

Dr. Abdolrahim Gavahi

The Role of Religion in the Constitution of Iran¹

The Constitution of the Islamic Republic of Iran, which is prepared and approved after the victory of the Islamic Revolution led by Ayatullah Khomeini, is a constitution based on religious laws and beliefs of the assembly of clergies (ulama) who were elected and assigned with the task of preparing it. In this sense it does not resemble other constitutions prepared by victorious leaders of civil wars or a group of expert lawyers / politicians. Though some members of the so-called "Majlis-e Khobregan-e Ghanoon-e Asasi" (Assembly of Experts of the Constitution) were indeed lawyers, politicians, etc., but their main characteristic was that they were experts in Islamic law and Islamic thoughts and principles.

That is why in the so-called preface or preamble of the Constitution, which begins with the holy verse: "We sent our prophets with clear signs and sent down with them the Book and

¹. Paper presented by Abdolrahim Gavahi at the Sixth session of Dialogue between Abrahamic Religions, Lisbon, Dec. 6-8, 2007

the balance, so that humanity might stand forth in justice (Holy Quran 57/25)" , the Islamic goals and contents of the prepared Constitution is explained as follows:

- The Constitution of the Islamic Republic of Iran, as the manifestation of the cultural, social, political and economic institutions of the Iranian society, is based upon Islamic principles and precepts which reflect the true aspiration of the Iranian Islamic community
- The fundamental characteristic of this Revolution, as compared with the other movements in Iran in the last century, is that it is Islamic and it has developed out of a school of thought. The Muslim people of Iran, after passing through the anti-despotic constitution movement and anti-colonialistic oil nationalization movement, learned from those costly experiences that the fundamental reason of failure of them was the fact that they had not developed out of a school of thought (maktab). Even though in the recent movements the Islamic line of thought and progressive leadership of ulama (clergies) had played a major role, yet they failed because they distanced themselves from genuine Islamic thought.
- At this stage the awakened conscious of the masses, under the leadership of Ayatullah al-Uzma Imam Khomeini, realized the necessity of following genuine Islamic thought.

In this preface, under the headline of Islamic Government, we read:

- The scheme of the Islamic government based on "Velayat-e Fagih" (guardianship or sanctity of the theologians), which was proposed by Imam Khomeini at the peak of Pahlavi

despotic regime, brought about a clear and coherent new impetus for the Muslim people of Iran and opened up an authentic new way for their struggle.

Regarding the mottos of the Revolution, its victory, and the nature of the Constitution, under the heading of "The price paid by the Nation" we read:

- The seeds of Revolution, watered by more than sixty thousands martyrs and hundred thousands invalids and billions of dollars of damages, finally reached fruition amongst the cries of "Independence, Freedom, Islamic Government" and with this victory the dawn of an Islamic government, which the Muslim people of Iran had long aspired, was in sight,..... Now the Constitution of the Islamic Republic of Iran, expressing the political, social, cultural, and economic institutions and relations of the society, had to open up the way for the consolidation of the foundations of Islamic government and represent a new plan for the governmental system of the country.

On the nature of this Islamic system, there is sufficient explanation in the introductory section of the Constitution under the headline of "the Method of Government in Islam", part of which reads as follows:

- Our nation, in the process of its revolutionary perfection (evolution), returned to the original thinking and point of view of Islam and so it is now on the verge of building an exemplary society based on Islamic standards..... . On this basis, the mission of this Constitution is to materialize the ideological foundation of the movement and bring about Conditions by which mankind be developed by high universal Islamic values.

The Constitution, with regard to the nature of the Islamic Revolution of Iran which was a movement for the victory of the oppressed against oppressors, will pave the way for the continuation of the Revolution both domestically and abroad. Particularly, by spreading its international relations with other Islamic and popular movements, it will exhaust itself in paving the way for the creation of a single (unified) world community, as it says in the holy Quran "Verily, this is your community, one unified group, and I am your Lord, therefore worship me alone"

(Quran 21/92), so that the struggle for seeking the salvation of the oppressed people of the world will continue Laying the ground for the new political institutions and foundations which are in turn the basis for the creation of a new society based on a religious perception, the righteous people will take over the administration and government of the country, as the holy Quran says: "The righteous servants of God should inherit the land" (Quran 21/105) and legislation, which is the manifestation of the norms and criteria of managing the society will be conducted on the basis of Quran and the Tradition.

As it is noticed, not only the preamble of the Constitution begins with a verse from the holy Quran, but also in all its passages, the Constitution frequently refers to the holy Quran and the Tradition (hadith) of the prophet, thus removing any doubt that the whole Constitution is derived from Quranic precepts and the holy prophet and Imam's traditions.

One of the most obvious references to a holy Imam's tradition in the Constitution is the discussion titled "Sanctity of the just Vali-ye Fagih" in which we read:

- On the basis of "Velayat-e Amr" (command or guardianship of the Vali-ye Faghih) and continued imamate (religious leadership), the Constitution shall set the stage for the leadership of a qualified Fagih (theologian) who is accepted by the people as the leader, as we read in Tradition "Give the administration of affairs to God-fearing ulama, those who safeguard what God has permitted and prohibit what God has forbidden, in order to guarantee the non-deviation of different social institutions from their true Islamic functioning".

Such religious approach is also considered in the formation of the Islamic Republic's army and defense forces. That is why under the title of "Religious Army" we read:

- In the setting up and equipping defense forces of the country, attention is paid that religious belief be the main and true measure. In this sense, the duty of the armed forces and revolutionary guards of the Islamic Republic of Iran is not only protecting country borders, but they also have the religious mission of struggling in the way of God and implementing the law of God in the world.

Another area of demonstrating religious goals and intentions in preparing the Constitution is the discussion of "Judiciary System" of the Islamic Republic of Iran is this introductory part of the Constitution in which it is said:

- The issue of judiciary system in relation to safeguarding the rights of people in the line of the Islamic movement is of vital importance. Therefore, the establishment of a judiciary system based on Islamic Justice and lawyers well acquainted with Islamic laws is forseen.

Along the same line, in the paragraphs explaining "Mass Media" and "Executive Body" of the Iranian Islamic regime, we face a similar religious approach. For example, under the title of "Mass Media", which happens to be the last headline in the preface of the Constitution, it is said:

- The mass media, in the direction of the revolutionary course of the movement, has to be at the service of further development of the Islamic culture.

General Principles

After this short introduction, we now turn to the general principles of the Iranian Constitution. These general principles are elaborated in the first part of the Constitution under fourteen articles and, once again, demonstrate the presence of Islamic thoughts and beliefs in the Constitution.

Article 1 of these general principles reads as follows:

- The government of Iran is Islamic Republic which the Iranian nation, based on her lasting belief in a government of truth, justice, and Quran, following the victory of the Islamic Revolution under the leadership of Ayatullah al-Uzma Imam Khomeini, approved in a referendum on March 30-31, 1979, with the majority of 98.2% of votes.

Article 2 articulates the doctrinal basis of the Islamic Republic system as follows:

- The Islamic Republic is a system based upon belief in the Followings:

1. Monotheism and the sovereignty of God and His legislation.
2. Divine revelation and its fundamental role in the formulation of laws.
3. Resurrection and its pivotal role in the man's journey towards God.
4. God Almighty's Justice in the cosmos and in divine legislation.
5. Imamate and continued leadership and its, fundamental role in the continued presence of the Islamic Revolution.
6. Dignity and exalted value of the mankind and its freedom, coupled with its responsibility against God.

Article 3 of these general principles is about the responsibilities of the Government of the Islamic Republic of Iran and innumerates these responsibilities under 16 items which, in order to familiarize our audience with their content, we will only mention the first and last of them.

Item 1. Creation of a favorable environment for the growth of ethical values based upon faith and piety and combat against all sorts of evil and corruption.

Item 16. Formation of the foreign policy of the country based on Islamic criteria, brotherly commitment towards all Muslim brothers, and unconditional support for the oppressed people of the world.

Article 4 of these general principles is about rules and regulations of the Islamic Government of Iran, in which we read:

- All the civil, penal (criminal), financial, economic, administrative, cultural, military, political, and other laws and regulations of the country should be based on Islamic precepts.

Article 5 relates to the highest (supreme) leadership of the Islamic regime in which the famous thesis of Imam Khomeini on Velayat-e Faqih is expressed as follows:

- During the time of occultation of the twelfth Imam (Mahdi), in the Islamic Republic of Iran, the leadership and guidance of the community is in the hands of a just and pious faqih (Jurisprudent) who is aware of the time, courageous, and managerial capability, whom the majority of the people have accepted as the leader.

Along the same line, article 7, in reference to the Quranic verses "and counsel their affairs between them" (Quran 42/38) and "counsel them in their affair" (Quran 3/159) recommends formation of different councils, including that of the national assembly, city council, provincial councils, etc; and article 8, in reference to the Quranic verse "and the believers, men and women, are friends of each other, enjoining the good and forbidding the evil" (Quran 9/71) declares "Amr-e be Ma'rouf and Nahy-e az Munkar" (calling to what is good and forbidding from what is evil) to be a public responsibility.

Article 11, in reference to the holy Quran's verse "Surely, this community of yours is one single community and I am your Lord, so worship Me" (Quran 21/92) declares that "all Muslims are one single community and the Government of the Islamic Republic of Iran is responsible that its general foreign policy be based upon the unification and solidarity of all Islamic countries and make

continous efforts in order to realize the political, economic, and cultural unity of the Muslim world".

Articles 12, 13, and 14 of these general principles, which constitute the last part of Part One of the Constitution, each have their own religious significance as well.

Article 12 declares that the official religion of Iran is Ja'fari branch of Islam; article 13 declares that Zoroastrians, Jews, and Christians are the only officially recognized minority groups of Iran who are entitled to perform their religious practice and rituals according to their own traditions; and finally article 14, in reference to the verse "God does not forbid to be kind to and act justly towards those who do not fight you in the name of religion and do not expell you from your residences, surely God loves the just people" (Quran 60/8), lays the ground for one of the most important principles of the foreign policy of Iran, that the Government of the Islamic Republic of Iran and all Muslims are obliged to demonstrate moderation, justice, and equity towards non-Muslims and fully observe their rights.

Summary and Conclusion

In view of the above discussion, it is quite obvious that the Constitution of the Islamic Republic of Iran is full of references to the holy Quran, the Tradition, the Islamic precepts and commandments, and key religious and revolutionary concepts. In a priliminary review of these key concepts, one notices the following references:

1. Islam, Islamic, Muslim	46 cases
2. <u>Islamic</u> Republic of Iran	32 cases
3. <u>Islamic</u> Revolution (Movement)	18 cases
4. Revolutionary, Maktabi (based on a school of thought)	10 cases
5. Imam (Khomeini)	10 cases
6. <u>Muslim</u> People (Nation) of Iran	8 cases
7. Islamic Government	8 cases
8. Vilayat-e Faqih	7 cases
9. Islamic Umma (community)	5 cases
10. Clergy	4 cases

Certainly, there are other keywords like God (Allah), Imamate, Leader (Rahbar), Revolution, Mujtahid, Mustaz'af (oppressed), Mustakbar (oppressor), domination, etc. which we will not discuss for the sake of brevity.

Also, in the Constitution, there are 18 references to the Quranic verses and 2 references to Tradition. Nevertheless, these are direct quotations, otherwise indirect or implicit quotations are many times more.