

The Supervision Over Leadership in Iran

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Abstract

Election of governmental rulers and authorities, supervision over their performance, and controlling their power have been always deemed as some of human's concerns and basic and fundamental tasks in public law. According to Islamic Republic of Iran (IRI) Constitution, leader is the highest official position in the country and in addition to necessity of full-qualifications and special position; numerous tasks and powers have been also defined and determined for the leader. Accordingly, paying more attention and dubbed emphasis may seem necessary and requisite for election and supervision over his performance. The present research has been conducted by means of librarian method and only by aiming at analysis and interpretation of on regulatory nature of leadership in IRI Constitution and in order to achieve the outcome after analysis of term 'supervision' and position of leadership in legal-political system in Islamic Republic of Iran and to analyze and exchange the doctrines and paradigms among pros and cons for supervision over leadership. The results of this fact showed that supervision over leadership seemed both as permitted and necessary in religious and legal approaches and in addition to implicit and explicit admission of supervision over leadership, IRI Constitution has predicted the instruments and tools for supervision over leadership.

Keywords: Islamic Republic of Iran (IRI), Governance, Leadership, Control of Power, Constitution, Supervision.

1. Introduction

Human is a social creature that has tended to social life based on his/ her nature and intrinsic contingency as well as because of need and making effort to meet his/ her requirements. Living in society requires a series of norm, law, and rule and as a result humans need to order for his/ her presence in community and spending the social life that is the product of these rules and regulations. But at next step, enforcement of order and preservation of discipline requires appropriate execution and a strong lever that forces all people to rule of law and acceptance of the defined order. This pressure lever and coercive force is called governance.

After realization of governance and powerful and dominant rulers came to power for societies, the next concern and paradigm of humanity is to control power of these rulers and prevent them from transgression and power abuse. It was in this trend that humans have frequently tried to control and weaken the unlimited power of kings and rulers during recent centuries. The result of such efforts has been led to the point that today human has resorted to supervision over their performance and control of their activities in order to control the unlimited power of rulers. The supervision over favorable rulers and leaders and prevention of rulers from baseless, irregular, and unlimited sovereignty is assumed as the best mechanism.

In system of Islamic Republic of Iran that is the achievement of fighting against monopoly and dictatorship the religious leadership under title of absolute leadership of Islamic Jurisprudent is placed at the heist point of power pyramid (IRI Constitution Article 55). It consists of leadership that should lead the society toward salvation and prosperity in addition to abiding by Islamic principles and injunctions and benefitting from conduct of divine prophets and authorities.

One of the issues and questions, which have been exchanged among theorists since date of realization of this system and about which several and different comments and viewpoints have been presents, is that if religious leadership that possesses outstanding attributes and characteristics such as piety, justice, juristic knowledge, and bravery and (internal control) etc also needs to external control and supervision or not. Can the leadership of Islamic jurisprudent (*Velayat-E-Faqih*) with the given attributes and practices be supervised or not? Has IRI Constitution predicted any platform and tool for supervision over leadership or not? The conducted study also sought for discovery of

answer to this question and proving the supervisory potential of religious leader. Several discussions and investigations have been carried out in this regard so that with observance of objectivity and exclusive with commitment to the existing documentations and observance of research principles and standards we could achieve convincing answer.

The existing hypothesis in this study tends to prove and defend from this paradigm that with respect to conduct of Pure Imams, juristic and religious documents and articles of Constitution, supervision over Velayat Faqih may seem possible but necessary.

2. Concept and Definition of Supervision

Arabic term of "*Nezarat*" (supervision), with the same meter of word "*ghyamat*" (Day of Judgment), has been derived from root and inflexion "*Nazar*" (look). In Arabic literature, this terms denotes pondering in something, consideration of amount and size of something, comparison, observation, addressing and thinking, judgement and arbitration, analogy, command and monitoring, and sentencing (Maloof, 1992:871).

In Persian language, term of "*Nezarat*" (supervision), has been defined as practice of observer and his/ her position as well as controlling execution of activities (Moein, 1981: vol.4, 4746) and in some other point it has been seen as meaning of control, looking over and overseeing of an activity or something, concern, looking at something thoughtfully, superintendence, watching, ruling among people and terminate their actions, contribution, helping and also meaning of eye, vision, observation, inflection, thought, procedure, precision, perfection, pondering, imagination and protest (Dehkhoda, 1994, vol. 13, 19946).

Terminological meaning of word of "*Nezarat*" (supervision) has been far away from its lexical meaning and type of subordination of term from lexicon may be found in this word. Term supervision and supervisory operation have been traced in different sciences and noticed. Supervision in management, in social sciences and sociology, ethics, politics, education and public law is deemed as some example of addressing supervision and inspection in different sciences, but the performance of supervision has been usually identical in different sciences and tending to the same ultimate point; hence, definitions of supervision in different sciences also typically follow the same frame and structure.

In management, supervision is deemed as an activity thereby the predicted operation is compared with the conducted task and in the case of difference and deviation from what it should be and what it exists; it should be taken measure to resolve and improve that trend (Rezaeian, 1991:59). Similarly, supervision has been interpreted as evaluation of personnel's performance as well (Saadat, 1997:214).

In law science, supervision has been defined as analysis, auditing, and assessment of the conducted activities and or in progress tasks and their compliance with the made decisions and rule and regulation to prevent from executive diversion (Ghazi, 1994:252) and in another point term supervision has been expressed as a group of operations during which the rate of compliance of performance of persons with rules and regulations is measured in order to ensure from compliance of results of their performance with the favorable goals (Malek Afzali Ardakani, 2003:22). In other point, supervision has been defined in law and political sciences as follows: "Term supervision as the accurate lexical meaning includes control and inspection of the activities of a governmental position and institution by other official and organization where it is aimed at making sure of embedding the aforesaid measures in the legal frames and limits". (Rasekh, 2011:21)

It may be inferred from all these definitions that in supervision necessarily a person, institution, and organization evaluates and inspect the performance and behaviors of other person, institution, and organization so that those behaviors not to be diverted from the predetermined objectives and but in the case of deviation, the next task of supervision is to control the audience and returning it to the aforesaid goals. Nonetheless, the ultimate point and reason for supervision should be assumed in control of power and prevention from diversion and abuse of power by the rulers (ibid).

In public law, authors and researchers have attached various types for supervision including judicial supervision, political supervision, legal supervision, financial supervision, and administrative supervision etc so that discussion, analysis, and definition of these types are beyond the territory of the present study.

3. Religious Perspective to Supervision

The system of Islamic Republic of Iran is a religious system and based on government of right and justice and Quran (IRI Constitution Article 1). Believing in this government requires execution of Islamic commands and injunctions. Reliance on Islamic orders and trying to execute Islamic commands and orders will prepare the ground for realization of a healthy community in which justice, parity, correlation, and independence will be administered (hereunder Article 2 of IRI Constitution). The first and most prominent example of addressing religious framework in Islamic Republic System is

obviously determination of religious leadership under title of "*Velayat-E-Faqih*" (Leadership of Islamic Jurisprudent) for Islamic government (IRI Constitution Article 5). It is the leadership that should necessarily possess some features including juristic knowledge, justice, piety, bravery, time- conscience, being provident and administrative, proper socio-political insight, providence, adequate power, and scientific competency etc (IRI Constitution Articles 5 and 109) and therefore it is intrinsically clear that discovery and proving these features in personality of leader requires paying due attention and care to this position. With demonstration of this point that the type of political government and system is Islamic government in Iran and the highest governing ruler in this political system is also a religious leader and fully-qualified jurist (*Faqih*) thus inquiry and searching for supervision over this religious leader caused us initially to deal with position of supervision in religious commands and orders. Therefore, we will analyze and examine primarily for better interpretation and description of this subject with Quranic approach and then perspective from Pure Imam in the field of supervision.

3.1 Supervision in Quran

One of the fixed and unchangeable divine traditions is accurate and all-inclusive supervision over activities, intentions and plans of humans and analysis on their execution and according to this accurate and provident supervision the humans' actions will be evaluated in resurrection day and reward or punishment will be stipulated for humans' actions.

It has been frequently and repeatedly dealt with subject of supervision over performance of humans by the divine almighty God and rather than warning of people, God has announced Himself as observer and omnipresent toward the actions and conducts of them so that none of humans' activities and behaviors, whether overt or covert, will be out of vision of Almighty God. We may read in Jonas Sura: "*And you are not (engaged) in any affair, nor do you recite concerning it any portion of the Quran, nor do you do any work but We are witnesses over you when you enter into it, and there does not lie concealed from your Lord the weight of an atom in the earth or in the heaven, nor any thing less than that nor greater, but it is in a clear book*" (Jonas Sura 10:61) and in Alagh Sura it is also expressed: "*Does he not know that Allah does see?*" (Alagh Sura 96:14).

It is asserted in verse 16 of Loqman Sura that "*O my son! surely if it is the very weight of the grain of a mustard-seed, even though it is in (the heart of) rock, or (high above) in the heaven or (deep down) in the earth, Allah will bring it (to light); surely Allah is Knower of subtleties, Aware,*" (Loqman Sura 31:16).

Divine supervision and reckoning is not specific to the public and even prophets and Imams will be also examined before God as this point has been expressed and mentioned in Aaraf Sura verse 6: "*Most certainly then We will question those to whom (the apostles) were sent, and most certainly We will also question the apostles;*" (Aaraf 7: 6).

What it mentioned is a part of many numerous existing evidences in Quran that denotes divine supervision over servants' deeds but in response to this question that if the earthly and worldly supervision is also inferred from revelatory word (Quran) or not; it should be mentioned that The almighty God, who has created human from His own pure essence, knows it well that He should not leave away this given creature without control and supervision and He also knows well human's disobedience and transgression for which He introduced oneself as observer to Humans in several points of Quran, but to prove the disobedient position of human, particularly in the position of power and ruling, it is sufficient that God expresses in Quran (Alagh Sura 96: 6-7): "*Nay! Man is most surely inordinate, because he sees himself free from want*". It is a matter of fact given that God has witnessed human's transgression but human may not be also left away in position of power without control and supervision as in Islamic ideology the control and supervision have been also highly addressed in line with control of power and its extent and a faithful human is placed in any position and stand; s/he always deems God as observer and controlling over his actions and conducts (intrinsic control).

3.2 Supervision in statements and conduct of Pure Imam

The subject of inspection and supervision over actions have been highly noticed in words and statements of Pure Imams and at a time the pure Imam was also responsible for administration and ruling over the society. They assumed this right of advice and enjoining the right and criticism for citizens. It has been narrated from Imam Reza that when God Apostle (holy prophet) dispatched troops and appointed a ruler for them; he stipulated some of his reliable persons to supervise that ruler and to inquire the news and give information of him to holy prophet (Majlesi, 1990, vol. 100, 61).

Imam Ali (PBUH) also considered all of small and big details of his government with providence and wide planning and enforced comprehensive and all- inclusive supervision over all governmental dimensions with great amount of care and precision, especially he exerted further solemnity and absoluteness toward the governmental personnel and officers so that his agents not to exceed from framework of righteousness and justice. The principle of control and supervision

was observed in just government of Imam Ali (PBUH) to the extent that Imam appointed Abul- Asvad Doeli as a judge and when he noticed that his agent has talked aloud to parties of dispute during trial at the end of his first working day, Imam dismissed him from judgment job (Noori Tabarsi, 1989, vol. 17, 360).

But one of the advantages of Imam Ali's (PBUH) government is that the Imam attached right of supervision and advice for all people about the ruler. If exertion of supervision by citizens versus the ruler (i.e. ruler of pure imam) is assumed as public advising for the ruler, it is concluded that Imam (PBUH) considered public supervision over the ruler as necessary so that he even compelled his contemporary citizens to advise the ruler and leader as a result he has assumed advice and benevolence about the ruler as a right for ruler and task for people and recommended his companions: "*Give me friendly advice and free of any defect and imperfection and clean from any doubt and suspicion!*" (Nahjolbalagheh, Oration 118). In another statement, Imam asked the people to supervise over activities of their rulers and officers and give him information if they saw their violation and error. That imam welcomed public critique and advice and told them: "*Don't talk to me similar to tyrant and oppressive rulers and avoid from sycophancy before me and give me constantly your guidance and advices overtly and covertly*" (Nahjolbalagheh, Oration 207).

With a brief and transient looking at revelatory verses and traditions and Hadith of Pure Imam and based on what it already mentioned, it is clarified that supervision over rulers and leaders is the religious infrastructure for Islamic doctrine. Whereas the pure imam did not assume oneself with no need to supervision and advice of citizens at his time and since Almighty God considers His creature as disobedient when that creature comes to power and position thus the requisite for supervision over rulers and leaders seems further necessary in other times so that in the next part of study this subject will be further analyzed and interpreted.

4. Leadership in Islamic Republic System

4.1 Requisite for presence of leader

The absolute governance over world and humans belongs to God (Joseph Sura 12: 40); God the world of creation belongs to Him the huge system of service is organized by him (Nesa Sura 4: 126). By virtue of the explicit statement of Quran, no one save Almighty God is deemed as authority for the people and He never chose anyone to become partner in governance (Anaam Sura 6: 57).

Of what it was mentioned above totally, it is inferred that the governance exclusively belongs to God and no human may be assumed as authority over other humans. But the obvious Islamic religion has not overlooked the leadership and ruling in society rather than renunciation of human's predominance over other humans and it assumed the presence of some rulers and leaders necessary and requisite for administration of affairs and in this regard after propagation and publishing Islamic religion, the great holy prophet established Islamic government as the first step in such a way that immediately after migration from Mecca to Medina, he has prepared the ground for establishment of government by the aid of Migrants (Mohajerin) and his Helpers (Ansar) and lay foundation for the first Islamic government.

The necessity for presence of leader and ruler for Islamic community is not hidden to anyone so that in Holy Quran at Nesa Sura (4:59), God has required the humans for obedience to God, prophet, and Holders of Authorities and Also Imam Ali has considered the necessity for presence of the leader and ruler for Islamic community too mandatory that he expressed: "*The government assumes a spiteful tyrant ruler as very requisite than a community without government that is subjected to disasters and anarchy*" (Nahjolbalagheh, Oration 40). Also, Imam considered the presence of a ruler as necessary for administration of affairs either benevolent or malevolent (ibid).

There is no doubt and dispute over authority and ruling of holy prophet and Pure Imam among Shiites, but during absence of pure imam, the fully-qualified jurisprudent may be the lost ruler for Shiite community that the ground has not been yet provided for its occurrence until this time in Islamic Republic system in Iran where the religious authority and leadership of Islamic government has governed over the society and in this government, governance and authority of Islamic jurisprudent (*Velayat-E-Faqih*) is deemed as basic and obvious cornerstones in this government. It is government that will grow based on the commands of obvious Islamic religion and determine excellence and salvation of humans (IRI Constitution Article 2 and 4). On the strength of IRI Constitution Article 5 and 57, the government and governing powers enforce their sovereignty under supervision of *Velayat-e-Faqih*; therefore, there is no dispute over authority and leadership of fully-qualified jurist and the authority and leadership of fully-qualified jurist is assumed an accepted principle based on Shiite jurisprudence and the foresaid principles from IRI Constitution; however, there are two different and contradictory attitudes concerning to method of appointment, ruling, and dismissal of leadership in Islamic governance so we will deal with briefly under title of theory of appointment and theory of election in the followings.

4.2 Theory of appointment

Based on theory of appointment, the fully-qualified jurist is deemed as general successor for Imam during period of Imam's absence and he has appointed by Pure Imam for enforcement of Islamic injunctions and authority and similar to holy prophet and Pure Imams for whom the people have not directly appointed them but they have promised and taken allegiance for them, the people also promised them (jurists) with their appointment but they have no role in their legitimacy (Javadi Amoli, 2014: 230).

According to this theory, legitimacy of Islamic jurist stems from divine origin and depends on appointment by Sharia (Islamic law) and people have no effect in legitimacy of him. Based on this approach, Islamic jurisprudent (*Vali-E-Faqih*) has received permission for his governance from Pure Imam and although people contribute him establishment of governance furtherance of its goals, non- accompaniment of people may not tarnish the legitimacy of (*Vali-E-Faqih*) and does not reduced range of his authority (Shakerin & Mohammadi, 2012: 153).

One of the adherents of this theory argues that: "At time of absence of Pure Imam, a just and insightful jurist is responsible for leadership and authority of community on behalf of Imam; thus, it may be implied that the Islamic jurist (*Faqih*) is appointed by God. This is different among nations among of them a person is appointed as ruler; namely, certain person has been appointed as Imamate but some features and qualifications have been presented about jurist if anyone possesses them the appoint applies and is compliant to him and certainly appoint will be executed publically" (Taheri KhoramAbadi, 2010: 84).

In theory of appointment, as it mentioned, leadership has authority over people and his powers and practice is based on Sharia permission. People have the minimum role in this theory and they play the least role in creation and existence of leadership. As we will read in the following, Imam Khomeini and Ayatollah Mesbah Yazdi are contemporary adherents and theorists for this theory but of course another opportunity requires for description and analysis of their doctrines about Velayat-E-Faqih in details.

4.3 Theory of election

According to theory of election, Pure Imam has not appointed fully-qualified jurist for authority but Imam has introduced some candidates to people for ascertainment of authority and leadership and also people has elected one of them as their leader based on their own choice (Arasta, 2010: 117).

We read in theory of appointment that by virtue of that theory people has no role in determination of leader in practice but after presentation of leader to them, they assist him establishment of government and achievement of goals; however, this is different in theory of election. In this theory, these are citizens, who elect one candidate among fully-qualified person and they delegate their affairs to him with his election. This theory that is more adaptable and further relations to the world common and modern governments assumes legitimacy of leadership due to votes of citizens and people, but in Islamic Republic of Iran and based on IRI Constitution whereas election of leader requires technical and professional knowledge and all of people are not aware of these techniques and expertise therefore such election is done indirectly with mediation; namely, people elect their Expert Assembly and then the expert members elect the leader.

In this theory, leader has earthly legitimacy and limits of his power is restricted and subjected to statutory laws and based on public vote.

There is theory in this sense: In general, three divine, individual, and public methods may be assumed for determination of leader and appointment of ruler. Appointment of ruler by God is not possible during absence of Imam and establishment of government based on individual dominance is also considered as inappropriate and criticized and it will not be followed by any consequence except oppression; however, public intervention in appointment of ruler is rational and reasonable in any case (Hashemi, 2012: 36).

It seems with respect to several developments occurred in infrastructure and source of governance in countries during recent years, most of countries have moved toward democracy and reliance on public votes at the same time theory of appointment includes several defects and disadvantages in process of execution and operationalizing of its paradigms and even it is typically non-executable in climate of today communities and on other hand, lack of access to Pure Imam also caused realization of these theories based on ineffectiveness of theory of appointment and failure of its doctrines. Nonetheless, theory of election seems more effective and logical for determination of leader in Islamic Republic of Iran.

5. Interpretation of Necessity for Supervisory Potential Over Leadership

There is no way for control power except supervision over rulers and leaders (Fallah Selukalayee, 88, 159). Control and rain of power of rulers is deemed as the reasonable affairs and basic and important issues in political philosophy and public law that has permanently drawn attention by thinkers and scholars in this field. It is clear for the public that if power is not controlled, it will lead humans to corruption and annihilation and cause wasting rights of other citizens and misleads the administered system and community.

Although power and perfection-seeking is intuitively assumed as an advantage in Islam, there is risk of violence and transgression in human as well and there is possibility for sensual abuse of power by human according to statement of Holy Quran (Alagh Sura 96:6-7). Therefore, from Shiite perspective, the ideal government is one in which Pure Imam is placed at the highest point of power pyramid where under his aegis it is far away from any misleading and abuse of power and oppression to citizens. But at present when pure imam is absent and the government may not be also left without leader and ruler and Muslim affairs should not be abandoned therefore the governance is delegated to fully-qualified jurist that is most similar to the people (Mesbah Yazdi, 2011: 85) so that to administer and rule over community by benefitting from Islamic commands and regulations.

Some features and qualifications have been predicted for leader of community during absence of Imam where realization and existence of these internal feature (IRI Constitution Article 5 and 109) is ensuring to the great extent and reduces the possible misleading of earthly leader (internal supervision).

But the possibility of removing and elimination of these features on the one hand and errors and faults may be made by non- pure Imams is natural and inevitable. On the other hand, supervision over Islamic leader and ruler seems necessary but at the same time it has been dealt with interpretation and proving aspects of supervisory potential over leadership as follows.

5.1 *Wideness of powers and sensitivity of subject*

Based on IRI Constitution, leader is the highest position in the country (IRI Constitution Articles 5 and 57) for whom many several powers and tasks have been predicted (IRI Constitution Article 110). This is leader ship that is responsible for exiting from crises and solving problems of system within the governmental directive in addition to the listed power in law (Clause 8 of IRI Constitution Article 110). This wide powers and sensitivity of subject have provided special and certain conditions for the leadership.

If we juxtapose these wide and sensitive powers beside lack of infallibility and inevitable occurrence of error and fault by leader (Javadi Amoli, 2014: 496) sensitivity and riskability of this subject is dubbed as making an error by leadership may be accompanied with irreversible loss for system and nation. Suppose for example, the leader commits an error or fault in and international dispute or conflict or enforcement of diplomacy and or considers his own personal and sensual interests in his decisions instead of prosperity and development of nation while no reference body has been stipulated for controlling this issue and supervision over it. Hence such event will be followed by irrecoverable consequences and damages that system and community are beset. As a result, supervision over leader seems as necessary in terms of sensitivity and wide range of powers.

5.2 *Acceptance of supervisory potential over Islamic ruler in conduct of Pure Imams*

Although it was dealt with some traditions and statements from pure imams about supervision and its requisite at the beginning of this topic, in order to interpret it better it is highlighted that the necessity for supervision over ruler and leader of community (even Pure Imam) has been embedded in behavior and statement of Pure Imams and when the given pure imam came to power and government has not assumed oneself without need to receive advice, consultation, and criticism of citizens.

This is exactly the emphasis and necessity for supervision from perspective of Pure Imam. As Imam Ali has highlighted the requisite for meritocracy in appointment of officers and agents for Malek Ashtar in his governmental instruction (internal supervision), but he did not suffice with it and also asked Malek to supervise and control them by employing some hidden officers to control behavior and practice of the his rulers (external supervision) (Nahjolbalagheh, Epistle 53). In other point, Imam assumed oneself as obliged to inform the people about the general trend of governmental affairs and activities- except military secrets- and then expected them for subjugation and cooperation (ibid, Epistle 50).

In another statement, Imam Ali required Malek Ashtar to be responsive to public protests and questions so that not

to ignore the public criticism and protest indifferently (ibid, Epistle 53).

In other narration, Imam Sadegh (PBUH) invited people to supervision and pondering over government and behavior of ruler. Imam asked the citizens to see who rule over them and to ponder and notice to what ruler/rulers they have delegated administration of their affairs. Is the consequence of this trend led to this fact that 'if sheep-holder deposits his animal to a shepherd and then he finds a better one he will take back the animal from first shepherd and give it to the second one? Is the subject of government and ruling less important and valuable than a sheep and no one should not concern with its fate?' (Book of Vasayel Al-Shiite, vol. 1, 35) As we saw, Imam Sadegh asked the people of his time to be careful in election of their own leader and rule and to know to whom they delegate the reign of their affairs and after they assigned the ruling to someone they should not be indifferent to him and not to overlook that ruler. What was inferred from statement and conduct of Pure Imams signifies this fact that rather than the existing guarantee caused by health of their ruling in terms of infallibility and divinely- gifted knowledge the Imam has not also assumed the rulers without need to external and public supervision and control and at the same time Imam accepted and confirmed the requisite for supervision over governmental affairs and ruler.

It is deduced that since Pure Imam do not consider oneself without need to public supervision and assumes external supervision and control over oneself as a requisite thus the non- infallible leader may not be also assumed without need this supervision and control; a fortiori, thus pondering and addressing conduct of Pure Imams and their affirmative outlook to supervision is considered as an evidence and strong basis for proving supervisory potential over leader in Islamic community.

5.3 Lack of conflict of supervision with Absolute authority of Islamic jurist

According to IRI Constitution Article 57, the governing powers in Islamic Republic of Iran enforce their governance under supervision of absolute authority of Islamic jurist, with the same token; IRI Constitution has held the absolute authority for Velayat-E-Faqih. Also based on viewpoint of jurist thinkers and scholars, it has been highly emphasized on absolute authority of fully-qualified Islamic jurisprudent. But what does this absolute authority mean? And what results will be followed by inclusion and acceptance of absolute authority of Velayat-E-Faqih?

Some experts have interpreted absolute authority as unlimited and open-ended nature of this power without any constraints (Mesbah Yazdi, ibid, 105). Given they have assumed Velayat-E-Faqih the same as authority of holy prophet (Imam Khomeini), in this paradigm the holy prophet also possesses absolute and comprehensive authority and he is even prior to them in Muslim's affairs (Ahzab Sura 33: 6). Therefore, Islamic Jurist will also possess such preference and no constraint may limit his power. According to this paradigm, Islamic jurist could not be supervised since supervision of an external power over leadership contradicts to his absolute power and in conflict with it.

But some of other authors and researchers have proposed different comments but they have assumed Islamic jurist within the limits of Islamic injunctions and commands and Islamic law. It has been implied in some doctrines of this group that interpretation of term (Velayat-E-Faqih) as meaning of absolute freedom of Islamic jurist and his self-centrism in law that was led to paradigm of despotism and dictatorship of Velayat-E-Faqih is deemed as an illusion (Javadi Amoli, ibid, 464)., but absolute authority of Islamic jurisprudence means that firstly Velayat-E-Faqih shall interpret all Islamic injunctions and enforce them so that none of Islamic commands is not missed out during absence of Pure Imam and secondly he should enforce the most important command in order to avoid from conflict between contradictory regulations while he temporarily leaves the important command undone (ibid, 463). This does not mean the unrestrained and unlimited authority of Islamic jurist, but in addition to similarity and proximity of Islamic jurist to the Pure Imam and, the juristic knowledge and justice of religious leader is led to reducing possible tendency to dictatorship. The tasks, limits, and powers of leader have been also mentioned in IRI Constitution that guarantees limitation of leader in Islamic rules and regulations in other way (ibid, 481). And it has been implied in other point that as leader of Islamic government, the fully-qualified jurist shall observe Islamic regulations. The leader is an official responsible that can be evaluated and examined and he may be tried and punished in the case of committing wrongdoing. In this paradigm, leader is equal against law similar to other citizens and should follow all of binding rules and regulations (Arasta, ibid, 96).

It seems that the absolute authority can be interpreted as unlimited and unrestrained power. If we also refer to Islamic directives and tradition of Pure Imams it has not been dealt with unlimited power of leader in Islamic community and absolute authority of the Islamic ruler and such a concept in any point. In Article 57 of IRI Constitution it has been mentioned also immediately after the phrase of '*absolute authority*' this statement: '*... as per the future principles to be enforced in this law...*' so this is also an evidence for limitation of power of Islamic jurisprudent in law per se. Thus, interpretation of absolute power for Velayat-E-Faqih is deemed as excessive and unbelievable outlook toward unrestrained authority in the field of religious and political governance.

Now, it is concluded that the power of Islamic jurisprudent is limited in Islamic injunctions and law and it is deduced at second step that enforcement of this limitation and constraint requires a strong and reasonable sanction. No one could deem the leadership in law but there is no sanction for such a constraint and evaluation for exceeding and or non-exceeding from this limit. Here, the necessity for supervision and evaluation of performance of Islamic jurisprudent is felt but seems as obligatory. According such hermeneutics and with reliance on this example, not only supervision over religious leader is not contradictory and in conflict with absolute authority of him, but also it seems necessary and requisite.

5.4 *The supervision is right of people in theory of election*

As it mentioned in previous topics, there are two mechanisms and theories in climate of doctrinal process and theorization including theory of appointment and theory of election.

We noted that based on theory of appointment, the people and citizens play no role in legitimacy of Islamic jurisprudent, the Islamic jurist has received the license of his governance from the Sharia (Shakerin & Mohammadi, 2012: 134). Under such conditions, with respect to lack of granting legitimacy or giving power by some citizens, Islamic jurist may not also essentially supervise for the people in this regard.

But, the second theory with which the author of this article agrees as well is theory of election. In the theory of election, Islamic jurist has not received the permission for authority and his legitimacy from Sharia, but Sharia has stipulated some features for Islamic jurist and this the people that elect the Islamic jurist (with intermediate) among persons with such qualifications (Hashemi, 2012: 36). In this paradigm, the Islamic jurist has received his legitimacy from the people and his powers are due to delegation of power from citizens.

With accepting theory of election, leader is practically assumed as representative of people for enforcement of Islamic injunctions and legal regulations. It is clear that the governing representation agent is practically as advocate of people and citizens and his powers are also derived from the clients and people (clients) will have absolute right and control over performance their agent.

6. **Obligation of Constitution**

One of the points of reliance and documentation in analysis and interpretation of supervisory potential over leadership is Constitution. We read in previous topics that based on view and belief of some authors, leadership is beyond Constitution and predominant on it; therefore, it is never limited to the Constitution. But after inquiry and analysis of this subject we came to this result that absolute authority of Islamic jurist did not mean the unrestricted power for leadership, but leadership is required and committed to follow Islamic injunctions and directives and statutory laws and particularly Constitution.

In Articles 5 and 57 of Constitution, religious leadership has been positioned as Islamic jurist with absolute authority and on top of pyramid of governance and political power in Islamic Republic of Iran and based on Article 110 of the aforesaid law, it has also stipulated major and numerous powers and tasks for him. However, based on what it stated and with pondering in several articles of Constitution it may be observed that along wide range of competencies and developing the domain of leadership powers, the given law has anticipated the supervision over his performance with different and several methods and mechanisms where we will deal with them hereunder with presentation of some examples and cases. Of course, it should be noted that some of these supervisions are general and not stabilized while some others are executed systematically and formally.

6.1 *Non-systematic supervision over leader in Constitution*

6.1.1 *Enjoining the right and forbidding the wrong*

Enjoining the right and forbidding the wrong are considered as religious obligations and social- moral pledging if they are properly and essentially executed; they may lead to correct people and reform in community. The Arabic term "*Maaruf*" means well known and it denotes some actions and attributes, which have been known and approved and accepted by common sense and Sharia. Likewise, Arabic term "*Monkar*" means unknown and strange and they are called to those activities, which are rejected by Sharia and common sense (Hashemi, 2010: 236). We do not intend in this brief study to enter in topic of enjoining the right and forbidding the wrong, but we suffice with this point that the subject of enjoining the right and forbidding the wrong is deemed as a very powerful and strong lever that may provide the platform for growth

and enhancement of virtues and removal of corruptions in community. Fortunately, the founder and legislator of Constitution have dealt with it by proper and intact perception of this divine requirement in Article 8 of Constitution: "*In the Islamic Republic of Iran, summoning to what is good, commanding what is right and forbidding what is wrong is a universal and mutual duty: of the people in relation to one another, of the government in relation to the people, and of the people in relation to the government. Its conditions, limits, and character will be defined by law*".

However, the latter part of this law, which is harbinger of ratification of a comprehensive regulation about enjoining the right and forbidding the wrong, this procedure, has not been yet executed. But this article of Constitution should be deemed as one the valuable and precious principles of Constitution regarding supervision. Of course proportional to this investigation, author has focused attention on third section of this article i.e. supervision (by people over government). It is assumed here that the government means the general concept of the ruling and supervision and enjoining the right by people toward rulers and authorities of system principally include leadership as well. Although on platform of this legal principle no certain mechanism and methods have been provided for citizens' supervision over leadership and subject of enjoining the right and forbidding the wrong toward him, this approval and acceptance of subject is also considered as one of the advantages of Constitution. Of course, it is hoped in line with proper enforcement and execution of this article, to approve a comprehensive and perfect law in this regard and to prepare the ground for benefitting from potentials of this article of Constitution under its aegis the citizen are also able to exert formal and legal supervision and control over the governmental rulers and legal authorities as potentials of democratic system in addition to providing the viewpoint of founder and legislator of Constitution.

6.1.2 Supervision of political parties and associations

Article 26 of Constitution has officially recognized establishment of political parties and associations and membership in them provided that they do not violate independence, freedom, and national unity, Islamic criteria and regulation, and basis of Islamic Republic.

However, parties and factional activity are a potential subject in Islamic Republic System and it has not been definitely approved (Zakizadeh, 2009: 128). But provided having freedom, motive and field of activity, parties can prepare the maximum creativity and development toward political, economic, and social issues in community and one of the most outstanding potentials and activities of parties in modern and advanced communities is criticizing and evaluation of ruler and challenging activities of the government (Rasekhi Langeroodi, 2013: 122). Rather than leading to awareness of citizens of weak and strong points of governance, this potential and capability of parties will cause the government to deal with data-mining and inquiry its deficiencies and to make effort to remove them (Zakizadeh, *ibid*, 79).

Therefore, if they grow and achieve the minimum maturity and capability, parties in Islamic Republic of Iran can also act efficiently in supervision over performance of government (and leader as a part of governance).

6.1.3 Rallies and demonstrations

Article 27 of Constitution has notified formation of rallies and demonstrations as free provided they are convened without carriage of weapons and not as disruptive for Islamic fundamentals.

Most of public rallies are convened to warn the government and the ruling system (Hashemi, *ibid*, 260). Occasionally, some rights of citizens may be overlooked by the government and or altered and manipulated by the government so this will lead to public protest and demonstration in this regard. Alternately, some of policies and plans of government may be wrong and they may have been followed by irrecoverable consequences and losses for the nation. Principally, public protest, rally, and demonstration of citizens in these cases may require the government to retreat and abandonment from execution of inefficient plans and prevent from occurrence an event in conflict with rights of citizens (Amid Zanjani & Musazadeh, 2010: 89). Also as a rare assumption in our country, in the case of leadership's violation from Islamic directives and injunctions and making a decision that is led to loss and damage for the people and country, Article 28 of Constitution has prescribed convening rally in public demonstration as protest against the given subject.

6.1.4 Equality of leader with other citizens versus law

The latter part of Article 107 of Constitution, leader is equal to other citizens of the country versus law.

The last part of Article 107 is called as principle of equality of leader with other people and lawyer have definitely assumed such equality in legal and judicial affairs (Hashemi, *ibid*, 53). Usually, the high-ranking rulers and officials are benefitting from some types of judicial and legal immunity and their trial and punishment are subjected to several

immunities and constraints and they are practically tried in special court and under different circumstances. But equality of leader with other citizen versus law may clarify this outcome that the existing statutory laws in legal and judicial systems and requirements create right and obligation for leader and his attendants similar to other citizens. Therefore, excellent and unique position and stand of leadership will not bar and remove the responsibility of him and his attendants versus law.

Regularly, this perspective of Constitution toward position of leader in law and his equality with other citizens may remove barriers against judicial and legal control totally and facilitate enforcement of legal and judicial supervision over leader and make it possible.

6.2 Systemic supervision over leader in Constitution

6.2.1 Financial supervision of head of Judiciary

Article 142 of Constitution notifies one of tasks and powers of head of Judiciary- this possesses typically financial nature not a judicial operation- as inspection and control of properties and assets of leader, president, deputies of president, ministers, and their spouses and children before and after services so that these properties should not be increased illegally against right. We suppose such supervision as a financial supervision that firstly it is exclusive and restricted to assets of aforesaid persons and their families and at second place the given inspection and analysis in execution and enforcement of this supervision is only an expertise and auditing operation and no judgment procedure or method is seen in them that is usually due to a claim and response to resolve the dispute (Amid Zanjani & Musazadeh, *ibid*, 257).

Benefitting from auditing experts and officials in this type of supervision the head of Judiciary assesses the properties and assets of aforesaid persons in Article 142 of Constitution and if they were increased abnormally, he controls and inspects their origin. But a defect that may be proposed for this type of supervision over leadership and some authors assumed this type of supervision only as the written part of law and they consider enforcement of it about the leader as subjected to suspicion and doubt is that the head of Judiciary is certainly appointed by leadership and practically his powers in this field is owed to appointment by leadership. Thus, how can a subordinated corresponding director evaluate the properties of his superior? (Rasekh, *ibid*, 124)

In response to this doubt one can deduce that appointment of head of Judiciary by leader may not be deemed exclusively as lack of independence of head of Judiciary in addressing the financial supervision and making decision in this regard. The leader will never make appointment of head of Judiciary subjected to lack of financial supervision over his properties and assume no limitation for him in this field. But with this rare assumption that the head of Judiciary supervises and controls the properties of leader and his family and finds any financial diversion and misfeasance and then he is dismissed by the leader before enforcement of legal trend; definitely, this behavior of leadership will put him versus public opinions and other supervisory levers to which it has been referred in this article so this will be challenging for him. Therefore, accordingly the leader and his attendants will be financially liable against head of Judiciary.

6.2.2 Supervision by Expert Assembly

Based on Constitution and in introducing tasks of Expert Assembly, term '*supervision*' has never been used and we will not observe this phrase in any point of Constitution. But by virtue of the first part of Article 111 of Constitution: "*Whenever the Leader is incapable of carrying out his constitutional duties, or loses one of the qualifications mentioned in Articles 5 and 109, or it becomes known that he did not initially possess these, he will be dismissed. The judgment in this matter rests with the Experts mentioned in Article 108.*"

Nonetheless, the Constitution has anticipated some qualifications and features for leader and his performance where in the case of disruption and removal of them, the leader will be certainly responsible versus Expert Assembly. Therefore, although the regulatory task of Expert Assembly has not been confirmed in this regard, operationalizing of this legal principle and analysis of presence or absence of leadership qualifications by Expert Assembly requires permanent supervision by that assembly over leadership position.

Expert Assembly is a strong and valuable institution since firstly it is composed of Islamic jurist and experts (*Mojtahedin*), who enjoy from a lot of popularity at the heart of society and among people and with benefitting from this potential they can easily orient and lead public opinions. Secondly, this assembly is an institution with ever-increasing independence and in no point of law any responsibility has been predicted versus other institution and powers: such lack of responsibility versus other powers has provided freedom and arbitrary range for this regulatory institution so that not to encounter any limitation and barrier in doing its tasks and enforcement of powers and competencies.

This point was already mentioned that according to articles of Constitution, leadership possesses extraordinary powers and range of competency. The great dominance of leader on social affairs is so specific and unique that the least error and deviation of leadership may be followed by irrecoverable consequences and losses for the community; such importance and sensitivity of subject requires Expert Assembly to supervise permanently and constantly over performance of leader.

Although only based on Article 111 of Constitution, one can discover the supervisory cornerstone of Expert Assembly, inquiry of the approval of Expert Assembly regarding this article of Constitution may examine the regulatory task of Expert Assembly more transparently. Explanation and addressing the articles of the given regulations will terminate any doubt and suspicion about supervisory potential over leadership by Expert Assembly:

In order to execute article 111 of Constitution, Expert Assembly will elect an investigatory council among its members including 7 persons for two years by hidden voting in order to do the aforesaid tasks in this law (Article 1). The members of this council should have adequate vacancy to the delegated tasks and they shall not be employed in executive and judicial positions appointed by leader and also not to be of his close relatives (under article 1). The council shall acquire any type of the needed information regarding Article 111 within the limit of rules and legal regulation... also, to inquire and investigate about authenticity and falsehood of the collected reports and to visit to leadership if it deems necessary (Article 3). The investigatory council will submit the result of its investigation to Expert Assembly (Article 9) and interestingly the leadership position will be entitled to defend from oneself concerning to the presented report (Article 10) and finally whenever the leader is recognized as incapable in doing his tasks based on discerning of Expert Assembly he will be dismissed from his position (Article 12).

With observation of the above legal articles, which have been ratified in the course of execution of Article 111 of Constitution, the political responsibility of leader versus Expert Assembly and acceptance of regulatory cornerstone of Expert Assembly over leadership's performance is totally certain and prominent.

7. Research Achievement

With study on articles of Constitution, investigation in requirements of governance, and analysis of comments from scientists and thinkers in the given field it was concluded that along with the defined features and attributes for Pure Imam, the leader should be welcomed and noticed publically by citizens as well and elected by people for governance. As long as the people or their elected representatives do not elect the given jurist as leader his authority is not also realized and it is not effective. It is based on this paradigm that the leader is called elective in Islamic government and the license of his ruling is assumed due to granting public powers and his election. Also several analyses and investigations were conducted about supervisory potential over leadership where its outcome should be called proving principle of supervisory potential over leadership. So, in addition to assertion in elective nature of leadership of Islamic jurist by Expert Assembly, the Constitution has also implicitly and explicitly accepted and prescribed supervision over religious leadership in several articles of this law.

It is seen with assaying on articles of constitution that two mechanisms and theory of systematic and non-systematic supervision have been predicted for supervision over leadership. Regarding non-systematic supervision, one can refer to recommendation and prescription for enjoining the right and forbidding the wrong (Article 8), Activity and freedom of parties (Article 26), freedom for rally and demonstration (Article 27), Freedom of expression (Article 24), and equality of leader with other citizens versus law (Article 107). Concerning to systematic supervision one can also notice the financial supervision of head of the Judiciary (Article 142) and political supervision of Expert Assembly (Article 111) in the body of this study they have been implied.

At the end, as one of the most original results of this study and investigation rather than emphasis on supervisory potential over leadership in light of Constitution and public opinion, one can imply Expert Assembly as a great achievement in Islamic Republic System that is a unique potential and capacity in supervision over leadership. The author hopes to present this project as a book to the interested readers with developing his studies in the future and by benefitting from the comments of valuable teachers and masters in this field.

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