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Pre-requisite of Religiousness Stipulated for the Presidential Candidate according to Egyptian and Algerian Legislation; An Evaluative Study in the Light of Islamic Law (Shari'a)

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Abstract

The study aimed at evaluating the religiousness pre-requisite stipulated for the presidential candidate according to Egyptian and Algerian Legislation in the light of Islamic Law (Shari'a). The study used the descriptive methodology to reach the targets in question. To gather the required data, a review of literature was administered. The study came to the conclusions that: first the Islamic Law stipulates that the presidential candidate must be religious; second, the Egyptian and the Algerian Constitutions does not explicitly necessitate the presidential candidate to be religious. However, the Algerian Constitution implicitly necessitates the presidential candidate to be virtuous, unlike the Egyptian Constitution that does not fully meet what Islamic Law requires to be religious. The study recommended that the Egyptian and Algerian Constitutions ought to explicitly necessitate the presidential candidate to be religious.

Keywords: *Religiousness Pre-requisite, Presidential Candidate.*

ملخص استهدفت الدراسة الحالية في بيان مدى الاعتناء بشرط العدالة في المترشح لرئاسة الدولة في التشريعين المصري والجزائري وتقييم ذلك في ضوء الشريعة الإسلامية. وتمثلت أداة الدراسة في مسح الأدبيات المتعلقة بموضوع الدراسة. وأسفرت الدراسة عن العديد من النتائج أبرزها الآتي أن الشريعة الإسلامية تشترط العدالة فيمن يتقدم لشغل منصب الإمامة العظمى - أن الدستور المصري لم يف بمتطلبات شرط العدالة فيمن يتقدم لشغل منصب رئاسة الدولة كما أنه أغفل النص على اشتراطها صراحة. - أن الدستور الجزائري يتمايز عن الدستور المصري في استيعابه لمقتضيات شرط العدالة فيمن يترشح لمنصب الرئاسة من المنظور الإسلامي إلا أنه أيضا أغفل النص - صراحة - على هذا الشرط. وأوصت الدراسة المشرع المصري والجزائري بضرورة النص - صراحة - على شرط العدالة فيمن يترشح لرئاسة الدولة.

الكلمات المفتاحية: شرط العدالة، المترشح لرئاسة الدولة.

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Introduction

Praise be to Allah and Peace and Blessings of Allah upon our Prophet Muhammad, his family, his companions and all who follow his guidance to the Day of Judgment .

(O, believers, be pious to Allah and care nothing but to die on Islam) ⁽¹⁾.

(O, people, be pious to Allah Who created all of you from a male and a female and who created the female from the male and created all humans from both of them. O, people, be pious to Allah Who you will stand before for Judgment and He will question you about what you have done with your relatives. Remember that Allah observes you all) ⁽²⁾.

(O, believers, fear Allah and say what is right in order that Allah mend your deeds and forgive your sins. Whosoever obeys Allah and His Messenger shall win a great victory) ⁽³⁾.

To proceed ⁽⁴⁾:

The position of presidency is of utmost importance. This importance is confirmed by the Holy Text that orders the believers to obey their rulers as they obey Allah, Exalted be He, and His Messenger, peace be upon him. Allah, Exalted be He says: (Believers, obey Allah and obey the Messenger and those in authority among you) ⁽⁵⁾; Allah, Exalted be He, ordains that all people must obey those who are in authority ⁽⁶⁾. What also emphasizes the importance of this position is that it is an obligation for all the nation to commit to it as Jihad and Islamic Science seeking. This importance is also intensified by the idea that this office is legislated to follow in the footsteps of the Prophet, peace and blessings of Allah upon him, to guard Islam and to run the nation's affairs according the teachings of Islam ⁽⁷⁾. Owing to the importance of this position, Islam requires particular pre-requisites to occupy it. Of these pre-requisites is that a candidate must be religious. It is not permissible for a non- religious person to run a Muslim state ⁽⁸⁾.

In spite of the importance of this pre-requisite, it is noted that Muslim countries deal with it differently. Some legislations refer to it whereas others pay no attention to it. That is why the question has been raised about how the Egyptian and the Algerian Legislations deal with this pre-requisite and to what extent they conform with the teachings of Islam. This is the core of the current study.

The Problem of the Study

The study problem is put in the following main question;

To what extent is the pre-requisite of religiousness required for occupying the presidency office taken into consideration by both Egyptian and Algerian Legislations and to what extent do both of them conform with Islam teachings?

This main question can be divided into the following subcategories;

1- What is Islam viewpoint of the pre-requisite of religiousness specified for candidacy for the presidency office?

Pre-requisite of Religiousness Stipulated for the Presidential Candidate according to Egyptian and Algerian Legislation; An Evaluative Study in the Light of Islamic Law (Shari'a)

2- To what extent is the pre-requisite of religiousness required for occupying the presidency office taken into consideration by Egyptian Legislation and to what extent does it conform with Islam teachings?

3- To what extent is the pre-requisite of religiousness required for occupying the presidency office taken into consideration by Algerian Legislation and to what extent does it conform with Islam teachings?

The Objectives of the Study

Based on the pre-raised questions, the study objectives are as follows;

1- Investigating Islam viewpoint of the pre-requisite of religiousness specified for candidacy for the presidency office.

2- Investigating to what extent the pre-requisite of religiousness required for occupying the presidency office is taken into consideration by Egyptian Legislation and to what extent it conforms with Islam teachings.

3- Investigating to what extent the pre-requisite of religiousness required for occupying the presidency office is taken into consideration by Algerian Legislation and to what extent it conforms with Islam teachings.

The importance of the Study

The study importance is shown in two aspects;

First: Theoretically;

The study seeks to bridge the gap in this area to develop what previous studies have come to.

Second: Practically;

The study draws the attention of legislators to adopt the Islamic viewpoint concerning the pre-requisite of religiousness specified to be able to candidate for presidency office.

The Methodology of the Study

The study has used the descriptive methodology to reach the targets in question. To gather the required data, a review of literature has been administered.

The Scheme of the Study

The study has been planned as follows;

- Introduction.
- Chapter I.
- Chapter II.

- Chapter III.
- Conclusion.
- Bibliography.

The introduction has been given. So, the coming lines will tackle the other points in further detail.

Chapter I

Islam Viewpoint of the Pre-requisite of Religiousness Specified for Candidacy for the Presidency Office

Islamic Law (Shari'a) stipulates that a candidate for presidency of a Muslim state must be religious ⁽⁹⁾. The Scholars unanimously make a condition that a candidate for presidency must be a religious person ⁽¹⁰⁾.

Some theologians report that there is a unanimity on the idea that it is not permissible for a non-religious person to stand as a candidate for the presidency of a Muslim state. Imam Kortoby – May Allah be merciful to him - says: " The Scholars unanimously agree that it is forbidden that a non-religious person to stand for the candidacy for a Muslim state " ⁽¹¹⁾.

Imam Ibn Tamia – May Allah have mercy on him -: says:" There is a unanimity of opinions that it is a must for a candidate for Imamate to be religious and acceptable for witness " ⁽¹²⁾.

Imam Mawardi, May Allah have mercy on him, says: " The candidate for Imamate must be religious " ⁽¹³⁾ " if he is not religious, he must be prevented from the candidacy for Imamate " ⁽¹⁴⁾.

Imam Ibn Hazm states that religiousness is one of the main pre-requisites of Imamate. He, May Allah be merciful to him. Says: " A candidate must be inculpable " ⁽¹⁵⁾.

Imam Ghazali, May Allah have mercy on him, says: " Religiousness " ⁽¹⁶⁾ is " one of the pre-requisites of the Imamate " ⁽¹⁷⁾ and " it is the basis that the Imamate depends on " ⁽¹⁸⁾.

Al-Kady Iyad, May Allah have mercy on him, says: " It is not permissible for a non-religious person to stand as a candidate for the Imamate " ⁽¹⁹⁾.

Imam Kortobi, May Allah be merciful to him, says: " religiousness is an indispensable pre-requisite for the Imamate" ⁽²⁰⁾.

Imam Badr A-Din Ibn Gama't – May Allah be merciful to him, says: " one of the important pre-requisites for the Imamate is to be religious " ⁽²¹⁾.

Imam Al-Kalashandi, May Allah be merciful to him, says: " It is not permissible for a non-religious person to stand as a candidate for the Imamate " ⁽²²⁾ and " it is not permissible for the Muslim nation to choose a non-religious person for the Imamate position " ⁽²³⁾.

The reason for making religiousness as a condition for the Imamate is that a religious person fears Allah and fear of Allah is the key to being reliable and trustworthy and being able to take the responsibility for himself and for others " ⁽²⁴⁾.

There is abundant evidence that the candidate for the presidency of a Muslim state must be a religious person. Of which are the following:

-First Evidence; Allah, exalted be He, when narrating the story of the Prophet Ibrahim, peace and blessings of Allah upon him, says to Ibrahim: " I have appointed you as a leader for the nation. (Abraham) asked: " And of my descendants? "My covenant, said He, " the harm doers shall not receive it" ⁽²⁵⁾. The covenant in this verse means the Imamate and the wrong doers are not permitted to have this Imamate. " The verse shows that religiousness is a pre-requisite for taking over the Imamate" ⁽²⁶⁾. A-Shawkani, May Allah be merciful to him, " A group of theologians use this verse as evidence that an Imam must be religious " ⁽²⁷⁾.

-Second Evidence; If it had been permissible for a non-religious person to be an Imam, it would not have been possible to put the teachings of Islam into effect. That's why, it is not permissible for a non-religious person to be an Imam ⁽²⁸⁾.

-Third Evidence; " One of the main purposes of the Imamate is to observe the religiousness of the subject. So, it is unlikely for a non-religious person to observe this purpose " ⁽²⁹⁾.

-Fourth Evidence; One of the main aims of the Imamate is to eliminate injustice. So, it is unlikely for an unjust person to reach this aim ⁽³⁰⁾.

Nevertheless, the theologians of Hanafi School argues that it is possible for a non-religious person to assume to the Imamate but it is properly disapproved. They say that it is recommended for the Imam to be religious but it is not a must to be so ⁽³¹⁾.

The Hanafi School draws upon two evidence as follows;

-First Evidence; it is reported that the Companions – May Allah please them – perform the prayers after unjust Umayyad caliphs and they did not disapprove their Caliphate ⁽³²⁾.

-Second Evidence; the analogy of the Imamate of the state with the imamate of the prayers. They argue that "the religiousness of the imam is not a pre-requisite for the soundness of the prayers" ⁽³³⁾ and this evidenced by the Hadith that says: " Jihad (Holy Fight) is obligatory whatever the emir is; religious or not and the prayers are obligatory whatever the imam of the prayers is; religious or not " ⁽³⁴⁾. According to the Hanafi School, this Hadith shows that it is permissible for a non-religious person to be an Imam for two reasons:

First; this Hadith indicates that a non-religious person can be an emir ⁽³⁵⁾.

Second; this Hadith makes it clear that religiousness of the imam is not a pre-requisite for the soundness of the prayers ⁽³⁶⁾. Likewise, it is not a pre-requisite for the Imamate of the state ⁽³⁷⁾.

Most of the Scholars reply as follows;

First; the Companions – May Allah please them- accepted to pray after the unjust Umayyad caliphs because those Caliphs took over the Caliphate by force. That is, it is a case of necessity which is unreasonable to infer upon.

Second; the analogy of the Imamate of the state with the imamate of the prayers incorrect since the prayers have nothing to do with the rights of others unlike the Imamate of the state. The Imam of the state must be religious because he can be trusted but the non-religious not.

From this discussion, it is clear that the acceptable opinion is that states that a candidate for the Imamate must be religious for two reasons;

First; the utmost aim of the Imamate is to preserve the religion and the non-religious person does not usually care for his religion ⁽³⁸⁾.

Second; The Imam is meant to set a good example for his subject to follow. If he does not give a good example for his people, this is more likely to cause perversion. Imam Mawardi – May Allah be merciful to him- says: " People are greatly influenced by the model of their Imam. They follow in his footsteps because he is their leader " ⁽³⁹⁾.

That is why if a candidate is non-religious, it is not permissible for him to be an Imam and it is not permissible for the nation to choose him as their Imam ⁽⁴⁰⁾ since the purpose of the Imamate is to implement the principles of Islam and only the religious person who is more likely to observe this purpose ⁽⁴¹⁾.

Chapter II

Egyptian Legislation Viewpoint of the Pre-requisite of Religiousness Specified for Candidacy for the Presidency Office

The pre-requisite of religiousness stipulated for the candidacy for presidency has been neither explicitly referred to in any of the Egyptian constitutions nor in the supplementary laws since the July 1952 Revolution.

But it has been implicitly referred to in some constitutional texts and supplementary laws which stipulate that a candidate must enjoy his political rights ⁽⁴²⁾. Act (120) of the 1956 Egyptian constitution states that: " A candidate for presidency must enjoy his political rights".

Act (101) of the 1964 Egyptian constitution states that: " A candidate for presidency must enjoy his political rights".

Act (75) of the 1971 Egyptian constitution states that: " A candidate for presidency must enjoy his political rights".

Act (134) of the 2012 Egyptian constitution states that: " A candidate for presidency must enjoy his political rights".

Act (26) of the 2014 Egyptian constitution states that: " A candidate for presidency must enjoy his political rights".

Act (141) of the 2019 Egyptian constitution prescribes that: " A candidate for presidency must enjoy his political rights".

The reason for making this condition is to guarantee that the candidate is well-reputed ⁽⁴³⁾. If the person has been convicted of committing an indecent act, he will be deprived of

Pre-requisite of Religiousness Stipulated for the Presidential Candidate according to Egyptian and Algerian Legislation; An Evaluative Study in the Light of Islamic Law (Shari'a)

exercising his political rights for good unless otherwise specified ⁽⁴⁴⁾. This means that the pre-requisite of enjoying political rights has to do with the good conduct.

The pre-requisite of religiousness is also implicitly referred to in the supplementary laws that stipulate that a candidate for presidency has not been convicted of committing a dishonoring ⁽⁴⁴⁾ or mistrusting crime ⁽⁴⁵⁾. For instance, Clause (1) of Act (22) for the year 2014, relating the procedures of presidency elections, make provisions that: " It is a pre-requisite that the candidate for presidency has never been convicted of committing a dishonoring or a mistrusting crime even if he has been granted pardon".

The reason for prescribing this pre-requisite is to select the highly mannered persons for this great position. A misbehaved person is not expected to work for the service of his society ⁽⁴⁶⁾.

It is noted that the statute has been so stringent about this pre-requisite. Not only does it prevent those who have been convicted of committing dishonoring or mistrusting crimes from the candidacy for presidency but it also bans those who have been given pardon as well to guarantee that the candidate's criminal record is clear.

It is also noted that this pre-requisite has not been stated in the constitution document but it has been included in the supplementary law. This may be due to the thought that this pre-requisite is subject to amendment because of changeable circumstances. That's why the legislature has been granted the authority to amend it in reply to changes of circumstances.

In spite of all the procedures taken to select the best mannered of the candidates for presidency, they are not sufficient since they do not fulfill what the religiousness pre-requisite requires. The religious person is not only highly mannered, but he is a practicing Muslim as well. He listens to the teachings of Islam and put them into practice. He is straightforward in his relationship with Allah, himself and others. He does not believe in anti-Islamist ideas such as sophism, Shia, secularism, modernism, liberalism, Marxism, nationalism, racism or any other destructive thoughts. He does take for friends or helpers unbelievers rather than believers.

This meaning of religiousness is not paid attention from the statute. That is, it does not care whether the candidate is a practicing Muslim or not. What cares, from the point of view of the statute, is that the candidate has not been convicted of committing a dishonoring or a mistrusting offence. As long as the candidate abides by what the law prescribes, it does not matter whether the law breaks the codes of Islam or not and whether the candidate is a committed Muslim or not.

Now It is obvious that the Egyptian constitution breaks the principles of Islam from two aspects;

First; it does not explicitly require the candidate for presidency to be religious.

Second; although the constitution and the supplementary law indirectly require the candidate to be well-mannered, this does not meet what the religiousness pre-requisite entails.

Furthermore, the Egyptian constitution breaches what Act II requires. This Act prescribes that: " Islam is the established religion of the country ... and the principles of Islam are the

main source of legislation " (47). This Act entails that all the legislations must be taken from the Islamic sources. These sources require the candidate for presidency to be religious. However, the Egyptian constitution does not abide by this principle. This is considered to be a constitutional infringement.

In addition, the constitution, by not explicitly requiring the candidate to be religious, opens the door wide for the non-religious persons to stand as candidates for presidency. This gives them a chance to have the public influenced by their destructive style of life and ravages the society in the long run.

Chapter III

Algerian Legislation Viewpoint of the Pre-requisite of Religiousness Specified for Candidacy for the Presidency Office

The Algerian constitution follows in the footsteps of the Egyptian constitution concerning the pre-requisite of religiousness specified for the candidacy for presidency. It has not stated this pre-requisite explicitly either. It also gets it implied in some constitutional texts and supplementary laws. It has been indirectly referred to throughout the constitutional clause that stipulates that the candidate for presidency must enjoy his political rights.

Act (39) of 1963 Algerian constitution states that: " Every Algerian Muslim ... enjoys his ... political rights can stand as a candidate for presidency".

Act (107) of 1976 Algerian constitution states that: " Every Algerian Muslim ... enjoys his ... political rights can stand as a candidate for presidency".

Act (70) of 1989 Algerian constitution states that: " Every Algerian Muslim ... enjoys his ... political rights can stand as a candidate for presidency".

Act (87) of 1996 Algerian constitution and its 2016 amendments states that: " Every Algerian Muslim ... enjoys his ... political rights can stand as a candidate for presidency".

The reason for making this condition is to guarantee that the candidate for presidency is a well-reputable person and to exclude from candidacy those who are ill-famed.

This pre-requisite has been also referred to through the supplementary law that relates to the pre-requisites demanded for the candidacy for presidency. For instance, Clause (139) of Supplementary Act no. (16-10) for the year 2016 concerning the procedures of elections which states that: " The application for the candidacy for presidency must include a copy of the criminal record ". The reason for making this condition is to guarantee that the candidate is well-behaved.

Unlike the Egyptian constitution, the Algerian one adds more guarantees to meet further the requirements of the religiousness pre-requisite. It prescribes that the candidate must adhere to the teachings of Islam in the presidential oath. Act (110) of 1976 Algerian constitution, Act (73) of the 1989 Algerian constitution, and Act (76) of 1996 constitution and its 2016 amendments state that: " The president of the state cites the presidential oath as follows; ' I swear by Allah, the Exalted and the Greatest, to respect and glorify Islam'.

Pre-requisite of Religiousness Stipulated for the Presidential Candidate according to Egyptian and Algerian Legislation; An Evaluative Study in the Light of Islamic Law (Shari'a)

The constitution also intensifies that it is not permissible for any governmental body to infringe the principles of Islam. Act (10) of the 1996 Algerian constitution and its 2016 amendments imposes as a condition that: " It is not permissible for any governmental body to break the codes of Islam". From This Act, it is understood that the presidential candidate must be a committed Muslim.

Nevertheless, the constitution, by not explicitly requiring the candidate to be religious, opens the door wide for the non-religious persons to misinterpret those constitutional texts and pervert them meaning they are put for. And this makes it not difficult for non-religious persons to stand as candidates for presidency. So, it is necessary to explicitly prescribe this condition in the constitution document conforming with what Islam requires and with what Act (4) of 1963 Algerian constitution, Act (2) of 1976, 1989, 1996 Algerian constitutions state saying that: " Islam is the established religion of the country", and with what the Preamble of the 1989 and 1996 Algerian constitutions state saying: " Algeria is the homeland of Islam". According to these constitutional clauses, all legislations, including those related to the pre-requisites of presidency, must abide by the teachings of Islam.

Conclusion

The study came to two the following findings:

First; Islam explicitly requires that a candidate for presidency to be religious.

Second; the Egyptian constitution does not make a condition that a candidate for presidency must be religious.

Third; the Algerian constitution does not make a condition that a candidate for presidency must be religious either.

In the light of these findings. The study recommends that the Egyptian legislator ought to explicitly make a condition that a candidate for presidency must be religious. This comes in agreement with what Islam dictates in this question and goes line in line with the 2014 Egyptian Constitution Second Act states saying: " Islam is the established religion of the state ... and Islam teachings are the main source of legislation".

In the light of these principles, the study suggests that Act (141) of 2014 constitution should be annexed by the following article:

-A candidate for presidency must be religious.

The study also makes the recommendation that the Algerian legislator should make a condition that a candidate for presidency must be religious. Bearing this in mind, the study suggests that Act (87) of the 1996 Algerian constitution and its 2016 amendments is to be annexed by the following article:

-A candidate for presidency must be religious.

Notes

1) Surat Al-Imran (The Family of Imran) III, verse: 102.

- 2) Surat An-Nisaa (The Women) IV, verse: 1.
- 3) Surat Al-Ahzab (The Confederates) XXXIII, verse: 70.
- 4) Al-Albany, **Sahih Al-Targheeb wa Tarheeb**, edit. 1, p.3.
- 5) Surat An-Nisaa (The Women) IV, verse: 59.
- 6) Al-Mawardi, **Al-Ahkam Al-Sultania**, edit. 3, p. 3.
- 7) Al-Mawardi, **Al-Ahkam Al-Sultania**, edit. 3, p. 3.
- 8) Al-Mawardi, Dorar A-Solok, edit. 1, p. 84, Ibn Hazm, **Mohalla**, no edit., vol. 9, p. 362, Al-Farraa, **Al-Ahkam Al-Sultania**, no edit., p. 20, Al-Kadi Iad, **Ikmal Al-Moa'lem**, edit. 1, vol. 6, p. 20, Al-Khateeb A-Sherbini, **Moghni Al-Mohtaj**, edit. 1, vol. 5, p. 421 and Muhammad Ra'fat Osman, **Riasa A-Dawla fe Al-Fekh Al-Islamy**, no edition, pp. 145-146.
- 9) Al-Mawardi, **Dorar A-Solok**, edit. 1, p. 84, Ibn Hazm, **Mohalla**, no edit., vol. 9, p. 362, Al-Farraa, **Al-Ahkam Al-Sultania**, no edit., p. 20, Al-Kadi Iad, **Ikmal Al-Moa'lem**, edit. 1, vol. 6, p. 20, Al-Khateeb A-Sherbini, **Moghni Al-Mohtaj**, edit. 1, vol. 5, p. 421 and Muhammad Ra'fat Osman, **Riasa A-Dawla fe Al-Fekh Al-Islamy**, no edition, pp. 145-146.
- 10) Al-Mawardi, **Dorar A-Solok**, edit. 1, p. 84, Ibn Hazm, **Mohalla**, no edit., vol. 9, p. 362, Al-Farraa, **Al-Ahkam Al-Sultania**, no edit., p. 20, Al-Kadi Iad, **Ikmal Al-Moa'lem**, edit. 1, vol. 6, p. 20, Al-Khateeb A-Sherbini, **Moghni Al-Mohtaj**, edit. 1, vol. 5, p. 421 and Muhammad Ra'fat Osman, **Riasa A-Dawla fe Al-Fekh Al-Islamy**, no edition, pp. 145-146.
- 11) Al-Kortoby, **Al-Game' Lahkam Al-Qura'n**, edit. 2, vol.1, p. 270,
- 12) Ibn Taimia, Ahmed Ibn Abd Al-Haliem, **A-Siyasa Al-Sharia fe Islah A-Rae'y wa Raeia**, no edition, p. 27,
- 13) Al-Mawardi, **Al-Ahkam Al-Sultania**, edit. 3, p. 6.
- 14) Al-Mawardi, **Al-Ahkam Al-Sultania**, edit. 3, p. 84.
- 15) Ibn Hazm, **Al-Fesal**, no edit., part 4, p. 180 and part 5, pp. 10-11, and Ibn Hazm, **Mohalla**, no edit., vol. 9, pp. 359-362.
- 16) Al-Ghazali, **Ihiyaa Ulum A-Din**, no edition, p. 115.
- 17) Al-Ghazali, **Ihiyaa Ulum A-Din**, no edition, p. 115.
- 18) Al-Ghazali, **Fadaeh Al-Batenia**, no edition, pp. 187.
- 19) Al-Kadi Iad, **Ikmal Al-Moa'lem**, edit. 1, vol. 6, p. 247 and A-Nawawi, **Sahih Muslim be Sharh A-Nawawi**, edit. 4, vol. 6, pp. 470-471.
- 20) Al-Kortoby, **Al-Game' Lahkam Al-Qura'n**, edit. 2, vol.1, p. 404.
- 21) Ibn Jamaa, **Tahrir Al-Ahkam fe Tadbeer Ahl Al-Islam**, edit. 1, p. 51.

Pre-requisite of Religiousness Stipulated for the Presidential Candidate according to Egyptian and Algerian Legislation; An Evaluative Study in the Light of Islamic Law (Shari'a)

- 22) Al-Kalkashandi, **Ma'ether Al-Inafa**, edit. 2, vol. 1, p. 72.
- 23) Al-Kalkashandi, **Ma'ether Al-Inafa**, edit. 2, vol. 1, p. 72.
- 24) A-Shawkani, **A-Sail A-Jarrar**, no edition, vol. 4, pp. 508-509.
- 25) Surat Al-Baqarah, (The Cow) II, p. 124.
- 26) Al-Jassaa, **Ahkam Al-Qura'n**, no. edition, vol. 1, p. 85.
- 27) A-Shawkani, **Fath Al-Kadeer**, edit. 1, vol. 4, p 160.
- 28) Al-Kortoby, **Al-Game' Lahkam Al-Qura'n**, edit. 2, vol.1, p. 271.
- 29) Al-Kalkashandi, **Ma'ether Al-Inafa**, edit. 2, vol. 1, p. 36.
- 30) Al-Joweini, **Ghiaath Al-Umam**, edit. 1, p. 68.
- 31) A-Zaila'I, **Tabieen Al-Haqeq**, edit. 2, vol. 4, pp. 175-176, Al-Iji, **Al-Mawakef Fe Elm Al-Kalam**, no edition, p. 398 and Al-Kamal Ibn Aby Shoreif, **Al-Mosamara Besharh Al-Mosayra**, no. edit., p. 277.
- 32) Al-Albani, **Irwaa' Al-Ghalil**, edit. 2, vol. 2, p. 304.
- 33) Al-Kamal Ibn Aby Shoreif, **Al-Mosamara Besharh Al-Mosayra**, no. edit., p. 277.
- 34) Abu-Dawoud, **Sunan Abi-Dawoud**, edit. 1m vol. 4, Hadith no. 2533, p. 186, Al-Baheiki, **Ma'refat Al-Sunan wa A-Thar**, edit. 1, vol. 2, Hadith no. 1422, p. 688 and Al-Albani, **Irwaa' Al-Ghalil**, edit. 2, vol. 2, p. 304.
- 35) A-Sana'ani, **A-Tanwier Sharh A-Jamea' A-Saghier**, edit. 1, vol. 5, p. 308.
- 36) Al-Kamal Ibn Aby Shoreif, **Al-Mosamara Besharh Al-Mosayra**, no. edit., p. 279.
- 37) A-Taftazani, **Sharh Al-Mahasid**, edit. 2, vol. 5, p. 244,
- 38) Al-Mawardi, **Dorar A-Solok**, edit. 1, p. 84,
- 39) Mohamed Diaa A-Din A-Raies, **A-Nazariyat A-Siyasia Al-Islamia**, edit. 7, p. 294.
- 40) Abd Al-Kader Ouda, **Al- Islam and Awdena Al-Siasia**, no edition, pp. 101-102 and Mohamed Diaa A-Din A-Raies, **A-Nazariyat A-Siyasia Al-Islamia**, edit. 7, p. 294.
- 41) Enjoying civil rights means that the person is not prevented from the right of making a family, the right of ownership or the right of financial contracting because of insanity or interdiction. Whereas enjoying political rights means that the person is not prevented from the right to vote or to be voted for because of being convicted of committing crimes. Refer to: Jameel Al-Sharkawy, **Drous fe Usul Al-Kanon; Al-Madkahal Ledrasat Al-Kanon**, edit. 2, pp. 227-235 and Wael Abd-Al-aa'l, **Netaq Tabeek Al-Mahkama Al-Dostouria Al-Olia Lmada A-Thania Men A-Dostour, Drasa Tahlelia Mokarana**, edit. 1, p. 549.

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