Political Islam and Popular Order in Post-Revolutionary Iran

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Abstract:

Political Islam in Iran, which initially formed in the guise of Sultāni order, experiences its second form after 1979 Revolution, named popular order. While in both forms, the authority of religion has been accepted in political life, these types of order demonstrate two different experiences of political Islam in Iran. Thus, the comprehension of this new experience of political Islam after the revolution entails knowing its history in Iran. After a short study about the concept of political Islam and a brief review on its condition within the relations named Sultāni order, this article tries to explain the causes and effects of shift to the popular order. In our view, political Islam, by shifting to popular order, achieves appropriate capacities to establish democratic relations in post-revolutionary Iran, even though faced problems in doing so. Since understanding this transformation entails analyzing the fiqhi political ideas and thoughts, we begin with explaining the transformation of political Islam.

Keywords: Political Islam, Popular Order, Post – Revolutionary Iran

Introduction

Despite its reference to an ancient faith, political Islam is a concept that has been introduced recently in the political and religious literature. The emergent transformations in the political relations of Muslim world in contemporary era have resulted in issues about the nature of Islam and its connection to the transformations. Hence, some scholars of political thoughts and politics, have used this concept in description of the influential ideas in Islamic world about establishing Islamic government in order to enforce Sharī'a[1]. The most important component of this concept is stress on the political nature of Islam. Political Islam in this article refers to a political theory which its aim is to establish Islamic political order that its principles, bases and legal structure originates in Islamic Sharī'a.(Mandaville, 2007, p. 57). Thus, political Islam refers to an idea that recognizes Islam as a political religion and consequently, believes that applying Sharī'a and realization of its Islamic goals depend on the establishment of Islamic government. In other word, political Islam recognizes the authority of religion in socio-political life and tries to realize this authority through Islamic governance formation.

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1. Islamic laws

The limits of this definition reveal the difference of this concept from other similar concepts, especially Islamic Fundamentalism. Though Islamic fundamentalism is a modern phenomenon because it is a reaction to the modernity, (Peter Herriot, 2009, p.2).unlike political Islam, commits itself to realize Sharī‘a with traditional, and hence, reactionary approach. In other word, the common point of political Islam and Islamic fundamentalism is the necessity of establishing Islamic government to enforce Sharī‘a. However, the main difference is that Islamic fundamentalism has so radical characteristic that views all the world-dominated processes unjust and illegitimate and allows violence to achieve its goal. Thus, Islamic fundamentalism and Islamic radicalism are to do with Jihadism which tries to remove the influences of western countries from Islamic world in order to establish Islamic government based on Sharī‘a. (Jarret M. Brachman, , 2009, p.5)

However, in this article, political Islam is viewed different from Islamic fundamentalism and radical Islamism. In this view, political Islam is a thought stream with this presupposition that Islam is political substantially and does not reject modernity and world-dominated processes, though is critical to them. The opponents of political Islam believe that the application of Islamic Tradition depends on the reconstruction of the Tradition in the modern context. Hence, they can relate to the modern concepts and doctrines.

Next, it is tried to study the history of political Islam and its condition in the current context of Iran. To our opinion, political Islam in Iran has been introduced in two forms of order: Sultāni and people that in the second have reached to its contemporary and exact meaning.

Political Islam and Sultāni order
Political Islam, as noted, initially was introduced in fiqhi considerations and in form of Sultāni order. Thus, its understanding depends on analyzing the fiqhi texts. Given to the necessity of situating these texts in their socio-political contexts in order to understand their authors' intentions, it is necessary to take a historical look at Iranian faqīhs'[1] ideas about political Islam and its relations to Sultāni order.

1-2.The Safavid era and formation of Sultāni order
It could be said that Fiqhi formation of political Islam coincided with the establishment of Sultāni order based on Shiite religion in Safavid period. In that time, Shi'a fiqhi passed through order of precautionary dissimulation (taghiyeh) and regulated socio-political relations of Shiites within the Sultāni order. By Sultāni order, we mean the arrangements based on authority and dignity that, though there was no reason to their justifiability at the beginning, due to removing chaos and restoring social order, found later another legitimate base. (Tabatabaeifar, 2005, p. 61) The Safavid kings regulated socio-political relations of Iranians within these arrangements and their authority and dignity paved the ground for restoring order and security and establishing social system. However, the Safavid made Shiite fiqh to face an important dilemma.

Practically, restoring order and security based on authority could serve as the second Legitimation base for the dynasty but this Legitimation needed religious support that Safavid kings lacked. Religion (Shi'a fiqh) viewed these arrangements unjust because of lacking two factors; Imāmah and Ismah.

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1. Islamic jurists

(Clifford Edmund Bosworth, 1970, p.21)In this dilemma, Shi'a fiqh undertook to answer whether Sultāni order was legitimized or not. In doing so, the faqīhs of Safavid era deployed an approach, may called reformist approach, composed of these elements:

Faqīhs' inability to rule: Shi'a fiqh in this period did not accept the legitimacy of Sultāni order system directly because Shi'a kalami[1] bases could not legitimize such a system but denied the incumbency of qualified faqīh incumbency due to their inability to rule. The important point in this idea was that faqīhs' inability to rule allowed leaving the kings the responsibility of enforcing some affairs named urfi. This issue, in different forms, existed in fiqhi works of the Safavid period. For example, Feiz Kashani, even if emphasized the vicariate qualified faqihs in Occultation period and stressed on their responsibility for enforcement of religious sanction and punishment and other religious affairs, mentioned an important condition: "on condition that this does not endanger his and other Muslim s' lives".(Feiz Kashani,1402,vol 2, p, 50) Obviously, the condition of faqīhs' incumbency depended on his and other Muslim s security meaning that practically, it was possible for faqīhs to take the responsibility of urfi affairs. In other word, Feiz Kashani believed that the responsibility of religious affairs in time of Imām

Occultation was on the faqihs who understand man inward and outward but, since it was impossible, it should have been left to the powerful kings. (Ali Khalegi, 2001, p.59) Indeed, this view brought about a dualism in authority: faqīhs' authority on religious affairs and kings' authority in urfi[2] affairs.

The accompaniment of religion and state
Shi'a fiqh in Safavid period viewed qualified faqīhs incumbency impossible and, inevitably

confirmed the necessity of the king's in religious and urfi affairs but tried to provide for that. For instance, Feiz Kashani wrote in his book:

"Given to the accompaniment of religion and state, the Safavid kings had linked survival of the kingdom to resort to religion [and their manner] was to glorify the divine rites among the Muslims". (Feiz Kashani, p. 66, *quoted in* Ali Khalegi, Ibid., pp. 58-9.)

This reason indicated this notion that kingdom and religion were inseparable. This view, which named "the unification of religion and politics" later, represented the origin of fiqhi political Islam. Indeed, in this view, the survival of religion depended on the settlement of the government and politics. Consequently, politics was at religion disposal.

Thus, believe in the accompaniment of religion and kingdom played a key and modifying role for religion in relation to government. Shi'a fiqh of this period confirmed such a role if religion and politics were considered inseparable because religious politics was "ordering the people System of religion and hereafter collected, With good survival Every one in each".(Ibid., p. 161) But, unreligious politics, called *necessary politics*, was "ordering the peoples and their livelihood, only in the world." (Ibid. p.160) Feiz Kashani, by such a classification and stressing on the necessity of politics in his time, acknowledged the domination of religion over politics since to his opinion" (Ibid. p.165) the universe appears is the state Following the inner world is the Kingdom, Feelings being In light of comprehension.

Qajar period and shift from Sultāni order
Although the fighi the arising on Sultāni order continued in the early Qajar era, Constitutional Revolution paved the ground for shift from this order. If we regard the revolu-

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1. dialectic theology
2. customary

tion as a phenomenon occurred by people who were tired of despotic system, (Seyyed Ali Mir Mousavi, 2005,p. 190)undoubtedly, its prominent characteristic was paving the ground for shift from the previous Sultāni order. This revolution could break down the Sultāni order, in order to restrict power, in legislative field, and presented a new definition of people status in government. According to this definition, constitutional system could bring about a fundamental transformation in decision-making and legislation processes of Monarchy system. Therefore, even if Sultāni order was not removed during the Constitutional revolution totally and lasted in early Qajar period, little by little signals of shift to people order emerged. In terms of thought transformation, this fundamental transformation is central to our discussion.

Undoubtedly, the emergence of Constitutional revolution resulted in many questions in Shiite faqīhs' minds. One of the most important one referred to the relation of Sharī'a and Law. Since Constitutional revolution recognized people role in the processes of decision making and legislation and, conferred legislating authority to their representatives, contradicted with this idea that in Islam society, the one and only law was Sharī'a and other human-made laws were not allowable. Indeed, the main question was whether in the presence of Sharī'a, individuals were authorized to make law in order to regulate their socio-political affairs or not.

There were two answers, and thus, two views about it. One argued that human law making, in the presence of Sharī'a, was a *Bid'ah[1]* for there was no need to fabricate law and thus, "fabricating law contradicts with Islam and belong to the Prophet". (Sheikh Fazlollah Nouri, 1995, p.175) This view, focusing on the faqīhs monopoly of religious

legislation, confirmed the authority of fiqh and faqīh in lawmaking, a notion that in early Qajar period came into existence in form of *vilayat-e 'āmme-ye faqīh* theory, developed by some faqīhs like Mullah Ahmad Narāghi. Although some argue that his main and important contribution to this theory was "induction and researching the argument for vilayat-e faqīh and its introduction as long as being acknowledged according to the fiqhi criterion and" (Mostafa Jafar political Islam she 2001,p. 223) Collecting things that the scattered faqihs Are mentioned A circle of Provincial governor of Occultation age, his fiqhi efforts aim could be viewed to explain the idea of monopoly of fiqh authority in regulating Muslim affairs according to Sharī'a . For this reason, he believes the equality of qualified faqīhs power in Occultation age to the Prophet and Imāms. (Ahmad Narāghi, No date, p. 536)

This view, which was represented in **Javaher-ol-Kalām** by Mohammad Hassan Najafi after Ahmad Narāghi, is a famous fiqhi school. Najafi believed that the Shi'a Imām sunder took the responsibility of regulating Muslim social affairs in pre-occultation age rather some cases like Jihad that they viewed unnecessary in Islamic society. (Mohammad Hassan Najafi, p. 397, quoted in Mostafa Jafarpisheh, ibid., p. 234) Thus, he conferred this responsibility to faqīhs in Occultation age and recognized the same authorities for them.

The second view put stress on the legitimacy of human legislation beside shar'ī laws[1]. This view, which was believed by constitutionalist faqīhs, focused on this idea that the relevance of divine law and Sharī'a to the lives of individuals did not entail rejecting human-made laws. For example, Mohammad Hosein Nā'ini legitimized hu-

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1. blasphemous innovation

man legislation if it would not have been in contradiction to shar'. (Tofigh Seif, 1379,p. 250).In fact, in this view, there were two laws: divine laws and human laws. Each of these laws played a key role in socio-political life of the Shiites while human laws must not contradict with divine ones. Nā'ini classified the responsibilities of government in two categories:

"Either they are some fixed revealed pre-scripts which their practical obligation is de-termined and their command of religion is recorded in the holy religion, or some un-fixed revealed prescripts whose Function of the process due to the insertion of are strain-ing special criterion is determined and de-pends on the order of the ruler." (Moham-mad Hosein Naini, 1999, w 325)

In this quotation, Nā'ini pointed out the shar'ī fixed revealed prescript and unfixed revealed prescript in Muslim affairs, indicat-ing this key notion that in certain cases, Sharī'a has not issued any ordinance (hukm) about the political life. This point, mention-ing the accompaniment of human law and shar'ī law, allowed the former in case of not contradicting to the later. Hence, in this view, unlike the first one, the range of divine laws was not so widespread that encompassed all socio-political affairs of individuals. On the contrary, in certain cases, Muslims were al-lowed to legislate. The foremost outcome of this view was the non-monopoly of shar 'leg-islation and confirming human law making beside and in parallel with shar'ī law. Thus, the authority on political life did not belong to the faqīhs exclusively.

Nā'ini confirmed vilayat-e faqīh in certain cases called Hesbiyeh affairs. As he noted:

"Interfering with some Hesbiyeh affairs is of faqīh's authorities. The problem lies in approving vilayat-e 'āmme that it's most im-portant aspect is; defending territory, restor-ing cities order," (Najafi Khansari, 1377, Vol 1, p. 325)

This view that in opposition to vilayat-e 'āmme-ye faqīh named vilayat-e faqīhin Hesbiyeh affairs, was attributed to fiqhi thoughts of Akhund Khorasani and Sheikh Ansari, and hence, named the school of Sheikh Ansari, before Najafi school. In the discussion of vilayat-e faqīh, he divides the ranks of qualified faqīhs in three categories; fatwā,[2] judgment and interfering with Muslim s' properties and lives. To him, the first two ranks absolutely were in the authority of fa-qīhs but the third one belongs to the prophet and Shi'a Imāms. In fact, Sheikh Ansari be-lieved that interference of faqih was improv-able by reasons but interferences of faqih. (Ansari, 1995, vol 2, p.50)

However, that depends on the permission of the Vali Is permitted as part of Hesbiyeh. Even if Sheikh Ansari used some terms in his books that some may attribute the theory of vilayat-e faqīh to him, (Jafarpisheh, Ibid., pp. 235-246) it seems that in Makasib, which is his most significant book, vilayat-e faqīh was allowed in Hesbiyeh affairs. However, Najafi's different reading on Sheikh Ansari views is evident and according to this differ-ence, two schools of Sheikh Ansari and Najafi are introduced. Therefore, the upshots of these schools, referring to the relation between Sharī'a and law, are two main interpretations of political Islam in Constitution period.

According to the maximalist interpretation of Islam which stresses on the authority of fiqh in regulating political life (shar 'urfi and Ī), in the school of Najafi and theory of vila-yat-e faqīh, dualism of shar'ī and urfi laws was not authorized. On the contrary, in Sheikh Ansari school and his theory of vila-yat-e faqīhin Hesbiyeh affairs, with a mini-malistic interpretation of fiqhi Islam in which the authority of fiqh in regulating shar'urfi

1. religious law
2. religious injunction

and Ī affairs is allowed, the before-noted dualism was acknowledged. It seems that after 1979, Revolution the former interpretation of political Islam has been dominated but in a new experience of political relation, called people order. Now we are to discuss this experience.

Political Islam and popular order

The post-revolution era could be viewed as the domination age of fiqhi political Islam with maximalist approach. In this era, after shift from Sultāni order and introducing the notion of *Islamic government* in Occultation age, political Islam undertook the responsibility of conducting Shi'a political life. An idea that was initiated within the Najafi school, in line with Narāghi's theory of vilayat-e 'āmme-ye faqīh, was deployed by Ayatollah Khomeini, and developed by his students and followers. Ayatollah Khomeini within this framework referred to fiqh through a governmental approach. To his opinion, "government is the practical philosophy of fiqh in all aspects of life" and "real and complete theory of regulating human affaire from birth to death." (Khomeini, 1997, pp.5&98)This notion relied on his presupposition of "Islam comprehensiveness "in which, "since Islam encompasses all individual deeds and needs, from socio-political affairs to ordinary and regular activities of life, provides guidance and instructions". (Khomeini, 1997, p.5)

As follows, fiqh contained series of *takalif*[1] determined by Islam in various aspects of human life. The outcomes this idea where, on the one hand, acknowledging the fiqhi political Islam and, on the other hand, accepting its maximalist approach. Moreover, methodologically, this idea entailed deploying a prop-

er method to elicit the takalif. Thus, even if Ayatollah Khomeini focused on the traditional method of Ijtihad within the Jawahiri fiqh[2], identified it insufficient and believed that these "student debates in theory framework lead us to nowhere." (Khomeini, op.cit, p. 57) Consequently, in addition to the necessity of adapting Ijtihad to time and place conditions - *masliha*-,[3] he tried to make traditional Ijtihad enter into the new socio-political concerns and make it efficient and innovative. Hence, Ayatollah Khomeini wrote to Guardian Council:

"My fatherly advice to the dear members of Guardian Council is that, above all the pedantries, think about the masliha of the government since one of the important in this chaotic world is to pay attention to the role of time and place in Ijtihad and decision making." (Ibid., pp. 60-1)

The idea of innovative Ijtihad and its deployment in politics, made political fiqh of Ayatollah Khomeini so competent that as a practical knowledge, served to regulate political life in two dimensions of "system building" and "decision making" (legislation). This knowledge introduced a new model of Islamic government in Occultation age based on two principles of *Islam* and *people*. In the light of this transformation, political Islam, in shifting from Sultāni order to popular order, had to theorize system building. Hence, political Islam, despite its theoretical and historical background gained a new characteristic. In other word, political Islam is a modern concept that is defined as various ideas and beliefs that assume Islam a Political faith by nature recognize its authority to regulate political life and, using some approaches, in our discussion, fiqhi approach as a dominant approach, tries to provide a model for Islamic

1. callings
2. fiqh inspired by the book Jawahir-olKalam
3. expediency

government. This thought stream, could realize this model in form of Islamic Republic for the first time, a model that Ayatollah Khomeini explained as:

"Islamic Republic in our interpretation is inspired by prophet and Imāms and relies on people votes. Form of government is also determined through referring to these votes; establishing Islamic Republic based on Islam principles and, relied on people votes". (Ibid. vol 2. p.230)

Or "But we define "Republic" alike all other republics with this difference that its constitution is based on Islam. We call it "Islamic Republic" for both conditions and ordinances issued in Iran originate in Islam but their approval is on people, in republic manner." (Ibid. p.351)

Hence, in this approach to fiqhi Islam, two principles of "Islam" and "people" combined. The former forms the system content and the latter identifies its form. The first principle indicated the authority of fiqh in regulating socio-political life and vilayat-e faqīh in its incumbency and the second one referred to people participation in institutionalizing the model of political system. This twofold model named Islamic Republic, was called religious democracy, due to the transformations occurred in the second decade of the revolution. In this pattern, religious democracy means certain way of political life for people who accepted a religious system that guarantees freedom, independence, satisfaction, political participation, socio-political justice and finally, presence of Sharī'a in political life of people. (Pourfard, 2005, p.53) This definition rested on Kuhn conception of democracy, widely accepted and it seems that any discussion about religious democracy should be centered on this sense of democracy. (Eftekhari, 2006, p.4) Of course, this approach to religious democracy is based on the differentiation of democracy as a method and democracy as a political philosophy that is hard to be accepted. Democracy, on the one hand, is founded on certain theoretical bases and indicates special mechanisms of society and government management on the other hand. Thus, when we refer to religious democracy, its differences as a special model of democracy to other patterns like liberal democracy or social democracy should be reminded. Therefore, while in liberal and social democracy, the justification and explanation bases of democratic elements (e.g. People authority and participation) are respectively liberalism and socialism, the referent in religious democracy is Islam. Therefore, religious democracy is a certain model of democracy in which the authority of Islam is recognized in the justification and explanation of democracy parameters. (Mir Ahmadi, 2009, p.24)This model, through confirming the authority of religion, recognizes people role and place in three fields including:

System building

People in religious democracy theory are in the status of system building but, as discussed, the definition of their role and place depends on the nodal point of fiqhi Islam, namely vilayat-e faqīh. In accordance, people votes, though do not play role in Legitimation of Vali-e faqīh, because his legitimacy is god-given, allow him to establish government. Ayatollah Khomeini explains the role:

[˚Faqīh] has guardianship in all aspects. Nevertheless, guardianship on Muslim affairs and government establishment depends on the majority of votes, mentioned in constitution and named *bei'ah* in early Islam. (Khomeini, op.cit, vol. 20. p. 459)

In these matters, the legitimacy of Vali-e faqīh does not rest on peoples' votes but he is not allowed to build system unless the major-

ity of people votes for identifying majority vote with *bei'ah* as Islamic concepts demonstrate the attempts of religious democracy theory to refer to religious concepts in the process of justification in Iran.

Decision making

Another realm of people participation in religious democracy theory is decision-making or legislation. In this theory, individuals' votes determine institutions and structures related to decision making. This theory, referring to *Shora*, one of the main Islamic concepts, explains people status in decision-making process. Therefore, people votes constitute parliament as the foremost decision making institution and for that reason, parliament places high in Iran. To Ayatollah Khomeini:

"Parliament which is above all institutions in Iran enjoys many special features. The most important one is its Islamic-national characteristic; Islamic for its all attempts to enact Islam-based laws, national because its status originates in people… today parliament is the real house of people." (Ibid., vol 18, p. 420)

This quotation indicates the recognition of people position in forming parliament but, as noted, this role is defined in the context of enacting laws that match Islam. In other word, Islam, as the nodal point of Democracy, recognizes people status in legislation realm as far as it is not incompatible to Islam.

Law enforcement

In addition to system making and decision-making, people are supposed to participate in law enforcement. In this theory, people, by electing president, play critical role in law enforcement. Indeed, people, through elect-

ing the president, shape the most prominent symbol of republic system. However, this role is defined by referring to Islam with a fiqhi approach. Theory of Democracy in Iran identifies the legitimacy of presidency through the mechanisms of affirmation (tanfiz), authorize, by Vali-ye faqīh. Thus, Ayatollah Khomeini writes in affirmation of presidents:

"… and since his [legitimacy] must rest on by Vali-e faqīh appointment, I affirm people choice and appoint him to the presidency of Islamic Republic of Iran." (Ibid., vol 15, p. 67)

Analyzing the post-revolution experience of political Islam

The experience of fiqhi political Islam in Iran has a lot to do with the experience of Islamic Republic of Iran. This experience could be examined from different aspects. One of these critical aspects, is the realization of its main idea, namely, the compatibility of Islamiat (Islamism) and jomhoriyat (republic) in various dimensions- and specially to this article perspective, in relation between Sharī'a and Law.

After the establishment of Islamic republic and its institutionalization, each of two fundamental bases of Islamiat and jomhoriyat has found a critical status. Islam, which according to the formal interpretation and definition forms the content of government, beside jomhoriyat as the form of system, shaped the foundation of system. Islamiat indicates the recognition of divine laws as the origins of Iran Constitution and jomhoriyat refers to confirmation of the role and place of people in institution founding and their incumbency in these structures. Thereby, people are conferred the right to elect representatives in order to legislate. However, the legis-

lation has to be founded on Islam, without any incompatibility. Therefore, the Guardian Council Guardian Council came into existence in order to adapt laws to Sharī'a. However, in case of in compatibility, there would appear conflict between parliament and Guardian Council and there should be mechanisms to allow representatives to enact laws based on common masliha.

Fiqh of Ayatollah Khomeini offers two solutions to solve the problem. The first one is to employ the concepts of primary and secondary ordinances. In accordance, ignoring primary ordinances in legislation process is allowed in emergency cases and urfi legislation is done with regard to shar'ī and fiqhi principles. Sharī'a

To Khomeini, secondary ordinances are aimed to solve problems "emerged in society occasionally. Therefore, there must be secondary ordinances; of course, it may be called divine secondary ordinances. (Khomeini, 1999, vol 17, p.249)

However, this solution is only applicable in case of emergency. Because of that, in non-emergency case but for common masliha, it is not possible to ignore primary ordinances by resorting to. The second solution refers to such cases. Ayatollah Khomeini put stress on the concept of masliha and the necessity to honor it as a key way to solve the disagreement of Sharī'a and law. He addresses the representatives:

"Since what are important in preserving state and their enforcement or non-enforcement threaten the government, or result in difficulty, are annulled by vanishing the case, the representatives are allowed to enact and enforce laws." (Ibid., vol 15, p. 297)

However, this solution facilitates urfi legislation for representatives but in some cases, causes conflict between parliament and Guardian Council. So, in Islamic republic experience, it was predicted to establish Expediency Council, as the advisory body of Vali-e faqīh and masliha –distinguisher institution. This body "which is a legal and fiqhi institution and aims to discern masliha and priorities, has been founded by Ayatollah Khomeini decree" (Asghari, 2007, p.236) and is under influences of his fiqhi views which in turn, reveals the transformation of fiqhi Islam. This idea is found in Ayatollah Khomeini theory of vilayat-e motlaqe-ye faqīh. According to this theory, "government is a branch of vilayat-e motlaqe-ye faqīh and one of the primary ordinances and prior to all other secondary ordinances including Namaz, Ruzeh, Hadj"[1]. (Khomeini, op.cit, vol. 20. p.170)It is taken for granted that this theory originates in Ayatollah Khomeini view on Islam as the epistemological Source of Government. To him, "Islam includes government with all aspects and ordinances also are of these aspects and ideals for governing and justice." (Khomeini, 1984, vol 2, p.472) According to this view, fiqhi political Islam includes such a wide range that, by deploying element of masliha as the legislation foundation, answers the questions and thereby, upon which government is founded.

Examining the experience of political Islam reveals the shift of this thought stream from dominated fiqhi tradition, the tradition in which though Shi'a scholars used masliha in books such kitāb-al kharaj, kitāb-al Bay', kitāb-al Vaqf, kitāb-al Jihad, left it unelaborated. (Saremi, 2001,p. 71)In this tradition, masliha did not enjoy a special status, but in Khomeini's political fiqh, masliha places in the core which "Is the basis and foundation of any law, commandments and instruction existed in Islamic government". (Ibid. p.58) Thus, masliha as the legislation Source indicates shift of fiqhi political Islam from the

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1. Prayer, Fasting, Pilgrimage

past fiqhi tradition, something that from this point of view, means a key transformation in history of fiqhi political Islam. Transformation of fiqhi political Islam in Khomeini's political thought and in Islamic republic age led to an epistemological transformation in considering religion and fiqh and thus, political fiqh. This transformation happened in form of epistemological turn, which occurs in two main fields; the minimal religion before the maximal and the essentials of religion before the subsidiary. The first field refers to the important point of the expectations from religion, which to some, called religious intellectuals, the understanding of religion depends on the identification of expectations from religion. For "if someone supposes that religion can answer all the world's questions, the religious ordinances will find another meaning to him and all religious statements genuinely will belongs to religious. However, if he believes that the spectrum of religious ordinances is limited and out of the limits is not the realm of religion, he will not scrutinizes in again and not try to find the answer of any question in religion, question like how to manage a hospital. Therefore, those statements in religious texts that deal with such matters will be treated as unreligious". (Soroush, 1997, pp.135-6)This vision in fact, considers expectation from religion as the understanding key of religion and hence, is those ordinances that their alteration religious Intrinsic Speak again staccidental lead to the rejection of religion and subsidiary are those that are imposed to religion and could be another without essentials change. (Soroush, pp.82-4) Thus, subsidiaries are changeable and religious knowledge of Muslim shas form edunder the influences of cultural and historical events during the time. Hence, understanding the substance of religion depends on religion essentials that are viable by passing through the historical knowledge's. This notion affects religion expectations and identity.

Hence, if expectations from religion are maximal, the interpretation of religion will be maximal and if expectations are minimal, a minimal interpretation will occur. The idea of minimal religion expresses that shar'has determined the minimal in various dimensions of government, jurisprudence, morality, economy, society, this does not contradict to the concept of religion comprehensiveness. From this point of view, religion is minimal and its minimalist is does not negate its comprehensiveness because the ideal of religion is to achieve the minimal. (Ibid. p.111) The same happens for fiqh. According to this view, "fiqh is not responsible to answer all fiqhi questions of society. On the one hand, not all the problems are fiqhi and, on the other hand, a society in which fiqhis dominated is not necessarily a perfect one. We need something more than fiqh. Therefore, the misperception of fiqh and religion comprehensiveness must be corrected... it is a mistake to think that religion comprehensiveness means solving all problems. Islam is a complete faith not comprehensive and these two are different". (Soroush, op.cit., p. 256) This approach to faith bestows it a new identity. Fiqh, from this view, is not a science of designing and programming, but, after society formation, fiqh issues ordinances about it. Fiqh has not offered development, insurance, election, Separation of power and …. (Soroush, *Kian*, No 6, p. 21) This view brings fiqh status down from a regulating knowledge, status possessed in fiqhi political Islam and at most, views it as ordinance elicitor. Evidently, ordinance eliciting occurs when it exists in religion, thus, according to

minimal interpretation, ordinance eliciting belongs to the minimals. These minimals could be viewed from different angles and dimensions, which in politics specifically, have something to do merely with values aiming to political life, not laws. From this view, in Qur'an and Tradition, only the values related to content of government- not form-are expressed as constant Sharī'a. What are found in Qur'an and Tradition about issues on government form relates to the special condition of early Islam .Thus, from this view, Muslim s have to preserve values about government content in all vicissitude of history but they are not forced to preserve a certain form of government. (Shabestari, 1996, pp.64-5)

Indeed, the truth of religion differs from Sharī'a. Sharī'a is the changeable nature of religion, influenced by cultural and historical conditions, but religious truth includes constant and unchangeable values. These considerations result in two main statements about the status of fiqh:

1. Fiqh is science of ordinance elicitation not knowledge of theorizing;
2. Fiqh elicits ordinance not provide rules to regulate and manage society.

These two statements questions the foundational statement of fiqh indicating "religious authority in regulating Muslim s socio-political life" and thereby, make fiqhi political Islam answer basic questions in different fields, especially in jurisprudence. Above all these, is introducing the idea of *Islamic secularism* in post-revolutionary era by some religious intellectuals who believe in the compatibility of Islam and secularism and defend the idea of separation of religion from government-not from politics. To these intellectuals, Islam has authority in explaining values aiming to socio-political life but not in rules aiming to political order, something which in the authority of Reason. (Mirahmadi, 1999)

Conclusion

In this article, we tried to examine the condition of fiqhi political Islam in Iran in order to understand its new experience in form of people order. After a short definition of political Islam, first in brief, its formation in Safavid period in form of Sultāni order and then, the of shift from this type order in Constitutional were explained. Then, the introduction of political Islam in form of people order after 1979 revolution was discussed.

Political Islam in this era, through relying on Ijtihad reading of Islam, tried to design a model of political system which on the one hand, realized Sharī'a in socio-political life and on the other hand, according to new circumstances and needs, established a special relation between people and government which in the article has been called popular order. This political system named as Islamic republic is the first experience of political Islam in form of popular order in Iran. In this experience, political Islam based on theoretical capabilities of Shi'a fiqh, especially vilayat-e faqīh, undertook to solve problems emerged in this experience including problem of the relation between Sharī'a and law.

As discussed, political Islam attempted to solve the aforementioned problem with fiqhi approach, through introducing concept of masliha and Islamic republic did so by appropriate institution building. Despite its theoretical and practical successes, this experience was followed by many transformations in realm of thought, which the most notable one is epistemological turn in religion. Following this turn, a minimal reading of religion and fiqh hap-

pened among religious intellectuals in which, religion found a personal identity and though, lost its authority in socio-political life, maintained that in realm of valuation. The outcome of this vision is the emergence of Islamic secularism that stresses on separation of religion from government rather from Politics.

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