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Abstract

The study aimed at evaluating the religion 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 a religiously committed Sunni Muslim; second, the Egyptian Constitution does not explicitly necessitate the presidential candidate to be Muslim. In addition, the presidential candidate is neither required to be Sunni nor to be religiously committed; third, the Algerian Constitution explicitly necessitates the presidential candidate to be a religiously committed Muslim. -. The study recommended that the Egyptian Constitution ought to explicitly necessitate the presidential candidate to be a religiously committed

Sunni Muslim. It also recommended that the Algerian Constitution ought to necessitate the presidential candidate to be Sunni.

Keywords: Religion Pre-requisite, Presidential Candidate

ملخص

استهدفت الدراسة الحالية في بيان مدى اعتناء شرط الديانة 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 - صراحة - في المتقدم للإمامة العظمى أن يكون مسلماً، وأن ينتهي المترشح لمذهب أهل السنة والجماعة، وأن يكون ملتزماً بتعاليم دينه- أن الدستور المصري أغفل النص- صراحة - على اشتراط الإسلام فيمن يترشح لمنصب رئاسة الدولة. كما أنه لم يشترط أن ينتهي إلى مذهب أهل السنة والجماعة، وأن يكون ملتزماً بتطبيق تعاليم الدين - أن الدستور الجزائري نص - صراحة - على شرط الإسلام فيمن يُنتخب لمنصب رئاسة الدولة. كما نص على اشتراط أن يكون مطبقاً لأحكام دينه. وأوصت الدراسة المشرع المصري بضرورة النص على شرط الإسلام صراحة فيمن يترشح لرئاسة الدولة، واشتراط أن يكون المرشح منتمياً لمذهب أهل السنة والجماعة، وأن يكون ملتزماً بتطبيق تعاليم دينه. كما أوصت المشرع الجزائري بضرورة النص على اشتراط أن يكون المترشح لمنصب رئاسة الدولة منتمياً لمذهب أهل السنة والجماعة.

الكلمات المفتاحية: شرط الديانة، المترشح لرئاسة الدولة.

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, be pious to 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. The most important pre-requisite is that a candidate must be Muslim. It is not permissible for a non-Muslim 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 require it explicitly whereas others entail it implicitly. 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 religion pre-requisite 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 subordinate questions;

- 1- What is Islam viewpoint of the religion pre-requisite specified for candidacy for the presidency office?
- 2- To what extent is the religion pre-requisite 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 religion pre-requisite 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 religion pre-requisite specified for candidacy for the presidency office.
- 2- Investigating to what extent the religion pre-requisite 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 religion pre-requisite 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 religion pre-requisite 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 Religion Pre-requisite Specified for Candidacy for the Presidency Office

The Scholars (Olamaa') make a condition that the candidate for the presidency office of a Muslim state must be a Muslim ⁽⁹⁾. " A non-Muslim's presidency over Muslims does not work; whatever his disbelief is since the purpose of presidency is to look after

Muslims and guard Islam. A non-Muslim cares neither for Muslims nor Islam" ⁽¹⁰⁾. This pre-requisite is supported by all the Scholars of Islam. It is not permissible for a non-Muslim to rule Muslims. The ruler of Muslims is responsible for guarding Islam and defending a Muslim state. In addition, he is responsible for putting the teachings of Islam into effect. Nobody else but a Muslim who can play this role ⁽¹¹⁾.

The Scholars explicitly stipulate that the candidate for the presidency of a Muslim country must be a Muslim. Imam Ibn-Hazm states that there are four pre-requisites needed for the candidacy for presidency ⁽¹²⁾. They are: Islam, maturity, masculinity and being from the tribe of Quraish ⁽¹³⁾.

Imam Qurtoby states that there are eleven pre-requisites needed for the candidacy for presidency. They are: being from the tribe of Quraish, jurisprudence, military expertise, bravery, freedom, Islam, masculinity, good health, maturity, sanity and uprightness ⁽¹⁴⁾.

Imam Ibn-Jamaa states that there are ten pre-requisites needed for the candidacy for presidency. They are: masculinity, freedom, maturity, sanity,

Islam, uprightness, bravery, being from Quraish, jurisprudence and political expertise ⁽¹⁵⁾.

Not only do the Scholars make the condition that the candidate must be a Muslim, but they stipulate that he must be a Sunni ⁽¹⁶⁾ and practicing Muslim as well. Imam Ibn-Hazm lays down that the candidate must be a committed practicing Muslim ⁽¹⁷⁾.

Some contemporary Scholars annex one more pre-requisite that must be fulfilled. It is the residency in or migration to a Muslim state. A candidate must be a Muslim state permanent resident. Those Scholars state that this idea is evidenced by the Holy Text that says; (Those who believe and migrated, and fought for the Cause of Allah with their wealth and their persons; and those who sheltered them shall be guides to each other. And those who believe, but have not emigrated, you have no guidance towards them till they emigrate. But if they seek your help in the cause of your religion, it is your duty to help them, except against a nation with whom you have a treaty. Allah sees the things you do) ⁽¹⁸⁾. This means that " If a person embraces Islam and does not emigrate to a Muslim country, they will have no guidance from Muslims who reside in Muslim countries otherwise they keep to this pre-requisite ⁽¹⁹⁾.

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

A. Evidence from the Holy Book:

-First Evidence;

Allah, Exalted be He, says: (Allah will not grant the unbelievers any way over the believers) ⁽²⁰⁾. The Scholars draw upon this verse as evidence that the candidate for the presidency of a Muslim state must be a Muslim ⁽²¹⁾. Ibn Hazm explains this verse saying: "The Caliphate is the biggest way. That is, Allah will not grant the non- Muslims Caliphate over Muslims " ⁽²²⁾. Al-Kamal Ibn Al-Homam states that there is evidence in this verse that the the candidate for the presidency of a Muslim state must be a Muslim ⁽²³⁾. "And the Imamate is an authority that is used by the Caliph to get guidance over Muslims and it is not permissible for a non-Muslim to have guidance over Muslims " ⁽²⁴⁾.

-Second Evidence;

Allah, Exalted be He, says: (The believers should not take the unbelievers as guides in preference to the believers, he who does this does not belong to Allah in anything, unless you have a fear of them) ⁽²⁵⁾. Imam

Al-Shawkani says: " This verse shows that the believers are forbidden to take the unbelievers as guides) ⁽²⁶⁾. Imam Ibn-Al-Kaim says: " Since love and patronage of unbelievers are counterparts of guidance, taking them as guides is considered as a kind of loyalty to unbelievers. That is why Allah rules that those who take them as guides are to belong to them not to Muslims and true faith requires disowning unbelievers as guidance is incompatible with disownment. They cannot meet because guidance is honoring while disownment is humiliation" ⁽²⁷⁾. As a whole, " Islam bans believers to take unbelievers as guides, so they are forbidden to take them as rulers since ruling is a kind of guidance and it is forbidden to take them as guides" ⁽²⁸⁾.

B. Evidence from Sunna:

-First Evidence;

Prophet Muhammad is reported to have said: (Islam exalts and never be exalted) ⁽²⁹⁾. Imam Mawardi says; " This tradition shows that it is forbidden to take non-Muslims as guides" ⁽³⁰⁾.

-Second Evidence;

There were Dhimmi (the covenanted) ⁽³¹⁾ under the Prophet and the Orthodox Caliphs reign. However, It

never happened that one of them is appointed as a governor, a judge or a minister in the Muslim state. If it had been their right to participate in ruling the Muslim state, neither would the Prophet nor the Orthodox Caliphs have deprived them of this right ⁽³²⁾.

C. Evidence from the Consensus of Scholars:

There is complete unanimity that the candidate for the presidency of a Muslim state must be a Muslim. Qadi Iad reported this unanimity saying; There is complete unanimity that it is not permissible for the unbeliever to take up the imamate " ⁽³³⁾.

D. Evidence from Reason:

The purpose of Caliphate is to put the teachings of Islam into effect. The only one that can care for this purpose is the Muslim not the non-Muslim ⁽³⁴⁾. That is why, Imamate is not permissible for a non-Muslim whether a disbeliever, apostate or whatever they are ⁽³⁵⁾.

No doubt that a disbeliever cares neither for Islam nor for Muslims. But, it is noteworthy to say that a disbeliever hates Islam and Muslims and spares no effort to plot against Islam and harm Muslims even if they reveal good intentions. This is evidenced by the Holy Text that says: (They wish that you would

disbelieve as they disbelieve, and then you would be equal)⁽³⁶⁾ and the Holy Text that says: (Believers, do not take intimates with other than your own. They spare nothing to ruin you, they yearn for you to suffer. Hatred has already shown itself from their mouths, and what their chests conceal is yet greater. Indeed, We have made clear to you the signs, if you understand. There you are loving them, and they do not love you. You believe in the entire Book. When they meet you they say: ' Die in your rage! Allah has knowledge of what is in your chests. When you are touched with good fortune, they grieve, but when evil befalls you, they rejoice. If you are patient and cautious, their guile will never harm you. Allah encompasses what they do)⁽³⁷⁾.

" These verses explicitly show that unbelievers spare no effort to do harm to Muslims as stated by the Holy Text that says: (They spare nothing to ruin you). Allah, Exalted be He, makes it clear that they yearn for us to suffer and they hate us and this hatred is greater than they conceal in their chests. In addition, Allah, Exalted be He, declares that they might hypocritically pretend to be Muslims to reach their evil intents. Allah, Exalted be He, also mentions that they grieve when

Muslims get good fortunes and they are happy when evil befalls Muslims. And this because of the great animosity towards Muslims" ⁽³⁸⁾. This " signifies the great hatred and malignance they have against Muslims" ⁽³⁹⁾. This meaning is intensified by the Holy Text that says: (You will find that the most people in enmity to the believers are the Jews and idolaters) ⁽⁴⁰⁾. This verse " indicates that every unbeliever hates Muslims and the Jews and the Idolaters are the most people in enmity" ⁽⁴¹⁾.

Now, it is clear that it is a fundamental pre-requisite that a candidate for the presidency of a Muslim state must be a Muslim. It is also added that a candidate must be a permanent resident in a Muslim state ⁽⁴²⁾. This pre-requisite is justified by the idea that residence in a non-Muslim state makes a Muslim subject to being affected by the bad customs and traditions of the non-Muslim cultures. These corrupt customs and traditions might find its way to the Muslim communities through such non- Muslim cultures influenced candidates. Their bad effect is likely to be greater if such candidates come to power.

It is also shown that the Scholars demands one more pre-requisite that a candidate for presidency must be

Sunni. This is justified by the thought that being non-Sunni will undermine the Sunni beliefs for the sake of the misled and misguided ones. Undoubtedly, people are greatly influenced by what their rulers believe.

Moreover, the Scholars stipulate that the candidate must be a practicing Muslim. A non - practicing Muslim usually cares for his own interests at the cost of the common interest.

Chapter II

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

The religion pre-requisite demanded for the candidacy for the state presidency has not been explicitly stated in any Republican Egyptian Constitution since the July military coup d' e'tat in 1952 ⁽⁴³⁾. The pre – requisite of being Sunni has not been mentioned in these constitutions either. A quick glance at the texts of the constitutions of this era will clearly evidence this. Act (120) of the 1956 Egyptian Constitution states that: " The candidate for presidency must be Egyptian and born of Egyptian parents and grandparents. He must also enjoy civil and political

rights ⁽⁴⁴⁾. In addition, he must not be less than 35 years old. He must not be a member of the ex-royal family that ruled Egypt before the July military coup d' e'tat in 1952".

Act (101) of the 1964 Egyptian Constitution states that: " The candidate for presidency must be Egyptian and born of Egyptian parents. He must also enjoy civil and political rights. In addition, he must not be less than 35 years old".

Act (75) of the 1971 Egyptian Constitution states that: " The candidate for presidency must be Egyptian and born of Egyptian parents. He must also enjoy civil and political rights. In addition, he must not be less than 40 years old".

Act (134) of the 2012 Egyptian Constitution states that: " The candidate for presidency must be Egyptian and born of Egyptian parents. He must have never held any other nationality but Egyptian. He must also enjoy civil and political rights. He mustn't have got married to a non-Egyptian. In addition, he must not be less than 40 years old on the day of nomination".

Act (26) of the 2014 Egyptian Constitution states that: " The candidate for presidency must be Egyptian and born of Egyptian parents. He must also enjoy civil and

political rights. He or his parents must have never held any other nationality but Egyptian He mustn't have got married to a non-Egyptian. In addition, he must not be less than 40 years old on the day of nomination".

It is noted that the religion pre-requisite has not been referred to in any of these texts. Some jurists think that this pre-requisite is implicitly referred to in the article that says: " Islam is the established religion of the state ... and Islam teachings are the main source of legislation" ⁽⁴⁵⁾. So, they think that there is no need to explicitly have this pre-requisite in the constitution document ⁽⁴⁶⁾.

It also seems that there is no text that requires the candidate for the presidency to be of certain creed. The reason for this might lie in the idea that the Sunni creed is the dominant one in Egypt and, hence, there is no need to have it referred to in the constitution document.

It can be agreed that the religion pre-requisite can be implicitly understood from the text of the Second Act in the constitution which says:" Islam is the established religion of the state ... and Islam teachings are the main source of legislation" and by this Act, the

candidate for the presidency must be a Muslim. However, this Act is not sufficient for two reasons;

- First, what is mentioned in the Preamble of the 2014 Egyptian Constitution that the reference of interpreting this Act is the rulings of the High Constitutional Law Court not the Holy Book and the Sunni as interpreted by the Salaf (Righteous Ancestors). This might lead to misinterpreting what the Second Act really dictates and circumventing the provisions of law as a result, especially what is related to the pre-requisites of the candidacy for presidency.

Second, there are constitutional acts that contradict with the Second Act such as Act (53) which states that: " All citizens are equal regarding rights, freedom and public duties and discrimination because of religion, creed ... or any other reason is forbidden " and " the Government must take procedures to eliminate all forms of discrimination". According to this Act, the Christian Egyptian has the right to stand as a candidate in presidential elections as long as he meets the other candidacy pre-requisites. This enhances the likelihood of misinterpreting the Second Act and to make it useless.

In addition, leaving out the pre-requisite that entails that the candidate must be a Sunni Muslim makes the door wide open before the candidates from the misguided sects to stand for presidency elections and this a golden chance for them to affect the public opinion and to spread their destructive ideologies.

Besides, leaving out the pre-requisite that entails that the candidate must be a practicing Muslim clears the way for the wicked persons to stand as candidates in the presidential elections. This, in turn, brings in indifference to religiosity and religion ends up useless.

Chapter III

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

Unlike the Egyptian constitution, all the Algerian constitutions since the independence of Algeria from France in 1962 explicitly make a condition that a candidate for the presidency must be a Muslim. Act (39) of 1963 Algerian constitution states that: " Every Algerian Muslim turned 35 years old and enjoy civil

and political rights can stand as candidate for presidency".

Act (107) of 1976 Algerian constitution states that: " No one can stand as candidate for presidency unless he holds the original Algerian nationality, embraces Islam, turned 40 years old and enjoys civil and political rights ".

Act (70) of 1989 Of Algerian constitution states that: " No one can stand as candidate for presidency unless he holds the original Algerian nationality, embraces Islam, turned 40 years old on the day of election and enjoys civil and political rights ".

Act (87) of 1996 Of Algerian constitution and its 2016 amendments states that: " No one can stand as candidate for presidency unless ... he is a Muslim ".

This pre-requisite is intensified by Act (4) of the 1963 Algerian constitution, Act (2) of the 1976 Algerian constitution and the 1996 Algerian constitution and its 2016 amendments when stating: " Islam is the established religion of the State".

The Algerian constitution not only requires the candidate for presidency to be a Muslim but it also make a condition that he must commit to the teachings of Islam. Act (10) of the 1996 Algerian constitution

and its 2016 amendments states that: " It is not permissible for anybody in authority ... to break the codes of Islam".

In addition, the Algerian constitution demands the candidate for presidency to respect Islam teachings as shown when taking the constitutional oath. Act (110) of the 1976 Algerian constitution, Act (73) of 1989 Algerian constitution and Act (76) of 1996 Algerian constitution and its 2016 amendments state that: " The president of the State take the oath saying: I swear by Allah, the Greatest and Most Exalted, to respect and glorify Islam".

This pre-requisite is also emphasized by what 1989 Algerian constitution and 1996 Algerian constitution and its 2016 amendments state saying: Algeria is the homeland of Islam".

From the before-mentioned constitutional texts, it is shown that the Algerian constitution pays more attention to the religion pre-requisite in comparison with the Egyptian equivalent. All Algerian constitution issued since the independence of Algeria explicitly require the candidate for presidency to be a Muslim. They also make a condition that he must be a

committed Muslim. This goes line in line with what Islam calls for.

Nevertheless, the Algerian constitution does not emphasize the idea that the candidate must be Sunni. This is likely to be owing to the thought that it is unnecessary to have this pre-requisite written down in the constitution document since Sunni faith is the dominant creed in Algeria and the candidates are usually Sunni.

Conclusion

The study came to two the following findings:

First; Islam explicitly requires that a candidate for presidency to be a Muslim. It also requires that he must be a permanent resident in a Muslim state. Besides, he must be a practicing Sunni.

Second; the Egyptian constitution does not explicitly require that a candidate for presidency to be a Muslim. It does not require him to be a practicing Sunni either. By this, the Egyptian constitution breaks the teachings of Islam.

Third; in contrast to the Egyptian constitution, the Algerian constitution explicitly requires that a candidate for presidency must be a Muslim. It also makes a condition that he must be a committed

Muslim. However, it does not emphasize the idea that he is required to be Sunni.

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 a practicing Sunni Muslim. This comes in agreement with the 2014 Egyptian Constitution Second Act which states that: Islam is the established religion of the state ... and Islam teachings are the main source of legislation", and with what was dictated by the royal Egyptian constitution which said: " The king of the country must be a Muslim " ⁽⁴⁷⁾, and with what common since the Islamic conquest of Egypt which dictated that Islam is the main source of legislation ⁽⁴⁸⁾, and with what the previous studies have recommended saying that it is necessary to explicitly make a condition that a candidate for presidency must be a Muslim ⁽⁴⁹⁾.

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

-A candidate for presidency must be a practicing Sunni Muslim.

The study also makes the recommendation that the Algerian legislator should make a condition that a candidate for presidency must be Sunni. 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 Sunni.

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-Baghdady, Usul Al-DIN, edit. 1, p. 277, Ibn Hazm, Al-Fesal, no edit., part 5, pp. 10-11, Al-Farraa, Al-Ahkam Al-Sultania, no edit., p. 20, Al-Kortoby, Al-Gamie' Le-Ahkam Al-Qura'n, edit. 1, part 1, p. 404, Al-Nawawy, Sahih Muslim Besharh Al-Nawawy, edit. 4, part 6, p. 470, Ibn Gamaa't, Tahrir Al-Ahkam fe Tadbeer Ahl Al-Islam, edit. 1, p. 51 and Al-Kamal Ibn Aby Shoreif, Al-Mosamara Besharh Al-Mosayra, no. edit., p. 274.
- 9) Al-Kamal Ibn Aby Shoreif, Al-Mosamara Besharh Al-Mosayra, no. edit., p. 273, Al-Khateeb Al-Sherbiny, Moghny Al-Mohtaj, edit. 1, part 5, p. 417, Al-Ramly, Nehaiat Al-Mohtaj, last edition, vol. 7, p. 417 and Al-Dahlawy, Hojrat Allah Al-Balegha, edit. 1, vol. 1, p. 149.
- 10) Al-Kakashandy, Maa'ther Al-Enafa fe Maa'lem Al-Khelafa, edit. 2, vol. 1, p. 35-36.

- 11) Al-Baghdady, Usul Al-DIN, edit. 1, p. 277, Ibn Hazm, Al-Fesal, no edit., part 5, pp. 10-11, Al-Farraa, Al-Ahkam Al-Sultania, no edit., p. 20, Al-Kortoby, Al-Gamie' Le-Ahkam Al-Qura'n, edit. 1, part 1, p. 404, Al-Nawawy, Sahih Muslim Besharh Al-Nawawy, edit. 4, part 6, p. 470, Ibn Gamaa't, Tahrir Al-Ahkam fe Tadbeer Ahl Al-Islam, edit. 1, p. 51, Al-Kamal Ibn Aby Shoreif, Al-Mosamara Besharh Al-Mosayra, no. edit., p. 274, Al-Hoskofi, Al-Dorr Al-Mokhtar, edit. 1, p. 75 and Noaman Al-Samaraa, Political System in Islam, edit. 2, p. 114.
- 12) Ibn Hazm, Al-Fesal, no edit., part 5, pp. 10-11.
- 13) Ibn Hazm, Al-Fesal, no edit., part 4, p. 180 and part 5, pp. 10-11, Ibn Hazm, Al-Mohlla, no edition, vol. 9, pp. 359-362.
- 14) Al-Kortoby, Al-Gamie' Le-Ahkam Al-Qura'n, edit. 1, part 1, p. 404.
- 15) Ibn Gamaa't, Tahrir Al-Ahkam fe Tadbeer Ahl Al-Islam, edit. 1, p. 51.
- 16) Lalakae', Sharh Usul Ie'takad Ahl Sunna wa A-Jamaat, edit. 1, vol. 8, p. 5-30.
- 17) Ibn Hazm, Al-Fesal, no edit., part 5, pp. 10-11.
- 18) Surat Al-Anfal (The Spoils of War) VIII, verse: 72.
- 19) Al-Mawdody, Tadween Al-Dostour Al-Islami, edit. 5, p. 57.
- 20) Surat An-Nisaa (The Women) IV, verse:141.
- 21) Al-Taftazany, Sharh Al-A'kaed Al-Nasafia, no edition, vol. 5, p. 100 and Al-Kamal Ibn Aby Shoreif, Al-Mosamara Besharh Al-Mosayra, no. edit., p. 275.
- 22) Ibn Hazm, Al-Fesal, no edit., part 5, p. 10.
- 23) Al-Hosary, A-Dawla and Siasat Al-Hokm fe Al-Fekh Al-Islamy, no edition, p. 199.
- 24) Al-Hosary, A-Dawla and Siasat Al-Hokm fe Al-Fekh Al-Islamy, no edition, p. 199.
- 25) Surat Al-Imran (The Family of Imran) III, verse: 28.

- 26) Al-Shawkany, Fath Al-Kadeer, edit. 1, vol. 1, p. 380.
- 27) Ibn Al-Kaim, Ahkam Ahl A-Zemma, edit. 1, p. 499.
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