
Authority of Jurisprudent in the Islamic Government

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ABSTRACT

The term authority means level of having capability to influence people with level of affectability on them. This capability is gradually intermingled with practice and power of the ruler. At present, authority usually speaks of some level of official power, subordination of others and special obligation within certain rules. An authoritative person has naturally the right of commanding but authority differs from simple exercise of power or force. On the other hand, two interpretations of power and authority must be separated: power means the ability to attract or instigate obedience while authority means exercise of some actions with the right of setting rules and running the affairs and the like. In Islamic culture, authority takes a certain definition; authority of the Islamic ruler approved by the religious legislator is considered the main cause of power as well as prevention of autocracy and dictatorship. This article tries to make analysis of authority and modes of its acquisition in Jurisprudent and to respond to skepticism raised thereof by concisely elucidating authority and its status in Islamic culture.

Keywords: Authority, Power, Islamic Ruler.

Introduction

The term "authority" and its co-terms have a complex history in western languages, whose origin is Latin words, but this term has gradually found entry into theoretical and practical routine activities of human beings in the process of historical evolution of different social institutions and language of authority came to be practically used. Traditionally, authority had been based on respecting the ancient traditions, particularly demands of leaders and faith of followers and paid special respect to powers, regulations, ancestral customs and traditions of our predecessors. In regimes founded on traditional authority, the leader is not the superior person of the

regime, rather he is regarded a private lord. In the system of traditional authority, individual legitimacy determines administrative relations with the lord proper rather than non-private administrative duties. According to some scientists, the most important characteristic of traditional authority compared to intellectual authority is its lack of dynamism. This means that traditional authority is sub-divided into gerontocracy, patriarchy and meritocracy. The first two lack administratively regulated system but they possess leadership. In traditional authority, the third type with hereditary form, traditional control aided by military and administrative force under the authoritativeness of an autocrat is exercised. Based on an analysis, all three types of traditional authority can be considered as

barriers for developing the intellectuality because they are originated from long-standing and unchangeable dogmatic and ideological systems principles of which are not permissibly smudged and if not abided by, they are followed by severe punishment.

Legal Rational Authority

This type of authority is founded on law and power of social leader or leaders derives from law. This type of authority takes various structural forms marked form of which is the phenomenon of bureaucracy reckoned as the purest type of legal rational authority. Legal rational authority is exclusive to industrial societies accompanied by remarkable expansion of bureaucratic systems, management systems, technological development and modern production relations. In these systems, authority stems from certain rational regulations and rules that are in fact regarded manifestation of instrumental rationality dominion.

The most significant factors of authority legitimization are as follows: beliefs, values and religious precepts, inherited traditions remained from the ancient times with an aura of esteem and sacred intellect, and human self-unfounded law.

Accordingly, there are three types of authority: "Charismatic", "Traditional" and "Rational-Legal".

Charismatic Authority

Charismatic person is regarded holder of an exceptional authority whose authority comes from a supernatural and transcendental source (which itself is owner of absolute authority). The great prophets particularly the prophets who have instituted a political community apart from introducing Shari'a can be considered clear epitomes of the charismatic leaders.

Traditional Authority

Source and legitimacy of exercising power in this authority are tradition and heritage which existed in the past history of society and it is now being respected and highly sanctified.

Legal-Rational Authority

Legitimate exercise of power in this authority emanates from humanly self-founded intellect and unanimity and it is dependent upon a set of general rules¹.

With this explanation, we find that while traditional and legal authorities enjoy some kind of perennality charismatic authority is seriously unstable and is more de-institutionalized than being institutionalized. In the face of rational authority being institutional, traditional and charismatic authorities are strongly reliant upon the individual. Charismatic authority is far more personal than that of traditional. While rational authority is seriously bound to maintain rules, traditional authority stands by the past traditions and customs and charismatic authority is markedly characteristic of being de-traditionalized and de-regulated. Charismatic authority is joined with crisis and socio-political branching when the substitution and shift of authority is at issue. This shift in traditional authority is also faced with problems and it requires a span of legitimacy and stabilization of status for new inheritor of government. But shift of rational authority never mainly encounters something as crisis of substitution. Crisis of succession in charismatic authority is a prevailing phenomenon which arises from a personal and non-institutional nature. With the absence of charismatic leader, shift of authority to successors generally comes across two serious points:

¹ . see section 3 of Weber's book, *Economy and Society* for gaining access to extended issue in the field of legitimacy and three-folded authorities

Sharp Competition of Claimants of Succession

During their prophetically missionary life, the charismatic leaders run the community so powerfully and sagaciously that the power vacuum created as a matter of their absence is not easily filled. Subsequent to absence of charismatic leader, two opposite tendencies are being formed and come in grips among the followers: on one side, there exist successors of the charismatic leader and his advocates who believe features of the ex-leader typically remain in his successors. They are inclined to keep charismatic authority persistent and institutionalized. On the other side, there are groups of people in the society with socio-traditional bases and situations who like transforming charismatic authority into each one of its other forms: traditional or rational. These three types of authority can generally be shaped in every community and culture. Yet, what matters in this article is sense and concept of authority in the Islamic government which is dealt with here.

Power and Authority in Islam

Islam per se recognizes no power but God in the universe. Dissemination of authority in Islam happens up to down such that authority of the Prophet Mohammed (s) manifested power of God the Almighty and subordinated to be shifted to his successors including the rulers and scholars.

Believing in divine absolute authority is not exclusive to the pious faithful, but it is a wide-ranging fact that is applicable to all social structure aspects and individual traits of Muslims and followed by certain effects.

Authority of the Prophet is the charismatically almighty authority which can be called as an extraordinary authority and based on individual virtue. Legitimacy of such authority comes from the absolute authority that is God the Almighty who is all-encompassing and multi-dimensional. The

only time quarrel and differences overcame the followers was when the sublimated and charismatic authority of the Prophet (s) came to be shifted and succession became one point of discussion. It was in this very time of transition when charismatic authority as it is commonly processed tended to be converted into one of the other two forms of authority. The main problem and prime cause of emerging early branching in Islam rested upon challenging the successors of the Prophet and disagreeing on the type and level of authority of successors. Differences and schism among Muslims began to be a political vantage point although they were gradually organized in the shape of various sects and religions. The dispute of Saqifah community outwardly proved an argument about the people and figures, but politics and governance inwardly mattered. By thinking of events which led to formation of Saqifa community and analyzing the rhetoric traded among the people in dispute, it becomes obvious that companions of Saqifa were only in pursuit of a successor to undertake the political office of the Prophet(s) and not anything else. They acted in a traditional way as Arab tribes then did in that land. What came true in practice out of the shift of the Prophet's authority to successors was in fact achievement of intermingled authority which firstly was overridden by Arab tradition and secondly transferred charisma from person to office. In addition, it implicitly approved of finality of charismatic period thanks to departure of the Prophet(s). Thirty years after demise of the Prophet Mohammad(s), Muslim community virtually was sub-divided into three branches; each of which proposed different ideas and solutions for the legitimate authority: the Shiites, the Sunnites and the Kharijites.

The Kharijites

The Kharijites were the nomadic Arabs who failed to make a distinction of the truth

during the intense sedition and concealment and they disobeyed Rev. Ali ('a) the caliph of Muslims. The nervous nature and primitive mind of this rebellious crowd gave birth to a third tendency at dawn of the Islamic history and left behind no traces except for a sort of penetrating turnout in a number of important incidences. This streamline is known only after its extremist thoughts and not because of having an effectively transparent appearance in the history. They opposed the caliphate of Muslims being only limited to the Qurayshites and the Hashemites. In contrast, they believed that the requisite set for divine appointment of the Shiites and consensus of prominent members of the Sunni community for the caliphate should be the Ummah unanimity, the ummah that is numbered as many as a sect population. The Kharijites who, at the outset, expressed their disagreement over the authority of the incumbent caliph under slogan of *ان الحكم الا لله* later claimed that they denied the spiritual authority for the person who takes custody of the caliphate and restricted jurisdiction and authority of the caliph to mere administration of worldly affairs of Muslims. For them, the holy Qur'an sufficed to meet the spiritual and religious needs of ummah, so it is unnecessary to have Imam or religious reference authority to lead the community. The Murji'ites were those who appeared from ashes of a fire set by the Kharijites. They were a group of ignorant people in good health that turned to an apparently benevolent policy to retain unity of Muslims in order to shirk the responsibility of election and consequences of active involvement in domestic political struggles. This ended up to nothing but consolidation and justification of the cruel rulers. Emphasis on polity of impartiality and faith of inaction promulgated by the Murji'ites worked well theologically later to stabilize the status of the Ummayyid government.

The Sunnites

Having recognized that the Prophet(s) was immaculate and had a paramount authority, the Sunnites held that charisma of prophet hood he experienced is his biography not extending to others after him. It plays no role but granting legitimacy and sanctity to the established institutions that safeguard permanence and strength of Muslim community. They maintained that the immaculacy of the Messenger(s) has been entrusted to his ummah and after the Book of God; the Islamic ummah is the most sacred heritage remained from him. The Sunnites generally and by overlooking the unimportant differences view the caliphate as a sheer political office (at least from the rightly-guided caliphs on) whose legitimacy is taken not from the religious inheritors of the Prophet (s) (in fact it has reached the scholars) but from ideological heritage of Islam and consensus of the prominent members of community. They believe that none of the Prophet's caliphs enjoyed religious and political authority as equally as he did. Since the Sunnites ceased to regard religious leadership and authority as an indispensable part of the caliphate, they easily yielded to all kinds of domineering governments along the history. Of course, the practical disintegration of religion and politics, as they see it, never caused them to avoid assuming some type of sanctity and spirituality for the incumbent rulers.

Shi'a

Shi'a sets two conditions for establishment and legitimacy of the caliphate of the Messenger's (s) successor:

- Competence and merits of the caliph as Shi'a puts it (Imam)
- Societal Resort and administration of allegiance

During the Imamate and before the Occultation, the conditions of immaculacy and divine appointment should be added to

the above two conditions. Based on theory of Imamate, the Immaculate Imam is divinely appointed to lead the post-Mohammad (s) Muslim community. According to this opinion, Imam possesses broad-based and charismatic authority while leading his community religiously and politically. The idea of Imamate among the Shiites rests upon this belief that Imams are infallible. The belief that in practice divided this community from the other Muslims was the exclusive right of prophet hood household for succession of the Prophet(s). Shi'a believes that traits of the Prophet have been manifested and persisted in the image of Ali('a) and his children as the infallible Imams and they have inherited from him save his prophet hood and divine revelation all of his charismatic authority. According to theory of Imamate, just as the two religious and political authorities have been featured by the Prophet himself in his long life, so the successive Imams are the real inheritors of both authorities although the right failed to be achieved for the first Imam even in incomplete shape. By means of belief in exclusive legitimacy of the appointed and immaculate Imam, Shi'a considered all ruling powers as explicitly illegitimate until before the Occultation. From the Occultation on, it found it hard, if not impossible, to reconcile and join all governments that were not highly qualified vicarage on behalf of the Imam in Occultation. "In the religion of Ahl-e-Bayt ('a), Allameh Sh'arani says in *Nasr-e Tuba*, the caliph obedience of whom is obligatory and verdict of whom is effective must be immaculate and approve of anything before God and obeying others is not mandatory but unlawful unless in precautionary dissimulation and necessity". According to Enayat, what is generally and historically implied from Shi'a is the same thing Henry Crane said: "A purely religious movement has stood away from external fluctuations that have always opposed the world rulers usurping the power of Imam". According to

Cool Burg, from the 8th century onwards, the charismatic authority of the immaculate Imams as the supreme political leaders and tutors of religion linked to their knowledge. The authority being derived from knowledge was not a subject-matter among the Sunnis, rather it brought into being the complementary form of theoretical authority of Shi'a. This distinction mattered a lot for post-Occultation political views and ruled as the heritage of the immaculate Imam's authority which was transferred to the Shiite scholars who were pious, prudent and just through knowledge of religion. For most of the Shiite jurists, it was difficult to approve of unjust ruler, even though a Shiite one, because they were inclined to convey the theory of Imam's immaculacy to his successors.

The Shiite pious people inspired by the philosophy of expectation have always looked for someone who is highly qualified vice-gerent to establish heavenly kingdom on earth and put an end to ills. But as such qualifications are not easily found in single person or if achieved, there were a great deal of obstacles on the way of forging a competent state, Shi'a once making a negative evaluation kept itself away from the political authority of the ruler. This is while it theoretically insisted on subsumption of religion, state and materialization of scholastic authority.

Guardianship and Power of the Islamic Ruler

Islam has a governmental nature and it is not practiced unless a government is formed and a governmental system is formulated; hence, the Islamic thought when formulating the social system believes in establishment of the Islamic government and admits nothing but it and this is crucial, unchanging and cannot be violated. That God the Almighty practices His ruler ship and velayat from a certain channel is also an unchanging affair. The channel is to

designate a ruler from among the masses recognized and accepted by people; meaning in fact the efficiency of such velayat and rulership is popularly known, yet the criteria, norms and its designation are given by God and Shari'a either by divine appointment or through expression of features.

In Islamic thought, no man has right of guardianship over others and what is essential is personal non-guardianship over individuals unless there are traditional or rational reasons. In this case, people choose the person as their ruler for managing the social affairs and re-organizing the situation in the society considering the qualifications. They empower him to re-organize the affairs socially, politically, militarily and economically.

Determining a ruler is not exclusive to the Islamic and religious thought, but people, throughout history, have determined ruler, governor in accordance with conduct ruling over societies and entrusted leadership of their society to him. This has begun from privately closed lives under guardianship of ancestors, legatees, of husband over wife and his children, guardianship of lawyers over clients which has been personified and reached the open and expanded societies where tribal sheiks and white beards are being granted such guardianship. Therefore, guardianship, leadership and rulership have been crucial and perennial affair and constant conduct in the long history of mankind.

The afore-mentioned happen where people do not believe in a specific religion (particularly in social field) or did not find it to monitor their social affairs, but in Islamic thought and in the history of Muslims, this conduct existed to raise the rule of religion in society and the ruler with concern about religion had to guard and rule the societal affairs. In addition to general movement of the Islamic communities towards the rule of religion, the Islamic government has been

supposed to be a ground where religion has authority and philosophy of shari'a bears fruit and the ground for leading the society is paved.

Imam Khomeini (may God bless him) says: "the divine and Islamic precepts whether financial or legal are the precepts which never become obsolete and survive until the Resurrection Day. Survival of such precepts necessitates government and guardianship to keep divine law superior over human laws and make precepts work. Of course, without such government, it is not possible to implement the precepts for keeping the society away from chaos. Besides, it is mandatory to preserve the Islamic system (by establishing government, this necessity is made possible) and all this may happen under a capable and authoritative ruler".

Absolute Guardianship of the Islamic Ruler

To us, absolute guardianship is the type of guardianship exercised by guardian and Islamic ruler. Here, it seems necessary to give a definition for it. Some of those who talked about absolute jurisprudent defined in a way that it conveys the meaning of tyrannical ruler and guardian. It means that whatever the Islamic ruler deemed necessary, he would act accordingly. Some others say the absolute guardian is involved in unequivocal guardianship. To remove parts of probable skepticism, it is required to elucidate and contain the concept of guardianship.

Guardianship means taking charge of some affair as to qualifications and efficiencies guardian has. In fact, guardianship is a legitimate dominion entrusted to guardian from God by aspect of affirmation of legitimacy and from people by aspect of efficiency and confirmation.

The concept of absolute: does it mean unconditional? This means that jurisprudent exercises his guardianship boundlessly and willingly; some people give the latter sense to

it, trying to present a dictatorial image of him. Based on the absolute guardianship, they say jurisprudent disguised as a dictator appears and cannot bear democracy, public polls and democratic regime. For clarification, it is imperative to briefly give an explanation of the absolute jurisprudent:

God exercises this right through people who are known after divine caliph. According to holy Qur'an, divine caliph involves governmental caliphate in addition to feature caliphate which of course gives credit to caliphate within the government. Caliph of God is a theosophical person, full-fledged, highly competent, gnostic of divine precepts and self-edified who deals with complying with divine rules thanks to his profound awareness of religion and shari'a, making an effort to render elucidation, exposition and implementation of ideology within the real society. With this portrait, the Prophet, the immaculate Imam and the Islamic just ruler put the verdict into practice according to divine commands. Therefore, just as God is implied as the absolute ruler, so divine guardian has the right of guardianship.

In this way, guardianship of divine guardian and the Islamic ruler is the absolute guardianship that is subjected to rules of shari'a; otherwise, even ideas of the Prophet Mohammad(s) himself are deemed to be personal unless they are documented by rules of shari'a and they are never regarded as citations. With this view, the absolute guardianship fails to be domination, rather it is a divine guardianship practiced by the individual and all rules and goals God considers to regulate movement of society are performed by the Islamic ruler.

In addition to moving towards shari'a, absoluteness of jurisprudence is substantiated by other things that are glanced over. Distinction of jurisprudent or the Islamic ruler has a number of limitations briefly abbreviated herein:

1. Distinction of subject-matter. It focuses on verdict and edict. In this regard, the Islamic ruler has to use views of different skills of experts to avoid making mistakes when releasing edicts.

2. Consideration of expediency. The Islamic ruler has to act as expedient and realizing the interests takes side of common aspects, not to mention the technical aspects, where jurisprudent refers to what is commonly popular.

As to importance of consultation and its foundational role in understanding ills and wells, the Islamic ruler takes advantage of consultation in vital affairs.

All the two mentioned points and many others as such stop government stepping towards autocracy.

To extend the issue, some points are made on the absoluteness of guardianship of the Islamic ruler. Here, an extract of views of jurisprudents from the validated rational evidence and references is given here: According to the late Naraqi, in his book, "Awa'd ul-ayyam", all of what the jurisprudent is in charge and holds guardianship are two categories:

The first category includes the things that the Prophet and Imam as the strongholds of Islam and rulers of people guard and have custodianship and so does jurisprudent unless he is made excepted through some consensus or another reason.

The second category contains all the affairs belonging to people in their religion or world. They are the affairs of religion or world of people which are inevitably and religiously acted upon by the Islamic ruler. It is because the legislator has prescribed them or there is a consensus over them. It is because the society is incurred losses and as a certain person or crowd has not been given responsibility of performing them, so the jurisprudent is responsible for them.

Imam Khomeini (May Allah blesses his soul) says: "Whatever is true for Imam,

guardian of Muslims or the Prophet for reasons, it is true for jurisprudent too. It is because the mentioned things are considered to be ranks of government".

"Then trustee of the Prophet is trusted in all ranks of the Prophet and he is not ranked only to talk about precepts. Jurisprudent being trustee of the Prophet in this respect does not matter, rather implementation of precepts is important and jurisprudent is faithful when he acts like the Prophet". By underscoring this belief, Imam Khomeini in his statements regards salient jurisprudents distancing from government as a historical cruelty imposed on the religious leaders throughout history because jurisprudent stands as caliph and successor of the Prophet and the immaculate Imam on the Occultation time. This is well understood from what Toqi'a Sharif said: "They are my proof for you just as I am proof of God".

Imam Khomeini infers that jurisprudent is proof in this way: "Imam being proof means divine appointment of jurisprudent and that jurisprudent taking custody of ummah is concerned with all levels of government rather than being just a simple reference authority and raising religious topics. He is, rather, ruler and commander of Muslims. Imam Sadiq ('a) is quoted as saying that "I am proof of God for them and they are my proof for you". This implies that he means jurisprudent is proof because he holds absolute authorities of Imam of the Age ('a) and saint Imams".

The late Naraqı says the Islamic ruler elected from the holy Prophet (s) and the infallible Imams holds the absolute guardianship, adding that all of what they held can be true and crucial for jurisprudent. He also says: "From what has been said of caliphate, it is implied that when the Prophet says to people," if I am on trip, the so-called person is my successor, like me and my caliph and all my affairs are on his hands. Even the laymen understand that the Prophet

assigned the person to do the peasant's affairs and his successor can do his works. Does this say that all the things and the absolute empowerments are in the hands of successor? So the absolute guardianship for the ruler is crucial".

What is said reveals that guardianship and the absolute rulership is the very sovereignty of the saint Imams granted to them by God. They entrust this rulership and it is the most important divine precepts surpassing other rules. The Islamic government is one of the early precepts given priority over all non-fundamental precepts like prayer service and fasting. Imam Khomeini interprets maintenance of the Islamic system and its establishment as the most requirements.

Based on general strategies about absoluteness of guardianship, rulership of the Islamic ruler and the jurisprudent, the government can abolish contracts with people unilaterally once it finds them against the interests of the country or the Islamic community. Therefore, the Islamic ruler can set verdict and forge a verdict as to general contracts of shari'a which are mandatory like others and are superior over all things. The Islamic ruler can even divorce wife of a husband who is constantly assailant on his wife and is disobedient of advice given by the ruler in the case there happens serious conflict between them. Imam Khomeini says in this regard: "Although man is authorized to divorce his wife, the jurisprudent can divorce a wife where he finds it Islamically expedient and there is no way out".

Need for Authority and Authorizations of the Islamic Ruler

As regards to what is said of absoluteness of guardianship, one point deserving careful look is that in Islamic thought, absoluteness of guardianship is the confirmation aspect of rulership meaning absoluteness substantially and inherently necessitates guardianship in the Islamic government and type of

government. But this never suffices because it should be demonstrated. The demonstrating aspect is subjected to two categories of authority and authorization. It means that the Islamic ruler has to possess two essential levers to practice absolute guardianship:

Authority
Authorizations

Authority

As earlier said, authority is the ability to do something that the holder of power seeks. Authoritative ruler is a successful one and such a ruler can easily make critical decisions and pass through disorders and crises. In every government, in case the ruler is not necessarily authoritative, the followers will not easily bow to his commands and he is unable to achieve his goals.

The ruler is in need of self-confidence by means of which he can materialize theory of government and so attain goals of government. Self-confidence, a need for rulership, is not gained through shaky backbones; rather it is in need of constantly powerful support which is nothing but power and authority. Every ruler requires power but the Islamic ruler requires more of authority because he is responsible for not only livelihood of community but also he has duty of running resurrection, spirituality, divine and other world life of community. Here, those at odds with religious thoughts try to set up barricades by embarking on corruption, crime and stumbling blocks against the goals, aspirations and ideological principles. For this reason, the Islamic ruler must enjoy more increased power than the rulers in the secular and laic nations. In human communities, if religion is intended to be in function and systematic regulations are to be portrayed for guidance of communities, the ruler is required to own necessary and superior authority than the others.

Khwajeh Nasir Tusi considers the same vision about rulership and government. Policy of society and its management demands Shari'a which makes life and it needs a person superior with divine revelations who is followed by people. He does not find enough divine regard of the Islamic ruler as "owner of honor" or as the traditionalists say as holder of Shari'a. He says there have been individuals with divine regard but without power, so they were not of the authority to reach their goals. Those holding shari'a are endowed with divine attention and they are most powerful and must be like that to deal with human community. This person is typically called "the absolute ruler".

The traditionalists title such powerful person as "Imam" or "holder of Shari'a". According to Plato, he is "the scholastic manager". In essence, the power is inherent in the Islamic ruler. If the Prophet (s) used to be not of authority in those days, he could not control the wild Arab peninsula which was full of corruption and self-centeredness. He could not write letters of calling then leaders of countries on Islam. In our age of humanly controlled rationalism and yoke of atheistic ideologies, the Islamic ruler or the jurisprudent must be of an authority to stifle the apparent magnificence of others, dooming them to his capability, so bringing true the fundamental goals of Shari'a. If he is of the authority necessary, he can fulfill his rights of edict, judiciality, guardianship of seizure and approval.

Therefore, security, prosperity, honor and justice of the Islamic community and hoisting the banner of religion will be the results of the authority of the Islamic ruler. From the Islamic point of view, there are two basic requisites for legitimacy of power and authority of the ruler:

1. Power has to be gained naturally rather than deceitfully or not through cruelty as Imam Ali ('a) said.

2. The ruler has to be innately powerful based on his qualifications and human spiritual features.

He should show in himself the outstanding features of power. If the above two conditions fail to exist in the Islamic ruler, he is spontaneously reduced of the authority.

Origin of Power and Authority of the Islamic Ruler

There are three basic origins for power of the Islamic ruler based on which he acts:

Inherent Competency

This power comes from his soul. Justice, management and knowledge are the features for emerging power. Certainly, knowledge-based power will have the most important impact. "And their Prophet said to them: Allah Has appointed Talut as king over you. They said: How can he exercise authority over us whereas we are more rightful for it tha him since he is not gifted with abundance of wealth either? He said: verily, Allah has chosen him over you and has increased him abundantly in knowledge and physical strength; and verily, Allah grants His kingdom to whoever He wills and Allah is the Knowing-Dominion-Bestower".

Virtues of the person who gains power through wisdom and knowledge and theosophy are much beyond what inexperienced people can see. Such a person becomes center of attention of the community because those longing for virtues and justice are drawn towards him. In one of the governmental plans, being highly cultivated is assumed to take origin from inherent authority. The cultivated person absorbs people and the same cultivation results in his authority importantly.

What is obvious is that the best rulers are the most authoritative ones. Of course, before his external authority, his internal authority shows his braveness, authority and sagacity. As seen in the features of the leadership,

traits like knowledge, justice, boldness and objective invincibility, decisiveness, mutual respect and highly ethical qualities are discovered to be requisite to him. This is the same point of competency intrinsic in him, which is discussed. Of course, this is a historical tradition where primitive tribes regarded such features for selecting their heads. "In many of the tribes without leaders, when they were in wars, the bravest man had been selected as leader".

In the 1st century B.C., the Roman thinker poet, Lucretius Carus Titus believed that people in their early communities living in herds selected the most beautiful and powerful person as their head or leader". "It is mandatory that Imam be higher than the serf. The ruler is either equal to the serf or is not more complete than him or more virtuous than him, which is desirable. First, if equality is assumed, it is impossible to prefer him over others and third, it is highly impossible as preference of the one who is not virtuous over the virtuous is rationally ill".

There are lots of verses in the holy Qur'an and plenty of traditions from the infallible Imams which denote the innate competency of guardian or the leader and also jurisprudents enumerated the inherent features of the Islamic ruler.

Religion and Ideology

Religion and ideology is another origin of the ruler's authority. Religion is a strong support accepted whole-heartedly by people and embraces all its guidance and principles. This approach to religion restores belief in human mind. On the part of natural religion, actions are taken to forge power for the ruler even in other political and social-practical strategies. This is proved by the verses pertinent to following Imams, obeying the Islamic commander and approving of guardianship which is cited in religion. According to Mohammad ibn-e Moslem, he has heard

Imam Baqir ('a) saying that: " whoever is after religion of God and tries hard to worship God and has no divine Imam, his trial is rejected and he will go astray and God angers at his acts".

Belief of people in such strong principles causes them to have faith in the way and aspirations of the jurisprudent. In this way, religion inspires a collective action in the direction of the unified people of community and this collective unity is only formed in the light of collective will which means sharing the authority of the jurisprudent. Authority through belief and guidance of shari'a is the highest type of authority. Finally, religious beliefs importantly trigger achievement and admission of leadership and approval of his authority, which is not forcible but divinely internal and spiritual.

Demand and Public Resolve

People play a basic role in their political, historical and social movements as well as in determining their fate. Public will for designating a ruler is another source of distribution of power and entrustment of authority to the Islamic ruler.

The Islamic government fails to be a tyrannical rule and it cannot dominate the destinations of society without public will. The ruler is being given power of sovereignty through people and he plays his role to fulfill his duties with no worries. People refer to a description of the typical ruler they want and ask the elites to determine their ruler based on the characteristics confirmed by shari'a. This selection and entrustment should be rendered through lawful elections and based on approval of the principle of the council and the system of the majority as reflected in Imam Ali's words. Hence, one can say that people recognize the appointed leader through the elites as illustrated in the Constitution of the Islamic Republic: The people-elect elites are responsible for designation of the leader.

People entrust power of sovereignty to the Islamic ruler by voting for him and swearing allegiance to him. The ruler once elected deals with the rule in complete authority.

Ali ('a) introduces the philosophy of approving rulership as the very public demand: " Be aware that I swear to God who split the seed and created man, if it had not been for that huge crowd who pledged allegiance to me and made the ultimatum and God who took promise of the learned not to please with the fully-fed oppressor (with oppression) and hunger of the oppressed; I would have harnessed camel of caliphate (wherever the she-camel of the caliphate could go, graze at whatever bushes it wished and suffer abeyance burdened by any corrupt and tyrant man), I would have made the end of caliphate drink the first glass of water (as I did not earlier admit the caliphate and I would now step down as in the past). And you have realized that I would look down on this world of yours more than sneeze of a female goat". Such authority given to the Islamic ruler by people is also called traditional and social authority. As a result, it can be summed up in the following forms:

Origins of Authority

1. Soul Authority, innate efficiency
2. Religious authority, forging power for the ruler through shari'a
3. Traditional-social authority on part of public will

Centralized Power of the Islamic Ruler

For successful rulerships, centralized power is among the basic issues. "That all power belongs to Allah" In this thinking, no power is inherently original. Distribution of power in Islam happens from top to down just as the authority of the Prophet and Imam Ali('a) is a manifestation of divine authority. The authority of the Islamic ruler stands at the same level. Islam does not divide this

authority, yet it breaks it into parts, one part of which is placed into hands of some group. Islam grants power to the ruler who himself divides it. This means that power as to its rank is granted by God and so it is centralized:

"It is so clear that it is required to have a centralized and dominant power to maintain and observe both ways of guardianship (internal dependency and non-affectability and external non-dependency) which in fact a single collection crystallized by all Islamic positive and constructive elements (Imam-Islamic ruler) and it is also necessary to have a powerful and deep connection and reliance between all walks of life and the ruler (Imam), that is the main axis of activity and public jubilation of community. This is where another aspect of guardianship is manifested, which is guardianship of Imam and the leader of Muslim world".

Factors of Controlling Power

Power of the jurispudent is not a ground for emerging autocracy because of having several characteristics; rather it is a means of reaching equity, egalitarianism, freedom and material, ethical, psychological promotion of mankind.

Moral Personality of the Islamic Ruler

His personality is a perfect one because of which he is elected as the ruler. His legitimacy lasts as long as he steps away from soul desires. Once he is not against soul aspirations and wishes to take advantage of his power privately, he is deposed from leadership. This is also the case for the Prophet (s).

God says: "And if the Messenger had forged words while quoting them under Our Name, surely, we would have seized him by his right hand and would surely cut off the artery of his heart". Therefore, the leader cannot move towards dictatorship, acquisitiveness and world aversion because

he enjoys features of justice, piety, truthfulness, sensualism and anti-soul desires.

The Elites Supervise the Leadership

According to article 107 of the Islamic Republic of Iran's Constitution, the leader is designated by the elites elected by the people "after the paramount religious reference authority, the great leader of universal revolution of Islam and the founder of the Islamic Republic of Iran, his eminence Ayatollah Imam Khomeini (May God bless him) who has been recognized and admitted by the overwhelming majority of people.

The elites survey and consult on all qualified jurisprudents according to articles 5 and 109 of the Constitution. Upon recognition of one of the jurisprudents who is learned about the precepts and jurisprudic or socio-political issues or is publicly accepted as regards to article 109, they elect him as the leader". "In case, the leader is unable to fulfill his legal duties or lacks one of the qualifications or it is revealed that he lacked a number of them, he shall be removed from the leadership".

As to what is said, if the leader loses any of his qualities, he shall be withdrawn the leadership. The assembly of the elites has the right to demote the leader, so after the leader, it is the highest level of institution in the IR of Iran. As a result, when the assembly, such a strong supervisory power, is obligated to render an oversight of the leader in the cases of controlling him, strengthening him and assisting him if violations take place, it is unlikely and weak for the leader and jurispudent to lean towards violence and despotism.

Public Supervision

Government and rulership, from Islamic point of view and in general, requires that people know what decisions and movements are made across their social lives and society.

Mainly, the community is conscientiously enlightened and people can best judge about the behavior of rulers. They pose and depose the rulers under no institutionalized organizations. This power is clearly seen in all societies, not to mention in the IR of Iran. People brought the IR into existence considering their supervisory right to control their leader in unity under no reasons including ideology and class distinctions.

Imam Khomeini put emphasis over public authority and said everything goes to people: "Nowadays, we need to keep people hopeful and warm-hearted. Whatever we have comes from them, from the huge masses of people". Elsewhere, he says of public turnout and attempt to safeguard the revolution as: "The revolution had and still has very positive quality. It comes from the people unlike other revolutions, partly and wholly, come from partisanship or a government stood against another government. It is different from coups or world revolutions; rather it is founded on people who chanted, "God is great and the Islamic Republic".

He also said: "It was a revolution done by people who rose up and it belonged to them as Islam belongs to them. People turned out nationwide and stood up to the end. They were not indifferent to it and kept it unharmed".

Here, it seems outright to refer to words of Imam Ali ('a) about the role of people for monitoring the affairs of the leadership: "But my right over you is to abide by the allegiance and advice in absence or presence! Give positive response to me whether you are called on mobilization with no delay; or obey me when you are given an order". Likewise, owing to such monitoring factors for rulership of the Islamic ruler, there shall be found no arena for autocracy.

References

Al-Moqalled, A., *Nezam ul-hokm fi al-Islam end al-nasir ul-Tusi*.

Arnet, H., *Revolution, Ezzatollah Fuladvand, Khwarazmi Publications, 1982.*

Ayatollah Khameneie, A. *General Layout of Islamic Thought in the holy Qur'an*

Bashiriyeh, H., *History of Political Thoughts in 20th century*, Nashre Nay, 3rd edition, 2001, 2nd volume.

Enayat, H., *Political Thought in Contemporary Islam, translated by Bahaeddin Khorramshai (Khwarazmi, Tehran 1987), p. 2021.*

Enayat, H., *Political Thought in Contemporary Islam, translated by Bahaeddin Khorramshai (Khwarazmi, Tehran 1987), p. 33.*

Imam Khomeini, *Sahifa Noor*, vol. 10

Imam Khomeini, *Sahifa Noor*, vol. 14

Imam Khomeini, *Ketab al-bey'a*, vol.2

Jahanbeglo, R.; *Sovereignty and Freedom, Nashre Nay, 1st edition, 2004.*

Kampany, D.C., *History of Philosophy in 20th century, Baqir Parham, Agah Publications, 1st edition, 1900.*

Lambton, A.K.S., (1980). *Theories of state in Iran, translated by Chengiz Pahlavan (Ketab-e Azad, Tehran)*

Lidman, S.E., *History of political Ideas from Plato to Zaubermaus, translated by Saeed Moqaddam, Nashre Akhtaran, 3rd edition, 2007.*

Meybodi, M.F., *The Islamic Government Magazine, 2nd year, 3rd Issue, p. 202.*

Nahj ul-Balagha, translated by Feyd ul-Islam

Usul-e Kafi, vol. 1

Naraq, Avayod ul-Ayyam.

Nezam ul-hokm fi al-Islam end al-nasir ul-Tusi.

Nowzari, H.A., *Reviewing Haubermus*, Nashre Cheshmeh, 2nd edition, 2007.

Petroshwofski, Iliya Pavlovic, *Islam in Iran*, translated by Karim Keshavarz (Payam, Tehran, 1983)

Pinn, M., *The Culture of Critical Thought (from Enlightenment to Post-Modernity)*, Payam Yazdanjo, Nashre Markaz, 2nd edition, 2004.

Pooladi, K., *History of Political Thought in the West (20th century)*, Nashre Markaz, 3rd edition, 2007.

Rossides, D., *Ethics of Economic Growth*, Tadayon, Ahmad and Ahmadi, Shahin, Hermes Publications, 1st edition, 2002.

Tabatabaie, M.H., *Shi'a in Islam (the Great Library of Islam, 1975)*, p. 25.

Tahzib ul-Ahkam, vol.6

Tay Shaman, J.; Graham W., *European Philosophy in Modern Times*, Hannaie Kashani, Mohammad Saeed, Nashre Markaz, 1st edition, 2000).

The holy Qur'an

The Constitution of The Islamic Republic of Iran, article 107.

Watson, D.; Arnet, H.; Valiyani, F., *Hermes Publications*, 1st edition, 2006.

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