montesquieu may have supplied the constitution's founders with the most modern version of that principle, but he borrowed too extensively from Polybius and the ancient theory of the mixed constitution to be regarded as its precise originator (Walbank, 1957; Spurlin, 1969).

Similarly, the Ottoman Empire's unique experience since the end of the 18th century has placed the claim of legality based on political legitimacy within the scope of the concept of *Tanzimat* [reorganization]. The *Tanzimat* reforms also aimed to improve the non-Muslim population's status by means of political changes. For the first time, non-Muslims were given the same legal status as Muslims in the Ottoman Empire:

> Both "Leviathan," the form of government which emerged in the West in the middle of the seventeenth century, and the later nation-state had a role to play in the development of Ottoman institutions. At first they were seen as rivals who were beginning to excel in precisely those areas where the Ottomans had traditionally prided themselves for achievement. Eventually, however, during the process of modernization, the Ottomans looked to these new forms of the state as models for reform in their own government. Leviathan and the nation-state are also important for Turkish history because they present structural contrasts to Ottoman institutions. The forces that shaped the state in the West seem to vary significantly from those that shaped the Ottoman state before modernization set in. (Mardin, 1973, pp. 169–170)

As such, law has become the main value in the affairs of states, at least in theory (Karpat, 2016, Ch.1). The experiences of democracy in these three cases (i.e., Roman, Ottoman, and British) do not resemble democracy in the modern sense.

Meanwhile, the connection between democracy and rule of law is more significant than the character of the political system. Due to the historical truth that a monarchy can be democratic, that a republic can have anti-democratic characteristics should come as no surprise. The democratic nature of England is readily apparent despite being governed by a monarchy. From this perspective, whether or not many countries in South America, China, or the Middle East that define themselves as republics have a democratic characteristic is extremely disputed in this regard. As the cradle of democracy, however, contemporary Great Britain upholds the principles of freedom and the rule of law in accordance with the idea of law upon which the monarchy had been founded (Canon, 2003).

The method of determining political power by majority rule as determined by referendum and election processes can thus be defined as a democratic system. In this regard, democracy should be noted to be a form, rather than a normative theory that is directly related to content. For democratic experience to be possible, the concept of law must be present rather than the existence of a specific type of political regime, as can be the case in the practices of a monarchy or republic (Dahl, 1959, p. 69). When addressing power and dominance, democracy is the fundamental political approach that rejects dictatorial republicanism as well as the demands and practices of monist, minority, or privileged groups such as monarchies, oligarchies, or dictatorships. However, governments that are elected and win a majority of the vote are not always fair, good, and problem-solving in nature. The practice of changing governments when democratic means fail to produce solutions emerges as a result of the functioning of democratic processes.

As a result, justice can be established and freedom can be secured in terms of exercising fundamental choices by establishing harmony between democracy and law. Another essential feature of democracy is the formation of public decisions through peaceful negotiations. Equating one person to one vote and respecting the decisions reached as a result of voting form the foundations of democratic decision making. Despite modern democracy being said to have emerged and been shaped in the Western world, particularly in England and France, different cultures have had their own democratic experiences at different times throughout history. When addressing both the theory of democracy and the process of democratization, one of the most difficult issues to resolve is the conflict that arises between the principle of rule of law, which places restrictions on the actions of governments, and protecting individual rights.

One of the most difficult challenges facing modern democracies is the effort governments make to keep their desire to use force under control. A variety of mechanisms have been developed to overcome this problem, including the separation of powers, even when finding a solution is difficult. Despite all this, a variety of democratic models exist in different parts of the world. These models are spread across a broad spectrum. Currently, each country has its own democratic history. Representative (indirect) democracy can be found in countries such as Switzerland, which is very similar to the direct democracy model, as well as in countries such as England, which has a formal monarchy. Similarly, A. Lijphart (1999) identified two general classes as a result of his examinations of various models. These general democratic classes have emerged as majoritarian and pluralistic (consensus) models and are akin to a picture of the contemporary democratic practices in the United States. However, one should importantly note that governments' actions are determined by legal processes that are applied differently from when the governments were elected. States with distinct social characteristics should be mentioned to exists, and the ability to represent themselves only in parliaments is not a sufficient criterion for being democratic. Political systems dominated by the sociological majority must also take into consideration the demand for representation in the cabinet and the bureaucracy that ensure the continuation of the administrative system. This issue has been adopted as a democratic model in some continental European countries where cultural diversity is embraced as a value.

Democratic thought has no text where one size fits all. For example, Marx was able to articulate the communist ideology, Adam Smith laid out the foundations of capitalism in his writings, and John Locke and John Stuart Mill were two of the most influential Libertarian thinkers of all time. However, no one, not even Jean Jacques Rousseau, who was too early to make a significant contribution, can claim to have explained and defended democracy in its entirety. Robert A. Dahl and other political scientists began to write about democracy in the 20th century. But Dahl failed to reconcile the various ideals of democracy with its actual implementation. He constantly insisted that a higher level of perfection needed to exist beyond the current one. Due to how he walked a delicate line between theorist and critic, he may disappoint readers.

Giovanni Sartori realistically defended liberal democracy. He saw no further potential for the situation as it currently stands. In political discourse, liberal democracy's values have grown so established that they have become clichés. This lack of concern for democratic traditions and norms has become a major threat to democracy in the modern period. Giovanni Sartori's theories are essential to understanding democratic thought as a whole. As a contemporary of Dahl, he authored

his democratic theory shortly after Dahl published his *Preface to Democratic Theory*. As such, Sartori's response to Dahl's concept of polyarchy is intriguing, and Sartori provided an early insight into this thinking. Sartori's democratic theory supports the current political order rather than imagining what it could be. With his chapter on Equality and Dahl's inability to reconcile the principles of equal treatment with the realities of administration, Sartori provided an important contrast. Ultimately, Sartori's and Dahl's views on democracy diverged philosophically. Sartori (1987) viewed states as a manifestation of democratic liberalism. Either a government is democratic or it isn't, and there is no in-between. Meanwhile, Dahl (1959) was an advocate of democracy having varying degrees.

Most importantly, liberal democracy's elites are a target for both right- and left-wing populists around the globe. Sartori (1987) studied to better understand the upper classes and write about them. This perspective of democracy emphasizes the importance of competition between groups with the required skills and abilities. According to Sartori, the best form of democracy is one dominated by political rather than economic elites. However, Sartori did not believe in democracy as a term. The most crucial factor to him is how governments are elected. Robert Dahl developed polyarchy as a term during a talk at Yale in 1967, and Sartori was aware of and associated with this. They agreed that democracy can only exist in a pluralistic society.

Law and Stoicism

Because the ethical teachings of the Stoics could easily be adapted to the practical needs of the expanding Roman Empire, Stoicism can easily be concluded to have gone on to provide the theoretical basis of the Roman concept of natural law. The idea that citizen rights are more important than state rights found its ultimate manifestation in Roman law. That is why many people believe Stoicism to have provided the theoretical underpinnings for the Roman conception of natural law (*ius naturale* in Latin). Because the ethical teachings of Stoicism were able to meet the practical requirements of the expanding Roman Empire, the fundamental change that occurred in this context was in the area of citizenship law. In fact, citizenship rights were elevated to a higher level of importance in the political regime (i.e., the state). In the context of citizen-state relations, the notions have gained acceptance that the right of citizenship determines the law and that the law will be observed first and foremost in the event of a conflict. Before one can evaluate Roman law, the Stoic philosophy needs to be explained in general terms in order to be able to evaluate Roman law in the context of Stoic ethics and to comprehend how the concept of empire was understood in this context (Riddall, 1999, pp. 60–63).

As a result, the Stoics asserted a rational and deliberate order to exist in the cosmos regarding how a reasonable man would live in the world, regardless of whether this order was a natural or divine source of law. Logic (or at least a subset of it), epistemology, and knowledge theory were useful in this case (Stein, 2012, pp. 107–120). As a philosophical perspective, Roman law is sometimes referred to as the ideal law because it is based on internal values and virtues rather than official authority and force. The Roman judicial system as a whole stood behind Stoic thinking because it regards the divide between free people (*status libertatis*) and slaves (*status servitutis*) as something terrible. In spite of its resistive nature, the Roman social order allowed the concepts of man as "a tool that speaks" and as property to persist (Du Plesis, 2016, pp. 70–84).

Stoa poikile [painted porch] is an ancient Greek school of philosophy that dates back to the 4th century BC known as Stoicism. The Stoic school was effectively closed as a result of Justinian's decree, which officially shut all philosophical schools throughout the Roman Empire. The central arguments of the Stoic school have had a significant impact on the history of philosophy, particularly in terms of their influence on moral philosophy. The moral theory of constitutionalism has had an impact on the formation of political imagination in the context of modern cosmopolitanism and individualism, as well as on the formation of political imagination in general. Stoicism was founded by Zeno in Cyprus has survived to this day as a result of his intellectual efforts, and has served as the foundation for Roman law as a general theoretical framework. Also influential on its development was Epicureanism, and the School of Socratic Inquiry is widely regarded as one of the philosophical projects to have been partly influenced by Ancient Greek ideas. Several ancient philosophers including Heraclitus, Socrates, Plato, and Aristotle had significant impacts on the development of Stoicism (Colish, 1985).

Still, the tradition of Stoic thought must be considered in three historically successive periods and evaluated by taking into consideration each period's characteristics. The Early Stoa (3rd century BC) began as a school in Athens and was shaped by the ideas of its founders such as Zeno of Cyprus, Cleanthes, and Chrysippus; it represents the first phase of the Stoa's development. The foundations of Stoicism were laid and the doctrine's general scope was defined during this period. The Middle Stoa developed as a result of a subsequent revision and matured within the framework of philosophical doctrines such as those of Panaetius and Posidinous; it contains a number of ethical theses that are mostly Platonic and, in some cases, Aristotelian in nature. Stoicism's third period, also known as the Late Stoa or Roman Stoa, was exemplified in the writings of philosophers and statesmen such as Seneca, Cicero,

Epictetus, and Marcus Aurelius, among many others. Roman Stoicism places a greater emphasis on the concept of harmony. At the intellectual level, the relationship among the Roman Empire, the individual, and society was determined by the harmony of human life with nature, as well as with the social order and universal understanding of law (Radin, 1925, pp. 200–228).

The Stoics transformed philosophy into practice by putting the concept of happiness at the center of their thinking and mainly followed Socratic ethics, which establishes a necessary link between virtue and happiness. Meanwhile, nature was the concept that served as the foundation of Stoic ethics. Harmony with nature and natural order is essential for maintaining inner peace and social harmony, as well as for establishing the foundations of happiness. Nature as a term refers to both psychological and physical characteristics, as in the expression *human nature*. The reason is that nature expresses the distinctive and unique quality of every living thing, as well as the physical beings that exist throughout the universe. The distinction between plants and animals is that, while plants have unique natural characteristics such as growth, development, and reproduction, animals have a distinctive nature that includes the ability to move and feel emotions in addition to all of these characteristics. According to Stoic teaching, man has the unique nature of the power of reasoning, and this is what distinguishes man from the basic tendencies of plants and animals (Gill, 2003).

People's primary goal in life is happiness, and the only way to achieve happiness is to live in harmony with nature in general and to act in accordance with one's own nature in particular, as stated above. Only under these circumstances can a person be virtuous. The absence of virtue results in the presence of evil, and where justice is absent, oppression results. This is because when a person acts in accordance with their nature, they become a sensitive and rational being. Also, a life lived in harmony with nature will serve as the yardstick by which justice will be measured in social relations. According to the Stoics, society has two types of people in this context: those who are wise and those who are ordinary. Unlike ordinary people, wise people are those who use their minds and live in harmony with nature in all aspects of their lives. However, while all human beings share a common nature, being wise also necessitates the exercise of personal freedom. As a result, only a free man is capable of wisdom and happiness.

By virtue of one's participation in the universal mind, every human being is intelligent by nature. Nature or God has bestowed the gift of reason on humans as a reward for their efforts. This point is critical when considering the concept of the universal law of nature, because Stoics, who deviated from this principle, used it

to establish humanitarian regulations, political laws, and the legitimacy of positive law. In other words, natural law emerges from the universal mind, and the common nature of humans serves as the source of universal reason and natural law for all of humanity. This is the case in which a rule that does not conform to the natural (i.e., universal) law of reason does not have the status of law or lawful regulation. Even in its own context, the Stoic conceptions of nature, human nature, mind, and law fed the ideas of empire and universal imperial law, which were especially prevalent during the Roman Stoic period. When addressing intellectual life, social structure, and political organization in the Roman Empire as well as in the Hellenistic period and ultimately in Imperial law, Stoicism was the most influential argument. As previously stated, the historical period during which the Stoic doctrine had an impact on Rome corresponds to the period when Rome transitioned from being a republic to becoming an empire.

Thus, Stoicism was the source of the idea that represented the spirit of Imperial Rome during this period. The Romans adopted a life in harmony with nature and in harmony with universal moral and legal principles, but they were not passive in their life practices. Instead, they were active participants in their lives. Because they had goals such as spreading doctrines, they attempted to be influential in the social and political spheres, which increased the influence of their philosophy even further. They also did not refrain from displaying an interventionist attitude toward political participation. In this context, Stoic morality took on the role of a doctrine responsible for determining the direction of state policy. Philosophers became more than just a dogmatic believer. The responsibility of participating in political actions and developing policies consistent with its doctrine also fell on their shoulders. The Stoics adopted a different approach to political action in this context, despite being influenced by Epicurean principles. While Epicurus advised philosophers to remain unresponsive to state affairs, Zenon as the founding father of Stoicism held philosophers accountable for their actions in state affairs (Colish, 1985).

The Stoics, particularly during the Late Stoa or Roman Stoic period, adopted philosophy not only as an intellectual and theoretical activity but also as a way of life. As a result, Seneca considered philosophy to be the guiding principle for living a measured and harmonious life and to be the science of living a virtuous, principled, and environmentally conscious life. Stoic ethics is comprised of the practices of living as a practical philosophy, and the complications to arise will accordingly have the potential to result in significant consequences, not only in the personal realm but also in the social and political domains. In fact, Stoicism developed a philosophical system that encompassed three areas: physics, logic, and ethics. However, because this study does not purpose to provide a general or comprehensive evaluation of

Stoicism, evaluations are made primarily in the context of the legal impact Stoic ethics had in Imperial Rome and on the modern concept of rule of law (See Seneca's *Naturales Quaestiones*: *Books I-III*).

For this reason, a number of issues have been briefly considered in order to determine the place and role Stoic ethics had in the Roman legal system. Indeed, the political and legal reflections of stoic moral philosophy are observable in their concrete manifestations during that period. Meanwhile, physics (i.e., nature) occupied a unique position in the triad system upon which Stoicism had been founded. In this context, Stoic ethics can be traced back to natural philosophy as its source (Radin, 1925). Nature was regarded as a living and reliable material whole in accordance with this perspective of the world. Reason (i.e., God) is at the heart of this entire system as the unfailing fundamental principle. The active, creative, and teleological principle of the world is represented by this reason as *logos*. In this sense, everything that occurs in the world is a result of the Logos' will and decree. Everything that arises in the world happens in accordance with the appropriate order established and determined by the Logos. This is a requirement as binding as divine law. The Divine Law (*lex divina*) is inherent in human nature and allows man to live a life of virtue (Hine, 2010).

In this system, logic provides the possibility of knowledge that has epistemological value for the individual. However, while knowledge emerges from the data provided by the senses, it comes into existence in relation to the logic that transcends the senses and shapes the sensory data. Because living in harmony with nature is essential for fulfilling one's life purpose, wisdom with regard to living necessarily derives from the creative principles of Logos (reason) rather than simply from the senses, in which Logos is generally synonymous with God (i.e., nature/physics). Thus, living in harmony with nature is synonymous with living rationally as the highest form of reasoning (Becker, 1997).

Consciousness of nature (i.e., physics) gives rise to the concepts of ethics and law. On the other hand, virtue is created through the pursuit of a rational lifestyle. The Scriptures reveal the divine mind to have a tendency to permeate human consciousness and man to have the opportunity to live in accordance with the universal divine law. People lead virtuous lives when they act on the basis of their reasoning faculties, faculties that are born out of the context of the universal mind where reason, logic, and consciousness first manifested themselves (*nomos koinos*). Because law is reason in nature, determining what justice is becomes possible as the concept of natural law (*ius naturale*) will derive directly from rationality (i.e., reason as the will of God Himself). Accordingly, the concept of natural law (*ius naturale*) will derive directly from rationality (i.e., reason).

As Stoicism introduced the term *subordinate to law* to the literature of philosophy and law, the idea of harmony between freedom and law spread throughout the Roman Empire. As a result, the concept of freedom was accepted as having legal and beneficial value in the Roman judicial and political systems. It was claimed to be the perfect law because it is based on the idea that Roman law (*Ius Romanum* or *Ius Romanorum*) emerged from universal and internalized value judgments rather than being imposed by state pressure and political authority (*ius perfectus*). In a letter written in 1670 to Hobbes (1588-1679), Gottfried Wilhelm Leibniz (1646–1716) stated half of Roman law to derive from pure natural law. Grotious (1583-1645) performed influential studies on natural law in the history of thought and has been referred to as the Descartes of jurisprudence; he defined Roman law as the highest level of just and imperial law (Brun, 2000; Maris & Jacobs, 2011).

In order to fully comprehend the impact Stoicism had on Roman law, an in-depth historical analysis needs to be conducted on the evolution of the concept of law over time. The most important point to emphasize in this context is that the legitimacy of the Roman judicial system as a whole is derived from Stoic ethics. The Stoic doctrine distinguished between the statuses of slave (*status servitutis*) and free (*status libertatis*) in terms of social and individual status and was also instrumental in organizing the Roman legal system around the slave-free contradiction on this point. The existence of a dual legal system, such as natural law (*ius naturale*) being accepted as an expression of the natural order and the law of nations (*ius gentium*) being inclusive of humanistic elements, allowed Roman citizens to choose which legal system to follow. Civil (*ius civile*) and national (*ius gentum*) were developed to be applied to both Roman citizens and non-Roman citizens and developed the idea of equality, which had its origins in Stoic morality at the time despite the idea of the natural inequality between the slave and free human. this is because, with the decision to be made, the judges aspire not only to do what is right with the decisions they are to make but also to see that the good is brought to completion (Harding, 2001; Stein, 2012; Radin, 1925).

The Modern Idea of the Rule of Law

The individual is the most important recipient of the relationship between law and state in terms of importance. Contemporary legal practices that make sense in the context of the state, law, and the individual as a fundamental understanding establish a formal connection between the individual's sociality and state. In this instance, the goal of law is to protect the individual from possible coercion by the state as a political organization wielding power. As a result, understanding the rule of law

is necessary for protecting individuals with citizenship status in a political system against possible interventions by the state on the basis of certain rights. Individual rights come to the fore in this context and are safeguarded by an agreed-upon legal system or legal norms.

In this regard, modern states are not only established by law but also constrained by law. In this way, the political meaning of sovereignty is given legal recognition. At this point in history, the practical establishment of rule of law is associated with the establishment of the nation-state. Blandine Barret-Kriegel asserted that the first political authorities to have organized on this point according to the idea of the rule of law were the great national monarchies that arose in the Western hemisphere. Even though the claims such approaches have made will be the subject of a separate research project, the concept of rule of law as discussed in this article above will be evaluated in two dimensions: historically and theoretically (Allan, 2016). Furthermore, because of the specific emphasis rule of law places on the concept of rights in current political systems, national constitutions, and even international agreements, the rule of law approach can be considered the epitome of human rights philosophy. In this regard, rule of law assigns the primary purpose of defending individual rights to political and judicial institutions. In reality, the understanding of the primacy of law is evidently the basis of legitimacy for political systems in today's globe, particularly in Europe and America.

In the Western worldview, the concept of rule of law has a tendency to be perceived as a unique social value that must be protected at all costs. This concept, which the West put into circulation in order to distinguish itself from non-Western societies, can also be considered as the political representation of values such as liberal states and democratic, legal, or constitutional states. However, arriving at an impartial or objective concept of rule of law is impossible because examples such as *Rechtsstaat* [Law State] as used by Carl Schmitt are arbitrary notions of law and the concrete institution of the state. At the very least, the claim that rule of law creates a non-objective relationship reveals the ambiguity of the *Stato di diritto* conceptualization of rule of law as later used by an Italian writer to create a similar context. In reality, the concepts of law and state as advanced by these authors and that are based on Nazism and fascism contain highly subjective meanings that prioritize political preferences and emphasize national superiority (Zolo, 2007, pp. 7–20).

Despite the differences between the East and the West, four fundamental historical experiences are found to create a sense of familial resemblance. These can be divided into two major categories: the Anglo-Saxon tradition and the continental European tradition. The British and North American rule of law experiences are

included in the Anglo-Saxon tradition, and the German *Rechtsstaat* and French *État* experiences are included in the continental European tradition, and these constitute four major categories in their own right. According to this assertion, these experiences as a whole shaped the normative and institutional structure of the modern state phenomenon, one that is assumed to have emerged alongside the modern state phenomenon itself in the West in the context of discourse on the rule of law. In this regard, modern states have the ability to protect individual rights by preventing the spread of potential violations of natural behaviors.

Due to being based on the idea and practice of legal equality, the Anglo-Saxon legal tradition is primarily concerned with the treatment of individuals regardless of their socio-economic circumstances. This is primarily related to the rule of law and is intended to protect the rights and freedoms of individual citizens. Secondarily, the equitable distribution of responsibilities is what has been established between the legislature and the judiciary. While parliaments have the authority to enact regulations, the foundation of customary laws upon which the courts are built prevents the use of arbitrary practices in the administration of justice. Although a parliament may be the supreme legislator, the laws enacted by a parliament's legislative will are subject to interpretation by the courts. In addition to the spirit of customary law, judges' feelings are taken into consideration when interpreting the law (Dicey, 1948). The legal norms and practices that have developed in this context have a strong tendency to constrain the executive body. Individual rights have historically been protected by the courts, where customary law practices are found rather than legislative acts such as the *Magna Carta* and Bill of Rights.

A variety of political conflicts, traditions, normative studies, and practical applications shaped the British constitutional tradition, which would later have an impact on the formation of the United States Constitution. As Dicey pointed out, the English legal tradition at that time had a civil character that was in contrast to the practices of the German courts. Why? Because, in the German legal system, the judges serve as a bureaucratic structure that implements laws passed by the Parliament, whereas the English legal tradition has tended to protect legislation passed by both Parliament and the Crown in the context of customary law, particularly that pertaining to the individual. In fact, legal practices in the United States appear to be a manifestation of the legal tradition that originated in England. This is because the United States legal system's judges are just as effective as Parliament in making legal decisions and enforcing legal practices in order to protect individual rights from possible arbitrary practices by the executive branch. According to historical evidence, the United States Constitution and the Declaration of Independence published prior

to the Constitution being drafted were based on the ideas of liberal thinkers such as Thomas Jefferson and John Paine who held to the natural law view and who were backed by important statesmen such as James Madison and Alexander Hamilton (Costa 2007).

When Robert von Mohl wrote his essay *Die Polizeiwissenschaft nach den Grundsätzen des Rechtsstaates* [Police science according to the principles of the constitutional state] in the 1830s, he was assumed to have been the first to use the concept of *Rechtsstaat*. As a result, the assumption was made that the state should be responsible for ensuring the protection of individual liberties. The *Rechtsstaat* that was established in Germany following the 1848 revolution as part of the Restoration process was based on a coalition or reconciliation of liberals made up of the individuals and conservatives who placed high value on state authority. Apart from the demands of the liberal bourgeoisie and the authoritarian tendencies of the conservatives, the state apparatus was formed within the framework of supporting the military bureaucracy to emphasize the aristocracy over the monarchy; the legal bond revealed a more authoritarian or disciplinary state in comparison to the British and American constitutions. Taking inspiration from Kant and Humboldt in particular, this legal theory developed an eclectic structure based on the absolutist state understanding as a sanction against positive human rights and the principle of the separation of powers, which eventually found expression in the *Rechtsstaat* (Ferrajoli, 2007).

The interpretation of Rousseau's concept of general will in the practice of the French Revolution as well as Kant's unconditional command derived from self-consciousness are critical here because they established the concept of right not on social or popular grounds but on the nation/nation-state parliament. This can also be defined as the subordination of the rational and enlightened individual to the rational will. As a result, the state was constructed as a representation of reason on the foundation of universal law as formed by rational rules. The paradoxical point is that the individual is compelled to obey rational will, which is assumed to be universal, or at least universally applicable. Following this understanding, rational will served as the foundation for the development of German state practice and theorists such as Carl Schmitt, who reduced law to a matter of politics and, ultimately, opened the door to the totalitarian administration system. In this regard, *Rechtsstaat* corresponds to the procedural legal state that is governed by formal and technical legislation (Costa & Zolo, 2007, p. 13).

The French concept of *État de droit* as articulated by Raimond Carre de Malberg during the Third Republic differs from the German and American approaches, but does so by incorporating elements of both into a unique understanding of genre. A

kind of synthesis can be mentioned at this point because, while the state's arbitrary intervention against individual rights had been subject to constitutional protection in France, it was analogous to the liberal tradition's understanding of the parliament's will to legislate in Germany and thus also to the suppression of civil initiative to a certain extent in both countries. In fact, the reinterpretation of the Rousseauian legal norm is what influenced this point of view. The belief that a constitution cannot be changed has been disproven by regarding this point, particularly in the USA Bill of Rights (1793, Article 28), where the need for reforms and amendments became apparent. In European political and legal culture, such evaluations have shifted the individual's obligation of indifferent obedience to the state from one of duty to one of choice. In the context of the protection of individual rights, the relationship between the individual and the state imposes responsibility on the state on behalf of the individual (Bobbio, 1996, p. 60). In particular, the separation or distribution of powers can be viewed as a micro power that has gradually accrued to the individual since the outcomes of the Peace of Westphalia in Europe.

The Peace of Westphalia took place after the religious wars in the middle of the 17th century and was relatively new at the time of the rise of Italian fascism and German Nazism. It embodied the rule of law and is mentioned in European political culture as a historical phenomenon under the influence of philosophical-theoretical approaches. Currently, the Aristotelian-Thomist understanding of natural law, which considers man as a part of natural life, has been replaced by the understanding of modern natural law. This was because in the Aristotelian model, society as a whole was at the foundation of the Thomist understanding of law, one that could not open the door to the individual in terms of being a higher form transcending the individual. This dominated Western political understanding until the mid-17th century. Natural rights were established not as *leges*, but as *juras* according to modern natural law, which considers man as the organic building block of social life and replaces the old understanding of natural law as evaluated above in the context of stoicism (Finnis, 1980). Thus, the objective understanding of law, expressed and protected by the sovereign *potestas* rather than as a command of the sovereign, has resulted in the understanding of the modern state and, consequently, the understanding of the modern individual whose natural rights are protected. When all was said and done, the French Revolution's 1789 Declaration of Human Rights placed a strong emphasis on the concept of natural and inalienable individual rights.

All of the legal approaches discussed above are geared toward protecting human rights at the individual level and construct rights that manifest themselves at various levels and ontological contexts in opposition to one another, both practically and

normatively. While the tendency to spread power at the practical-political level ensures the continuation of the social order on one hand, on the other hand it results in the violation of individual rights. In practice, politics can create practices that should be followed with caution in this regard, as they can be detrimental to fundamental individual rights under law. The legal norms that have been developed to counteract this negative situation serve as a positive element that limits political power and, as a result, prevents possible violations of human rights from occurring. In this instance, normative political philosophy and political theory are used to exercise legal control over practical politics. According to Carl Schmitt's emphasis on the point able to be regarded as a determination, it more so points to the Machiavellian nature of political realism while also expressing certain dilemmas. According to Schmitt, asserting that political power is or should be subject to the rule of law is a fallacy, because authority or power implies the ability to make a decision. The same is true of political decisions, which are creative processes comprised of a specific perspective that do not take into account objective legal norms, as claimed by the pure Kelsenian theory of law. Instead, they are biased, discriminatory, and serve the self-interest of the political subject (Ferrajoli, 2007).

Despite the emphasis on rule of law being presented as the most distinguishing feature of Western political thought, the philosophical, theological, and political discourses on good governance, justice, and the protection of rights continue to be significant issues in Islamic civilization. In this context, drawing attention to the demands and discourses on justice, as well as the glorification of the just and its blessing as the movement for basic goodness is particularly important. Saying that similar emphases are at the heart of both Indian and Chinese philosophical traditions would also be accurate. However, the principle of rule of law as developed over time by the Western world and serving as the visible face of the modern world appears to be an expression of the unique world with its individual, rational, and secular character, as well as an expression of the modern world. In this regard, it has undeniably had a significant impact on the civilizations of the rest of the world. In fact, contemporary political ideologies have been observed to have had profound effects on peoples all over the world, from China and Russia to India, the Islamic world, and African peoples, resulting in both serious negative consequences as well as positive outcomes. When considered in this context, the ideals of the French Revolution and the prior American Revolution have clearly had an impact on the world in their respective contexts.

These influences played a role in the formation of the political, social, and economic structures that emerged in Asia, the Middle East, and Latin America. One

can argue, however, that these processes generate a variety of themes on issues such as rule of law, protection of individual rights, and secularization. Adapting similar ideals at different times and spaces has resulted in the accidental creation of significant differences. As with cultural, historical, and religious differences among people, the color of the newly emerging world is influenced by a number of other factors as well. The tradition of Islamic law and politics have expressions that correspond to concepts such as rule of law and constitution and has historical processes in practical applications as well as demands and applications that have emerge in this direction, all of which are in line with this tradition. Other terms that have been used as equivalents to constitutionalism in Western languages include rule of law, *Rechtsstaat*, and state of law. Natural sounding Arabic equivalents exist for some of these terms. For example, *dawlat al-qanun* suffices admirably for *Rechtsstaat*, and *hukm al-qanun* suffices admirably for rule of law. Constitutionalism, on the other hand, does not have a readily identifiable Arabic equivalent (Bahlul 2007).

One important point is found to have emerged both in the Islamic tradition and more specifically in national adaptations such as those of the Arab, Turkish, and Persian cultures that leads to a conceptual structure in which paradigmatic changes such as rule of law correspond in practice and discourse both in concrete state practices and in political theory, from Kindi and Mawardi to Farabi and Ibn Rushd. The importance and leadership of law in the context of justice has always been emphasized in Islamic tradition. The Muslim mind develops linearly or in opposition to one another in this diagram. Detecting these traces is extremely difficult in contemporary politics, both in the West and the East. In addition, the Western discourse undeniably establishes a hegemony establishing the reality of the modern state and produces a disproportionately stronger literature in this regard. Morality can be expressed in the form of individual value judgments and behavioral criteria and serves as the foundation for political discourses that encompass all aspects of social life. As a result of acting in accordance with the moral understanding one has adopted in general, individuals have an impact on others at the political level in the context of social relations. In this regard, individual morality has the ability to positively influence collective politics. Individual behaviors shaped by morality become politicized in the social sphere as a result of the politicization of morality. However, in this case, morality is used in addition to the characteristics one possesses within oneself to connect an individual to their community and thus to the state. In this context, the individual, society, and the state are all considered.

Within these contexts, the good is judged by the evil and the right by the wrong. Today's moral debates are framed in terms of action dynamics rather than individual

character traits, and their relevance to politics is related to terms of action dynamics rather than individual character traits. While classical moral debates are dealt with in terms of positive personal characteristics, the interest in morality that has risen in the modern era emerged in the context of social and political relations. Character ethics is still a topic of discussion in philosophical and political circles today. But in research on the quality of social standards, the concept of social ethics emerges when evaluating social and political problems and adapting these standards to the legal system.

For the purposes of this discussion, morality appears to be both the source and legitimate carrier of ideas that bind an individual to the political sphere and position one as a participant in the public sphere. Some political issues that appear to have no connection to the field of morality take on a moral dimension in this context. Political subject areas such as foreign relations, health, and the economy are linked to individual value judgments. Questions such as abortion, euthanasia, and media use, which appear to be within the scope of individual evaluations, should be considered in the context of political structure interactions. Furthermore, moral value judgments in the modern world cause significant divergences that are difficult to reconcile in the processes of making political and legal decisions. This is because some of the political objectives are formed in today's world as a result of moral evaluations.

The historical origins of the connection between morality and politics can be traced back to the time when human social life and political structure developed. Because the process of human socialization and the emergence of political authority are controversial and ambiguous from an anthropological perspective, establishing a historical starting point for these processes appears difficult. However, moral values such as personal charisma, talent, loyalty, and wisdom were used by non-despotic kings throughout history to establish their authority. In this regard, the approach in which good individuals can only exist and achieve their moral goals in a good society and good state has been adopted as a political and moral norm in both the United States and the United Kingdom.

As a result, moral values and political values have been accepted as the fundamental characteristics of kings who use political power as a criterion for wisdom, justice, and goodness. The same qualifications should be noted to be sought in today's democratic political systems, which should not be surprising. When addressing concepts such as morality and law, morality and political reality, or the rule of law, modern political theology is confronted with the obligation to be covered by moral codes in this context.

The teachings of civilizations such as ancient India, China, and Egypt in their various forms express morality to be necessary for establishing well-functioning and just political structures. The great political thinkers of Ancient Greece such as Plato and Aristotle, who established theories on the individual, society, and state based on moral principles, are considered to be the main beds of rational thought. Roman legal philosophy can be seen to have largely been based on Stoic ethics, and because of this quality, it had a significant impact on Christian and Islamic legal and political thought in the centuries that followed (McClelland, 2018). Meanwhile, the ethical characteristics the classical approach imposed on the ruling class and the king are where the differences between pre-modern classical governance and modern politics emerge. According to the political imaginations of antiquity's Greece, Rome, Christianity, and Islam, rulers were clearly stated to need to embody the positive moral attributes imposed on people's personality in the most refined manner. In this way, morality played a significant role not only in ancient political theory, but also in the formation of political evaluations in the Middle Ages (Zolo, 2007).

As the context of morality evolved, the importance of its decisive role in politics became increasingly apparent. Because the individual moral understanding of a ruler overlapped with religious moral values in the social context, it retained its influence during the Middle Ages and early modern periods when the religious explanation model was the dominant model of moral explanation. The theocracies that arose during this time period tended to organize their state administration feudally. As a result, feudal lords and kings derived their legitimacy from divine authority.

According to the rule of law, no man is consequently above the law, and each individual is subject to the jurisdiction of traditional courts of law regardless of rank or position in society. This means that neither man nor society should be governed or ruled by a single individual or ruler, but should instead be governed and ruled by the laws of the land. Even if the law does not have a physical presence, it entails the presence of a governance that conforms with established principles. All government activities must be reasonable and compatible with the law. The notion of rule of law is what serves as the foundation for advanced democratic societies, and the concept of rule of law is what serves as the foundation for sophisticated democratic societies. In order for commonwealths to function properly, adhering to the rule of law and all contracts founded upon it is critical. Laws are enacted in order to preserve the welfare of individuals and to ensure agreement between parties who are at odds with one another. In this process, the concept of the rule of law is extremely important to understand (Costa & Zolo, 2007).

Rule of law is derived from the French phrase *La Principe de Legalité* [the principle of legitimacy], which refers to a government that is established on legal rules rather than on individual standards. According to the most general definition, law has no comparison and has authority over each and every individual. The law should not be neglected by anyone, regardless of their socioeconomic status, whether they are wealthy or impoverished, rulers or subjects, or anything else. No one has authority over the law, and everyone should follow it to the letter.

Rule of law is defined as being centered on the ideals of normality and the limitations reflected in the term *a government of laws, not of persons*. For more than a century, rule of law has been used as a term in legal scholarship and legislative debates in Germany to describe a specific relationship between the political framework of the state and laws, a relationship that extends beyond a constrained government and encompasses its performance under the guise of legal requirements. State apparatuses (governmental and organizational) have also been depicted on the screen to appear to be in perfect command and amazing control and to engage in state-sponsored activities directed toward citizens.

Conclusion

The approaches to the rule of law are built upon three fundamental concepts: autonomy, equality, and justice. These can be weighed in the context of sovereignty, the founding (constitutional) factor, and how individuals are placed in society. In the British model, sovereignty refers to the authority attributed to Parliament. In fact, the British Constitution has established social, political, and traditional legal norms that include legal traditions and aim to control and regulate the executive power on the basis of social consensus, all without the use of written language or formalized procedures. as a result, the protection of individual rights has been entrusted to the exclusive jurisdiction of customary law courts. When addressing the rule of law, the United States of America followed in the footsteps of the British legal tradition and tends to limit state sovereignty in favor of the individual more than other countries. In contrast to the British constitutional tradition, the USA has created a written constitution with clearly defined boundaries for this purpose, one that is only a minor interpretation of activities in specific circumstances and partial situations that are governed by customary laws in this context. The US Constitution is designed in such a way that it constrains not only the executive but also the legislative branches. In this context, the judicial branch has the authority to interpret constitutional principles and is responsible for protecting individual rights, not the legislative branch.

According to the German constitution and the concept of *Rechtsstaat*, sovereignty was established in reference to the legislature, with the legislature having precedence over all other powers. However, even though the German Constitution was written in this place, it is flexible and does not stand above the law, nor is it an element that is protected by a body such as a constitutional court. Individual rights are safeguarded by the Parliament itself, rather than by legislation. In the French model of the state de droit, sovereignty is fundamentally the monopoly of the Parliament and is manifested as national sovereignty. Parliament is one of the forces that have been established. As in the model described above, the role of the Parliament is more restrictive and controlling. The French Constitution, which was also the source of inspiration for the Turkish model, is positioned as the highest norm, preceding all other laws in this structure. Individual rights are safeguarded by law by taking into consideration the possibility of their infringement.

Regardless of the differences, the approach based on limited state and individual rights as established by English law is the predominant color in contemporary political systems. As a matter of fact, individualism is at the heart of constitutional governments. With the emergence of the modern nation-state, the historical approach to individuals' obligations toward political and religious authorities was spun around and turned upside down once more. People in Europe now have inviolable rights rather than duties and responsibilities, with the primary responsibility of political authorities being to protect these rights. The responsibility is delegated to a structure (such as the state or the Church), rather than to an individual. In fact, traces of this understanding can be found in European political and social culture, though there were periods when this process was reversed, examples such as with the rise of fascism in Italy and the practices of Nazism in Germany being just two of the most egregious cases in this regard.

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