Democracy and Islam – Compatible Norm Systems?

By Salahodin ARYAPUR

A thesis submitted in partial fulfillment of the requirements for the degree of

Master of Public Policy

2012

Will Brandt School of Public Policy

University of Erfurt

Thesis Supervisor/ First Reader: Prof. Dr. Frank Ettrich

Second reader:

Erfurt, July, 18, 2012

Table of contents

Abstract

This research attempts to analyze the efficiency of Islamic states and to measure their compatibility with democracy. The author tries to answer the question of whether the state theories in Islam could lead the Islamic societies towards implementation of the democratic values such as political participation, rationalism in legislation, implementation of the International norms and respect for Human Rights or not. In this respect, the author first analyzes the political theories in two big religions within Islam (Shiite and Sunni) with a historic approach using the new texts and historic documents about the theories of Caliphate and Imamate. Then he explains the methods of appointing the rulers and their duties. Afterwards issues such as, legislating in Islam, implementation of the Sharia law, Hudud and finally respect for the international orders and Human Rights are analyzed. The results of this analysis reveal that the political theories in Islam are not capable of presenting an efficient political system, while considering the divine legitimacy for the rulers in these theories, Islam helped to create autocratic regimes. The other challenge is in the rigidity of Shaira law that led to resist against modern regulations, Human Rights and international orders. This study suggests that moving towards Secular democracy is an answer to solve these obstacles. Ignoring the religious and ideological norms, a Secular system emphasizes on rationality to lead the society and creates an environment for genuine participation of people. However, that would be also naïve to implement the secular reforms without any consideration because it needs a proper environment. Educational and cultural methods can prepare people to understand the Secular democracy's values. It must also be considered that moving towards Secularism could take a long time in certain of the Islamic societies and it might face challenges from those groups that see their interests in old systems.

Abstrakt

Mittels dieser Studie wird versucht, die Effizienz der islamischen Staaten zu analysieren und ihre Kompatibilität mit der Demokratie zu evaluieren. Der Autor versucht, die Frage zu beantworten, ob die Staatentheorie im Islam, die islamischen Gesellschaften in die Richtung demokratische Werte wie politische Partizipation, Rationalismus in der Gesetzgebung, Umsetzung der internationalen Normen und der Achtung der Menschenrechte, führen wird oder nicht. In dieser Hinsicht analysiert der Autor zunächst die politischen Theorien in zwei großen Religionen innerhalb des Islams (Schiia und Suni); mit einem historischen Ansatz mit neuen Texten und historischen Dokumenten über die Theorien des Kalifats und Imamat. Anschliessend beschreibt der Autor die Methoden der Herrscherernennung und ihrer Aufgaben. Folglich behandelt der Autor Themen wie, Gesetzgebung im Islam, die Umsetzung der Scharia , Hudud und letzlich die internationalen Anforderungen und Achtung der Menschenrechte. Die Ergebnisse dieser Analyse zeigen, dass die politischen Theorien im Islam nicht fähig sind, ein effizientes politisches System zu praesentieren.   Durch die Betrachtung der göttlichen Legitimation der Herrscher in diesen Theorien, half den Islam autokratischen Regimen zu schaffen. Die andere Herausforderung liegt in der Strenge und Staarheit der Shaira Gesetz, das gegen moderne Vorschriften, Menschenrechte und internationale Normen und Anordnungen ist. Diese Studie legt nahe, dass eine Entwicklung hin zu säkularen Demokratie, die Antwort und Lösung auf diese Hindernisse ist. Durch Nichachtung der religiösen und ideologischen Normen, baut das säkulare System auf Rationalität um die Gesellschaft zu führen und schafft dabei ein Umfeld für echte Partizipation von Menschen. Aber es wäre naiv, die laizistischen Reformen ohne Rücksicht zu implementieren, da es eine entsprechende Umgebung braucht. Bildungseinrichtungen und Kulturmethoden können Menschen zur säkularen Demokratie vorbreiten und die Werte zu verstehen. Darüber hinaus muss auch berücksichtigt werden, dass der Übergang in Richtung Säkularismus eine lange Zeit in einigen der islamischen

Gesellschaften in Anspruch nehmen wird , da einige der islamischen Gesellschaften vor

Herausforderungen von jenen Gruppen stehen werden, die ihre Interessen in alte Systeme sehen.

"…the attempt to make heaven on earth invariably produces hell"

Karl Popper, Open Society and Its Enemies (1945) Vol.2, Ch.24

General introduction

According to the Pew Research Center in 2011, the population of Muslims in the world is more than 23.4 percent of the world population and it is expected to be increased up to 26.4 percent in the year 2030. There are more than sixty countries in the world in which Muslims live as the biggest majorities (Cooperman, 2011, pp. 13-14). Therefore these countries have a significant role on the international relations arena. It is worth mentioning that what made the Muslim countries even more important is not only their natural recourses or minerals such as oil, gas and et cetera but also their unique geopolitical locations. Moreover, enormous populations and their exclusive political ideology, which is originated from the Islamic teachings, are the other important factors that contribute to make them even more important. These elements all together distinguish the Muslim countries from other countries in the world and analyses of their issues have become a significant matter. Islam unlike most of the other religions possesses a very strong political ideology, which includes both the political structures and a regulation

system, which it is called the Sharia law. It means Islam does not only function as a religion but it represents political and legal systems as well. Recently, the uprising tendency for establishing and practicing the ideal type of Islamic state among some of the Islamic groups has concerned the other parts of the world.

Similarly, political movements including the ongoing Arabic revolutions in countries such as Tunisia, Egypt, Libya, Yemen, Syria and Bahrain from one hand and on the other hand emerging the radical and fundamentalist Jihadi groups such as Al-Qaida and Taliban in Afghanistan and Pakistan since the two last decades are the examples of this concern. The ultimate purpose of the Islamic fundamentalist groups is to draft the Islamic state based on the Sharia law and these Jihadi groups use the violent methods to achieve their target, which has disturbed the international orders for almost two decades.

During the so-called Arab Spring, Islamic groups such as the Muslim Brotherhood and Salafis have extended their political battles to influence over the mass and mobilizing them for their Islamic political agenda, which is mainly the implementation of the Sharia law. The results of the recent elections in some of these Arab countries that experienced revolutions, such as Tunisia and Egypt have shown that these groups gained strength. In other words, this fact illustrates that instead of moving towards democratic reforms after the collapse of dictator regimes these societies are moving towards political Islamic principles. Though at the moment they do not reveal their political agenda openly, there is this possibility of pursuing attempts that might end up eventually with establishment of the Islamic States in these countries. These current circumstances are similar to the situation of Iranian revolution in 1979 that resulted to an extreme Islamic State, which ignores most of the International regulations and Human Rights issues.

To put it differently, with respect to what has been explained, this question raises that weather these political movements, which are influenced by the Islamic groups can lead these Muslim societies towards rule of law and most importantly democracy or not. In other words, is Islam as a political ideology or as a political system potentially capable of leading a society towards democratic values domestically and internationally? To address these questions in this thesis, author will try to analyze the existing political theories in Islam about state in both religions Sunni and Shiite, which are the Caliphate and Imamate theories in order to find out their compatibility with democratic values. This research analyzes that to what extent Sharia law and Islamic Ahakam are compatible with democratic processes and international values such as Human Rights by referring to the main Islamic religious sources such as Quran and Sunna. One of the key questions in this thesis is that in case of proving the inefficiency of the Islamic political theories, to what extent, theory of Secularism or separation of religion from state can be presented as a solution for these societies. In this case, how a secular system can be implemented in such societies where religion has a strong presence in all aspects of life including the privet and social aspects.

In order to avoid any ambiguity and to fulfill the academic requirements, explaining and defining the using concepts and terminology in any research is exigent. Since this research is about analyzing the efficiency of the existing political theories in Islam about state and necessity of the secular system, therefore the Political system, Islamic Sate, Democracy and Secularism are the key concepts of this research. Consequently, these important concepts are being defined in this research. In addition, the measurements for an efficient political system and the factors, which make a political system inefficient, will be described.

As it was mentioned, the concept of State is one of the initial concepts in this writing. The term State in an extended political theory meaning authority and it relies on obedience from people. In fact, this concept emphasizes more on the citizen's submission (Leacock, 1924, pp. 3-

4). The other term which is being used in this thesis is Political system, which almost contains the same meaning as State, which often is used interchangeably with the word political system. However, here in this text when the term State is used, the intention is to put more emphasis on one of the function of the State, which is sovereignty or close to this concept, what Max Weber defines the term state "as that entity which possesses a delegatable monopoly on the legitimate use of physical force" (Warner, 1991, p. 9). The term Political system here emphasizes more on processes of interactions, which are defined under the term Political system in The Encyclopedia Britannica:

"A set of formal legal institutions that constitute a "government" or a "state". This is the definition adopted by many studies of the legal or constitutional arrangements of advanced political orders. More broadly defined, however, the term comprehends actual as well as prescribed forms of political behavior, not only the legal organization of the state but also the reality of how the state functions. Still more broadly defined, the political system is seen as a set of "processes of interaction" or as a subsystem of the social system interacting with other nonpolitical subsystems, such as the economic system. This points to the importance of informal sociopolitical processes and emphasizes the study of political development" (Heslop) throughout the history of political theories many political scientists had searched for the reasons and to find ways for political legitimacy and justifying the sovereignty and political authority. Likewise, the political theories about the Islamic state have tried to blazon the existing political systems and legitimatize the Islamic authority according to religious texts. Political theories in Islam not only serve and guard the Islamic state but in most of the time function as political guidelines. The Islamic State is considered as a theocratic system and the measurement for a theocratic system is accepting the political religious authority. Generally speaking, the religious teachings are the foundation of the structure and function of these states to a great extent. In particular the rulers in such political regimes have specific qualifications and great authorities, which are cited from

religious texts. However, there are different comments and interpretations, for instance about the qualifications of the ruler or how he can be appointed. The reason for such varieties in commentary is that, in the Islamic religious texts, there is ambiguity in regards to the issue of establishment of the Islamic state. In summary, since the Islamic state emerged from the origins of Islamic teachings therefore, state has a powerful presence on all the aspects of life from the individual to the social life of its citizens and it formulates and regulates all form of relations and individual affairs. On the other hand, there are people who emphasize on separation of religion from politics and refuse any religious authority on the political life. This thought, which is known as Secularism has a particular opinion over the religion's confine. Secularism limits religion only to those areas that are beyond the human reasoning, and of course this does not indicate that a secular person is necessarily against the religion.

Finally the concept of democracy is another significant element in this research. There are different definitions of democracy, however, two main principles of functioning democracy are magnified here; first, the regulation system, which is based on issues such as economic, political and social needs but not on religious and ideological motives. The second principle is the genuine political participation of the people on policy making and political processes. However, issues such as rule of law and respect for Human Rights are the other elements that will be disused as well.

By the same token, it is worth mentioning that this research follows an analytical method. The primary research is based on books, journals and online materials. In addition, some historic facts and available information, mostly from the first-hand documents, about the theories of state in Islam in two first chapters, are used and analyzed based on a posteriori technique. According to that information, some critical evaluations are made about the functionality of the Islamic state. Accordingly, the whole work will be a detailed research on the

compatibility of the Islamic state theories with democracy and analyzing the efficiency of Islamic political theories.

In some cases religious texts in Islam such as Quran are directly cited. Likewise, there are some examples, which are brought to attention from countries with Islamic states like the Islamic Republic of Iran and Saudi Arabia. This thesis is composed of three main complete chapters, which are followed by an abstract and a general introduction that also includes the methodology of the present study.

Accordingly, these definitions, in the first chapter of this piece attempt to explain the political theories in the Islam on a chronological order. Some of these theories have emerged and shaped after the political processes and have evolved through the political history of Islam particularly the theory of Caliphate as the dominant state theory among the Sunni Muslims. Some of these theories are the fundament of the current Islamic state, for instance, the role of Imamate theory on establishing and formulating the Islamic Republic of Iran as an Islamic state.

To continue, the second chapter analyses the legal and political functions of the Islamic states. This chapter particularly explains the significant role of the Islamic sources, like Quran and Sunna. It will reveal the influences of these important sources on the Islamic legal system and the functions of the Islamic state in this regard. This chapter gives explanation about the legal condition of women, Hudud or the Islamic penal code, the issue of freedom of speech and religion in Islam and it reveals their contradictions with Human Rights, which are the basic and fundamental rights of all humanity regardless of their race or religion. In the political functions of the Islamic state first the Issue of absolutism and tyranny as a domestic challenge and then the issue of Jihad from the Islamic perspectives as an international challenge are explained. In fact, this part of the study contains issues, which perform as measurement means to evaluate the efficiency of the Islamic state. Issues such as level of democracy, respect to Human Rights and

contributing to the international orders and world peace, considered as positive measures for an efficient state, which are accepted internationally. Therefore the lack of these qualities in a state considered as inefficient elements on evaluating a state.

Finally, the third chapter of this thesis is the policy approach part. It will contain recommendations as solutions for the Muslim societies to have modern and efficient political system. Basically, it will concentrate on Secular democracy as an answer for these societies. It will discuss how to implement Secular democracy in the traditional Muslim societies and what are the challenges during the reform implementation.

Chapter One

Theory of the Caliphate in Islam (Sunni political theory)

Caliphate is the ideal Islamic state according to the Sunni perspective. Caliphate in Sunni thought is the attribute to all the governments of both the righteous and the corrupt after the prophet Muhammad. From the Sunni perspective, the four first Caliphs and Umar Ibn Abdul Aziz form Umayyad dynasty are the most perfect examples of Caliphate and their time considered as the golden era of the Islamic state in history of Caliphate. Since there is no text from prophet about his successor according to Sunnis, he left it for the Muslim community to decide about it (Feirahi, 2008, pp. 53-55). Thus we can say; Saqifah event was the first field of political confrontation within the Islamic community. Ansar and Mohajerin were two groups in Saqifah who argued against each other. Eventually Abubakr, form Mohajerin convinced the Ansar. He argued based on a quotation from Prophet that "leaders should be from Quraysh". Since Abu-baker himself belonged to the Quraysh and led the prayers during the Prophet's illness, he became the first Caliph in Islam. Generally the Saqifah event in shaping the political history of Islam has a significant role and it created a norm in respect to choose the next caliphs after Abu-bakr (Qaderi, 2011, pp. 9-13).

The Caliph and the concept of Caliphate:

In the Quran, the word Caliphate is not used in such concept that it found later on. It can be concluded from this, that the word, is rooted in tradition and it evolved its meaning through the course of important events in Islam. However, a short time after Saqifah, the term refers to the first Caliph Abubakr. For the first time Osama a commander of Muslim army who extended the northern borders of Islam at the time, in a conversation with Umar Ibn Khatab who became

the second Caliph after Abu-bakr, referred to Abubakr as the "Caliphit al Rasul Allah". This means the successor of the Prophet. Umar Ibn Khatab also used the same expression "Clipheit al Rasul Allah" in addressing to Abu-bakr. Thus, using of this expression soon became very common among Muslims later on. Accordingly, this term finds it place in the idea and political thoughts in Islamic ideology. During the first four caliphs of Islam, two terms Caliph and Amir-Al-Momenin were the most popular and famous titles, which were defined the person in the hierarchy of power in Muslim community (Qaderi, 2011, pp. 15-17). However, Imam is the title that refers to the highest position among Shiite Muslim. The last major change from the world Caliph in the evolution of the use of the term Caliphate is" Caliph of Allah". This new term for naming the person who was at the head of the hierarchy, started by Moaviah who established the Umayyad dynasty. Afterwards, the other Umayyad caliphs, the Abbasid, Fatimid Ismaili of Egypt used this title as well. Umayyad motive for the use of this term was to discount and bypass the Prophet Muhammad as an element of legitimacy because they could hardly claim to the succession of the Prophet compared with other groups. Another application was rooted in the political ideas and traditions of other countries. Becoming acquainted with other nations including Persia, Arabs learned to use the *divine right monarchy.* The next reason for the Caliphs was to maintain their power and prestige in competition with other challenging groups within the community such as scholars who understand the Sharia way much better than Caliphs themselves. This title gave them a legitimate reason to keep their position as rulers of Muslims. The last reason for this application can also be found in the existing weakness in the structure and the central authority, particularly during Abbasid Caliphs. Appearance of new political-military powers including autonomous and semi- dominated dynasties who challenged the Caliphs in Islamic lands, intensified usage of the theory of *divine right monarchy* for Caliphs. Moreover, by giving a divine right to the caliphate should not be considered caliphs with absolute and undisputed power in all periods. Basically, the concept of controlling worldly and

religious affairs of Muslims by caliph only existed in the early period of Islam and as it was mentioned earlier, this authority has been challenged later on. Emerging of half-independent or independent dynasties in Muslim territories led to the limitation of Caliphate's power. Meanwhile, an idea of accepting only the religious affairs of caliphate was established among Muslims. Subsequently, caliph was limited in practice and his rule gradually changed into somebody with divine rights that only legitimizes semi-independent dynasties around him in the Islamic territories (Qaderi, 2011, pp. 18-20). Sunni Muslims, in general consider an extended authority for Caliphate to preserve and guard the interests of the Muslim society. Implementation of Hudud, policy making, commanding the military forces and so on are directly under Caliphate's authorities. Therefore, Sunni scholars see linkages between religion and politics because it is the implementation of the Sharia law, which justifies the necessity of the Islamic state. However, leadership for Sunnis, unlike the Shiite's political beliefs, is not part of the Islamic principles. Ghazali in supporting this fact wrote: "Leadership is not part of Islamic beliefs. It is a concept within the Islamic jurisprudence and like all issues in jurisprudence, leadership is debatable" (Ghazali, p. 234)

Theories and different opinions within the Caliphate:

The important fact concerning the political theories in Islam particularly about the Caliphate is that all these theories came after the practice. In other words, the ideas were not ahead of the Caliphate in practice, but most of the time they seek to justify and explain the behavior and development of the existing political systems. Of course, this does not mean that in general, political systems and existing political theories are apart from the teachings and interpretations related to religion. These theories somehow are linked to the Islamic sources, otherwise they would have faced lack of legitimacy. Here are some of the most important ideas about Caliphate that has been expressed during the Saqifah (Qaderi, 2011, pp. 22-23).

A) Caliphate exclusive for Quraysh:

This concept was the most important element to assess the political legitimacy of Muslim rulers and it was constantly considered till late Abbasid. Muslim intellectuals like Mavardy, Ibn Frah and Ghazaly emphasized on this element however; Ibn Khaldun was the first Muslim thinker who analyzed this element later on. He believed, since the Quraysh tribe always had a respectful position among Arabs, this element (being form Quraysh) gave a prestigious place to those rulers who linked to this tribe and made them more acceptable for the Muslim community(Ibn Khaldun, 1987, p. 372).

It should be noted that being form Quraysh at the beginning of the Islam was not considered as the basic conditions of Caliphate. But the political-religious situation and the position of Abbasid caliphs, made them to insist on this condition as a very important factor for Caliphate until this requirement become part of the belief in the minds of orthodox Sunnis.

B) The two Caliphs theory**:**

This idea was proposed by Ansar that Muslim can have two caliphs simultaneously, one form Ansar and the other one form Mohajerin,it was rejected by Mohajerin in Saqifah, though. Leaders of Mohajerin argued against it, while they believed it could lead the Muslim community into old ethno-conflict and would result in the collapse of Islam. This theory did not stand in between the Muslims (Qaderi, 2011, p. 14).

C) Idea of Resolution Council (Hal-O-Eghd):

According to the Sunni's Jurisprudence, a group of qualified and respected members of Muslims who posses three qualities including Justice, sufficient religious knowledge and devise can participate in such council. (Ferah, 1406, p. 19) This was the greatest theoretical outcome from the Saqifah. Likewise, number and qualifications of those individuals who are involved in

shaping the Council has been discussed by many Muslim thinkers. Some argued that the number of participants in this council must be five, because Abu-bakr with four other prestigious members of Muslim created this council during Saqifah and some argued that the number of participants can be six because Umar-Ibn-Khatab drafted a council composed of six people to choose a caliph after him. Some of Muslim thinkers like Ghazaly debated that even one person is enough to choose the caliph, however, from the Ghazhly viewpoint this person must possess a prestigious place among Muslims to be able to do so. Resolution Council was not the only common theory that approached the issue with regards to selecting the Caliph. There are three other Caliphate theories, which are (in chronological order): Estekhlaph, Shora, Estila and inheritance (Qaderi, 2011, p. 25)

D) Selecting next caliph (Estekhlaph)

Selection of Umar Ibn Khatab by Abu-bakr as his successor is the historic base of this theory. According to this theory Caliph who rules the Muslim society, has also the competence to select somebody as caliph to lead the Muslim community after him. This historic event justified the act of all those caliphs in Islam who selected their successors. Later on, during the Abbasside with the complexity of their situation and imposed conditions on Caliphate, practicing of this theory faced with certain difficulties (Feirahi, 2008, p. 36).

E) Theory of council (Shora)

When caliph didn't want to select somebody after him as a ruler, he could draft a council and let the council decide about the next caliph. Apparently unlike the Resolution council (Hal-O-Eghd), there is no absence of political power prior to formation of council such as a short time after prophet till selection of Abu-bakr. However, it seems in practice that this council is continuation of the Resolution Council. This theory has originated from the history of

Islam and some people believe Umar-Ibn-Khatbhas referred to such council to discuss upon and select the next caliph (Qaderi, 2011, p. 25).

F) Theory of force (Esitla)

The origin of this theory goes back to Muavyah, the founder of Umayyad dynasty. Khonji in his book Sluk-Almulk wrote that "using force and sword is one of the methods to gain the caliphate. He believed when somebody is interested in caliphate and he is capable of achieving it by force, whether people like him or not he is the caliph and Muslims should obey him as their caliph." According to Khonji such leadership does not need to be related to Quraysh tribe or even Arabs he could be Fars or Turk (khonji, 1362, p. 82). Most of Muslim scholars from the Sunni accepted the theory of force as a fact. Imam Shafei founder of Shafei School within Sunni argued that anybody from Quraysh who can achieve Caliphate by force (sword) and mobilize people is entitled to be Caliph (Aboozohre, 1986, p. 84). However, Imam Abu-Hanifeh founder of Hanafy School rejected this theory and emphasized more on the Resolution Council (Hal-O-Eghd). He believed that minimum number of participants in this Council is two. Similarly, there are several factors about the theory of force two of which seem to be more important than others; first, using military force to gain the political power and second, being accepted and obeyed by people. Th other conditions such as being form Quraysh or leading people in prayer do not seem to be emphasized as such.

It should be noted that there are inconsistencies in this theory. Considering the situation, while there is caliph already in power and if somebody tries to overthrow him from power by force and military power he considered a rebel against the Islamic state. However, when this person successfully overthrew the existing ruler he becomes the next caliph and muslins should obey him as a legitimate ruler. Some Sunni scholars justify this theory and argue that having a

strong leader is better than chaos and anarchic situation whether he took political power by force or not (Qaderi, 2011, p. 28).

G) Inheritance

Inheritance is one of the most common methods to transfer the political power in Islam. Islamic political thought considered it as a legitimized system to achieve power. Inheritance unlike the other theories such as Selection (Estekhlaph), Council (Shora) and theory of force (Estila) never practiced by four first caliphs in Islam. Inheritance as a method to transfer power was not common among Arabs at the beginning but gradually by extension of Islam territories and complexity of state it became more popular among them. Besides, neighboring with two big empires in east and north such as Persia and Rome also had influences on political systems in Islam and Arabs learned to employ these new techniques to manage and organize their big territory. One of these techniques was inheriting political leadership. Here the role of Persian secretaries and personnel who worked for Abbasid caliphs should not be forgotten. Before emerging Islamic empire, Arabs were not familiar much with the structure of state. They only experienced some kind of Quasi-government under the tribal law. Because of fear from chaos, most of Muslim scholars accepted and legitimized this system too. Usually after the death of political leaders when it was the time to transfer the power, chaos and public excitement have been increased and it could easily jeopardize the Muslim community. Inheritance somehow is compeered with Estekhlaf when caliph selects the next leader after him. In essence, in Estekhlaf caliph selects somebody who is not related to his family and Inheritance is basically transferring the political leadership from father to his son (Qaderi, 2011, p. 29). Ibn Khaldun in support of the idea of hereditary leadership argued that it is necessary for caliph to think about Muslims after his death so he obligated the caliph to select somebody as next caliph for the sake of Muslims (Ibn Khaldun, 1987, p. 403). Al-Mawardi in his ideas about hereditary Caliphate had tried to organize them based on Sunni jurisprudence. According to the Saudi Arabia's

constitution article number 5 (WIPO, 1992) inheritance considered as a way to transfer the political leadership within the Al Saud's family.

Qualifications and conditions of Caliphate

There are two different types of conditions for Caliphate. Positive and Negative qualifications introduce certain conditions that allow somebody to claim the leadership of Muslims, otherwise those people who do not posses these qualifications are deprived to claim Caliphate. In cases that a Caliph gains negative conditions he has to leave his position as and should replaced with somebody who is qualified.

A) Negative qualifications

these qualifications are divided in two categories; first, behavioral and ethical conditions second, physical conditions. Those qualifications that focused on ethical issues were based on Sonni's jurisprudence. These are issues such as Blasphemy of faith, leaving the prayer, Reputation for debauchery, Wastage of people's rights and leaving the Sharia law. Some of Muslim thinkers debated over the issue of discharging the caliph in case that his behavior is not according to Sharia. Certain Sunni scholars such as Baghlany believed that in such circumstances, it is better to advice caliph instead of discharging him form caliphate. Beside these obstacles about caliph's behaviors, there are other conditions that were beyond the caliph's hands and he could not have power over them. Al-Mawardi explained these conditions under two discussions; Hajr and Qahr. Hajr means when caliph was controlled by his relatives or others. In fact they were the real rulers and they used caliph as a puppet. Qahr means when caliph was captive by his enemies and there was no hope to rescue the caliph, hence, automatically the caliph in captivity was discharged from caliphate and someone else replaced him. However, in case of Hajr, if those people, who controlled caliph, were qualified, there was no reason to discharge the caliph (al-Mawardi, 1406, p. 18).

Physical condition of CaliphAl-Mawardi distinguished two different kinds of disability; those that do not make a caliph unqualified to lead the society including not serious and minor disabilities such as poor hearing, absence of palate or being sterile. However, there are some other kinds of defectiveness that deprive somebody to become a caliph such as blindness or becoming dementia. All in all, , there are always arguments about several kind of disabilities for instance being handless or footless because some of the scholars believed they can make a caliph unqualified and some scholars have different opinion in that respect (al-Mawardi, 1406, p. 21).

B) Positive conditions

With respect to these qualifications, opinion of Sunni scholars is not similar and there are some minor differences in certain parts. According to Al-Mawardi all caliphs have to possess four qualities to be entitled for Caliphate.

- Being from Quraysh tribe; this quality was always doubted by several Muslim thinkers and they challenged it as an important condition for Caliphate.

- A just and righteous man who is free

- Capable of managing politics and war and determined to implement Hudud,

- Finally being excellent in science and religion however, Imam Mohammad Ghazali argued that it is better if caliph is not excellent in science and religion because he obligates himself to consult with other scholars. This can increase the position of religious scholars in politics (al-Mawardi, 1406, p. 6).Shiite groups expected another quality from their

leaders and that is purity form any kind of sin but Sunni scholars rejected this quality for caliphate.

Responsibilities of caliph

Sunny scholars considered several duties for caliph that most of them were those that Prophet Mohammad and four first caliphs of Islam had performed and some other duties emerged later on with the extension of Islamic empire and complexity of ruling a big territory. According to Muslim thinkers the most important duties of caliph are; Security or keeping the political order of the Muslim society, Implementation of Hudud (Islamic penal code), Jihad (holy war) against the enemies of Islam (basically non-believers) receiving the impost and alms, distributing the treasury among Muslims, guarding the borders and sometimes extending them, consulting with advisers and so on. It should be noted that responsibilities of caliph were matched with his genuine power. For instance those activities that needed enough military power or using force to implement the Sharia law in farthest parts of Islamic empire, correlated to the actual power of caliph. Those caliphs who did not have enough power usually were satisfied by accomplishment of minimum level of certain duties (Ferah, 1406, pp. 27-28)(khonji, 1362, p. 88).

Caliphate and Monarchy

Monarchy and Imamate, the political theory that suggested by Shiite groups, are the most important rivals of Caliphate theory. For the first time in the history of Islam after a series of civil war Muslims experienced a different form of government within the Islamic land and that was the monarch system. Emerging monarchy goes back to the time when two sons of Harun-Al-Rashid from the Abbasid dynasty namely Al-Ma'mun and Al-Amin challenged each other's over the Caliphate. This civil war ended up with a weakened Caliphate. Through this battles, a Persian commander of Al-Ma'mun's army namely Tahir Ibn Hossein from Herat

drafted the first semi-independent monarch system in Khorasan. After Tahir, gradually other monarchies have shaped in Khorasan and Sistan. However not all of those kings had equal power. Some of them controlled a bigger part of the Islamic territories and were quite independent from the caliph in Baghdad. Several monarch dynasties such as Ghaznavids, Seljukian, Kharazmshahian and Buwayhid emerged and some of them like Saljuk and Buwayhid dynasties even controlled Caliphate in Baghdad. Though Buwayhid in religion were Shiites they did not destroy the Caliphate entity and kept it however, Buwayhid limited the caliph's power. Gradually by emerging independent states within the Islamic borders, Caliphate in Baghdad lost its power and later on it shifted into the former East-Roman Empire's land in north; however this new Caliphate, which is called Ottoman was in the hand of Turk Muslims (Qaderi, 2011, p. 37).

The new revival of the Caliphate

The collapse of Ottoman Empire during the First World War shifted the political legitimacy for the first time in Islam. Sovereignty from Ottoman Caliphate transferred to the representative of people. This move presented a new kind of political sovereignty that challenged the theocratic methods. In April 1920-1923 through a big assembly a democratic regime established in new Turkey. Reformation has already started and gradually overruled the system of Islamic Caliphate for the first time in the history of Islam. The leader of the new reform movement in Turkey Mustafa Ataturk introduced Secular system to Muslims and for many, that act was equal to apostasy. New system canceled all aspects that might lead the societies to the past such as religious schools and institutions. It even abolished the Sharia law and replaced it with civil codes based on Switzerland's law. The new regulation even banned using religion (Islam) for political purposes and establishing political institutions (Black, 2001, p. 313). However, abolishing the Caliphate followed by many protests (M. Landau, 1994, p. 211). Later on these objections had an important effect on the new political thought in Islam. In a long term, it opened new political innovations in Islam and it shaped the Islamic states that established

afterward. This new possession started with Rashid Rida and his book Al-Khilafa (Kerr, 1996, p. 159).

A) Rashid Rida

He started his political activities as a disciple of Mohammad Abduh and accompanied him in his journey to different parts of Islamic land. First, he was interested to the young Muslim-Turkish movement later he joined Pan-Arabism and supported the Arab revolutions in 1912. After the Mustafa Ataturk's secular reforms, he wrote Al-Khilafa and reopened the question of the institutional structure of Islam. Rida had adopted the approach of Al-Afghani and Abduh that the gates of individual judgment or Ijtihad should be reopened; that we should return to sources. The Caliphate, he argued, certainly is necessary and it certainly does cater for the worldly as well as the religious interests of Muslims (Black, 2001, p. 315). Rida "was an important link between classical theories of the caliphate, such as al-Mawardi's, and 20th-century notions of the Islamic state"(Eickelman, 1996, p. 31)His strong connection to the certain traditional aspects of the Islamic Caliphate led him to consider a big role for Caliphate in the new world also he thought about the possibility of multiplicity of Islamic states at the same time. Rashid Rida realized that because of ethnic diversity and existing number of independent Islamic States, there is no way to convince them following a unique and central Caliphate system so somehow he accepted the variety of the nation-states within the Islamic world. Rida lived during the separation of turkey and termination of the Ottoman Caliphate and yet he had hoped for the return of the Islamic Caliphate once again. Therefore, he started extensive efforts in organizing a Resolution Council from all over the Muslim world to achieve his goal by establishing the Islamic Caliphate (Feirahi, 2008, pp. 145-147).

B) Muslim Brotherhood

In 1928, Hassan Al-Benna established the Muslim Brotherhood organization. This organization emphasized on Caliphate as its main political purpose and until that could be achieved, they would be satisfied with the modernist view of constitutional democracy for sparest Islamic states. Its members had to swear an oath of loyalty to the leader. The Muslim Brotherhood was fundamentalist in the scene that they wanted to reconstruct the Muslim Community (Mitchell, 1969, pp. 235 & 308-312). Sayyid Qutb 1906-1966 was one of the most important figures in this organization and he was inspired by Al-Mawdudi. He was poisoned and during this time he became more radical and believed in Islamisation of society and the state. Above all supposedly Muslim rulers were to be regarded and treated as Jahili (Unbelieving), that violence against such regime was justified. Sayyid Qutb rejected the modernity and he denied learning about society and politics from the West because he argued that there is no equivalence between Islamic and Western values (Mossalli, 1992, pp. 25-29).

C) Jama'at-Islami (Islamic Association)

Abul Ala Al-Mowdudi1903-1979 from Pakistan is the founder of second Islamic fundamentalist organization in 1941. He and his followers pursue the same goals as Muslim Brotherhood. Al-Mowdudi believed that Shariat cannot be modified. His aim concentrated on establishing a Muslim society based on true Islamic values the way that Prophet Mohammad created in Medina. Apart from geographical bases of these two fundamental organizations, Al-Mowdudi's organization was different from the Muslim Brotherhood's: it was not a mass organization yet moral and intellectual elite. Its members are to be dedicated to Jihad against unbelief and immorality in every field of life. On the other hand, the association was, like the Muslim Brotherhoods, subordinate to its leader. In his mode of organization, Al-Mowdudi was

partly influenced by the examples of Fascism and Leninism. After the independence of Pakistan, Islamic Association mobilized opinion against Mohammad Ali Jinnah's (founder of Pakistan) idea of a secular state (Grinebaum, 1970, p. 100). Today Islamic fundamental Islamic groups such as Al-Qaeda and Taliban in Afghanistan (BBC.2012) and Pakistan (Roggio, 2012)are fighting for the establishment of the Global Islamic Caliphate. In addition even some Muslims who do not have any link with the fundamental groups support the Idea of Islamic Caliphate. According to Washington Post; "Yet the caliphate is also esteemed by many ordinary Muslims. For most, its revival is not an urgent concern. Public opinion polls show immediate issues such as the Israeli-Palestinian conflict and discrimination rank as more pressing. But Muslims regard themselves as members of the Umma, or community of believers, that forms the heart of Islam. And as earthly head of that community, the caliph is cherished both as memory and ideal" (Vick, 2006).

Theory of Imamate (the political system of Shiite)

The most popular rival political system of Caliphate within the Islam is Imamate. The word Shiite means follower, friend and assistant, however, Shiite also refers to those groups of Muslim who developed a particular school of jurisprudence. Though, Shiite Muslims share most of the basic beliefs of Islam with Sunnis, their political views and political leadership is different. They believe in Imamate instead of Caliphate. This theory is based and emphasized on succession of Imam Ali after the Prophet Mohammad. They consider that succession as Ali's right. How to prove this right and continuity of Ali's successors differentiate the various sects of Shiite. In addition to the Twelver Shiites (Athnāʻ ashariyyah), the main branches, there are other groups such as Zaidiyyah Shiite, Ismaili and its main branches Fatemyyah (Feirahi, 2008, p. 39)

Comparison

During the early centuries of Islam, Caliphate system was the dominant political system and then it continued in the form of short-term Caliphate in Egypt in early 14th century and the Ottoman Caliphate until 20th century. Unlike Caliphate Shiite's political system appeared only in limited parts of the Islamic land for a short time. Zaidyyah Shiite deployed in Yemen, southern Arabian Peninsula and for a few years in the southern coast of Caspian. Fatemyyah ruled in Tunisia and then later in Egypt nearly two centuries and in some historic periods, a few Shiite dynasties such as Buwayhid during the Abbasside Caliphate and Safavid established governments based on Shiite political views. The exact political interests of Buwayhid is not quite clear ,though as it was mentioned, this dynasty belonged to Shiite groups; they refused to overthrow the Abbasside Caliphate for the establishment of the Shiite regime. The Safavid dynasty benefited formally from the ritual and the name of Twelver Shiism. Some historians believe that it helped to shape the Shiite state in Iran afterwards. Even so, it could be difficult to consider this historic event as an example of the ideal political system in Shiite. Obviously, like Sunni states, some Shiite states such as Safavid do not represent fully the ideal type of government based on their true religious political perspectives, however, they reflected a number of certain aspects of both religions such as their jurisprudences, Islamic law and so on. As mentioned earlier, the political system of Caliphate was prior to its political theory. In other words Caliphate formulated afterward and as a dominated system continued through the history in most parts of Islamic land while political systems of Shiite had less opportunity to emerge. The other obstacles in Shiite political thoughts are its diversity and the fact that they mainly have developed theoretically without having real chances to be practiced fully. Those regimes that are attributed to the Shiite did not care much for existing Shiite political views to be structured accordingly. They prioritized their individual, local and ethnic interests ahead of political thoughts. Political theories of Sunnis are well experienced and they were developed gradually

through the history of Islam therefore they seem more practical. If we eliminate some of those historic events at beginning of Islam that led to develop the theory of *Hal-o-Eghd*, or *Estiikhlaf*, they most probably did not have their current shape today, while it is difficult to make an assumption about the Shiite political theories in the same respect to Sunni's or at least not to this extent.

Shiite is an interpretation of Islam that promotes the belief that through the Imamate, Muslims will find out about those parts of the Islamic beliefs that they cannot learn it by their own; therefore, Imam will discover the trueness of Islam for all. To the Shiite Muslims, following Imam connects them to those uncovered dimensions because Imam is not an ordinary person. The main schismatic between Sunni's and Shiite's political thought is here in Shiite's concentration on an ideal type of political system while Sunni's is after a more efficient and realistic type of political system. It should be noted that the efficient system in Sunni's and ideal political system in Shiite's are not absolute and imagining that the ideal system is not effective or an efficient system has no ideal norms is not entirely correct. In Imamate system, according to Shiite, Imam is the best person who understood the true religious teachings of Islam and all his efforts focused on guiding the Muslim toward virtues. Hence, Imam is not an ordinary individual like others, he possesses an ability to understand and analyze the trueness of Islam, therefore Imam is selected not only by the Prophet Mohammad but actually by God. Shiite Imam cannot be elected by people thus, they have to obey him and they do not have any right to question or criticizes him because he is not in a position to be judged by ordinarily people (Qaderi, 2011, pp. 38-41).

According to Shiite, the infallible Imam has acquired all the knowledge about the religion through the Prophet or his predecessor and when he faces a question or a challenge, he learns enough knowledge to solve it through the divine inspiration that Allah entrusted him(Almozafar, 1417, S. 314).

This interpretation of the ruler in particular term "Imam" is different from the interpretation and the general doctrine of Sunni. Based on Sunni's doctrine, it is not necessary that ruler be the best (most ideal) person of his area and particularity people can question and criticizes him. There were some sects in Sunni that considered such position for four first Caliphs of Islam, however, it did not coexist with the general acceptance and not all the Sunni Muslims have such belief. Though in theory Muslims could criticize caliph, in practice questioning the caliph faced with many barriers, andsince power was concentrated in the hands of caliph, usually caliphs did not allow people to question their actions or observe their behaviors and those who had the courage to do so, faced the dangers afterwards. Consequently,caliphs somehow obligate themselves to consult with some people and hear their advices (Qaderi, 2011, S. 43).

Security in Caliphate and Justice in Imamate

Security or keeping the political order of the Muslim society considered as the main functions of political system of Caliphate. Concerns that Sunni scholars had over the issues such as insurgencies, chaos, and disturbing the peace and political order of society made them to emphasize on security and prioritize it in their political perspectives. Basically, keeping the political order or security was the main element of efficiency in Caliphate System and those caliphs who were capable of repressing chaos and insurgencies considered as the most efficient ones. The first civil war in the Muslim society started after the assassination of Othman Ibn-Affan in 656 and the second one in 683 after the death of Yazid the first. These civil wars and the ones afterwards caused serious predicaments for the Islamic state and Muslims. Thereupon, it made Muslim thinkers to raise the issue of security. Theory of force (Esitla) created a very complex situation because insurgencies and chaos disturbed the order and it was reproached by everybody and on the other hand those who could successfully overthrow the caliph gain the same political legitimacy (Qaderi, 2011, S. 44).

Likewise, it is important to bear in mind that justice has a high position not only in Shiite political perspective but also justice is considered as one of the principles of Shiite religion. Justice in Shiite school of thought originated from two points: The first point refers to the knowledge and wisdom, which lies in the teachings of Islam that Imam fulfills it with his capability and his divine connection. It should be noted that Justice in Shiite stands in a higher level than all the human wisdom and his efforts on the other words, it is beyond the human limitation. According to Shiite, Imam with his divine wisdom understands the real trueness behind the issues and individuals, therefore, by employing this wisdom he institutes an order in society based on justice. Hence, in Shiite political view, the security and order in society, which is resulted by force is not desirable but it goes after an order that originated from justice. It is a virtue that only an Imam is capable of actualizing. The second point refers to the Imam and his true position to lead the Muslim society. To put it differently, Imam as the best individual who is selected by Allah must rule the Islamic society because the leadership of Imam equals to justice and inattentiveness to this fact is injustice (Qaderi, 2011, S. 45).

Emerging and development the Shiite

Imamate is the foundation of the Shiite teachings as a realign, particularly in the Towlver sect. the event of Ghadir Al-Khumm in 632 AC is a significant point in the history of Shiite because Imamate was announced for the first time. According to the Shiite narrative, Prophet Mohammad appointed Ali Ibn Abitalib as his heir and successor in a speech to the pilgrims who accompanied the Prophet in the Farewell Pilgrimage in a place named Ghadir Al-Khumm (Amini, 1365, pp. 60-85). However Sunni Muslims have a different narrative about this event, therefore, after the event of Saqifah, when Abu-bakr appointed as the first caliph in Islam, Political Shiite had shaped. Since, Shiite argues that it was Ali's true and undoubted right to rule the Muslim society (as an Imam) after the death of the Prophet not Abu-bakr or anybody else. Accordingly, they refuse the outcome of the Saqifah event. After the assassination of Othman,

those who supported Ali moved to the next step and Ali was appointed as the fourth Caliph of Islam and the first Imam of Shiite. Afterword, the martyrdom of Imam Hussein (the third Imam of Shiite and second son of Imam Ali), the political support for Ali's descendents had been increased not only among Arabs but also the Muslims of the time form new occupied lands such as Persia, who were called Mawali[1],joined this movement. With the extension of Shiite movement among Mawali, some norms and teachings from Persian origin found its way to this movement. In addition, crisis happened in late Umayyad rulers, which end up with emerging Abbasid, division occurred among those who supported Ali and his descendents whom called Alawian now. Some only supported Ali and his descendents whom are also called Fatemyyan and other groups supported Bani Hashim tribe that Ali himself belonged to it. Since Abbasid[2] belonged to the same tribe so many people supported them and eventually they overthrow the Umayyad and like that, they created another system of Caliphate. Those who were deprived form the power later on called Shiite and they believed that Political leadership in Islam, Imamate, exclusively belonged to the true dissentients of Imam Ali not, but anybody else. Since Fatimah was the daughter of Prophet Mohammad and wife of Imam Ali, so the Shiites also were identified as the Fatimid or Fatemyyeh. Later on after the death of Imam Jafar Al-Sadiq, the sixth Imam of Shiite, a group of Shiites named Ismaili, separated from the main branch because they believed that Imamate continued in Ismail, the older son of Imam Jafar. They took the political power in Egypt and created the Fatimid Empire in 909 AC.

During the Imam Mohamad Al-Bagher (the fifth Imam) and Imam Jafar Al-Sadiq, the Shiite's political theology has developed; therefore, the jurisprudence of Shiite in its main branch is called the Jafari's jurisprudence. According to Shiite there is a true Imam in all time weather he holds the political leadership or not. With the exception of Hassan, the second Imam in Shiite, all other Imams are descendents of Imam Hussein who was the younger brother of

---

[1]Mawali or *mawālá* (Arabic: موالي) is a term in Classical Arabic used to address non-Arab Muslims.
[2] Abbas who was the origin of this dynasty was the uncle of both Prophet Mohammad and Ali

Imam Hassan and third Imam of Shiite. Each imam had introduced the next Imam and that was the tradition of Prophet Mohammad who appointed Ali as his predecessor in the event of Ghadir Al-Khumm. In short, as it was mentioned earlier the main ramification in Shiite, there was the separation of Ismaili that happened after the death of Imam Jafar, theShiite continued in its main figure, though, which is the Twelver. Twelver Shiites believe that their last Imam, Mahdi, is in occultation until he returns at the end of time so they wait for his return. This belief led some of the Shiite scholars to establish a new political theory named Vilayat-e-Faqih. This theory is the base of political system in Islamic Republic of Iran (Qaderi, 2011, pp. 47-49).

Vilayat-e-Faqih or Absolute Guardianship of the Islamic Jurist

Iran is the first country in the history of Islam that has adopted and applied the Absolute Guardianship of the Islamic Jurist in its constitution and its government. According to the article fifty seven, the word "Absolute" is used. This article reveals the crucial role of the Supreme leader of Iran in all policies (Feirahi, 2008, p. 241).

The power of government in the Islamic Republic is vested in the legislator, the judiciary and the executive powers, functioning under the direct supervision of the absolute religious Leader and the Leadership of the Ummah, in accordance with the forthcoming articles of the Constitution. These powers are independent of each other (Feirahi, 2008, p. 242).

Perhaps the theory of Philosopher-King of the Plato is the closest political theory in the West to the theory of Absolute Guardianship of the Islamic Jurist in Shiite. Because in this political theory in Shiite philosophy, everything is dependent on Imam and his decisions are the final words, the same way that Plato describes his ideal type of leadership in Philosopher-King (Qaderi, 2011, p. 51).

As mentioned earlier, theory of Vilayat-e-Faqih (Absolute Guardianship of the Islamic Jurist) has shaped by Shiite Scholars who wanted to draft a political system based on the occultation of Imam Mahdi. In Shiite doctrine, issues of governance and political legitimacy during the absence of the Imam Mahdi are very important. According to the Shiite teachings, occultation of Imam is based on divine wisdom. Some of the Shiite Scholars believe that Muslims should wait for Imam Mahdi to come back and establish a true Islamic government. According to this group of scholars, all the governments during the absence of Imam Mahdi are illegitimate and usurper, therefore, they recede from any further political action and deny any responsibility in that respect. On the other hand, another group of Shiite scholars, based on their motive and type of interpretation that they had from the Shiite's doctrines, involved in political affairs. They were finally convinced to establish an Islamic state such as Absolute Guardianship of the Islamic Jurist during the absence of Imam Mahdi (Qaderi, 2011, p. 231). The years leading up to the Islamic Revolution of Iran were the peak of these political beliefs. The idea of the Vilayat-e-Faqih as a rule was created and advanced by the Ayatollah Ruhollah Khomeini in a series of lectures in 1970. He believed that during the Absence of Imam Mahdi, the qualified jurists, in political and other affairs are his true predecessors. According to Ayatollah Khomeini, the Islamic state (Absolute Guardianship of the Islamic Jurist) is truly the Allah's government (Khomeini, 1365, p. 460).

Chapter Two

Theocratic tyranny

Unfortunately, the rare efforts that have been done to restrain the Political Islam and connecting it with the reality of existing tyranny within the Islamic society have never been noticed and emphasized enough (Qaderi, 2011, p. 213). Al- Kawakibi in his book "The nature of Tyranny" (Tabiat al- Estibdadiah) gave a definition of Tyranny:" tyranny is, the possession of the common affairs of society and interpreting them arbitrarily". He explained the relationship between tyranny and politics. He also believed that tyranny is connected to some other issues, such as religion, science, wealth and nobility. At the end, he analyzes how to get rid of tyranny. According to him, political tyranny is the denying of other people's rights without fear of being questioned (Kawakibi, 1363, S. 33-41). Political system in Islamic society faced this basic obstacle from the beginning and today this problem still exists in the political structures particularly when this political system face crisis. The Muslim thinkers realized these obstacles and they have tried to find a balance between freedom and power (when it keeps the order and security in society) and they tried to answer this question; how could we keep the freedom and restrain the rulers. Unfortunately, these political theories about the political system within the Islamic world were not capable of finding such a solution and eventually they gave up the freedom for the good of security, as an important function of the political power, and they somehow drafted political system that dictatorship and tyranny were its main pillars (Feirahi, 2008, p. 49).

Mohammad Husain Naini, one of the Shiite scholars, believed that there are seven factors that create tyranny: Abusing of religion, worshiping the rules, existing division within

Muslims, using force and creating fear among the people by dictators and the inferiority of the poor people and establishing the racketeering manners(Naini, 1360 , p. 125).

Authoritarianism

Authoritarianism is one of the clear traits of the political system in Islam. Theories of the political system use some of the texts within the religious teachings that helped to create authoritarianism. These political theories have developed two reversed processes in the general structure of Islamic political system by leading them towards authoritarianism: first, reasoning and arguments about the conditions and methods of establishing the Islamic states, which ended up to denial of all other important conditions such as freedom, efforts to bring the real justice as duties of the Muslims rulers. Second, justifying the progressive elements of bullism and emphasizing on political dominance and pressures on Muslim's life (Feirahi, 2008, p. 50). Political theories in Islam, form both Shiite and Sunni, always try to connect the hidden authoritarianism in the political structure of Islam to the providence. According to viewpoints, from both Shiite and Sunni, Islamic political structure is justified by divine rights like other theocratic systems, therefore, religion defend the existing totalitarianism in such political systems. Mirza Ghomi, one of the other Shiite thinkers, believed "rulers take their position through the providence and they have been authorized by God to secure the Muslims lives and dispelling the enemies of the religion" (Kadivar, 1376, S. 71).

Despotism and absolutism

Despotism or putting the ruler above laws is a trait of the Islamic political system. That trait is similar to the Plato idea about the Philosopher-king. Plato emphasized on knowledge for politician, philosopher-king. He thought that laws and regulations cannot provide the interests of

political life in certain conditions and circumstances. According to Plato, the Philosopher- king should not be limited by laws and he must decide and behaves based on his knowledge and self-perceptions (Plato, 1367, p. 1614).

The religious theorists, both Shiites and Sunnis, consider the same quality for the ruler whether he is Imam or Caliph. This quality calls *Ijtihad* in Islam. Ibn-e-Ferah Hanbali emphasized that the Muslim rulers must be excellent in religion, so that he can act based on his understanding of religion (Ferah M. , 1994, p. 24). However, in reality, Caliphs extended their power from those religious texts, which gave them supremacy. Although, such acts were not according to the Sharia and even sometimes were against the Sharia'', unfortunately scholars legitimized their believers and explained them with the quality of Ijtihad in Caliphs (Hasan, 1992, p. 380). According to the Shiite political perspective, Imam's knowledge is the main condition to manage the society and infallibility of the Imam guarantees the right hood and safety of his judgment. According to the political views of twelvers, since the infallible Imam, Mahdi, is absent, there is no element of infallibility to secure the government. Here, as it was already mentioned, some Shiite scholars who believe that, with the exception of Imams, there is nobody qualified to rule the Muslims Society therefore, they left politics to kings. On the other hand, some other scholars by relying on the knowledge of religion or Ijtihad, concluded that a qualified jurist can be the Hidden Imam's successor. According to this belief, an ordinary person who even is not infallible, like the Hidden Imam, can rule the Muslim society by having all the authorities like the infallible Imam. This person with his unlimited power controls the society based on his own Ijtihad. That is the theory of Vilayat-e-Faqih, which has been practicing in Islamic Republic of Iran, since the Islamic revolution in 1979 (Feirahi, 2008, pp. 54-55).

Ayatollah Khomeini's speech at the time of appointing Mr. Bazargan as the Prime minister of the transitional government at the beginning of Islamic revolution in Iran: "I appointed him because I have authority from the God, so I decided to appoint him. Therefore,

people must obey him (Vajebo-al-etaet).So long as Khomeini was alive; the democratic principle was entirely subordinated to that of the Mandate of the Jurist. President Khamenei stated (1988) that the Constitution derives its legitimacy not from 'the majority of the people' but from 'the ruling Jurist'; 'the Mandate of the Jurist is like the soul in the body of the regime' (Arjomand, 1984, p. 183)

The noticeable fact is that the leader of the Muslim's societies "whether he is Caliph or Imam" he has unlimited authorities over the society and his authority is legitimized by the Islamic views.

Velayat-e-Am

Velaayt-e- Am or concentration of both political and religious affairs on one person (Caliph or Imam), is one of the significant traits of political system in Islam. From the beginning of the establishing of Islamic state, there was no distinguishing between political and religious affairs. Unlike the Christianity that these two are distinguished and apart from each other, when Prophet Mohammad established the first Islamic State in Medina, he had Velayat-e- Am on Muslims therefore, after him Muslim rulers took the Prophet as an example. With the exception of the Abbasside era, after the caliph Mamun Al-Rashid, when Caliphs didn't have enough power in comparison to the semi-independent rulers, through the history of Caliphate, Caliphs were powerful and they were considered as Zel-O-Allah or the shade of Allah. Caliph was in a position; which ruled both on worldly and religious affairs of Muslims. Thus, in the political theory of Caliphate and Imamate the Muslim ruler alone is responsible for all the issues such as religious, politics, judiciary and etc (Feirahi, 2008, p. 56).In other words, the theory of separation of powers, which is the base of all democratic regimes does not exist in any of Muslim political theories. According to the article 75 of the Iranian constitution, the Supreme Leader controls all other powers or branches of the Iranian government and/or in other Islamic

country, Saudi – Arabia, the King has such power according to the Saudi constitution (WIPO, 1992).

Islam and Human Rights

As already stated, one of the important duties of Muslims rulers is to implement the Islamic law or Sharia. Sharia laws should be enforced in the Islamic states. In other words, it means that the establishment of the Islamic state is a pre-condition for the enforcement of Sharia laws. The most important sources of Islamic law are Quran and Sunna in both religions of Islam Shiite and Sunni. The significant fact about these two main sources is their rigidity against any changes. This quality kept them in the same way from the beginning of the history of Islam form fourteen century ago. The possibility of reforms about those Islamic laws that originated directly from Quran and Suuna are very difficult even impossible. Implementations of these laws contradict with the international law particularly with the International Declaration of Human Rights and its various conventions. Particularly some of Sharia law or Ahkam about women, freedom of speech, religion and Islamic penal code, Hudud, are in a clear contradiction with various United Nations Conventions of Human Rights for instance, International Declaration of Human Rights, International Convention of Civil and Political Rights 1967, International Convention against Gender Discrimination 1975 and The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984.

Sources of Islamic Law

For a better understanding of this part, it is necessary to explain the Islamic Sources of Islamic law .The body of Islamic law is referred to as Sharia or Ahkam. This body of law originates basically from four main sources: the Qur'an, Sunna, Qiyas, and Ijma.

- The most important source of Islamic law is Quran. According to the Muslims, this book is the words of Allah as delivered by the Prophet Mohammed. Quran was revealed to the Prophet over a period of 23years, during the time he lived in, Hejaz, two cities of Mecca and Medina. Quran is composed of 6219 verses. About five hundred of these verses are legalistic in manner and some eighty verses deal absolutely with legal issues (Radford, 2000, p. 143).

- The Sunna, as the second important source is defined as the practice of the Mohammad. Basically, the Sunna includes the sayings of the Mohammad, his manners, and his implicit approval of certain acts, of which he had knowledge. The Sunna in most of the time is only confirmation of the traditional law that was widespread in Hejaz at the time of the Mohammad's life to the certain degree that those traditional laws were not contradicted by him. The Hadith, which is the written record of the Sunna, was not gathered until many years after the death of Mohammad. Those who wrote down the Hadith did so by assembling the first hand witnesses, those who had lived with and observed the Prophet Mohammad and the secondhand testimony of the second and third generation followers of the original Companions of the Prophet. Some controversy exists as to whether the human element involved in narrating and interpreting the Mohammad's words and actions may have compromised the accuracy of the Hadith (Radford, 2000, p. 144). Some of the Muslim lawyers, however, look exclusively to the Quran and the Sunna as the sources of Islamic law and refuse the likelihood of mistake, bias or wickedness in the Hadith.

- Qiyas and Ijma, the third and fourth sources of the law, are based in human analysis rather than Godly revelation. Qiyas indicates a development of the law through analogical argument, or the application of a textual rule from one circumstances to a different circumstances. Qiyas can be accomplished only if the underlying purpose of the rule itself is clear. A regular pattern of the use of Qiyas is the expansion of the expression of prohibition against the use of alcohol to include a prohibition against the use of drugs, which is like alcohol, impair the user's control of his actions. Ijma is the agreements reached by the Muslim scholars and jurists as to a rule of law (Radford, 2000, p. 145). As with Qiyas, Ijma indicates the application of human argument to the Quran and Sunna. Therefore, although the Ijma may have represented the undisputed judgment of a certain age, Ijma is not basically the agreement of all the past scholars.

Legal status of women in Islam

One of undeniable facts about the humans is the gender difference, a difference that causes human species continue to live. The question is whether this difference in gender causes different legal status for women and men or not. The approach that some religions such as Islam have to this issue is not based on general concept of justice. Because, for instance in Islam, women consider as unequal human being in comparison to men. It is justified to the religion that because of some defects, women have less rights than men. However, the modern approach, which is represented by International Declaration of Human Rights to the same issue, is quite different. According to this approach, difference in gender does not conclude that women are not equal human beings like men therefore; women enjoy the same legal status as men. Generally speaking, Islam has accepted the gender discrimination and it is defended based on Sharia law. As a whole, the greater the influence of traditional Islam, or of fundamentalism, the more restricted women are, and the more difficult is the situation of non-Muslims, especially non-

theists. Many modernists in Islam have championed equality for women in marriage, including monogamy and an equal right to divorce, and equality for women in education (Othman, 1960, pp. 416-17).

Gender discrimination considered as a natural fact and it is accepted thorough the history of Islam so according to Islam, women has less rights in comparison to men. Ahkam about women can be divided in five categories:

- Ahkam about some cases such as divorce, custody of their children after the divorce and etc, which deny women from any rights and are exclusively for men

- Ahkam that considered less than half of the rights that are considered for men

- Ahkam that considered half of the rights that are considered for men

- Ahkam that give equal rights for both women and men

- Finally, Ahkam that women have more rights than men

However, it should be considered that the last two group of Ahkam are very small. In general, Ahkam about women do not offer the same rights that men enjoy. Sometimes even the basic rights of women are being denied by the religion. These Ahkam generally, contradict with the following international documents such as; Articles numbers 1, 2, 7 and 16 from the International Declaration of Human Rights 1948, Articles numbers 3 and 23 form the International Convention of Civil and Political Rights 1967, Articles numbers 1 and 6 form the International Convention against Gender Discrimination 1975 and some other International Human rights documents. In conclusion, the position of the Human Rights is better than the Islamic viewpoints in all of the existing contradictions between Islamic laws and the Human Rights documents. Prioritizing the gender over the humanity is not rational. If the racial difference cannot be the reason for having different legal status, why does the difference in

gender can be a reason for difference legal status between men and women. Absolute inferiority of women in those Shari laws is obvious. In essence, gender discrimination is not acceptable because it is against justice, equality and common sense.

Similarly, today, there is an attempt, in some of the Islamic countries to discount the Sharia law with respect to the women status, which is represented by the Islamic laws but unfortunately this solution for the exiting contradictions between Sharia laws and Human Rights position about women is limitedly insufficient and simply not enough. Basically, these kinds of solutions are not capable of solving the problem specifically about those Ahkam, which are originated from the two main Islamic legal sources Quran and Sunna.

Here, some of the most important Ahkam about women in Islam are explained, which are originated from those main legal sources in Islam. These Ahkam are practiced in those countries that have an Islamic state.

A) Inheritance

According to the Ayat 11 of Surat Al-Nisa, the amount of the inheritance that women receive is equal to only half of the amount that a man can inherit. This inequality in inheritance in the Sharia laws seems cruel but, some of the Muslim thinkers believe since it is only men who provide for their family, therefore naturally they inherit more than women (Mir-khalili, 2011). However, this justification with the new situation is not efficient because today women like men are working and providing for their families. The inheritance law, which has been practiced in Muslim countries, can not present the real justice and it needs to be updated with the modern situation.

B) Marriage and divorce

Making decision about personal life is considered as basic rights that everybody regardless of its gender must have. However, according to the Islamic regulations about marriage and divorce, women are deprived to make a decision by their own independently. Issues such as forced marriage, arranged marriage and marriage of underage children are the consequences of these Islamic laws. Basically, Sharia has emphasized on the role of father about marriage of his daughters. It means that a woman cannot marry somebody unless her father decides so. This role is simply different from than the approval of the father in some cultures because according to the Sharia law father is his daughter's guardian (Mir-khalili, 2011). Based on Sharia, it is the father who decides about the destiny of their daughters. In case of the father's death, other male members of the family like grandfather, uncle or older brother has this guardianship and they can decide about the woman marriage. Here, we usually witness two severe cases, forced marriage and the marriage of the underage children that contradict with the article number 16 of the Universal Declaration of the Human Rights Declaration and United Nations Convention on the Rights of the Child.

It also should be mentioned that according to the Sharia laws, polygamy in Islam is legal and it justified by Quran Ayat 58 of Surat Al-Nisa and prophet Mohammad's tradition.According to the Sharia laws, the right of divorce is exclusively in the hands of the husband and women are deprived from such right absolutely. In some Muslim countries in limited and certain cases women can have the right of divorce as well; however, the basic principle is that the husband is the one who can decide about the divorce (Mir-khalili, 2011). It can be concluded that the Islamic regulations about marriage and divorce are completely patriarchal because it is the men who make decision about the destiny of the women form their marriage and divorce.

C) Custody of the children

One of the other denied rights of the women according to Sharia laws is the custody of the children in cases such as divorce or the husband's death. Based on Islamic laws it is the husband who holds the custody of the children after the divorce and in case of the husband's death, grandfather or uncle form the husband side are prioritized than mother of the children to hold the custody (Mir-khalili, 2011).

D) Islam and Judgment of woman and woman's testimony in courts

The women rights about testimony and prohibiting them from working as judges are the other injustice issues about women in Sharia law. It indicates a very low position for women in the judicial system in Islam. According to the Sharia law, position of judging is exclusively for men and women are deprived from this right. Some Muslim thinkers justify that since women are too emotional, then their judgment is very poor so for the sake of the justice, it is better to deprive them form judging (Salehi, 2005, pp. 4-7). The other issue is the testimony of women in the Islamic courts; according to Islamic Ahkam in most cases women testimonial statements are not acceptable, however in some minor cases two women testimonies are equal to one testimony from a man. In fact that originated from the Quran Sort-al Bagharah verse (Quran, Al Bagharah. 282).

E) Qisas and Diyya

Qisas is a type of Islamic penal codes meaning, an equal retaliation that is based on *an eye for an eye* for instance, according to Islamic penal codes in case of murder, Islam consider execution of murderer by the victim's heir. This law is based on the Qura'nic statement from Bahgarah verses (Quran, Al Bagharah.178) and today in countries such as Iran, Saudi Arabia and Afghanistan, Qisas has been enforced. Yet, based on Islamic principles about Qisas, if a man

murders a woman, he cannot be punished because a woman is equal to half of a man. In case of Diyya, a financial compunction, which is played to the victim or the victim's heir, women have fewer rights than men. Often this financial compensation for the damages that a woman receive is equal to the half of the money, which is payable for men in the similar cases. In the other words, the rights of women in Diyya like other issues in Islam are considered of half of what men have (Bavand, 2010).

F) Hijab

Hijab is one of the other Sharia limitations, which are imposed on the Muslim women. In countries with Islamic states like Islamic Republic of Iran and Saudi Arabia Hijab for woman is mandatory. In other Muslim countries like Afghanistan it is enforced by the society but not by formal regulation. Of course issue of Hijab is not interpreted in a similar way in all the Islamic countries. The Islamic Ahkam emphasized on Hijab for women but as it aforementioned in two countries Iran and Saudi Arabia Hijab is part of the formal laws and those women who reject to wear Hijab they are punished by law. This issue obviously limits freedom of the Muslim women who live under the Islamic state. This limitation is not only on what woman have to wear but this pressure goes beyond the issue of Hijab and it contains other aspects of women's social lives such as presence in Politics, Sports, Education and so on. In addition, there is no limitation on education of women but it is influenced by the issue of Hijab. Therefore, the half of the potential power in the Muslim society is ignored by the existing gender discrimination (Watch, 2006, pp. 5-10).

Freedom of Speech and Opinion

Those Islamic societies which are being ruled by Islamic states violate the Human Rights in different aspect. One of these aspects is ignoring and rejection the basic rights of human freedom. This means that citizens of these states are under the constant various pressures

from the religious institutions on one side and government as the formal pressure from the other side. These pressures not only deprived people from their basic individual rights but hold them in constant fear. Though ignoring the basic individual rights is the characteristic of all totalitarian regimes, in Islamic state, this trait is being intensified because according to the Islamic teachings and Ahkam several of religious and political ideological restrictions are imposed on different group of people such as; political intellectuals, religious reformists, writers, artistes and even ordinary people. The cases of violations of freedom of expression and opinion in Islamic states can be classified in the following groups:

- Political expression (Restrictions on Political parties and Media)
- Freedom of religion
- Freedom of arts and literatures

Apostasy

To follow, one of the most important tools of the Islamic States against the freedom of expression and opinion is apostasy. Apostasy as a powerful religious tool is used to suppress the political opponents in the Islamic states. Since the Islamic state is structured and shaped according to the Political Islamic teachings and receives its legitimacy from the religion, therefore, opposing or disaccording this system can easily be interpreted as apostasy. Because according to the Islamic state any kind of political opposition, which questions the Islamic system or challenges it, considered as opposing and denying the religion. Opposing and denying the religion is the exemplar of apostasy. For instance the Islamic Republic of Iran during the 80s had executed thousands of its political opposition groups such as Socialist leftist groups, who even had a great role in the Iranian Revelation in 1978, under the name of apostasy. All these executions were approved by the religious Supreme Leader, Ayatollah Khomeini, and Iranian Islamic justice system. There are several other similar cases in Saudi Arabia and Afghanistan

under the Taliban that executed many of their political opponents and justified it afterword through the apostasy (Khomeini A. , 2009).

Concept of apostasy has used not only by Islamic state to supplant the political opponents but this concept can include even non political statements. In 1989, after the publication of the *Satanic verses* by Salman Rushdie the Indian-British writers, Ayatollah Khomeini the Supreme Leader of Iran considered this book as a profane act against Islam and sentenced the writer to death through his famous Fatwa (Slaughter, 1993, pp. 153-59). This act had an extensive international reaction in condemnation of the Khomeini's Fatwa. In fact, that was the first time for many people in the West to learn about the concept of Fatwa. Sometimes even an artistic expression in the field of music can be included as an example of apostasy. For instance an Iranian singer named Shahin Najafi was sentenced to death because in one of his songs he had some humorous comments about one of the Shiite infallible Imam (Sharafedin, 2012).

Form the Islamic state's viewpoint everything that can challenge the religious legitimacy of the Islamic Political system is dangerous and it should be repressed. Sometimes this repression is explained by sentencing through the apostasy. Therefore, there is no difference between the political comments or artistic expressions because all of them are considered as challenges.

However, one of the common reasons for sentencing people to apostasy is conversion from Islam to the other religions. If a Muslim converts to other religions and insist on his\her new religion, this act considered as apostasy and apostasy according to the Islamic penal code is punishable by death.

Freedom of media and political parties

One of the main elements in true democratic regimes is freedom of speech and media. This element protects the democratic values and helps to prevent the political corruption from the state. Islamic states like other ideological regimes are not interested in free media and this concept is modified according to the theocratic interests. Usually media in the Islamic state turns into a governmental tool that reflects only the state's perspectives. There are several examples of forbidding the free media and applying restrictive policies on them in Islamic state for instance the intense reactions of Islamic Republic of Iran towards journalists (Shahid, 2012, pp. 53-54). According to Committee to Protect Journalists CPJ, Iran as an Islamic state is one the worst countries that holds many journalists in prisons which some of them are even in the verge of losing their lives in detention centers (CPJ, 2012).

Freedom of religion

Apostasy is a clear case for the status of practicing freely other religions, except Islam, in the Islamic states. Through the history of the Islamic government, the followers of other religions were treated differently and only because of living in the Muslim society they had to pay particular taxes to the Islamic state (Taheri, 2005, p. 9). However, today in some of the Islamic countries, followers of other religions do not pay such taxes but still are living under constant suspicion and cannot practice their religious traditions freely.

The other common violation of the freedom of religion is applying on those minorities of Muslims who live among a majority from another branch of Islam. Since these Muslim follow different jurisprudence so the ruling majority usually treat them as second citizens (Watch, 1997). They face several obstacles and restrictions in practicing their religions. Clear cases are the situations of Shiite Muslims in Saudi Arabia, which is established based on Hanbali jurisprudence one of the four schools of jurisprudences in Sunni and the other case is the

situations of Sunni citizens, Baha'is and Daravish Gonabadi in Iran which is established according to the Towelvers school of Shiite. According to the United Nation's report about the Human Right's situations in Iran, the Iranian regime interrogates these Muslim minorities and destroys their mosques and Khaneghahs (Shahid, 2012, p. 66).

Hudud in Islam

Hudud are the most important part of the Islamic penal code. There are several crimes in Muslim society that according to the Islamic Sharia law are punishable under the Hudud. These crimes include; adultery, drinking alcohol, sodomy, lesbianism, robbery, false accusation and finally apostasy which has already been described earlier under the topic of freedom of opinion and religion. Under the Islamic Hudud there are several harsh and brutal punishments and tortures such as lashings, amputation of hands or legs, stoning and executions. These punishments under the concept of Hudud contradict with the article number 5 of the International Declaration of Human Rights, which says; "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984.

   A) Sodomy and lesbianism

These kinds of sexual relations, which happen between two people from the same gender are not accepted in Islam. Though, homosexuality considered as normal social behaviors in most countries of the world, based on the Islamic penal code homosexuality considered as a crime. Those people who are involved in such sexual relations are being punished brutally particularly in the case of sodomy that its punishment is execution (Khomeini A. , 2009). According to the Islamic jurisprudence, the execution of those people who commit sodomy is very painful and usually is to be buried alive or destroying a wall on them (Shahid, 2012, p. 68).

B) Adultery

The sexual relation between a man and a woman beyond marriage is considered as adultery which is an intense crime Islam and usually is punishable by stoning. According to the Islamic penal code the punishment of adultery is vary from lashing to stoning and it depends on the marital status of the people who commit adultery. Meaning those men and women who are married at the time and then have sex with someone else then they are punishable by stoning, otherwise they would be lashed for 100 times. According to the Sunni's Jurisprudence, those single women who become pregnant should be sentenced too and finally those old people who commit adultery, first they have to bear lashing for 100 times and then after lashing they should be stoned, which is approved by both religions of Islam Sunni and Shiite (Khomeini A. , 2009) (Economist, 1998).

C) Drinking alcohol

Drinking alcohol is prohibited in Islam. Those people who drink alcohol for the first time are sentenced to bear lashing for 80 times and if they continue to drink alcohol, for the second time the same punishment will be repeatable, however, if they continue for the third time they will be sentenced to the capital punishment, which is execution (Khomeini A. , 2009) (BBC, 2012) (WATCH, 2012).

D) Rubbery

One of the other injustice punishments in the Sharia law is for bandits and thieves. The considered punishment of rubbery for the first time is the amputation of hand and for the second time is the amputation of leg and for the third and more is life presentment and finally execution (Khomeini A. , 2009).

E) False accusation

Ghazaf or false accusation means when somebody accused someone else of adultery and cannot prove his accusation afterwards, he is considered a criminal and for the first time he\she has to bear lasing for 80 times and in case of repetition on fourth time he\she is punishable by death (Khomeini A. , 2009).

Almost in all of these crimes, the criminals face the capital punishment only in some cases they are facing execution on the first time such as sodomy, adultery and apostasy and in other case it may happen after the repetition. Similarly, some of these so-called crimes such as sodomy, apostasy, drinking alcohol and adultery are not considered as crimes in most legal system in the world and yet according to Sharia law are crimes and those who practice them face harsh and brutal punishment (Shahid, 2012, p. 21).

Qisas is the other type of the punishment in Islam that has explained earlier under the topic of women's rights in Islam. Hudud and Qisas are parts of the Islamic law and one of the main conditions of the Islamic state is implying the Islamic laws and since these Ahkam in most cases are originated from the main Islamic legal sources like Quran and Sunna, they are inconvertible. According to Islamic texts (Kolaini, 1985, S. 58)what the Prophet Mohammad banned is banned until the judgment day and what he allowed is allowed until the judgment day.

Jihad

Jihad or the holy war means confronting the enemies of Allah and fighting against them. It is sometimes considered as the sixth pillar of Islam. In Islam Jihad is divided in two main kinds: the initiative Jihad and the defensive Jihad. The motives for Initiative Jihad are to invite Non-Muslims and extension of the Muslim territory. In the Initiative Jihad unlike defensive

Jihad, it is the Muslims who initiate the war without any fear form the other side of the war (Morgan, 2010, pp. 87-89). Jihad and other words with similar mining are repeated often in different parts of Quran. For instance here are some of those verses in Quran that encourage the Muslim to fight against Non-Muslim in an initiative war:

- "And kill them wherever you overtake them and expel them from wherever they have expelled you, and intrigue is worse than killing. And do not fight them at al-Masjid al-îaram (Kaaba) until they fight you there. But if they fight you, then kill them. Such is the recompense of the disbelievers (Quran, 2000)."

- "And fight them until persecution is no more, and religion is for Allah. But if they desist, then let there be no hostility except against wrongdoers (Quran, 2000)."

- "Fight against such of those who have been given the Scripture as believe not in Allah nor the Last Day, and forbid not that which Allah hath forbidden by His messenger, and follow not the Religion of Truth, until they pay the tribute readily, being brought low (Quran, Chapter (9) sūrat l-tawbah (The Repentance), 2000)."

- "Indeed, Allah loves those who fight in His cause in a row as though they are a [single] structure joined firmly (Quran, Chapter (61) sūrat l-ṣaf (The Row), 2000)."

According to the Muslim thinkers, which explain later, moving towards Jihad should not be without any plan and without having a great leadership. The role of leadership is very significant particularly in the Shiite religion because it is the Imam who can decide upon such an important issue. However, when Muslims establish a strong Muslim state that is under a great leadership there is no doubt that these Qura'nic verses should be administered, because it is part of the duties of all Muslims. In fact, the extension of the Islamic borders through the history of Islam was simply because of those Islamic motives (Amoli, 2001, S. 8).

Viewpoints of Shiite and Sunni about Jihad

In any valuable study about the concept of Jihad, there are certain factors that should be considered. First, not all Muslim thinkers form both religions necessarily have the same viewpoints about Jihad and second it should be noticed that there are some people in Islam who challenge the idea of Initiative Jihad. However, all these verities and different perspectives about Jihad cannot deny the fact that Quran and Sunna, as the main sources of Islamic teachings, emphasize on Jihad as a duty of all Muslim who live under an Islamic state (Fairahi, 2011).

As it mentioned earlier according to Islam there are two kinds of Jihad; Initiative and Defensive. In the classic Jurisprudence of Islam, only the Initiative Jihad was recognized as a religious obligation for the Muslims. This viewpoint is very popular among the Sunni Muslims and according to them it is one of those duties like praying, which will continue till the end of the time.

Abu-baker Mohammad Ibn Sahl Al-Sarakhsi one of the scholars from the Hanafi school of Islam had arranged those verses in the Quran that explains the basic Ahkam about the relations between Muslims and Non-Muslims. He believes the relations with Non-Muslim starts form inviting them to convert to Islam and continues with defensive war in case they attack first and finally it ends with offensive war against them in order to extend Islam in their lands (Fairahi, 2011). Al-Sarakhsi continues that the Prophet of Islam had fallowed the same order on his policy towards Non-Muslims; Mohammad at the beginning only invited them to Islam then he was commanded by Allah to defend Muslims against any offensive acts from them and He eventually was ordered to initiate war against them. Al-Sarakhsi concluded, fighting against Non-Muslims is a duty to all Muslim, therefore, Jihad as a holy duty from God and his messenger, Mohammad, should be fulfilled by all Muslims until the Judgment day (Amoli, 2001, S. 8).

Imam Mohammad Shafei, the founder of the Shafie School, one of the four schools among Sunnis, believed that those verses in Quran, which talk about peace and prohibit Muslims to fight during particular months, are not applicable any more after the clear order that revealed to the Prophet Mohammad by Allah in verse 193 of Al Bagharah, which says; "And fight them until persecution is no more, and religion is for Allah. But if they desist, then let there be no hostility except against wrongdoers." Abu Mohammad Al-Maghdasi one of the great scholars from the Hanbali School emphasized on the Initiative Jihad as well. Al-Maghdasi also said that Muslims should participate in Jihad at least once in a year (Fairahi, 2011). Abu Umar Ibn Abduallah Al Qurtabi and Abu Al Brakat Maliki, two of the main influential religious leaders from the Maliki School like other Sunni scholars have emphasized on the idea of the Initiative Jihad and they even believed that Jihad under an injustice and cruel ruler is an obligation and Muslims have to take part in such mission against Non-Muslims. Finally, the idea of the holy war is prized in the various texts form the Hanafi School of Jurisprudence like three other Schools of Sunni. For instance, in Tabiin Al Haghaiegh, an important book about the Hanafi School of Jurisprudence, it is written that; "since Allah has obligated fighting against his enemies, therefore, we as Muslims have to initiate the Jihad against them even if they do not initiate the war and this war has to continue until all the people convert to Islam and say *there is no God but Allah and Mohammad is His prophet* (Amoli, 2001, S. 15)."

The classic Shiite Jurisprudence's analysis about Jihad is similar to the Sunni's form of the argument and the methodological point of view. According to the Ayatollah Brojerdi's perspective as one of the Shiite thinkers, there are not many differences between Shiite's and Sunni's idea about Jihad. They both see Jihad as an obligation for all Muslims, however, since Shiiite's political views are based on Imamate theory, then this question rises that whether the political Shiite leadership is in a position to begin the initiative Jihad during the absence of the infallible Imam, or not. This issue has divided the Shiite scholars in two categories, majority of

which argue that it is only the responsibility of the Infallible Imam and nobody else to command on the Initial Jihad. Since according to Shiite, it is only Infallible Imam who understands the true Islamic teachings.

As mentioned before, the Shiite Jurisprudence like Sunni's sees the Jihad as a responsibility for its followers and considers it as an important pillar of Islam, however, Jihad is conditioned to the presence of the infallible Imam. Shikh Al Taefah Ibn Jaffar one of the major scholars of Shiite worte in his book Al Nehayh that "Jihad is one of the Islamic obligations and Jihad is one of the Islamic Pillar." He continued that everybody except for women, senior citizens, children, ill people and madmen, have to take part in Jihad. However, one of the conditions for Jihad is the existence of the Just Imam and Jihad without his command or those people who are connected to the Infallible Imam is not acceptable. During the absence of infallible Imam or his representative beginning the war is wrong and nobody has right to do so, otherwise they commit sin. In addition, according to Ibn Jaffar, if enemies of Islam attack Muslims then war against enemies to defend Islam is permitted.

The other famous Shiite scholar Shikh-E-Tossi like Sunnis divides Jihad in Initial Jihad and defensive Jihad and like most of his Shiite colleagues limits the Initial Jihad to the Infallible Imam or his true representative who is appointed by the Infallible Imam himself. He argues that fighting under the command of injustice rulers is wrong and Muslims should wait for the true Imam to command them on war against the Allah's enemies. These two conditions that are explained by Shikh-E-Tossi are accepted and approved by majority of Shiite scholars today. Since according to Shiite, the last infallible Imam of Shiite is absent for more than twelve centuries and he is the only one who can command the Initial Jihad. Therefore, for most of the Shiite scholars Initial Jihad is temporarily canceled until Imam Mahdi returns. However, there are some other scholars within Shiite who believe that a qualified Shiite Jurist is able to

command on such Jihad. Thus, difference between Shiite and Sunni is minor in respect to the Idea of the initial Jihad (Fairahi, 2011).

There are some new perspectives towards the issue of Jihad among some of the Islamic reformists both from Shiite and Sunni. These attempts are aiming to give a new interpretation of Quran and Sunna that emphasized more on peace and fair relations with all nations. Mohammad Abduh and Mortiza Motahari are two representatives of such attempts. These people had tried to ignore the historic facts about Islam and modify the idea of the Initial Jihad. They had tried to give strength to this idea that concept of Jihad is only limited to the Defensive Jihad (Fairahi, 2011). To conclud, although in Shiite, the role of Infallible Imam is very significant, if the qualified Shiite Jurist based on the Muslim rules, possesses the power of Ijtihad, then he can argue and defend his decision if he commands on the Initial Jihad. In case, if some Islamic groups could establish a strong political state with powerful military capabilities, then, it is to consider that to what extent these new ideas about Jihad can prevent the world from an international case and also preserve the world peace. As it was mentioned earlier, the concept of Jihad is rooted in Quran and Sunna, so it is impossible to ignore them easily. Today, some of the Islamic fundamentalist groups such as Al-Qaida and Taliban reject the new idea about Jihad in theory and practice and the only understanding of Jihad for those groups is the Initial Jihad.

Chapter Three

"Democracy demands that the religiously motivated must translate their concerns into universal, rather than religion-specific values. Their proposals must be subject to argument and reason, and should not be accorded any undue automatic respect".
 − President Barack Obama −

The Idea of Secularism

Based upon the first two chapters of this piece, this chapter endeavors to answer the question of what can be a solution for the malfunctioning religious states in this particular case, Islamic states. Here, the writer strives to come up with a system that has been a successful trend during the last century. It has helped religious fragile states to develop initiating by the basic principle of this regime, which is the separation of religion from state. To put it differently, if for instance, we take the example of Afghanistan as an Islamic state, the whole effort of the international community has to a certain extent failed in the state building approach they followed. One of the most crucial reasons for the failure has been the non-functioning system along other issues. Iran for instance, an example of an Islamic Tyranny, the regime has been sinking the state by the so-called Islamic principles they follow, of course other reasons are also included. Similarly, the political system of Iran is mixed of the politician and Mullahs being led by a spiritual leader. The constitution is based on the Shari a law, which clearly violates the human rights.

According to the National Secular Society "secularism is the best chance we have to create a society in which people of all religions or none can live together fairly and peacefully (Para.15). Therefore, this chapter will argue to introduce secular democracy, the best approach for an Islamic country such as the above examples, so that they can come out of their current

political and social dilemmas and posses a more functioning state. A state that functions based on a logical, political and economic management and leadership, besides, it completely respects the religion and religious practicing and beliefs. However, in order to do so, there will raise the questions of "can secularism be reconciled with Islam, [or] does Islam necessarily prescribe all actions and thoughts, even in worldly matters, or [even] does it leave Muslims the freedom to regulate these things at their own discretion" (2005, Beinin & Stork, p. 84). Here, this essay as a whole and particularly this chapter attempts to shed a more detailed light on the issue trying to explain if a secular democracy can help Islamic states to preserve their religion, remain Muslim, moreover, posses a function society and state, which is part of the international community, not a threat to them.

Likewise, to make it a bit clearer, secularism is now a system that has been acquired by many western countries as well as a few eastern and even Muslim countries. In other words, the followers of secularism "make up some 15 percent of the global population, or about 1 billion people. As a group, this puts them third in size behind Christians (2.3 billion) and Muslims (1.6 billion)" (Schmundt, 2011, Para. 4). Therefore, we are talking about a worldwide political system, which can be adapted to a state without prejudices. Secular democracy on the other hand has played a successful role in the west, separating church from the state, which as a result, help them to free the religion choice and religious practices and own a strong political system, which paves the way for all of that. Before, directly going to the definition of the term secularism and the idea of secular democracy, it is important to slightly glance at the pre-judgmental perception of it particularly in Islamic world. To make the story short, most of the Islamic scholars emotionally argue that the idea of secularism and separation of the religion from political system of a state is anti-Islam, so it is not tolerable in any sense.

In other words, there is always the impression "among Muslims in general and Ulema in particular that secularism is against Islam and that Islam is incompatible with democracy" (Alam, 2007, Para.1). However, many others argue in favor of such a system debating that "secularists are not against the right of individuals to have a religious faith" (BBC, 2009, Para. 3), which clearly have been seen, since no religion has been forbidden in any secular system. It is to be mentioned that we should not mix up the cultural values some nations and states have with a regime like secularism. In fact, "secularism protects both believers and non-believers, secularism seeks to ensure and protect freedom of religious belief and practice for all citizens" National Secular Society, Para. 5). Secular democracy suggests prosperity, reconciliation, not elimination. In other words, a review of the rights of minorities in secular democratic states reveals the fact that "secularism [per se] is about democracy and fairness" (National Secular Society, Para. 6). We leave the entire pro and cons to the idea of secularism and try to dig more into this issue by going through some of the definitions that having been expressed to this phenomenon in the next part.

Definition of Secularism

If we look up for the word secularism in the dictionary, it defines it as "the view that religious considerations should be excluded from civil affairs or public education" however; it is not that simple as that. That is because it is more important where a secular system is going to be implemented, whether to a liberal, modern society with very little religious prejudices or in a very extreme religious community. On the other hand, it is very crucial to bear in mind that it is also different, which religion are we talking about, since if of course differs when secularism means the religious considerations out of Christianity than out of Islam. Yes, the definitions is certainly one and covers any secular system, however, its applicability is different.

Here, in order to make it more clear, some definitions of secularism are going to be gone through. Shakir believes, "the roots of secularism have been variously identified as emanating from Hellenic rationalism, the civil and communal values of Greco-Roman life, the Renaissance, the Reformation, Calvinism, and most prominently the moral and empirical philosophies spawned by the Enlightenment"(1999, Para. 3). A less colorful but straightforward definition by Mavromaras, who claims "the traditional definition of secularism is the neutrality of government and all public services in matters relating to one or more religions" (2007, Para.2). To continue, Jayaraman looks at secularism from another angle seeing secularism as a modern political and constitutional principle, which has got two very basic propositions "the first is that people belonging to different faiths and sections of society are equal before the law, the Constitution and government policy. The second requirement is that there can be no mixing up of religion and politics" (1997, Para 1).

On the same track, the National Secular Society also defines secularism based on the same two propositions: "The first is the strict separation of the state from religious institutions. The second is that people of different religions and beliefs are equal before the law" (Para. 1). Finally Jocelyn Maclure and Charles Taylor "provide a clearly reasoned, articulate account of the two main principles of secularism—equal respect, and freedom of conscience—and its two operative modes—separation of Church (or mosque or temple) and State, and State neutrality vis-à-vis religions" (2011, Para. 1). As a result, it seems all believe in the simple put ideas of separation of religion from the state. However, still there are confusions regarding the term and its implications. Most importantly in the Islamic world, since many of the Islamic scholars contradict secularism basically by arguing that it is against the religion and that Islam is a perfect religion that contain political, economic solutions as a system of the state.

Likewise, Keane asserts that there is a "confusion continually sparked by the term 'secularism' within the Arabic, Farsi and Turkish language communities" (2000, p.11).

According to him, "symptomatic is the absence of a term in Arabic to describe the secular, secularity, or secularism" (2000, p.11). It does not mean that there is not word for that but there is a wrong substitute. He further argues that the word that "initially chosen for secularism was Dahriyin, a Qur'anic term used to describe atheists by Jamal-Eddin Al-Afghani in his reply to the attacks on Islam by Ernest Renan" (2000 p.11). What he wants to argue is that there has been a misconception regarding the term and its ideology. We should bear in mind that there are of course situation where some secularists go much further "they want religion to be regarded as a private matter for the home and place of worship - and that the state should be blind to religion" (BBC, 2009, Para. 8), which is in term regarded as strong secularism. These are caused Islamic stares, and Muslim to mistakenly look at the term as a straightforward opposition to their religion, in reality it is not, though.

In addition, In order to have a more clear idea of secular system we are talking about, and to put some clearance on the ambiguity and confusions, here is a list of the characteristics a secular system contains. According to the National Secular Society's Secular Charter, a secular state is one in which:

- "There is no established state religion.
- There is one law for all and its application is not hindered or replaced by religious codes or processes.
- Individuals are neither disadvantaged nor discriminated against because of their religion or belief, or lack thereof.
- Freedom of expression is not restricted by religious considerations.
- Neither the state, nor any emanation of the state, expresses religious beliefs or preferences.

- Religion plays no role in state-funded education, whether through religious affiliation, organized worship, religious instruction, pupil selection or employment discrimination.

- The state does not engage in, fund or promote religious activities or practices.

- Public and publicly-funded service provision does not discriminate on grounds of religion or belief.There is no privileged position in society or advantage in law for any individual or group by virtue of their religion or belief, or lack thereof.

- The state does not intervene in the setting of religious doctrine or the running of religious organizations" (2011)

The Need of Secularism in religious societies

A review of the history of religious states casts clear evidence on the necessity of a different political system rather than a religious one. It is mostly because in such states, the religion has been both the political system and the believe system of the people. However, the contemporary situation of such states again reveals the fact that such systems are malfunctioning. Hence, a different political system, which could be on one hand applicable and implementable and on the other hand not a religious one, should be prescribed. Talking about Islam religion, "two of the fundamental questions of the debate are whether secularism is necessary in Islamic societies and whether it is admissible" (2005, Beinin & Stork, p. 84). In this particular case, Islamic states are not excluded from the aforementioned description; hence, Islamic countries do need a secular system to separate the political institutions from religious one so that the system functions properly as a whole.

By the same token, an Islamic state requires a political system that provides freedom of religion as much as no influence on itself from the respected religious body. On the other hand, in a more metaphoric description, secularism itself "is a religion, a religion that is understood. It has no mysteries, no mumblings, no priests, no ceremonies, no falsehoods, no miracles, and no persecutions" (Ingersoll, 1887, Para. 5), therefore, in order to make the long way, short, in order to achieve a system of this type in Islamic countries; it is only a secular democratic system that can fulfill all these aspects.

There is no doubt, that pure religious political systems require reforms, based upon their failures as state systems, however, here, the questions rises that what kind of reforms. In order to respond to this question, it should be taken into consideration that states that have religious political system differ from each other very much in some areas and are alike in many others. Therefore, each of them requires particular form of a secular democracy.

For instance, Iran with more educated population and less extremely religious spectrum, however, with a fully extremely religious government requires a different form of secularism that Afghanistan. In Afghanistan, due to the lower level of public awareness and literacy, even talking about a secular democratic regime in public puts a person at a high risk, subsequently, although the state needs such as system, it cannot be introduced to the public population straightforwardly.

Another example, the two Muslim countries, Saudi Arabia and Turkey could clearly reflect the relationship of religion and secularism to the state. An Islamic countries "Saudi Arabia was established as a self-proclaimed Islamic state based upon the Quran as its constitution. At the opposite end of the spectrum, Ataturk (Mustafa Kamel) created a secular Turkish republic" (Esposito, p. 3), which both are still Islamic. Turkey a functioning secular

democracy, while Saudi Arabia is a strict Islamic country where women are not allowed to even drive for instance. The human rights are violated and even from an economic point of view, it is a rich country only because of oil. Still, Many argue by saying that political Islam is different from Political Christianity, while the concept of secularism" is very much part of modernization in its Western context"   and " This phenomenon has no parallel in the history of Islam" (Ayubi, 1991, p. 50). However, a glance at the contemporary Islamic system proofs it otherwise. As it was mentioned at the beginning of this chapter, secularism is a western term having been first used in the western world, however, it does not mean, it has to place in the Islamic countries as a system to respond to the contemporary needs.Likewise, in order to discuss a secular democracy in religious political regimes, it is essential to consider the two crucial topics in this regard. First: The successful trend of secularism in western countries.

Although at the beginning of this part, the writer tried to differentiate between the acceptability and applicability of a secular democracy in various states, it is also vital to review and study the historical background and gradual implementation of secularism in other states. The idea of secularism as discussed in the aforementioned part of this chapter is the separation of political decision making from religious ones. In other words, the idea of secularism is famous as the separation of the church from the state. Looking back to many western countries regulating a secular democracy, the functionality and prosperous development of such states after acquiring secularism will flourish. However, this does not limit to the western world but also there are good examples of the east whether middle or the Fareast. There are Turkey and Indonesia as two very successful examples of secular democracy. Similarly, not only reviewing the Christian models of secularism in the west but also the Islamic models of secular democracy in Turkey or Indonesia pave the way to develop a comprehensive secular system for some other regimes with political religious system such as Afghanistan, Iran, or the Saudi Arabia for instance.

Generally speaking, the successful trend of secularism is based upon the current developed secular states. To put it differently, even an extremely religious person can realize that fact that the separation of religion and the state neither undermined the religion nor the state. However, it boosted both. In a secular democracy, political decisions that are crucial for the improvement of the state and the people are not influenced by the religion as much as religious beliefs remain more pure and away from political games. There is constitution for the best of the state and there is church, mosque, temple or so for the guidance of the people who believe. As a result, the triumphant existing secularisms provide a huge range of models, advantages, disadvantages, hindrances, weakness, and strength of these models. Therefore, it is imperative to carefully study the existing models in order to come up with a proper new model for another state.

The second issue, which is very critical in order to attain a secular democracy for the religious state in our case, is the: Elimination of the existed challenges in the current political systems of the Islamic countries**:** including (laws, Islamic Hudud (penal codes) and Hokum as well as their opposition to the human rights such as the woman rights, apostasy, freedom of speech, religious despotism and violence in Islam" Jihad").

In fact there are great deals of challenges toward a secular regime in a religious society. Therefore, once the first step, which was the historical background of the western and eastern successful models of secular democracies, is achieved, the next big step is to be considered.Here in order to narrow the discussion, this essays struggles to focus on the existing obstacles and challenges on the way to obtaining a secular democracy for an Islamic country. It is obvious that Islam is a religion with its own laws and regulations having been taken from Quran, Hadith (the speech of Prophet Mohammad), and the interpretations of Imams, Mullahs, Valy-e- Faqieh and others in their books, articles and speeches. For instance, Al-Qaradawi claims that "secularism may be accepted in a Christian society but it can never enjoy a general acceptance in an Islamic

society" (Para 1). Thus, even though, only Quran and Hadith express strict orders, the other above-mentioned sources make it stricter and more complicated.

Consequently, there are particular punishment, judgments, orders, laws and regulations that are unique per se. These laws and regulations are implemented by the state as well, since mostly in all Islamic countries' constitutions, the Shari a Law is enforced. Now, with this short description, we need to figure out in particular, what are these obstacles that we are facing in order to prescribe a secular democracy for an Islamic country as a solution to have a functional state. These challenges are all the components of the Shari a law, many of which violate the human rights' values. To have a grasp on the subject, we can name the apostasy, which clearly violates the freedom of religion, a great number of Hudud and Ahkam, and most importantly the phenomenon of Jihad. For instance, in Islam Jihad is a Hokum for all Muslim to fight against invaders when they enter their territory. However, when this becomes a part of the constitution of a country, so no matter what the case is, or whether or not the foreigners are invaders, the Hokum is to be implemented. In addition, there are many riot and rebellion groups coupled with terrorist groups who take advantage of such religious laws and demolish and destroy human beings, a society, a country, a continent and sometimes put the whole word in danger. Last but not least, such challenges and hindrances should be eliminated on the way to a secular democratic state. In the next part, this study tries to cope with the possible ways in order to eliminate the aforementioned challenges.

Implementation of secularism in Islamic societies (in two phases)

The practical part of this policy will aim to implement the theoretical approach that had been so far discussed. What should be done to pave the way and prepare the circumstances for such a regime like secularism in an Islamic country? In other words, it is better to question, what

could be done to achieve this goal. In short, the Islamic states and their ups and downs were discussed in details. This chapter also began with the challenges towards a secular democracy in an Islamic country; here therefore, this essay focuses on the ways to make it happen in practice.

First of all, in order to introduce secularism into an Islamic society, the most important issue is the mental awareness and /or preparation of the public in order to avoid any kind of cultural and mental conflict, particularly, when we talk about a strictly religious nation, uneducated or illiterate. According to Najjar, the people in Islamic countries are confused and lost between their religious values and culture and the modern life and technology they live with. "They view most Western ideas, ideologies and institutions as a threat to Islamic law, values and culture. Among these foreign imports, secularism seems to represent the greatest danger" (2010, Para.1). In addition, in the same society, "the word 'secularism subsequently became an insult in the ears of many Muslims (Keane, 2000 p 11). This phase can contain the following programs:

1) These should be cultural and education programs through media and political parties in order to gradually introduce the objective values of secularism to the political elites and most important to the public population. In other words, in an Islamic country where talking about several issues are taboo, crime, Haram (A Muslim is not allowed to do in no circumstances), and there will easily be unbelievable punishments for them, it is wholly vital to put a lot of effort to gradually introduce a new topic. There is this extreme belief that "secularists oppose religion or the religious being afforded privileges, which - put another way - means others are disadvantaged" (BBC, 2009, Para. 1). Moreover, according to LRC (Literary Review of Canada) "the Muslim experience [of secularism] has been marked by a perception of secularism as an alien ideology imposed from outside first by colonial and imperial invaders and then kept alive by local elites who came to power during the post-colonial period" (2008, Para.1) or based on what Al-

Qaradawi believes saying that "the call for secularism among Muslims is atheism and a rejection of Islam" Para.

2).These and many others as such fire up the market for those who benefit from a dysfunctional religious regime and want to keep on taking advantage of that. On the other hand, the timing is a very important factor, especially if the terminology looks foreign or had already been used by developed, modern western states, which in our case it did. There are many who can misuse the situation and take advantage of the ignorance of the people and provoke them using the "Anti Islam" labeling. For instance, they can bring out their argument documenting on an extreme ideology claiming that acceptance of secularism for Muslim countries is wrong, since "Islam is a comprehensive system of worship (`ibadah) and legislation (Shari 'a), the acceptance of secularism means abandonment of Shari' a, a denial of the divine guidance and a rejection of Allah's injunctions"(Al-Qaradawi, Para. 2). This kind of arguments, particularly for strictly religious people is more than enough to oppose an idea of which they have no clue.

Again, the introduction a public awareness of a secular democracy must be very carefully, since in Islamic societies, religion and its related topics are very touching and people react easily towards any straightforward opinion so to speak. It is a fact that "nowadays, Islamists have succeeded in equating it with atheism in the mind of the public, using it as a slogan to intimidate their political adversaries, charging them with apostasy and unbelief, deserving the death punishment"(Najjar , 2010, para.6). Therefore, for instance, if we are to introduce a secular system in Iran or Saudi Arabia is much different from introducing it in Afghanistan and Pakistan. If we assume secularism requires five years to be introduced in Iran, it needs at least fifteen years for Afghanistan.

Another aspect of the public awareness should start through the elites, the public figures, the political parties, the tribal elders and the influential people. This is important while, such people play a hug role in convincing the different spectrum of the society. Therefore, once such members of an Islamic community are convinced and agreed with the idea of a secular democracy, bigger half of the job is done.

The people should be convinced that a secular system will totally respect their religious practices and beliefs as an Islamic system would do. This is very crucial, while "most Islamists look upon secularism as a kind of Kufr (unbelief) and Irtidad (apostasy) (Najjar, 2010, Para. 6). They should realize that the separation of the state from the religion makes a system more functional and when a system is functional and not anymore fragile, more security and development secure the religious practices and freedom of choice in this regard as well. In addition, once the public awareness has begun and secular democracy is being introduced. The second phase of the policy should be implemented. This is the legislations approach:

This is another practical phase of the implementation of secular democracy in an Islamic state. This occurs after the first phase is completed. In this phase, new changes based upon the secular values should happen through the

- constitution reforms
- limitation of unofficial religious education
- avoidance of political activities of different groups and parties that includes religious motivations

Legislation and constitution assemble the ground particles of a system. In this case, once the public awareness is completed, the parliament and the legislature body can reform the constitution, so that the new system is officially enforceable. The reform is very much dependable to the public awareness and consequently public acceptance of the secular

democracy, inasmuch as, in many cases, there will be a referendum to bring any reform to the constitution.

According to Alam, practically "all western countries allow complete freedom and equality to all religions. Muslims, Hindus, Buddhists, Parsees and followers of all other religions are allowed to build their places of worship and pray the way they like without interference from the state" (2007, Para 6). He further argues that as mentioned before in this chapter, such a freedom is achieved through the constitutional changes that a secular democracy will bring to the constitution of a state and therefore, the "freedom is constitutionally guaranteed to them and protected by the judiciary" (2007,para 6). Thus, following the constitution reforms in Islamic countries, there should also be some other rules and regulation towards the unofficial religious studies. It helps to avoid the rise of Talibanism, which roots back to such unofficial religious course (Medressa).

Similarly, religious studies and education will be allowed; however, unofficial sort of trainings should be limited, not to end up into terrorist training camps and so on. Secularism is defined in the Webster dictionary as: "A system of doctrines and practices that rejects any form of religious faith and worship" or "The belief that religion and ecclesiastical affairs should not enter into the function of the state especially into public education". Furthermore, there should also be some rules and regulations towards the limitation of groups and parties that aim to provoke Islamic motivations, in sense of sanctioning the system and creating anti government parties by the misuse of the religion.

Problems and hindrances towards implementation of secularism

Secularism and secular democracy has had its problems like any other approach or phenomenon in the world. It does not matter whether in the US, in Europe or in Asia. Turkey for instance has developed a successful secular democracy; it has issue with the extremists, though.

Turkey for example in the 90s, while, there was an inherent power conflict between secular modernist elites and Islamist elites (Göle, Abstract), however, this has blurred with the time.

Generally speaking of Islamic countries, although, once a project or policy is under implementation, its problems and challenges rise, clearly there are also problems and hindrances before the implementation phase begins. To start, the first critical problem is that most of extremely religious scholars believe that "There is no doubt that secularism contradicts Islam in every aspect. They are two different paths that never meet; choosing one means rejecting the other. Hence, whoever chooses Islam has to reject secularism" (Islam awareness, Para. 2), which clearly demonstrate their exaggerating and extreme ideology. Accordingly, Esposito also believes that "a critical problem that all religious reformers of whatever faith face is the relationship between their reformist thought and what for many is the authority of tradition, the need to demonstrate some kind of continuity between tradition and change"(p. 5). These are not the only category of the hindrances toward secular democracy in Islamic states. There are also Islamic scholars who partly support the idea of secularism. As an example:" Abdolkarim Soroush and Abdou Filali-Ansary, who point out that Muslim Societies – including contemporary Iran—have always had strongly endogenous capacities for institutionalizing secular or' this-worldly' form of life (Keane, 2000 p.13). However, on the other hand, there are Islamic scholars who condemn secularism claiming that „Islam is not a mere religion, it is a complete way of life, it is a complete code of conduct" (Naik, 1996). As a result, ahead of all other problems, there is the traditional body of the society coupled with their stubbornness against the secular reforms, which roots back to the intrinsic and historic trend of people towards religion.

To put it differently, religious people are tend to rarely accept unreligious issue, and in this particular example, when we talk about Islam, there is the apostasy phenomenon in Islam

that actually frightened everyone to even go for change, since they know there will be death penalty as Shari a law determines such Hukums for that.

In essence, the most difficult problem that is in the way of secular democracy is the opposition of most of the population in an Islamic country due to the strict religious beliefs. Thus, it is vital to realize that there is not the ideology of defending the" traditional and modern Western culture against the uniquely dangerous religion of Islam, they are defending *secularism* against *religion*—against all religions, Christianity as much as Islam"(Auster, 2006, Para. 4). As already mentioned, there are numerous other problems in this way. For instance, since, most of the religious societies are based on more and less traditional approaches being led by religious scholars, Mullahs, and so on, it is vital that we bear in mind that they benefit from that circumstances. Hence, once they feel that their traditional and economic benefits are in danger, they will not keep quiet and start provoking people. There are great examples of such in Iran, Pakistan, Afghanistan and Saudi Arabia.

Let's begin by mentioning the preachers, Mullahs, religious teachers, traditional religious leaders, elder and so on who live by earning money from religion. There are numerous occasions that these people use to keep the society and the people busy, so that they can actually find no time to do research and find the reality themselves and so on. Likewise, in broader aspect, in a country like Iran, which is led by Mullahs, suppose there be a secular democratic system, what will happen to all these Mullahs and their religious studies. Those who are really scholars can pursue their life and career in that field, while others who are not, must seek other employments. Above all, every one of them should leave the political arena unless they have the knowledge to stay there. This is something that they are aware of and will fight for, not to let it being taken from them.

As a solution, public awareness can again pop up, since when people get to know by whom they are preached, they start realizing the reality. Once, it illegal wealth of such people is publicized, and questions that, from where they have earned it and many other issues of corruption and so, the public then will be less influenced by their deceives. In the following, there is another important issue hindrance a secular democracy in an Islamic country, which is the phenomenon of so-called shallow democracy. It is that fact that whenever, either a public figure and official or an ordinary citizen speaks about the system in an Islamic country, every one claims there is democracy. However, once you start mentioning the current issues in each of those societies, they start mumbling and the only answer they would flee from the situation with is Islam is the best political, economic, social and … system. On the other hand, their proof is nothing but malfunctioning Islamic systems, which due to the enforcement of Shari a law and its amendments, there are numerous issues that rise newer problems themselves. Either, these states have another definition for democracy, or they just want to put a label on their Tyranny and pretend that nothing is wrong, rule the people by their dictatorship and punish those who proclaim, in the name of religion.

To sum it up, in order to cope with the malfunctioning Islamic states, according to Alam, a review of both histories, the Christianity and Islam remains us "in no doubt that only secularism will help us rid of sectarian and communal strife that has played a major role in making Islam weak and ineffective as it is today" (Alam, 2007, Para 23). Hence, the attempt should focus on eliminating all the challenges and hindrances on the way to bring up the idea of secular democracy as a solution for failure of the Islamic states

Conclusion

Islam is a great religion with many followers in all parts of the world. Yet what makes Islam different from other religions is its unique legal system, which is called Sharia law. Sharia law is basically originated from the significant Islamic sources such as Quran and Sunna. According to all Muslims scholars from both Shiite and Sunni religions, establishing the Islamic state is a condition for the implementation of the Sharia law.

Unlike Christianity, Islam possesses Political theories about state since the beginning of Islam. When Prophet Mohammad passed away, Caliphate as a political system mostly among Sunni Muslims started and it continued throughout the history of Islam until the year 1919 when the Ottoman Caliphate was overthrown by Mustafa Kamal Pasha Ataturk. Since then there are attempts to restructure the Caliphate in theory and in practice. On the other hand, Imamate as a political theory is popular among Shiite Muslims, which today is the political foundation of the Islamic Republic of Iran.

The main function of the Islamic sate whether in Caliphate or Imamate is the Implementation of the Sharia law or Islamic Ahkam. Shaira law as the formal regulating system in Islamic State contradicts with the Human Rights as an accepted international norm. Issues such as the viewpoints of Islam over women, freedom and Hudud or the Islamic penal code are the main components from the Sharia law that are in contradiction with the International Declaration of Human Rights and its various protocols and conventions.

Yet the tendency of the Islamic political leaderships in Caliphate and Imamate are towards absolutism. This element distinguishes the Islamic state, particularly its unlimited leadership, from the democratic regimes which is based on the political participation of the people. In addition, there is the idea of Jihad or holy war in the Islamic principles, which is originated from Quran and other religious Islamic sources. Jihad is considered as a duty for all

Muslims in both religions of Islam. Today some Islamic fundamentalist groups emphasize on the element of Jihad to establish an Islamic state to perform the Sharia law like the efforts that Taliban has been doing in Afghanistan.

As mentioned in the third chapter of this study in details, according to the author, implementation of the Secular democracy in the Muslim societies can be considered as a solution to help these states have more functioning countries into the international body. This process, however, might face serious challenges, since Muslim societies are very conservative and mostly strict in terms of religious traditions, it is advised that moving towards the secular reforms should not be rushed. These reforms must happen gradually and step by step, in a different timely manner to every certain state in order to avoid any form of potential challenges.

Bibliography

Aboozohre, M. (1986). ‫تاریخ المذاهب الاسلامیه فی السیاسه و العقاید و تاریخ المذاهب الفقهیه‬ Qaherh: Darolfekr.

Alam, M. (15. 2 2007). *Secularism is not against Islam.* Abgerufen am 9. 5 2012 von Pakistan Defence: http://www.defence.pk/forums/current-events-social-issues/3880-secularism-not-against-islam.html#ixzz20D59peuv

al-Mawardi. (1406). ‫الاحکام السلطانیه‬ Qahere: Maktab Alalamo Al-Islami.

Almozafar, M. (1417). ‫عقاید الامامیه‬. Ghom: Moasesato Alemamo Ali.

Al-Qaradawi, D. Y. (2010). *Secularism Vs. Islam.* Abgerufen am 7. 5 2012 von Islamic Web: http://islamicweb.com/beliefs/cults/Secularism.htm

Amini, A. (1365). ‫الغدیر‬. Tehran: Ketabkhaneh Bozorge Tehran.

Amoli, A. J. (2001). ‫ولایت فقاهت و عدالت‬ ‫ولایت فقیه‬ Qum: Markaz -e Nashr-e Asra.

Arjomand, S. A. (1984). *The Shadow of God and the Hidden Imam: Religion, Political Order and Societal Change in Shi ite Iran from the Beginning to 1890.* Chicago: Chicago University Press.

Ayubi, N. N. (1991). *Political Islam: Religion and Politics in the Arab World.* London: Routledge.

Bavand, N.-o.-a. (12. 5 2010). ‫دیه و قصاص زنان در فقه‬ Abgerufen am 1. 5 2012 von ‫پایگاه اطلاع‬ ‫رسانی حوزه‬. HAWZAH.NET: http://www.hawzah.net/FA/articleview.html?ArticleID=88507

BBC. (27. 10 2009). *BBC Religion.* Abgerufen am 7. 7 2012 von Secularism: http://www.bbc.co.uk/religion/religions/atheism/types/secularism.shtml

BBC. (25. 6 2012). ‫دو نفر در ایران به علت نوشیدن مشروبات الکلی به اعدام محکوم شدند‬. Abgerufen am 4. 7 2012 von BBC Persion News: http://www.bbc.co.uk/persian/iran/2012/06/120625_l06_judiciary_khorasan_execution_drinking_shariati.shtml

Beinin, J. a. (2005). *) Political Islam: Essays from Middle East Report: Published in cooperation with Middle East Research and Information Project.* Los Angeles: University of California.

Black, A. (2001). *The History of Islamic Political Thought.* Edinburg: Edinburg University press.

Cooperman, A. (2011). *The Future of the Global Muslim Population.* Washington, D.C.: Pew Research Center's Forum.

CPJ. (2. 5 2012). *Committee to Protect Journalists Special Reports*. Abgerufen am 3. 6 2012 von CPJ Committee to Protect Journalists: http://www.cpj.org/reports/

Economist. (12. 2 1998). *Kiss at your peril*. Abgerufen am 3. 5 2012 von The Economist: http://www.economist.com/node/113577

Eickelman, D. F. (1996). *Muslim politics.* Princeton: Princeton University Press.

Fairahi, D. (4 2011). «مفهوم جهاد در فقه سياسي شيعه و اهل تسنن»جنگ يا صلح. Abgerufen am 11. 6 2012 von Mehrnameh: http://www.mehrnameh.ir/article/1624/%D8%AC%D9%86%DA%AF-%DB%8C%D8%A7-%D8%B5%D9%84%D8%AD%D8%9F

Feirahi, D. (2008). نظام سياسی دولت در اسلام. Tehran: SAMT.

Ferah. (1406). الاحكام السلطانيه. Ghom: Daftare tablighat eslami.

Ferah, M. (1994). الاحكام السلطانيه. Beirut.

Ghazali, A. الاقتصاد فی الاعتقاد. Baghdad: Al-Maktabato Alsharghiah.

Göle, N. (22. 2 1997). *Secularism and Islamism in Turkey: The making of Elites and counter-elites*. Abgerufen am 4. 7 2012 von Jstor: http://www.jstor.org/discover/10.2307/4329022?uid=38528&uid=3737864&uid=2&uid=3&uid=67&uid=62&uid=38527&uid=5910216&sid=21100923429421

Grinebaum, A. A. (1970). *Muslim Self-statment in India and Pakistan1857-1968.* Wiesbaden: Harrassowitz.

Hasan, H. A. (1992). الصياغه المنطقيه للفكر السياسی الاسلامی. Beirut: Darolaalamiat Leltebaah va Nashr.

Heslop, D. A. (kein Datum). Abgerufen am 12. 5 2012 von Encyclopedia Britannica: http://www.britannica.com/EBchecked/topic/467746/political-system

Ibn Khaldun, a. (1987). مقدمه. Tehran: Elmi& Farhangi.

Ingersoll, R. G. (1887). *The Secular Web*. Abgerufen am 10. 7 2012 von Secularism: http://www.infidels.org/library/historical/robert_ingersoll/secularism.htm

Jayarman, T. (1997). *Secularism Defined*. Abgerufen am 8. 7 2012 von IMSC: http://www.imsc.res.in/~jayaram/Articles/lfrontline/node1.html

Kadivar, M. (1376). نظريه های دولت در فقه شيعه. Tehran: Nei.

Kawakibi, A. (1363). طبيعت استبداد. Ghom: Daftare Tablighate Islami.

Keane, J. (2000). *Secularism? The Political Quarterly Publishing Co. Ltd.* Oxford: Blackwell publishers.

Kerr, M. H. (1996). *Islamic Reform:The Political and Legal Theories of Muhammad Abduh and Rashid Rida.* Berkeley CA: University of California Press.

Khomeini, A. (3. 4 2009). *Tahrir al-Wasilah.* Abgerufen am 29. 4 2012 von تحرير الوسيله: http://vccans.ir/libraray/Ketabkhaneh/ketaabkhaaneh/tahrirolwasyla_imam_khomeini/tahrirolwa syla_imam_khomeini_jeld_4_16.html#link76

Khomeini, R. (1365). كتاب البيع Ghom: Esmailian.

khonji. (1362). سلوک الملوک Tehran: Kharazmi.

Kolaini, S. (1985). إلاصول الكافی Qum: دار الكتب الاسلاميه.

L.Auster. (2006). *SECULARISTS WHO OPPOSE RELIGION INSTEAD OF ISLAM .* Abgerufen am 2. 7 2012 von VIEW FROM THE RIGHT. The passing scene and what it's about viewed from the traditionalist politically incorrect Right.: http://www.amnation.com/vfr/archives/005176.html

L.J.Esposito. *Rethinking Islam and Secularism: The ARDA (Association of Religion Data Archives. .* ARDA.

Leacock, S. (1924). *Elements of Political Science.* London: Constable.

LRC. (9 2008). *'Literary Review of Canada': Political Islam versus Secularism: A new book sparks a heated debate between Muslims of different schools.* Abgerufen am 9. 7 2012 von LRC Literary Reviw of canada: http://reviewcanada.ca/reviews/2008/09/01/political-islam-versus-secularism/

M. Landau, J. (1994). *The Politics of Pan-Islam: Ideology and Organisation,.* Oxford: Oxford University Press.

Maclure, J. /. (2011). *Secularism and Freedom of Conscience.* Abgerufen am 28. 6 2012 von degruyter: http://www.degruyter.com/view/product/184759

Mavromaras, m. (2007). *Do people really have the right to practice their religion?* Abgerufen am 6. 5 2012 von Social Commentary: http://amputd.com/pdfs/200702/08-marcos.pdf

Mir-khalili, D. A. (3. 4 2011). (ارث ـ طلاق ـ حضانت)زن در حقوق خانواده. Abgerufen am 30. 4 2012 von دانشنامه موضوعی قرآن: http://www.maarefquran.org/index.php/page,viewArticle/LinkID,4299

Mitchell, R. (1969). *The Society of Muslim Brothers.* Oxford: Oxford University Press.

Morgan, D. (2010). *Essential Islam: A Comprehensive Guide to Belief and Practice.* California: Greenwood Publishing Group.

Mossalli, A. S. (1992). *Radical Islamic Fundamentalism: The Ideological and Political Discourse of Sayyid Qutb.* Beirut: American University of Beirut.

Naik, Z. (1996). *Islam & Secularism 1/17.* Abgerufen am 29. 6 2012 von Youtube: http://www.youtube.com/watch?v=Shc3of0tE4s

Naini, M. H. (1360). تنبیه الامه و تنزیه المله Tehran: Sherkate Sahaami Enteshar.

Najjar, F. M. (7. 4 2010). *The debate on Islam and secularism in Egypt.* Abgerufen am 26. 6 2012 von Al Spittoon: http://www.spittoon.org/archives/5906

Othman, A. (1960). *The Concept of Man In The Writings of al-Ghazali.* Paris: Les belles lettres.

Plato. (1367). مرد سیاسی Tehran: Kharazmi.

Qaderi, H. (2011). اندیشه های سیاسی در اسلام وایران Tehran: SAMT.

Quran. (2000). *Chapter (2) sūrat l-bagharah.* Abgerufen am 6. 6 2012 von English translations of Quran: http://corpus.quran.com/translation.jsp?chapter=2&verse=191

Quran. (2000). *Chapter (61) sūrat l-ṣaf (The Row).* Abgerufen am 6. 6 2012 von Englsih translalation of Quran: http://corpus.quran.com/translation.jsp?chapter=61&verse=4

Quran. (2000). *Chapter (9) sūrat l-tawbah (The Repentance).* Abgerufen am 6. 6 2012 von English translation of Quran: http://corpus.quran.com/translation.jsp?chapter=9&verse=29

Radford, M. F. (2000). *The Inheritance Rights of Women Under Jewish.* Boston: Boston College International and Comparative Law Review.

Roggio, B. (27. 5 2012). *Omar Hammami calls for establishment of global caliphate.* Abgerufen am 3. 6 2012 von The Long War Journal: http://www.longwarjournal.org/archives/2012/05/omar_hammami_calls_f.php

Salehi, F. (2005). بررسی فقهی شهادت زن در اسلام Tehran: Maisam Tammar Publisher.

Schmundt, H. (8. 11 2011). *Does Secularism Make People More Ethical?* Abgerufen am 6. 6 2012 von Spiegel Online International: http://www.spiegel.de/international/spiegel/going-godless-does-secularism-make-people-more-ethical-a-777281.html

Shahid, A. (2012). *Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran.* New York: United Nation General Assembly.

Shakir, I. Z. (2 1999). *The Changing Face of Secularism.* Abgerufen am 23. 6 2012 von Masud: http://www.masud.co.uk/ISLAM/misc/sec.htm

Sharafedin, B. (15. 5 2012). *Iranian rapper faces death threats for 'insulting' song.* Abgerufen am 16. 5 2012 von BBC MIDDLE EAST: http://www.bbc.co.uk/news/world-middle-east-18057402

Slaughter, M. M. (1993). The Salman Rushdie Affair: Apostasy, Honor, and Freedom of Speech. In M. M. Slaughter, *Virginia Law Review* (S. 153-159). Virginia : Virginia Law Review Publisher.

Society, N. s. (2011). *National Secular Society's Secular Charter.* Abgerufen am 27. 5 2012 von National Secular Society: http://www.secularism.org.uk/secularcharter.html

Society, N. S. (2012). *What is Secularism?* Abgerufen am 1. 5 2012 von National Secular Society : http://www.secularism.org.uk/what-is-secularism.html

Taheri, M. B. (2005). اسلام و اقلّیت های مذهبی. Qum: Islamic Canter of Hwzeh in Qum.

Vick, K. (14. 1 2006). *Reunified Islam: Unlikely but Not Entirely Radical.* Abgerufen am 2. 5 2012 von The Washington Post Foreign Service: http://www.washingtonpost.com/wp-dyn/content/article/2006/01/13/AR2006011301816.html

Warner, D. (1991). *An Ethic of Responsibility in International Relation.* Colorado: Lynne Rienner Publisher.

Watch, H. R. (7. 9 1997). *IRAN RELIGIOUS AND ETHNIC MINORITIES:Discrimination in Law And Practice*. Abgerufen am 30. 5 2012 von Human Rights Watch: http://www.hrw.org/legacy/reports/1997/iran/Iran.htm#P39_525

WATCH, H. R. (29. 6 2012). *Iran: Quash Death Sentences for Drinking Alcohol.* Abgerufen am 2. 7 2012 von HUMAN RIGHTS WATCH: http://www.hrw.org/news/2012/06/29/iran-quash-death-sentences-drinking-alcohol

Watch, H. R. (2006). *Lessons in Terror, Attacks on Education in Afghanistan* . New York: HUMAN RIGHTS WATCH.

WIPO. (4. 2 1992). *World Intellectual Property Organization.* Abgerufen am 15. 4 2012 von Saudi Arabia: Basic Law of Government: http://www.wipo.int/wipolex/en/text.jsp?file_id=200063

طالبان: نیستیم راضی قوی اسلامی حکومت ایجاد از کمتر چیزی به (1. 6 2012). Abgerufen am 5. 6 2012 von BBC Persian : http://www.bbc.co.uk/persian/afghanistan/2012/06/120601_taleban_motasem_bbc_iv.shtml

Erklärung/Declaration

gemäß § 25 Abs. 1 der Prüfungs- und Studienordnung des weiterbildenden Studiums „Public Policy" an der Universität Erfurt

Ich versichere, dass ich die vorgelegte Arbeit selbstständig und ohne unerlaubte Hilfe Dritter angefertigt habe. Alle Stellen, die ich wörtlich oder annähernd wörtlich aus Veröffentlichungen jeglicher Art entnommen habe, sind als solche kenntlich gemacht. Ich habe mich keiner anderen als der angegebenen Literatur oder sonstiger Hilfsmittel bedient. Diese Arbeit hat weder in gleicher noch in ähnlicher Form einer anderen Prüfungsbehörde im In- oder Ausland vorgelegen.

I affirm that the work I have submitted was done independently and without unauthorized assistance from third parties. All parts which I took word-for-word or nearly word-for-word from any sort of publication are recognizable as such. I did not use any means or resources other than the literature I have quoted. This work was not submitted in this or any similar form to an examination committee in or outside of Germany.

Erfurt	17.7.2012		SALAHODIN ARYAPUR
	Datum / Date	Unterschrift / Signature	Name (Blockschrift / block letters)