

CHAPTER 3

DEMOCRACY, MODERNITY AND THE SYSTEM OF GOVERNMENT IN IRAN

3.0 Introduction

In this chapter, the emphasis will be on the evolution of the Iranian system of government throughout history and the effects of modernization on this process. This evolutionary process eventually led to a fundamental change in the balance of power and had a huge effect on the Iranian political system. The aim of this chapter is to observe and compare the system of government in pre- and post-revolution Iran. In addition, we will discuss the nature of democracy in both systems and in the last part we will compare the religious democracy of the Islamic Republic with the well-known political system of liberal democracy. In order to better understand the ideas of the selected thinkers on the nature of modernity, politics and government in contemporary Iran, and the role of science in it, we will therefore provide an exposition of the system of government in Iran in this chapter. Our focus on democracy is due to the fact that in the West, modernity in politics and system of government is often identified with democracy and a democratic system of government. However, we would like to show that modernity in politics and government need not be synonymous with Western-type liberal democracy, and that, other forms of democracy, such as 'Islamic democracy' as found in Iran, is possible. After the Revolution of 1979 Iran went through a radical change in its system of government and politics. Contemporary Iran is based on an Islamic system of government and although it does not reject a democratic system of government, it nevertheless tries to adopt Islamic principles in its system of democracy. In this chapter we will show the historical transformation in Iranian politics and government and explain the current system of government in Iran. With such a

background, we will then be in a position to understand and appreciate the discourses on politics and government in Iran by Iranian intellectuals, which we will cover in chapter four.

3.1 The System of Government in Iran before the Islamic Revolution of 1979

Until the Persian Constitutional Revolution during the early 20th Century, most rulers of Iran had a patriotic minded look at politics, such as the dynasty of Samanids during 819–999 AD and the Buyid Empire between 934 and 1055, in which the leaders dreamt of an Islamic Empire (Bashirye, 1999, p. 66).

Things started to change at the beginning of the Safavid Dynasty in (1502-1736 A.D). This period had three distinguishable characteristics: First, society was hierarchical and at the top of the triangle was the king which made up the most important social and political position in the country. Second, Religion has always had a true effect on ruling. It has never been distinguished from politics and had started to establish its roots in the depth of it. Third, The origin of evil and the necessity of obedience: since government is the highest responsible body against all the social and political evil, there has always been an emphasis on its role in the security and peace of the country. This role has paved the way for its necessary authoritarianism to provide the society with that promise and to demolish any opposition to it. Based on this idea, governance (kingdom) is a Godly gift for the people governed, in order to reach their highest potentials.

A King's power in the old Iran (Persian) was not theoretically limited to anything but religion and he could practically do as he wished. Noel Robert Malcolm (an English historian, writer, and columnist), writes about Persia in those days:

No organization, law or government can prevent the king from doing what he wishes. This is one of the most naked forms of dictatorship in the world (Abrahamian 1998, pp. 60-61).

Bureaucracy was limited to what the king wanted to happen and there was hardly any opposition to that will. Hamid Algar believed that 'law', as we mean it today, was only limited to *Shiite sharia*. At the same time, the relationship between the religious bodies and the ruling authorities was calm until the 1900s. The cooperation between the two was, of course, full of fluctuations, like during the era of Fat'h Ali Shah Qajar around 1834 AD, when this cooperation was at a very high level, whereas during the Nasser al-Din Shah Qajar rein around 1847 AD this relationship grow sour, as the Shiite leaders kept their distance from the ruling, because they did not see it as a fair power. They also believed that the King had good relationships with non-Muslim governments whose aim was to destroy the Islamic society (Arjomand, 1984, pp. 225-231).

This phenomenon was not unrelated to creation of new official religious bodies as well as the blurred relationship between King and Kingdom. Although at the end of the 18th century new bureaucratic bodies were set to take control of the country, the real role of the king in power was never restricted to any limit. This was the time when modernity started to shake the bases of the monarchy. The real job of the monarch was taxation and sustaining the royal family. The first wave of reform started during the Safavid dynasty in which many British experts helped the government in the process of modernizing the country. This was not seen as the real reform, which might have happened by that time in such a country. The next stage of ups and downs of the Iranian government happened during the Qajar dynasties (1794 to 1925) in which quite opposite measures were taken against and for the improvement in the Western way. This happened in two phases: First, measures were taken to oppose Western influences and when it was proved to be useless, cooperation and reform started. Anyhow, the

reason for the reforms was not to modernize, but rather to normalize the relationship with the West. Most of the reform which occurred in the process actually meant to reorganize the unsustainable condition of the monarchy but it was in effect unable to save the monarchy, from the great underlying problems which surrounded it. The reform was mostly practiced as a means to development, at the same time fuelling the dependence on the West. Overall, this series of reforms led to a total change in the society, creating a new middle class intellectuals and urbanized masses. Overall, it was expected to lead to modernity and Westernization of the country, although it faced serious opposition from the old masses (Abrahamian 1998, p. 67).

This period brought about large improvement in the standard of living of a number of people and widened the share of urban life which consequently brought about a more favorable attitude towards the West. At the same time there were oppositions to the reform. But this could not save the position of kingdom in the society. Russian and British interests in Iran were gripping the country and threatening its sovereignty. This was the last phase of the old era of Iran. With the rise of the Persian constitutional monarchy, Iranian society and politics started to shake again.

3.1.1 Constitutional Revolution of Iran

Constitutional Revolution of Iran took place between 1905 and 1911. This revolution was the result of coalition between the old Iranian activists, who were disappointed with the illegitimacy of the kingdom. This revolution was the result of many other pro-independence activities across Europe and Africa. In this period we observe the creation of critical thinking which longed for equality and law. The main requests of the activists were:

1-Constitutional Monarchy,

2-Parliament,

3-Distribution of Power,

4-Independence of Power,

5-Civil Society.

In it, many different sects of the society were taking part. From secular thinkers, who believed in the separation of power structure from religious figures, to traditionalists to the bazzaris, and the masses all were unhappy with the dictatorial policies of the Shah. Nevertheless, the legitimacy crises in the royalty, and the coalition of the opposition forces and the traditional opponents led to the Constitutional Revolution.

Finally, it succeeded in December 31, 1906 when the Shah signed the constitution, copied primarily from the Belgian Constitution. The Shah was from then on “under the rule of law, and the crown became a divine gift given to the Shah by the people”(Haeri, 1977, pp. 15-24). This revolution was the past phase of the old Persia. The revolutionists were fighting for law and order, and at the same time for a strong central government. This also led to the creation of parliament, elections, and constitution. These bodies were indeed meant to limit the power of the monarch. At the same time, civil society started to improve and government had its first steps toward modernization. At this stage, there was still a huge gap between the current situation and the democratic status that was desired. Even up to now, this process has not been considered over, the reason is that the model of democracy which was in mind, was rather a Western model which was and still is difficult to be implemented in Iranian society. Historically, the process of political reform and social improvement with regard

to accepting a free society did not go at the same pace. That is why the constitutional revolution was not successful enough to settle a real democracy.

3.1.2 Shah Reza Pahlavi's Reign: A Modern Era But With Absolute Power

During the 1920s, the constitutional revolution was no more than history; it was during this time when a form of obligatory reform came to power with the beginning of the reign of Shah Reza Pahlavi from December 15, 1925 to September 16, 1941 .

The first characteristic of such an oppressive, totalitarian power is a shallow belief in democracy and democratic institutions. Based on this ideology, the necessity for a dictator is born to lead the country ahead:

If you want to enjoy the fruits of a dream like the freedom in the West, an iron fisted king will pave the way for leaps forward to it (Entekhabi, 1993, p. 92).

Such a view clearly shows the accumulation of power in the hands of a few in that era and it explains the oppression and the delay of the Iranian society towards becoming a democratic nation. This ultimately resulted in more dependence on the West and paved the way for believing that the only way towards development is to uphold the standards of living as in the West. Thus, this hardcore modernism replaced the real ideas of the constitutional revolution: a wish for democracy, rule of law, unity and national independence. Shah Reza Pahlavi formed the first modern, Iranian government with the support from Britain. His government had a number of common features with the Western governments but it was in fact deeply different. The new patrimonial was a dictatorship, looking forward to forming a modern nation out of a society which is deeply unprepared for modernity, causing a serious controversy in the heart of such a government which ignored the facts of the real face of Iranian society. At the same time, the intellectuals admired many of his decisions such as the centralization of power, suppressing the minorities for the sake of security, introducing an official education

system, improving the rail and road systems, and others. But on the other hand, they criticized his preference for the military, oppression, mysterious murder of the opponents and other dictatorial measures taken by his government.

3.1.3 Shah Mohammad Reza Pahlavi

In August 1941, the allied powers, Britain and the Soviet Union, occupied Iran by a massive air, land, and naval assault, which subsequently forced Reza Shah to abdicate in favor of his son. The Shah's son, Mohammad Reza Pahlavi, officially replaced his father on the throne on September 16, 1941. Reza Shah was soon forced into exile by the British forces to British territories, first to Mauritius, then to Durban thence Johannesburg, South Africa, where he died on July 26, 1944.

His departure, gave a new life to the already weakened social society and the ideas of the Constitutional Revolution. During his reign, the structure of power was very much vertical, that is, being the King, he was the absolute monarch of the country and all the bureaucratic orders ended up in his hands. After him, the highest position was that of the premier, which controlled the orders of the government, although he did not have the power over the cabinet; he was responsible for bringing the Shah's orders to attention of other ministers. The Royalty played an important role in the reign. This caused a hierarchy of power in the royal family from the Shah to other elements such as the Prime Minister. The royal minister received his orders from the King himself. The power was therefore split between the foreign authorities, the Parliament, Shah and the political parties. As a result of a chaotic political society, the society was torn apart by many issues. On the other hand, the parliament had lost its power to the royalty.

One of the greatest problems of this era was the controversies which always existed between different sects of the society. On the other hand, the military wanted a

share in power. The military was the winner: the wresting of power after the 1953 Iranian coup d'état (the overthrow of the government of Iranian Prime Minister Mohammad Mosaddegh by the intelligence agencies of the United Kingdom and the United States) was shared between foreign powers, Shah and the army. After this era, the Shah tried to offer some changes, such as giving the right to vote to women and land ownership improvements (known as the White Revolution of January 26, 1963) to show himself and his government as liberal, although this was exactly when the opponents were tortured and the political parties were under pressure. In this era people were lukewarm to their country and destiny and there was little hope for change. Government was a body which controlled everything and opposing it was absolutely unthinkable (Baluchestan, 2009).

Iranian political tradition has been, for most of its history, controlled by authoritarian powers and personal ideologies. This is not a new phenomenon. Over-centralization of power in this country is more or less a part of its political tradition rather than moral or ideological necessities. In a society in which everything is in the hands of the government, religion, morality, ideology, politics and economy is measured and ruled by the government. In a situation in which there is no real power to oppose or to threaten the power of the ruling power, it won't feel wrong to alter anything to its benefit. In such a society, the civil organizations are not to be blamed since there is no real power that supports their ideas or goals. Everything is limited to what the absolute power demands. This situation exactly reflects the political realities of the Shah's era in Iran in which authorities longed for legitimacy among the sects of the society to which they belonged. The backbone of legitimacy of power in the disputed government was more or less dependent on the personality and the order of the Shah, that is, his only authority. Elimination of democratic rule and civil society, by reason of

giving a new life to the Old Persian values and power (referring to the period of time during the Achaemenid Empire (CA. 550–330 BCE), also known as the Persian Empire) was the direct result of this kingdom. In this regard his main supporters were: oil income, foreigner supports, oppression arms and political parties.

Beginning in the 1950s, he started pursuing a series of farfetched goals to modernize the society of Iran all at once. The hurdles and disappointments which came along the way could not stop him. He believed that:

we have to pave the way to depend on Iranian values such as imperialism, nationalistic, humanistic, and democratic to be able to be put among the civilized and developed countries of the world (Amuzegar, 1996, p. 272) .

In fact he was thinking of social and economical liberties and what he had in mind of ‘freedom’, he did not in fact think of political freedoms, but rather ‘imperial’ freedoms. He believed that freedom is the root of chaos and said:

for one who needs his food of day, political liberties is just luxury (Amuzegar, 1996, p. 247).

Ervand Abrahamian, the writer of the book “*Iran between Two Revolutions*”, believed that:

Although he helped the process of improvement in Iranian social society, he failed to open up the political society by allowing the oppression groups and oppressing the political activists. (Abrahamian 1998, p. 398)

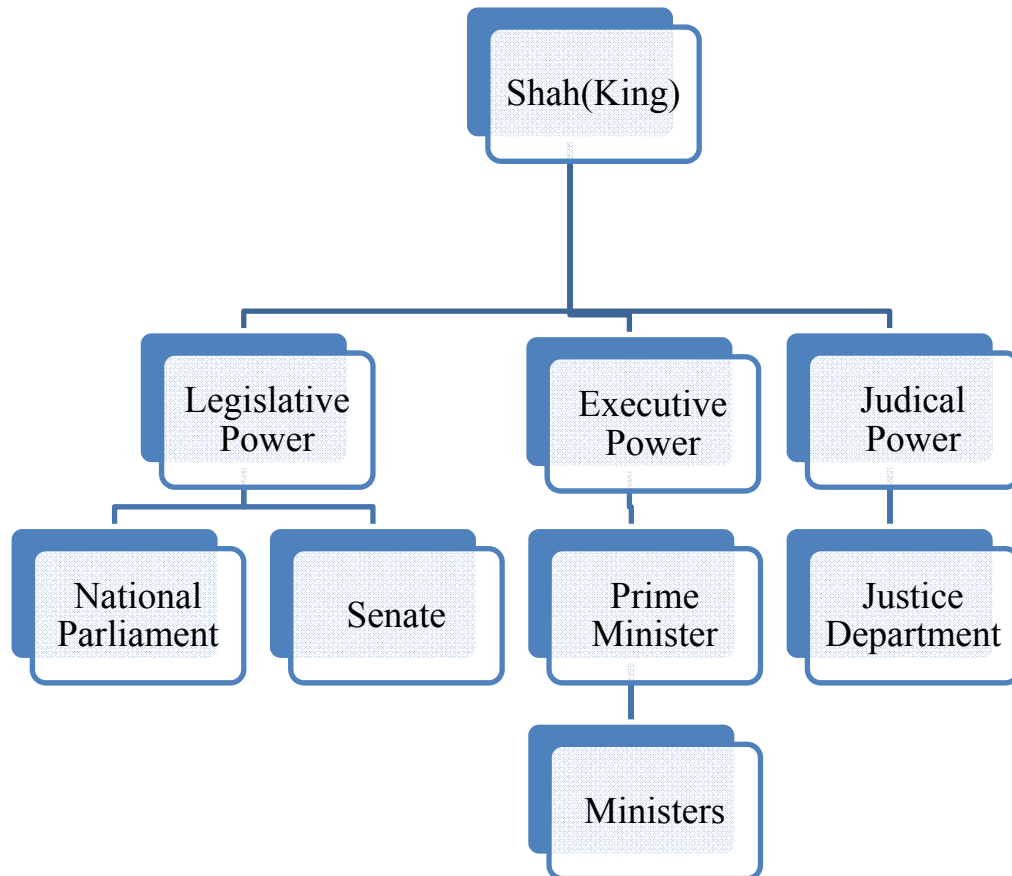
Three reasons led to the failure of the shah to implement his farfetched aims:

- 1- Dictatorship,
- 2- Oppression,
- 3- Dependence on the West.

Thus, his emphasis on his goals led to weakening of his own power and empowering his critiques. As the centralization of power, corruption, dictatorship and oppression was increasing, a coalition among the opponents of the shah was

empowering against him. Shah, like his father, relied on three principles to sustain his power, namely: (1) Army (2) Imperial support (3) unrestricted, unnecessary bureaucracy aimed at restricting the opponents (Abrahamian 1998, p. 398). He put a great emphasis on the military and that power consideration, military engagement and support acted as sources of legitimacy for his reign (Amuzegar, 1996, p. 313).

Fig 3.1: Political Structure of Pahlavi Government



Source: Adapted from the Constitutional Revolution of Iran

3.1.3.0. Characteristics of the Pahlavi Era

In this section, we describe the characteristics of the Pahlavi era with regard to the Constitution. The constitution in this chapter is the one passed in 1906 at the time of the Constitutional Revolution, in which there was no major change from the previous version and just a number of amendments such as annihilation, of the Qajar Dynasty were ‘added’ to it (Article 36).

3.1.3.1. Shah:

The Shah (king) of Iran had the highest position in the government but with no responsibility toward the public (Article 44). His sons will succeed him after his departure, and thus this reign is a gift from God to rule people.

His authority included:

- 1- Installing and uninstalling the ministers (46 amendments),
- 2- Giving army ranks (47 amendments),
- 3- Installing the diplomats (48 amendment),
- 4- Passing laws and implementing passed amendments in the Parliament (49 amendments),
- 5- Being the Commander in Chief (50 amendments),
- 6- Announcing war or peace (50 amendments),
- 7- Ordering for emergency gatherings of the Parliament or the Senate (54 amendments),
- 8- Giving the orders of printing money (54 amendments),
- 9- Unless the senate is in function, all the rules or amendments in the Parliament need the Shah’s approval (Article 47),

10- The Shah was in control of abolishing the Parliament or the Senate altogether (Article 48).

In the Pahlavi era, there were three major branches of power in the government: Legislative Department, Justice Department and Executive Department. The Article 28 of the constitution orders the three to act independently of each other

3.1.3.2 Legislative Department:

Legislative Department had the power and authority to pass the laws and observe their implementation. It included the Parliament and the Senate:

3.1.3.2.1 The National Parliament:

The National Parliament housed the representatives of different areas of the country. Under Article 2, all the races and groups had their representatives in the parliament. The Parliament had 200 members under Article 3 and Article 4 for a period of 4 years (Article 5).

3.1.3.2.1.1 Responsibilities Of The Parliament:

1- Under the Article 15 of the constitution, the Parliament was required to pass the necessary laws and inform the highest position of the government (the Premier) to implement them at the proper time.

2- All the laws and regulations required for the better functioning of the government and its branches are needed to be passed in the parliament under the Article 16 of the constitution.

3- Amendments to the constitution are needed to be passed to the Shah by the Parliament to be implemented at the proper time (Article 17).

4- All the financial matters and regulations need to be passed in the Parliament (Article 18) and also the fiscal budget needs to have the parliamentary approval under the Article 20 of the constitution.

5-Passing all the amended or changed laws in the ministries (Article 21)

- (3) Changes in the sovereignty of the country are needed to have the approval from the parliament (Article 22)
- (4) Establishing the public organizations requires parliament's approval (Article 23)
- (5) All the political and financial conventions need an approval from the parliament (Article 24)
- (6) Applying for loans need to be under the supervision of the parliament (Article 25)
- (7) Building railways and roads need approval from the parliament (Article 26)
- (8) Having the authority of interpellation of the ministers (Article 27) as well as the authority to ask the Shah to uninstall the ministers in case of breaking law or being malfunctioning or unlawful in general (Article 28)

3.1.3.2.2 The Senate:

The 60-member Senate is at the legislative position after the parliament (Article 43). It is stated in the Article 44 that the amendments need to pass in the Senate after they are passed in the parliament. 30 members of the senate are chosen by the Shah and the other 30 are elected in the elections. Article 46 states that all laws need the approval of both the parliament and the Senate to be necessarily implemented. In the case of disagreement between the two legislative bodies, a commission which includes members from the both is formed and this commission tries to find a way to approach the views of the bodies. If the two agree on the matter there will be a report to the Shah.

Should the disagreement continues, the Shah is informed to intervene. If the Shah has a negative view, the law or the amendment remains still for six month to be discussed again at an appropriate time (Article 48).

3.1.3.3 Executive Department:

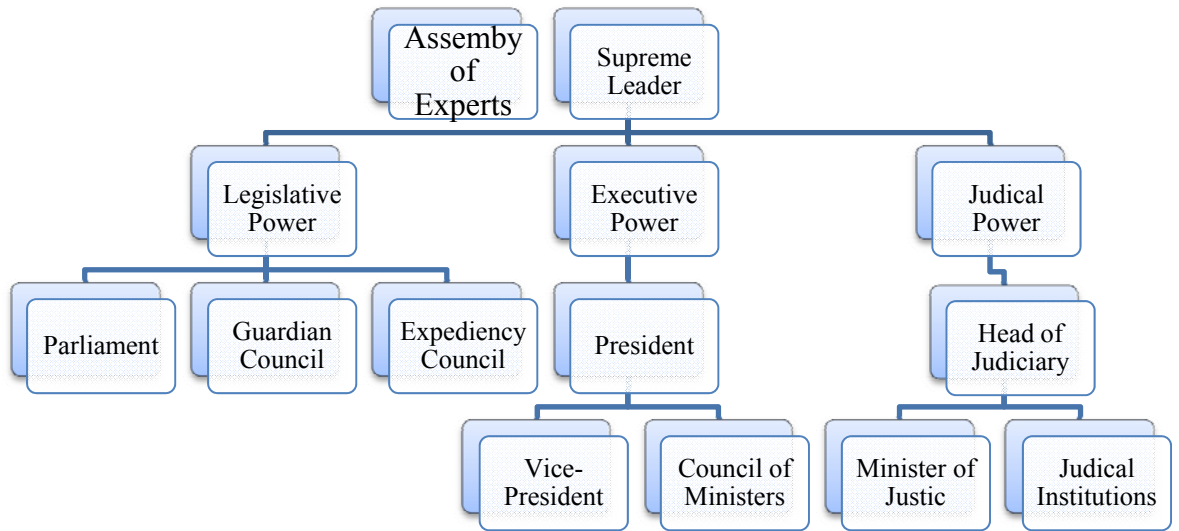
The premier and the ministers need to implement the laws passed by the legislative department in the name of the King. The prime minister is chosen by the Shah and he chooses the ministers. Article 58 states that one cannot be a minister unless one is Iranian and Muslim. Article 62 stats that the number of ministers is based upon the necessities. It also gives the senate or the parliament to abolish the position of the ministers. Article 66 states the law and regulations governing the ministers.

3.1.3.4 Justice Department:

The responsibility of the Justice Department is based on the supervision of the religious and legal regulations in the country. The highest position in this department is the head of the department who is a lawyer chosen by the King (stated in Article 72). This article also states that there is only one court to supervise and judge the matters regarding the ministers.

In this part, we will define the meaning of legitimacy of a government among people and try to understand the reasons behind the transition of the Iranian society from the time of Shah to the era of the Islamic Republic.

FIGURES 3.2: Islamic Republic of Iran Political Structure



Source: Adapted from the Constitution of the Islamic Republic of Iran

3.2 The System of Government in Iran after the Islamic Revolution of 1979

In this chapter we will examine the system of democracy in the Islamic Republic of Iran. With the occurrence of the 1979 Islamic revolution, there appeared a deep change in the experiment of modern government after the Iranian Constitutional Revolution which took place between 1905 and 1911. In general, the Iranian Islamic Revolution (1979) was a democratic movement, considered as the continuation of the Constitutional Revolution. The constitution has a great reliance on 'public vote' and believes in the 'basic values'.

Article I of the constitution on the subject of the government, states: the form of government of Iran is that of an Islamic Republic, endorsed by the people of Iran on the basis of their longstanding belief in the sovereignty of truth and Quranic justice, in the referendum of 29 and 30 March 1979, through the affirmative vote of a majority of 98.2% of eligible voters, held after the victorious Islamic Revolution led by Imam Khomeini (IranianUK, 1994).

This long-standing belief that indeed shows the Islamic ideology is expressed in Article II of the constitution in length.

The Islamic republic is based on beliefs in:

- 1) The One God (as stated in the phrase "There is no god except Allah"), His exclusive sovereignty and right to legislate, and the necessity of submission to His commands;
- 2) Divine revelation and its fundamental role in setting forth the laws;
- 3) The return to God in the Hereafter, and the constructive role of this belief in the course of man's ascent towards God;

- 4) The justice of God in creation and legislation;
- 5) Continuous leadership and perpetual guidance, and its fundamental role in ensuring the uninterrupted process of the revolution of Islam;
- 6) The exalted dignity and value of man, and his freedom coupled with responsibility before God; in which equity, justice, political, economic, social, and cultural independence and national solidarity are secured by recourse to:
 - a) Continuous leadership of the holy persons, possessing necessary qualifications, exercised on the basis of the Quran and the *Sunnah*, upon all of whom is peace;
 - b) Sciences and arts and the most advanced results of human experience, together with the effort to advance them further;
 - c) Negation of all forms of oppression, both the infliction of and the submission to it, and of dominance, both its imposition and its acceptance (Iranian Embassy inUK, 1994).

Reliance of the Islamic Republic on public opinions is expressed in Article 6: “In the Islamic Republic of Iran, the affairs of the country must be administered on the basis of public opinion expressed by the means of elections, including the election of the President, the representatives of the Islamic Consultative Assembly, and the members of councils, or by means of referenda in matters specified in other articles of this Constitution”(Iranian Embassy inUK, 1994).

And Article 56, the right to self-determination and sovereignty that God has given to man, has been introduced:

Absolute sovereignty over the world and man belongs to God, and it is He Who has made man master of his own social destiny. No one can deprive man of this divine right, nor subordinate it to the vested interests of a particular individual or group. The people are to exercise this divine right in the manner specified in the following articles(Iranian Embassy inUK, 1994).

Thus, in terms of formal power, dual-revolutionary is the combination of traditional and modern elements. But is the power gained based on the vote of people?

Article VI constitution says:

the Islamic Republic's affairs should be administered based on direct public votes, through elections, to select the President, Parliament, Council members, and so on (Kamalan, 2009, p. 25).

The Iranian Constitution, is based on the principles of the Islamic Republic , which means the vote of people runs the country and all the affairs conforms to the laws of Islam. In Article 57 of the constitution we read “The powers of government in the Islamic Republic are vested in the legislature, the judiciary, and the executive powers, functioning under the supervision of the absolute religious Leader and the Leadership of the *Ummah* (Muslim people), in accordance with the forthcoming articles of this Constitution. These powers are independent of each other”(Iranian Embassy inUK, 1994).

Fear of concentration of power brought some of the lawyers to a theory of separation of powers analysis and distribution of local power. In this context city and village councils were introduced in the province which, in the constitution, it is also recognized. Article 100 of the constitution says:

1) In order to expedite social, economic, development, public health, cultural, and educational programs and facilitate other affairs relating to public welfare with the cooperation of the people according to local needs, the administration of each village, division, city, municipality, and province will be superseded by a council to be named the Village, Division, City, Municipality, or Provincial Council. Members of each of these councils will be elected by the people of the locality in question.

(2) Qualifications for the eligibility of electors and candidates for these councils, as well as their functions and powers, the mode of election, the council jurisdiction, and the hierarchy of their authority will be determined by law in such a way as to preserve national unity, territorial integrity, the system of the Islamic Republic, and the sovereignty of the central government (Iranian Embassy inUK, 1994).

3.2.1 People's Role in Islamic Republic of Iran

In modern law, elections has been a clear manifestation of people's participation in choosing the rulers, and therefore the right to vote has been developing in the course of development of the identity of democracy in our time(Tabatabai Motamani, 2002, p. 148).

In Iran the improvement of people's participation in governance has been around for the past century and a turning point for this process is the occurrence of the Islamic Revolution in 1979 with the leadership of Imam Khomeini. He believed that it should be people who choose their destiny and therefore their rulers(Khomeini 1961, p. 29). He emphasized that in the choosing process nobody should affect people's vote because people of an Islamic identity are mature enough to choose their fate. It has been based on this rule which defined the identity of the new government in Iran as an Islamic Republic because it is meant to maximize the role of people in their destiny(Amid Zanjani 1988, p. 100).

In fact, one of the characteristics of this kind of governance is the participation of people in governance which is clearly defined in Article 6 of the constitution: In the Islamic Republic, the decisions have to be taken based on people's vote... by choosing the president, MPs, Members of Local Councils and likewise.

This has meant to block the way for any type of inherited transfer of power and alike (Hashemi, 1996, p. 272). Abbasali Amid Zanjani (born 1937, a hardliner, Iranian politician and cleric) believes that this form of governance, referring to the Articles 107 to 110 of the constitution, paves the way for indirect choosing of the leader in the Islamic Republic by direct vote to the members of the assembly of experts in the Islamic Republic which has the power to choose the leader(Amid Zanjani 1999, pp. 42-43).

3.3 Political Structure in Islamic Republic of Iran

The power structure in the Islamic Republic therefore containing these roles: At the head of the pyramid is the leader. After his place, come the executive, judicial and legislative powers.

3.3.1 Supreme Leader

The Supreme Leader of Iran has the highest authority over the state and social matters of Iran. The post was initiated by the Constitution based on the concept of Guardianship of the Islamic Jurists, referring to Article 5, Iranian Constitution.

As he is of more authority in Iran, even greater than that of the President's, he chooses the heads of many powerful bodies such as the commanders of the army, the director of the state radio and television network, the heads of the major religious bodies, the prayer leaders in city mosques, and the members of National Security Council, whose main concern is dealing with high ranked defense and foreign affairs.

Leaders of the judiciary are also based on his selection as well as the heads of the Islamic Revolutionary Guard Corps and six of the 12 members of the Council of Guardians. His representatives are present at every point in the government and they transfer his views on different matters to other high ranking decisive bodies within the government.

3.3.1.1 Guardianship of the Islamic Jurist

In Shiite ideology, the 12th Imam is absent after two terms of temporary absence, one from 260 to 329 Islamic calendar (874 to 941 AD). During these times he has been in touch with Muslims via four trusted envoys. After the death of the fourth trustee, the second term of absence started which continues up to present day. During

the absence, Muslims are required to follow the rules and orders of the jurists. He has appointed them on numerous occasions to be his fellows on the earth during his absence. He is believed to have said:

Follow our fellows on the earth during our absence.... [Since] they are our trustees during the time of absence (Baboye Ghomi, 381H, p. 193).

Guardianship of the Islamic Jurists is a concept in Shiite branch of Islam which believes that Islamic knowledge gives the Islamic jurist some sort of guardianship over the society. The idea is a part of Shiite caliphate jurisprudence. There are disagreements over how penetrating the custodianship in the society should be. The Islamic republic is based upon the ideals of Ayatollah Khomeini and his theories on the successors of Islamic caliphates are the bases for what we know as the Guardianship of the Jurist, currently under practice in the Islamic Republic of Iran. To gain access to the real interpretations for the current Iranian constitution requires us to know this basis which is based on Ayatollah Khomeini's views of Islamic ruling. Such is the introduction into his views and ideas on the matter but to keep it brief, we have considered the most prominent ones to start with.

One ideology which offers a limited version of Guardianship of the Islamic Jurists holds that guardianship should be limited to non-controversial matters, in occasions such as religious endowments and the property issues which is the matter of interest of no specific person.

The other version is absolute guardianship of the Islamic Jurists which stick to this idea that Guardianship should include all matters for which Prophet of Islam and Shiite leaders in the course of the history after the prophet's death have had the

responsibility. From that list it appears that one of the issues is governance of the country.

The idea of guardianship as the absolute ruler was promoted initially by Ayatollah Khomeini and now it constitutes the basis of the constitution of the Islamic Republic of Iran. The constitution appoints the guardian jurist, to serve as the absolute leader of the government ("Constitution of the Islamic Republic of Iran," 1979).

In the state context of Iran, guardianship of the jurists is often referred to as rule by the jurisprudent or rule of the Islamic jurist. *Velayat* is defined by several complex meanings which are deeply tied to their history. Morphologically, it is derived from the Arabic word *Velaya* the verbal noun of *Valiyan*: to be close and to have power over something. In religious text, *Velayat* means rule. In other words, *Velayat* means friendship, loyalty, or guardianship. The pivotal point of the concept of guardianship of the jurists comes in part from the quotation where the Prophet Muhammad is believed to have said "The jurists are the trustees of the prophets" (Stuewer, 1970)

Although this concept has been discussed by some of the earliest Shiite clerics such as Al-Shaykh Al-Mufid (948-1022 AC) and put into practice for a while by Muhaqqiq Karaki during Shah Tahmasp (1524–1576 AC) days, according to John Esposito in the Oxford Dictionary of Islam, Morteza Ansari (~1781-1864 AC), was the first Islamic scholar to promote the theory of Guardianship of the Jurist (Esposito, 2003, p. 21). There are a lot of different views about the concept of guardianship of the jurist among Shiite scholars. Some believe in guardian-less activities in Islamic society and it differs until declaration of absolute authority in all public matters.

Two types of guardianship can be discussed:

(1) The first type is mentioned in different places in the religious texts of Shiites. It discusses Wilayah over the dead and Wilayah over others in need of guardianship, such as insane, absentee, poor, etc.

For example Quran 33:17, refers to authority of heir of oppressed slain. This type of Wilayah apparently cannot be applied to a society because a normal human society does not satisfy these characters.

(2) The second type of Wilayah, over wise people which shows up in many principal texts including Koran, 5:55, which arguably implies the second type of Wilayah in Quran.

The current ruling of the Islamic Republic of Iran is based on the theory of Imam Khomeini on Islamic rule and also based on the direct vote of people. The general rules and constitution of the named government is solely based on the *Sharia* rules and Islamic guidance of the jurists. Therefore, for better understanding of the rules of the country, a basic understanding of the *Sharia* rule and Islamic canons on statesmanship is necessary. There are rational reasons on the necessity of existence of the theory of the leadership of a jurist in an Islamic state. The first one is the emphasis of the Islam prophet on leadership of a man with Islamic knowledge on the Muslim nation. Also, the prophet himself was a leader and the necessity of leadership in an Islamic state based on Islamic rules necessary for ever. Other than that, the existence of an influential body to enforce Islamic rules among Muslim nation is necessary.

There are also some quoted reasons behind the ruling of an Islamic jurist in an Islamic nation: Muhammad ibn Yahyā relates, on the authority of Ahmad ibn

Muhammad, who heard it from Ibn Mahbūb, who was informed of it by ‘Ali ibn Abi Hamzah, that the Imām Abu ‘l-Hasan, son of Ja‘far said:

Whenever a believer dies, the angels weep, together with the ground where he engaged in the worship of God and the gates of heaven that he would enter by means of his good deeds. A crack will appear in the fortress of Islam, that naught can repair, for believers who are *Fuqahā* are the fortresses of Islam, like the encircling walls that protect a city (Al-Kulayni, 1978, pp. 94-95) .

Ali relates, on the authority of his father, from an-Nawfali, who had it from as-Sukūni, who was told it by Abu ‘Abdullāh, that the Most Noble Messenger (s) said,

The *Fuqahā* are the trustees of the prophets (‘a), as long as they do not concern themselves with the illicit desires, pleasures, and wealth of the world.” The Prophet (s) was then asked: “O Messenger of God! How may we know if they do so concern themselves?” He replied: “By seeing whether they follow the ruling power. If they do that, fear for your religion and shun them (Al-Kulayni, 1978, pp. 118-119 & ; Khomeini, 1997).

Examination of the whole of this *Hadith* would involve us into a lengthy discussion. We will speak only about the phrase: “The *Fuqahā* are the trustees of the prophets (‘a),” since it is what interests us here because of its relevance to the topic of the governance of *Faqīh*

The 12th Imam of Shiites has said that:

Islamic nation is to ask the jurists in case of doubt, since the jurists are the fellows of the prophet and his family on the earth until he (i.e.Imam Mahdi) reappears to hold the responsibility (Khomeini, 1997, p. 48).

By this he does not only mean the religion related questions, but also “the social and political issues which have the same level of importance among them.” Therefore not only religious oversight of people is the responsibility of the jurists, but also the political supervision of the Islamic state is on their shoulders(Khomeini, 1997, p. 48)

3.3.1.1.1 Installation of the Jurist

As it was mentioned before, the process of choosing and assessing the jurist to hold the responsibilities of an Islamic state is not particularly stated as “expertise”. It is rather a social issue which is very much done by the normal people who know that a certain person is suitable enough to hold the responsibility. Based on Ruhalla Khomeini’s ideology, leadership of an Islamic state is not the religious responsibility of the leader. It is his ideas which form the process of choosing the jurist to rule the Islamic republic of Iran (Khomeini, 1997, p. 40).

3.3.1.1.2 Leadership of the Jurist in the Islamic Republic of Iran

The Iranian ruling and constitutional system is based on revelation and Islamic rule. The constitution has given an official role to the ruling of an Islamic jurist.

According Article 2 of the constitution:

The Islamic Republic is a system based on belief in:

.....5) continuous leadership and perpetual guidance, and its fundamental role in ensuring the uninterrupted process of the revolution of Islam;

.....through:

- a) continuous leadership of the holy persons, possessing necessary qualifications, exercised on the basis of the Koran and the *Sunnah*, upon all of whom be peace;

Article 5 of the constitution:

During the occultation of the *Wali al-'Asr* (may God hasten his reappearance), the leadership of the *Ummah* devolve upon the just and pious person, who is fully aware of the circumstances of his age, courageous, resourceful, and possessed of administrative ability, will assume the responsibilities of this office in accordance with Article 107.

Although there is emphasis on people’s role in choosing of the jurist, the legitimacy of the ruling is actually given to the jurist from the side of the holy *Sharia*

and imams' endorsement. Anyhow the ruling does not get a form of official empowerment unless people recognize the ruler. The ruling of the jurist is from the side of God and it needs to be the continuation of the path of imams (Najafi Asfad & Mohseni, 2005, p. 59).

3.3.1.2 Terms and Leadership Traits:

Article 109 of the Constitution:

1) Following are the essential qualifications and conditions for the Leader:

- a. Scholarship, as required for performing the functions of religious leader in different fields.
- b. Justice and piety, as required for the leadership of the Islamic *Ummah*.
- c. Right political and social perspicacity, prudence, courage, administrative facilities, and adequate capability for leadership.

(2) In case of multiplicity of persons fulfilling the above qualifications and conditions, the person possessing the better jurisprudential and political perspicacity will be given preference (Iranian Embassy inUK, 1994).

3.3.1.3 The Experts on Leadership in the Islamic Republic:

The council of experts in the Islamic republic have 84 members and these representative elected by all the people to observe the leader and his ruling. They function as law has stated in the constitution, according to the Article 108,

The law setting out the number and qualifications of the experts, the mode of their election, and the code of procedure regulating the sessions during the first term must be drawn up by the religious men on the first Guardian Council, passed by a majority of votes and then finally approved by the Leader of the Revolution. The power to make any subsequent change or a review of this law, or approval of all the provisions concerning the duties of the experts is vested in themselves. They are elected for a period of 8 years in office (Iranian Embassy inUK, 1994).

3.3.1.4 Leadership Choice

Article 107 of the Constitution: After Ayatollah Khomeini whose knowledge and leadership were recognized and accepted by the overwhelming majority of people, it is for the experts to determine the leader who is elected. The Assembly of Experts inspect on all candidates eligibility of above principles. The elected leader is responsible for all the responsibilities mentioned above and is equal in law with other people.

3.3.1.5 Removing the Leader

Article 111 of the constitution: Whenever the leader is incapable of the legal tasks, or lack the qualifications mentioned in the fifth and one hundred and ninth principles is, or is known initially to be, incapable or illegible, for some of the conditions above, he will be dismissed of leadership. Determination in this matter is the responsibility of the council of experts mentioned in Article 108. At the occasion of death or resignation or dismissal of the Leader, the council should act as soon as possible to determine and introduce a new leader. Until the new leader is selected, a council composed of the President, the judiciary and the clergy of the Guardian Council selected the Expediency Council, take up all the tasks of leadership temporarily for this period and if one of them on duty for any reason is unable to, the person selected by the Assembly is appointed to his place.

3.3.2 Branches of Power in the Islamic Republic of Iran:

Based on the Article 57 of the constitution there are three main powers of the state: legislative, judicial and executive. The three are functioning under the supervision of the Iranian leader and are lawfully independent of each other, in other words, they function, and do their responsibilities independent of each other and none of them is responsive to any other one regarding their internal functions unless there are portions

or personalities in their bodies which are responsible against another branch of power. Here is a discussion of the roles and responsibilities of each of these branches of power:

3.3.2.1 Legislative Power:

Legislative power is the part of the Islamic Republic which is responsible for passing and regulating the laws and rules in the country. This body, in comparison with other secular minded countries, has fundamental differences. One main difference is the lawful execution and other forms of *Sharia* rules. Based on the Iranian constitution, new laws can be passed only through the parliament. The legislative power is built up of three main parts: *Majlis* or the parliament, The Guardian Council, and The Expediency Discernment Council of the System (EDCS).

3.3.2.1.1 Islamic Consultative Assembly

The Iranian parliament, aka *Majlis*, has 270 MPs who are elected by direct people's vote for a period of four years. The authorities and the responsibilities of the *Majlis* are specified by Articles 71 to 90 of the constitution. The parliament aka *Majlis* was resumed initially after the Islamic revolution in 1980 and the second round of *Majlis* after the revolution began its terms in 1984. The general elections for the third round of the parliament were held in April 1988, and it started in May 1988. Following that was the commencement of the fourth round of the parliament in April 1992. A principal prerequisite for any MP is his/her, deep belief in Islam. However, the religious minorities which are recognized by the constitution, that is the Zoroastrians, the Jews, and the Armenian and Assyrian Christians have their own representatives in the parliament. The first two minorities are represented by one MP each and the Armenians, being larger in population, have two MPs representing the south and north of Iran. The Assyrian Christians are represented by one MP. The parliament has a set of internal

rules and regulations which regulate the manner of managing all its internal affairs, including the meetings, debates and voting on the bills and motions, as well as the tasks of its committees. According to the rules, the parliament has a steering board comprising of a speaker, two deputy speakers who run the meetings in his absence and a number of secretaries and provisions administrators. According to the Article 69 of the constitution, the deliberations of the orders of parliament must be open, the full report of which is broadcast by the radio and then published in the parliament's Official Gazette. The president or one of the ministers or 10 MPs may call for a closed meeting of legislative session. The constitution, however, declares that the resolutions of the closed meetings will only turn into laws if they are approved by a majority of three-quarters of the MPs with the attendance of the Guardian Council members. But ordinary meetings of the parliament reach quorum by attendance of two-thirds of the MPs, and their resolutions normally turn into law by simple majority, unless otherwise required by the law. There is no type of judicial immunity for the members of the parliament except under Article 86 of the constitution. In May 1988, a motion which was meant to create some sort of parliamentary immunity for the members was passed in the first reading. It dictated for investigating offence committed by the members before and during membership by the courts concerned in Tehran. MPs should only be summoned or subpoenaed through the *Majlis*. Details of the bill were to be decided in the second reading ("Constitution of the Islamic Republic of Iran," 1979).

3.3.2.1.1.1 Powers of Parliament

Majlis has the following duties:

- a) Debating the motions tabled by the government upon the cabinet's approval, as well as bills tabled by at least 15 MPs,
- b) Debating and inquiring into all the national affairs,

- c) Approving international treaties, protocols, agreements and contracts,
- d) Effecting minor changes in the border lines by taking into consideration the national interests, and by a majority of four fifths of MPs,
- e) Agreeing to the cabinet's request for proclamation of martial law for no more than 30 days,
- f) Tabling a motion of no confidence in the prime minister or any of the ministers; casting vote of confidence or no confidence in the government or in any of the ministers. ("Constitution of the Islamic Republic of Iran," 1979)

3.3.2.1.1.2 The Parliamentary Committees

There are numerous permanent committees with the task of carrying out the initial discussions about the bills and motions. Moreover, a number of committees are formed as they are required. Early 1989 amendments to the parliament rules required committees to have between one and fifteen members, with the exception of the constitutional Article 90 committee, the article related to people's feedbacks and objections from the parliament, judiciary and presidential body of the Islamic republic, which can have 15 to 31 members. The permanent committees are:

- 1) Education;
- 2) Culture and Higher Education;
- 3) Islamic Guidance and Arts and Mass Media;
- 4) Economy and Finance;
- 5) Plan and Budget;
- 6) Oil;
- 7) Industry and Mine;
- 8) Labor and Social Affairs, and Administrative and Employment Affairs;
- 9) Housing and Urban Development and Roads and Transport;
- 10) Judicial and Legal Affairs;
- 11) Defense and Islamic Revolution Guards Corps;
- 12) Foreign Policy;
- 13) Internal Affairs & Councils;

- 14) Health and Welfare, Relief, Social Security and Red Crescent;
- 15) Posts, Telegraphs and Telephones, and Energy;
- 16) Commerce and Distribution;
- 17) Agriculture and Rural Development;
- 18) Prime Ministry Affiliated Organizations;
- 19) Accounting Court and the House Budget and Finance;
- 20) Revolution Institutions;
- 21) Constitutional Article 90 Petitions Committee which has the task of investigating the complaints of the public against government organizations;
- 22) Questions Review Committee, which has the task of reviewing the questions of MPs to ministries and the latter's replies. This committee decides if the replies have been satisfactory. Should the committee find a minister's reply unsatisfactory three times, MPs will be able to table a motion of no confidence for the minister concerned ("Constitution of the Islamic Republic of Iran," 1979).

3.3.2.1.1.3 Legislature Procedure in the Iranian Parliament:

A bill or a motion may be registered with the parliament in two different ways:

1) the government may table it upon the cabinet's approval; 2) fifteen MPs may table a motion. The Steering Board of the Chamber is responsible for arranging the debates procedure. The bills are normally debated in turn. Urgent motions are debated under a different procedure. Debating procedure begins with the first reading of a bill which has already passed by the committee concerned with the debate or the one tabling the bill or the Act under discussion and the text of which has been handed over to the MPs. Should the bill's generalities be passed in the first reading, it would then be forwarded to the committee(s) concerned with it for the purpose of review. At this stage, MPs may propose their related amendments to be discussed along with the bill. The committee concerned may also invite experts from outside the parliament to take part in its meetings. As a result the bill will be tabled again for a second reading which reviews

its details. At this stage, MPs whose proposed amendments have not been adopted by the committee concerned have this option to discuss their proposal to the parliament and to call for votes. If the bill is passed in the second reading, it would be forwarded to the Guardian Council for ratification i.e. assuring the proposed law to have compatibility with the constitution and Islamic laws. This is the normal procedure of legislation in Iranian parliament. Urgent bills however are discussed only once by the committee concerned with the bill. Very urgent bills are not even required to go to the committees and are debated by two successive meetings of the Chamber (or houses) i.e. an elected lower house, and an upper house or Senate which may be appointed or elected by a different mechanism from the lower house. The first meeting deals with the generalities of the bill and the second one with its details. Top urgent, bills and motions are placed on the parliament's agenda immediately. The degree of urgency of the bills has to be approved by a majority of the MPs. Some of the bills cannot be tabled under urgency provisions, for instance the budget bills ("Constitution of the Islamic Republic of Iran," 1979).

3.3.2.2.1 The Guardian Council (Shoura-e-NeGahban):

Motions and bills passed by the *Majlis* do not have the authority to automatically become law. The Constitution has provided a constitutional council of sages known as the Council of Guardians of the Constitution according to the Articles 91 to 99 of the constitution. The Guardian Council of the Constitution also known as the Guardian Council or Council of Guardians is an appointed and constitutionally-mandated 12-member council that wields considerable power and influence in the Islamic Republic of Iran. The Guardian Council, briefly, is in effect an upper house of the parliament with the power to veto the lower house's resolutions (those of *Majlis*). It is assigned to check the laws passed by the *Majlis*, and compare them with the provisions of the Islamic

canon and the constitution, and ratify them, or return them to the House for being amended.

The council has 12 members: six of them are Islamic clergy and six are civilian jurists. The first group of six is appointed by the leader, or the Leadership Council, and the second group is elected by the *Majlis* chosen among candidates nominated by the Supreme Judicial Council. Members of the Guardian Council serve a six-year term. The leader has the authority to reinstate the Islamic clergy members of the council after their six-year term is over (Article.91) ("Constitution of Islamic Republic of Iran," 1998). Article 93 of the constitution has emphasized that "The Islamic Consultative Assembly does not hold any legal status if there is no Guardian Council in existence, except for the purpose of approving the credentials of its members and the election of the six jurists on the Guardian Council (Article No.93) ("Constitution of Islamic Republic of Iran," 1998).

3.3.2.2.1.1 Powers and Factions:

The *Majlis* has to forward all its resolutions to the Guardian Council. The council will announce its opinions on the resolutions, whether bills or amendments, within no more than 10 days. It may, however, request more time if necessary. Regarding the compatibility of the legislation with Islamic canons, only the opinion of a majority of the six Islamic canonists of the council is valid, but concerning their compatibility with the constitution, the opinion of the majority of all members will be valid. The council members are required to attend *Majlis* debates on urgent bills.

The Guardian Council also has the duty of interpreting the constitutional provisions, and its opinions in this regard are valid if approved by a majority of three-fourths of the MPs. Other duties of the council are: supervision of the presidential

elections, general elections and referenda, on the other hand, the council's power of veto over legislation imposed a state of imbroglia on important bills such as those dealing with farming lands distribution, foreign trade and goods distribution throughout the first two terms of the *Majlis* ("Constitution of the Islamic Republic of Iran," 1979).

3.3.2.2.1.2 Legislative functions of The Guardian Council:

The Guardian Council does not introduce bills. Bills are tabled in the *Majlis*; but any bill passed by the *Majlis* must be reviewed and approved by the Guardian Council".(Article94)("Constitution of Islamic Republic of Iran," 1998)The *Majlis* has no legal status without the Guardian Council according to Article 96 of the constitution; "The determination of compatibility of the legislation passed by the Islamic Consultative Assembly with the laws of Islam rests with the majority vote of the religious men on the Guardian Council (Article No.96).

While all the members' vote on the laws being compatible with the constitution is necessary, only the six clerics' vote on them being compatible with Islam is counted. If a law is rejected, it will be returned to the *Majlis* for correction or further processing and modification. If the *Majlis* and the Council of Guardians cannot decide on a case, it is passed up to the Expediency Council for a decision. The Guardian Council is uniquely involved in the legislative process (Article 112).

3.3.2.2.1.3 Judicial Authority

The Council of Guardians functions very much similar to a constitutional court. The authority to interpret the constitution is vested in the Council;(Article98) interpretative decisions require a three-quarters positive majority of the Council. However, it does not conduct a court hearing where opposing sides are argued.

3.3.2.2.1.4 Electoral Authority of the Guardian Council:

All candidates of parliamentary or presidential elections, as well as candidates for the Assembly of Experts, have to be assessed by the Guardian Council. The Council is accordingly labeled the supervision of elections. The Guardian Council interprets the

term supervision in Article 99 as an approbation supervision; which implies the right for acceptance or rejection of elections' legality and candidates' qualification (Article 110 Clause 9, Article99).

This interpretation is in contrast with the idea of notification supervision; which does not imply the mentioned approval right("Constitution of Islamic Republic of Iran," 1998). The evidentiary supervision; which requires evidences for acceptance or rejection of elections' legality and candidates' competency, is another interpretation of mentioned article. The most accepted interpretation of this supervision in Iran's recent political literature, however, is the approbation supervision ("Constitution of the Islamic Republic of Iran," 1979).

3.3.2.2.1.5 Expediency Discernment Council of the System (MaJmae-Tashkhis Maslehat):

The Expediency Discernment Council of the System (EDCS) was established on February 6, 1988 upon the orders of Ayatollah Khomeini to overcome the differences of views between the Islamic Consultative Assembly (*Majlis*) and the Council of Guardians.

Article 112 of the 1989 amended Constitution states that it shall be convened at the order of the Leader to determine such expedience in cases where the Council of Guardians finds an approval of the *Majlis* against the principles of religious laws or the Constitution, and the *Majlis* in view of the expedience of the System is unable to satisfy the Council of Guardians, as well as for consultation in matters referred to it by the Leader, and for discharging other functions laid down in this law(Farahani, 1997).

3.3.2.2.1.6 The Functions of the EDCS are as follows:

- 1) Making decisions in those cases where the ratification of the Islamic Consultative Assembly are not confirmed by the Council of Guardians, and where the deputies insist on the implementation of the ratification's;
- 2) Consultation in those matters referred thereto by the Leader;
- 3) Selection of a clerical Islamic jurist member of the Council of Guardians of the Constitution as a member of the Leadership Council, in accordance with Article 111 of the Constitution.
- 4) Article 111 states: "In case the Leader is unable to carry out his legal duties, or loses one of his qualifications mentioned in Article 5 and Article 109, or if it transpires that he did not qualify some of the conditions from the very beginning, he shall be dismissed from his position." Such decision shall be made by the Assembly of Experts, mentioned in Article 108: Also "In the case of death, resignation or dismissal of the Leader, the Assembly of Experts shall be required to determine and declare the new Leader at the earliest. As long as the Leader is not declared, a council composed of the President, Head of the Judiciary and one of the jurists of the Council of Guardians chosen by the Expediency Discernment Council of the System shall collectively discharge the functions of the Leader on a temporary basis. If one of them is not able to discharge his duties for any reason whatsoever during this period, another person shall be appointed by the EDCS in his place, maintaining the majority of the jurists in the council ("Constitution of the Islamic Republic of Iran," 1979).

3.3.3.1 Executive Power:

Executive Power is responsible body inside the Islamic Republic which is the main executive power in the country. The responsibilities and the limitations of the president are defined in the Article 60 and Article 113 of the constitution.

3.3.3.1.1 The President of the Islamic Republic of Iran

The President in the Islamic Republic is the second highest authority after the Leader. The President is also the supervisor of the three main powers of the state: legislative, judicial and executive. He is directly elected by people as President. Such a President can become candidate for a second successive term, but not more than two terms.

3.3.3.1.1.1 Qualifications of the Head of Iran Executive Power:

According to the constitution of Islamic Republic of Iran, Iranian president should possess the following qualifications:

- 1) Iranian origin;
- 2) Iranian nationality;
- 3) Administrative capacity and resourcefulness;
- 4) A good past record;
- 5) Trustworthiness and piety; and
- 6) Convinced belief in the fundamental principles of the Islamic Republic of Iran and the official Madhhab (religious) of the country (Artical115)(Iranian Embassy ofUK, 1994).

3.3.3.1.1.2 Some of the Responsibilities of Iranian President

The President of the Islamic Republic of Iran:

1. Signs and supervises the implementation of laws passed by the *Majlis*, (Article 123)
2. Signs treaties and other international agreements ratified by the *Majlis*,(Article 125)
3. Receives the credentials of foreign ambassadors, (Article 128),
4. Endorses those of Iranian ambassadors sent abroad,(Article 128)
5. Presides over the National Security Council. (Article 176)

His responsibilities also include the administration of the country's budget and development plans ratified by the *Majlis*. (Article 126)

3.3.3.1.1.3 Iran Government's Vice Presidents

Iranian president chooses his vice presidents to help him on various issues.

Some of the Responsibilities of Iranian Vice President are:

- 1) The President may have deputies for the performance of his constitutional duties. (Article 124)
- 2) With the approval of the President, the first deputy of the President shall be vested with the responsibilities of administering the affairs of the Council of Ministers and coordination of functions of other deputies. (Article 124)
- 3) In case of death, dismissal, resignation, absence, or illness lasting longer than two months of the President or when his term in office has ended and a new president has not been elected due to some impediments, or similar other circumstances, his first deputy shall assume, with the approval of the Leader, the powers and functions of the President. The Council, consisting of the Speaker of the Islamic Consultative Assembly, head of the judicial power, and the first deputy of the President, is obliged to arrange for a new President to be elected within a maximum period of fifty days. In case of death of the first deputy to the President, or other matters which prevent him to perform his duties or when the President does not have a first deputy, the Leader shall appoint another person in his place (Article 131).

3.3.3.1.1.4 Cabinet of the President:

Iranian president proposes his cabinet members and expects the final approval of his cabinet members' selection is done by the parliament.

1. Minister of Agriculture,
2. Minister of Commerce,
3. Minister of Communication and Information Technology,
4. Minister of Cooperatives,
5. Minister of Culture and Islamic Guidance,
6. Minister of Defense and Armed Forces Logistics,
7. Minister of Economy and Financial Affairs,
8. Minister of Education,
9. Minister of Energy,
10. Minister of Foreign Affairs,
11. Minister of Health and Medical Education,
12. Minister of Housing and Urban Development,
13. Minister of Industries and Mines,
14. Minister of Intelligence,
15. Minister of Interior,
16. Minister of Justice,

17. Minister of Labour and Social Affairs,
18. Minister of Petroleum,
19. Minister of Roads and Transportation,
20. Minister of Science, Research, and Technology,
21. Minister of Welfare and Social Security.

Some other people who are appointed to various positions are:

1. Government Spokesman,
2. Governor of Central Bank, Director of Centre for Women and Family Participation Affairs.
3. Secretary of the Cabinet

3.3.3.1.1.4.1 Some of the Cabinet Responsibilities:

1) Government bills are presented to the Islamic Consultative Assembly after receiving the approval of the Council of Ministers. Members' bills may be introduced in the Islamic Consultative Assembly if sponsored by at least fifteen members (Article 74).

2) (A) In addition to instances in which the Council of Ministers or a single Minister is authorized to frame procedures for the implementation of laws, the Council of Ministers has the right to lay down rules, regulations, and procedures for performing its administrative duties, ensuring the implementation of laws, and setting up administrative bodies. Each of the Ministers also has the right to frame regulations and issue orders in matters within his jurisdiction and in conformity

with the decisions of the Council of Ministers. However, the control of all such regulations must not violate the letter or the spirit of the law.

(B) The government can entrust any portion of its task to commissions composed of some Ministers. The decisions of such commissions within the rules will be binding after the endorsement of the President.

(C) The ratifications and the regulations of the Government and the decisions of the commissions mentioned under this Article shall also be brought to the notice of the Speaker of the Islamic Consultative Assembly while being communicated for implementation so that in the event he finds them contrary to law, he may send the same stating the reason for reconsideration by the Council of Ministers (Article 138).

3) The annual budget of the country will be drawn up by the government in the manner specified by law and submitted to the Islamic Consultative Assembly for discussion and approval. Any change in the figures contained in the budget will be in accordance with the procedure prescribed by law (Article 52).

4) The proclamation of martial law is forbidden. In case of war or emergency conditions comparable to war, the government has the right to impose temporarily certain necessary restrictions, with the agreement of the Islamic Consultative Assembly. In no case can such restrictions last for more than thirty days; if the need for them persists beyond this limit, the government must obtain new authorization for them from the Assembly (Article 79).

5) The settlement of claims relating to public and state property or the referral thereof to arbitration is in every case dependent on the approval of the Council of Ministers, and the Assembly must be informed of these matters. In cases where

one party to the dispute is a foreigner, as well as in important cases that are purely domestic, the approval of the Assembly must also be obtained. Law will specify the important cases intended here (Article 139).

3.3.4 .1 Judicial Power:

Justice has a high position in the Islamic rule, as well as in the Iranian laws. This has led to many differences between Iranian judicial systems with that of other countries.

3.3.4.1.0 Judicial System of Iran:

After the 1979 overthrow of the Pahlavi Dynasty by the Islamic Revolution, the system was changed drastically. The legal code is now based on Shiite Islamic law (aka *Sharia*).

3.3.4.1.1 Structure of the Judicial System:

The responsibilities of judicial system in the Islamic Republic are to be an independent power, and it is charged with:

1. Investigating and passing judgment on grievances, violations of rights, and complaints; the resolution of litigation; the settling of disputes; and the taking of all necessary decisions and measures in probate matters as the law may determine;
2. Restoring public rights and promoting justice and legitimate freedoms;
3. Supervising the proper enforcement of laws;
4. Uncovering crimes; prosecuting, punishing, and chastising criminals; and enacting the penalties and provisions of the Islamic penal code; and
5. Taking suitable measures to prevent the occurrence of crime and to reform criminals (Artical156).

According to Article 160 of the constitution:

The Minister of Justice owes responsibility in all matters concerning, the relationship between the judiciary, and on the one hand, the executive and legislative branches. The head of the judiciary may delegate full authority to the

Minister of Justice in financial and administrative areas and for employment of personnel other than judges. The minister is to be chosen by the president from a list of candidates proposed by the head of the judiciary. The head of the Supreme Court and the Prosecutor-General are also to be just jurists, nominated by the head of the judiciary in consultation with the judges of the Supreme Court and serving for a period of five years ("Constitution of the Islamic Republic of Iran," 1979).

3.3.4.1.2 Structure of Court in the Islamic Republic of Iran:

There are different kinds of courts in the Iranian judicial system which includes: Revolutionary Courts, Public Courts, Courts of Peace and Supreme Courts of Cassation. There are 70 branches of the Revolutionary Courts. Public courts may also be divided into Civil (205), Special Civil (99), First Class Criminal (86) and Second Class Criminal (156). Courts of Peace are divided into Ordinary courts (124), Independent Courts of Peace (125), and Supreme Courts of Cassation (22).

3.4 A Comparison between the Old (pre-1979) and New (Post-1979) System of Government in Iran

We start by the 1979 Revolution in Iran and discuss the democratic rule in the Islamic Republic which is the result of the revolution. One of the important factors in decision making in a government is its philosophy, structure and morality governing it. Thus decision making and legislation in an Islamic-born school of thought is expectedly very different from decision making in secular governments.

3.4.1. Legitimacy in the Establishment of a Government

One of the main differences between the Islamic Republic and the Pahlavi Dynasty is the point of establishment of the two. In pre-revolution Iran, the government consisted of a single ruler whose will would eventually assign the totality of the policies taken in the country. The Constitution was valid as far as it did not conflict with the Shah's interests. Therefore, he was the last person to implement his will at every aspect

of the policies. The transition of power was done from father to son and no one had any real power to criticize, let alone veto the king. This meant that there was no limit to his power and his will was the last word on decision makings. On the other hand, the kingdom had no time limit and as a result one becomes King for a lifetime until his son would take over his reign and start a new kingdom.

Installing and stripping of power of the ministers, the premiers, the royalties and other positions in the kingdom was solely in the hands of the Shah and no one had power or authority to change his will. The Islamic Republic had a popular position in the eyes of the masses whereas the Pahlavi dynasty started with a coup behind which there was foreign influence. This resulted in the deep distance between people and the Pahlavi reign from its beginning as Shah Mohammad Reza Pahlavi came to power during World War II after an Anglo-Soviet invasion forced the abdication of his father Reza Shah. His rule oversaw the nationalization of the Iranian oil industry under the premiership of Mohammad Mosaddeq which faced opposition from the British and American authorities and the premiership of Mosaddegh was abolished after the 1953 Iranian coup d'état. This led to excessive power in the hands of the Shah to the extent that he totally forgot about his people whereas the Article 53 of the constitution states that the kingdom is a gift from God, through people, to the Shah.

On the other hand we have the Islamic Republic which rose through the will of people. The revolution started in a bloody demonstration in 1979 and the real will of people was not even shown until the polling time in the summer of 1980 in which a very high percentage of people voted for the Islamic republic constitution. Therefore the two governments are fundamentally different in regard to legitimacy among people. Shah removed from power all those who criticized him and openly hated democracy (Blanche & Briere, 1980, p. 121).

3.4.2. Religious Legitimacy

The Islamic movement was very much an antidote to the anti-Islamic policies of the Shah's era and it reversed the process of de-Islamization which was already in its process for decades (Abrahamian 1998, p. 26). Historians believe that both Pahlavi rulers were in favour of a fundamental change in the religious beliefs of the people and therefore placed a strong emphasis on the reformist side of their modern governments. Michael Fischer, a writer, believes that we may say that the revolution started as a result of economical and political malfunctions, but it definitely continued as a result of the people's traditional and religious beliefs (Fischer, 1980, p. 190). The second amendment of the constitution at the time of the Shah stated that the King should not make any more that would marginalise religion but what he did was exactly against the rule. Other than that, there is an emphasis on the presence of 5 jurists in the process of law making to make sure that the laws which are passed in the parliament are compliant with the rules of *Sharia*, and this rule was neglected for the whole Pahlavi era. It was only during the time of Seyyed Hasan Modarres in which he had the right to be present in the parliament and to supervise the process, and whose presence was not tolerated and therefore ended.

There were as well many occasions in which the Constitution was neglected during the Pahlavi era, but in the time of the governance of the Islamic Republic, this full adherence to the law has been always the major point in every achievement. The Islamic Republic is the type of government which is dependent on its people, leader and religion. Article 2 of the constitution has an emphasis on these three canons. Also the articles 4, 5 and 6 describe the relationship between religion, leader and people in the government respectively. The Constitution is based upon faith in God and the divine

revelation and resurrection, the justice of God, Imam, and exalted dignity and value of human being (Article56).

The form of the Islamic Republic was put on trial to be elected by people in 1980 and it was approved by a big majority of the voters. Then they went to the polls to choose the Assembly of Experts (Shoura-e-Khobregan) which gives people the power to indirectly control and observe the deeds of the leader. The leader has the responsibility to implement the overall policies of the Islamic republic which are mentioned to him in occasions by the Expediency Discernment Council which is an administrative assembly within the government of the Islamic republic of Iran. In Article 110 of the constitution it is mentioned that the Islamic republic is made up of the independent powers, namely the Legislative, Executive and Justice Departments. The relationship between the three is mentioned by the Leader (Article57).

All the financial, economic, administrative, civil, criminal, cultural, political laws are necessarily based upon the Islamic *Sharia*. Therefore, the first ranking positions in the Islamic republic cannot be held by non-Muslims. This is a source of legitimacy for the Islamic Republic, since the people of Iran wanted their government to be so and the Iranian society rejected Shah's rule exactly because of implementing non-Islamic rules (Articles, 1, 2, 4).

3.4.3. Elections

3.4.3.1. Parliament

In a democratic system, election is an ultimate tool to show the role of people in the process of law making. One of the effective ways to inspect the status of the social and political Iran is to inspect its parliament during the Shah's era. The only democratic aspect of this government was indeed the parliament, which of course did not have

enough power to go any further in the process of democratization of the government as a whole. Iran had always had a parliament and constitution since 1870s but had never had a strong body to implement it in the form of a powerful source of ruling. Unfortunately, parliament turned out to be a tool in the hands of the Pahlavi rulers and lost its sense in the end of 1970s.

The most important aspects of the constitutional revolution were this notion that ‘real’ representatives of people are let in the parliament to really ‘represent’ their respective areas. This was always a neglected rule in the Pahlavi era as they did not allow independent members enter the parliament and tried their best to galvanize the parliament in their own way to benefit them rather than people.

Hasan Moddares was an example of this vote rigging in the elections during the Pahlavi era, in which he did not get a single vote and he wondered what happened to the vote he gave to himself?! Dr Ghasem Ghani, a perceptive scholar of the Pahlavi era believes that there was no real hope among people in that respective time and a suffocating atmosphere of disappointment was in the air as no one was really hopeful about the fruits and results of the constitutional revolution. It was only a number of lawyers who chose to be a member of Parliament as their ‘career’ and spent their life being a ‘representative’ (Ghani, 1955, p. 5).

The independence of the powers in the Islamic Republic and the will of people in the government is the clear rise of popular sovereignty, legislation, and it also embodies the power and democracy, and republic in its real meaning. It also embodies the teachings of Islamic *Sharia* to be named consultation, common wisdom, supervision of power and a real monad of democracy. In fact, the legislative power of the Islamic republic is the real embodiment of fading of personal dictatorship, real and fair distribution of power, rising of popular political sense, etc.

One of the most important aims of the Islamic Revolution was to topple dictatorship and to establish real political engagement and responsibility. Other aims include establishment of a religion-based democracy, creation of a free society and establishment of an independent parliament.

3.4.3.2. Senate

The Senate had a higher authority in the process of law making than the parliament. The law or amendments passed at the parliament still required an approval before being finalized and therefore necessary to implement. If a law was rejected in the senate, it needed to go back to parliament to be 'revised' and sent back to the senate to be approved. The senate had 60 members, 30 of the selected by the Shah and 30 of them elected at the polls. Although this looks to be a balance between the role of the Shah and the people in the senate, but the fact is that Shah always played a more important role in the Senate.

On the other hand, the laws all needed to be signed by the Shah himself before being implemented. This automatically gave him an extra authority on what is passed in the parliament and the senate and what isn't. This gave him the authority to use the senate in his own profit and on the other hand, propagate in the world that we, in Iran, have a two-parliamentary democracy like that of the developed world. It was at this time when he decided to establish the Constituent Assembly as a result of which he could gain the control of the parliament to call off or to abolish it all together as well as authority in the financial supervision of the parliament in the royalty. In fact, by establishing parallel structures in different areas of power, he started to overwhelm the politics by his own authority (Asghandi, 2004, p. 212).

The reasons behind incapability of the Parliament in Pahlavi government are:

1. Politically: Parliament in Iran was always under the authority of the government. It never worked as an independent body. Especially after the 1930s, it solely became a means of pretending that there is democratic rule in Iran, but it did not have anything beyond it. Practically, the Pahlavi rule became a naked form of dictatorship after this period. In none of these elections people had a real influence. These elections had no clue of the free, real elections that we know.

2. Foreign powers' policies: Policies and the support of the Western powers was another reason behind the failure of the Iranian parliament. The Western powers supported the Pahlavi because of the benefits they had in this, but turned a blind eye at the naked dictatorship which was around for the whole duration of their power (Asghandi, 2004, p. 206).

One of the initial decisions of Ayatollah Khomeini after the revolution was to re-establish the parliament. The parliament, better known as the Islamic *Majlis* after the revolution, is the most important part of the legislative body of the Islamic Republic. It has a heavy weight on the policy making in the Islamic Republic and the members are all elected in the polls. It is the real embodiment of the will of the people and is the result of collision and exchange of ideas among people. The Islamic Republic is the result of the past dictatorial history of Iran. The aim of the Islamic revolution was to establish an Islamic democracy in which they would have the authority to share and to supervise power. Democracy had never had a real position in the thinking of the rulers and the revolutionaries before the Islamic republic was established. It was right after the establishment of the Islamic Republic that the democratic rights and values started to be formed and discussed in a broad sense.

3.5 A Comparison between Islamic and Liberal Democracy

Liberal democracy in the west has gained a weight to be known as the best way of rule, whereas in the east, the Islamic Republic ‘considers’ itself as a ‘serious’ rival to it. In the last part, we discussed the know-how of the Islamic Republic of Iran and in this part; we are going further into the idea of religious democracy based on Islamic rules in the Islamic government of Iran and examine the relationships of this system with the Western style of democracy and emphasis on this point that the Iranian system has an oversight both on tradition and modernism, whereas the Western democracy has only a say in modernism. We start by a comprehensive introduction to democracy and then try to compare it with the model in the minds of Iranian Muslim intellectuals in the next chapter.

3.5.1 Democracy in the Ancient period

The term is the combination of Demos which in Greek means people and Cratas which means governance. The combination means ‘governance of people over people. There were periods in the human history in which the right to rule by people was not a matter of interest, but it was the personal freedoms and in general it was the relationship between the governor with the people which mattered the most. In these specific periods, the endeavor was to protect the rights of people against the governments and prevented the governments to spoil people’s rights.

The governments were considered the ‘necessary evil’ which ruled over ‘people’ and had different interests from that of normal people. In the course of history this was in mind that if governance is ‘for people’ not ‘over people’ this ‘separation of interests’ would not mean the clash of interests and therefore it would be of profit for the both parties. By the way, the democratic sort of governance was not a preferred model in the

eyes of great philosophers such as Plato (428/427 BC – 348/347 BC) and Aristotle (384 BC – 322 BC). In their view, sharing power with people was never a desirable form of governance (Ghazi Zadeh, 1999, p. 216).

Aristotle believed that a democratic system is a system in which free men ruled (Aristotle, 2002, p. 162). And of course, by ‘free men’ he meant the poor and intellectuals and elite class: “A democracy is a state where the free man and the poor, being in the majority, are invested with the power of the state.... . The most pure democracy is that which is so called principally from that equality which prevails in it; for this is what the law in that state directs; that the poor shall be in no greater subjection than the rich; nor that the supreme power shall be lodged in either of these, but that both shall share it. For if liberty and equality, as some persons suppose, are chiefly to be found in a democracy, it must be so by every department of government being alike open to all; but as the people are the majority, and what they vote is law, it follows that such a state must be a democracy (Al-Buraey, 1985, pp. 88-89).

By democracy, he meant a very basically different view of democracy than that of today. Democracy in his view is a system in which election has essentially no meaning and practically ‘people govern people’. His model was only applicable in the cities of those days, with a population of not more than 10,000 in which only the freemen had the right to implement rules and regulations. The most important characteristics of the old Greece were ‘equality, ‘freedom’ and ‘common decision taking’. In this view of democracy some basic ideas were essentially different than those of today’s including the rights of women, immigration and citizenship regulations and the rights of slaves. After demolition of democracy in the Ancient period, it took 2000 years for the West to reinforce democratic rule again. During those times, governments were mostly oligarchic and absolute monarchies. Democracy rose again, but not to

mean the worst of the best, and the best of the worst rules, but this time to show a clear path for governance (Ghazi, 1996, pp. 752-756).

3.5.2 Democracy in the Modern World

What is known as participation of people in governance in democracy is basically different from what we see today. Although democracy was defined as a single mode of governance in the old days, it rapidly grew into many branches. Therefore, democracy started to mean an entity which all the governments from the Communist block to Western European countries were said to have elements of it. But in general there are basic building blocks, including:

- (1) Individuals have a role in choosing the governments;
- (2) People have a will in governance;
- (3) Everybody is equal in rights and laws;
- (4) Personal and human rights of individuals are guaranteed by the government;
- (5) Rulers are elected in one- or two-step elections;
- (6) There are different political parties and power is shared among them;
- (7) Ruling government is elected from the parties with appropriate participation.

As you can see, the legitimacy of the governments in this view is obtained from people and as individuals have different views and thus votes, power will be shared among different parties. But still the participation of people in governance is not anywhere like that of the Greek of old times (Ghazi, 1996, pp. 758-771).

3.5.3 Religious Democracy

All the basic rules of secular democracies are respected in the religious form too. There are still differences in manifestation. Democracy in this view has three basic canons: governance, constitution, religious legitimacy. Governance in secular democracies is human- based, whereas in Islamic ideology it is transferred from God to human. Article 56 of the Islamic Republic's Constitution shows this canon clearly that power is not an authority automatically obtained, but rather 'received' from God (Ghamari, 2006, p. 354). Therefore, people are required to participate in governance, but not simply do whatever they like to. This participation needs to be in a way which leads to Godly governments. The rule of law in secular democracies is limited to constitution whereas in Islamic governance, it is the *Sharia* rule which defines the limits of rule of law. In Islamic ideology the human mind is limited therefore, is incapable of deciding on its own for a proper welfare. But this is the source of the secular constitutions. In this view, for governing, there is a need for revelations given to humans. And therefore this should be the source of governance (Khomeini, 1997, p. 29).

The same ideology does not recognize human's rule as a non religious, secular law and requires the government to submit to a legitimacy which is given solely by God to Prophet Mohammad. In Shiite ideology, this power is transferred from Mohammad to the Imams. In the time of absence of their 12th Imam, therefore, this power is transferred to a jurist, as God's representative. Therefore, in this ideology, the jurists are God's rulers on the earth (Kadivar, 1997, pp. 46-52).

We will now attempt to explain the ideas of some scholars about Islamic democracy:

According to, Samuel Phillips Huntington (April 18, 1927 – December 24, 2008) an American political scientist:

The Islamic ‘republic’ is the type of democracy in which the right of people to elect leaders are recognized and based on Islamic identity, offers solutions to the social problems.” “The Islamic republic is not a type of government in which the leaders are chosen based on the basis of birth, luck, wealth, power and aggression, but it is the choice between their wisdom, and qualification.” “The Islamic republic is the kind of democracy in which the rulers are elected democratically, voting is the right of everyone, and ballots are private. On the other hand, elections are real; the votes are counted as they are.” “Thus the Islamic democracy is a way of government which is recognizable (Huntington, 1996, p. 8).

According to Muhammad Iqbal (1877-1938), an Islamic democracy , in contrast to secular democracies , which encourage individuals to exploit others for their own purposes , would further freedom, equality, and brotherhood. Iqbal specifically mentions democracy as the preferred form of government(E. Price, 1999, p. 31)and he regards democracy as ‘the most important aspect of Islam regarded as a political ideal(Mir 2007, p. 136) .They only participate in the selection process of the rulers. The Islamic governance is considered to be both Islamic and republic, and being a republic requires people to take part in elections, though it does not give legitimacy to it. The legitimacy of governance is God’s revelations but not human mind(Mir 2007, pp. 48-51). Religion was ousted in the West with the rise of new democratic rule, but this did not happen in the Islamic world. Religion became a modern entity and Islamic government is a manifestation of this modern identity of religion in the new era (Ghamari, 2006, p. 356).

3.5.3.1 Characteristics of Islamic Democracy

The characteristics of Islamic democracy are briefly stated as follows:

1) People can only vote to a jurist. That is, the only path allowed is the Islamic way.

- 2) Such a system is only acceptable among people who prefer this model, needless to say among Muslim nations.
- 3) It is the will of people that brings ruler to power or strip them from their position.
- 4) No decision making is possible without people's direct approval.
- 5) *Sharia* rules need to turn into laws to be able to be implemented into the society.
- 6) Social consciousness defines a necessity for the Islamic morals to be implemented in the society.
- 7) In an Islamic state all the social charities are valid under the supervision of the leader.

3.5.3.2 Advantages of an Islamic Democracy

Here are some of the advantages of Islamic Democracy (Khamenei 2003a, p. 10):

- 1) Rule of God and religion: every government has a basic ideology, the bases of the western governments is freedom and will of majority. In an Islamic state, the base is what God has said through revelations. In a state in which people are Muslim, Islam should rule and the bases of this ruling is a person who has Islam and equality in mind all the time.
- 2) Conditions of a leader in an Islamic state: not anybody can be a leader in a real Islamic state. On the other hand, people should vote in such a way that the right people take over the main leadership that rules in an Islamic state. The leader of an Islamic state needs to have certain characters: first he needs to be knowledgeable of the Islamic rules, besides being honest, brave, down to earth.... Second is the acceptance of people's choice as nobody is automatically the leader of an Islamic state, but it is rather the will of God and His expectation from someone to rule the Islamic nation.

- 3) Rulers are servants of people: in a dictatorship, people are in service of the ruler but in a democracy it is ruler who serves people.
- 4) Special attention to those who occupy the lower strata of society: the lower strata of every country need special attention from the side of the ruler; this is a universal rule which needs to be followed accordingly in an Islamic state.
- 5) Emphasis on conventional knowledge: when in dictatorships governance is based on keeping people ignorant, in an Islamic state, there is a special attention on people's beliefs and attitude.
- 6) Rule of people is a religious responsibility not simply a social interact.
- 7) Legitimacy of the government is not only based on being in accordance with Islamic *Sharia*, but also on the direct vote of people. That is, the Islamic state is not legitimate as long as people have not chosen and recognized it.
- 8) Control authorities: In an Islamic state the leader has to be just, brave, humble and knowledgeable. Having lost any of these characters, the leader will be automatically stripped of his position.

3.5.3.3 The Bases of Legitimacy in an Islamic Democracy

In Islam ruling is only the right of God and no one else has the authority to take over power without His command.

Know you not that it is Allah to whom belongs the dominion of the heavens and the earth? And besides Allah you have neither any wail (protector or guardian) nor any helper (Quran, 2:107).

The only people who can rule over people are those who take their legitimacy from His side and of course His prophets.

But no, by your lord, they can have no faith, until they make you (Muhammad saw) judge in all disputes between them, and find in themselves no resistance against your decisions, and accept(them)with full submission (Quran,4:65).

By the way, God's legitimacy to rule is one thing and acceptance among people is another issue. The reason is simple, if one has not gained his power in as accepted way; his power will not last long. Ali, the Shiite's first Imam, has said that if people are in line with what you say, then rule on them, otherwise, leave them on what they do.

3.5.4 The System of Government in a Liberal Democracy

This is a system of government in which people have contributions in ruling by voting for their representatives. The backbone of this type of governance is freedom and liberalism which itself has had many changes since it was created. At the beginning, the emphasis was on minimizing the role of state in economy and society. Then after the theory of Adam Smith about the "Hidden Hands", the role of state increased to a point in which it turned into a crisis and changed its oath again to minimize the role of state in living the working of people. The challenge for the theorists of liberalism has always been to keep freedom and equality at an optimal equilibrium, but this has resulted in a situation in which people cannot use their rights fully because only those with wealth can participate in the mainstream. Therefore the tendency was again created to increase the role of the government to regulate the contribution of different socio-economic classes of a country in the political and economical processes. This was the birth of emphasis on democracy, which rather means equality. Nowadays, a combination of these two is in the mind of Western politicians. David Bintan believes there are five factors for a full democracy (Bashirye, 2005, p. 12):

1. Fundamental worth
2. Equality of all persons

3. Majority rule minority rights

4. Necessity of compromise

5. Individual freedom.

3.5.4.1 The Basis of Legitimacy in a Liberal Democracy

In the Medieval times, the rulers considered their rule's legitimacy as the royal blood. After abolishment of rule of church over society, the more humanistic approaches were chosen to rule which seek their legitimacy in acceptance among people. Therefore, these governments see people's satisfaction as a factor for their own legitimacy and emphasis on welfare of their citizens. Therefore, the legitimacy of a government fluctuates with the level of satisfaction of people. Jürgen Habermas believes that there is some sort of controversy between the endeavor of the state to satisfy the needs of business related people and normal people because their interests sometimes clash and the governments need to take some measures to avoid social unrest which is against the good of business people(Vincent, 2001, p. 67).

3.5.4.2 Criticisms of Liberal Democracy

Criticisms of Liberal Democracy are:

1) Ruling is based on temptations and will to power: since the liberal democracies are not assessed based on any religion, their bases is freedom and free will of people. In this view freedom means anything against whatever which limits the will to do as we wish and this is the main reason why even law in such societies is based on the allowance for enjoyment and unlimited temptation. In this view taking up religious limitations are prohibited even if the society seeks them(*Maktab Jomah*, 1985, p. 49vol.4).

2) Ruling is based on money and power: in Western democracies, rules are designed for satisfaction of the rulers of the society. It is only in this context that people's vote is considered. If people want anything against the will of the authorities, there is no guarantee that the request is going to be considered. It is only the higher class of the society which finds its path to power and authority.

3) Lack of real freedom of choice: although it is very much advertised that there is absolute right to vote in liberal democracies, but in reality there is not. There are only lavish advertisements which persuade people to choose and it is not usually based on a merit-based choice (*Maktab Jomah*, 1985, p. 363vol.6).

4) The order of majority is the matter of concern: most of the times a huge number of people do not take part in an election and the rest choose the result which may be only 20 % of the total people.

5) Democracy is conventional: there is no guarantee that the politicians keep to their democratic tradition if the constraints (to democracy) increased, since democracy is not rooted in their faiths.

6) Lack of ruling of real human characters: as mentioned before, there are a lot of factors which prevent the voters to vote for the candidate which is really the privileged candidate in the election.

3.6 The Discourse on Democracy and Modernity in Iran in Recent Literature

Democracy in Iran has always been a part of the written history of the researchers and the authors in the century and before we live in. What follows in this section is a short narrative of the story of democracy in Iran through the eyes of a number of such researchers between 1999 to 2010, including a number of reference books about history and the understanding of democracy and modernity in Iran.

I will start by reviewing the book by Vali Nasr and Ali Gheissari entitled, *Democracy in Iran* published by Oxford University Press, June 2006. The authors of the book have defined democracy in Iran as a factor which has been developed for over a century now; becoming a model of democracy among the Islamic countries. This book chronicles how Iran has contended with this challenge, and what the legacy of that effort means for our understanding of democracy and its manifestation in the Muslim world. This book is not a comprehensive political history of modern Iran, although it does rely on historical facts and analysis.

The authors believe that democracy in Iran is not an imported idea, but have cultural and social roots originating in the Persian Constitutional Revolution over a century ago; the meaning of democracy has not been copied from the West, but it has risen from the traditional cultures of the people. As the authors suggest, even since the 1900s when the Shah was forced to approve the constitution and form the *Majlis*, the Iranian people were looking for a way to reconnect freedom with stability, which was then secured with an iron fist.

It has not been a smooth road anyway. Starting in the 1940s, ideologies such as nationalism, socialism and Islamism were competing for more power, and complicated matters. The smooth road to democracy which had its roots in the Constitutional Revolution was bumpier than ever during this period of time. The fact is that Shah Reza Pahlavi's road to development was by force and with an iron fist until 1941. His role was then continued by his son, Shah Mohammad Reza Pahlavi who was overthrown in 1979 by the Islamist revolutionaries. He had left the country a month earlier.

They doubt the legitimacy of the roles of some of the democratic nomads of the country in the recent history, one of whom is Mohammad Mossadegh whose

premiership was crumbled by a coup in 1953. He remained a nationalist hero to many of the Iranian masses but in fact history suggests that he was not really the defendant of either nationalism or democracy in Iran. The authors then suggest that real democrats were the revolutionaries who in fact were replaced by a totalitarian Islamic Republic right after the revolution, hence leaving many of those democrat revolutionaries at bay.

By the way, they try to understand the reason behind the inability of a democratic regime to take power and gain centrality in Iran during the 1960s and the 1970s. Also, they discuss the effect of modernity, social movements, economic shifts and the experience of the revolution on the process of democratization in Iran. They suggest a smooth and gradual road to democracy as well as a new interpretation of democratic rule in an Islamic country.

The next book covered, is titled *Globalization and Democracy in Iran*, by Seyed Masoud Shahram Nia and published by Nashr-e Negah-e Mo`aser, 2007. Based upon a scientific and academic method, the book is divided into two sections: first the different theories of globalization and democracy and the factors involving them and second the factors of democracy in Iran and the effects of globalization on it. His methodology is based on the theory of the “Third Wave of Democracy” by Huntington. Huntington was curious to know the reasons behind the interest of many governments toward democracy in the second half of the twentieth century. He divided the process of shift to democracy into three portions: from 1828 to 1926, from 1926 to 1974 and from 1974 to 1990. He then claimed that democracy’s wave is on its path from one country, one region to the other. But then he forgot that without cultural and social preparedness for democracy, the realization of democracy in countries across the world is a farfetched ideal, which is perhaps the very reason for the bumpy road to democracy in Iran.

He then seeks to analyse the fight for democracy in Iran using Huntington's 'three- wave' model : the first one during the Persian Constitutional Revolution, deeply affected by the world events and libertarian movements in the 19th century including the British, French, and American revolutions which not immediately, but finally resulted in a strong form of democracy in those countries. He considers the phenomena such as Constitutional rule, parliament and etc as the most important factors in the democratization period in Iran.

Then comes the era of Shah Reza Pahlavi whose rule, though quite progressive in many aspects, was with oppression and totalitarianism. It was by no means similar to the models of parliamentary rule and the rule of law in the West as it was emptied of any respect for personal and political freedoms. It is hard to recognize this period as a democratic rule, but much as anti-traditionalist, Western-oriented, and fixed on oppression as a necessity to stable development. Shahram Nia considers the end like the beginning of this movement, very much inspired by the world events. In fact the beginning of Shah Reza's rule coincided with the rise of Fascism in Italy and ten years later, in 1933 the rise of Nazism in Germany under Hitler's rule. During the period of 1922 to 1936 we also witnessed the rise of many dictatorships, in places such as Hungary, Yugoslavia, Bulgaria, Czechoslovakia, Portugal and Greece.

The second wave started with the fall of the Shah Reza Pahlavi in 1941 and it lasted until the nationalization of oil in 1952. This was also to some extent the result of the end of the World War II and the beginning of democratic rule in Japan, Korea, Italy and Germany which was then moved to other parts of the world as well. He believes, that Shah Reza Pahlavi was in fact looking for a dictatorial rule based on extreme forms of nationalism, pseudo-modernism and pseudo-secularism, thus creating hegemony to his rule. After the 1941 shift of power and the events in Europe everything totally

changed and the intellectuals, political parties and political lobbies found an opportunity in the light of freedom to establish themselves in the society with their ideologies and proposals. Democracy was not however well established during the reign of Shah Mohammad Reza Pahlavi. With the premiership of Mohammad Mosadegh, and his reforms in limiting the power of the Shah and the authority of the royalty and with his endeavour in nationalizing the oil, a great leap toward democracy was started but again it was oppressed after the 1953 coup which overthrew Mohammad Mossadegh's elected government and sent him to exile. Mohammad Mossadegh committed himself to too many reforms in the society which led to failure with the divisions which were created among his compatriots. To be more exact, he failed because of lack of cohesion in his party (The National Front), unhappiness of the armed forces, foreign influence, and finally the 1953 coup which overthrew his government. Immediately after the coup all the political parties were abolished and a complete dictatorship was established. Political activists were imprisoned and with the help of intelligence services, the activities of all the political groups were suppressed. This failure falls well in accordance with the theory of Huntington about the failure of the second wave of democracy, just as 13 countries did fall in dictatorship during the period from 1962 until 1970s.

The third wave started during the Islamic Revolution of 1979. As it was said earlier, after the fall of Mohammad Mossadegh's government in 1953 Shah Mohammad Reza Pahlavi took hold of the power and had a series of oppressions, atrocities against the intellectuals, arrests, tortures, and clashes and limiting the freedoms of the intellectuals. At the same time and as a result of the jump in the oil prices, during the 1960s and 1970 the economic development of the country is had a boost, at 14 and 30 percent for the decades of 1960s and 1970.

In fact, this mismatch between economic development and political reforms was one of the reasons behind the crises and revolution: his infrastructural reforms in transport, agriculture, irrigation, and civil plans were only possible by the jump in the oil prices. Such reforms did not however result in political change and the regime could not establish a good relationship with the intellectuals by opening up the political arena and giving equal opportunities to all. This unequal development was one of the primary causes of the revolution.

He considers the 1979 revolution as a revolt to dictatorship and calls it the third wave of democracy in Iran which coincided with many democratically driven changes in Europe as the dissolution of the Soviet Union became near. Such changes in Europe and South America and alike happened to replace the government of the armed forces with that of civilians, and to bring democracy and the rule of law to such countries. Basically Huntington does not recognize the Islamic revolution in Iran as a step toward democracy. He believes on the other hand that 'The easy money of oil flowing into Iran and Iraq has not been a help to stable industrial development and the spread of democracy and to establish a civil society, but mostly to establish and empower the dictator's propaganda'. He also considers Islamic extremism as a potential threat to the peace, development and the spread of democracy throughout the world. Shahram Nia has a different perspective toward the Islamic revolution and believes that the Islamic revolution was one of the many examples of the third wave of democracy which replaced a dictatorial, totalitarian monarchy with an Islamic republic which commits itself to democratic rituals such as direct vote of people, referendums, parties, and etc to affect the politicians the way people want them to be.

The third piece is based on a book by Fakhroddin Azimi, *The Quest for Democracy in Iran: A Century of Struggle against Authoritarian Rule*, published by

Harvard University Press (2008). Opposition to dictatorship was a common theme during the period after the fall of Shah Reza Pahlavi. The royalty though had a different definition for dictatorship, i.e. the strong prime minister and cabinet, whereas the definition of the Parliament included a government which refuses the orders of the Parliament. Thus goes the introduction of Fakhroddin Azimi to his book “*The Quest for Democracy in Iran*”. He tries, through a sociological interpretation of the royalty and Majlis during the relative freedom during the 1960s and 1970s to find an answer to why despite the existence of democratic institutions, democracy was not firmly established in Iran. He has also tried to answer the myth of leadership in Iran. His book is a very valuable book about the events which took place during and after the 1953 coup in Iran with the least amount of greed, grievance or bias against the historical events.

“*The Quest for Democracy in Iran*” has examined and described the services of the Iranian premiers during the 1940s and 1950s in 20 extensive chapters and has discussed the role of the intellectuals in governance during these years. The book has also examined the many documents released by the British intelligence agency in a transparent and fair way. He has not only given a clear description of the political situation of Iran during the premierships of Ghavam, Mosadegh and Razmara, but also has offered an extensive review of their efficiency in facing problems, and their interactions with other ministers. His researches started in 1977 and continued right up to the publication of the book in 1989 and does not solely put the blame of the crisis of democracy on the foreigners, the *Toodeh* Party (Communist Party) of Iran and the Shah himself, but at the same time, he blames the Majlis, constitution and the intellectuals for the inefficiency of the royal and the ruling.

In particular, the book emphasizes the interactions of the British diplomats, based on the documents which he has worked on during his studies in Oxford. Despite

this, he has sometimes overemphasized the role of foreigners in the events occurring in Iran, making it difficult to compare them with reality.

Another is by Nikki Keddie in her book *Modern Iran: Roots and Results of Revolution*, Yale University Press, (October 1, 2003), where she explains the reasons and roots of the Islamic Revolution in Iran. She tries to give a picture of the future of Iran in this book and also examines the political and social changes which have occurred in the past 25 years. She believes that there has always been a feeling of national and historical solidarity between the people of Iran which dates back to long before nationalism appeared in the modern history of Iran. Iran is a rich collection of cultural and historical identity, though sometimes it is simply summarized in the Shiite ideology. She believes that the economic and political interactions during the *Qajar* dynasty made people so anxious of the *Qajar* rule, causing a deep feeling of hatred among the masses toward the West. On the other hand, and as a result of geographical situation of Iran, the traditionalist forces such as the clergy, traders, and feudal blocked the way for further reforms. During the Pahlavi era, development and reform started with a very rapid pace and a mismatch between fast economical development and almost nonexistent political reforms caused social and economical unrest. At the time of the 1953 coup and such economic and political unhappiness of the masses, and other Western plots in Iran, rage and hatred filled the masses. This hatred caused the strong tendency among the masses to return to the original Islamic identity. The combination of religious and nonreligious movements in Iran under the charismatic leadership of Ayatollah Khomeini empowered the revolution. This book praises the role of the Islamic republic in the development of scientific and cultural aspects of the society as well as the improved position of women in Iran after the 1979 revolution.

Finally, the work by Ali Mirsepassi, entitled *Democracy in Modern Iran: Islam, Culture, and Political Change*, published by NYU Press (2010). The question posed by the author in this extensive piece of writing is: can Islamic societies accept and welcome democracy?

In his book he offers the reader with a new look on the social and political exchanges, leaving most of the responsibility of maintaining and strengthening democracy to civil institutions which provide citizens with an everyday experience of the meaning and the soul of democracy, rather than providing them with theories. He also offers a deep insider view of Iranian society and explains the potentials in Iran and Iraq to appreciate democratic concepts. The book offers the reader with an overall and holistic look at the Iranian and Islamic societies rather than the distorted ideas which most Westerners have about them, and the opposition the Islamic world has shown against democracy. The book provides the reader with an insight into the current issues going on in the society, and has shown a balanced perspective toward democracy, which is popular in Iran and other Eastern countries, helping the reader to obtain a more accurate image of the real Iran and its political realities. The Arab uprising which started in Tunisia and spread throughout the African and Middle Eastern Arab nations has brought about a new urgency in understanding the compatibility of Islam with democracy, as Islamists' roots are seen in almost all Arab riots against Western-minded dictators.

French author Olivier Roy's 1996 work, "The Failure of Political Islam", is now put on trial again as many of the claims made in that book are now questioned in the recent uprisings. Roy claims that "Islamism has lost its original impetus" and as a result is "condemned to serving as a mere cover for a political logic that eludes it", seem to be totally off the mark when we look at the popular demand for, let's say Ikhwan al

Muslimin, a banned Islamist group in Egypt. And even the idea of "re-Islamization" in the Muslim world which meant a new, "post-Islamism" period seems on shaky ground.

This theory would ideally foresee the fall of the Islamist Iran, which has yet to happen.

By considering this and reading Ali Mirsepassi's book, "*Democracy in Modern Iran*", we are warned that if the West wants to make any change in Iran, it is definitely impossible to approach with wrong information. Olivier Roy who is a sociology professor in the United States, utilizes several Western philosophical and political perspectives such as "Europe and secularism" or theories of (post) modernity, as well as taking into consideration the works of prominent modern Muslim thinkers such as Mohammed Arkoun and Talal Asad. There is too little about Iran in the first chapter of the book, and most of the book is concentrated on Western ideologies rather than an analysis of the actual situation in Iran, which makes it more frustrating. Mirsepassi puts too much emphasis on contemporary Iranian intellectuality, sometimes overwhelming the reader who is more interested about the political realities of the country.

On the question of Islam, democracy, and (popular) national sovereignty, the question posed was, "What about the foreign influences in Iran which act as a barrier to democracy?" Iraq's attack on of Iran in 1980 with Western support, and the post-September 11 invasion of Iran's neighbors are two significant external factors which led to the extra pressure put by the Iranian government to block any democratic change in Iran. Other than that, there have always been cautions that an intervention by the United States or the NATO is an eminent fact that cannot be overlooked in the eyes of Iranian politicians, giving the regime in Tehran enough reasons to heighten Tehran's national security concerns and providing a mindset which is in conflict with a responsible national state. The unclear links between the Shiite Islam (the most practiced religion

in Iran) and the feeling of nationalism have been a source of strength for an Islamist government which has, since its birth in 1979, shown itself committed to regular elections. However, there is a lack of discussion about the Islamic constitution, more specifically, the Iranian parliament and the role of the legislative branch, and some of the most prominent democratic institutions in a widely populist ‘democracy’ in Iran.

3.7 Conclusion

In this chapter, an account was given of the transition of Iranian politics from traditional old Persia to the modern history of Iran. This is the story of modernity and its influence in the politics and the society of Iran. This experience started in a different relationship with the West and this was the main source of inspiration for the modernization experienced during the past few decades of the political history of Iran.

The reason behind the failure of a full democracy is the controversy of centralized power and distribution of power among different parties. The modernization process comes to the point in which in the Pahlavi dynasty, the old, traditional dictatorship, turned into a modern day, naked dictatorship. As Jürgen Habermas suggests, a system breaks down when it cannot sustain its responsibility (Bashirye, 2005, p. 216). The modern dictatorship of Pahlavi dynasty did not have the capacity to sustain democratic rule and on the other hand when it could not hide its inner being, faced a crisis of legitimacy. The rise of the Islamic Republic was the result of ignoring the will of people to implement Islamic rules in the secular laws of government.

In this chapter we try to compare and contrast between the liberal and the Islamic democracies. Liberal democracy serves as the best satisfier of people’s materialistic needs and puts no emphasis on people’s spirituality. Legitimacy is based on people’s acceptance and there is no other moral duty to it. In an Islamic state and

therefore an Islamic society, everyone is adhering to Islamic rules of God and therefore those who have the strength unearth the materials of religion from numerous books to find the correct path.

The main difference between a liberal democracy and an Islamic democracy is that in the liberal democracies there is no answer to very basic questions of humanity such as the meaning of life and the Day of Judgment. People raised in these societies are prone to reach to an absurd life. In an Islamic state on the other hand the emphasis is on the meanings beyond welfare and livelihood in this world. Because the Prophet and his successors are not present at the current times, we have to choose the nearest model of government to those endorsed by the Prophet and his succession Imams. Therefore, people have to adhere to the Islamic rule by accepting the rule of a jurist. Although God automatically guarantees the legitimacy of such a system, yet acceptance among people is required before this system can start this ruling, because a government without people's acceptance cannot do much.

So by conclusion, power and sovereignty in the Islamic Republic results from public vote and no one (and no group) without relying on public votes does have any right to rule and the way people choose the government is either by the direct election or referendum or indirectly through their representatives. Accepting principle of national sovereignty and public opinion has been the fundamental basis of the Islamic Republic and the rise of political leaders.

In addition, the Republic requires that the ruling be based on democratic principles, which means that the monopoly power of the person or certain people should be avoided. People of all social classes and categories, also can have a representative in the Government and that the division of labour and distribution of power, prevents the occurrence of dictatorship. One very important principle in the Constitution is

recognized definitions of government institutions and that the job description and their relation to each other, and to the people, has been determined.