Public Law:
An Islamic Sufi Approach

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Abstract
Purpose: The fundamental principles of constitutional law are briefly set. Although these principles are seen in the scripts of constitutions, they are defined here in another way as consistent as Sufis' attitudes. The criticized principles are: People Sovereignty, Power Restraint, Ruling Body's Non-Exculpation, Separation of Powers, Independency of Powers, Balance of Powers, Superiority of Central Government, Publicity of Law, Respecting Law, Checks and Balance which their coordination, integration and co-relationship form the sophisticated constitutions' core.
Design/methodology/approach: We are going to explore the foundation of constitutional law from the theosophy approach of Islamic Sufism and mysticism.
Findings: By raising ten fundamental principles, we propose the most important public law bases as a backbone for compilation and promotion of constitutions.
Research limitations/implications: Comparative researches in other religions' Gnosticism will be helpful.
Practical implications: These principles can be used for applied debates in the field and be ended to promote constitutional law understanding and recompiling.
Social implications: Delicateness, truthfulness, and righteousness of Islamic Sufism, may turn the attentions of scholars and researchers to this rich approach.
Originality/value: Public law scholars have not touched the topic from Sufi viewpoint. This paper opens new challenging arena for those who are engaged in.
Keywords: Public law, Constitutional law, Theosophy, Mysticism, Sufism, Gnosticism, Islamic law.
Paper type: Conceptual paper.

Introduction

Regulating relationships of individuals and government needs the limits of freedom and rights of individuals and government be determined. Therefore, the topic of constitutional law, as a set of principles and rules determines the border of relationships between people and government and determines the level of sovereign authority concerning interference of individuals' affairs, and the legal extent of individual's freedom deprivation consequently, and as a main document play a fundamental role and social pact among government and individuals of society.

In this paper, our goal is not to deal with details presented in constitutions, which needs more explanations, and does not fit to this short paper. But, we try to consider the generalities and principles ruling on the spirit of constitutional laws, and, to survey the general factors involved in its formation. Certainly, entering philosophical discussions about generalities of constitutional laws is itself a vast area, but we try to mention the necessary subjects and the most important

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basic principles briefly.

Structure and organization of powers and sovereignty are of important topics in constitutional laws, and its variety in different countries, is more than the basic principles in relation to individual freedom and rights and ruling level of sovereignty. We will not discuss this area here.

Constitutional Law

Ernest de Sarzec (1832-1901) discovered the oldest constitution of the world in his archeological excavations in ancient Sumerian's place in south of Iraq, which refers to 4300 years ago. The discovered text belongs to Sumerian king Urukagina of Lagash ca, which is almost the most ancient script around the world in domain of constitutional legislation, and clarifies the rights and duties of citizens and government, relationship between government and nation, country administration structures, ruling systems, governmental properties and organizations, governmental powers…[2] After that, among the written law codes about sovereignty of states, we can refer to Ur-Nammu of Ur (2050 BC), Code of Hammurabi of Babylonia, Hittite code, Assyrian codes, Mosaic law, the commandments of Cyrus the Great of Persia (529 BC). In 621 BC, Draco wrote the very brusque act of Athena city-states. The ruler of Athena in 594 BC, Solon, compiled the Solonian Constitution. In 350 BC, Aristotle was the first who differentiated law and constitution officially. The ancient Rome called this law as Constitution, while the Popes called it Canon Law or Laws of Holy Writ. The Constitution of the Rome Empire was written firstly by Codex Theodosianus[3], the Roman emperor in 438. Justinian the First[4], the emperor of Eastern Roman (Byzantine) in 534 wrote a set of law which is recognized as initial of modern European Law. In 604, Shōtoku Japanese prince, compiled a set of laws inspired from Buddha's teachings concerning ethics. The juridical parts of the Holy Quran, after The Messenger's immigration to the Medina at the first Hijri year (622 AD), are the collection of Islamic laws for administration of social affairs for Medina city at that time. Gayanashagowa Law or the "Great Law of Peace" among the big tribes of Northern American Indians was written during 1090-1150. Magna Carta Libertatum or the Great Charter of freedom for Britain was signed by Henry III, the king of England in 1215 which changed Royal Government to Constitutional-Monarchy, in which the King was forced to prefer the law to his will. One of the major articles in this law was that, the king or others had no rights to sentence anyone to prison, to exile, to execute or to confiscate individual properties without legal process. In 1240, Egyptian Abul-Faza'el Qebti, by combining some Torah's precepts with Byzantine Empire law, compiled a new law which entered Ethiopia in 1450, and was executed as constitution at that country. Sancti Marini's Constitution (Leges Statutae Republicae) was compiled in Latin language in 1600. Law of Connecticut colony, in North America, was compiled in 1639 that was of the earliest concrete constitutions in the West. The Age of Enlightenment in European philosophy history is referred to 18th century or the longer era of rationalism in 17th century. Diderot[5], François Marie Arouet Voltaire, Rousseau, Montesquieu and Kant are philosophers of Enlightenment Age. In the Age of Enlightenment in Europe and in the second half of 18th century, several modern and effective constitutions were compiled. The United States' constitution was prepared and authenticated in 1788. The opinions of Polybios, John Locke and Montesquieu strongly affected USA Constitution.

Consolidation of a constitution depends on its stabilizing principles. Montesquieu's definition of constitution and similar opinions separated the correcting, interpreting and revising constitution principles out of the parliament's duties, so it could not be changed by statute laws

[2] - Jeremy A. Black (2006), The Literature of Ancient Sumer. Translated by Jeremy A. Black, Graham Cunningham, Eleanor Robson, Gabor Zolyomi, Oxford University Press, 2006.
[3] - http://en.wikipedia.org/wiki/Codex_Theodosianus
[4] - Justinian I. http://en.wikipedia.org/wiki/Corpus_Juris_Civilis
[5] - Political Writings (Cambridge Texts in the History of Political Thought), by Denis Diderot, John Hope Mason, and Robert Wokler, Cambridge University Press, 1992.

and governmental arrangements, except by ratification of constituent assembly or referendum[6].

Church rule during Medieval, and prevailed religious fanaticism at that time, caused the religion of society be imposed on people as religion of God, resulted in emerging antithesis of imposing restrictions on church's authority from inside of the church rule thesis. John of Salisbury[7] was himself of supporters of church promotion, but he also criticized church's authority. He criticized that church abuses her power, and he believed that church had to be reformed as well. To restrict church's authority, Salisbury proposed the sovereignty of law, and in an important principle, expresses that the rulers should be stopped if they act against principles of law and justice in the society. And it is not anyone's duty to be against the king, but, social disciplines should be respected, and it was a step towards establishment of constitution. Saint Thomas Aquinas[8] in 13th century separates politics from religion in the same direction. He tried to conciliate logic and religion and coordinate religious and social principles in a way that both Christianity endures and a more brilliant political world for Europe comes to existence. Saint Thomas concerned Aristotle's Politics and Marcus Tullius Cicero's[9] insights as well as Saint Augustine's[10], and briefly, presents this point that natural law considers both faith and reason and logic, and these two can exist, along with each other, without intervention. He counts and defines four regulations due to their respects and importance orders. He knows Divine constitution as the highest law, which is an eternal law, and is based on Devine rationality. Below it, there is natural law which includes creation and its related laws. And then, there are legislations in messengers' teachings under it, and below it there is tradition which is resulted of mankind's experiences. It was due to this process that, in practice, law was presented as a constraint to ruler's power, and determination of people's rights domain were proposed, and then, was ended to compilation of constitution.

Design philosophy of constitution is presented in such principles as follows:

- **People Sovereignty Principle**: It means that, the sovereignty is transferred from the people to government by an implicit social contract, and government is representative and advocate of nation.
- **Power Restraint Principle**: Government's power is not the sheer limitless power, and it is constrained to people's will, and the constitution is the criterion to restrict the government's power.
- **Ruling Body's Non-exculpation Principle**: Ruling body is responsible for their duties assigned by the people, and every individual or gather of them must obey the law and responsive as similar as others.
- **Separation of Powers Principle:** Legislative, executive, judiciary and supervisory powers and authorities must be separated from each other, to prevent collusion for benefits, even though the benefits are legitimate.
- **Independency of Powers Principle:** In fulfillment of their responsibilities, powers must not be influenced by other powers.
- **Balance of Powers Principle:** Major institutions of legislative, executive, judiciary and supervisory powers must all be defined and established with nearly equal powers to satisfy the ability of mutual control needs, to ensure balanced interactions with each other.
- **Superiority of Central Government Principle**: In the agreed contract for forming central and local governments, superiority is to be owned by central government.
- **Publicity of Law Principle**: All the people must be equal in law and legislation must be done for all public.

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[6] - http://en.wikipedia.org/wiki/Constitution
[7] - Janet Coleman (2000), A History of Political Thought: From the Middle Ages to the Renaissance. Blackwell, UK.
[8] - Ibid.
[9] - Ibid.
[10] - See: Brown, Peter (1967). Augustine of Hippo. Berkeley: University of California Press.

- **Respecting the Law Principle**: When law is legislated, it is enforceable, even though this principle bans retroactive legislation.
- **Checks and Balance Principle**: Is a controlling mechanism for government functioning to prevent rulers to trespass out of their assigned duties.

The above principles practically determine limits borders and boundaries of the government sovereignty in the society. Supporters of Etatism theories, i.e. supporters of superiority of government authority are always less agreed with the above principles, and at the contrast, government guidance approach of Dirigism exists, which says that governments should not only be restricted but should also be guided.

People Sovereignty Principle

Social contract which is a covenant between society and government practically puts the ruler as representative and advocate of people, and people, by sacrificing parts of their rights to government, accept government's rule on themselves. In this direction, The Master of the Gonabadi Sufi Order in an article under the title of "Covenant with government"[11] writes: "The word covenant which has been used here very correctly and suitable, stimulated me to bring a definition about the exact meaning and usage of this word. The old articles of our Civil Law, which was compiled by a commission of the highest-ranking jurists and senior lawgivers, mentions a famous juridical principle in article 183 as: "When one or some persons commit to do an action for one or some other persons according to their mutual acceptance, it is called a contract". Usual agreements at the level of ordinary people are referred to by the words such as agreements, contracts, etc. But when the sides of a commitment are not real persons, and for example, are nations or governments on two sides instead, or the quality of the commitment is at very high level, it is referred to as "covenant", like the current international conventions such as: human rights, civil and political rights conventions and … About the signed pacts by Holy Prophet (S) with idolaters in Mekka, which in fact the sides of contract were not individuals, but were two separated societies, i.e. Muslims' community and the Mekka idolaters, the word covenant has been used: "**Except to reach to a group, between you and them there is a covenant**"[12], or the verse: "**If he were belonged to a group with whom you have a covenant**"[13]. Also in occasions which the subject of agreement and promise is highly important, it is referred by the word "covenant": "**Because they broke their covenant, we cursed them and hardened their hearts**."[14] Or the verse of: "**Those who break Allah's Covenant after ratifying it**"[15].Also the commitment that one side of the contract accepts responsibility, or the other side commits him, is called "covenant": "**And (remember) when We took from them (prophets) firm covenant**"[16], or the verse of: "**And we commanded them, transgress not on the Sabbath (Saturday), and we took from them a firm covenant**"[17]. Due to the mentioned points, according to Quran customary meaning as well as Persian literature texts, covenant is referred to a contract which has a highly and specific importance, for status belonging to the parties, or quality of commitment inserted in. When ordinary promises are necessary to be fulfilled -

[11] - His Excellency Haj Dr. Noor Ali Tabandeh Majzoub-Ali-Shah the Second. (2002),"Covenant with Government", Law and Social Collected Papers, Haqiqat Pub., 1st ed., 2002, 191-196.

[12] - Quran: Surah: Al-Nisa, Verse: 90: **اِلاّ الَّذين يَصِلونَ اِلى قومٍ بَيْنَكُم و بَيْنَهُم ميثاقٌ**

[13] - Quran: Surah: Al-Nisa, Verse: 92: **و اِنْ كانَ مِنْ قومٍ بَيْنَكُم و بَيْنَهُم ميثاقٌ**

[14] - Quran: Surah: Al-Maidah, Verse: 13: **فَبِما نَقْضِهِم ميثاقَهُم لَعَنّا هُمْ و جَعَلْنا قُلُوبَهم قاسِيةً**

[15] - Quran: Surah: Al-Baqara, Verse: 27: **والَّذين يَنْقُضُونَ عَهْدَاللّه مِنْ بَعدِ ميثاقه**

[16] - Quran: Surah: Al-Ahzab, Verse: 7: **و اَخَذْنا مِنْهُم ميثاقا غَليظا**

[17] - Quran: Surah of Al-Nisa , Verse: 154: **و قُلنَا لَهمْ لاَ تَعْدُوا فِيالسَّبتِ وَ اَخَذْنا مِنْهُم ميثَاقا غَليظا**

fulfilling the promise is criteria of piety and of conditions of faith "**Successful indeed are the believers…and those who keep their trusts and covenants**"[18]- in manner of priority, fulfillment of major covenants are necessary to be considered, and beyond the two parties of the covenant, others as beneficiaries of the covenant are gained benefit by its fulfillment. Issue of fulfillment of commitments is so important in Islamic ethics that Quran knows covenants signed with idolaters as those that are necessary to be fulfilled: "**Except those of idolaters with whom you have a covenant and have not subsequently failed you in aught …so fulfill their covenant to them for the end of their term, surely Allah loves the pious**"[19], that here, fulfilling the covenant even with the idolaters is considered as the evidence of piety, and from the other side, breaking the covenant was denounced in several cases (cited in some of the verses). By bringing this introduction, it becomes cleared that applying the word "covenant" in title of the mentioned report is very suitable and exact, and at the end, the sovereign body in general (and not the government in its particular meaning), is standing on the other side of the covenant held with people. Government, as a pillar and part of sovereign body, is committed to duties that have been determined for it in this covenant. This covenant, due to the importance of the people (one side of the covenant) has a particular position and greatness. The 56th principle of the Constitution (of Iran) says: "The absolute sovereignty over the universe and human beings belongs to God and He is who has ruled mankind over his own fate. No one can take this Divine right from human being, or put it for the benefit of another individual or specific group at their services, and the nation will apply this Divine right through the ways which will come in following principles." People, on the basis of national sovereignty, and due to this credence that have the position of God's representative on the earth that bestowed by God, have contracted a covenant, and in fact, God stands on one side of the covenant with sovereign body. Due to this covenant, people remise the execution of their sovereignty right to authorities, to serve as their representative. According to this covenant, each of authorities from the highest rank to other organizations and members in charge, are committed to certain duties, and are committed to consider the covenant against people. No one of the authorities has the right to encroach more than her duties or does an action not fitted to her qualifications or short her commitments performance. It is obvious that delinquency and fault of any individual or institution must be prosecuted by other righteous authorities, and eradicates the probable bad infraction effect of trespass. But if the whole ruling body does not act due to the covenant, not only they will be considered as evidence for "**Those who break Allah's Covenant after ratifying it**"[20], moreover, in the case of repeating trespass, the nation will be allowed to do similar act and becomes allowed to act against her covenant. If Reza Khan[21] and his successor[22] had cared about the cries of the great liberalists like: Modarres[23] and Mosaddeq[24] and …, and respected the Constitution, the nation held their covenant respected; but tyranny and aggression exceeded the limits, and the government kicked the Constitution in any step she took, and made herself free from respecting constitutional commitments. The (Iran's) nation, subsequently allowed herself to announce the breakdown of the covenant and request the fall of regime, and on the basis of the motto of "Independence, Freedom, Islamic Republic" approve a new constitution. … Also, it is written in the Preamble of Declaration of Human Rights -which has been accepted by Iran's government- that: Since, protecting human rights by a legal system is a fundamental affair due to which man would not be forced to lodge an appeal, that is

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[18] - Quran: Surah: Al-Mu'minun, Verses: 1-8: **قَدْ اَفْلَحَ المُؤمنونَ… والَّذين هُمْ لِأماناتِهِم و عَهدِهِم راعُون**

[19] - Quran: Surah: A-Taubah, Verse:4:

اِلاّالَّذينَ عاهَدْتُم مِنَ المُشرِكينَ ثُمَّ لم يَنْقُصُوكُم شيئا… فَاَتِمُّوا اِلَيهِم عَهْدَهُم الى مُدَّتِهِم اِنَّ اللّه يُحِبُّ المُتّقين

[20] - Quran: Surah: Al-Baqara, Verse: 27: **والَّذين يَنْقُضُونَ عَهْدَاللّه مِنْ بَعدِ ميثاقه**

[21] - Reza Shah Pahlavi. Shah of Iran (1925-1941).

[22] - Mohammad Reza Pahlavi. Shah of Iran (1941-1979).

[23] - Hassan Modarres (1870-1937), Iranian Shiite cleric and a notable supporter of the Iran's Constitutional Revolution.

[24] - Mohammad Mosaddegh (1882-1967); Prime Minister of Iran, overthrew in a coup d'état.

the final remedy against oppression and tyranny starts to rebellion.[25] According to this basic social rule, governments are premonished against breaking the covenants held with people and against government oppressions and tyranny and law-breaking, people are pledged to rebellion. In the early years of Islam, this covenant between the nation and the government was reminded as *Bayat* (oath of allegiance), through which the Caliph, held a commitment in front of the people and the people also does the same as the evidence of "**Obey Allah and obey the Messenger an those of you who are in authority**"[26] find themselves committed to considering the *Bayat* and obeying the Caliph, and this was after their mutual commitments. After killing the second Caliph and establishment of the council, *Bayat* was proposed to Ali (A) to accept to behave upon the Book of God and the *Sunnah* (tradition) of the Prophet and the two Sheikhs' way of lives. Ali (A) refused to accept to behave as the two Sheikhs' way of lives and accordingly he was not appointed as ruler. Ali (A) in spite of having full absolute Divine guardianship, but he did consider his innocence position is bound to *Bayat*, that means, he believed that he was obliged to consider the conditions primarily accepted for ruling during *Bayat*, and even this absolute guardianship did not exempt him from bearing the commitments, and so, he refused to accept the *Bayat*. But, Othman accepted the *Bayat* with the same conditions, but after settling and getting caliphate, refused to obey the conditions, thus, the Muslims revolt on him. The rebellion of people against the third Caliph was also due to this fact that they believed he had deviated from the conditions of *Bayat*, and accordingly, doers of *Bayat* were allowed to break the *Bayat*. Up to this extent, the reasoning did not face with fault adduction and objection, but as he was killed arbitrarily, his murdering was just the issue of the objection. In today's liberal governments, this covenant and its conditions are presented as constitution script, and the people by approving it after then, all individuals accept to obey it, and if were assigned to any position to perform the related duties and responsibilities according to that law …".

Power Restraint Principle

This principle is derived from public sovereignty principle. That is the government power is due to the regulated specific determined characteristics submitted to her, and the sovereign is limited to consider the same characteristics based upon the people's will according to constitution which is higher than all other ruling laws and regulations and forces and restrains the government to enact in this framework.

In relation to this topic, in an article under the title of "Separation and independency of the powers derived from national sovereignty"[27] it is explained: "… it is a very interesting and suitable combination between two theories which western jurists used to know them as opposites: 1. Theory of Sovereignty of God which in pre-renaissance and under the church influence systems had been known as government power; and based upon it, the ruler knew his power from God and Destiny. 2. On the other hand, upon the theory of national sovereignty, that knew the peoples' vote and trust as the basis of government: people elects some representatives directly or indirectly, and allows them to administrate and rule over the society. Principle 56 (of Iran's Constitution) knows the people as power of Iranian national sovereignty as the basis of ruling power, and in practice considers this approach as dominant on constitution, and it is laid down that: "Unlimited ruling power over the universe and man belongs to God, and it is He who has ruled man over his own social destiny. No one can take this Divine right away from man, or account it for the benefit of specific individual or group, and the people will apply this God-

[25] - "Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law". Universal Declaration of Human Rights Preamble. http://www.ohchr.org/EN/UDHR/Pages/Language.aspx?LangID=eng

[26] - Quran: Surah of Al-Nisa', Verse 59, اَطیعوا اللّه و اَطیعُوا الرَّسولَ و اُولی‌الأمْرِ مِنْکُم

[27] - His Excellency Haj Dr. Noor Ali Tabandeh. (2002), "Separation and Independency of Powers Initiated from National Sovereignty". Op Cit, pp. 191-196.

bestowed right in the manner which will come in the next principles". The first sentence of this principle negates modern jurists' theory, which does not know peoples' will as creator of laws, and independent for legislation; but at the same time, it knows him as the Divine's caliph and as Allah's deputy -but not as independent- dominants on his own destiny, and appoints him for applying this God-bestowed right. Also, from the other hand, by mentioning this phrases that: "No one can take this Divine right away", considering the right of sovereignty even more powerful than any other law doctrine guaranties, and it introduces the aggressor to this right as perpetrator of "Divine right divesture" from people. People apply this Divine right by ruling powers in Islamic Republic of Iran … Direct and indirect endamage to this principle shakes the bases of the system. In different world law schools, this point has also been considered very much and all the law schools cite to this principle directly and indirectly in such a way that in all law systems, this principle more or less has been accepted and applied as self-evident truth, and we avoid long discussions about self-evident truths here. Nonetheless, in this field, theoretical and practical debates have also been observed in such a way that existing differences in this field are thematic and meaningful, not commanding and conceptual. That is, it seems that all accept the subjects of separation and independency and do not propose its trespass, and even, do not consider such an intentionally trespass - and at least unintentionally- opposite to the system; but there exists different ideas about which action is considered trespass or what action is correct or trespass …".

The power restraint principle is determined in the framework of constitution, and this law determines and restrains the formation of organizations and powers and their authorities by design. In this regard, in a paper it has been said [28]: "… The people should be informed about the affairs in any circumstances. They should know different beliefs to be able to reject the false, and follow the truth and strengthen it. According to the command in the verse 9 of Surah of Al-Hujurat it is said[29]: "**And if two parties or groups among the believers fall to fight, then try to make peace between them both. But if one of them outrages against the other then fight you (all) against the one which outrages till it complies with the Command of Allah**". People are required to enter these ideas contradictions and discussions, and evaluate actions (and not just about the speeches which results to reticence) of political elites and then protect the true side. Therefore, people's intervention is a forcible matter and not to be allowed to request them to stop entering these debates, because this analysis is an introduction to intervene in destiny, and is and obligatory introduction …".

Ruling Body's Non-Exculpation Principle

According to this principle, all authorities of the ruling class are under the control of law, and there is no exception for them in this regard, and all of them must obey and follow law. They are responsible for the duty which on behalf of people law has determined for them and must be responsive.[30] In this regard it is said: [31] "… Domination and power of dictatorship should not be taken wrongly instead of legal power or in the other words law power of the rulers, because, the law power is exactly in opposite direction of dictators' power. Power of law guarantees legal freedom of people and is the highest transcendence manifestation of nation sovereignty. Law must be ruled for all and be executed equally for everybody. The narrated stories of the early years of Islam and the life of the Holy Prophet (PBUH) show that His Excellency himself followed and obeyed the law, and after canonization of an issue, power of law was executed

[28]- His Excellency Haj Dr. Noor Ali Tabandeh (2002). "An Oppressed by the Name of Constitution". Op Cit, pp. 62-69.

[29] - Quran: Surah: Al-Hujurat, Verse: 9:

و اِنْ طائِفَتانِ مِنَ المؤمنينَ اقْتَتَلوا فَاَصْلِحوا بَيْنَهُما فَاِنْ بَغَتْ اِحْديهُما عَلَىالأُخْرى فَقاتِلُوا الّتى تَبْغى حَتّى تَفىءَ اِلى اَمْرِاللّه…

[30] - See: His Excellency Haj Dr. Noor Ali Tabandeh. (2002). "No One Introduces the Responsible? Why?", Op Cit, pp. 19-22. And also Ibid: "Critique Letter to Attorney General", pp. 58-60.

[31] - His Excellency Haj Dr. Noor Ali Tabandeh (2002). "Colonialism Culture", Op Cit, pp. 180-184.

equally for everybody and without any discrimination, included His Excellency as well. In design of Iran Constitution, inspired from this basic point, in Principle 112 it is prescribed that: "The Leader or members of Leadership Council as other people are equal at front of law." No neglectfulness and glib talking is allowed in executing law, and for executing the law decisively, related authorities should have legal power, but every one of them with the restriction of heavy responsibility should exert forcefully just within her own area of competence. And it should not be so that one or some special persons monopolize the power exclusively at their own hands and exceed constitution limits, but, every authority must be able to act forcefully upon her duty within borders of constitution and statue law, and should exert forcefully in that direction without fearing any authority or person."

Separation of Powers Principle

History of the theory of separation of powers and its role in organizing and dividing major duties of governments goes back to Aristotle and Plato. Aristotle, in his book of Politics[32] provides a definition of the three powers for the first time, though, the three powers of Aristotle differs with one which has been defined and accepted in nowadays countries constitutional laws. Meanwhile, the role of various powers of the state has gone under attention in accordance with the acceptable philosophical and political modus operandi, in Greek theosophists' works. But nowadays, the thing which is interesting for jurists and politicians as separation of powers principle comes from the achievements of 17th and 18th centuries.

The natural law school and jurists such as Grotius[33], Pufendorf[34] and Wolf[35] describe the duties and powers of political authority. Pufendorf and Wolf considered seven duties or powers for the government as follows:

1. Legislative power
2. Establishment of prosecution as guarantee for implementation of law
3. Judiciary power
4. War and peace and signing international treaties
5. Levying and collecting tax
6. Appointing ministers and their subordinates
7. Regulating public teachings

Splitting this type of duties was considered as disagreement with rulingship, because in their approach, someone or one central apparatus necessarily should link the needed connection between different affairs and duties, so that the coordination that is necessary for sovereignty not be vanished. Jean Bodin[36] also describes 5 to 6 sovereignty manifestations. But as he recognizes sovereignty as undividable, and legislative power as the most major power, and the other ruling manifestations are to be derived from the legislative power that in practice should be gathered together under this power and her supervision. In John Locke's view, three powers of legislative, judiciary and federative should be separated from each other. The federative power is responsible for the war announcement, signing peace pacts and international treaties; the cases nowadays are considered within the activities of executive power. He does not mention judiciary power in his writings intentionally, because he considers judgments out of political functions and power relations. Montesquieu, in his book of The Spirit of Laws, writes about the separation of powers

[32] - Aristotle, Politic. Translated to Persian by Hamid Enayat, 2nd print: Jibi Books Co., 1970.
[33] - Hugo Grotius. (2001), The Rights of War and Peace: Including the Law of Nature and of Nations, Translated by A. C. Campbell, Contributor David J. Hill. Adamant Media Pub. Corporation.
[34] -Samuel Pufendorf (1632-1694). An Introduction to the History of the Principal Kingdoms and States of Europe. Translated to English from Dutch. 8th ed., B. Took, Dan. Midwinter and T. Ward. 1719, Oxford University.
[35] - Erik Wolf, The Rule of Law. Translated from the German by John C. Campbell. In: Alan Richardson (2007) Biblical Authority for Today, Read Books.
[36] - Jean Bodin (1530–1596). See: Julian H. Franklin (ed.), Jean Bodin. Aldershot, Ashgate, 2006. International Library of Essays in the History of Social and Political Thought.

in government in details that is separation of legislative, judiciary and executive powers. Montesquieu's teaching is inspired from his studies about England political institutions and especially from John Locke political thoughts and its effects is clearly observable in formation of United States Constitution in 1787 and France Constitution in 1791 and Norway Constitution in 1814. In introduction of his book "The Spirit of Laws", he describes about what relationships between law and other important political and social factors should be observed. He believed that every authority necessarily needs restrictions and limitations, because the power, due to its nature, wills to rebel, so, it must be restricted. In this way, balance of power specification was presented as a basic element in separation of powers theory. To avoid misusing of power, the ruling apparatuses should be regulated in a way that power stops the power, and of course, for achieving this purpose, it is needed the powers be separated from each other, and not be accumulated in one place, so that the members and institutions of government can limit and control each other, meanwhile, the ruling affairs being managed well. On the other side, to achieve unique sovereignty, centralization and coordination are basic, and on the other hand, aggregation and unity of powers would cause problems which are in opposite of the purpose of separation of powers.

Principle of piety in the book of "The Spirit of Laws" is of high importance. Montesquieu separates moral piety, religious piety and political piety from each other. By mentioning political piety he means patriotism and egalitarianism. In his analysis, the concepts of freedom or its lack are basic in every society. Therefore, the laws which provide and guaranty freedom and prevent using power against citizens, are the main guarantees for continuation of political systems as well as being considered as patriotism and equality among the nation. And based upon this essential conclusion institutionalization of freedom in law is resulted. It means that by institutionalization of freedom in law and compiling a constitution based on freedom, we can approach stable political system, patriotic consolidation and citizens' equality. Montesquieu mentions to pay attention to other elements such as nations' cultures, traditions and habits, climate conditions of countries, religion, history and cultural heritages which he totally calls them as national spirit, should be considered in legislation. He believes that political and legal system, regardless to this spiritual law, cannot be stable or efficient. Moreover, we should be extraordinarily cautious when try to change national spirit; because, it is not possible to change the identity and national spirit rapidly in all aspects by help of laws and politics. In this field, Montesquieu argues that, if freedom and behavior of the people, according to their inner willing - to such extent that do not disturb the others- not to be accepted, the society will not step towards improvement. He emphasizes, of course, that the above mentioned statement should not extenuate the very large gap between goodness and vileness, and such a conception is unlimitedly important for legislation based upon national identity and spirit. By having such an attitude, it can be said that, in fact, Montesquieu is the founder of a new political school that upon which the political and social institutions are independent from each other. Theory of Separation of Powers, which is rooted from Aristotle's political thought, is emanated from this political thinking, but Montesquieu presented it based upon reason and experiment for the first time. He believes to avoid autarchy, power of government should be broken up to some separated powers, and he knows the separation of three executive, legislative and judiciary powers, of the most vital basis for the health of government. Against Hob's view, Montesquieu knows the head of government as the executer of laws, and not its legislator. Montesquieu believes that the national sovereignty right that the people's selected parliament is as its manifestation has priority to government and judiciary power. The Separation of Powers Principle was officially approved by the USA constitution for the first time, and then by France constitution, and then by other constitutionalist systems.[37]

[37] - See: His Excellency Haj Dr. Noor Ali Tabandeh. "Analyzing the Functioning of the First Period of Supreme Juridical Council", Op Cit, 162-169. And also see: Ibid: "Consultativeness of Head of Judiciary Power", pp. 213-218.

In this regard His Excellency states[38]: "The Separation of Powers Principle has been inserted in the Islamic Republic of Iran's Constitution. In this law, for the first time, another power has been added to the classic triplet powers, and it is Guardian Council, which acts as a brake against the absolute ruling sovereignty of legislation power (in classic laws). Though, some pretend that the Separation of Powers Principle is neoteric, but the Islamic procedures, especially the Shiite school observes it clearly -specifically in the matter of the power of the judge and her disaffiliation to government and politics. … Islam and especially the Shiite school, is so comprehensive and capable that, in every period of time, can solve the human being's problems in accordance to Islamic high objective framework. Even the orientalists and the lawyers seeking for any excuse to offence Islam, accept this theory inevitably. Confirmation and validation of customs and habits of the nations (till are not in contradiction to the general principles of Islam's Monotheism) and also the openness of *Ijtihad* (jurist opinion) are two windows toward the future which cause motivation and richness of laws in Islam. This motivation also exists in social, political and economic aspects, and can satisfy the necessities of the society consistently, and continuation of this very motivation is that which can be considered as the "real continuation of revolution". Real continuation of the noble movement of revolution can be interpreted as "the government politic" customarily; because the politic is always new-seeker and always guides the dynamic aspects of the society. Always, the governments should not stop sufficing the existing possibilities and should not stop in her present existing position, and should always look for the more ideality for mankind and try to push the society's upbringing toward ideal human future, and also should try to satisfy social and economic needs of the society day by day better. Should prevent emerging supererogatory needs, and on the contrary she should motivate useful spiritual and material needs to continue the development of the society toward satisfying needs and evolution, and preventing the society from sticking in inactive and tranquility moods."

Independency of Powers Principle

From Separation of Powers theory, two different types of absolute and relative separations are conceived. Some in equal dividing of sovereignty into the three powers go toward absolute separation of powers which means no intervention of the three powers into the other's realm, so the freedom and security of citizens are provided. It means they seek balance of the powers in separation of powers from each other. The other group believes that absolute separation of powers is neither practical nor rede, because determining exact and clear border between executive and legislative deeds is not possible, and because all the three powers possess the same unique reality which is national sovereignty, therefore, every one of the three powers cannot go forward except in accompanying with the two others' developments, and expediency does not require that the natural connections among the institutions to be cut. This group goes toward a type of co-operation of powers, or in other words, relative separation of them. On the basis of relative separation of powers, the three powers are considered as different manifestations of the unique political sovereignty and are basically separation of them are considered for division of works. Separation should be done just in a way that firstly, the power not to be concentrated in a single place, and secondly, not to act as a barrier for ruling sovereignty.

In regimes representing absolute separation of powers, the president who is elected by people for a certain period of time, is responsible for executive power. On the other hand, the members of the legislative power are elected separately by people and for a definite period of time. In other words, national sovereignty is manifested in two terms: once for election of the main incumbent head for the executive power, and the other for electing the parliament representatives of the legislative power. These two powers are theoretically at the same level, and have equal supports. On the other hand, none of these two powers has the power to shorten the period of functioning of the other one, by breakup or downfall. Neither the government is able to

[38] - See: His Excellency Hajj Dr. Noor Ali Tabandeh, "Social Talisman", Op Cit, pp. 95-99.

breakup the parliament and nor the representatives can dismiss the president and his ministers. As Maurice Duverger says about these regimes:

1. Duties of every apparatus are professional and none of them interferes into the others' duties.
2. The apparatuses do their duties themselves solely. Law is made just by legislative parliament and the executive power does execute the law, or to provide some executive fields by approving some more specific regulations (ratifications, regulations, circulars, etc.).
3. Governmental organizations are independent from each other and none of them follows the other, and authorities do not interfere each other, and none of them is higher from the other in rank.

In the regimes with relative separation of powers, accompanying with the term of relative separation of powers, interrelation of powers and co-operation of powers terms are also mentioned, and it means that the institutions related to the triple powers, should be linked to each other by legal and political provisions, and make settled the totality of sovereignty while being distinguished. In this approach, apparatuses and duties are not generally disconnected from each other, and every one of them has a share in national sovereignty so that by regarding the others' organizations and duties do job according to their duties. In relative separation of powers system, public will appears suddenly but with degrees, and is transferred from initial selected apparatus to the other organizations and entities and are settled down in institutions. For accomplishing such a separation the following three basic conditions are required:

1. Establishing distinction among existing duties of government and submitting every homogeneous group of duties to a distinguished organization.
2. Distinguished organizations, in contrast to what was said about the absolute separation, are not specialized. That is their functioning provides some common domains in some places.
3. Bodies of every one of the powers possess provisions and means which can affect each other.

One of the major aspects of the separation of powers principle is independency of judiciary power and independency of judges from political and governmental parties. Major task of monitoring on well-execution of law necessitates that the independency of judiciary power be paid more attention than other powers because this power is who monitors the correction and coincidence of execution and law.

In direction of this very discussion about independency of judges as the condition for endurance and stability of country, it is said that[39]: "Independency should not be meant as autonomy, because every individual and authority has a responsibility in society even if having perfect independency, and no one can shrink his responsibility with the excuse of independency, or counts himself as an exception from monitoring and controlling. The second point is that independency comes when no authority or ruler even within the judiciary power and even its head can change a judge or discontinue his job without proving his delinquency or fault. If the judge's credential is to be related to an individual decision of a person, and without a court judgment, he will never be safe. There is no difference if we call this individual a minister, the head of high judiciary council, or head of judiciary power; anyhow, in such a system, the judge is not safe. The danger of secession and replacement is above his head like the sword of Damocles, and the way of penetration is completely open …".[40]

[39] - His Excellency Hajj Dr. Noor Ali Tabandeh, "Independency of Judges as the Condition for Endurance and Stability of Country", Op Cit, pp. 225-228.

[40] - See: His Excellency Hajj Dr. Noor Ali Tabandeh,,"Independency of Judiciary Power – Judges' Neutrality", Op Cit, pp. 136-142.

Balance of Powers Principle

In direction of Separation of Powers Principle, the topic of Balance of Powers Principle is expressed by Montesquieu in the book of "The Spirit of Laws". Moreover it should be said that the aim of separating powers is to provide balance among them via controlling the force of one power by the other's ones. In a political system the Balance of Powers Principle tries to define the forces of the powers to a limit that does not allow the other powers become autonomous or stubborn. This balance actually results a consequent in politics that provide stability of society at the end.

Legislative power is basically responsible for legislating and compilation of regulations for the country. This power should be distinguished from execution, because if the executive power possesses it, the executive power would justify all its activities legally by lawgiving, and can push the political system toward corruption. The executive power in execution of legislative power's commandments needs to be monitored, so that it surveys her actions to being done exactly according to the laws and regulations. So, judiciary power is responsible for controlling the executive power from the point of monitoring. In some constitutions, particular preparations are observed for balancing the powers that may also cause disrupting balance of powers even though the main object of such institutions was to more control and adjustment of the powers.[41]

In this regard, that is the role of judiciary powers in democracies, it has been said[42]: "Although the separation and division of the ruling power of the society into three powers of judiciary, executive and legislative are to some extents almost according to the nature of the government, and every government contains these three aspects - but in dictatorships all three powers are derived from one root- even though it can be said that, for the first time, Montesquieu defined it clearly and announced the necessity of their separation from each other. In his opinion and all scientists of democracy school, the legislative power must be independent to ensure social security for the society. The duties of legislative power and its role in a democratic system can be extracted from this division and the conclusion derived from it as follows: **1. Preserving existing system:** A modern society should always be in gradual transformation and whenever any sort of deficiency or failure was observed, should intend to eradicate it. In this way, the executive and legislative powers are always allowed to eradicate the deficiencies and if needed, correct laws - even the constitution – concerning special ceremonies. But against this transformative and new-seeking process and for having confidence to stability of country, the judiciary power has been missioned to preserve the existing system of the country. Judiciary power is responsible to "preserve the existing system", that is, executing approved constitution and ordinary laws with a closed mouth of advertising and a strong belief and faithful to the oath and with neutral eyes. Politics is and has been manifestation of change and new-seeking, and legislative and executive powers are responsible for it; and justice is the manifestation of stability and security and judiciary power is responsible for it. Never and ever, and at no time and in no place, judiciary power has done a coup d'état and has always resisted against any coup to constitution and the entire coup d'états around the world were rooted in the other two powers. That is how we see when the France Great Revolution started and its aim was to change the existing system, for the first step the old parliament was dissolved (the courts which could issue general verdicts and so their verdicts were both propounded peremptory litigation and were also valid as law for future). Because the nation knew that these high ranks judges and lawyers were faithful to the existing system, and this existing announcement of faithfulness and their lack of submission to the revolution were considered as their nature, and they were not worried about them, but it caused them to trust the judges more than before; and they were invited to work again after revolution

[41] - See: His Excellency Hajj Dr. Noor Ali Tabandeh,,"Controlling the Regulations of the Approval – Letter to Respectable Guardian Council of Constitution", Op Cit, pp.176-179.

[42] - See: His Excellency Hajj Dr. Noor Ali Tabandeh,"The Role of Judiciary Power in Democracies", Op Cit,pp. 10-18. Bar Association. Scientific, Law, Critical Journal. Year 28, Spring-Summer 1976.

victory, and offered them the responsibility of preserving the new system (that now has become the existing system). For better understanding of the subject, an example is brought here. Suppose that radio or television needs to be repaired so that, for example, the new scattered waves throughout the world could be received and delivered to us properly, and then we would be able to access the newly made channels. It is obvious that when the radio or television set is still plugged into electricity, the technician would be shocked while trying to repair it. This technician cannot convince the "electricity", by insisting to convey this meaning that he has a positive opinion for his actions, and if the voltage of electricity is high, it will surely hurt the technician (unless the amount of electricity voltage is low, that in this case, it is never useful and should be increased to a certain level). In this case, the main electricity stream should be disconnected and then try to repair it again. In the process of repairment, if some parts of the workflow need to be electrically powered temporarily, batteries or low pressure electricity should be used instead. After the end of the repairment, the miscellaneous batteries should be thrown away and the same mainstream of electricity be used again to use our television. Similarly, high pressure electricity is judiciary power, and the batteries are small temporal authorities. It is clear that this duty has been appointed for all judiciary powers in different systems around the world. There is no difference that if the government is democratic, dictatorship, monarchy or republic. In this regard Maurice Duverger, the professor of constitutional law says: "For the French it is surprising when he hears that there is a monarchy regime in Belgium and the prime minister of that country (Van Aker, the prime minister after the 2nd World War) says: this regime is as necessary as bread and the monarch is as respectful as the family for the people, or that, in England the king is reigning over the people that the responsibility of his actions is on the shoulders of his ministers. He adds that this regime is rooted from this belief that is necessary and interdependent of this that, "it is not probable that the king does a bad action. He is sacred and not removable. All the goods come from him." And then following the responsibilities of the ministers he adds to the above discussion that: "…. at the time of anger and rage of people, ministers with their responsibilities are acting in fact as a veil against, and protect this holy authority from the aim of people's rage and anger, and vice versa, they are removed at necessary times so that the people can show the signs of gratitude and dignity to him, and oh if they act against it." This role of judiciary power is of its most important roles during the history. For understanding the importance of this role, two historical examples are brought here. After occupation of Belgium by Germans, and during the 2nd World War, the Council of Ministers and majority of the representatives of Belgium parliament ran away to abroad. They took decisions as the real government of Belgium (free Belgium) and announced it from London and Paris radios. Inside the Belgium also Leopold the king and a council of ministers that were imposed by the Germans took decisions under the pressure of the German guns. The Belgium judiciary power accepted the free Belgium government's decisions as legal government and rejected Leopold's decisions as illegal. It is said that, similar to this fact that, army and guns supported by patriotism of the nation won the war, it was the judiciary power that saved the regime of the country and monarchy in Belgium. If Belgium expended her entire budget on guns, she could not overcome the Nazi German, and her official army was too few. Judiciary power equipped the people by conveying the sense of stability and security. In Belgium judiciary power and army (official and unofficial) were who won the war and preserved the regime not the guns, because the entire nation, by grasping to the stability belief, became unofficial army and all the houses became trenches. Moreover, it was during the 2nd World War that the Switzerland lawyer professor Miliand wrote an article against Hitler and on the basis of this article German government fulminated and raised this point that the Switzerland is not neutral anyway. But the judiciary power by condemning professor Milliand and referencing to the object that "since the transcendental expediencies of the country and preserving neutrality which is of the main bases of the existing regime, the apparently legal sophistry words are not accepted" and passed a judgment and preserved the country from the Nazi Germans' occupation. **2. People security:** Due to influence of liberal philosophers' thoughts in

18th century and especially Montesquieu, principle of division of country's powers into legislative, executive and judiciary, and their independency were accepted by democracies. Based on this principle responsibility of legislation was given to legislative power. George Ripert says that parliament is surrogate of absolute power; but this surrogate increased its tyranny and power even more than previous dictators. Even though Louis XIV believed: "I myself am the law", but he never could and dared to intervene in peoples' emotional subjects like couples' relationships and number of children and so on; but his surrogate, the parliament knew itself absolutely rightful and free to issue imperative regulations about all detailed aspects of people's life. Following the discussion Ripert adds: "how silly is to consider the regulations increase in number equal to modernism! But we follow exactly opposite path to the aims of Great Revolution of 1789. Our ancestors believed that a few number of principles in law can be sufficient for peoples' guidance, but we are in illusion that plenty of laws and their details can be in coordination with freedom. Power and independency of judiciary power guarantees peoples' rights and is result of freedom, not …" In this way, within all regimes, judiciary power exists, that if it has power and independency, it can provide security for the people and protects them against the autonomy even of legislative power, to probable extends. In some regimes like USA and India, judiciary power has right to abolish laws against constitution; but in France and similar countries, the mentioned control does not include the laws. In order to cancel asylum in the houses of clergies Amir Kabir a powerful patriot politician in recent age of Iran, ordered to ruin their barns, because usually, the one who was accused, to run away from punishment, reached himself to one of the mangers of these barns and got asylum in there and absconded from prosecution. It has been cited that when he ordered to ruin the barn of the Friday praying leader (*Imam Jomih*), he himself stood there by the workers supervising their work. *Imam Jomih* came out of his house and addressed to Amir Kabir: "O Amir, keep one of these mangers safe for yourself"! And we observed that his word was correct at that time. Let analyze this story: At that time, the clergies were the real representatives of people. The point of treachery which is attributed to some of them, or attributing their unawareness of world political situation, are different subjects, and even if few of these attributions absit omen were truth-based, level of their representation for the nation would not be lessened. If elections were really carried out, the community of clergies would be manifestation of the peoples' will, and even if this community was inadequate, it was the sign of peoples' inadequacy. Although the government in most cases oppressed, but despite of this community could never do any work. Asylum though in some cases caused escape of criminal, but in many other cases saved guiltless and before establishment of a powerful and independent judiciary power, "ruining the mangers" was as ruining a trench belonging to the people. **3. Alarm duty:** An unfeigned judiciary power executes the laws correctly and preserves the existing system. Whenever the people are not content with the functioning of judiciary power, it is a sign that peoples do not approbate the existing laws, because the judge is manifestation of the law in the eyes of people, and it is at this time that governmental organizations and political powers should pay attention and change the ruling system toward the road of justice. Just like the pain in the body of human being which acts as an alarm that makes the person to look for treatment, judiciary power also has the duty of nervation. Reduction of competence and authority of judiciary power and transferring them to the other authorities is like as prescribing anti-pain pill and stupefacient for not sensing the pain. Such a patient will surely be defeated soon for the cause of hard disease attack and publicity of illness. The patient must be treated, and in the process of treatment, of course, anti-pain pills temporarily might be used. Incorrect and inadequate acts about the owner and tenant, actions of justice department encouraging the tenants to ignore previous reconciliations (teaching people to do against morality) that totally opened 15000 new cases in Tehran; trampling and sacrificing the justice under the pretext of accelerating judge; and sacrificing the justice in front of acceleration, inadequate and severe family acts which caused annihilations of families and ethical relations, all and all are considered as anti-pains and stupefacient which were prescribed under the pretext of supporting judiciary power. **4.**

Conclusion: Judiciary power is as a lab of law science which its experience should always be used for compiling regulations. The method of lawgiving should be so that the experiences of all experts be used, and it should not be at the hands of few groups exclusively, so that the result of their work causes new problems in practice. To play its role in the best possible form, three conditions should be fulfilled for judiciary power: independency, powerfulness and possessing right management. Judiciary power should be independently against the two other powers, and its life bottle should not be at the hands of the others, to be able to do its duties precisely; and also, should be powerful enough to be able to control all laws executions throughout the country, and no juridical affairs be not out of its power realm, not just like a killer-gun but deadly fall in hands of executive power for killing anyone it wants or not. Proper management is also necessary for judiciary power administration and judges' promotion according to regulations and not the relations, till the good and neutral judge can progress well and impartially, and in every situation can does his tasks."

Central Government Superiority Principle

Administration is based upon organization and hierarchy and, organizational hierarchy provides law execution and management relationship practically. Central government superiority principle originally expresses this hierarchy in establishment of the government and her subsequent institutions.[43]

Publicity of Law Principle

Publicity of law principle is in direction of the previous principles, and is one of the practical concepts in implementing the constitution. This principle bounds the legislator, executives and supervisors of constitution to consider individuals all equal at front of law.[44]

Respecting the Law Principle

One of the principles which is much discussed in constitutional laws is respecting the law. It means when the law passed the necessary approval procedure, it becomes enforceable, and people and government must act due to them, and judiciary power and juridical courts in all trials must consider them.[45]

Checks and Balance

Controlling mechanism for governments' functioning, under the title of Checks and Balance is one of the major methods in governmental adjustments. Generally, rulers' authorities can cause their disobedience from their given duties. Therefore, on this basis, monitoring methods are to be invented and applied for surveying the functioning of the rulers, so that, authority and power would not cause oppression and corruption. Checks and Balances is one of the common monitoring methods which are prevailed at present societies which at different times checks the government's function, and in the case of indulgence and wastage in performing duties, necessary steps to return the government to her legal balanced path are taken.

In the text of the letter addressing to Malek Ashtar, Imam Ali (A) says: "Then look through the officers of your State and after examining them appoint them to jobs. These appointments must not be made on your own favoritism and without other's consultations; because going on favoritism and not caring others' opinions is oppression and treachery. Select such officers from

[43] - See: His Excellency Hajj Dr. Noor Ali Tabandeh,"Open Letter of Attorney General about Justice Organization", Op Cit, pp. 102-112.

[44] - See: His Excellency Hajj Dr. Noor Ali Tabandeh,"Revising the Press Law, General Discussion about Provision and Compilation of Laws", Op Cit, pp. 280-287.

[45] - See: His Excellency Hajj Dr. Noor Ali Tabandeh,"Observance of the Law in Trials", Op Cit, pp. 271-276. And also Ibid: "Law or Dictatorship", pp. 133-122. Also Ibid: "Where Has the Revolution Been Reached? (Legalism and Revolution)", pp. 170-175.

the experienced and honorable persons of respectable families who had served Islam heretofore and are more hearty-attached with noble ethical characters and better repute and less greed and more farseeing. Keep them well-paid so that they try to modify themselves to makes them needless to prevent them from misappropriation of the property of the State which they hold in trust and causes them to obey your orders and keeps them far from malversation. Therefore keep a careful watch over their works. Appoint trustworthy and honest spies to watch over the activities of your officers. Your hidden watch on their works will force them to honesty, trusteeship and kindness to people. Protect yourself from dishonest officers. If one of them did treachery and rapport of your intelligent service submits acceptable proofs of his dishonesty, then it is suffice to you to prosecute him by bodily punishment and conquer what he has gotten. Then degrade him and know him as traitor and put him stigma necklace on".[46]

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