

ORIGINAL RESEARCH PAPER

## Identifying and analyzing the content deficiencies of the civil service management law as a model for legislation in urban management

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### ABSTRACT

**BACKGROUND AND OBJECTIVES:** The civil service management law in the administrative system of the country is a public policy and the mother law, which includes valuable concepts and norms in the field of administrative law. Despite the fact that some chapters of this law, including the chapter of people's rights (chapter 3), are considered as innovations; however, some of the goals of the law in this chapter have not yet been achieved. As a result, this chapter of the law needs further scrutiny and implementation. Therefore, this study intends to take an important step towards the growth of the country's administrative system by identifying the pathologies of this chapter and providing corrective solutions.

**METHODS:** The research is inductive and qualitative. The interviewees in the present study are members of parliament, managers and experts, who were selected by snowball sampling method. The data collection tool is a semi-structured interview and the "Theme Analysis" approach is used to analyze the data. The coding is done by MAXQDA quality software.

**FINDINGS:** The findings of the study showed that the content deficiencies identified in the chapter on people's rights are: "Lack of attention to the needs of society, lack of law enforcement trustee, lack of trustee for public awareness, lack of mechanism for accountability Citizens, failure to specify and specify the bodies supervising the implementation of the chapter on people's rights, suffice to express the generalities in the provisions of the law and the lack of expression of the law in a common language between users and legislators and etc. These findings indicate that the observance of transverse features in the Civil Service Management Law, such as: "Responding to the needs of society, efficiency, focus on justice, feasibility and progress, etc." is ambiguous.

**CONCLUSION:** Given that a rule lacks transversal features, it may be called a law, but it may not have the power to persuade citizens or executors to enforce it. On the other hand, considering the importance and key role of the chapter 3 of the Civil Service Management Law on citizenship rights, which includes: "Duties and responsibilities of citizens towards each other, duties and responsibilities of citizens towards the city and the ruling forces of the country, duties of the government towards citizens and people." In order to increase the quality of the law and protect the rights of the people in the quality of public administration, it is necessary to eliminate the deficiencies identified in this study. Also, the method and model considered in this research, to review the law, can be considered in other laws and public policies, including urban management laws.

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## INTRODUCTION

The Civil Service Management Law (CSML), as the most important administrative document, contains strategies and requirements that deserve special attention and consideration. CSML in the administrative system of the country is a public policy and the mother law (Varasteh baz qaleh and Faghih Iarjani, 2015). Initially, the traditional idea was that policies would be implemented once they were legalized and legitimized. But the issues that have arisen in the implementation and confrontation of policy makers with a multitude of unimplemented policies made them think that they believe that policies will not be implemented or will not be implemented well without providing the necessary ground (Daneshfard, 2016). In fact, there are problems and obstacles in the implementation of the policy, which cause the developed policies to not be implemented well (Ansell et al., 2017); As a result, these barriers must be identified so that, if possible, policies can be implemented in the best possible way by removing these barriers. The CSML is a policy that was proposed in contrast to a series of general problems and difficulties that has provided a solution for each public issue in the form of a chapter (Hajipour et al., 2015). Since CSML has been passed and has become law. However, some articles of the law have not been fully implemented, despite the fact that several years have passed since its adoption, As a result, it needs to be studied and carefully so that the administrative system in the country can be transformed by removing obstacles in its implementation (Darvishvand et al., 2018). Therefore, this study intends to take an important step towards the growth of the country's administrative system by examining the content deficiencies of CSML and providing corrective solutions (Tehrani et al., 2014).

### *Problem Statement*

One of the activities carried out by the government to reform the country's administrative system has been the development of a CSML (Mortazavi et al., 2012). The CSML is a policy that was presented in the face of a series of public problems and issues, which has provided a solution for each public issue in the form of a chapter (Gholipour and Gholampour Ahangar, 2017). The administration of the affairs of each country is based on the basic and general policies of that country. Policies need legal legitimacy

to be implemented, and in this sense, policies that are approved by parliament are called laws (Maliki, 1400). There are several factors in the implementation of the law without which the realization of the law is not possible (Mortazavi et al., 2012). The Civil Service Law has ambiguities that "since the implementation of this law these ambiguities have caused, various organizations to consider more payments for their collection than what is provided in the law" (Haghighi Aminabadi, 2019). The Research Center of the Islamic Consultative Assembly has also considered the CSML in need of study, review and pathology, in order to be able to analyze the issues and obstacles to the implementation of this law or policy based on the correct methodology and information collection in the executive organs of the country (Jajarmizadeh, 2014). On the other hand, considering the inability to implement the mentioned law, despite the existence of numerous additional instructions and regulations issued during the years 2015 to 2018, the need for evaluation and pathology of the above law in the dimensions under consideration seems twofold. And it is necessary to examine the reasons and obstacles for its non-implementation of some articles of the law (Haghighi Aminabadi, 2019). Undoubtedly, the CSML, due to its innovations, shows and promises prominence that is used for the first time in the structure of the Iranian bureaucracy to change the foundation of relations and norms of the country's administrative system. But has what was expected of the foundation of the law been achieved? Or it has not been able to achieve its defined goals and estimate the expected results in terms of content, form, content and implementation problems. Considering that the law was made permanent in January 2016 without major changes, therefore, it is necessary to comprehensively examine why, despite the numerous efforts that have been made to formulate the CSML, and considering the scientific basis on which the law is based, including: "Good governance, new government management with a focus on the principle of justice, policy-making, government guidance and oversight", instead of "the previous approach, i.e. government management by applying market rules", the law has not been successful in implementation. Therefore, this article intends to examine the damages and inadequacies in the CSML in the chapter on people's rights (Chapter 3) in terms of content (substantive), based on the

transverse features of the law. In order to achieve this important it is necessary to answer the following specific question: "What are the content deficiencies of the CSML in the chapter on people's rights from the perspective of transverse features of the law"?

#### Research Aims

Examining the laws and identifying and resolving the problems in them can be an effective step in achieving the reform of the administrative system. Therefore, the purpose of this article was to identify and investigate the deficiencies in the law (Chapter 3), in order to be able to fully analyze the issues and deficiencies of the content of this law (chapter of people's rights) based on the collection of information from the executive bodies of the country and the correct methodology. Therefore, the purpose of this study are:

- To increase the quality of the CSML by providing corrective suggestions;
- To identify the content Pathology and deficiencies of the CSML (Chapter 3) based on the transverse features of the law.

#### Literature review

In this section, the theoretical framework of the research is reviewed:

#### Definitions

● *Urban management*: Urban management and the structure of legal institutions and organizations governing the city differ from country to country and each society has a different definition of urban management according to its economic, social and political structure (Chourabi et al., 2012). Urban management refers to all, organizations, institutions and individuals that are formally or informally influential in the process of urban management (Turley and Zaman, 2007). Therefore, urban management does not include only the municipality and the city council, and any element that has an impact on the city management process is in this area (Hosseinzadeh et al., 2015).

● *Urban management and people's rights*: Urban laws and regulations can be considered as one of the most important points of connection between urban management and people (citizens) (Hardoy and Satterthwaite, 2014). In other words, the actors, the main elements of urban management in the

light of urban laws and regulations, while defining the role for themselves and other members, can involve citizens in managing affairs and realize the concept of citizenship (Hendriks, 2014). A citizen is an official member of a city, state or country (Lotfi et al., 2009). This view reminds the citizen of the rights and responsibilities that are provided for in the country's laws. Legally, society needs to regulate trade, property, urban planning, politics, and even family matters (Roweis, 2018). Therefore, from the urban point of view, the subject of citizenship rights is the relations of the people of the city, their rights and duties towards each other, and the principles, goals, duties and methods of doing it (Lorabi, 2020). In relation to each other, the city and the government or the ruling powers and the state, as well as the rights and privileges that are the responsibility of the city managers (municipality), the government or the ruling powers in general (Lorabi, 2020). One of these laws, which is between citizens and the government, is the CSML.

● *Civil Service Management Law*: The CSML was approved by the Islamic Consultative Assembly and the Guardian Council in 2007 (Civil Service Management Law, 2007) as an alternative to the National Employment Law and was communicated by the President to various organizations for implementation. This law has been compiled in 15 chapters and consists of 128 articles and a large number of notes (Civil Service Management Law, 2017). The third chapter of the mentioned law has considered the legal rights of the people and the duties and responsibilities of the managers and employees of the executive bodies in observing the rights of the clients and honoring them and includes articles 25 to 28 of the law (Civil Service Management Law, 2017).

The principles governing the 3<sup>rd</sup> chapter of this law are:

- reserving the dignity and honor of the people,
  - Familiarity of people with their rights and duties in the interaction of executive bodies,
  - Ensuring the rights of the people and the clients to the executive bodies (Majlis Research Center of the Islamic Republic of Iran, 2007).

The most important expected results from the execution of the sentences of the third chapter can be listed as follows:

- Improving the level of awareness of the people

about their legal rights in referring to the executive bodies;

- Establishing a system of accountability of government employees towards the people within the framework of administrative and employment laws;
- Familiarity of managers and employees of executive departments with their legal duties and responsibilities towards the people in the form of ethical and administrative charter (Majlis Research Center of Iran, 2007).

Law is one of the most important fundamental issues of any society (Luhmann and Albrow, 2013). Because it is the law that determines the framework for a society to move towards its goals. In other words, each society, in accordance with the goals it has set for itself, makes laws to achieve them, on the other hand, one of the most important issues in law and quality legislation. Experts have explained various reasons for the decline in the quality of the law and, from different perspectives, have made recommendations to increase the quality of the law (Francis, 2004). For instance, "Winterpool" considers the quality of the law on the one hand in its ability to achieve the set goals and on the other hand, the ambiguity and comprehensibility of the law (Aitken, 2013). "Parizi" divides the quality of the law into content and formality. Content quality means correctly identifying the problem and researching the right response to it, so that the desired result is achieved. Formal quality means choosing the appropriate legislative format and using language that is understandable and clear to the executors and the audience of the law in general. This requires clarity, simplicity, accuracy and the absence of ambiguity in the text of the law. Of course, the correct publication of the law can be added to the aforementioned features in a way that is easily accessible to the presenters and the audience (Aitken, 2013). In general, "Carpen" measures the quality of law by the following principles: necessity, appropriateness, transparency, accountability, participation, Availability, predictability, clarity, comprehensibility, simplicity, consistency, legality, accuracy, consistency, non-ambiguity, and Coherent structure (Vakilian et al., 2016). In addition to these principles, "Carpen" believes that the law in question should have three other important features: First, if implemented, the legislator's intent will be achieved (conclusion). Second, the law passed by its audience

as far as possible to be implemented or the law can be imposed on them (impact) Third, law enforcement is cost-effective, meaning that its implementation costs do not outweigh its benefits (Efficiency) (Aitken, 2013). In order for a rule to become law in the first place, it must have a minimum condition, that is, it must have at least some characteristics, and otherwise it is not called law. More precisely, it is not essentially recognized as a law. These features are called "intrinsic" features of the law. In contrast, there are transverse features without which the law can be made. However, the presence of transverse features adds to the validity, meaning and better functioning of the law. The second type of attributes actually refer to the maximum functions of law and are entirely dependent on supporting theories about the concept of law. However, both groups of features are ultimately must-see and therefore theoretical and controversial in nature. As a result, the list of law features is open and flexible (Rasekh, 2006). According to the above definitions and one of the criteria that experts have explained for quality law, are the transverse features of the law, in the absence of which the validity, meaning and better functioning of the law and the maximum functions of the law will be overshadowed (Vakilian et al., 2016). Therefore, in this article, in order to investigate the content Pathologies of the CSML, criteria related to the transverse features of the law have been considered Transverse features of the law. In order to examine the Pathologies and deficiencies of the CSML, it is necessary to analyze the transverse features of that law. The transverse features of law are those features which, if a rule lacks it, it may nevertheless still be called law. Since these attributes are located in the flexible sections of the list of properties of the law, it can be called transverse. In addition to the inherent features of the law, the law must be able to persuade citizens, otherwise in practice no one will follow it (Rasekh, 2006).

*The transversal features of the law are:*

- *Accountability To the needs of the community:* According to Rousseau, it can be harmful if the laws do not meet the needs of society. According to this thinker, the best legal system is a system that is adjusted according to the geographical and human characteristics of a country and respond to the present and future needs of that society (Katozian, 2019).

● *Reflecting the opinion of the majority*: On the other hand, most of the laws that define social and economic policy must express the opinion of the majority about the public good. The law must be in accordance with the nature of the people and the wise legislator follows the public morality and the demands of the people and does not take steps against them (Katouzian, 2016). But alongside them, the minority must be assured that their equality will be maintained. In this way, the laws enjoy an inner respect that the citizens, as subjects of the law, follow with good pleasure (Dworkin, 2013).

● *Provider of public interest*: The laws of the country must be enacted in accordance with reason and it is a rational law that takes into account the interests of the majority and the minority (Rasekh, 2002). "Thomas Hobbes" considers a good law to be a law that is necessary for the good of all people and they agree on such a thing (Katouzian, 2016). Raz (1979) sees the public and individual interests as intertwined. In his opinion, public good means the good of all and therefore, by supporting the good and the benefit of the individual, we have in fact preserved and protected the public interest. On the other hand, we have helped to achieve individual good by guaranteeing the public interest.

In this regard, "Plato" also believes that the job of the legislature is to provide a decent life for all citizens (Hobbes and Bashrieh, 2002). From all that has been said, this feature means that the law must take into account the interests of the public, whether majority or minority.

● *Compliant with ethics*: Laws must comply with ethics to satisfy human conscience (Durkin, 2002). Of course, since the law relies on political authority, the emptiness of the law from its moral content will undoubtedly make it an ineffective order or "must". Because the law must be in accordance with public morality or morality accepted by the majority of society so that citizens are satisfied and obedient to obey its orders (Rasekh, 2006).

● *Focus on justice*: The law should seek to achieve justice and one of the ways to determine the realization of justice is to ensure the rights of minorities (Dworkin and Rasekh, 2002). According to the mentioned characteristics, at first, with the enactment of the law, the authoritarian period is transferred to the period of the rule of law. Then, by adding the constraint of reflecting the opinion of

the majority, the rule of law is placed in a democratic situation and Finally, if the law is enacted in such a way as to guarantee the rights and freedoms of the minority of society along with the rights and freedoms of the majority, then a righteous situation will be established (Dworkin and Rasekh, 2002).

● *Continuous*: Law enforcement must be done continuously. This means that the implementation of the law should not be suspended until the law is repealed or repealed by another law. Of course, this does not mean that the law is permanent and that it lasts forever; because there is no legislative art with which a law can be enacted forever, it means that the law should not be changed too soon and should be stable (Stockhammer, 2007). In this context, Aristotle refers to the formation of the habit of following the law. According to him, it takes a long time for citizens to get used to following a law. Accordingly, the law should not be reduced by creating new laws (Rasekh, 2006).

● *Efficient*: In terms of efficiency, it is an effective law that can achieve its desired goal. In other words, if the law fails to function and its intended purpose, at least one bad law and at most one problem will be in addition to the other problems of an illegal society. Therefore, some legal and political theorists have mentioned one of the features of law as efficiency (Schuck, 2000).

● *Effectual and progressive*: The law must be commensurate with the ability of the people for whom it is imposed. If a law is enacted that commands a man to perform difficult tasks or causes disobedience for its subjects due to its implementation, it will be a failed law or basically a dead and unenforceable law. A rule that is beyond human power may be called law, but its implementation will most likely require a repressive structure. In addition, the legal and political system that includes such laws will undoubtedly face a crisis of legitimacy (Rasekh, 2006). On the other hand, just as laws must conform to facts, they must move ahead of events. In addition, a leading legal system uses continuous legal teachings to create principles and rules that are relevant and appropriate to the new circumstances (Rasekh, 2006).

## MATERIALS AND METHODS

Since the purpose of this study is to identify the shortcomings of CSML content, therefore, in terms purpose is of exploratory-developmental and as its

purpose is to find answers to legal problems and provide corrective suggestions, it is considered as of an applied research, and it can be considered a field research due to the method of data collection which was performed through semi-structured interviews. Consultative Assembly (legislators); managers, consultants and experts of the Research Center of the Islamic Consultative Assembly and the Administrative and Employment Affairs Organization; a number of managers and experts of agencies and organizations subject to the CSML, including the Ministry of Interior, were selected and interviewed based on their mastery and knowledge of the CSML and using the Snowball Method. From the twelfth interview onwards, the information received was repeated. But to be surer, it went on until the 15<sup>th</sup> interviewee. Reliability of the interviews were also tested using retest method. Also, according to the criteria provided (Creswell and Miller, 2000), the following measures were taken to ensure the validity of the research:

Adaptation by members: Three of the interviewees of the final report reviewed the first stage of the process of analyzing the obtained themes and categories, and their suggestions were included in the finalization of the report. Peer review: Three professors and two knowledgeable experts in the Islamic Consultative Assembly and the Research Center of the Paradigm Assembly compared the classification of topics and the relationship between

them, and their views were examined in presenting the model. Theme analysis and coding techniques were used to analyze the data obtained from the interviews. Also, the quality software used in the present study was MAXQDA11.

*Analytical framework*

In order to investigate and identify the deficiencies in the CSML (Chapter 3), the researcher intends to examine the CSML (Chapter 3) in various dimensions in the conceptual model (Fig. 1)

**RESULTS AND DISCUSSION**

In 2007, the MRC OF Iran introduced a chapter entitled “People’s Rights”, which includes four articles (Articles 25 to 28 of the law) in the CSML. The main subject of this chapter is the administration and organization of the government administrative and employment system. Also, this chapter is one of the innovations of the “Civil Service Management Law” approved in 2007. The center also stated that the reason for compiling the chapter on people’s rights in the most important and comprehensive administrative and employment law of the country is due to the change in the view of the administration and its managers and employees, and basically the government, towards the people;

The change in approach that seems to have been more visible and effective in some of the early

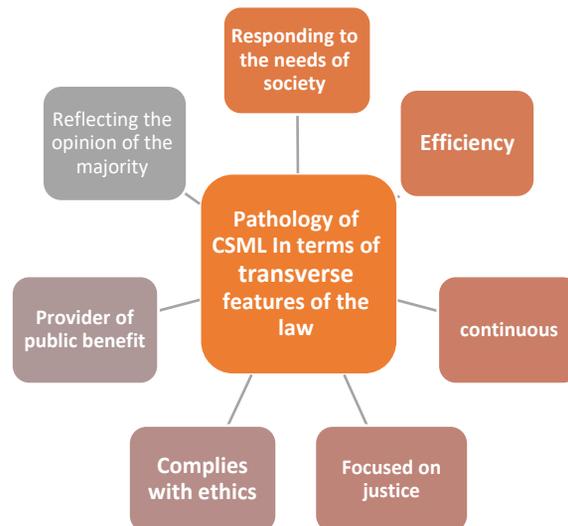


Fig. 1: Conceptual model of research)

chapters of the law, including this chapter. In this study, the pathologies of this chapter have been studied. According to experts and interviewees, the Pathologies and content deficiencies of the third chapter of the CSML - People's Rights based on the transverse features of the law are:

1- One of the identification damages for the third chapter of the law is the incompleteness and comprehensiveness of the provisions contained in this chapter. In fact, in order for the law to be considered as a comprehensive administrative document or a law for the management of the country's services, it must be complete and comprehensive. The text of Chapter 3 of the CSML is incomplete and does not refer to all the laws that are required to respect the rights of the people. Also, the rules in this chapter are very general and do not guarantee implementation. In fact, the legislature has not specified what will happen to the offender if the rules are not followed in this chapter (Darvishvand *et al.*, 2018). Therefore, considering that this law is more about the issue of wages and salaries of government employees, it is necessary to complete this chapter or remove items not related to the CSML (Najafbagy, 2019).

2- One of the most important Pathologies identified in the chapter of people's rights from the expert's point of view is the "lack of a clear scientific basis." Therefore, it is necessary to consider a sound and transparent scientific basis for this chapter of the law, and based on it, some of the rights of the people should be considered and clarified in it. One of these scientific principles for respecting the rights of the people is the "principles of procedural justice"; Some of the most important principles of procedural justice that can play an important role in protecting the rights of the people in the administrative apparatus are: Principle of the right to be heard" for the client in the administrative decision-making process, "Principle of the need to state the reasons and documents of the administrative decision regarding the legality of administrative decisions", "Principles of equality and non-discrimination, proportionality, impartiality, speed of response, obligation The reasons and grounds for the decision, the continuity of administrative services, access to administrative information, fairness of administrative proceedings and jurisdiction " should also be considered in the law or executive instructions of this chapter (Alizadeh, 2014).

3- In "Article 26" of the law, organizations are obliged to acquaint people with their rights and duties in interaction with the executive apparatus. One of the most important violations identified for Article 26 mentioned by the interviewees was "lack of a trustee for the implementation of this article of the law" and "lack of a trustee for public awareness of the people". In this section, in order to acquaint the people with the executive apparatus, the legislator only referred to "mass media, especially radio and television", but due to the exorbitant costs of this method in the normal case, the legislator needed to use more appropriate mechanisms to use this method and sources of financing were also mentioned. In addition to other methods of informing through the sites of organizations, creating a section called Client Assistant in organizations, using messaging software to inform clients to know what the steps are and what stage their work is at, and in the law and its executive instructions, has been neglected.

4- Another Pathology identified in this chapter of the law is "the use of vague words and concepts". Some of these words and phrases are:

- Mentioning the phrase "executive bodies can add items to it in accordance with the duties and special conditions of the relevant body in addition to the above, in accordance with the ethical charter approved by the Cabinet" in Article 25 reduces the transparency of the law. It was also better to add the principles governing the ethical charter of government employees that are stated in government regulations for the sake of transparency and public awareness, at the end of this article;

- Not paying attention to the clarity of specialized words and concepts in the law, such as the word "equality" or "people have equal rights" in Articles 27 and 90 (Civil Service Management Law, 2017);

- According to Article 27 of the CSML (Civil Service Management Law, 2007), "People have the same rights to use the services of the executive apparatus on equal terms. According to article 90 of this law (Civil Service Management Law, 2007), discriminatory behavior of employees with the client is considered a violation and can be prosecuted in the competent authorities.

However, the legislator has not used negative words in this chapter. Also, in the whole law, there is no reliable mechanism for fulfilling the provisions of Articles 27 and 90 (Civil Service Management

Law, 2017). In addition, there were no solutions to measure the achievement of the objectives of this chapter in the law and executive instructions.

5. Failure to use the rules of jurisprudence in this chapter is another injury that most of the interviewees mentioned. The law is divided into mandatory laws and voluntary laws in terms of executive power (Katozian, 2019). Sometimes in the CSML, in some laws, the spirit of benevolent laws is seen, such as the word "equality" or "people have the same rights". People with different attitudes can adopt different behaviors, depending on the existence of parallel and imperfect rules become more colorful. It seems that the executor can choose the law voluntarily and it is feared that the executors will use different rules for different people, according to their decision. Since the CSML is a mother Law, it should be a "mandatory law", not an "optional law". Mandatory Law A commanding or enforcing law is a law that is absolutely binding, and the legislature expresses the matter with the help of news sentences and the use of words such as "must, is necessary, is obligatory, will be obliged, and ..." Sometimes in the form of negative news sentences and using words such as: should not, cannot, is not allowed, has no right, etc., expresses the prohibition like that. Optional law is a law that, based on the authority and will imposed, in fact guides the method of exercising the right and ruling and relative justice, and paves the way for it and provides the right way. Optional law is apparently no command or prohibition. Does not include and does not create an obligation for individuals. For instance: "The laws in question regarding punishments are more of an optional law, and it seems that the legislator has wanted to leave the judge free to determine the punishment more or less, depending on the case and in proportion to the crime." While in parts of the law this has been forgotten. One of the ways to achieve this is to explicitly state the punishment in the law. For instance, the use of restrictive words such as "is prohibited", "is considered a violation", etc. It is necessary for the legislator to use the mandatory laws in this chapter of the law instead of the optional laws. Laws also need to be drafted as a deterrent. That is, the words "prohibited", "punished", "considered a violation", etc. should be used in the law. It is also necessary to specify in the law, guaranteeing the administrative implementation of the law and the criminal dimensions of the violation resulting from

non-implementation of the law. This prevents the arbitrary actions of administrative officials and this shortcoming will be eliminated to a large extent in the administrative law system of the country. Therefore, the existence of effective and accurate enforcement guarantees to guarantee the rights of the people is very important in this chapter of the law.

6. Another Pathology disadvantage is lack of attention to administrative principles and rules and the rights of individuals in drafting the law. For instance, in the performed interview, it is stated: "One of the most inalienable rights of the people is that administrative affairs should not be stopped or closed under the influence of human factors, and the existence of any kind of interruption and for any reason in the country's administrations causes a kind of distrust and dissatisfaction in the society." Also in another interview it is mentioned: "... It should be said that one of the inalienable rights of people who refer to the office is to ensure accountability and provide administrative services continuously during the week and any absence of administrative staff on site work and service for various reasons, including illness, leave, mission, etc., is inconsistent with the provision of services in the office, which despite the continuation of the provision of administrative services will be a step towards protecting the rights of the people. In cases such as leave, administrative mission, illness, travel and death of an administrative official or staff, as well as holding necessary administrative meetings, an arrangement should be made by the highest administrative official so as not to interrupt the administrative affairs." This can be done on a case-by-case basis, such as anticipating a successor or delegating authority. It is pointed out that the above cases are in accordance with the "principle of continuity of public services" considered in the laws and rulings of the Court of Administrative Justice of Iran.

7- Not mentioning the appropriate authorities for protest: One of the issues that has been neglected in the law is not mentioning the appropriate authorities for citizens to protest. In this regard, the legislator should have indicated where the clients can go to complain if there is any complain.

8 - Incomplete modeling of other parallel laws to formulate the law: for instance, in the third chapter of the constitution (Constitution of the Islamic Republic of Iran, 1979) and in several clauses of the policies

of the administrative system and in the resolution "Citizenship rights in the administrative system" (Iran Cabinet of Ministers, 2017), approved by the supreme administrative council on 2017/03/18, some provisions of the third chapter are referred to as "people's right; Such as: "Principle 19, Principle Twenty-eight, Principle Twenty-nine, Principle 34, Principle Forty-six, Principle Forty-seven, Constitution " The sentence: "Paragraphs 14, 15, 16, 17, 18, 19, 23, etc." (Constitution of the Islamic Republic of Iran, 1979). In most interviews, it is stated that this chapter is an incomplete interpretation of these rules.

9. Pursuant to Article 28, the government is obliged to ensure the rights of the people and its clients. Consider people's satisfaction and dissatisfaction with employees' performance in promoting, appointing and renewing employment contracts and benefiting from other employment privileges and applying incentives and punishments. And consider all by-laws, procedures, administrative and employment regulations related to government employees as an effective factor. As can be seen, the last sentence of this article does not have a meaning in terms of form, nor can it conceptually address the issue of people's satisfaction or dissatisfaction in all by-laws, procedures, administrative-employment rules related to employees in consider.

10. Employment of individuals in the form of fixed and hourly employment contracts as one of the types of employment of human resources in the executive apparatus has been proposed in the form of a note to Article (32) of the CSML. An approach that is currently mentioned as one of the challenges of the country's administrative system (Kaviani, Ghofrani, 2021). However, in the chapter on people's rights, there is no mention of how the people's rights are observed by the hourly employees and the employment contract.

Table 1 shows a sample of the selected codes resulting from the interviews conducted. Accordingly, the identified disadvantages (shortcomings) in chapter 3 of the CSML are as follow:

Based on the research findings and identified Pathologies, the following can be discussed in the chapter on people's rights:

- In the constitution and the general policies of the system, there are different sections dealing with different instances of the rights of the nation. However, in this chapter, several sections of the third chapter of the Constitution of the Islamic Republic

of Iran, which is dedicated to the issue of the rights of the nation, such as "paragraph 10" of the third principle of the Constitution, which "considers one of the duties of the system to establish a proper administrative system has been neglected. In addition, when the constitution mentions the establishment of a proper administrative system, it also includes all the components of the administrative system that the CSML seeks to organize, however, in this chapter, none of the dimensions and principles of administrative justice are mentioned. Including "The principle of being heard right", "Principle of the need to provide reasons and documentation of administrative decisions" "Principle of continuity of administrative services", "Principle of access to administrative information

- One of the weaknesses of the administrative system of the country is the existence of various interruptions in the provision of administrative services to the clients, which in addition to causing delays and disruptions in the administrative service system, it can cause their rights to be violated and citizens to be dissatisfied with the way organizations are run. Even such delays may in some cases cause damage to persons referring to the administrative apparatus. From this point of view, it seems necessary to clarify the law on the continuation of administrative services during office hours and to prohibit the cessation of services to clients;

- In this chapter, the contents are stated in general and only a series of charters, statements and slogans are included in this chapter;

- Regarding the identified deficiencies related to the failure to determine appropriate penalties and its inclusion in the law, it was stated in the interview: "Mentioning the imposition of punishments explicitly in the law, as well as specifying the guarantee of administrative and criminal enforcement of violations, etc., prevents the arbitrary actions of administrative officials and eliminates the deficiencies of non-implementation of laws to a large extent in the administrative law system";

- One of the important issues that the CSML, as the main law in the administrative law system of the country, is expected to pay attention to in the chapter on the rights of people, emphasis is on the need for the administration to be accountable to the citizens. This response must be such that it can be relied upon there may also be the possibility of judicial oversight

Table 1: Key points obtained from open-axial and selective coding by MAXQDA quality software for the third chapter of the law

<b>Content Disadvantages Chapter 3 ( People's Rights )</b>	
<b>Content deficiencies of Chapter III of the law</b>	<b>Lack of attention to the needs of society</b>
	<b>Efficiency</b>
	<b>Provider of public benefit</b>
	<b>Compliance with ethics</b>
	<b>Focusing on justice</b>

or hierarchical oversight in the future;

- The CSML does not consider the principle of accountability to the client. Also, no legal article can be found that explicitly refers to this principle and obliges administrative employees to follow that principle in responding to the client;

- In this law, only the word accountability is used in Article 27, Article 96 and Article 114 (in the definition of the powers of the “Supreme Administrative Council

and the Council for the Development of Management and Human Capital”). But nowhere in the law is the word accountability defined or there is no talk of how to respond to people. Also, in case of non-response for reasons such as: “Attending meetings of officials, leave, mission, illness, travel, etc.” measures are not considered in the law and relevant instructions. In this regard, it is necessary for the highest administrative official to make arrangements so as not to interrupt the

administrative affairs This can be done following the assignment of all contract forces, contractors, specific employment contracts, etc., as the case may be, by means such as providing a successor or delegating authority; (Majlis Research Center of Iran, 1400)

- One of the identified Pathologies is “not specifying the need for written notification of all administrative decisions in the executive apparatus” and “providing legal documents” in the text of the law in order to protect the rights of the people. In this regard, it is necessary for the legislature to oblige the executive bodies in cases where they make a decision regarding the citizens or respond to the citizens’ requests; Legal documents, the reasons for the decision, whether it is final or objectionable, and the authority to object to the decision in writing and clearly to the interested person. In case of non-observance of the law by the executors and the complaint of the beneficiary, it is necessary to specify the type of punishment in the law;

- In order to protect the rights of the people in the third chapter, it is necessary for all executive organizations to be obliged; Article (608) of the Islamic Penal Code, which is related to the right of citizens to complain about the behavior and insulting words of employees towards them, should be exposed to the clients. Violators of the law should be sentenced to one of the usual punishments in the Executive agencies;

- In order to increase the effectiveness of the law, Articles 26 and 27 refer to raising the level of public awareness of their rights and duties in executive organizations through the public media. However, in this article of the law, the legislator has only mentioned information through radio and television. In this regard, in order to be able to respond to the people, it is necessary to clarify and explain the administrative steps and schedule these steps in organizations. Also, the need to publish information related to the steps, time, quality and standard of providing services and their changes and providing this information to the public through the site of the organization and appropriate information software, should be emphasized in order to be transparent;

- In order to amend the provisions of Article 27, which states that “ people have equal rights to use the services of the executive apparatus on equal terms” It is administrative, to be defined in the first chapter with the theme that the word “equality” in

the word has various meanings, the most obvious of which are “Equal” and “Justice”. It is the duty of legislators to eliminate any discrimination, whether racial, religious, political, etc. The issue of equality should not be mentioned in just one sentence and in one chapter, and the spirit of equality should rule the law. In order to guarantee its implementation, the legislator must explicitly determine the punishment for violating it;

- It is necessary for the legislator in this chapter of the law to use mandatory laws instead of optional laws and also formulate laws as a deterrent. That is, the words "is forbidden", "is punished", etc. should be used. In addition, in order to prevent offenders from violating the law, it is necessary to determine the type of punishment.

Elimination of content Pathologies identified in the chapter on people's rights, including: "Lack of attention to the needs of society, lack of law enforcement trustee, lack of trustee for public awareness to the public, failure to determine the mechanism for accountability to citizens, failure to determine And specifying to the bodies supervising the implementation of the chapter on the rights of the people, suffice to state the generalities in the provisions of the law and not to express the law in a common language between the users and the legislator. It can increase the quality of the law. It also causes the law to have transversal features such as: "responding to the needs of society", "efficiency and realization of the goals set for the law, including" raising the level of awareness of the people about their legal rights in referring to the executive apparatus "and" creating a system " Accountability of government employees to the people within the framework of administrative and employment laws "and" morality and fairness of the law "and be recognized as a useful law for citizens and increase citizen satisfaction. Because if a rule does not have transversal features, it may be called a "law," but it may not be able to persuade citizens or executors to enforce it. Therefore, a law that does not have the mentioned characteristics will not be able to protect civil rights such as "duties and responsibilities of citizens towards each other, duties and responsibilities of citizens towards the city and the ruling forces, duties of the government towards citizens and people". Therefore, in order to increase the quality of the law and protect the rights of the people in the quality of public administration, it is

necessary to eliminate the shortcomings identified in this study. It should be noted that the method and model considered in this study (considering the transverse features of the law to measure the quality of laws), can be considered in other laws and public policies, including urban management laws.

## CONCLUSION

Law and legislation is one of the most important fundamental issues of any society. Because the law determines the framework for a society to move towards its goals. In other words, each society makes laws in accordance with its goals. In this regard, one of the most important issues in law and legislation is the quality of law. Examining the quality and functions of the law can be very helpful in understanding the law. In other words, it can be said that the law must perform a number of tasks and meet a series of needs. Identifying these duties and needs will be the basis for judging the law and, in a sense, the criterion for distinguishing it from other adjacent or similar rules. On the other hand, the characteristics of the law represent the various functions of the law. A series of these features are known as transverse features of the law. The transverse features of the law are those features that, if a rule lacks it, it might be called a law, but it cannot convince citizens and persuade to enforce the law. As a result, in practice no one will follow it. In other words, all enacted laws must have transverse features of the law in order to be recognized as a quality law. These characteristics are: "Responding to the needs of society, reflecting the opinion of the majority, serving the public interest, complying with ethics, focusing on justice, continuity, efficiency of law. It is therefore necessary, all laws, especially the laws of urban management that govern the city and its citizens Be written to match these features to be able to achieve the main goals for which they are intended. Because if the law cannot fulfill its function and purpose; At least, a bad law, and at most, one problem will be in addition to the other problems of a lawless society. While the presence of these features in the law causes the law to have an inner respect and the citizens as subjects of the law to follow it with peace of mind.

## Suggestions

According to the research findings, it is suggested, in drafting laws, especially city laws, to ensure the

fulfillment of the following:

- Codification of the law according to the real needs of the society and its usefulness for the people;
- Lack of use of general words, incomprehensible and with the possibility of different interpretations in the law;
- Expressing the law in a common language between users and legislators;
- Ensuring that there are no multiple rules on a subject;
- In the CSML, only some aspects of people's rights are considered, and this law is not comprehensive on people's rights alone;
- Explicitly refer to the administrative enforcement guarantee in the law; to achieve this, it is necessary to use the words "command" instead of "optional" in the law. Including: the use of restrictive words such as "prohibited", "considered a violation", etc.;
- The need to determine the criminal dimensions of violations resulting from non-implementation of the law;
- Paying attention to the scientific foundations of administrative principles and rules in drafting the law;
- Mention appropriate authorities for protest (in case of violation);
- It is necessary to specify in the law, the organizations in charge of law enforcement and the organizations that provide public information about the law to the people;
- Laws need to be formulated in such a way that the principle of "continuity of public services" is observed and the accountability and provision of administrative services is ensured continuously during the week. In other words, administrative affairs should not be stopped or closed under the influence of human factors;
- Consider appropriate mechanisms for people to access information, documents and circulars in offices.

## AUTHOR CONTRIBUTIONS

Z. Farasat reviewed the literature, collected, analyzed, and interpreted the data. A. Amirkabiri, in charge of correspondence, reviewed the results and the text editing. R. Najafbagy was responsible for reviewing the literature and interpreting the data.

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### CONFLICT OF INTEREST

The authors of this article do not declare any conflict of interest with the publication of this article. Various ethical issues such as plagiarism, fabrication, data forgery, informed consent, duplication, submission and redundancy have been controlled.

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### ABBREVIATIONS

CSML	Civil Service Management Law
MRC OF Iran	Majlis Research Center of Islamic Republic of Iran

### REFERENCES

Ansell, C., Sørensen, E.; Torfing, J., (2017). Improving policy implementation through collaborative policymaking. *Policy Polit.*, 45(3): 467-486 (20 pages).  
Aitken, V.E., (2013). An exposition of legislative quality and its

relevance for effective development.  
Alizadeh, F., (2014). Procedural Justice Article. Baqerul uloom research institute. Pajhohe Encyclopedia Publication. (In Persian)  
Civil Service Management Law, (2007). According to the resolutions of the Islamic Consultative Assembly, visible in the national information base of laws and regulations of the country. (In Persian)  
Civil Service Management Law, (2017). According to the resolutions of the Islamic Consultative Assembly. (In Persian)  
Creswell, J.W.; Miller, D.L., (2000). Determining validity in qualitative inquiry. *Theory into practice*, 39(3): 124-130 (7 pages).  
Chourabi, H.; Nam, T.; Walker, S.; Gil-Garcia, J.R.; Mellouli, S.; Nahon, K.; Pardo, T.A.; Scholl, H.J., (2012). Understanding smart cities: An integrative framework. In 2012 45th Hawaii international conference on system sciences, 2289-2297 (9 Pages). IEEE. (In Persian)  
Constitution of the Islamic Republic of Iran, (1979). Chapter Three: The Rights of the Nation Articles 19 to 42. (In Persian)  
Danesh fard, K., (2016). General policy-making process. Safar Publication. (408 pages). (In Persian)  
Dworkin, R., Rasekh, M., (2002). Civil Disobedience, *Kian*, (2000), 51: 26-34 (29 pages).  
Dworkin, R., (2013). Taking rights seriously. A&C Black.  
Darvishvand, A.; Hosseini pour ardakani, S.M.; Bahadori jahromi, A.; Ghotbi, M.; Hakim javadi, A.; Collaborators: Rostami, V.; Nejabatkhah, M.; Barzegar khosravi, M.; Yousefi, T.; Hadi Raji, S. M.; Dashti, A.; Kangarani farahani, M. A.; Khanalipour vajargah, S.; Azimi, S.M.; (2018). Law Studies Office of the Majlis Research Center of Islamic Republic of Iran, about: "Bill to amend and make the Civil Service Management Law permanent", Chapter 3 - People's Rights. (In Persian)  
Francis, J.R., (2004). What do we know about audit quality? *The British accounting review*, 36(4): 345-368 (24 pages).  
Gholipour, R.; Gholampour ahangar, E., (2007). Public Policy Process in Iran. Mahkam Publications. (In Persian)  
Haghighi, Aminabadi, R., (2019). Review of the implementation of Chapter 10 of the Civil Service Management Law in Education. *Q. J. Admin. Law*, 7(20): 37-66 (30 pages). (In Persian)  
Hajipour, I.; Forouzandeh dehkordi, L.; Danaei Fard, H.; Fani, A. A., (2015). Designing a pathological model of public policy implementation in Iran. 58: *Milit. Manage.* (In Persian)  
Hosseinzadeh, N.; Shirazi, G.H.; Ghasemzadeh, S.M.; Talab, H.L., (2015). Evaluating the performance of the municipality and the council, in the framework of good urban governance (Case study: Golestan town). *The current world environment*, 10 (special issue): (p. 11123). (In Persian)  
Hardoy, J.E.; Satterthwaite, D., (2014). *Squatter citizen: life in the urban third world*. Routledge.  
Hendriks, F., (2014). Understanding good urban governance: Essentials, shifts, and values. *Urban Affairs Rev.*, 50(4): 553-576 (24 pages).  
Hobbes, T.; Bashrieh, H., (2002). *Leviathan*, edited and introduced by CB McPherson, Ney Publishing  
Iran Cabinet of Ministers, (2017). Resolution of the Supreme Administrative Council regarding the Charter of Citizenship Rights dated 2017/03/18  
Jajarmizadeh, M., (2014). Majlis Research Center of Islamic Republic

- of Iran, critique of civil service management law, Office of Public Finance Studies and Management Development. (In Persian)
- Katozian, N., (2019). Philosophy of Law. Ganje Danesh Publication. (734 pages). (In Persian)
- Katozian, N., (2016). Collection of articles A step towards justice II. Mizan Publication, (624 pages). (In Persian)
- Kaviani, H.; Ghofrani, F., (2021). Analysis of dimensions of manpower recruitment in executive bodies, subject to the Note of Article (32) of the Civil Service Management Law, Majlis Research Center of Islamic Republic of Iran. (In Persian)
- Lotfi, H.; Adalatkah, F.; Mirzaei, M.; Wazirpour, S., (2009). Urban Management and its position in promoting citizens' rights. J. New Attitude Hum. Geog. (In Persian)
- Lorabi, I., (2020). Urban management and its position in promoting the rights of citizens of Tar Nama South cultural news site. (In Persian)
- Luhmann, N.; Albrow, M., (2013). A sociological theory of law. Routledge.
- Maliki, M. R.; Faqih, A. H.; Mirsepasi, N.; (1400). Designing a Compensation Model for Employee Service in the Public Sector of Iran, Majlis & Rahbord, 28(106). (In Persian)
- Mortazavi, M.; Forouzandeh dehkordi, L.; Zarehpour nasirabadi, F., (2012). Evaluation and prioritization of obstacles to the implementation of the Civil Service Management Law. J. Managers, 16(1): (148 pages). (In Persian)
- Majlis Research Center of Islamic Republic of Iran, (2007). Achievements of the Civil Service Management Law, Publisher: Islamic Consultative Assembly Research Center Publication, 1<sup>st</sup>. Issue: 250 Print copies: Negaran Shahr. (In Persian)
- Najafbagy, R., (2018). New Public Management and Public Management Sector in Iran, Mehraban Publications. (In Persian)
- Rasekh, M., (2002). Right and expediency, Tehran: Tarh -No Publications, 1<sup>st</sup> Edition, 133-139 (7 pages). (In Persian)
- Rasekh, M., (2006). Intrinsic and transversal dimensions of law, J. Majlis and Rahbord, 51: 13-40 (28 pages). (In Persian)
- Roweis, S.T., (2018). Urban planning in early and late capitalist societies: outline of a theoretical perspective. Urbanization and urban plan. capitalist Soc., 159-177(19 pages). Routledge.
- Raz, J.; (1979). The Rule of Law and Its Virtue, Law Quarterly Review 93: 195-211 (17 pages), Published to Oxford Scholarship Online: March 2012.
- Raz, J.; (1995). Rights and Politics.
- Schuck, P.H., (2000). The limits of law: essays on democratic governance, Colorado: Westview.
- Stockhammer, M. (ed.), (2007). Plato Dictionary, New York: Philosophical Library, 1963. Quoted from Rasekh.
- Tehrani, M.; Maliki, M.R; Ghofrani, F., (2014). Civil Service Management Law, Principles and Proposed Strategies Majlis & Rahbord, 21(79): 212-185 (28 pages). (In Persian)
- Turley, S.; Zaman, M., (2007). Audit committee effectiveness: informal processes and behavioral effects. Account. Audit. Accountability J.
- Vakilian, H.; Markaz malmiri, A.; (2016). Introduction to the philosophy of legislation: in an Effort to improve the quality of law. J. Public Law Res., No. 51. (In Persian)
- Varasteh baz qaleh, M.; Faqih Iarjani, F., (2015). Civil service management law in the current legal order, Tehran: Majd Scientific and Cultural Association Publication. (In Persian)

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