

## Rereading the Theoretical basis of Equality in the Thoughts of the owners of the Social Contract theory and Constitutional Jurists

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### Abstract

Equality is one of the concepts that, while very important, is still controversial and one should try to provide a clear explanation of it. In this research, with analytical and descriptive methods and using library resources, we tried to determine the basis of equality in the thought of owners of social contract theory. and while comparing the basis of equality to constitutionalist jurists we identified the strengths and weaknesses of each, in order to Show a clear understanding of the concept of equality. Based on this, the principles of equality in the thought of the owners of the contract are 1-Equality based on mutual fear (Hobbes), 2-Equality based on self-awareness, self-independence and rationality (Locke), 3-Equality based on freedom and evolvability (Rousseau).The common feature of these foundations is their lack of reliance on theological concepts. the other hand, proving the inherent equality of human beings regardless of lateral features was not the concern of constitutionalist jurists, and with an incomplete understanding of the concept of equality, unlike the owner of the social contract, theory tried to prove equality by referring to the common creation of humans, which The result was recognition of equality only within the framework of Sharia law. This issue prevented the formation of the theory of equality based on the equal dignity of humans and inherent equality.

### Key words:

Equality; social contract; constitutionalism; inherent equality; Locke; Hobbes; Rousseau.

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### Bibliography

- Abbasi Lahidhi, Bizhan. *les fondements de droit constitutionnel*. Tehran: Jangal, 2022. [In Persian]
- Bashirie, Hossein. *Aghl dar siyasat*. Tehran: Negahe Moaser, 1994. [In Persian]
- Delaney, James *Rousseau*. Tehran: Markaz: 2020. [In Persian]
- Fanaei, Abolghasem. *Akhlakhe din shenasi, pazhoheshi darbabe mabani akhlaghi v maareftshenasane*. Tehran: Negahe Moaser, 2020. [In Persian]
- Feirahei, Davood. *Maftome ghanoon (tahavolat pisha mashroote)*. Tehran: Ney, 2021. [In Persian]
- Forooghi, Mohammad Ali. *Hoghogh asasi yani adab mashrotit doval*. Tehran: Kavir, 2019. [In Persian]
- Ghari Seyed Fatemi, Seyed Mohammad. *Hoghough bashar moaser daftar aval*. Tehran: Negahe Moaser, 2019. [In Persian]
- Ghazi, Seyed Abolfazl. *Droit constitutionnel et institutions politiques*. Tehran: Mizan, 2021. [In Persian]
- Hart, Herbert. *Maftoome ghanoon*. Tehran: Ney, 2021. [In Persian]
- Hobbes, Thomas. *Leviathan*. Tehran: Ney, 2022. [In Persian]
- Hume, David. *Jostari darbabe osool akhlagh*. Tehran: Markaz, 2023. [In Persian]
- Hunter Jr, Bruce. "Locke on Equality." *Political Research Quarterly* 69, no. 3 (2016): 546-556.
- Javidi, Mojtaba. "A Methodological Look to The Social Contract Theory of Thomas Hobbes", *The Public Law Studies Quarterly* 50, no.2 (Summer 2022): 685-709. [In Persian]
- Javidi, Mojtaba. "A Methodological Review of John Locke's Social Contract Theory", *Journal of Religious Thought of Shiraz University* 20, no. 75 (Summer 2020): 21-44. [In Persian]
- Javidi, Mojtaba. "Social Contract Theory of Jean-Jacques Rousseau through a Methodological Approach". *Journal of Religious Thought of Shiraz University* 19, no. 73 (Winter 2020), 39-64. [In Persian]
- Kant, Immanuel. *Bonian gazari mabode tabiat akhlagh*. Tehran: Ney, 2023. [In Persian]
- Khazaei, Zahra. "Reassessing Kant's Autonomy in Relation to Individual, Moral, and Political Autonomy", *Journal of Philosophical Theological Research* 19, no. 2 (Summer 2017): 47-67. [In Persian]
- Khorasani, Mohammad Kazem. *Siasat nameh*. Tehran: Kavir, 1995. [In Persian]
- Locke, John. *Resale ei darbabe hokoomat*. Tehran: Ney, 2023. [In Persian]

- Loughlin, Martin. *Mabanie hoghough omoomi*. Tehran: Ney, 2021. [In Persian]
- Mitchell, Joshua. "Hobbes and the Equality of All under the One." *Political Theory* 21, no. 1 (1993): 78-100.
- Mostasharodole, Sadegh. *Yadasht haie tarikhi*. Tehran: Ferdos, 1982. [In Persian]
- Movahed, Mohammad Ali. *dar havaei hagh o edalat az hoghough tabiei ta hoghough bashar*. Tehran: Karnameh, 2021. [In Persian]
- Naeni, Mohammad Hossein. *Tanbihol ome va tanzihol mela*. Qom: Bustane Ketab, 2013. [In Persian]
- Rahmatollahi, Hossein, and Ehsan Aghamohammdi. *Mabani hoghough omoomi*. Tehran: Enteshar Co, 2021. [In Persian]
- Rajabi Davani, Mohammad Hassan. *Maktoobat v baianat siasi v ejtemaei olamaie shiea*. Vol. 3. Tehran: Ney, 2011. [In Persian]
- Rajabi Davani, Mohammad Hassan. *Maktoobat v baianat siasi v ejtemaei olamaie shiea*. Vol. 5. Tehran: Ney, 2011. [In Persian]
- Rajabi Davani, Mohammad Hassan. *Maktoobat v baianat siasi v ejtemaei olamaie shiea*. Vol. 6. Tehran: Ney, 2011. [In Persian]
- Rajabi Davani, Mohammad Hassan. *Maktoobat v baianat siasi v ejtemaei olamaie shiea*. Vol. 7. Tehran: Ney, 2011. [In Persian]
- Rousseau, Jean Jacques. *Gharardad Ejtemaei*. Tehran: Abre Sefid, 2023. [In Persian]
- Rousseau, Jean Jacques. *Goftari Darbareyeh Nabaranri*. Tehran: Negahe Moaser, 2019. [In Persian]
- Shamsaea Lashlariani, Mahdi, Rahmatollahi, Hossein, and Mahnaz Bayat Komitaki. "The Concept of Equality in the Thought of the Jurists of the Constitutional-Revolution Era", *The Public Law Studies Quarterly* 53, no. 1 (Spring 2023): 183-203. [In Persian]
- Waldron, Jeremy. "Rights." In *A Companion to Contemporary Political Philosophy*, Edited by Goodin, R. Pettit, PH. & Pogge, T, 745-754. Malden, Blackwell Publishing, 2007.
- Zargari Nejad, Gholam Hossein. *Rassael mashrotiat*. vol 2. Tehran: Moaseseh Tahghiaght v Tosse olloom ensani, 2008. [In Persian]
- Zuckert, Michael. "Locke - Religion – Equality." *The Review of Politics* 67, no. 3 (2005): 419-431.
- Zuckert, Michael. "Perhaps He Was." *The Review of Politics* 66, no. 4 (2004): 565-569.