

Seqat-ol-Eslam Tabrizi's Political Thought

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ABSTRACT

Prior to the establishment of Safavid dynasty, the Shiites were often away from the government and they obtained just limited opportunities for establishing a government. Obviously, in these circumstances no opportunities and necessity was felt in order to develop a Shiite political jurisprudence, but establishing the Shiite Safavid dynasty made this necessity and gave the Shiite scholars an opportunity to codify the Shiite Political Thought. Most of these thinkers have developed their views based on the division of religious and customary tasks among the ulema and great Sultan. This thought remained until the emergence of constitutionalism movement, but penetrating the democracy thought caused that the religious community reacted and led to forming new interpretations of the way of governing in the absence era, and ulema such as Akhund Khorasani, Allameh Naeini and Seqat-ol-Eslam Tabrizi were its bearers. This article tries to explore Seqat-ol-Eslam Tabrizi's the intellectual roots and compare his political ideas and constitutional and democracy principles adaptively using the library sources and documents and by analytical-descriptive method.

KEYWORDS: Political thought; Seqat-ol-Eslam Tabrizi; Constitution

INTRODUCTION

Ali ibn Musa, Seqat-ol-Eslam Tabrizi was a famous Clergyman in Tabriz and was the head of Shaykhism cult. He became familiar with the constitution before the sparks of constitutionalism movement, and after granting the constitution endeavored by writing and practice for developing what he had learned of Constitutionalism. Before Mirza Naeini, Seqat-ol-Eslam explained the constitution based on his views in the dissertation "Lalan" and tried to indicate that the constitutional principles were compatible with Islam. However, his character and thought has been less studied and researched. "Seqat-ol-Eslam Tabrizi biography" written by Nosratollah Fathi is one of the conducted works which tries to arrange his actions regularly based on his letters and papers. Mashallah Ajoudani, who has derived the name of his book "Iranian Constitution" from "The combination of Iranian Constitution" by Seqat-ol-Eslam in the dissertation "Lalan", has described his ideas in three pages. Iraj Afshar has also reflected some of his ideas and political orientation in an introduction to "Letters of Tabriz". Javad Abolhossini has also written an article entitled "An overview of Seqat-ol-Eslam Tabrizi's Political thought" which is only an overview of Seqat-ol-Eslam's ideas and does not have a proper model for evaluating his ideas. Therefore, the lack of comprehensive study for evaluating Seqat-ol-Eslam's political ideas is felt and this paper attempts to fill this gap.

This evaluation first attempts to review the legitimacy of government in the absence era from Seqat-ol-Eslam's perspective. Then compares the Constitution as he understood with what the policy scholars have considered and also the concepts such as the nation, law, monarchy, and parliament (Majlis), etc are studied. In order to achieve this purpose, two important works, which are the basis of this paper, have been used, first "Popular martyr Seqat-ol-Eslam Tabrizi biography" and second "The written works by Seqat-ol-Eslam Tabrizi," which both are authored by "Nosratollah Fathi". By collecting his letters and works, Fathi has made a field for subsequent studies about the various aspects of Seqat-ol-Eslam Tabrizi's political life. Since Seqat-ol-Eslam biography is largely based on the letters, which Fathi has released two years later is the book Seqat-ol-Eslam's written works, and since in many cases the original letters are presented, this work is considered as a documented and first source and is used at different levels in this paper.

Life and Works

Mirza Ali Aqa Seqat-ol-Eslam, Haj Mirza Musa Seqat-ol-Eslam's son, was born in Tabriz in Rajab 1277 AH (Safaei, 1363: 293-294). His ancestors were Khorasani and moved in Azerbaijan around the Safavid era (Fathi, 1352: 14) and all had the suffix Seqat-ol-Eslam. His mother was "Talaly Khanom" (Ibid; 19) and with her death, Seqat-ol-Eslam spent his childhood with much suffering. After his father's third marriage with "Khanqezi", his condition became partly better, and he passed his childhood with the stepmother's affection and kindness and continued his education and his father taught him the religious sciences. In 1300 AH went to Atabat with his wife, and he was taught by ulema such as Mohammad Hossein Fazel Ardakani and Shaikh Zain al Abedin Mazandarani and received the Ijtihad degree. In 1308 AH, he returned to Tabriz (Safaei, 1363: 293-

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294). After his father's death in Ramadan 1319, he was nicknamed to "Sadr Seqat-ol-Eslam" by Mozaffar ad-Din Shah and became the head of Shaykhism cult in Tabriz. And despite the huge differences between two sects "Shaykhism and Motesharea", Seqat-ol-Eslam always defended the unity and said that "in my opinion Shaikh and Motesharea are the same" (Fathi, 1352:41). He became familiar with the Constitution before the Constitutional Movement and met the ones who Kasravi called them Tabrizi activists (Kasravi, 1385, 163-164). In Kobra (great) immigration and Tehrani scholars' immigration to Qom, Tabrizi Clergymen and him wrote a letter to the king and announced that they support him (Kasravi, 1385: 124-125). At the time of Tabrizi people's movement for obtaining the law and constitution, he sat in the mosque and revealed his own ideas against foreigners. When the representative of British Consul said that the population in Mosque was protected by Britain government, he said that: "We just have not come here to seek the refuge, but we are protected in the house of God" (Fathi, 1354:14). He sent money to the population in British consulate in order that their expenses were provided and did not be beholden to English ones (Ibid: 16). After the Constitution Decree and as Mirza Hassan Mojtahed, head of Motesharea cult in Tabriz, was dispossessed he also left the city to show his protest (Kasravi, 1385: 259-260). After a while, Liberals returned him to Tabriz. He always defended the Constitution and was moderate in his political and social actions. However, Mirza Hassan Mojtahed and members assembly did not like his political behavior and it was clear in their letters and actions (Afshar, 1386; 84). However, as noted in the majority of his letters, most of the time he was in seclusion and participated in minor subjects. When the Parliament (Majlis) was bombarded and after that the blockade of Tabriz in 1327 AH, Eyn-ed-Dowleh asked him to be the peace mediator of Tabriz, so the liberals sent him to Basmenj, the place for negotiation, in order do his negotiations. He believed in the negotiation not submission. When Baqer khan interpreted Seqat-ol-Eslam's view as leaving the weapon, he became angry and said: "What I say is the reformation and what you think is submission".

When Tabriz was occupied by Russians, despite his hatred of them, which was reflected throughout his letter^{*}, he believed in peace and said that "the Resistance gives them an excuse" (Safaei, 314:1363). However, he wrote a letter to the consulate about occupying Bagh-e-Shomal and building a church there, also because of the presence of foreigners in the country, during the Nowruz he wrote an article, in which he had invited people to leave the Eid (New year) and mourn (Safawat, 1376:62). However, with the fight between Tabrizi warriors and the Russians in Muharram 1330 AH and consequently, capturing Tabriz by the Russians, he was executed in Ashura 1330 AH in charge of inciting people against the Tsarist army and writing a fatwa of jihad to "Amir Heshmat" (Safaei, 1363:322-324)[†]. Seqat-ol-Eslam wrote numerous works and this indicates that he was hard-working in different fields; all these works are collected and published in "all written works by Seqat-ol-Eslam Tabrizi" by Nosratollah Fathi. Among his works are "Ayzah Alanba"[‡] "Mer'at Alkotob"[§] "translation of Part 3 of Yamini history", "translated by Beth Al-Shakva", "dissertation Lalan"^{**}, his letters to Sadiq Khan Mostashar Al-Dowleh, it was published by Iraj Afshar entitled "Letters of Tabriz", and several articles including "People's wagon" and "if we Azerbaijanis neglect" which all were published by Fathi. In a letter dated 25 Muharram 1326 AH, he wrote about a booklet entitled "Letter of Policy", which was lost, and stated about his intention to write such a treatise. (Safawat, 1376:62)

Origins of Seqat-ol-Eslam Tabrizi's thoughts

About the origins of Seqat-ol-Eslam's ideas, Islamic, European, Greek, and Iranian teachings can be pointed out, here they are mentioned briefly.

1 - Islamic teachings in Seqat-ol-Eslam's thought: First, it should be expressed that first of all Seqat-ol-Eslam was a Shiite Muslim priest (Mojtahed) and the traditional Islamic doctrine was one of his intellectual origins. He was particularly affected by Akhund Khorasani and also his idea could also be compared with Naeini and Shaikh Fazlollah Nouri. He was frequently trying to show that the Constitution was the equal to Islam.

Sayyid Jamal al-Din Assadabadi's ideas about the unity of Muslim world were one of Seqat-ol-Eslam Tabrizi's intellectual origins. In his letters, he considered the "unity of Islam and uniting all Muslims' political policy despite being different in nature and religion, and having many kings (Sultans)" (Fathi, 1352:549). At all levels, he invited the "Muslim nation" to be united against the non-Muslims. When all clergymen in Tabriz, even "the better ones" had created religious grudges in the hearts, the only one, who was not like them, was Seqat-ol-Eslam (Kasravi, 1385: 148-149). Moreover, he avoided telling subjects, which made division between Shiite and Sunni, and wanted to unite the Muslims.

¹-See: Fathi, 1354:353, and Ibid: 278. In the letter No. 90 in 26, 1327 it is written that "I am satisfied to force me to break the flint in Siberia, but the flag Russian should not be in this country".

[†]-For full explanation of events in occupying Tabriz and executing Seqat-ol-Eslam, see: Kasravi, Eighteen-year history of Azarbaijan, Amir Kabir publication, Tehran, fourteenth edition, 1387, pp.261-321.

[‡]- A research about the Prophet Muhammad's (PBUH) date of birth and the year of Imam Hussain martyrdom

[§]- About the Shiite Ulema's translations and works

^{**}- In 1326 AH. It is an address to the Muslim Hajjis and consists of his political, social views about the constitution

But he did not propose this idea abstractly or ideally, and expected that all lands, in which Muslims were living, were under a unit government. He said: "All believers are each other's hands against the enemies, and in this case the multiplicity of kings has no disadvantages and is not inconsistent with this manner if they have politic unity in preserving the true center, which is preserving the Islamism, and... become united and unanimous in ejecting the loss and attracting the interest". (Fathi, 1354:434)

2 - European teachings in Seqat-ol-Eslam's thought: Seqat-ol-Eslam knew French well (Fathi, 1352: Footnote 531), and since he said to Sardar Assad in one of his letters that he read his paper, which was written in France (Fathi, 1354, 15), it can be expressed by some neglect that he read French magazines. This hypothesis - reading articles of foreign journal - is strengthened if this Kasravi's sentence is noted: "He was awakened because of Egyptian magazines and books and other books" (Kasravi, 1385: 164). In general, foreign magazines and books were effective in maturing his thoughts; he also became familiar with new thoughts through attending in the intellectual meetings. When Mohammad Ali Mirza was a Crown Prince, he intercommunicated with a group, which Kasravi called them "Tabriz activists". "Tarbiat" and "Taghi zadeh" were in this group. He received the Russian liberals' "letter of statement" in Caucasus and this familiarized with the Social Democratic parties of Caucasian. (Ibid: 163-164)

Another interesting event linked Seqat-ol-Eslam with Enlightenment thinkers in Europe, and that was Mirza Yusuf Khan Mostashar Al-Dowleh's works. When Mirza Yusuf Khan Mostashar Al-Dowleh's son died, Seqat-ol-Eslam got married his wife, Mostashar Al-Dowleh's daughter-in-law. So he could access to the Mostashar Al-Dowleh's notes, and presumably, Mostashar Al-Dowleh's was influenced by Rousseau and Montesquieu's thoughts (Fathi, 1352: Footnote 210). This led to his European thoughts so that he was charged in a "night letter" to be a "natural religious", though he thought that these were some "nonsense" (Fathi, 1352:321), but the European influences, which were so new at that time, were so clear in his thoughts and it was a subject for these night letters.

3 - Iranian teachings in Seqat-ol-Eslam's thought: Ancient Iranian thoughts are the origins of some of Seqat-ol-Eslam's thoughts, especially his interpretations of the King reminded the theory of "Zal Allahi (divine Aegis)" by Khwaja Nizam al-Mulk. He telegraphed to the King: "Kings are the shade of God, and should be kept from the evil" (Fathi, 1352:438). These doctrines, which had influenced him over time, attracted Seqat-ol-Eslam's thought. According to the importance of his political views, which were based on these doctrines, his most important views are presented here.

Legitimate government in the absence era based on Seqat-ol-Eslam Tabrizi's view:

Seqat-ol-Eslam thought that the Caliphate (Imamate) was dedicated to Imams who were "selected" for the Caliphate. According to his view, "Guardianship belongs only to these twelve ones"; he also believed that the Imam ruled in favor of "divine law" and "divine rule". Thus: "their monarchy is constitutional; this means that the monarchy does not leave their family and they do not abuse the rule of Islam religion" (Fathi, 1354:392). Based on this, first it can be expressed that Seqat-ol-Eslam Tabrizi thought that the Guardianship was dedicated only to Imams and second, he considered that the Imams' government was restricted to the religion, and in this case it was so similar to Akhund Khorasani's ideas^{††}. Seqat-ol-Eslam in the dissertation "Lalan" addressed the Najafi Ulema: "Now ... changing the monarchy to the proper legitimate monarchy is impossible" and we have no choice unless creating a constitutional monarchy in customary affairs. (Fathi, 1354:433). On this basis, like Naeini, he supposed that the government was belonged to the Infallible Imam (AS), and this government was legitimate, but in the absence of Infallible Imam (AS) and because his governance is impossible, a just government, which committed less oppression, should rule (Naeini, 1361:46-48) Based on Seqat-ol-Eslam's view, by establishing a consultative association (Dar al-Shura) and legislating, the abuse and assault will be less and it has less corruption than other types of rules. (Ajoudani, 1387: 36-37)

However, this rule will not be legitimate. Therefore, he supposed that the legitimate rule belonged only to infallible Imam, and refused its legitimacy in the absence era because based on his view, the monarchy, which has thousands prohibitions, cannot be legitimate (Fathi, 1354:430). Based on this view, we should find out that the religion and government are in which level in the new government?

Before this, during the Safavid and Qajar era, Ulema believed in the Guardianship of the Jurist in certain and legitimate affairs and ruling by great Muslims (Kadivar, 1387:58-59). In fact, it led to the separation of religious and royal affairs. Seqat-ol-Eslam also believed that "religion is separated from the government" (Fathi, 437:1354); based on this view, his perspective can be compared with Shaikh Fazlollah Nouri's view; the martyr Shaikh believed that bearing the religious rules, implementing the power and glory, and restoring the security are in two areas and these two are complementary. In the other words, the foundation of Islam relies on two cases, first the representation in the prophetic affairs and then in the royal ones, and without each of them, the Islamic decrees cannot be implemented. (Torkaman, 1362, vol. 1: 110-111)

^{††}- Akhund Khorasani, in contrast with most of the Shiite jurists, believed in Public Guardianship for Prophet (PBUH) and Imams (AS) and did not consider an Absolute Guardianship for them (See: Kadivar, 1387: 17, 18); for more information about the authorities in Shiite Jurisprudence, see: Kadivar, 1387, pp. 14-21.

Thus, the "Muslim with glory" is responsible for Sultanate affairs and the "scholar" is responsible for religious affairs such as judicial ruling, Fatwa, and deducting the all rules from the Public Affairs (certain Affairs) (Ibid, Vol. 1: 382-383). In this type of government, there is a bilateral relationship between these two; on one hand, the king (Sultan) should use his power to promote the right religion, and the jurists should use the Sultan's glory to serve the religion, on the other hand Sultans were recognized in this way and were supported by the jurists (Kadivar, 1378: 59-60). In general, Seqat-ol-Eslam believed such as this. He wrote in a letter to Mohammad Ali Shah: "Maintaining the Islamic religion and the Twelver ethic, and observing the independence of country and government are the first important royal duties ... all aware individuals' efforts are devoted to preserving the monarchy of Islam and Iran". (Fathi, 1352:424-425) He also wrote that: the king (Sultan) should support the Jafari religion and also consider the "preservation of religion and Jafari principle independence".^{††} The only difference, which his view has with Shaikh Fazlollah Nouri's view, is that he thought he was able to replace the constitutional monarchy or the King (Sultan) limited to the Shura (consultation association) and law with a Sultan with glory. In the other words, he thought that the religion was able to "preserve the independence", as he emphasized the "preservation of religion and Jafari principle independence" in response one of the parties, which have sent their Manifest to him and asked about his view. (Fathi, 548:1352) Based on his view, the religion remained still independent, but the autocracy changed to the constitutional rule. In dissertation "Lalan", he believed that the monarchy, and not a religion, was entitled to the condition and limitation. He believed that the common cases, and not the rules, should be consulted. Therefore, he explicitly said: "Common commandments, and not the religious commandments, should be reformed; and common provisions, and not religious provisions, should be consulted. It means "consulting in the matters and not in the commandments". (Fathi, 1354:430) Based on his view, this attitude to the old pattern is not at all opposed to the law. He said: "If Islam Atabat Hajjis, who are now the enough Shiite reference and refuge say an explicit fatwa about its necessity, do egregious action other than just expression, and consider that the survival of Islam is in it, other individuals' disagreement is wrong". (Ibid, 1354:441) This Seqat-ol-Eslam's expression contains all previous arguments: "Government should be bound and constitutional... in legitimating new laws or implementing previous common rules, it should legitimate justly... Iranian constitution does not want to innovate in religion and... does not want to enter some of the prohibited principles into the country". (Ibid: 431)

Different kinds of state in the absence era and just state based on Seqat-ol-Eslam's view

Seqat-ol-Eslam commented about different kinds of state in the absence era as follows:

A) Autocracy (dictatorship): means a state in which the king's opinion is preferred to all affairs and the king has an ability to break all the rules. (Fathi 1354:432-433)

B) Legal autarchy (legal autocracy): It has a Council (Shura) assembly and law, but Seqat-ol-Eslam denied it because first the selected representatives by nation did not involve in this Shura and second, the king's opinion was proffered to all individuals' view in the assembly.^{§§}

C) Republic of Anarchy: Seqat-ol-Eslam was against the Republic. In Azerbaijan, the Association Newspaper called the association as a "Holy Parliament", and it seemed that it threatened the government to divide the Azerbaijan and implement the Republic. Meanwhile, Sayyeds sent a letter to Azerbaijani scholars (Ulema), because they were worry, Seqat-ol-Eslam read it in the association and sent several copies to other clergymen in Tabriz. (Kasravi, 1385:406) This endeavor in bringing Sayyeds' message to clergymen in Tabriz and the association shows his unwillingness of both cases. He said in one of his letters: "I swear to God that no one really wants to the rogue or republicanism". (Fathi, 1352:438)

D) Constitution: Seqat-ol-Eslam Tabrizi was one of the Ulema who were famous for the constitutionalism. Taherzadeh divided Azerbaijani constitutionalists into 4 categories: 1- politicians and knowledgeable, 2- writers, preachers and lecturers, who were fascinated with the freedom, 3- merchants and tradesmen, and 4- freedom principles defenders and mujahedin. He considered that Seqat-ol-Eslam was in the first group. (Taherzadeh, : 21), but in order to make clear that in what extent Seqat-ol-Eslam knew the Constitution and which features his constitution had basically, the constitutional principles should be conformed with his comments.

Prior to this review, a few essential points should be mentioned. First, there cannot be seen much intellectual evolution in Seqat-ol-Eslam's life; and his moderation in the constitution is always obvious. According to his view "I remains exclusively in the constitutionalism and it is a property I will not be deprived of". (Fathi, 1354: 226-227)

Second, we cannot really realize his familiarity with the constitution and its European forms and functions. Perhaps he knew the constitution and the function, which it had in Europe, properly, but he knew to announce the Constitution with simpler terms. (Fathi, 1352: 447) and based on his expression, he accepted "the Iranian constitution" and tried to promote it. On this basis, the levels of his compliancy with the constitutional principles are:

^{††}- There are numerous kinds of these expressions in Kalam science (the study of "speech" or "words"), for instance see: Fathi, 1352: 368, and Ibid: 403.

^{§§} - This kind of state was at the time of Naser al-din shah in Iran, and Seqat-ol-Eslam considered it in defining this kind of state.

1- Sultanate: One of the fundamental principles of constitutional law was the acceptance of the sultanate. Seqat-ol-Eslam also had accepted this principle and believed that the kings were "the the shade of God" and they "should have be kept from the evil". (Fathi, 1352:438) He wrote in a letter to Mohammad Ali Shah: "offending the Twelver sultanate is like destroying the house of God". (Fathi, 1352:440) He did not considered maledicting and disapproving as the signs of constitutionalism (Fathi, 1354:403) and believed that in dealing with the king, we should not exceed the moderation (Fathi, 1352:247). However, he said about the sultanate: "To be against the king's will and the necessity for council (Shura)" (Fathi, 1354:431). It seems that he had committed a mistake, which the most constitutionalists at that time did, and it was due to the lack of experience and he saw a substantial gap between the constitutional and the sultanate. This is obvious in most of his letters and the examples are mentioned below. However, he expected an interaction between the constitution and the sultanate and thought that they were correlative. On one hand, he thought that the loss of violation from the constitution was due to the sultanate (Amirkhizi, 1339: 56-58); and on the other hand, he believed that weakening the sultanate was not the basis of constitution, but was for helping it, and we should defend it against the ones, who undermine the sultanate. (Fathi, 1354:46) His word is clearer in this regard. When he was sitting in the mosque and found the tendencies toward the republic, defined the Constitution as follows: "Constitution means that today Mozaffar al-Din Shah, after him Mohammad Ali Mirza, and Sultan Ahmed Mirza are our country kings and the sultanate will not leave their family provided that the King an any are does not violate consulting with the nation of country and he should consult with the nation in all things". (Fathi, 1354: 21) These statements indicated his belief in the article of sultanate in constitution.

2 - Freedom: Freedom was the other principle emphasized in the Constitutional constitution. Seqat-ol-Eslam had special delicacy in this case. He first defined the scope of freedom. He did not suppose that the human was free about the law. As mentioned before, he divided the affairs into the religious and customary, and supposed that the human was free in the custom. He said in this regard: "God gave the freedom to his creatures except for the provisions of Sharia law which order the world and the Hereafter". (Fathi, 1354:439) Like Naeini he tried to consider the freedom as ordering with honor and forbidding dishonor; (Fathi, 1354:439) and defined what the nation wanted as the "freedom from the tyranny" and the Israelites' freedom from Pharaoh's tyranny (Ibid: 347). On this basis, he said: "Constitutionalist wants the font and language freedom".*** (Ibid: 439) Therefore, Seqat-ol-Eslam considered that the freedom from the tyranny of Pharaoh kings; and based on his view, ordering with honor and forbidding dishonor should be done for achieving the free statement and pen. Based on Seqat-ol-Eslam's statements, it is the fact that what he said was not compatible with the new democratic political thought. Democratic freedoms include the freedom of opinion, expression, society and publishing the opinion, fundamental and individuals' freedoms. However, Seqat-ol-Eslam did not have a conception of freedom. Another point is the paradox in the theory and practice. Whatever which was presented based on Seqat-ol-Eslam's view, all were from the dissertation "Lalan" in which he tried to defend the principles of constitutionalism, but now we should find out his view about the freedom in his letters which were written with the political action motivation.

The point, which denying it will confuse and mislead the reader, is the social and political conditions at the time of Seqat-ol-Eslam's life. He lived in an era in which the experience of constitutional state was formed in Iran for the first time and no one had a proper thought of duties, rights and functions of constitution. For this reason, the press and individual freedoms made a toxic insult and abuse space, and particularly clergymen suffered from this space. Ajoudani has correctly chosen the title "Passage of violence" for this period. (See - Ajoudani, 1387: 21-53)

Not only Seqat-ol-Eslam did not accept this freedom, but criticized it. First, people, especially newspapers, did not observe the national interests with adopting inappropriate policies and meaningless temerities (Fathi, 1352:519); and thought that these "meaningless statements" and "nonsense" were a disaster which the constitutionalists themselves created for the constitution and "fed the world's life" (Ibid: 350) Second, he thought that the freedom of speech in a society, in which people were largely illiterate, was a demagoguery and said that: "As there was a freedom and the basis of constitution depended on the freedom of opinion, they satisfied themselves and started the demagoguery" (Fathi, 1354:403). In fact, the violation from Seqat-ol-Eslam's thought is because at a certain time he wanted to reconcile this basis of constitution with the Islam and defend it, but he should reacted the realities of society and the realities of society reflected in his words.

3 - Constitution: Constitution is one of the pillars of constitutional regime, and the scope of applying the power in the constitution is limited to the law limits. However, the legal relationship between the government and citizens, and commitment of both are considered as the obvious conditions of constitutional state. (Ashouri, 1366:142-143)

Now, these basic questions are raised: First, what was Seqat-ol-Eslam's definition the law? In what extent the definition of law in "the Iranian Constitution" is compatible with the definition by political science scholars' definition? And what did it expected from the functions of law? And finally, what cases should be considered in it? For a general response, it should be expressed that Seqat-ol-Eslam's opposition with the articles of

*** - For comparing his view with Naeini's view see: Naeini, 1361: 64-66.

constitution was an opposition with the articles, which were implemented in some European countries, and also Clergymen had opposed them.

Some individuals such as Shaikh Fazlollah Nouri and author of "Detecting the purpose in the constitution and tyranny" considered that the constitution was an innovation; and Shaikh Fazlollah Nouri wrote a detailed essay about it. He said that there was no need for legislator because "changing from the Islam to the blasphemy... or from blasphemy to Islam" were both meaningless. If we say that changing "from Islam to Islam means a lawful to other lawful one" and it is conceivable, but there is a problem in this way, in the other words with legitimating, a lawful action will be changed to the lawful or unlawful action and will become a case which will be considered as the punishment cases (Malekzadeh, 1383, Vol.4: 874), especially if this codification is entrusted to "the republican" or as he said to the "grocer and draper". He said: "Codification is useless, our law, as Muslims is Islam" (Ibid: 870-871). Despite the fact that Naeini tried to eliminate the problems in Shaikh Fazlollah's view (Naeini, *Bitā*, 74-77), but Seqat-ol-Eslam's tendency to legitimate was more based on the structural reforms. Iranian Clergymen, as one of the active classes in Iran, had recently realized the need for reform and discipline of affairs and some of them, mediated or immediate, had become familiar with the constitutional achievements in the West. They supposed that one of the ways for discipline of affairs was laid only in a word "law". Before the constitution, authorities who legitimated, and implementation and supervision of law were not organized and the groups and several factors monitored legitimating, changes and interpretations of law, and even its implementation. This caused a bit of confusion and failure which was the reason for denying it.

Seqat-ol-Eslam Tabrizi said in dissertation "Lalan": A Russian consul received two conflicting sheets by a Mullah in court, and said: "The Russian peasant does not refer to the law, in which a mullah has written these kinds of conflicting sheets". Seqat-ol-Eslam complained of these ulema, who he has called them the "shopkeeper" and "peddler" and not Mullah. (Fathi, 1354:432) He supposed that there were functions for the law and these functions could be lead to the discipline of affairs. He said: "The constitution has a purpose to meet all cases such as the delimitation of sultanate, rulers, inside and outside the country and like these cases" (Fathi, 1354:53) and these delimitations were also considered by Naeini. (Naeini, 1361:70-71) This case indicates his right understanding of codification. Tansi supposed that the main function of law was "to delimitate the power of ruling government in favor of democracy and individual rights". (Tansi,: 270)

Based on Seqat-ol-Eslam's perspective, another function of law was that Ashouri also emphasized. He rightly thought that the law could be a connector between the government and nation, thus he said: "A group, with the aim to reform... [wanted] to delimitate this non-delimited gangrene^{†††} and legitimate a law for government and nation, and under this law everyone knew their rights and limits, would not oppress or sell herself, the oppressed one would not be humiliated, individuals' property would not be owned freely and eat freely, and what poor nation gave without calculating, at least would be spent with calculation and objective". (Fathi, 1354: 401) This meant that if a codified law was made and the government and nation knew their rights and limits, the oppression - especially oppression of nation - would be less.

But about this question in where this legislation should be done, Seqat-ol-Eslam's view is remarkable. Here, a point should be noted that already was mentioned. Seqat-ol-Eslam stated in the letter which Kasravi presented the original one: "The purpose of law is not the invention of a new law. The law of Muhammad Sharia law will not be abolished and except the Muslim Hajjis and Great and famous scholars (Ulema) no one has a right to interfere in it; the law will not be written in this regard. Religious (Sharia) rules are the ones which are now and they will be continued until the extinction of universe. What the nation wants, and the lawyers of nation under Islamic Hajjis' supervision want to make a law for it, is the political and civil law; such as determining the rights of sultanate and recognizing the delimitations, state contract with foreign states, prohibiting the fraud and abuses, and protecting the rights of Iranian citizens and taxes, etc." (Kasravi, 1385:325) As mentioned for several times, by separating the Sharia and Custom, he considered the legislation only dedicated to the customary affairs and believed that no one, except the Sharia (law) specialists, has a right to intervene in the rules. He answered this question: "Which law is better than the Muhammad's (PBUH) law when the law is the purpose?"^{††††} And with mentioning Najaf Authorities' Fatwas said: "Are so many Muslims and people asking the king for religious law?" (Fathi, 1352:438)^{§§§} However, what scared religious ones, especially Shaikh Fazlollah, was legislating laws incompatible with the religion. Obviously, in a democratic system, contrary to what Naeini knew of the constitution, differed from the scholars' "practical dissertation". The law was not just a booklet which could be codified in the framework of law (Sharia). (Haeri, 1387:281) The House of Commons was selective at the time of Constitution, and it was feared that by entering the secular people into the parliament, the laws incompatible with the religion were approved and they themselves became legal. Seqat-ol-Eslam supervised the laws by supporting 5 jurists, who were the representative of Atabat Islamic

^{†††} - An incurable illness

^{††††} - It reminds Shaikh Fazlollah's statements.

^{§§§} -This is an issue which Naeini also emphasized. See: Naeini, 1361:89

Hajjis. (Fathi, 1352:438) He tried to implement the law of sheikhs' parliament and create the House of scholars except the House of Commons; this will be explained at its certain page.

Seqat-ol-Eslam and the cases, which were discussed by clergymen, in the constitution

There were material and principles in the constitutional constitution as well as the mentioned basic principles, and they were faced with different reactions from clergymen and scholars. Some of these cases were welcomed and others were denied by Ulema (scholars), and in some cases they were with new classification and setting the clergymen into different groups. The most important cases are as follows.

1 - Official religion of Shi'ism: Iran was the first constitutional country, which had an official religion according to the first article of amendment of constitution and this was an issue which made the next Clergymen's claims. Like all Clergymen Seqat-ol-Eslam was satisfied and happy that this article was included. (Fathi, 1352:368)

2- Amendment of scholars' surveillance: Shaikh Fazlollah proposed establishing an association consisting of the jurists for determining the compliancy of rules adopted by the Parliament with the Islamic rules (Kasravi, 1385:333). This bill was inserted in the Second Amendment of constitution and was welcomed by the Clergymen even Akhund Khorasani. (Kadivar, 1387:171) Seqat-ol-Eslam also agreed with this bill. He said in one of his telegram: "Has not it been mentioned in the constitution that Atabat Hajjis should select 5 people to be always as the supervisors in Consultative Association (Dar al-shura)?" (Fathi, 1352:438) and this denial question emphasized his approval to the proposed bill by Shaikh Fazlollah Nouri.

3 - Compulsory education: One of cases, with which some of the Clergymen were opposed, was the 18th Amendment of constitution, which emphasized on the compulsory education. According to the law, the compulsory education should be under control of the head of Science and supervisor of Ministry of Science, but the scholars (Ulema) were opposed with. (Kasravi, 1385:331) Female schools were taken more attention, and Shaikh Fazlollah had said that it was against the law (Sharia). (Malekzadeh, 1383:599)

Not only Seqat-ol-Eslam did not oppose the expansion of schools, but also visited the schools, attended in their final exams, and gave effective speeches for students. (Fathi, 1354: 172-173) When the emperor, Azerbaijan Governor, announced his intention of building Dar al Fonon, he set a training program for him and sent him as a letter, which its summary is as follows:

- 1 - Instead Dar al Fonon, try to develop the "primary, Adadieh, and Roshdieh schools".
- 2 - Provide a regular teaching faculty with a coherent program in each educational unit.
- 3 - Arithmetic, geography, physics, chemistry, and medicine courses should be taught there.
- 4 - An agriculture school should be established.
- 5 - A business understanding school should be established. (Fathi, 1354:207-216)

This case and view indicates that he had supported the school and also expected the government to establish new sciences education and also he had high understanding of the needs of Iran. However, he revealed his main concerns in this letter with emphasize on employing the "Muslim and religious teachers". He thought that the only way for avoiding the influence of foreign schools was the promotion of new schools and first it caused that religious missionaries to establish schools all over the country and in case of they were offended, the foreign countries would enter in the countries. (Ibid: 421). Second, some groups of students in "foreign schools" became familiar with the terms such as "Islamic Faith impedes the development" during their education, and then they were introduced to the parties. (Ibid: 398) he thought that the lack of official training along with the internal controls, would lead to bad trainings for students, and this would be so detrimental for the country.

4- Separation of powers: in the constitutionalism constitution, the separation of powers had been considered. Separation of powers is a theory under which the state power should be used by separated entities through several powers or organs in order to avoid the tyranny. European philosophers in seventeenth and eighteenth centuries, particularly "John Locke" and "Montesquieu" were the theorists are separation of powers. Separation of powers is the basis of legal democracies and the reason for not interfering powers in each other's work. (Ashouri, 1366:100)

This principle divided the scholars into different groups. Shaikh Fazlollah Nouri was against the principle of separation of powers. He thought that dividing the powers into three branches was an innovation, (Malekzadeh, 1383: Vol. 4: 877) thus this principle was not accepted easily. But Seqat-ol-Eslam thought that the customary affairs should be based on three legislative, judiciary and executive (Fathi, 1354:431) and it indicated that he had accepted the principle of separation of powers. Because of the importance of this issue in Seqat-ol-Eslam's thought, his opinion in each of three powers is considered.

A) Judiciary:

Before the constitution, Clergymen were traditionally responsible for the judiciary; therefore from Naseri era, the thought for taking it from Clergymen emerged. When Yusuf Khan Mostashar al-Dowleh was the adviser of current Minister of Justice, Akhund zadeh recommended him to deprive the clergymen from the affairs of lawsuit and give this responsibility to the Justice Department (Ajoudani, 1387: 50). It was something, which was considered in drafting the amendments of constitution, and based on the Article 71 of Amendment of constitution, "Grand Justice Court and Justice Courts" were known as the official sources for public grievances,

and judging about the Sharia (legal) affairs was assigned to the "Just priests (Mojtahed)". In Article 27 of Amendment of constitution holding a Sharia (judge) trial was predicted but it was set in a way that sent all trials to the Justice Court and that court sent the legal (Sharia) issues to the religious ones. It was mentioned in Article 74 of Amendment of constitution that all courts should be signed into the law. The result of all this principles was that the Clergymen lost their previous vast powers in the judicial affairs. These efforts were based on preventing the clergymen's ijthads and the status of Ministry of Justice was organized. Even Ehtesham al-Saltaneh had spoken to Sayyed Mohammad Tabatabai and wanted him to judge in the court in exchange for monthly wage. (Khalaj, 1389:186)

However, Seqat-ol-Eslam accepted this separation of religious and customary affairs. He said in dissertation "Lalan": "The judiciary has two kinds: 1- Sharia (legal) Judiciary, "in which the command is what is specified in the holy law and the constitutional law cannot be changed" and continued: constitution is only in the thought of structural and administrative reform, 2- Customary courts such as the "Asgarieh, financial and press and officers trials; it is the function of other powers and is not relevant to the Sharia 9legal) commands".(Fathi, 1354: 431-432)

There are a few points in this Seqat-ol-Eslam's statement. First, he might not be well aware of the reality of laws related to the justice and was unaware of the results of new rules about the judiciary; second, as mentioned before, Seqat-ol-Eslam thought that reforming the status of judicial center was very important. He was unsatisfied with scholars' contradictory Fatwas and thought that it was a way for foreigners to abuse, and devolving the judiciary to the Ministry of Justice was a way to escape this anarchy. Third, as the Shiite jurists' fundamental ideas were about the jurists' right to interfere in the public and certain affairs, he raised the public and certain affairs. Because of the importance of this subject, it is essential to compare his views with Shaikh Fazlollah Nouri's viewpoint.

Most of the Shiite Ulema (scholars) including Shaikh Fazlollah Nouri considered the guardianship in the public affairs for jurists. Based on Shaikh Fazlollah Nouri, in the absence era "the Shiite jurists are the reference of events [means the judgment] and they are responsible for the affairs"; also he thought that not legislating "based on the law was against the "Jafari religion". (Malekzadeh, 1383:877) Shaikh Fazlollah believed that the judgment was the right for current jurists and scholars and it had received from the Prophet (PBUH) (Kadivar, 1387:75), thus he thought that establishing the Ministry of Justice violated this right.

Like other Shiite jurists, Seqat-ol-Eslam believed properly that the judiciary should not be closed. He noted in a letter that since the criminal law was not approved, the perpetrators and wrongdoers should be punished with the Sharia (juridical) law. (Fathi, 1352: 262) In fact, Seqat-ol-Eslam said that the public affairs should not be neglected, and because the penalty had not been approved, the wrongdoers should be punished with the Sharia (juridical) command. It can be found of the content of letter that he agreed the approval of Criminal Justice and devolving it to the Ministry of Justice. But this question is raised whether he considered the right of guardianship for jurists, like martyr Shaikh? It means that whether he considered it as an inalienable right for scholars (ulema) or not?

This question cannot be responded certainly and with confidence, but it has been tried to make this issue clear with some other evidence.

He had a close relationship with the Najaf scholars (Ulema) and said his words to Najaf authorities in his letters, and particularly his thought was near to Akhund Khorasani's views. This propinquity can be seen here.

As mentioned, he had considered the guardianship assigned to the Imams and said that "it just belonged to these twelve ones" (Fathi, 1354:392) and it was the same with late Khorasani's juridical thoughts. Probably, this Seqat-ol-Eslam's tolerance towards the delivery of judiciary to the ministry of Justice was due to Akhund Khorasani's thought. In the regard, Akhund Khorasani believed that the jurist should control the public (Hasbieh) affairs because of being sure that they are implemented properly not having the guardianship. In the other words, when an issue receives to a necessity and an urgency condition, he is allowed to interfere because neglecting the public matters is prohibited and a person should be responsible for it, because if an individual responsible for it, the jurist will not be responsible and it will be possible to assign the public affairs to the "Muslim wise men". (Kadivar, 1387: 18-19) probably for this reason he simply accepted the separation of judiciary in the customary affairs and despite the current limitations for jurists, had confirmed the law related to the separation of powers and so restricting the jurists in the judicial affairs in his dissertation "Lalan".

B) Legislature:

Seqat-ol-Eslam Tabrizi considered that the "consistency of country" would be achieved with the legislature and it had a duty for legislation (Fathi, 1354:431). He considered the legislature as the "rationale" which was achieved in the "Consultative association (Dar al-shura)", (Ibid: 419) but he was wrong here. The principle of separation of powers was important in the constitution and was the basis of Constitution (Ashouri, 1366: 100) and the consultative association (Dar al-shura) is only a mean for achieving the separation of powers in the constitution, not its "Rationale". But he had a relatively scientific and proper understanding of the function of parliament (Majlis). He supposed that the duty of Shura (Consultative association) is the legislation including "determining the restriction for the king and peasant, and obtaining and granting, and the Interior and foreign

restrictions, taxing, soldier, peace and war and ... " (Ibid: 431) Here, it can be obvious that he had a deeper understanding than Naeini of the constitutional state and the system of legislation. As it was mentioned, Naeini supposed that the "constitutional order" could be done only as a "practical dissertation" by scholars by Seqat-ol-Eslam knew this point that in addition to the constitution, the parliament (Majlis) had the power to legislate the affairs and could enact the law in issues which Seqat-ol-Eslam himself mentioned. On the other hand, Seqat-ol-Eslam believed that people should monitor the sultanate and eliminate the "arrogance and tyranny and central power and executive" so what "Mojbereg rules for a necessity, at least should not be spent for invalid and useless acts and be spent for developing and repairing" (Fathi, 1354:433) and this supervision could be done through the consultative association (Dar al- Shura).

Seqat-ol-Eslam justified and interpreted the necessity of consultative association (Dar al- Shura) with Islamic data and said that because the Prophet (PBUH) consulted with the Arabs and ordered for consultation, so now the council (Shura) should be one of the pillars of government (Ibid: 442). In this regard, he had the same Idea with Naeini and these interpretations were the reasons for Ajoudani's criticisms on "the Iranian constitution".****

A fundamental question, which incidentally accounted for one of the most serious parts of Seqat-ol-Eslam's political ideas, was the way that the Dar al shura (consultative association) was established. Seqat-ol-Eslam was invaded largely by Democrats for expressing this idea. The way, under which Dar al shura (consultative association) could be established according to the Sharia and not principles of democracy, was defined based on his views, because in the constitutional state, which was a legal system, the legislation and Parliamentism was important significantly and struggling for higher participation of groups and political and social participation in legislation were its tools. (Ashouri, 1366:143) However, Seqat-ol-Eslam was strongly opposed to holding the general election and expanding the circle of voters. He wrote in one of his letters to Mostashar al-Dowleh: "The people should not be responsible for the Nation blood and worshipping the religion... and I really do not like the term "woken up people" and such these new terms. (Afshar, 1378:281)

He had criticized the democracy and general election, the most important criticism were:

First, policy and governing the country has a specific knowledge (Fathi, 1354:402), thus, uninformed and low-informed people cannot do it; second, if people elect, people, who are not deserved to enter to the Consultative association (Dar al-Shura), are likely to reach it, as they believed that those, who were present at the first Assembly of National council (Shura), were not "deserve to be consulted" (Fathi, 1352:439); hence, the general election makes "the inability, incompetence and lack of knowledge " as the provision of elected ones by nation. (Ibid: 499) Third, devolving the responsibility to the ones, who are "impercipient" and "just see the appearance and face and phantoms", and cannot understand the world of reality by the appearance stage, and are "deprived of discovery of facts" and " deprived of understanding the conscience "**** (Fathi, 1354:390), causes that "If a few rational ones want to do something..., they will close their eyes with dust and put the thorns on their ways". (Ibid: 404) In the other words, if the people are responsible for the work, the wise ones will be in the minority and unable to manage the affairs. Fourth, the more the numbers of electors are increased, the more the "conspiracy and fraud" are likely to be increased. (ibid: 499) Another reason, which indicated his foresight and showed his correct view at future, was that he had told the Democrats and the ones, who wanted the constitution, that: Now, the government and dispensations are in your hands, but if the dust are settled tomorrow and the Reactionaries, who contains the main landlords and feudal ones, come out of their places, send the whole their peasants to vote, get the votes for themselves, sit in the parliament (Majlis), and do not allow the intellectuals and revolutionary Liberals, in this case, the nation of Iran will fail for the next fifty years. (Fathi, 1352: 557-558). It was something that happened later, and the Iranian parliament became full of Khans, and unreasonable powerful ones and the educated ones were unable to enter the parliament; for this reason the years later, the intellectuals such as Mosaddegh supported limiting the right for voting in the election and recommended that the Illiterate ones should be denied of the right to vote. (Abrahamian, 1387: 337) Finally, as mentioned earlier, in a general election the probability that the secular people, who could pass a secular law and endamage the glory of Islam, to the parliament was higher. It was unimaginable for Clergymen that the Non-Islamic laws became enacted in an Islamic country, and Seqat-ol-Eslam understood these all properly. Therefore, he provided proposals about delimitating the election by parliament representatives and those, who needed to be consulted. In fact, he believed in something like the Council of nation Experts, not the nation elected ones.

The first solution offered by him was the creation of sheikhs' parliament (assembly). He sent a letter to Sardar As'ad and said: "Since now, I have had a belief... a group of individuals except the lawyers, who will be selected in the consultative association (Dar al-shura), should be invited to the center and the Dar al-Shura should be made based on these cases, they should talk, and what can be enact order, and make something, which is cease to be done by Dar al-Shura, made subject to be enact in there."(Fathi, 1352: 476-477) This view that the House of Representatives, sheikhs, or the National Assembly should be made in which the wisdom, knowledge,

****-See the Iranian Constitution.

****- It's similar to Plato's theory of ideals. See- Plato, 1388: 395-403.

experience, and politics are governing, was repeated for several times by Seqat-ol-Eslam. (Ibid: 477) Thus, they had hopes to partially control the House of Representatives. However, he had recommended that there should have been much delimitations for electors in the legislative assembly and said: "The election should be devoted to the literate and two-degree class" (Ibid: 557-558, and Fathi, 1354: 409) About the women, people under twenty-one years old, and illiterate ones, he said, "They have a possible right but not the current right means the merit ..." In the other words "They have numerous barriers and it does not mean that they are inappropriate" (Fathi, 1354:414) It means that all all people have the right to vote but do not deserve it. Based on his opinion, the elites should be consulted about the government and organize the things and people should understand the difference in their lives practically, he said: telling the common people about "The moral argument" is useless and the constitutionalists "should make the advantages of constitution easy to feel for them" and "the practical wisdom is necessary". (Fathi, 1354:444)

Seqat-ol-Eslam's one of the interesting interpretations is the term sick. He likened the nation and population to an illness, who understands his pain, but does not know about the treatment and he is unable to treat himself. He said as the sick one cannot choose the physician and his practice, the administration of country and affairs should not be devoted to the common people.^{****} He thought properly that the failure of constitution and its fail was due to this case because those, who want to eliminate the old structure of tyranny in Iran and create new principles instead of, should be familiar with new principles and already been trained for achieving that purpose (Fathi, 1354: 402-403) because the common people are like the soldiers, who can conquer a castle by the help provided by "wise heads, knowledgeable leaders and aware commanders", but they have no honor except being the soldiers, and "the soldier are the organs and the commanders are the intellect and spirit". (Ibid)^{§§§§}

Except the factor of theory, which created a position for the elite and not the common people, there was another factor in creating this idea and it was the conditions of the community, which Seqat-ol-Eslam had seen clearly; and he thought that the potential of democracy and making the people responsible for the "Public Affairs" was unreasonable. It is necessary to take a quick look at the demographic structure of those days. In 1279-1293 Sh, about 25 percent of population in our country were nomads (Foran,.....: 207) and they were about 10-14 and 20-25 percent between the years 1179 to 1293 Sh. (Foran, ...: 194) It should not be forgotten that the democracy was an urban phenomenon and needed a strong middle class which could be seen just in the large cities; because the agricultural class had never had a proper field for democracy due to the hard work, hardship of production and little income. Moreover, this urban population had agricultural works and life in many cases and farmed around the city; the urban middle class included about 5 percent of literate population. (Foran,.....: 204) This was the fact, which Democrats were unaware of it, and due to affecting by the policy they tried to implement the theories, which doing them in the living system was unreasonable. In this regard, Safaei believed that in the contest between the constitutionalists and governors, there were classifications among the citizens and they were consist of about 20 percent of people all over the country including Tabriz and the actual population, which were the farmers, were unaware of it. (Safaei,.....: 301-302) With lack of urban middle class, Iran was like a wasteland, in which the seed of democracy could not be grown and was incompatible with the people livelihood; for this reason Seqat-ol-Eslam was trying to control the House of Representatives and delimitate the number of choosers and selected ones, thus those who "deserved" it would choose others or be selected. Therefore, based on his view, having the right did not mean being reserved. Even if the nation republican had a right to choose his own destiny, but this right did not mean to be deserved, so it seems that for this reason he was opposed the republic; because making the republicans responsible for affairs was like an enormous nightmare for this demographic structure. The history proved Seqat-ol-Eslam's right view and later historians stated that this matter was one of the reasons for the constitution failure. As mentioned before, Taghizadeh was Seqat-ol-Eslam's one of the opponents because he was partly radical, but Seqat-ol-Eslam were willing to achieve the social successes gradually and not fact. Meanwhile, Taghizadeh, who disagreed Seqat-ol-Eslam because of this trend, in a speech for the Democratic Party about forty years later in 12 Tir 1327, confirmed his view about giving the right of vote just to literate ones, without mentioning Seqat-ol-Eslam's name (Fathi, 1352:564) Kasravi also thought that the presence of unaware people in the parliament (Majlis) was the sign of immature movement (Kasravi, 1385:181-182) Malekzadeh also mentioned that the new electing law was one of the causes of Constitutional Movement failure, and stated: This law "devoted the destiny of Iran to

^{****}- This interpretation is precisely the one, which Aristotle had presented in critique of democracy, and is interesting in this regard.

^{§§§§}- This is an interesting point about the similarity of these thoughts with Plato's thought. It should be noted that at the time, Iranian intellectuals, who were mostly Clergymen, followed the philosophy of ancient Greece (Malekzadeh, 1383, Vol.1:69) and generally, the Islamic philosophy and particularly the Shiite political system are so similar to Plato's thought (Ghaderi, 1387:51) and this effect is evident in the developing Seqat-ol-Eslam's thoughts. Based on Plato's opinion, only philosophers are deserved to govern (Plato, 1388:335) and it recalls Seqat-ol-Eslam's criticisms of Plato's word democracy in criticizing the democracy (See- Plato, pp.474-486); Moreover, introducing the society as a body in Seqat-ol-Eslam's word is so similar with Plato's thoughts. These thoughts were entered by philosophers like Farabi and Ibn Sina, who the latter in fact had Shiite tendencies, to the areas of Shiite philosophy. (See-Ghaderi, 1387:137-160; and compare with Enayat, 1386:27-120).

those, who Constitutional Revolution was emerged to eliminate them, and this sin was done by the radical class, who were called Democrats in the Majlis (parliament)". (Malekzadeh, 1383, vol.1: 27)

As Seqat-ol-Eslam had predicted this law delayed the development in Iran for 40 years and Mosaddegh was also faced with this problem.

In this society, which was mentioned, having the parties was also useless. Based on Seqat-ol-Eslam's view, in a country, where people were generally unaware of their rights and duties and even were illiterate and attracted to the parties and political communities because of fear, greed, or being simplicity and optimistic, creating a National Party was impossible and non-nationalist parties like the Democrats were themselves the barrier to the individuals' social rights and would lead to the deception and division. (Safaei,.....: 313-314)

C) Executive:

Seqat-ol-Eslam Tabrizi said about the executive: "It is the power of sultanate and has the dominating influence on all countries and its owner is called the King" (Fathi, 1354:432) Despite the fact that his definition had several problems, was consistent with "Weber's" definition of government". Webber said: "The social and human government claims (with situation) that it has monopoly of legitimate use of physical force in a particular land". (Tansi,.....: 81) However, Seqat-ol-Eslam thought that the King (Sultan) should be the head of person executive, while in the constitutional government, the Prime Minister should be at the head of executive and the sultanate did not have the executive duty which Seqat-ol-Eslam expected; because in the constitutional system "the nation should rule and the king should reign". (Abrahamian, 1387:312)

It seems that Seqat-ol-Eslam had no fundamental and basic definition for the function of government and sultanate, and sometimes had confused their functions in his own words. For instance, as mentioned before, he supposed that the function of sultanate was "preserving the Islamic religion and Twelver creed, and observing the independence of country" and they are the first royal tasks (Fathi, 1352:424-425) and in his letter to Eyn al-Dowleh had mentioned that "preserving the peasant's honor and strengthening the law (Sharia) consistency" were the duties of government. (Ibid: 403)

Another function of government based on Seqat-ol-Eslam's view can be tracked in a letter, which he had written to emperor of Azerbaijani government. (Fathi, 1354:216-207) Based on Seqat-ol-Eslam's view, the government should invest in infrastructure cases. First, the primary schools should be established in the country and then because Iran was an agricultural country, the government should control the basic agricultural infrastructures, and the most important action was building an agricultural education school. Moreover, the government should consider "mining coal and other mines", "establishing companies", and avoiding the "speculation" etc.; all this meant that the government should provide the economic infrastructures and prepare the country for an economic development.

Describing the nation and civil rights

One of the constitutional principles of constitution, with which ulema (scholars) had problem, was Article VIII which about the Iranians' equity against the governmental law. Ulema (scholars) believed that Muslims and infidels were not equal in blood money and Hudud and if a Muslim killed a Jew or Zoroastrian or other infidels, he could not be punished and the blood money should be taken. (Kasravi, 1385:331) They had problem with the nationality. It should be noted that the nationality was applied for the "legal position, nationality or citizenship ...". (Alam, 1373:153) It meant that "the nation involved all people, who were resident in a territory with religious faith provision or infidelity". (ibid: 155) Now, it should be investigated whether Seqat-ol-Eslam's view was consistence with this definition which was presented for the rights of citizenship and nation.

Despite the fact that Seqat-ol-Eslam applied the word "NATIONE", he did not fully agree with the above definition as a Muslim priest (Mojtahed). Despite believing that the "equality was among all current classes and the equal rights were observed in the Islamic provisions"(Fathi, 1352:395) and "different Iranian nations [religions] were the citizens of this country and their rights would be protected and they participated in protecting the country "(ibid: 368), he emphasized the sects, which had in the provisions between the Muslims and dhimmitude, and always reminded the dhimmitude's rights, as were more or less common at that time and there were no debates about them such as not forcing them to go to Muslims for solving the contests, not bothering them, and not calling them born by adultery. (Fathi, 1354:395)*****

It seems that Seqat-ol-Eslam believed that there should be a head for the Muslims in the public offices. In his letter to the King, he pointed out that the Muslim custom employees were insulted by the Christians for their religion, and they had got desperate, so he raised their ask: " As long as their head is not from Muslim nation and the citizen of their supreme state, they will not obey him" and continued: "They are not with no right in these just words". (Fathi, 1354:189)

About differences between the state and nation

***** - Compare with Akhund Khorasani's fatwa. See- Kadivar, 1387:226.

Since the early times, this question was in Akhund zadeh's mind and many others that based on which basis there were differences and separation between the government and common public and by which way this differentiation could be eliminated and attract the individuals' concentration on the future of government?

Seqat-ol-Eslam always had considered this separation. In one of his letters, he considered "the state and nation" as the "spirit and body" (Fathi, 1352:433), the spirit and body which had a "common interests" (Amirkhizi, 1339:353-355) and Seqat-ol-Eslam had put all his efforts on "protecting the certain rights of government and nation" and attempted about "its coalition, alliance, and unity" (Fathi, 1352:354). In general, he introduced the Constitution as the coalition factor for government and nation which caused the glory for the government and state and guaranteed the "human rights" and the sense of life for the creatures. In the constitutional, sultanate at least considered the nation as his child and the negotiation was done between these two, and this would lead to the proximity between these two. (Fathi, 1352:412) In the dissertation "Lalan", he expressed this matter and provided his solution. He divided the individuals' demands into two sectors including the physical and spiritual sector. In the spiritual sector, people wanted the Islamism because the majority of them were Muslims and Shiite and the Islam caused the unity of nation; and in the physical sector, not only he introduced the sultanate, glory, and dignity as the individuals' demands, but also he introduced that all Iranians people and all the Persian race, every religion has introduced the Iranian, with any religion, were Iranian and had a same right in being Iranian and having the sultanate (reign) (Fathi, 1354:434-435); he defined the religion and race as two unifying factor and supposed that the Constitution is the way for empowering those two.

Conclusion

Now, at the end of paper, we review the achievements of this article. First, Seqat-ol-Eslam's intellectual roots were explored and its Islamic, Iranian, European, and Greek roots were extracted. Then this was pointed out that he thought that establishing a constitutional government in the absence era was impossible and he voted for the constitutional state in order to reduce the oppression, then his views about the constitutional bases were provided; the interesting point in each one was separating the religious (Sharia) and customary state and the dominate role of constitution in the customary state and the independence of Jafari jurisprudence; and this rule was true for liberty, law, Judiciary and the Legislature. Then some suspicious points, which religious ones had problem with, were compared with Seqat-ol-Eslam's views.

He had accepted the supervision by five jurists over the decisions of Parliament (Majlis) and attempted largely on implementing the compulsory education. He respected the separation of powers. About creating the Parliament (Majlis), he was accepted with delimitating the number choosers, and practically it could lead to the establishment of the House of elites instead of the House of Representatives. However, he emphasized on delimitating the choosers more than the selected ones. The nation and citizenship rights did not remind the political meaning of nation; and finally he had properly considered the constitution and the mutual relationship between the nation and government as the factor which eliminated the difference between these two cases.

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