

Religion- The Ultimate Peace for Humankind

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It is not possible to separate man's way of thinking from his way of living and his dealing in life. Man is a wise and understanding being who thinks for himself, wants to comprehend his surroundings and tries to know the beginning and the end of everything, in order to be able to understand the mysteries of the world and the beings around him. He tries to discover the beginning of the world, where it is off to? What is purpose of him in the world? What is the goal of his existence? What will be his end? What actually is the meaning of life? What is the proper way to lead it? Man has always been looking for convincing answers to these questions. The answer to them either leads him to happiness and welfare, or wretchedness and misfortune. Answer to all these and many other questions racing around a human mind are provided by religion.

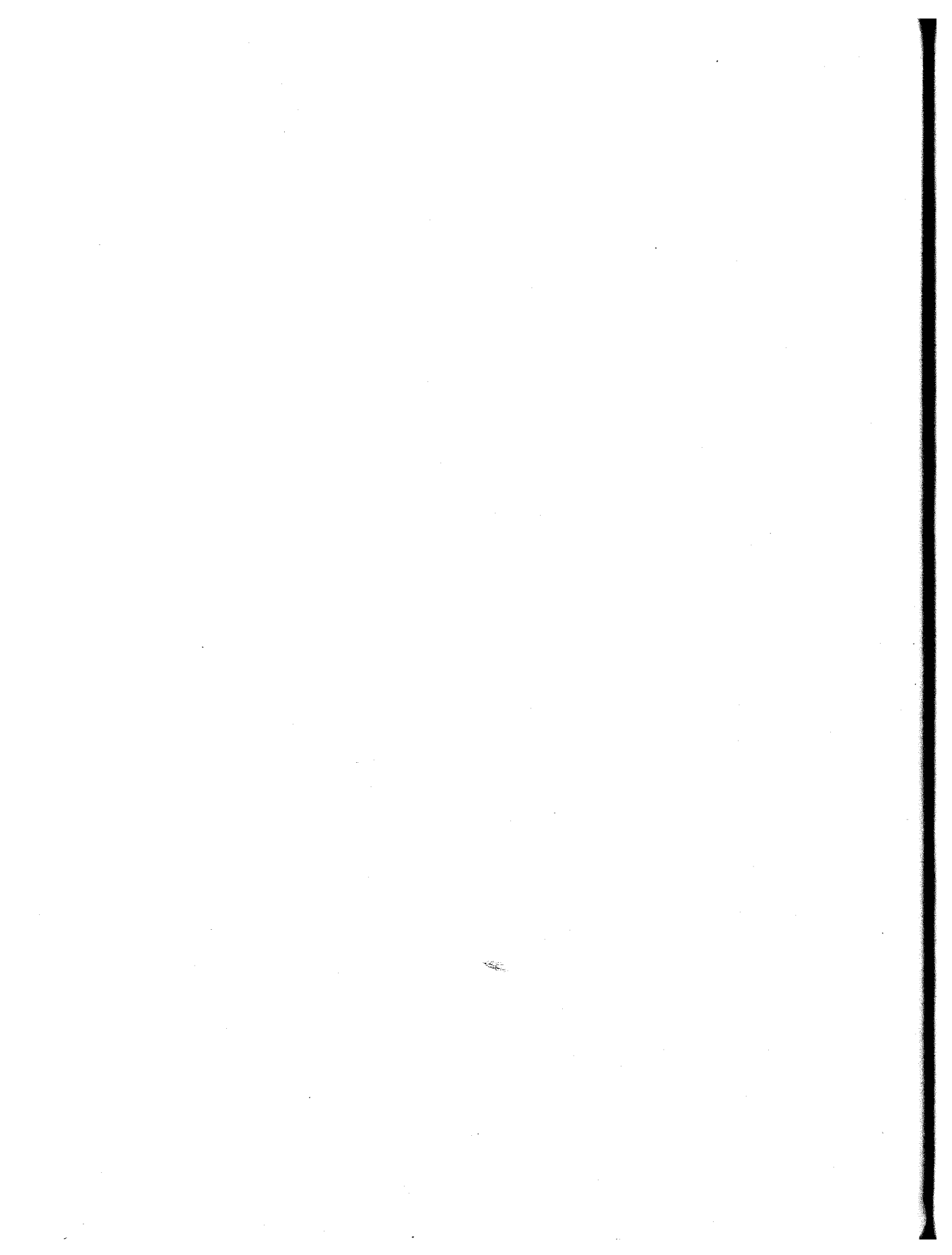
Religion's answer offers through its call and message, and interpretation of the universe and life an explanation of man's existence, and of his links with them; while the other answer bases its explanation in retort to the idea of faith, denying its reasoning and explanation. Religion bases its interpretation and viewpoint on believing that this universe, life and humankind have a Creator, a Lord, a God head; and that man's existence on this earth is neither a meaningless and aimless one, nor is it a random happening. Life and man have their goals and values exceeding the time span of man's existence on the earth's surface. He has a supreme objective to pursue, embodying it through his attitudes, his deeds and his general activities in a world that goes beyond perception and the time spent in this world⁽¹⁾.

It is very hard to find out the definition of religion as it varies with the ideology of each group or person. No one can be said to have accurately defined religion and "since ancient times there has been discussion on whether "Religion" comes from "relegere" "to read again" or from relegare "to bind".

Webster's Third New International Dictionary defines Religion as, the personal commitment to and serving of God or a god with worshipful devotion, conduct in accord with divine commands esp. as found in accepted sacred writings or declared by authoritative teachers, a way of life recognized as incumbent on true believers and typically the relating of oneself to an organized body of believers⁽²⁾.

The Oxford English Dictionary expounds on religion in this way, Recognition on the part of man of some higher unseen power as having control

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 - 3 Article 71 *ibid*.
 - 4 Alhoda Publishers And Distributors, P O Box 14155-4363, the Constitution of the Islamic Republic of Iran 1979, article 1.
 - 5 M.B. Ahmad, *Select Constitutions of the World*, vol. I, (Karachi: the Manager Governor General's Press and Publications, 1951), p.63.
 - 6 Ghosh, *ibid*, p.225, the Supplementary Fundamental Law of Iran 1907, Article 27
 - 7 *ibid*, p.222, article 2, the Supplementary Fundamental Law of Iran 1907.
 - 8 Article 27 *ibid*.
 - 9 Article 71, *ibid*.
 - 10 Article 87, *ibid*.
 - 11 Article 83, *ibid*.
 - i Ghosh, p.243-5, *ibid*
 - 14 The Constitution of the Islamic Republic of Iran 1979, article 71, *ibid*.
 - 15 Article 72 & 96, *ibid*.
 - 16 Article 91 & 92, *ibid*.
 - 17 Asghar Schirazi, *The Constitution of Iran Politics and the State in the Islamic Republic*, Translated by John O'Kane (London, New York: I.B. Touris Publishers, 1997) p.15.
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 - 19 John Alder, *Constitutional and Administrative Law*, (London: Macmillan Press Limited, 1994) p.143.
 - 20 Article 5 *ibid*.
 - 21 Mohammad Mohaddessin, *Enemies of the Ayatollahs* (London, New York: Zed Books, 2004), p.71.
 - 22 Schirazi, , p.19, *ibid*.
 - 23 The Constitution of the Islamic Republic of Iran 1979, article 1 *ibid* .
 - 24 Schirazi , p.1, *ibid*
 - 25 Kalim Siddiqui, *The Islamic Revolution: Achievements, Obstacles and Goals*, (London : The Open Press Limited in association with the Muslim Institute, 1980), p.15.
 - 26 Richard W.Cottam, *Iran and the United States*,(Pittsburgh : University of Pittsburg Press, 1988), p.200.

a considerable part of Iranian inhabitants---*the Sunni*--- feel themselves uneasy with the present constitutional provisions, especially with the Article 12 of the present Constitution of the Islamic Republic of Iran. No doubt the present Constitution of the Republic is an outcome of the aspirations of the people of Iran, but at the same it is also self evident that dogmas of a particular part of the population are not the case of the constitutionality. The constitutions of the modern states address the issues of state interest which deals with the individual as well as collective life the people of the country. But in Iranian case the parliament of country un-necessarily tinkered the constitutional provisions with their inner beliefs which is the glow of the aspirations of a part of the population, but at the same time another part of the population feel them a stranger in the system.

Therefore, in the light of this study the author of this discourse recommends that the *Shia* Iranian constitutionalists, political scientists and parliamentarians may, by protecting their set of beliefs, make article 12 of the constitution more acceptable to the schools of thought other than the Twelve *Ja'fari*' school. As a result of this recommended and prospective change the coherence and peace among the various sects of the country will definitely enhance, which may eventually prove it as a corner stone of the integration of the Iranian nation--- an integral part of the Muslim *Ummah*.

the people. What are the elements of will? The approaches and definitions described by the jurists in their work may assist us in the development of definition of will. For example to the people of other nations, the legislation to protect the dogma of holocaust may not be more than a tale to ridicule the political system of a nation free from Jewish influence. But is it really so? Certain western nations, indeed, have made the concept of holocaust as a part of their book of law in a way that the Son of Man—Jesus Christ— has, in this context, less respect than the legislation on the holocaust. The question still alive; is it really so? The Jewish community being very sensitive to the debate—to them it is not even a debate— demanded from other communities, to embrace the dogma of holocaust holistically, whereas to the people of other nations it is not even a topic to be considered. But since the punishment for holocaust denial is an outcome of the aspirations of the people of those countries, therefore, they have full rights to do whatever they want. Identical to this principle, the Iranian people should be respected if they assign their powers to their Supreme Leader and to the Guardian Council for the implementation of their dogmas at state level.

Conclusion

The present Iranian constitution, however, defines the Islamic republic as a system based on belief in some basic principles elaborated in the Constitution of 1979, in six points, but it does not maintain any territorial boundaries of the republic, which lucidly means and easily understandable that wherever these principles are adopted that would be the Islamic republic. To some extent, these principles may attract the *Sunni* intelligentsia but, *prima facie* and, contrary to the definition of the republic, the constitution impedes the unity of Muslim *Ummah* declaring the state official *madhhab* (school of law) as the Twelve *Ja'fari'* school, Whereas in global context, it can easily be observed that the whole Muslim *Ummah*, by going through the *Fiqhi* differences of opinion, is embracing a new *Fiqhi* school, may be named as "Cosmopolitan *Fiqh*".

Recommendations

Setting aside the *Shia* religious dogmas, *Sunni* school of law may accept certain *Shia* interpretations of Quran and *Sunnah* and on the basis of principles of reciprocity, it is hoped that the other party of the discourse shall also consider the same phenomenon. In its present form,

contradictions...(24)" Had this phraseology been at the end of the book viz., as a result of the author's conclusion, it would definitely be an attractive source for the reader but in its present form it is a piece of frustration.

Epilogue

Kalim Siddiqui, however, has very rightly, dug out the roots of constitutional development of Iran. He writes:

In their [*Shi'ia*] particular belief in the absence of the Imam all authority is illegitimate by definition. And this led the *Shi'ia Ulama* to insist on the constitutional reforms that were known as the Constitutional Revolution in the early part of the century (1906-11). The basic attempt was not to legitimize the system but to minimize the degree of illegitimacy of the political system. Legitimacy being impossible in the absence of the twelfth Imam, the attempt was the constitutional means of keeping the degree of illegitimacy within acceptable limits. This was the situation in *Shi'ia* political thought(25).

Therefore, whoever would like to look at the Iranian political system, what it could be, must bear in mind that the *Shia* community, unlike *Sunni* Islam, would definitely graft and transplant its religious dogmas to its complete state hierarchy as well. This is, in short, very obvious to serious scholars that the Constitution of 1906 had provided for a five members' Ecclesiastical Committee of the Assembly, a board of *Ulema*, to review legislation to ensure its conformity to the holy law, but this clause of the constitution was never implemented in reality(26). The question is particularly baffling as to what was the need to transplant such an element which never had taken its strength from any aspect of the political system? Indeed, its answer is obvious, as Mr. Siddiqui elaborated that the attempt was not made to legitimize the system but to minimize the degree of illegitimacy of the then political system, therefore, in the very near future, or decades ahead of us, or in the era of our off-spring, whenever the Iranian nation adopts any constitutional changes for the modification of its political system, one shall definitely observe that the exercise will carry an holistic religio-political approach evolving around the absence of the Twelfth Imam – the Occultation.

The principles, a nation adopts for its future is two fold, and as earlier mentioned that all the sources of law evolve around the will of

Council derived these powers from? It would not be out of the way to mention here that even an elementary book of jurisprudence can unclad that among other sources of law, those may give rise to collective will of a nation, are history, language, religion, culture and so on.

Therefore, it is a matter of surprise to an independent constitutionalist that what was the need to claim that "the sovereignty of the Islamic jurists negates sovereignty of the people -- Islamic regulations and principles limit the rights of the people"⁽²²⁾, on the other hand the Constitution of 1979 itself pronounces that it was confirmed through a majority of 98.2% of eligible voters in the referendum⁽²³⁾. This pronouncement of the constitution was witnessed by international media independently. This is a matter for another independent and serious research, as it does not fall within the scope of the present debate, as to how many constitutional documents in the history of mankind, were filtered through the referendum. However, the audience of this paper are reminded that the constitutions of major countries of the world—even the American constitution— were not adopted through the process of referenda but were taken on political board of the country through the representatives of the people, whereas the Iranian legislators did not take this responsibility, but diverted it towards the source of their power—the people.

Constitutional Future of Iran

The majority of the Islamic Republic of Iran consists of Shi'ia sect of Islam which believes in the Occultation of *Imam*—a dogma which is extremely deeply rooted into hearts and souls of this community since its inception centuries ago. Whatever the constitutional efforts, in both the cases—before and after Khomeini's revolution—in brief, the outcome is an interconnected flow of popular will of the nation; the representatives of the people prepared a constitutional document—a complete canon—but they referred it to the Iranian people seeking their sanction through a referendum. On the other hand, the material coming from secular circles, specifically, unveils the frustration of those who do not surrender their will before extraterrestrial source of knowledge. Some of them put forward their indoctrination, even to some extent, non-academically. The best example of which can be seen at the very first sentence of introductory note of Asghar Shiraz's valuable book, *the Constitution of Iran, Politics and State in the Islamic Republic* which claims, "The Constitution of the Islamic Republic of Iran is full of

maximum prison sentence of one to three years. Obviously it means that this taboo is more respectable to western community than the Ten Commandments of the prophet Moses. The defenders of this Kangaroo closure take the plea of parliamentary sovereignty, but do not allow the Iranian parliament to exercise the same sovereignty.

The Leader has a lot of functions and full authority over the state organs, out of which, but not exhaustive, are: defining the general policies of the republic; appointment, dismissal and resignation of jurists of the Guardian Council, Head of the Judiciary, Head of the radio and television, Chief of the Joint Staff, Commander-in-Chief of the armed force; dismissal of the President; pardon or reduction of sentences of convicts, etc.

A Critical Appraisal of Iranian Constitutional Order

The majority of western media pronounces Iran, as a state ruled by the clergy and that it has yet to acquire the status of a modern democratic state. But to an independent researcher, it is a matter of surprise that a bitter fruit ripen autocratically—the Constitution of 1906 and the parliaments before revolution—remained a savor piece of joy and fun until popular revolution, whereas the outcome of the aspirations and dire needs of the people of Iran—The Constitution of 1979 and new system of the Republic—is considered as non-democratic and a bottleneck again and again. For very obvious reasons, which do not fall within the scope of the argument of this article, it is hoped that someone else will independently explore the vulnerability of the western thought and will address their worries within the changing context, however, it would not be out of context to say that the present Constitution of 1979 is a pace ahead of American constitution which does not have popular approval of the masses, but is a document drafted by the representatives of the people, whereas the Iranian constitution has a solid and direct approval of the people.

The people of Iran, having diverse religious beliefs, were fully empowered to maintain a set of rules by which their minds and souls were saturated since 14 centuries and they exercised their powers in 1979 by delegating their sovereignty to their Leader and to the Guardian Council. The people hailing from other systems and other parts of the world, having not a slight degree of knowledge about the beliefs of the people of Iran, are not in a position to make observations regarding the powers of the Leader and of the Council. Where the

members are appointed by the Iranian Supreme Leader who is also elected by the people's representatives. Therefore, in this context the discourse begs the question. Which one of the systems— British & Iranian— is near to the democratic principles? It is hoped that someone else would be able to pay attention to this un-attended area of constitutionality of a western role model and an alleged theocratic state.

However, on the other hand, the study also reveals that there is a dire need to enhance the number of members of the Guardian Council, by giving more diversification to its membership and reducing and curtailing its powers up to the level of British House of Lords. It also suggests that, for the purpose of election, instead the Guardian Council, an independent election commission or similar body like other democratic states' institutions is the stark reality of the time so that the election process at all levels may not be stigmatized by the forces opposing the revolution.

The Leader and the Leadership Council in the Constitution of 1979:

After the demise of *Imam Khomeini's* and during the Occultation of *Walial Asr*, the appointment of the Leader is vested in the Assembly of Experts elected by the people. The Experts of the Assembly review the merits of all qualified jurists who are just, pious, fully aware of the times, courageous, possessing administrative and problem solving skills and abilities⁽²⁰⁾. The Leader must have ability to give ruling (*fatwa*) in various fields of Islamic law (*fiqh*), must have integrity (*'adalah*) and must have a sound political social vision and prudence. In case more such jurists fulfill these qualifications, the Experts shall elect one jurist out of those as Leader, who shall assume the *Wilayat al-amr* and all responsibilities arising from it.

Appointment of the Supreme Leader is vested in the Assembly of Experts provided under the constitution which has full support of the people, but surprisingly the opponents of the revolution criticize the appointment of the Leader hysterically: "the *velayat-faqih* system invests the law, power and legitimacy in one man, the so-called Supreme Leader. The clerical regime is totalitarian, because it does not recognize freedom and the right of political activity for anyone other than those who fit within the narrow definition of "loyal to the Islamic state"⁽²¹⁾. In the western world the holocaust denial leads to criminal prosecution in certain European states like Germany, Austria and Romania and as a result of which the denier is criminalized with a

and the Assembly. Interestingly, the same pattern was in vogue in the US prior to 1913.

No doubt, the American senatorial system now gives powers to the people of each state to elect its senators by direct vote, but prior to 17th constitutional amendment in 1913; the elections were made not by the people, but by the respective state legislatures, similar to Iranian pattern. Upon continuous receipt of information about corruption and bribery, the Congress proposed the amendment into states decretal to this effect and states ratified it. The existence of the Guardian Council in Iranian political system is a result of constitutional provisions approved by the people themselves; therefore, the Council is as democratic as the Senate of America was prior to 1913 and since the nation did not receive any information regarding the corruption and bribery of the members of the Guardian Council, there is no need to change the political order.

As regards the appointment of the six Islamic jurists (*'adil Fuqaha'*) by the Supreme Leader, it is largely a matter of ignorance of the intelligentsia at one end, and a matter of disinformation disseminated deliberately by the secular media at the other end of the dialogue. Almost same, or to some extent identical to Iranian constitutional way, the members of the House of Lords—upper house of British Parliament—acquire their office either by way of the hereditary principle or they are appointed by the Crown. If the Iranian political order, partly, takes religious element not by way of democratic norms, then on the same pattern, the Archbishops of Canterbury and York and the Bishop of London, Durham and Winchester have the right to a seat without popular vote of the people. Moreover, 21 other seats are also reserved for spiritual (religious) lords, which are taken by diocese—a district under the pastoral care of a bishop in the Christian Church—bishops on the basis of seniority from the date of their appointment⁽¹⁸⁾ but not on the principle of popular vote of the people.

Is it not a matter of surprise and astonishment that the whole of the upper house of the mother of democracy—1130 members and is the largest legislative body in the world—⁽¹⁹⁾ is composed of either by virtue of hereditary principle or by way of appointment by the Crown, and the people of Britain are, even in this 21st century, are silent? On the other hand, half of the total members of the Guardian Council are elected by the Assembly of the people and remaining half of the