

## Investigating the Structure and Function of Sheikh – al –Islam Position in Qajar Era Based on Two Orders.

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### Abstract

"Sheikh- al – Islam", as one of the most important judicial and religious positions at Qajar era, was so prominent in the administrative structure of Iran. Sheikh – al –Islam was appointed by the king (shah) and regarding his power and influence at his serving region, the owner of this title has had a special place among Qajar dynasty. There were Sheikh- al – Islams in some important states and cities of Iran at Qajar era. Accordingly, Sheikh – al –Islam, as the head of the court was responsible of pursuing settlement of private and public quarrels between people. The owners of this position were influential at the cities and states they had worked and usually after the death of a Sheikh – al –Islam; his son was chosen by the king and reached to this position by some family considerations. Based on their relations with kings, Sheikh – al –Islams were also had been dispatched as ambassadors. So, they played a great role among various classes of the society in Iran and it was often a hereditary position. The present study tries to investigate and clarify the role of this position from different aspects. This research has been done based on documentary method and by using library resources and existing records and documents.

The results of this research shows that Sheikh – al –Islam, as one of the most important and prominent titles of the Qajar era, had played effective and basic roles at various social, religious and political life of people.

**Key words:** Sheikh – al –Islam, Qajar, Order, Legal Courts, Heredity.

### Introduction

The position of Sheikh – al –Islam, as one of the highest judicial positions, was one of the most important religious positions of safavid to Qajar eras. Its history dates back to Mongolian collapse in Iran.

Due to its authority at the court, Sheikh – al –Islam was considered as the highest rank and most knowledgeable judicial person. (Shardon, 1338, p. 53). In Tazkarat –al- Molouk, Sheikh – al –Islam was described as the person who: " settled the quarrels, ordered to good deeds and prevented from wrong deeds at his home.

The religious divorce had been performed at his presence and the confiscation of properties belonged to absent people and to orphans had been done by Sheikh – al –Islam and then people had referred to the judge. (Mirza samia, 1368, p.3). At the time of safavid and thereafter, this position was given to the critical influential Ulema by the central government. Although at Qajar era this position had the same importance but historians and researchers did not pay enough

attention to it at this period and functions of this position remained ambiguous from many juridical and political aspects for research. Among the most important researches which investigates the position of Sheikh – al –Islam is the article of " Sheikh – al –Islam position of Tamami family of shiraz" written by Omid Rezaei and the book "An Introduction to the Religious Records of Qajar period" by the same writer and the book of "An exegesis of the social history of Iran at Qajar period" by William Floor and some other sporadic and brief notes in other books. The present article explains some aspects about appointment, heredity of this position, salary and duties of Sheikh – al –Islam at Qajar period and functions of this position. The main problem of the present research is what were the functions and duties of Sheikh – al –Islam position at Qajar period and how he was appointed? The findings of this research show that the owners of Sheikh – al –Islam positions played a key role at the social life of Iranian people until the establishment of Constitutional government.

By the establishment of Qajar government, a change had happened in the political and social situation of shia' Ulema and scientists which lead to their ever more influence at the society. After a period of hesitation before Qajar period, Ulema gradually increased their influence by the establishment of Qajar government. The reason could be the needs of the first kings of Qajar to gain legitimacy. In other words, the more influence of Ulema at the society was the result of the needs of the government to the support of the Ulema in the wars between Iran and Russia. Other factors are the social position of Ulama among mass and their protection of the people against the tyranny of bureaucratic and government agents. So, they had a very special position among different classes of the society. One of the most significant religious groups in this era was Sheikh – al –Islam who had been appointed by central government. According to the existing evidences in the historical resources and documents of this period, Iran was divided into various states and in every state, there was a judiciary official called Sheikh – al –Islam. But it is not clear that how the Sharia court and functions of Sheikh – al –Islam in the cities and stated was supervised and how they had been appointed or deposed. However, Qajar era should be considered as one of the greatest periods in the case of donating titles and position of Sheikh – al –Islam to government persons. Because investigating titles in the Qajar ear shows the special social and administrative role of government people, it indicates that Sheikh – al –Islam position was one of the titles which had a special place at this period.

The kings of Qajar had divided distribution of power and duties in the political network system of the country, solving private claims and problems of people into two areas general and religious ones; pursuing the general problems was the duty of Amir Divan or minister of judiciary. (Abdollah Mostofi, 1386, p. 1, 172). Judiciary courts, that is Sheikh – al –Islam enjoyed parts of kings' judiciary duties. This actually was considered as giving some judicial duties of the kings to the owners of this position. As the courts and judgments, either before or after Qajar period, was based on Islamic jurisdictions, the decrees were also issued in accordance with Islam religion. So, Qajar kings gave such positions to religious people and Sheikh- al- Islams, because the nature of pursuing and settling judicial cases required the religious Ulama be incumbent on this. By following traditional religious methods in this period, and based on what Ghazali (1333, pp. 28-29) has said, judgment position belongs to the Prophet Mohammad at the first place and to the religious Ulema after him, so, judicial regulations must had been done based on religious documentations and for this reason this position was specifically was appointed to Ulema.

Anyway, by appointment of Sheikh – al –Islams to solve the court cases, the Qajar kings could use them on some other matters. In other words, their appointment could have good results and consequences in strengthening the central government because this group was an important factor for the equation at the society. On the other hand, they increase their social and even their economical position could augment the social and even economic basis through local tie, so they were the intermediary between people and government.

It comes from documents that appointing Sheikh – al –Islam was depended on some factors. First, the appointed person should be familiar with religious affairs, that is a person who belonged to the religious class and familiar with religious decrees was appointed (Soltani Moghadam and Soltani Moghadam, 1389, p. 12).The second reason was that, it seemed, the reputation of Ulema at cities and states could lead to their appointment for this position. Another reason was family consideration of the selected person. That is if one's father was Sheikh – al –Islam, the son reach to this position after his demise. (Etemad- al – saltaneh, 1367, p. 183). It should be noted that the father of Molla Loftollah by the name of Molla Fathollah, was the Sheikh- al- Islam of Kordistan; After his death, Naser- Aldin Shah had grant the title of Amin- ol- Islam to Molla Lotfollah, then appointed him to consider religious affairs and the king himself acknowledged his brother, Nayeb Zaki Zia- al- Molk about this appointment and title. The date of this order is not clear but its seal shows that it belongs to the time of the ministry of Mirza Yosef Mostofi Al-Mamalek Ashtiyani (Archives of the National Library and Archives of Iran, pp. 296-428). In big cities, a sharia judge had worked under the supervision of Sheik- al- Islams (Floor, 1366, p. 138).

Based on the content of the related orders, it seems that just the center of states and big cities had Sheikh – al –Islam. There was no Sheikh- al –Islam in Villages and unimportant small cities. So, according to the existing evidences, at the historical documents and resources of Qajar period, in every state or big city, there was one religious official called "Sheikh – al –Islam" who bore the religious and judicial responsibility of the area. Also, it appears that the appointment of Sheik- al- Islams in the center of states was done by the king and appointing the Sheikh – al –Islam of cities was with princess or government of state. (Archives of the National library and archives of Iran, no. 296 – 426).

The procedure of appointing Sheikh – al –Islam was based on the king's order and if a new king comes to throne, the order of the last king was confirmed by a new order. (Soltani Moghadam, Payam-e-Baharistan, p. 17). In fact, this order was issued for two reasons: First for confirming the last king's order and second for paying the salary. Following that, the king introduced Sheikh – al –Islam to a state in an order. It may happen that two Sheikh – al –Islams be appointed in one State which was depended on the king's opinion. The order of Naser- al-din Shah dating back to 1293 has remained which based on it he appointed Haji shahab – al – molk as the governor of kordistan. As it appeared in the content of this order, at the time of issuing it, a person called Molla Mahdi was the Sheikh –al- Islam of Kordistan. At that time, a person called Molla Mahdi asked this position from Naser-aldin Shah; Naser-aldin Shah ordered the governor of kordistan that the title of Sheikh – al –Islam still belonged to Molla Lotfollah. However, because Molla Mahdi's father was Sheikh – al –Islam and is dead now he is also appointed to this position. (Archives of the National library and Archives of Iran, no. 296 – 424).

It appears that it was possible two person be appointed as Sheikh – al –Islam in one province by the order of the king. And it also appears that one was given the title of the Sheik- al- Islam at first and then the job was given to him. Visiting the king and requesting the title from him could be the other reason of this appointment. Based on this document, Mollah Lotfollah Kordistani had enjoyed the title and was extended again, and he had not lost his position after Molla Mahdi was reached to the title. Finally the king ordered the governor of Kordistan to recognize both and they can solve people's problem. (Archives of the National library and Archives of Iran, no. 296 – 424).

Also, according to the text of the command, one of the reasons for the appointment of Mollah Mahdi to this position was the appointment of his father in past years. As a result, a kind of inheritance can be seen in this job in the Qajar era (Afza- al\_ malek, 1361). And also in Naseri regular history we can see that Etemad- al- Saltaneh tells about the events of 1278 AH: "Sheikh- al- Islam of Tabriz named Mir Ali Asghar Sheikh- a- Islam died, his son, Mirza Abulghasem was appointed to his position instead" (Etemad- al- Saltaneh, 1367, p. 1843). And again in an order issued at the 1311 AH by the prince Mozafar- aldin Mirza about a person named Mir Ali, it had been written that the position of Sheikh- al- Islam was belonged hereditary to Agha Mir Ali and his family and his son asked the position of Sheikh- al- Islam that was agreed by Mozafar Aldin Mirza (Archives of the National Library and archives of Iran, no. 296-12182; Etemad- Al- Saltaneh, 1367, p. 1843). Therefore, it was possible that a family had this position in many generations, and was transferred from one family member to another one. A note that is obtained from this order and can be considered is that Agha Mir Ali along his position as the judicial and religious judge was a chaplain; that is very interesting because there is such a position can be recognized in this period (Archives of the National Library and archives of Iran, no. 296-12182). Sometimes it happened that after the death of a Sheikh- al- Islam, his two sons jointly reached the position; even it happened that this position remained in a family for several generations (Soltani Moghadam, 1389, p. 21). So, family background and considerations was of the criteria for the appointment of a person to the title of Sheikh- al-Islam at this period.

However, the appointment of Sheikh- al- Islam in the center had been done by the king; although state and provincial Sheikh- al- Islam was appointed by the ruler. Sometimes provincial Sheikh- al- Islam was selected by the king and he issued an order to the ruler of that province to establish the position for the selected person (Archives of the National Library and archives of Iran, no. 296-424). The province ruler considered a salary for Sheikh- al- Islam. Of course, his salary, whether monetary or commodity, was determined in the province that he worked; and the agent of the court had paid his salary and wages. In another order which its date shows, shortly after his appointment to the title and position of Sheikh- al- Islam of Marand, Mirza Hossein attracted the attention of the prince, Mozafar Aldin shah who was the ruler of Azerbaijan; it seems that they had good relations and he added to the pension which was given to Mirza Hossein (Archives of the National Library and archives of Iran, no. 296-424, p. 1).

Based on the mentioned reasons, Sheikh – al –Islams were parts of the structure and officials of the government at religious and political position of the society. They must be close to the political system of Qajar government because they earned salary from the king.

The documents show that not only the center of states but every city had a Sheikh – al –Islam. (Freezer, 1364, p.152). So as mentioned above, Mirza Hossein, the son of Mirza Ali, the dead Sheikh- al- Islam of Marand, had been appointed as the Sheikh- al- Islam and there in an important note in this order; that is, this family had the position of Sheikh- al- Islam in the Marand hereditary and Marand was one the important cities of the Azarbaijan at that time.

Gaspar Derowil who traveled to Iran at Qajar period depicted the king's court situation and people's various aspects of life. In his itinerary he mentions that Ulema in Iran are in several ranks and at the top of them is Sheikh – al –Islam who is the leader of Shiites. (Gaspar,1389, pp.133–134). So it should be pointed out that beside his problem solving duties, Sheikh – al –Islam has the obligation of registration of certificates, ID and documents. He was in charge of writing the religious documents because in this order, the prince mentioned that Ulema and Sadat of Marand should consider his seal on IDs and documents, as formal orders. (Archives of the National library and Archives organization of Iran, no. 296 – 42, p.1). In this regard, all the religious deeds of cities and states were written by Sheikh – al –Islam or were confirmed by him. There were some other Ulema under his attention who worked on judicial affaires called "Agha" (sir), and also solved people's problems and in case the two parties had objection to Agha's vote, they referred to Sheikh – al –Islam (Derowill, 1389, pp.133-134). Because the religious documents texts were in special language naming legal and religious language, just religious Ulama could provide and write the documents. Because it had its special terms and features which only Mollas were able to do that, as these documents originated from jurisdiction. The religious documents of Qajar era contained the following: letter of marriage, letter of divorce, letter of dealing, letter of Company, letter of Division, letter of Attorney, Letter of Prison, letter of Donation, letter of Nazar, letter of settlement, letter of Testimony. (Rezai, 1390, pp.79 – 216).

However, it should be said that Sheikh – al –Islam had special authority in his action and beside his judgment at the city or state, he supervised the religious affairs and all dealings should had come to his seal and signature. Also, this person was the highest rank in judicial affairs of the state. As Sheikh – al –Islam was appointed from among the Ulema, it could be concluded that the job of judgment was at the hands religious class in Qajar era. That means non-religious persons could not reach to this position. Moreover, the presence of some Ulemas could be found in some parts of governmental affaires. Since, they were appointed by the king or on behalf of him and may be under king's anger or wrath, the Sheikh – al –Islam owed to him, as the king chose them. Due to this, they were not independent in action. In other words, the study on this position and some other governmental aspects displays the king's despotism in other governmental affaires. On the other hand, these cases show the ancient procedure of Iranian judicial system at Qajar period. The documents show that on the basis of king's Farman or decree, the holders of such positions could vote according to Islamic rules (sharia) and executing their votes and judicial orders was depended on other judicial officials.

In some cases, Sheikh – al –Islams not only had a role at the religious structure of Qajar era as judges, but also was active in various occasions and missions as king's special convoy and ambassador. This work led them to be among influential political and social groups of the government. For instance, in Qajar period, due to his special position at religious and social fields, one of the Sheikh – al –Islams was in charge of a political mission between Fath Ali shah and Othmanid sultan. In 1222, the Sheikh – al –Islam of Khoy city named Agha Ibrahim, had been

sent to that country for congratulating mostafa khan sovereignty, Othmanid Sultan. (Etizad – al – saltaneh,1991, p.116, Etemad- al –Saltaneh, 1367, p. 1487, Khormouji, 1344, p. 14; Hedayat, 1339, p.440). This means the ties between the heads of judicial and religious class with the central government against the reciprocal needs of religious and government. This matter was seen just once, may be due to the Fath Ali Shah's good relation with Ulama. Ulamas had special place at fath Ali Shah's time. It was apparent a Sheikh – al –Islam could be appointed to this position in several states. Some of these were active at the political ups and downs of the regions. For example, as mentioned above, at the time of Naser-aldin Shah, Molla Lotfollah who was the Sheikh- al –Islam of Kordistan simultaneously with another person, was asked for Kermanshah's Sheikh – al –Islam by Hesal- al- Saltaneh(Divan Beigi, 1382, p. 106, 139).

Like other periods, in Qajar ear, the position of judgment which was exclusive to Ulamas, led them to reach to a stable condition and properties and special salary and Sheikh – al –Islam had turned to a stable and powerful class from this era until Pahlavi, the first. After the establishment of Constitution government, a number of Sheikh – al –Islams were among the warriors and constitutionalists and played a key role at the ups and downs of the time. (Kasravi, 1363, p. 317, 406). The question about them which is not answered yet is that what was the religion that Sheikh – al –Islam issued orders based on it in the regions of the Iran that Sunni people had lived in the Qajar era? Was the religious and judiciary fields at that regions based on Sunnite religion or not?

### Conclusion

As it was said at this paper, regarding the structure, the religious courts at legal system of Qajar government was under the supervision of a religious person, and from Ulama class called Sheikh – al –Islam. Beside government's judiciary courts, this governmental and religious official solved private problems of common people and had the obligation of registering people religious affairs. However, this does not mean Sheikh – al –Islam independency from central government; Shah (the king) as the shadow of god on earth and the highest judicial person, gave the religious courts to religious Mollas by his will and based on some Islamic costumes. Sheikh – al – Islams were appointed directly on behalf of the king and central government and were dependent to the government economically. In general, since Sheikh – al –Islam had been affiliated to central government, those were appointed who were close to the king and central government, their authority and power were limited to pursuing common people cases, settlement of their quarrels, responding to religious matters and issuing certificates. Also, beside secretariats, Sheikh – al – Islams are regarded as one of document writers at Qajar era.

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