

However, it is important to note that these alternatives are theoretical. So, one should not expect a full-fledged “manifesto” for political society. Also, one should also remember how he speaks from a Western point of view, when he discusses these alternatives.

This book will benefit those who study political science, sociology, and political sociology from a theoretical perspective. A basic foundation of sociological theory may be necessary, but it is not a must to understand and enjoy the book.

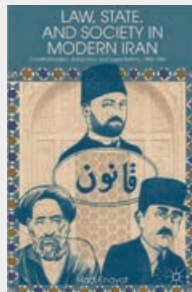
Law, State, and Society in Modern Iran: Constitutionalism, Autocracy, and Legal Reform, 1906-1941

By Hadi Enayat

New York: Palgrave Macmillan, 2013, 256 pages, \$100.00, ISBN: 9781137282019.

Reviewed by H. E. Chehabi

LIKE THE NEIGHBORING Ottoman Empire, Iran escaped foreign rule in the age of imperialism. Its continued sovereignty notwithstanding, European powers did not treat Iran as an equal. The most visible manifestation of the country’s subaltern status in the international society of states were the so-called capitulations, imposed treaties in which Iran (like the Ottoman Empire) exempted the subjects of foreign countries from its own jurisdiction, without securing a similar treatment for its own subjects from the other side. These unequal treaties were justified, in Iran and elsewhere in the non-Western world, by the absence of a rational legal system, because of which a European could not expect to have a fair trial in a local court. For Iran to emancipate itself internationally, therefore, a new legal system had to be created as a necessary precondition for the abolition of the capitulations. But this was far from being the sole impetus for creating a modern legal system. Modernists held Iran’s traditional absolute monarchy responsible for the weakness that had allowed foreign powers to impose their will on Iran in the first place.



Establishing the rule of law was thus of paramount importance, and given Iran’s independence, reforms were implemented by domestic forces. Hadi Enayat’s book is about how this was done in practice, and with what results.

According to conventional wisdom, the creation of Iran’s modern legal system dates from the early years of the rule of Reza Shah Pahlavi (r. 1925-41), when Ali-Akbar Davar was Minister of Justice. Enayat’s great merit is to show that, while Davar’s reforms do indeed merit serious analysis, they had a prehistory going back to the Constitutional Revolution of 1906. The years between the overthrow of the absolute monarchy of the Qajar dynasty in 1906 and the establishment of a royal dictatorship under the new Pahlavi dynasty in 1925 are usually regarded as a transitional period in which Iranian politicians bickered while the country was going to pieces under the double impact of domestic centrifugal forces and foreign intervention. Enayat shows that while this is true, it is not the whole truth; in fact, the groundwork for Pahlavi-era was

laid precisely in these difficult years by statesmen, jurists, and parliamentarians.

Legal reform came to Iran later than to the Ottoman Empire, and its implementation was more problematic. One reason was the greater centralization of the Ottoman state, compared to which the Qajar state was “infrastructurally weak.” In Iran, therefore, one of the aims of legal reform was the creation of a central state itself. Another reason was the existence in the Ottoman state of a long tradition of *kanunnames*, which provided a basis for the successful Tanzimat reforms. In Iran, non-religious law, *’orf*, did exist, but it was viewed with suspicion by the ulema, who had much greater autonomy *vis-à-vis* the state than their Ottoman counterparts and in addition had a major role in the administration of civil law.

Law, State, and Society in Modern Iran contains an exhaustive analysis of the transformation of the Iranian judiciary from the mid-nineteenth to the end of Reza Shah’s reign in 1941. The first serious reform attempts were made by the *Sadr-e Azam* (prime minister) Mirza Hosayn Khan Moshir al-Dawleh, who, having spent thirteen years as Iranian ambassador to the Sublime Porte, was influenced by the Tanzimat. But after his dismissal in 1873 these efforts fizzled out. It was the Constitutional Revolution of 1906 that triggered a process of institutional transformation that ultimately led to the establishment of a nation-wide rational and modern legal system in the 1920s, as one code after the other was elaborated under the auspices of the Ministry of Justice. By 1928 this process had gained such momentum that Iran was able to put an end to the hated capitulations.

The book is divided into five chapters. The first four are chronological, corresponding to discrete periods in Iranian history. Each chapter begins with a short exposition of the

political context, both domestic and international. What transpires from the detailed accounts that follow is that at each stage secular politicians and jurists attempting to strengthen the state and to extend the reach of civil law had to face the resistance of the Shiite *ulema*. However, there were also sympathetic clerics who cooperated with secular figures and helped bring about compromises, for instance on such thorny issues as legal equality between Muslim and non-Muslims.

In the fifth chapter, the author endeavors to assess how the new institutions actually worked in practice – a difficult task, given the paucity of sources. The conclusion is that while the dictatorial nature of the political regime took a heavy toll on the judiciary’s independence in political trials, in civil, commercial, and criminal matters it gradually came to function adequately and ended up gaining the trust of the population.

Law, State, and Society in Modern Iran is based on a wealth of hard-to-find primary sources, which gives the detailed analyses contained in its chapters a historical depth unrivalled in the literature: the book is likely to remain the definitive study of the transformation of Iran’s judiciary for a long time. It should also be emphasized that it is comparatively informed and thus relevant not only to the study of Iran but also for scholars interested in the development of constitutionalism and public law in Muslim-majority countries more generally.

Frequent misspellings of words and names (e.g., ‘Adolf’ instead of ‘Adolphe’ Perny, *qanunnameh* instead of *kanunname*, ‘principle’ instead of ‘principal’) as well as occasional mistransliterations of Persian words and a few inaccuracies in the bibliography are unlikely to bother anyone except pedants like this reviewer.

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