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Acceptability and Legitimacy

Question No. 25

What is the relationship between acceptability and legitimacy in Islamic State, particularly regarding the theory of the "Muslim scholar's Authority"?

The two views mentioned on the theory of legitimacy (i.e. appointment and election) are different as to the relationship between acceptability and legitimacy:

A. According to the theory of "election", the relationship between "acceptability and legitimacy" is of "absolute generality and specificity" type; thus, acceptability is a more general idea than legitimacy. In other words, acceptability – providing other conditions such as jurisprudential expertise (fiqahat), efficiency, and justice are fulfilled – culminates in legitimacy. Acceptability is conceivable without legitimacy, but legitimacy is not conceivable without acceptability. Thus, legitimacy is absolutely more specific than acceptability, for "legitimacy" is always contingent upon "acceptability". In other words, three suppositions are conceivable in this respect:

- 1. (Acceptability + "jurisprudential expertise + justice + efficiency" 🗈 legitimacy)
- 2. (Acceptability "jurisprudential expertise + justice + efficiency" 1 non-legitimacy)
- 3. ("jurisprudential expertise + justice + efficiency" acceptability 1 non-legitimacy)
- B. According to the theory of "appointment", the relationship between "legitimacy" and "acceptability" is "generality and specificity in some respect". That is, here it is different from the previous view just in the third supposition. Thus, the conceivable suppositions are as follows:
- 1. (Acceptability + "jurisprudential expertise + justice + efficiency" (legitimacy)
- 2. (Acceptability "jurisprudential expertise + justice + efficiency" 1 non-legitimacy)
- 3. ("jurisprudential expertise + justice + efficiency" acceptability

 ☐ legitimacy)

Nevertheless, according to this view, the "Authoritative Muslim scholar" is not permitted to take the political power under any condition and in any form, and to wield his power; this is because without a record of "acceptability", it is virtually impossible to successfully establish a government.

On the other hand, taking power through dictatorial and insidious methods is not permissible in Islam. What is important according to the theory of "appointment" is the authority of the "Authoritative Muslim scholar" in spite of no social acceptability, while he lacks the nominal government; just as Imam Ali (as) enjoyed authority and legitimacy during the Caliphate of the three Caliphs, while he was lacking the nominal government. As a result of this legitimacy, the "Authoritative Guardian" is legally permitted to issue a governmental decree in such a situation, and it would be incumbent upon people to obey him. But, according to the theory of "election" he essentially enjoys no authority to issue a decree, and if he issue one, it will not be incumbent upon people to obey him.

The Authoritative Muslim scholar's power to issue governmental decrees does not mean his dictatorship, for he cannot take political power and establish government through force, dictatorship or deception, imposing his own will upon others; however, people will be guilty because of not obeying him. Imam Ali (as) says:

"The Prophet said to me: 'Oh, Abu Talib's son! You are responsible for the Guardianship of my community. If they confer you the power safe and sound, agreeing upon your sovereignty contentedly, take on the guardianship of their affairs; otherwise, leave them at that". 1

This tradition shows that:

- 1. Imam Ali (as) had been appointed by the Prophet to the guardianship of the community; so it is not essentially dependant on people's vote.
- 2. Imam Ali's exercising his own authority is dependant on its acceptability by people. Imam Khomeini says on "Muslim scholar's Authority":

"If it is impossible for the Muslim scholars to assemble and establish a government, they would be exempted from establishing the Islamic government; however, they would still enjoy the office of guardianship. Although they have no government, they have authority over the Muslims".2

In view of what was said, the role and function of the religious ruler's "public acceptability" – based on the two views – is:

First. The role of acceptability according to the theory of appointment:

- 1. Participation in establishing Islamic State and preparing the ground for transferring the power to the ruler appointed by God.
- 2. Participation in making the Islamic State efficient, preserving it, and supporting its viability. These two

functions are actually in all instances of Islamic State – including the Prophet's, the Imam's and the Authoritative Muslim scholar's government. As for the Authoritative Muslim scholar and Islamic Republic government, however, there are some other functions as well.

3. If there is just one person – among numerous Muslim scholars – qualified for leadership, the choice of the majority of the people is their indirect participation in the process of identifying the guardian appointed by God; this identification is done through experts. If there are numerous persons qualified for leadership, the people's vote is preparing a reasonable ground for exercising the authority by one of the qualified persons. Thus, there is no chance for others to exercise power and they would have no responsibility here. To prevent struggle and anarchy, they are deprived of any right to guardianship.

Second. The role of acceptability according to the theory of election:

This theory shares the same opinion on the functions stated in number 1 and 2 above, but has a different view on the third function. It believes that the people's vote and the experts elected by people is a religious method not a rational one. In other words, the public affirmation is one of the religious conditions for the Muslim scholar's authority, just like justice and legal expertise; without people's vote, the qualified Muslim scholar does not legally enjoy authority. So, there is no difference between the two assumptions – i.e. one qualified person and numerous qualified persons.3

- 1. Ibn Tavous, Kashf al-mahja, p. 180.
- 2. Imam Khomeini, al-biy', 2, p.466.
- 3. For further information, see: Hukumat-e Islami, 2nd year, no. 4, p. 105-106, 127.

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