
The Legitimacy of Religious Democracy

Gholam Abbas Mohammad Hassani

A Member of Academic Fellowship, Payam-E- Noor University (PNU), Behbahan Branch,
Iran

Corresponding Author E-mail: pnukhbehbahan@yahoo.com

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ABSTRACT

The religious democracy pertains to a type of government in which its spirit and management are based on human's characteristics and realities while it is aimed at enhancing both physical and spiritual dimensions toward perfection and achieving a rational life. According to right and fact, which have been received from Divine Revelation and people might not intervene in issuance of constitution and governmental principles in religious democracy, people's freedom and activity are stipulated within the law with limits that have been interpreted by the religion so that legitimacy of this government has been verified with divine- public dimension. Given that God' will and command is the basis for legitimacy in this system, not people's wish, it seems unlikely that religious systems lack the competence of democracies. Thus, with respect to importance and sensitivity of the subject of legitimacy in religious democracy and its pivotal position, this study delved into this topic by means of descriptive- analytical method and from thinkers' views in religious democracy.

Keywords: Legitimacy, Democracy, Religious Democracy.

Introduction

The legitimacy is the acceptability of statesmanship philosophy and government by people (democracy); in other words, when all the people of the community feel secure and sure concerning philosophical concept of their government and governing board and accept their own administrative system and scientific procedure, the system is said to possess legitimacy. Thus, regardless of the type of government, if people of a society have no adequate reason or motive for political protests against government's principles and bases, it seems that there is

some legitimacy in that community to some extent (Bakhshayeshi, 1997).

Religious democracy is a type of government that its spirit and management comprise human's activities and it is purposed to improve two physical and spiritual dimensions of human to achieve a reasonable life. In parallel with right- orientation, service- centered conduct and preparation of a platform for physical and intellectual growth and excellence, religious democracy plays a role. These four models are founded on two bases, i.e. one is stemmed from divine

revelation teachings and the other follows these teachings through people's request and will; therefore, system of religious democracy is a political system, which is based on two divine and human cornerstones while this system determines relationship of the government by consideration of Islamic ideological principles.

A group of thinkers view religion and politics and the relationship between them as extremely influential in analysis of the purposed basic issues in human's life often followed by some favorable outcomes.

Also, the subjects of political legitimacy as well as political freedom and equality have not been marginal issues rather, they have been noticed as focus points by the political scientists and philosophers all the times and during history. There exists the question that whether religion and divine governance and the prophets are substantially identical with politics or different from it – that came to power to create dominance- and or religious conduct, which is internally and without coercion and political performance, is external and through exertion of power, are the same or not. And similarly, is one divinely and the other as earthly in terms of ultimate goals or not? Various answers have been purposed to these questions followed by some consequences; hence, at the modern age, what is highly popular and acceptable, particularly in Western Countries, is to put emphasis on people's right to determine their fate and unanimous consent and agreement with government and ruling. Naturally, in discussing people's right, the subject of freedom, equality, and political participation are also considered. Refusing any kind of divine right for governance and negation of any patriarchic dominance, experts in the field of social contract like Hobs, Lac, and Rousseau have supported

right for public consent of people in the case of legitimacy of government and political sovereignty, praised freedom and equity and declared it aloud that humans never give up their freedom to become captive.

Given that in religious democracy, the basis of legitimacy is God's will and command not people's wish, it seems that religious systems lack the democratic competence; hence, this matter has been investigated in details from thinkers' viewpoint.

Materials and Methods

According to the nature and method in this research, descriptive method has been adopted to explain the subject matter and to know how the variables have been used while it deals with the status quo and current description of that phenomenon so this research tends to identify these factors in this investigation.

- Instruments:

Several documents have been utilized in library studies, including books, information banks, fiches, journals and essays, computerized networks and discs.

Legitimacy in religious democracy system

- Religious authority (appointment):

Based on this theory, as prayers are obligatory, ruling is also obligatory for Islamic jurisprudent (*Faqih*) and the proxy ship or advocacy is not purposed in this case. As Holy Prophets and Imams were assigned to rule over the community, Faqih (jurisprudent) shall command based on religious decree and people should follow up the enlightened religious command. There are two elements in this doctrine, one is the command for ruling by

Faqih (Islamic jurisprudent) and the latter is order of people to obey him.

During the period of disappearance of Shiite 12th Imam (PBUH), divine authority has been directly assigned to just Islamic jurisprudents (Faqih) and they may rule with reliance on Shiite jurisprudential principles and divine justice model based on expediency for Islamic Community (*Umma*). People's vote, wish, and satisfaction may not intervene in legitimacy of government and they should exclusively be obliged to accept order of Islamic jurisprudents and follow up them (Ghazizadeh, 1998).

Since the early period of Constitutional Government (*Mashrooteh*) in Iran, people's vote and generally nation's governance has been purposed and at the same time some of Islamic jurisprudents have reacted against people's governance based on this doctrine. *Sheikh fazlollah Noori* is one of the Islamic jurisprudents who that he wrote in his treatise (*Prohibition of constitutionalism*) that: "Insofar as they revealed this fact at first place and decided to appoint deputies and agents based on trust in the majority of votes, we ignored it as well because these measures were made to arrange the political affairs and administration of justice so that gradually they dealt with codifying of constitution and writing bylaws. Occasionally, they negotiated with some officials on what this system means. It appears that they intended to forge a heresy and mislead the people otherwise what does such a representation mean? Who is client and in what do they act as representative? If these matters are normative subjects so it does not require religious arrangements and efforts and if they intended the public religious affairs therefore this measure is referred to religious authority not advocacy of people while the Islamic jurisprudents and qualified clergymen

(*Mojtahedin*) are responsible for religious authority (*Velayat*) during period of twelfth Imam's disappearance period not the so-called grocer and draper so it is wrong to validate majority of votes for this purpose in Shiite religion and what does writing of legislation means? (Kadivar, 2001).

Also, out of the contemporary Islamic Jurisprudents, the votes and comments purposed by Ayatollah Momen, Ayatollah Javadi Amoli, And Mohammad Taghi Mesbah Yazdi approach to doctrine of religious authority are considered.

Ayatollah Javadi Amoli argues that Islamic jurisprudents have been appointed by the religious command and they will be automatically dismissed with losing the attributes of justice or jurisprudence. They possess independence in action to enforce religious authority so they do not need to acquire permission from any person including people. Like a ward under custody, people are not entitled to appoint and dismiss religious authorities. Based on his impression from the Constitution, he writes:

"In order not to remove the imagination of advocacy and or proxyship of Islamic Jurisprudent's authority (*Velayat-E-Faqih*) among the people, people's vote and election have not been mentioned in this law [the Constitution], but accepting it serves as admission of authority not mandate command and the members of Expert Assembly (*Majles-E- Khobregan*) who are the intermediate and means of recognizing jurisprudent; they exclusively recognize appointment and or dismissal of Islamic jurisprudents due to their competence for discretion and recognition so they are never responsible for dismissal and appointment of Islamic jurisprudent official (*Vali-E-Faqih*) (Amoli, 1988).

Claiming the authority of just jurisprudents as obligatory, Ayatollah

Momen, as one of the jurists in the Guidance Council maintains that if jurists intend or not intend, they have been appointed as authorities by religion and people with/without intermediaries by their agents, as wards under custody (*Mola Alayhem*), are not entitled to intervene in enforcement of authority or supervision over the actions of religious authority so recognizing such a right for the people or their agents denotes the refusal of religious authority and exclusion from this process as wards under custody (*Mola Alayhem*).

Similarly, Mesbah Yazdi believes in that if all people of a certain country and even all people throughout the world give vote for legitimacy of a law but there is no religious and divine origin for that legislation then from our view it is not valid and we never obliged our own to observe it. Focusing on religious legitimacy, he states that Islamic Jurisprudent (*Vali-E-Faqih*) has also received his legality and authority not from people's vote but from Almighty God and Twelfth Imam (*Imam-E-Zaman*) (AJ). Also, constitution is legalized for validity and legitimacy by confirmation and signature of Vali-E-Faqih and people's vote, even it includes a high percentage, will not be effective on validity of Constitution. This Islamic jurist (Faqih) who governs over Constitution and duties and powers, which have been mentioned for Islamic jurist (Faqih), are allegorical not enumerative (Mesbah Yazdi, 2002).

Offering a new suggestion to Iran's Islamic Consultative Assembly, Mesbah Yazdi writes: "All the people are not competent to elect representatives in Expert Assembly (*Majles-E-Khobregan*) ... Is it right in an assembly, which is decision maker and legislator for total country, to interfere votes of non-experts more than

experts' views?" Likewise, in refusal and rejection of the vote of majority, he says: "What should the law of the country be? Whatever people gave vote. The majority! Who are this majority? They are a handful of rascals, who drink wine, take money, and go to give vote. These are people. Whatever they say will become law in this country and Islam! (Mesbah Yazdi, 2000).

In response to this question that "Do you consider vote of Islamic jurist (Faqih) prior to vote of majority?", Ayatollah Seyed Kazem Hayeri expresses: "If he [Vali-E-Faqih] personally tells us not to prefer my vote, so we will not do it since his will should be subordinate versus vote of majority but if he would not like it personally of course yes. The vote of Islamic jurist (Faqih) is preferred to vote over that of majority for which we have no reason for accepting vote of majority. Our reason for this matter is the same as order of Islamic jurist unless in what condition is vote of majority has been accepted?"

As evident from votes and comments of some Islamic jurists, the writers of Constitution essentially have no belief in legislator assemblies, which originated from votes of citizen members and as a result elections and vote of majority negate the subject matter. If the public vote is accepted under certain limited conditions and situations, we could mention it as pure republic and minority of empathetic believers (Hayeri, 1999).

-Theory of mandate

According to this attitude, Islamic ruler enforces the authority after election by people and proxyship from them. Salehi Najafabadi writes about Islamic jurist (*Velayat-E-Faqih*) in composed concept as follows: "People plays a main role in determining the governing religious authority and any

person who is elected by majority of people, according to Islamic criteria as the instinctive rational criteria, will obtain religious authority (Salehi Najafabadi, 2001). He expresses that "As a composed concept, leadership of Islamic jurispudent (Velayat-E-Faqih) is a product of mutual contract between people with Islamic jurispudent and its requirement is the people as one side and Islamic jurispudent (Faqih) as its acceptance so naturally consent of both parties will be deemed as a condition." Therefore, Velayat-E-Faqih denotes political advocacy of Islamic jurispudent from people in administration of affairs and hence this is democracy.

Also, Ayatollah Montazeri in book of jurisprudential principles of Islamic government expresses that: "Election of leader by people and assigning of affairs to him and accepting his authority is a type of contract and treaty among ruler and people where all reasons that prove its authenticity and effect also denotes correctitude and effect of this contract." He writes: "Delegation of religious authority is a type of contract and agreement among ruler and people and allegiance and shaking hand with him are means of conclusion and fulfillment of this contract." Ayatollah Montazeri has proposed, in the margin of his book entitled *Al-Badr Al-Zahra*, that the elected person by the majority of people's vote is deemed as an advocate and the principal is not obliged to obey his/ her advocate. Further, the lack of subordination of the minority, who did not vote in favor of him namely ones who did not accept him as their own advocate will be more evident as a fortiori. He They believed that in case the basis for political system might be disrupted by this approach, one should inevitably obey the leadership so following him will be obligatory and his order is effective. He

concluded that such a person will not be someone except for one that had been elected by almighty God albeit with several intermediate agents; however, with exceeding from the previous comment, he wrote in book of *jurisprudential fundamentals of Islamic government*:

"But, pondering in reasons for establishing of government and ruling and Quranic verses and traditions about allegiance and implementation of religious conduct in this field required us to accept the elections in the absence of the given text and order... since there is no certain text and clear religious command in this regard in our periods, (Age of Imam's Disappearance) election of leadership is proper or (with more correct interpretation) obligatory for the community... this election and the treaty, which concluded between people and leader, is a legal contract and agreement. Therefore, according to human's nature, fulfillment of this contract will be obligatory... and as our consciousness requires us to obey the appointed Imam, it makes us to follow up the elected Imam as well (Montazeri, 1988).

In the book of *Al-Khomeini and Dolat Al-Islamiyeh* (Khomeini and Islamic Government) and concerning the origin of legitimacy of Islamic ruler, Sheikh Mohammad Javad Moghniyeh also maintains that just jurispudent religiously lacks political authority for which Islamic jurispudents do not possess authority over adolescents. He considers the governance of Islamic rules as a criterion for Islamic nature of a government not dominance of sheikhs and jurispudents over the government. Any government that does Islamic tasks is an Islamic government even though their politicians are not Islamic jurispudents while any government, which violates Islamic tasks, is not an Islamic one, although its

members are graduated from Najaf seminary or Academy of Al-Azhar. Islamic essence of a government is based on its practices not agents and it is based on root not its physical and superficial layer.

Moghniyeh believes in that head of Islamic government elected by the people. As long as public expedience is met by such an election, Islam has confirmed this freedom for the people and there is no way but reference to public votes and opinion (Montazeri, 1988).

Sheikh Mohammad Mehdi Shamseddin as one of Lebanese Islamic jurists also posits such an attitude. From his viewpoint, during period of disappearance of Pure Imam (PBUH), the jurists have been appointed to judge and interpret the religious fixed injunctions and beyond these two cases, including political dominance and ruling of government, i.e. public authority of jurists has not been proved so Islamic jurists are not deputies of Pure Imam (PBUH). Therefore, they have not authority over the people (Kadivar, 2002). In this period, people possess authority over their own political affairs and regulations (within Islamic Sharia or religious law) and govern their own fate and destiny. They select the form of political system, which is based on council, and jurisprudence knowledge is not one of the qualifications for head of selected Islamic government. He accepts all political affairs with reference to public votes and argues that head of government will be elected by the people.

The advocacy of joint private owners is also another approach that has been purposed by Ayatollah Mehdi Hayeri Yazdi during recent years. He has examined this subject based on ownership perspective and with reference to private and public proprietorship, he believes as human has a right to possess his/her own properties

and assets in private sector, there is also the joint ownership for citizens in public field and one may dominate over public ownership, having been elected by the people with advocacy. The members of a community that have right for public ownership in a land appoint a person or persons as advocate(s) and hire him (them) by the aid of practical wisdom guideline in order to make efforts for organizing the public affairs (Kadivar, 2002).

If there is no unanimous vote between joint owners over this election, by virtue of human wisdom and experience the only last resort for this problem is the governance of majority over minority while all advocates' actions should be done for the sake of defense and acquiring the expedience and rejecting corruptions from their clients. Regardless of this representation, government is senseless. If government shows the least independence and governance, it will not be the government which deemed as symbol of public structure and there is nothing but people's advocacy and supervision over the relations between citizens and overseas relations among the countries.

Likewise, with believing in religious democratic government, Abdolkarim Soroush argue that buoyancy of religious conception through making wisdom's role more prominent in the government is an introduction to democratization of religious government not only individual wisdom but also common sense, which is the product of public participation and utilization from human's experiences. This is not possible unless with democratic techniques; or in other words, to become democratic, the governments of religious democracy are required making religious social conception as fluid nature in coordination with orders of common sense. With purposing this matter Soroush

implies that by this measure liberalism will be omitted but democracy is combined with rational and knowledgeable religion under the aegis of common sense and if so one of the preliminaries is provided for religious democratic government (Sorush, 1999).

In above theories, although there are different elements and ways of reasoning, all of them are common in a rule that is the Islamic ruler should be elected by the people. The elected person will be the representative of the people. Accordingly, unlike theory of religious governance, subject of elections makes sense and participation in elections will be accepted as a public right not a religious obligation (Sorush, 1999).

- Theory of jurisprudent's selective authority

Documented by Quranic verses and traditions, this theory puts jurisprudent's authority aligned with authority of Pure Imams and generalizes their duties and powers to this phase as well. Theory of jurisprudent's selective authority may be deemed as the product or average for two theories of religious authority and mandate namely through distinction among religious legality and public popularity, this theory considers Vali-E-Faqih (jurisprudent) as deputy of Pure Imam in one hand, and it needs to be supported by members of society in order to make such an authority from potential form into practice and giving freedom of action to the jurisprudent on the other hand. So, if people's vote is aligned with religion and religious injunctions, the legitimacy becomes effective. According to Mohsen Kadivar's interpretation, since divine legality is the final documented order for this purpose, Umma (Islamic Community) can be only benefitted from their own god-granted right within

religious limits thus this legitimacy is divinely whereas if people are considered as intermediate among God and government so public element has been thought as involved in this legality and here we call it divine-people legitimacy. People's governance is placed as consequent of divine government not as its accident and people are deemed lacking any legitimacy irrespective of God-gifted right. According to this theory, the jurisprudent in general and as deputy of Pure Imam, are responsible for authority and sponsorship of Islamic community. In book of *Avayed Al-Ayyam* after purposing subject of Velayat-E-Faqih and through documentation with Quranic verses and presentation of rational reasons, Mulla Ahmad Naraghi, who is considered typically as the innovator of matter of Velayat-E-Faqih and Islamic government, proves Velayat-E-Faqih (leadership of Islamic jurisprudent) in all positions and leadership of the community. He maintains that The Islamic jurisprudent have possessed all powers and responsibilities of the prophet and Imams in terms of right of government and protection from Islam (Zarifian Shafiee, 1997). In addition, *Foqaha* (jurisprudent) during period of Disappearance of Imam Zaman (AJ) possess the powers and responsibilities at the same level with the Pure Imam except for those cases such powers and responsibilities have been excluded by virtue of religious text and or consensus of religious scientists from this general subject and or their inclusion. Sheikh Mohammad Hassan Najafi, the author of book *Javaher Al-Kalam*, with reference to Quranic verses and traditions, also believes whenever the needed power is acquired, taking the authority for dealing with judicial, political, and governmental affairs will be obligatory. Likewise, Mirza Naeini argues that based

on principles of Shiite Muslims, such types of affairs and policy for dealing with Islamic community's affairs will be duties for general deputies of Imam (PBUH) at time of his disappearance. He considers proving the deputation of Islamic jurists and other deputy for Imam as definite matters of the religion (Naeini, 1999).

In addition to description and interpretation of theory of jurist's authority as deputy, Imam Khomeini experienced this theory in practical field with Islamic Revolution as well and by virtue of narrative and rational reasons, argues that authority of Islamic jurists is along with Velayat (authority) of Holy Prophet and Pure Imams. In book of Velayat-E-Faqih, which has been taught by him to his pupils in Najaf, and by virtue of Quran (Al-Nesa Sura; 4:59), Imam Khomeini expresses that it is narrated that the verse of "*Surely Allah commands you to make over trusts to their owners ...*" is ascribed to Imams and verse of verdict, i.e. *and that when you judge between people you judge with justice...* is related to rulers while the verse *O you who believe! obey Allah and obey the Apostle and those in authority from among you...* addresses Muslims. Regarding the Holy Prophet's tradition, *The jurists are trustees appointed by the prophets*, he also mentions that this tradition is not purposed to interpret that only jurists may receive the given issues from the prophet and Imams and then convey to the people but in fact as the foremost duty of prophets is to administer social justice system through execution of rules and injunctions. So, the jurists are responsible for playing such a role. He concludes that all the affairs for which the prophets are responsible, the just jurists shall be obliged to do those

tasks and missions as well [Khomeini, Velayat-E-Faqih book].

Imam Khomeini supposes subject of *Velayat-E-Faqih* (Leadership of Islamic Jurisprudence) as issues acknowledged upon their observation so it does not need any argument. He believes that anyone, who has perceived Islamic beliefs and injunctions briefly, when s/he is faced with Velayat-E-Faqih subject and imagine, it will affirm it immediately and considers it as requisite and evident. He denotes that the fact that today Velayat-E-Faqih subject is ignored and it needs reasoning due to the social circumstances of Muslims and particularly religious seminaries. He deems Velayat-E-Faqih subject as subjective rational affairs (Khomeini, 2001) to which he attaches no reality but as making. In books of *Kashf Al-Asrar*, *Tahrir Al-Vasileh*, *Al-Bei*, and his lectures and stances that are reflected in the Book entitled *Sahifeh Noor*, Imam Khomeini's attitudes are seen in terms of time and place conditions and some differences within the limits of Islamic ruler's powers. He adequately dealt with probative matters and possession in properties by default and curtail at the beginning of purposing Velayat-E-Faqih subject in order to observe the expediencies of Islamic community. He believes that powers of government are not limited within the framework of divine injunctions. The government is one of the primary injunctions and it is prior to all Islamic cornerstones (injunctions) even prayer, fasting, and Hajj pilgrims and it may cancel unilaterally the legal contracts that have been concluded with the people under the conditions when those contracts are contradicted to expediencies of the nation and Islam.

Now the question which may be purposed is that, according to Shiite belief, imamate has been served by the prophet

and former Imam to the Imams but how could Velayat-E-Faqih be identified and determined? By virtue of Quranic verses and traditions, this group of jurisprudents has inferred the general title of *Foqaha* based on some conditions and characteristics. In the book of Velayat-E-Faqih, Imam Khomeini writes: "The conditions, which are requisite for the ruler, are directly originated from the nature of conduct of Islamic government. After general qualifications like wisdom and discretion, there are two essential conditions including knowledge of law and justice."

However, this feature, which denotes knowledge of law and justice, exists in numerous groups of our contemporary jurisprudents and if they agree unanimously, they can establish a general just government in the world [5].

In book *Al-Bei*, with purposing government as general obligation for Islamic jurisprudent, Imam Khomeini equalizes the conflict among Islamic jurisprudents. In book *Tahrir Al-Vasileh* he has also emphasized this issue that deputies of Pure Imams, namely the qualified jurisprudents, are responsible for sponsorship of political affairs and this issue is a general obligation for them. But he did not suffice to this issue and purposed another subject under title of "*Mozahemeh Faqih Le-Faqih Akher*, meaning intervention of a jurisprudent in affairs of another jurisprudent" and argued that if a jurisprudent started practical preliminary affairs such as basic affairs for purchase and sale and giving mission to collect legal alms (*Zakat*) in a certain area, another jurisprudent would have no right to interfere in these affairs since religious authority is the contingent consequent of caliphate (ruler's reign) that has been ascended to them from Holy Prophet (PBUH); just as the times when the

prophet began to do a certain work, no one could intervene in his affairs. This issue has been also transferred to the jurisprudent in this way (Khomeini, 1990). Furthermore, in order to prevent from dispute between jurisprudents to establish government, he considers people's vote as settlement of dispute (*Fasl Al-Monazehe*) and in response to Ayatollah Meshkini, he writes: "If people gave vote to members of Expert Assembly in order to determine a just qualified clergyman for leadership of their government and when they all appointed a person to be in charge in leadership, his enforcement will be agreed by the people. Thus, he becomes the elected authority for the people and his order will be effective." Therefore, subject of people's position and role in Islamic system achieve its due status in Imam Khomeini's thought. In this case, people's legitimacy has been deemed as requisite condition and caused jurisprudent's to be effective. This method is similar to election of Shiite authority during history. When a jurisprudent was qualified to issue Fatwa (Islamic decree) the people accepted him as Shiite leader so his authority was realized and objectively appeared.

In terms of time, of course, before and after expression of the above subject, Imam Khomeini has emphasized repeating the key and determinant role of people in establishing the government and its duration and as a criterion for political legitimacy of government as well as religious and divine legality. At the beginning of his arrival in Iran and within his well-known preaching held in Behesht Zahra Morgue, he declared: "With support from this nation, I will determine the government and since this nation accepted me I will establish a government."

Similarly, in prime ministerial order of Dr. Bazargan, he expresses well divine and people's legitimacy and writes: "According

to religious and legal right caused by the definite majority of votes of Iranian nation, I order you this mission to establish provisional Cabinet.” Regarding interpretation of his status to appoint Bazargan as prime minister of Iran, he has also referred to divine legitimacy and said: “Due to the authority, which has given to me by the holy Islamic Sharia, as a person I appointed him as prime minister so the people shall be obliged to obey him since this is not an ordinary ruling but a religious government. The opposition to this government is deemed as opposition to the Islamic religion.” Concerning Council of Revolution, he has also implied that by the strength of religious right and based on vote of confidence by the absolute majority of Iranian nation, a council was established under title of Council of the Revolution.

In the presidential orders, which have been assigned to *Banisadr*, *Mohammad Ali Rajaei*, and *Ayatollah Khamenei*, he also referred to subject of divine legality and since legality of presidency is subjected to appointment by a fully-qualified jurispudent, by virtue of this order I assign the verdict of presidency and appoint him in this position.

Before the victory of Islamic Republic and in Paris, in response to a journalist, who asked him about the type of Iranian government in the future, he replied: “The republic government is with the same meaning wherever the republic was established but this republic government is relied on a constitution which based on Islamic law. We call it Islamic republic since all the qualifications of the elected person and all the principles and injunctions which are effective in Iran, are based on Islam; however, nation should elect it so the way of republic government is the same as republic everywhere (Motahari, 2002).

Morteza Motahari, who was one of Imam Khomeini’s pupils and an illustrator of doctrine of Islamic Republic, states regarding the relationship among republic nature and its Islamic quality: “The term republic identifies form of government and the word Islamic may define its content. The form means that all people elect head of government while its content is Islamic.” With denial theory of advocacy and accepting doctrine of authority as deputy, he writes: “The requisite ruler means a person who is legally obeyed and no one has imposed anything to him coercively while the person who is legally obeyed may be in two forms. One is related to type of authority and the latter is based on advocacy. What purposed in the Islamic jurisprudent is mentioned as authority of ruler (Motahari, 2002).

Likewise, with the same attitude and through integrating religious discipline and people’s vote, Ayatollah Khamenei maintains that the jurisprudent that possess knowledge, piety, and discretion is elected by people’s vote. The importance, which he attaches to religious and legal disciplines, is in such a way that he posits that if Islamic jurisprudent (Vali-E-Faqih) loses one of ideological criteria, his authority will be negated even all people accept him.

Similarly, Ayatollah Moosavi Bojnoordi has interpreted divine- public legality of Islamic system. He argues that according to our reasons and evidences, God has purposed all fully-qualified jurisprudents for appointment of authority in the community but such an authority will come into the practice when people agree to make allegiance with one of them. Here, contingent authority is turned into practice and the given person becomes officially Islamic jurisprudent leader (Vali-E-Faqih). People’s election and vote is sufficient cause for this authority and it is

directly related to realization leadership of Islamic jurisprudent (Velayat –E- Faqih). Islamic legislator has notified a group of qualifications that if anyone possesses, he will be competent to become Vali-E-Faqih and it is called “Verity Proposition”; however, this issue will be realized when people accept him, elect him as Vali-E-Faqih and conclude allegiance with him. Thus, it may be expressed that after period of Pure Imams (PBUH), legality of Islamic Government includes two main and essentially cornerstones: One of them is religious based Islamic rules or what has been stipulated by God as conditions and features and the other is people’s election (Moosavi Bojnoordi, 1988).

As one of the Islamic jurisprudents and instructors in Qom Islamic Seminary, Ayatollah Jafar Sobhani writes about divine- public legality that: “During the presence of appointed Imam by God, the government is merely divine- oriented. But at the time of lacking accessibility to him, it is composed of divine sovereignty and public governance. It is divinely because legislation is done by Glorified God and it is public form since election of main ruler and other supreme agents of government are subjected to people and their consent (Zarifian Shafiee, 1997).

Conclusion

As it is evident, unlike theory of religious authority in which the bases of legitimacy of Islamic ruler is deemed exclusively by the enlightened divine law and despite of theory of advocacy with its basis of legality rooted in people’s vote and view, theory of selective authority with interfacial status of two above-said theories emphasizes divine-public legitimacy. Islamic Republic of Iran is also based on this third theory so that it has been mentioned in preamble of Constitution that: “According to authority of affair and constant Imamate, constitution provides the ground for realization of leadership of fully-

qualified jurisprudent, who is identified as leader by the people (*Majari Al-Umur Beyad Al-Ulama Bellah Al-Omana Ala Halaleh Va-Harameh*: The channels of affairs at the hands of God’s trustee clergymen to observe his permissible and prohibited objects) in order to guarantee several organizations not to divert from their Islamic original duties.” Therefore, as the final conclusion, it may be implied that elections, political participation, legitimacy of political system and generally people’s governance may be distinguished by influence of triple jurisprudential theories. If theory of religious authority is considered as the basis for practice, people may not essentially play a role in legitimacy of political system. The only duty for the people is to do the given task and follow up Islamic ruler thus elections will be meaningless. In contrast, according to theory of advocacy, the legality of Islamic system is enforced and becomes effective by the people so people have any right to determine their fate. In such a system, Islamic ruler shall do his duty and task versus the responsibility which has been assigned to him and for which he shall be accountable and responsive before people as well.

Third theory, which has been governed with leadership Ayatollah Khomeini after the victory of Islamic Republic in Iran, is a composition of doctrines of religious authority and legal mandate.

As reviewed in this jurisprudential attitude, people possess right and task in elections. It means that the legislative rules which have been determined by Islamic religion may be involved in election of Islamic ruler and to operationalize jurisprudent’s governance. Divine sovereignty and public governance are some elements and parts of this jurisprudential doctrine. Thus, elections are become effective in such an approach and at the same time some restraints may be loaded on it, which differs from democracy *ala western*

and even from what is believed according to theory of advocacy.

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