



The Concept of “Political Legitimacy” in Shia Political Thought (With Focus on Imam Khomeini’s Political Thought)

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Abstract:

Legitimacy is always considered an important concept among basic topics of political science; since it has been already posed as the prerequisite of acceptability for exercising of power in the societies through history. Accordingly, all of the political philosophies made efforts to establish an intellectual apparatus that enforces the fundamentals of governance, dealt to some extent with the issue of “Legitimacy” and included it in the core of arguments. In general, legitimacy would be defined as being legal or to be based on the law; but it refers not only to legality of government from the legislative respect, but also to social acceptability of it by citizens. In this article, we try to study and investigate the political legitimacy in the Shia political thought, particularly with focus on views of Imam Khomeini (RA) as the founder and former leader of Islamic Republic of Iran.

Keywords: Imam Khomeini (RA), Political legitimacy, Shia’s political thought, Fiqh teachings, Islamic government

Introduction

Any political philosophy tried to establish an intellectual apparatus to enforce the fundamentals of governance, at least, implicitly, discussed the issue of “Legitimacy” and its related topics. As the maintenance and permanence of any political system is derived from its legitimacy bases, it is expected that fall and deterioration of the states would be the direct result of losing the legitimacy. Legitimacy and efficacy together are the main conditions of political maintenance; and obviously, while

“the mass lack the will and the authorities lack the ability” deterioration will be inevitable. One the greatest concerns of social scientists and philosophers during the history have been the problem of governance; that is, how and due to what reasons governed people acquiescence the obedience and which means and strategies used by governors to institutionalize this subjection to the authority. Furthermore, another research concern mostly examined in the field of social science and politics is the causes and consequences of

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turning away from the government system by the Public. Hence, as the issue of legitimacy ultimately refers to common values between state and nation, it can be concluded that the presumed aim of these inquiries has been the study of legitimacy. In sum, illegitimacy results from gradual emergence of contrast between the common values of the nation and that of the state authorities.

Legitimacy

In a simple definition, legitimacy is the voluntary obedience and conscious acceptance of the political authority's decisions and the rightfulness of them by the people (Aghabakhshi, 1995: 185). In other words, legitimacy refers not only to legality of the government from the legislative respect, but also asks for the social acceptability of this legality by the citizens and governed people (Bashiriyeh, 2007: 42). Yet, in the Fiqh teachings, the term "legitimacy" is devoted to doing any kind of activity that is allowed according to the Islam. Thus, it has different political implications in viewpoint of the Fiqh. These differences could be summarized as follows:

1. Political legitimacy includes various levels and different degrees; while legitimacy in the Fiqh is based on a two-valued logic and consequently a political system can be legitimate or illegitimate;
2. Political legitimacy has two aspects that the governmental either orders or people's response to them are regarded prominent as such, however the legitimacy in Fiqh refers by and large to the issue of values and norms;
3. Political legitimacy is derived from different resources, traditional, charis-

matic and legal, but legitimacy in Fiqh rests solely upon the "Text (Nass)" that is explored by religious specialists and theologians called "Faqih (plural Foghaha)";

4. In political legitimacy, obtaining the public consent is a fundamental principle, whether in the phase of establishment or that of maintenance, but the legitimacy in Fiqh primarily has an a priori nature in relation to government establishment (Kavakebian, 1999: 477).

In addition, acceptability of political authority which defined as choosing, acceptance and conscious subjection to the "Ruler" by the people is a related concept that mostly regarded as the same as legitimacy, especially in the western political culture. This is because of the fact that legitimacy primarily springs from the popular acceptance of the government system. Contrarily, in the Fiqh teachings, there is an established distinction between these concepts; acceptability is considered more or less a quantitative concept, while legitimacy is composed of qualitative aspects. Indeed, the legitimacy of government depends heavily on acting according to the recommended structure of political system. Here, different kinds of relations between these two concepts in the Islamic political culture could be categorized as follows:

1. Legitimacy as acceptance: this type of legitimacy was realized only during the government of the prophet Muhammad (S), since he was chosen by God (acceptance) and meanwhile, had achieved the sufficient legitimacy by the public, thus simultaneously possessed the both.

2. Acceptance as a part of the legitimacy: according to the "Caliphate" (Khalifa) tradition, the legislation aspect of political system after the prophet has been left to the community (Ummah); therefore, the popular acceptance of the government system is recognized as a vital section of the legitimacy, i.e. it has been allowed by God that the community choose the governor based on the religious rules of Islamic Sharia Law.
3. Acceptance as a prerequisite of the legitimacy: in this view, the Islamic governor is chosen by God and the legitimacy originates directly from the "God's command". However, the people have an important role in the process of external embodiment and objectification of the government; however, public acceptance of the governor has no effect in the bases of the Imam's legitimacy (Akbarimoallem, 2004: 112-113).

Fundamentals of legitimacy and its theory in Islam

We might classify all kinds of legitimacy fundamentals, which have been formed under the Ijtihad discourse into three major bases:

- Divine legitimacy
- Popular legitimacy
- Dual legitimacy (Divine/ popular)

A. Divine legitimacy

The theory of divine appointment of the governing leader (Faqih) mostly known as the theory of Divine legitimacy in contemporary political terms, focuses on the Velayat-e Faqih ("guardianship of the jurist") as the most important institution of decision making in the government system of Islamic Republic of Iran. According to Ayatollah Mesbah

Yazdi "in the age of Imam al-Mahdi's absence, legitimacy of the government is provided exclusively from God ... that is, by no means affected by public votes and in contrast, solely based on God's sentence" (Mesbah Yazdi, 1990: 161). In this view, "the reliance of Velayat-e Faqih in the Muslim's affairs is particularly on the direct appointment by immaculate Imam" (Mesbah Yazdi, 1998: 24). Hence, the legitimacy has nothing to do with the public opinions and basically, "all of the tasks which relate to legislative, executive and judicial branches of the government can be validated only through the consent of governor (Valiy-e Faqih) who is the special representative of Imam al-Mahdi" (Mesbah Yazdi, 1990: 162). Nevertheless, Ayatollah Mesbah Yazdi or Ayatollah Javadi Amoli, but also other Shia scholars such as Ayatollah Makarem Shirazi, Ayatollah Safi Golpayegani etc, have not only presented this perspective. Have extended and developed it more explicitly (Feirahi, 2004: 276). However, the theory of divine legitimacy using such theoretical background in Fiqh teachings seeks to interpret or make sense of Imam Khomeini's notions and the Constitution of Islamic Republic of Iran in the light of Velayat-e Faqih as a central core of decision making in the government. One of the striking evidences in Imam's writings that strongly confirm the theory of appointment is a quotation in the book "Selling" (Bay') which most often referred to by the advocates of it. Imam (Ra) in formation of his rational argument about Velayat-e Faqih points out to general reasons of Imamah and says that: "any argument stands for Imamah, exactly can explain at the same time the essential need for establishing a government in the age of Imam al-Mahdi's absence" (Imam Khomeini, 1981: 464). It is clear that in Shia's prevailing attitude general reasons of

Imamah, especially the principle of grace, implies that the appointment of immaculate Imam must be done by God himself; thereby, it is likely that Imam Khomeini (RA), as some other Shia scholars have done, has generalized this principle to the issue of Faqihs appointment in the age of absence. In addition to the previously described analysis which seems to demonstrate the divine appointment as an underlying principle for the formation of government, he tends to work similarly in dealing with the analysis of Riwayat (Imam's word). In the field of narrative reasoning, his final assessment of Umar ibn Hanzale's acceptable Riwayat (narration) expresses: "considering the overall discussion of what has been said before, made it clear that according to the quotation from Imam Reza (A): "therefore, I have appointed him as the ruler of the people" it might be inferred that Faqih can be placed as the governor in terms of Velayat (guardianship) affairs, as well as that of judgment" (Ibid: 479).

Moreover, appointment theory is not confined to more significant points in Imam Khomeini's thought, but also refers exactly to some principles of the Constitution of Islamic Republic of Iran to reinforce the bases of divine legitimacy of Faqih. So, it's generally believed that the 5th and 107th principles of the Constitution apparently signify the divine appointment of Faqih. The fifth principle states: "in the age of Imam Mahdi's absence, the guardianship (Velayat) and leadership of the people is the duty of a just, pious, aware (of the current state of society), brave, insightfully manager and moderator Faqih who takes the charge of it mainly according to the 107th principle". Meanwhile, the 107th principle states that:

"assignment of the leader is the main responsibility of the Assembly of Experts that its members elected directly by the people".

According to Mesbah Yazdi (1998), with regard to Imam Khomeini's conduct and words, some evidences are identifiable as instances in order to prove his chiefly reliance on the appointment theory of legitimacy: the first is Imam's Speech during the Appointment Ceremony of Mehdi Bazargan, the first prime minister and head of the provisional government, clarifies that: "I appointed him to this position because I myself am allowed to do this merely based on the divine guardianship given to me by God. Hence, as I appointed him, the public must obey him. The nation should follow his commands; this isn't a typical government system, but a religious one (Sahife Noor, 1999: 31)". The second instance is related to Imam Khomeini's explicit emphasis on the "appointment" in endorsement's text of presidential mandate of Abolhassan Banisadr, Mohammad Ali Rajaei and Ayatollah Khamenei. Ayatollah Mesbah Yazdi holds that despite the fact that according to sixth principle of the Constitution, the Leader is obliged to only endorse the presidential mandate after the election, but Imam Khomeini (RA) has already emphasized the "appointment" as well as the "endorsement". This is definitely goes beyond the Constitutional rights and can be explained particularly through the application of the "absolute guardianship of the Islamic Jurist (Faqih)" (Mesbah Yazdi, 1998: 42-43). The third case concerns the Imam Khomeini's Command to establish the "Expediency Discernment Council" on February 6, 1988. In Mesbah's view, the remarkable point of this historical command is that makes clear for us "Leader's duties" which have been discussed under the

110 principle of the Constitution are mainly regarded as introductory examples rather than certain number of counted cases. Put differently, while the country moves in normal mode and out of the state of exception, this principle will be the basis of performance, but if some unexpected extraordinary event occurs that affects the very condition of country and its administration the Leader is allowed according to requirements of the "absolute divine guardianship of the Islamic Jurist (Faqih)" to go far beyond his constitutional rights; i.e. he can hold any kind of intervention so as to resolve socio-political crises and also to improve the advantages of the society (Ibid: 44).

B. Popular legitimacy

Indeed, theories that focus on people as a serious source of legitimacy and a key element for governments and the governor (Faqih) to be legitimate are primarily relies upon critical fundamentals as its emergence has been prominently connected with various theoretical and operational problems which the appointment theory encountered, particularly in the case of the experience of the Islamic Republic of Iran. It should be noted that these theories has received much attention and used more widely by scholars in recent years. In this section, we will stress specifically on the ideas of two significant advocates of these theories in order to explain different aspects of the issue: "Mehdi Haeri" and "Ayatollah Salehi Najaf Abadi".

One of the theories that effectively recognizes people as a merely legitimacy providing source for the governance and the governor (Valiy-e Faqih) as its head, is "Advocacy theory". Mehdi Haeri, as a significant adherent of this view, entirely rejects any difference between the presence and the afterward absence of Imam al-Mahdi and tries to

put the real nature of political governance at the time of Holy Prophet Muhammad (S) and Immaculate Imams (A) as the same as other times. Haeri believes that the divine appointment of a ruler by God himself is impossible and considers the political position of Holy Prophet Muhammad (S) or Imam Ali (A) merely a result of election through a popular covenant called "Beiat". He has established his theory about legitimacy initially on the basis of a philosophical debate on the nature of society and government, then by explaining and criticizing multiple existing theories of western political thought, especially Rousseau's social contract theory, finally, presented his idea under the concept of "shared ownership" (Mirmousavi, 2005: 362). The first pillar, the reliance of constitutional rights of citizens upon the principle of shared ownership, is itself an innovation in the field of political philosophy. Accordingly, the government defined as an index of "Practical Reason" and consequently, does not imply the concept of mandate or even guardianship. Due to the requirement for a government to exist, the people decide to choose a person among themselves as a representative and a ruler whose individual nature, i.e. an ordinary man just like other citizens, never changes with respect to the election. The second pillar of this theory is related to the government's essential commitment to be an advocate (delegate) on behalf of the citizens. When consensus is not achieved by discussion, inevitably there is no other way except through the acceptance of the majority view. Hence, the people are able to dismiss their delegate and substitute another person at any time. The third pillar concerns the status of faith and Fiqh in politics and governorship. In this aspect, it is said that the government should be counted as changing sentences and particular (detailed) subjects that preferential-

ly excludes from the domain of general duties and sentences; since, focusing on specific issues is no longer compatible with the superior status of Faqih (Haeri, 1995: 120).

If we find that some innocent Imams (A) have engaged partly in governmental affairs for a while, it must be noted that this has not been due to any divine inspiration, but instead was closely relevant to the issue of advocacy on behalf of the people. Indeed, the politics and patterns of governance are included in primary subjects and events; i.e. it does not fit deservedly into the superior status of prophets, Imams (A) and their representatives. The popular government, which established in this manner, will be law-abiding and elected by people, thus leads to institutionalization of direct vote of the people and political equality of citizens from all classes and groups (Haghighat, 2008: 222- 223).

Ayatollah Salehi NajafAbadi is another scholar who has dealt with the issue of popular legitimacy otherwise. He explains the division of Velayat-e Faqih theories into two separate categories: namely, one for the appointment theory and one for the election-based theory, through using Velayat-e Faqih in two different meanings; first, it refers to application of Velayat-e Faqih in declarative sentences and second, embraces its application in other kinds of sentences such as exclamatory, imperative etc. which cannot be proved or disproved simply. Salehi also thinks that there are essential distinctions between these previously mentioned applications of Velayat-e Faqih insofar as they might stand in contrast to each other with regard to some aspects include types of discussion and arguments, manner of reasoning and the expected results of the discussion

(Salehi NajafAbadi, 1984: 45). He adds that in the former meaning of Velayat-e Faqih, that is substantially declarative, the necessary result of argument will be an affirmative sentence; "a just Faqih is appointed to the supreme guardianship of all people by God". According to this, the people have no considerable role in assignment of Faqih to the guardianship position, but instead they are forced to accept his guardianship that assumed to be a divine one. Contrarily, in the latter application of Velayat-e Faqih the result would be of course an exclamatory sentence that is "the people should choose a Faqih who meets the very conditions described under the fifth principle of the Constitution for guardianship". By the term "the people choose", we mean a group of various Faqihs in which ultimately one of them is determined by means of direct popular election. In this view, the people's role in making the Faqihs guardianship legitimate or supporting the existing legitimacy appears vital to the extent that they can engage actively in the process of election and this is the real value of people in governance that frequently emphasized and appreciated by Imam Khomeini (RA) himself (Ibid: 46-47). At last, he concludes that it is logically impossible that the Velayat-e Faqih in a declarative sense, which implies the appointment of an undetermined Faqih for the guardianship position by God, might be the intended case; as it is difficult to make case for this perception either imaginably or approvingly. In other words, even the religious evidences are so incomplete that cannot form a justifiable basis to argue for the theory of divine appointment (Ibid: 178- 179).

C. Divine/ popular legitimacy (Dual legitimacy)

This rigid dichotomy between different perceptions of Velayat-e Faqih in the field of Fiqh and some manifestations of democracy which became inevitable after joining to a form of republic government helped effectively the emergence of new theory and approach to the issue of legitimacy. This perspective typically seeks to create links between direct divine appointment and the people's consent, and consequently suggests a particular kind of dual legitimacy. The underlying basis of such theory was illustrated partly by Imam Khomeini (RA) himself as the Supreme Leader of Islamic Republic of Iran in early years of the 1979 revolution. Later, its theoretical fundamentals developed in works of several scholars (Faqihs), more especially in works of Ayatollah Montazeri who widely reflected the theory in his Fiqh lessons of advanced level students (Mirmousavi, 2005: 356). The result has been the emergence of a theory on Velayat-e Faqih that mostly known as "choice" theory. Ayatollah Montazeri, whose claim is that he had been a serious advocate of divine appointment theory in the past (Montazeri, 1996: 55), begins the discussion by reviewing the major notions and views on the origins of governance. He then, continues with representing various quotes of previous scholars and finally asserts that: "there are two main ideas about the origins of governance among Islamic scholars: the first considers the superiority and sovereignty exclusive to God and, as such, does not presume the people's choice to have any identifiable effect on the very process of legislation or regulation. Thus, the Islamic government equals a merely theocracy system. However, according to the second notion, the superiority belongs intrinsically to the people, as they deserve it;

in addition, authority and governance originate only from their will. The term "Ahl-e Hal va Aqd (honest and trustworthy men)" is an indicative example of this undeniable importance of the mass in the history of Islam. It seems that a proper standpoint regarding this issue might be expressed in form of a synthesis of two competing approaches. Therefore, when God himself, as apparently realized in the case of the Holy Prophet (S) and Innocent Imams (A), does the appointment the appointed man doubtless will be the leader. Otherwise, the right of choice is delegated to the people, but it is not an absolute right. Rather, it must be exercised through features and conditions which have been validated by Shariah (the religious law of Islam)" (Montazeri, 1989: 404- 405).

Montazeri has paid great attention to merit and political competency of Faqih in the field of governance and believes that historical texts and narrations, which have particularly dealt with the superiority of Faqihs, do not imply something else. Besides, the guardianship of Faqih currently should be realized by the people's choice as mentioned above in such a way that they can also dismiss the ruler whenever he violates the conditions given by Shariah or does not carry out his official duties properly. By the way, this theory suggests a dual legitimacy in which the people's vote is considered at least as an inherent prerequisite but not yet a sufficient condition; put another way, despite the determining role of people in choosing the ruler like modern forms of democracy, they are obliged to observe all of the principles initially established by God in their choice.

Political legitimacy from the viewpoint of Imam Khomeini

The present section is devoted to exploring the concept of political legitimacy and its

types in Imam Khomeini's distinctive outlook. In fact, Imam Khomeini has frequently discussed the divine legitimacy both intellectually and practically, and it has been most likely due the fact that the Islamic government primarily should be a main executive tool for actualizing the divine law as true embodiment of God's government on earth. In "Kashf-e Asrar (the Discovery of Mysteries)", for instance, he writes: "no one has the right of sovereignty over the nation and no one is allowed to dominate others except God; because the exclusive right of governance and legislation belongs to God himself. Logically it is expected that God establishes a government for the people and makes required law. But, the law is the Islamic law (Shariah), as such, which he has established originally, then it is proved that this law will be employed limitlessly at any given time and place" (Imam Khomeini, n.d: 184). Hence, from this point of view, a government, which has been founded in order to implement divine regulations or particularly the Islamic law, will have divine legitimacy within the political organization. Furthermore, his later arguments on Velayat-e Faqih explained in Persian (1968) contain certain implications on divine legitimacy of rulers. For instance, he notes that: "the Islamic Government is nothing but a government of law. I.e. the Sovereignty and Guardianship are exclusively confined to God and naturally, the only law would be God's command. This law predominates overall members of the Islamic society. Every individual must be subordinate to the divine law from Holy Prophet himself and his successors (Caliphs) to ordinary citizens. God himself forced the Prophet Muhammad (S) by direct divine inspiration to declare and introduce his succes-

or Imam Ali (A) immediately and exactly at that place under an unbearable desert condition" (Imam Khomeini, 1998: 44-45).

In contrast to what has been said before that to some extent reflects Imam Khomeini's emphasis on Divine legitimacy, there are several examples and cases in which he has acknowledged the necessity of recognizing the people's vote and avoiding the imposition of decisions on them. Interestingly enough, there can be found some explicit quotations that regards the legitimacy of Islamic political system as wholly originates from the people's vote, so it means that Imam Khomeini has actually accepted the popular legitimacy as well. For example, he quotes "Islam did not allow us to be totalitarian dictators and we don't want to impose our idea to the nation. We are obedient to people's vote; whatever they decide, we must obey. God has not granted us the right of imposition on the nation. The Holy Prophet Mohammad(S) has not permitted us, under any circumstances, to compel obedience" (Sahife Noor, 1999: 34).

He also adds in expressing the most important principles of the Islamic government: "first of all, it must be relied upon people's vote insofar as each individual of the population could participate in selection of the authorities and officials... in such government, surely all of the officials should constantly confer with the elected delegates of people in the very process of decision making; if they don't agree with a plan, the officials alone cannot decide about it" (Ibid: 436).

Considering what has been said so far in this section, it would appear that there is a kind of dualism in Imam Khomeini's view on legitimacy, but it is a seemingly prevailing tendency among most of Shia scholars. Probably, this is resulted from the social and intel-

lectual conditions of the Muslim's society in recent century. Although we do not seek to search for exact causes of this phenomenon, it is hardly necessary to point out three issues about it: First, this dualism does not represent an apparent contradiction or a paradox, since it isn't rationally acceptable that Imam Khomeini, as a prominent Shia theologian, or other scholars have understood a contradiction and did not avoid it. Second, this seemingly contradiction cannot be attributed to application of contradictory statements in different contexts so as to increase the dominance over all strata of society, because these statements and quotations could be found in any condition and it is basically impossible to distinguish application cases of discussed views (divine legitimacy and popular legitimacy) according to contexts and conditions. Third, it will be a great mistake to assume that what really has validity and should be considered as the main criteria for analyzing Imam's view on legitimacy are exclusively the contents of his systematically structured published works in the field of Fiqh; in other words, all of his speeches, quotations, statements or interviews are entirely invalid and worthless because these are especially context based and related to temporary conditions of society, while organized works such as books are virtually associated with general/permanent aspects of political life. However, this argument is incomplete, as all of Imam's works are attributed to him and must be relied upon equally in the analysis (Jamshidi, 2005: 643).

Thus, in the analysis and examination of Imam Khomeini's perspective on the government and the issue of legitimacy, we can identify two basic principles as follows: one principle offers the fact that absolute sovereignty primarily and intrinsically belongs to God and, likewise, it requires a clear denial of any human sovereignty. In addition, the

other implies compliance of the Humankind, equally and without any kind of discrimination, with the Supreme Divine Law (Shariah) and the need for its realization in the society. Furthermore, it should be noted that the true realization of Shariah does not make sense, so long as a popular government is established; that is a government, which comes into existence based on people's vote or consent. Consequently, such an Islamic government receives its legitimacy in establishment phase directly from the public, while in terms of aims and necessity of existence its legitimacy referred largely to the Islamic divine legislations. Put differently, each of two types of legitimacy is recognized without any contradiction or paradox whatsoever.

Conclusion

Legitimacy has been already one of the most striking concepts in politics, particularly in the case of Islamic Republic of Iran, which has tried initially to adopt a distinctive way from the traditional form of western democratic governance system. In this paper, first we examined the definitional aspects of legitimacy and then, made an obvious distinction between the term "legitimacy" and "acceptance". After that, theories of political legitimacy in Shia's intellectual tradition include; divine legitimacy, popular legitimacy and dual legitimacy (an incorporation of theories of legitimacy) were explained briefly in order to make the problem clear enough that controversial issues appear and be discussed. In light of a scrupulous investigation of the first and second types of legitimacy, namely, the theory of Appointment and popular governance approach, we concluded that none of these two could solely satisfy the need for a Fiqh-based valid/reliable theory of legitimacy that would be able to be applied retrospectively in an Islamic society. As a result, it

requires a theory of legitimacy that takes the advantages of former approaches and synthesizes them successfully under an integrated framework; definitely, the third type of legitimacy has done so with a particular eye to works of Imam Khomeini as a consistent source of contemporary Fiqh teachings for conceptualization.

At last, exploration of Imam Khomeini's political thought undertaken through a review of his speeches, quotations and organized works demonstrated that however his early works on Fiqh dealt exclusively with divine legitimacy and the issue of "Appointment" to such an extent that people's vote seems to be completely of no importance, later works and speeches which are largely related to after Islamic Revolution period contain remarkable emphasis on the determining role of people in the process of governance. Indeed, as in Imam's perspective practical requirements have always been prior to the theoretical logic of issues, it is no wonder that he had formally recognized and confirmed the democracy in this preferred level, but did not present an illustrative explanation of the relationship between his early theoretical arguments on divine legitimacy and implications of practical level as mentioned above. This inquiry tends to suggest that the legitimacy in Imam Khomeini's point of view is divided to two main stages; first is associated with the establishment of government and second relates directly to basic aims of the government and primary need for its formation. According to Imam Khomeini, the legitimacy in the first stage is mostly a popular one, while the second stage relies heavily on a ground of divine legislation and legitimacy.

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