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# The Legal Gaps in Contemporary Iran

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## Abstract

Generally talking people remember the political sociology as legal gaps by discriminating borders between social powers for the main principal and goals of legal systems which can make social and political and legal groups. This social-legal phenomenon which is mainly being analyzed in legal-based research studies has been in contemporary history of Iran. So that, one can say main legal gaps in conditional era is a gap which can be called necessity or unnecessity of law government, and in First Pahlavi Era, this gap, the clash between government meaning and the rule has been in the meaning of policy and law. At the time of Mohammad Reza Shah being in office, the main gap was the gap between the believers of constitutional law with two conservative and reformist approaches and the opponents of constitutional law, after Islamic revolution the gap between Islamists and mystics turned to a legal gap. It has been created also a similar gap to that of Pahlavi's in recent years in the subject of constitutional law.

## Key words

Legal Based Research, Legal Gaps, Political Sociology, Constitutional Period, Pahlavi's Era.

## 1 INTRODUCTION

Legal based research is one of the neglected study fields in legal-political thought era in Iran, it's a matter that undoubtedly brings inattention of power Lords and the intelligentsia to the political sociology as a mass form of such studies.

According to this, in current article, we are following the answer to the basic question, whether the gap implications as the most important subject of legal-based research is compliance with legal condition of Iran? If yes, how does it analyze and specify the main legal gap in contemporary history of Iran? In this regard after defining the legal gap implication and clarifying the analytical position of that, we do the descriptive analysis of it in the legal structure of Iran.

The hypothesis of this article is included of the fact that the mentioned phenomenon has been in the legal contemporary history of Iran and even had had many effects on the attitude of people, politicians and jurists on legal and inter-national and internal text, especially the constitutional law and main contemporary political and social behaviors of people and government. These gaps can be detected and has had different features by special conditions.

## 2 LEGAL BASED RESEARCH POSITION AND IMPLICATION

Regarding the legal –based analysis is one of the principal study fields in political sociology and also the distance between two matters, constitutional law and policy, detecting the legal gaps in contemporary Iran is impossible without getting familiar with sociology. Political sociology is rather a new branch of humanistic science which is the combination of two fields of study, political force and governmental one in one hand and on the other hand seeks the one between socialforce and society is going to clarify the behavioral positions and political structure by economical, cultural and social factors.

Legal-based research policy is a constructed term which is generally being used for describing political groups in countries without any powerful party. However in western societies legal –based analysis is application, in order to have a wide view on parties 'positions and their relationships in Iran society which hasn't any powerful and effective party.

Of course in order to present a general and meticulous analysis for Legal-based research of a society, it shouldn't merely be referred to political events, because the cultural, historical, religious and social and even generational gaps are effective in understanding these matters and even in some implications one can construct study fields for cultural, religious and social gaps in a society. It's not meant that Legal-based research is based on the existence of social gaps. In this regard we have classified Legal-based research under political and legal one, and located the legal gap understanding on this subject. It's worth-mentioning analysis of present gaps in private, punishment and international law in society. In result its analysis is not analyzed here in this research. Because, firstly the meticulous analysis of that is out of mood here and secondly, it seems legal gaps which we will keep analyzing later can somehow be generalized to territory of these branches of law so this phenomenon makes clear the effect of Legal-based research on mentioned knowledge.

The goal of legal-based research in this study is capturing the principal social and mind- based matters

happening in scientific and social atmosphere of a society effecting on social and abstract elements of a society and or get some effects by them. The detection of these activities and the attitudes of these matters and the portion present among them is of the most important subjects of these studies.

### **3 IMPLICATION AND THE POSITION OF LEGAL GAPS**

Political sociology of Iran shows because of maximum presence of policy in all traits of society, Legal-based research of Iran should be evaluated by political matters, so for analyzing the most important legal gaps in Iran, they should be applied but before that to make the application obvious, it should be known what's meant by the research?

Social gaps depend on the criteria and the border that divide different social groups or enroll them to conflict with themselves (Khasheiee, 2007, 8). In the other word social gaps demonstrate the demonstrating and middling lines for believes, benefits, and targeting and responding different active or effective groups in society and it may challenge different groups variously against each other. In this condition political gaps show different versions of policy and challenges present in various type of lives. By this definition, the non-political parts like tribalism, sex, rank, and also beside policy can be both political gap position and be deemed as a result of political gap.(Davudi, 2006, 24). Therefore, this legal gap can be counted discrimination line between social forces for goals, priorities and main principals of a law system in society which can create the discrepancy of ideas and or even the social conflicts, in the other meaning when a subject becomes the milestones of political-social dilemmas, especially in constitutional law, somehow causes population division and shrink and also stability in groups and thought, social and even political trends necessitate legal gaps.

Legal gaps can be the outcome of a social condition like legal gap among the fan of slaveholding and opponents of them in 18th century of America that was affected by the two sides of constitutional law and also special condition of historical-social of the region so that the gap raises demolishing war as the most criminal kind of social conflicts and or as Martin Luther King's reformist party as the most conciliatory shape and friendly conflicts in the next upcoming years, at last ended up to reform of America's law to the benefits of negroes, so that filling the mentioned gap legally and socially.

Therefore legal gaps can be divided to two types, active and inactive groups, so if the definition of the gaps be diverted from social gaps to legal gaps, legal ones are the gaps division of groups, trends, and legal ones are the gaps division of groups, trends and legal and social forces are resulted by them and so by them legal-social grouping are clearly done. The hidden and inactive gaps are the ones in the condition of society are not obviously sensitive and group; trend and forces divisions are not based on them but are dependent on the historical level of society, the change of them from inactive to active and effective on social and political scenes and even in the legal condition will be escalated. (Darabi, 2011, 65- 66. Dalir Pour, 52).

As an example there's illegal right for women driving and or having upper ranked managerial jobs presenting in the most Arabian countries. Until last years, despite the group tender of literate and civilized women in these societies there only be one inactive gap but together with political and social changes in structure and body of these societies, these gap turned to active from their inactivity.

### **4 IMPLICATIONAL LEGAL CHANGE AND ITS EFFECT ON LEGAL GAP IMPLICATION**

In spite of the history law has made in human social and political phenomenon and even according to the sentence of civilization history says civilization history is history of law in every civilization and the familiarity with historical civilization depends on law history (katuzian,2009,81. ghazi,2009,30) one should say the meaning of law has got a great modern meaning due to social and cultural conditions in the new times, so that their border beyond law and encompassed the process of organizations and legal systems and accompany with humanistic quality development turned out as academic technique, teachable and academic. Because of this the meaning of knowledge became heavier and more complex. By the words mentioned, if we can't say all of modern products and thought development, we would say to a large amount if follow it.

So, at first step, The implication of law in new time has got change and divergence together with thought and humanistic science by one reason and on the other hand relation of government and nation.

Therefore, it's getting obvious that legal gaps makes meaning in the modern and new implication from law and basically due to main and special position of law in contemporary era, that gets new meaning, so it can't be used for analyzing pre- Renaissance and intellectual time. Generally middle-ages had used that before. Because law not only wasn't from social-cultural relations but also it was a stand to enhance political organizations of authorities and on the other hand that deemed a fluctuating and fragile process that whenever authorities touched it intrusive preferred not to follow it and disobeyed.

Only after human negotiation which in that principle of human application was replace to human life and constitutional law gave a suitable stand to nation's freedom and right and people's liberty got raised. Right

became principal claims of different political and social and legal groups (dabagh,2008,629) or the legal gaps means by the type of result and the wants and the group thought and social forces have withdrawn as the milestone and principal organization of it.

## **5 LEGAL GAP IN CONTEMPORARY HISTORY OF IRAN.**

### **5.1 From constitutional revolution to the end of Pahlavi.**

By the reason that law has had an ancient background in Iran, in the century it can be designed an implicational process and change for subject of law by tolerance and wisdom. Because this century is surrounded by different west thought, that reconstructed this implication, and because of political and social and legal factors presence there has been created a lot of gaps in legal field. Constitutional revolution had been the harbinger of such legal change which basically rooted in an ancient legal gap between government and nation.

A nation having a legal organization so called "house of just" and later, that called "Majlis" by the broad-minded and intelligentsia for the reason of launching just and limiting abstract power of king and managing security and arrangement and the government hadn't any right for the laity to have such property but after constitutional revolution victory the outcome of such claims was for people and intelligentsia in Naseri and Mozafari. At least that informally put an end to this gap in order to create a law government to the dream of all people (katuzian, 2011, 179-180). The dream that has been existed and its stability has been legal for the sake of Majlis formation and constitutional law stability and after revolution has put the main structure of law in all government arrangements and its full performance beside religion was symptom of its realization, The reason which undoubtedly rooted in chaos after revolution in the country.

So, the first legal gaps in Iran, unluckily has been existed not only theoretical and stable but also, at least pragmatically and in really, after revolution between constitutionalists and loyalists who basically deemed the law designation by people banned and illegal and counted constitutional law mean and dammed order which wanted to turn down the nation equality against law, power sharing and press freedom. (To get more information from other's mind like Sheykh Fazlollah Nouri: Hashemi, 2009, 12-13). There has been removed such constitutional claims leadership of nation in constitutional law and human right in law, the gap gradually formed by defining and nourishing ways of Mirzanahini and Mostashar-e Dole in the book "one word" and by some removing ways, as the Norwegian researcher Steve Rookan talks from freezing and activeness of gaps not their full death, it deemed the gap an impassable conflict and rosen from body of society.

Such a point about the legal gap exists to fill this gap, the political community, provided the space establishment of the rule of Reza Shah because opinion of many people and Iranian intellectual elit he would have an imposing the establishment of the security of the county, however, his posturing dictatorship led many to conclude that the rule of law alone cannot guarantee the values of justice and freedom; that the gap between the first and second Pahlavi era in Iran's constitutional rights were among those who still believe in the rule of law, regardless of the content and quality, and put of the clergy and the conservative government mainly nationalist intellectual, people such as Mohammad Ali Foroughi And Ali Akbar Darar and Aref Ghazvini and... And social forces that made the first Pahlavi era and technocrats were in the range and those based on the rule of law means the law of democracy, justice and democratic defended and tried to go beyond the concept of the rule of mechanical and physical and have an understanding of its content. Persons such as Modares and Mosadegh and later leftist but much more egalitarian socialist concept of law emphasized National, and later some Islamic groups advocating the rights of such a concept. However, due to poverty and disregard legal literature in this field, any natural or legal persons that we have mentioned explicitly in such models have not said anything and basically legal theorist in the field of law was very poor, but according to political behavior and histological spectrum social classification in general, and of course they can tolerate and can done such an analysis of the Existing legal gaps presented.

But from 28 August onwards, other legal gaps, the gaps were added. Political division in the breach than anything it was feeding time. Following the escalation of political tyranny and rigid environment in the middle and final year of the reign of Mohammad Reza Shah, certain political divided between the social forces in the field to maintain or change social forces in the field to maintain or change the political system came into being, so that both the conservative movement and the upper strata of society royalists and non-political part of the clergy refused to recognize any attempt to change and maintain the status quo and made political stability another part of the necessary change and social forces ranging from minor reformers such as the National Front and the movement for freedom and some leftist groups believed the as general or structural that they be represented a radical revolutionaries believe. This gap in return also leads to a legal gap, because political conservative to justify their behavior to segments of the constitution constitutional rights to the throne. Any attempt to change the law violations, the constitution would be revised if the say reformers were seeking the rights contained in chapter of the constitution and the rights of people pointed to Motamom (complement) constitution and also principle of the sovereignty of nations such as the right to participate

and maintain legislation and tax matters and..... it was over and they cite the revolutionaries were essentially made it illegal to knowingly Shah after the coup and called a treat him and knew actions justifying any sudden change. Therefore, though reformers tried to change the status quo and oppose consolidation to improve the situation, this has led to the inflexibility of the Bazargan's political opponent in court that their last king, spoken language constitution. Trying positions such as Dr. Ali Amini and also Shapour Bakhtiar can also be placed in the same range, but due to lack of coordination and cooperation with the reformist opposition failed.

Thus, the method of political change can also be legal gap between the reformist and revolutionary observed, so that the form emphasizing the constitution and the Legal system an attempt to slow change of ventricular and the letter as of denying the right to change the constitution renounce any amendments and sudden change of the status quo would welcome and creation of a new legal order, based on the value of a new invites, led by an executive order, considering the primarily religious figure will necessarily be based on Islamic values, something like a secular leftist revolutionaries, with appropriate legal models (Including people's Fedayeen, the Maoists and political parties such as Komleh, etc.) and even Islamic parties of socialist such as militia conflict occurs and a new legal gap after the fall of the shah of Iran's Islamic revolution and the revolutionary faction marks. It will not take much of the legal gaps and does not resonate, because none of the leftist and Nationalist groups represent the majority of people are not religious spectrum revolutionary Almands of the new government pay attention to them, but gap also despite go being out of the mainstream debate, missing and social prostrations of middle-class social and political process of the count this floor also has spread to parts of the dominant discourse of the legal sector becomes more modern and younger category later in detail, in this legal gap will be discussed.

## 5.2 Legal Gaps between Islamist and Non-Islamist Revolution Range

This first signs of the legal divided between believers of Islamic ideology and its opponents in terms of the type of the new regime became apparent, the challenges pre-constitution of the press and media in Esfand 1359 and was reflected in Farvardin 1368. Thigh which a current of thaght advocated a democratic republic and with kind of incorporation between Islamic and democracy (Islamic Republic) As it was defined desirable new political system for example, Hassan Nazyh (member of Freedom Movement find president of the for Association) during an interview with the Keyhan newspaper said: As the Islamic Republic of Iran may be enough and constraint is not necessary because the constitution included an Islamic philosophy)

(Fuzi, 1388, page 39), in contrast Gulpayegani and Ayatollah Khoi in a view of traditional Islam, the religion of the majority of people agree with the law knew euequies necessary and they supported the Islamic Republic of Iran (the same, 1358, quoting the same, on page 140), And those of the Islamic Revolution Aya-tollah Khomeini and his students, Islamic Republic of military means, to rely on public opinion which they advocated with Islamic law (the same, 137. khomeini,1999,144)

The deal, which was originated from the legal gap in negotiations, intensified constitution, especially the mainstream the Assembly of clergymen experts and religious figures basically looking naturally Crystallized Islamic jurisprudence, as the closet part of the law were in the constitution. And the fourth, fifth and twelfth realized expressly for this purpose. This concerned statement in this implication is visible. If the constitution is not fully developed in accordant with law and the government's reliance on the question of Imamato, guardianship law is not clear and the government will be on earth (the same, 143), or in constitutional law draft what is not Islam. Bakhtiyar had called for such a constitution, which means that, the republic instead of monarchy (Khatami, 1358, 1-2) or we have set constitutional law and the fundamental Islamic state under Islamic (fuzi, 144).

In contrast, the minority of the assembly of experts impressed that this type of legislative is not shining. The slogans of liberty, equality, democracy and secular government and most important principles of Islamic adherent and called despotism, so that in the statement, Hassan MoghadamMaraghe'i and AbolhassanBani Sadr are clearly seen: " Islam is eternal, everlasting and cleaning and if we did not serve to bring the principles of the constitution, the principle of Islam is strong (the same). "If it is supposed to give the supreme prerogative of the right wing party and free speech is free and the constitution is not required. (The same)

Legal gaps remain between the two actions during this stage, and the secular, liberal action against the Islamic legal action do entrenchment. Such as the law against certain religious prohibitions against forced relying of women and the implementation of Islamic religions in the form of the retaliation bill that had been Authorized, Even to the stage of inviting people to massive against that, which went in Khordad 1360.( fuzi,299 ).

New point which seen in this gap, the presence of massive bodies such as Association of lawyers and legal... and lawyers like Naser Katuziyan, doctor Jafar langroudi, Hassan Habibi and ... in the both spectrum, but more to the benefit of secular, Note that due to the formation of gaps in the legal community. Lawyer and legal institution in the country didn't see and the gaps mainly in the form of practical and professional reduced in community. Intellectual movement Try that generally needs to comply with the constitution and

human right norms west has stressed.

However, it wasn't remain inconclusive and sovereignty while could not claim over a part of the community generally rich and middle-class intellectual and scientific elite, remain oblivious, some provisions of the universal declaration of human rights, the constitution should be used. Among these are the principles of the prohibition of torture (principle 35)

That principle 5 of that Declaration, the protection of privacy mentioned in principle 25 and principle 12 of the Declaration, the prohibition of arbitrary detention (principle 32) that principle 9 of the declaration and the right to housing in principle 25 of the universal declaration of Human rights which are similar to those, named (Rezaei, 2010, 100)

However for the non-duplication of effort constitution of the slogan (not east, not west) way inspired revolution, as well as the constraints imposed by the structure of the Iranian government and were due to the Iranian cultural basis.

Sufficient cause and violation of the resolution and its flexibility has made it, so that, for example, principle 26 and 27 on freedom of association and formation of parties and parades were dedicated. With the announcement requirement under Islamic, while largely was placed. (The same, 101).

Legal gap in the coming centuries were provided which will continued, but before then, refers to a feature of a legal system based on Islamic ideology in Iran after the revolution came and understanding are seemed to be essential to its roots and foundation.

### **5.3 Discourses of Islamic Ideology and Constitution of Islamic Ideology**

After the victory of revolutionary wing of Pahlavi regime, the main body of its own sovereignty largely influenced by Islamic ideology. Ideology which it was accepted by all revolutionary Muslims, original rule politics were new and all programs are based on political, social, economical law. But the point was here, and there wasn't a similar understanding of the concept and the number of people who had discovered this discourse, there was a story and reading. Interestingly although significant concept and epistemological root of the ideology of Iran's Islamic revolutionary intellectuals such as Al-E Ahmad and Shariati and Motahari raised and made it a modern discourse in the twentieth century (Amir Ahmadi, 2006, 24).

Jalal Al-E Ahmad as the first architect of this theory, with a profound experience of western secular ideology fundamental problems which addressed in "westernization" and frame work of Marxist ideology alien to the party led away from his official relying on the revolutionary aspects such as Ashura and revolution of Mahdi, Islamic ideology was introduced the most appropriate way for the political mobilization and look at the tools alienated religion, revolution and social work which foreign to Islam (Ale Ahmad, 2008, 47-49), but while he thought that would stand up against the Islamic ideology. Doctor Shariati who defines the most prominent proponent of this concept, as it's a school of rationality and science and pragmatic guidance role for it as a distinguishing movement of doctrine (Amir Ahmadi, 32, Mohammadi, 132, 15). Thus like all social-political Islam, as an ideology gave all the resources and original communal religious symbols used in this context, in contrast, however, Morteza Motahari gave the legitimacy thought to Islam. He takes a series of Islamic ideology into the arena of Islamic jurisprudence and philosophy and claimed that nothing is less than Sharia, Islamic ideology. He is the one who knew the conflict with Marxists basic his task in the field of religious studies, treated Islamic ideology as a human phenomenon affected the human nature and it reflects the natural history and human and in point of Quran is useful and protective (the same, 34).

However this implication by missionary organizations such as the Hosseiniye'eErshad, mosque, university and religious schools were established in classification society and that changed to the main constitutional negotiations by some political and revolutionary groups such as the MKO, Islamists and later Islamic Republic Party.

All these led to theoretical centers of the Islamic republican are based on the ideology of Islam and Islam as a framework upon a time-beyond, idealistic position to take profits. Nationally, such a favorable legal regime should also reflect the ideology. However the notion of supreme leader Ayatollah Khomeini as the Islamic closest head to legislative arena, the ideology was amalgamated and finally the constitution provides that fundamental differences with the draft that inspired the beliefs and teaching of western human rights were set and found to be analyzed.

Thus because of the different interpretations of the primary sources of Islam, i.e. Quran could not refer them directly to the state legislative and in the other hand, secondary sources of religious and books of the many differences between jurists could not order his release and directly used in the realm of law and in the other word, the Islamic ideology which briefly mentioned to some differences into insight and would create its own problems, the centrality of political office, the constitution law and the derived laws were set in it. Document and the text-based form of dialogue with the Islamic ideology having official icon agreed that all those who were voted, are considered.



## 5.4 Legal Gaps in the Era of Reconstruction until Ninth Government

By the end of the imposed war and the reconstruction era the ideological implications of the revolution gradually faded and were replaced with the new demands of innovations and value. desire for progress and stability, understanding and relation with the world and gradually replacement the values of consumerisms and global policy change rejection in the world trying to change quickly and suddenly all the old values became culture of frugality and saving, largely a matter of distance from the ideological environment of war and revolution in the community and also change of the look of authorities and applied it to social levels.

Political bias in 1370-1376, didn't let to update the value of new legal rights and the formation of a new legal negotiation in the wide level, although the creation of this important field was done by different journal dissident and intellectuals and academic circles and made the thought ground of people in reform era. In Particular the middle- ranked people and the elite and the intelligentsia of society clearly emerged the new norms by voting for the reformist candidate in 1376 election. New social negotiations in this era accompanied political slogans such as civil society, political development and democracy and in return impacted Iranian legal space. The old Islamic-western legal gap mentioned before were opened in the new implication, however that was presented in the vote of nationalist and jurists, at this time got more highlight and profound and turned to serious legal claims among vast number of Iranian youth society, generally the middle-ranked people including reformist women, students and teachers, even in technocrats, The subject that's looked to be the most important legal gaps in Iran. Despite the fact that. Categories of human rights around the world face with numerous critics. That was fairly acceptable to all nations of the world, and somehow it's becoming a legal declaration of a document to high moral value. With the growth of technology in today's world where technology and globalization are among the most important hard ware, legal human right entered into Iranian legal thought right and naturally changes to one of principal claims of at least one of them.

The development of such implications in the society which results change in ideas and subjects like regimen, sex, ethnicity, citizenship, religion and.... Turns to social, cultural, and even political change in the country, the last example can be found in election of 1376, and 1380 the issue of where the reformist and modern system entered the system. The Green movement can also be another consequence of the concepts of political development in the country has experienced. Thus the consequences of the concepts in the legal fields of the country while partly influenced by the political-social section of terms era is one the most important influential factors affecting the mentioned phenomenon.

This legal gap when becomes deeper the more traditional and religious sectors of the society and government which include the poorer economical classification and of course richer in religion regarding business organization and clerics count human right as an importing and western implication and challenge it to serious issues.

Turn to social change, cultural, political even led to the final sample can be found in election years, 1376 and 1380 the issue of whether the evolution of the modern state system in the field of view. Movement can also be on the consequence of the concept of political development in the country has seen. Thus the emergence of the concept of rights arena while partly influence by the political environment is a social era of terms and turn to one of the most important factors influencing also poses the emergence of the space.

This legal gap when the deeper became more religious and more traditional sectors of society and the ruling class and poor economic and, of course poor class of religious institutions and was embraced by clerics, human rights as a concept and as conveyed western criticism and challenges make face. Traditionalists theoretical terms, the idea of human right is a non-religious knowledge emphasizing the individualistic aspect of it which is the characteristics of modernity and many of them are suitable on the quality of human rights and the difference between people in conflict with the principle of creation is considered unrealistic. However, gaps in existing legal practice of social forces in Iran to be divided into two categories:

1) Ideologists who believe in the primacy of ideology and other laws and knew the rules of Islam and in fact, the whole field of law and the rights of Iran's Islamic ideology were tested. The range of political advocacy can be traditional conservatives including the party and dominant variety in the ninth and tenth governments. The law is usually invoked on the following of principle 177.

2) Reformists want to change who followed the evaluation of legal sources with the criteria of human right want to enter the implications of human right and principle of related components are in the legal arena. The current view of how legal changes can be divided into two sub-categories.

a) Legalism; the current that wants to maximize the true potent of human constitution in the laws and emphasis on maintaining the existing political order and yet also practical commitment to the rule of law reform in terms of universal (declaration of human rights mainly benefit, especially they defend in the penal code and the civil code and yet the Islamic republican's accession to the UN convention on human rights and other international organizations to improve the legal situation of the country recommend. The reason is mainly consisted of modern conservatives and reformists regime.

b) Revisionists: the social- political observance of the universal declaration of human rights and the other

documents relating to this issue, which were the subject to the overall change in constitutional law mainly follows out of power, such as supporters of left wing and nationalists and constitutionalist and also is a range of structural reforms ( Mandegar,2011, 56).

### **5.5 Legal Gaps after Election of 1388**

New developments in Iran that got rougher after 1376 election and after the election of 1388 and after that the events were strong, new political policy and subsequently created the fundamental rights which is necessary to point out that.

Political gaps if they are based on the law, come into with emphasis on the constitution, essentially become legal gaps, if legal gaps can form a clear political gaps and behavior of three different groups can be considered, since the basis of the behavior of a perfect legal category of constitution as a legal gap can be cited.

1) The regime conservative groups who opposed any attempt to change the system and the maintained status at the costs were their duty, these groups usually referring to the war and corruption on the ground in penal law and basic principles won't change in principle 111 and primarily deny the target reformists.

2) Reformist mainly relying on the constitutional reform in some sectors and appropriate legislation to improve the legal status of women ethnic and religious minorities, journalists and political activists are calling for the evolution of present situation.

3) Group appears the overthrow of the country and shouldn't have to have a lot of supporters, mostly in the complete negation of the rule and principle of the constitution, the law they essentially gives legitimacy to any change, albeit, as radical and violent.

Constitutionalists and monarchists known as part of the movement can be made in this range.

## **6 CONCLUSION**

According to the analysis and descriptions included in the text, there's several legal gap in the intelligentia society of Iran and practical revolution. This has affected the evolution of the concept of rights in the contemporary era and the creation of new values such as democracy, human rights and social change... in making the intellectual part of Iranian society and contrasts it with the traditional value of other segments of society. So contemporary legal changes represents a significant design concept of legal gap with Iran is legal space and given the contemporary political science, major legal gaps can be explained in modern history, and analyzes the quality of explanations in the context of the present paper was determined.

## REFERENCES

1. Ale Ahmad. Jalal. (1999). westernization, Tehran , publication of rovaigh , 47-49
2. Alam, abdoLrahman, (2006) basis of politic, publication of Ney, 23
3. Amirahmadi. Hushang; (2006). Iran after revolution. Translator: Morshedzade. Ali, Center of recognition of eslam and Iran, 24-32
4. Bashirie. hosein; (1995). political society of role of social forces in political life, publication of ney, 17-18
5. Dabagh. soroush; (2008). religion in mirror, publication of Serat, 629
6. Darabi. Ali; (2011) weak in concept of right and squint. journal of mehrname. No. 13, 65-66
7. Davudi. ali asghar; (2006). legal gaps in iran, periodical of political science, journal of mehrname, No. 20, 24
8. Dalirpour. parviz; (2011). old and new gaps, journal of mehrname, No. 13, 52
9. Fuzi, yahya; (2009). political thought in iran after revolution, institute for emam Khomeini and slamic revolution, 37-29
10. Hashemi, mohamad; (2009). Constitution law in Islamic republic Iran publication of mizan, volume 1, page 12-13
11. Katuzian. naser; (2009). Introduction of law, public held company, 81
12. Khasheiee. hamidpour; Society necessities in public policy, journal of medium, No. 4, 86
13. Khatami. mohamad; (1979). about constitution debates, keyhan newspaper, 1-2
14. Khomeini. ruh allah; (1999). emam`s Sahifeh, institution of emam khomeini`s books regulation and emission institution, volume 5, 144
15. Mohamadi, majid (1993). contemporary theology. publication of ghatreh, 75
16. Mandegar. Ahmad. (2011). New gaps in old society, journal of Mehrname, No. 13, 56
17. Manza. jeffand Brooks clem, (1999). Social cleavages and political change, oxford university press, 237
18. Rezaiee, Ali, (2010). 10 speech about international declaration of human right, aieen ahmad, page 100-101
19. Homayun katuzian. Mohamad Ali, (2011). Translator: Tayeb. Alireza, publication of Ney, 179-180