

Chapter 3: The Role of the People in the Islamic Government

One of the fundamental questions in political philosophy is: Who has the right to take charge of government and assume the responsibility of managing the affairs of society? In other words, according to what principle does an individual or a group have the right to prescribe and proscribe in social affairs and people have to obey? This discussion is concerned with the question of “legitimacy” [*mashru‘iyyah*].

As we previously stated in the discussion on the presuppositions of the theory of *wilayat al-faqih*, according to Islam the right to govern intrinsically and originally belongs to God, the Exalted, and no individual or group has such a right unless he or it is granted certain privileges by God. Resting on solid evidence, we believe that God has bestowed this right to the Holy Prophet of Islam (S) and to the twelve infallible Imams (‘a) after the Prophet (S) and to the duly competent jurist [*faqih jami‘ ash-sharayat*] during the period of occultation [*‘asr al-ghaybah*] of the Imam of the Age (‘a).

Has this right also been delegated by the Islamic school to all the members of the society? In reply to this question, things like “legitimacy and acceptability” [*mashru‘iyyah wa maqbuliyyah*] and “the role of the people in the Islamic government and the principle of *wilayat al-faqih*” are discussed. Owing to the special importance of these subjects, we shall hereby deal with them in detail.

[The meaning of ‘legitimacy’ \[mashru‘iyyah\]](#)

As we have already stated, what we mean by *mashru‘iyyah* here is rightfulness [*haqqaniyyah*]; that is, whether or not the person who is in charge of government and holds an administrative post has the right to assume the position. Or, regardless of his being meritorious, righteous and just, does he have required legal right and credibility to rule, or not? And regardless of whether or not the laws he is enacting and implementing are good and just laws and gearing toward the general interests of society, does this person have the right in principle to be the executor of these laws?

Given the above explanation, it has become clear that in terms of lexicography, the word *mashru‘iyyah* is

derived from *shar'*, but since this word is equivalent to the English word “legitimacy” which stands for “legality” and “rightfulness”, it is not exclusive to divine or religious law, religion and religiosity or that the above questions apply only to them. Rather, they apply to any ruler and government. Also, all schools of political philosophy and political philosophers face such questions.

It has also become clear that the view that the word “legitimacy” means “the goodness of law and its compatibility with expediency” proposed by Plato, Aristotle and others is, in our opinion, not correct. This is the purpose of the discussion on legitimacy, which is not whether or not the law is good, complete and capable of ensuring the society’s welfare but the focus is on the executor of the law—i.e. what the basis of granting him the right to execute is.

Also, the discussion on legitimacy is not on the manner of the implementation of law—that is, assuming that the law is good and without defect—is it implemented well and properly, or the executors lacked the competence required to execute the law, or not? Rather, assuming that both the law and its implementation are totally good and without defect, the question is on the principle by which they hold their posts.

Here the opposite of legitimacy [*mashru'iyah*] is “usurpation” [*ghasb*] and illegitimate [*ghayri mashru'*] government means a “usurper” [*ghasib*] government. Thus, on the basis of our definition of “legitimacy” a government’s policy may be good and just but the government is a usurper and illegitimate one.

Acceptability [*maqbuliyyah*]

Acceptability [*maqbuliyyah*] means “people’s acceptance”. If the people show inclination toward a certain person or group and want him or it to take the sovereignty, and as a result, a government is established on the basis of the people’s demand, this government is said to enjoy acceptability [*maqbuliyyah*], otherwise, it cannot be said that it enjoys acceptability. In other words, rulers and governments can be divided into two basic kinds: (1) rulers and governments that exercise sovereignty on the basis of people’s consent and approval; and (2) rulers and governments that impose their sovereignty on the people by force. Acceptability is applicable to the first category.

The relationship between legitimacy and acceptability

The determination of the relationship between legitimacy and acceptability depends on something which we believe is the prerequisite of legitimacy. Obviously, when we suppose that the criterion of legitimacy of a government is people’s inclination and public consent and approval, then legitimacy and acceptability will be inseparable.

Accordingly, any government which is legitimate enjoys acceptability, and any government which is accepted by the public is regarded as legitimate. Along this line, we cannot assume that a government can be legitimate without the acceptance of the people, or that in spite of the people’s acceptance of the

government it cannot be legitimate.

Nevertheless, if we take something other than the acceptance of the people as the criterion of legitimacy, then the distinction between legitimacy and acceptability will be possible. It is possible to find rulers and governments that notwithstanding their legitimacy are not accepted by the people. Or, it is possible to find rulers and governments that, in spite of the people's inclination toward them and their being liked by the people, have no legitimacy and are categorized as usurping rulers and governments.

Therefore, our main question is this: "What is the criterion of legitimacy in Islam?" If a clear answer is given to this question, the status of acceptability and role of the people in the Islamic government and *wilayat al-faqih* can be explained more lucidly. We shall deal with this issue in the discussion on "the role of the people in the Islamic government".

The role of the people in the Islamic government

What is meant by "the role of the people in the Islamic government"? It is possible to deal with this question from a historical angle. That is, a researcher may study the historical development of governments in Islam from the time of establishing the first Islamic government in Medina by the Prophet of Islam (S) up to now and what role the people had in their formation, consolidation and expansion.

We do not intend here to answer the question from a historical angle. Rather, we want to theoretically examine the issue and elucidate the viewpoint of Islam in this context. In view of the explanations we have given about legitimacy and acceptability, the answer to this question demands examining two other questions.

The first is: What is the role of the people in the legitimacy of government without which the government will not be legal, legitimate and rightful? The other is: What is the role of the people in the materialization of and running the Islamic government? In other words, after it is confirmed that the government is rightful, legal and legitimate, should this government be imposed upon the people by force, or that in case of developing a theory and establishing the Islamic government, the people must give their consent, accept this theory, and choose the Islamic government willingly, and take part in it? As such, two questions arise:

(1) What is the role of the people in the legitimacy of the Islamic government?

(2) What is the role of the people in establishing the Islamic government and sustaining it to become powerful?

In answering these two questions, we can divide the Islamic history into, at least, three periods. The first is the period of the Prophet of Islam (S); the second is the period of the infallible Imams (‘a) and their presence among the people; the third is the period in which no infallible Imam is present among the people just like this time of ours.

With respect to the time of the Prophet of Islam (S), there is apparently consensus of opinion that the legitimacy of the government of the Prophet (S) had nothing to do with the will and view of the people. Legitimacy was something given to him by God without soliciting the opinion and inclination of the people and He Himself has also granted him the right to rule just as he was appointed as His Prophet.

Whether there was public consent or not, the Messenger of Allah (S) is a rightful and lawful ruler and if the people had not accepted his government, only it would not have been established, not that the Prophet's legitimacy to rule and the political right granted to him by God would have been lost, or that due to people's disapproval, God would have cancelled His issued decree of granting the Prophet of Islam (S) political leadership, sovereignty and apostleship.

That is, the Holy Prophet (S) had two separate God-given designations: prophethood and political leadership. If the people had not accepted him and rejected his prophethood, this would not have led to God's annulment of his prophethood and the same is true of designating the Prophet (S) as a political leader.

Regarding the role of the people in the government of the Messenger of Allah (S), again, there is apparently no doubt or difference of opinion that the people played a major role in the establishment of the government.

That is, the Holy Prophet (S) did not impose his government on the people by force but the people themselves believed in his prophethood, and willingly and freely accepted his God-ordained government as well as the right to rule which was granted to him by God. As a sign of their acceptance and submission, they paid allegiance [*bay'ah*] to the Prophet (S), accompanied him offering their lives and properties, set up the pillars of his sovereignty, and established his government.

Therefore, concerning people's role in the legitimacy of the Prophet's (S) government it was null, but in the establishment of it, they had a vital role to which the assistance of the people is a testimony. Of course, the Unseen and divine favors have their effect in this context and we do not deny this, but what we want to stress is that the establishment of the Prophet's (S) government is ascribed to the acceptance of the people and their inclination toward, and approval of, his government and sovereignty, not to the use of force.

The Muslims who constituted the Islamic society were never compelled or forced. Of course, in that society there were hypocrites [*munafiqin*] and they were not sincere in their approval of the Prophet's (S) government, but since they formed a minority, they dared not declare their existence or express their opposition to it practically and openly.

In any case, situation in the time of the Holy Prophet (S) does not seem ambiguous and so it is not a moot question.

The next question is: What was the basis of the legitimacy of the Islamic government prior to the time of

the Prophet (S)? The Muslims have difference of opinion about this issue which represents a fundamental subject of difference between the Shi'ah and the Sunni brothers. We shall elaborate on this issue in the next section.

The basis of legitimacy of government after the time of the Prophet of Islam according to the Ahl al-Sunnah

The Sunni brothers believe that the basis of legitimacy of the Prophet of Islam (S) is “direct designation by God”, and it changed after that. Usually, three bases are considered in this respect: (1) consensus of the *ummah*; ¹ (2) nomination by the preceding caliph; and (3) decision of the community's elders [*ahl al-hall wa'l-'aqd*].

Regarding the consensus of the *ummah*, for example, they believe that the basis of legitimacy of the first caliph, Abu Bakr, is the meeting of the people in which they chose him as the caliph and declared their approval of it. For this reason, his government is thought to be legitimate.

Concerning the second caliph, they believe that the basis of his government is Abu Bakr's appointing him as the next caliph and for this reason, the government of 'Umar is also considered legitimate.

What is meant by the decision of the *ahl al-hall wa'l-'aqd* is that a number of the elders of the community who have good knowledge about the issue of caliphate, and are considered political figures would meet, take counsel together and consulting one another, designate a person to the caliphate.

This is said to be the basis of the legitimacy of 'Uthman's government. That is, the decision of the six-man council whose members were appointed by 'Umar led 'Uthman's assumption of the caliph's post, and for this reason, his government is thought to be legitimate. With regard to the noble verse,

“O you who have faith! Obey Allah and obey the Apostle and those vested with authority among you,”²

the Sunni brothers believe that *uli'l-amr* [those vested with authority] does not refer to a certain person or people and adhere to its literal meaning, i.e. those who are in authority such as the rulers, sultans and kings, and in today's parlance, the heads of states. Some leading Sunni figures declare in their books that if a person revolted against the caliph and ruler of his time and waged war against him, it is obligatory [*wajib*] to fight and kill him because it is considered a revolt against a rightful caliph, but if that person won the battle and managed to remove the caliph of the time, assume the position of caliphate, and take over, it would be obligatory to obey him because, according to Sunni figures, the appellation *uli'l-amr* in the pertinent verse of the Qur'an, applies to him.³

Of course, this view can be regarded as the fourth basis of the Sunni '*ulama*' who hold that the criterion of legitimacy is to obey whoever becomes a ruler and takes control of the helm of affairs regardless of

the way by which he gains political power even if it was by means of waging war, bloodshed, massacre of people, and violence, and regard opposing him as unlawful [*haram*].[4](#)

To sum up, the view of the Sunni brothers regarding the legitimacy of the governments after the Holy Prophet (S) is centered on the three bases we have discussed, i.e. direct selection of the people, nomination by the preceding caliph, and the decision of the community's elders.

[The Shi'ah viewpoint regarding the basis of legitimacy of the rulers and governments after the Holy Prophet](#)

In order to elucidate the Shi'ah viewpoint regarding the basis of legitimacy of the rulers and governments after the Prophet of Islam (S), we had better divide it into two periods:

[1. The period of the presence of the infallible Imams](#)

This period extends from 11 AH to 260 AH and in another account, to 329 AH.[5](#) Like the time of the Prophet (S), in this period there is consensus of opinion among the Shi'ah that the legitimacy of a ruler and government is determined by God who has designated twelve persons and commanded His Apostle (S) to introduce them to the people. So, according to this belief of the Shi'ah, the appellation *uli'l-amr* in the verse,

“O you who have faith! Obey Allah and obey the Apostle and those vested with authority among you,”[6](#)

does not apply to all the rulers and holders of power but to specific persons. This view of the Shi'ah is confirmed by authentic *hadiths* related from the Messenger of Allah (S) in which it is reported that when the said verse was revealed, his companions [*sahabah*] went to him and asked him about the meaning of *uli'l-amr* [those who are vested with authority]. For example, Jabir ibn 'Abd Allah, a famous companion of the Prophet (S), went to the Prophet (S) one day and said: “O Messenger of Allah!

We understand the meaning of *ati'u Allah* [obey Allah]. We also understand the meaning of *ati'u'r-rasul* [obey the Messenger], but we do not know who *uli'l-amr minkum* [those who are vested with authority among you] are. The Prophet (S) said: “*Uli'l-amr* are my twelve successors and caliphs, the first of whom is 'Ali” and then he made known to the people the names of the other eleven Imams (*'a*). A similar *hadith* can also be found in some Sunni sources.[7](#)

So, according to the Shi'ah, the term *uli'l-amr* refers to the twelve *ma'sum* [infallible] Imams. This affair was not decided by the Prophet (S) but it is God, the Exalted, Himself who has designated them to bear the mantle of the caliphate and government after the Prophet (S). The Holy Prophet (S) had no role whatsoever in designating them. His only duty and role in this context was to convey and impart the order of God to the people:

﴿ يَا أَيُّهَا الرَّسُولُ بَلِّغْ مَا أُنزِلَ إِلَيْكَ مِنْ رَبِّكَ وَإِنْ لَمْ تَفْعَلْ فَمَا بَلَّغْتَ رِسَالَتَهُ ﴾

“O Messenger! Make known that which hath been revealed unto thee from thy Lord, for if thou do it not, thou will not have conveyed His message.”⁸

This verse, which according to the Shi‘ah was revealed on the day of Ghadir Khumm in connection with announcing Haḍrat ‘Ali (‘a) as the caliph clearly proves that God Himself has designated ‘Ali (‘a) for the caliphate after the Prophet (S), and the Prophet’s role in this matter was only to convey this command of God to the people. The same is true of designating the other eleven Imams (‘a) for caliphate.

Therefore, the basis of the legitimacy of the government of the Prophet (S), i.e. designation by God is the same as that of the infallible Imams (‘a). Just as we said regarding the Prophet (S) that the people had no role whatsoever in the legitimacy of his government and their acceptance or rejection had no effect on his legitimacy, the same is true of the infallible Imams (S). There is no difference between the two cases.

Concerning the Prophet (S) we have already stated that God has entrusted two positions of responsibility to the Prophet (S): prophethood [*nubuwwah*] and political leadership. We also stated that if the people had not accepted the Prophet’s (S) apostleship, this would not have rendered his apostleship invalid or prompted God to annul His decree of designating the Prophet (S) for apostleship. Similarly, if the people had not approved of the Prophet’s (S) government, this would not have prompted God to annul the degree of the Prophet’s sovereignty; rather, in the sight of God the Prophet (S) would have been a rightful and legitimate ruler.

Now, concerning the infallible Imams (‘a), the same is true, i.e. since the basis of their legitimacy is divine designation, even if the people do not support them or accept their sovereignty, their right to rule in the sight of God shall remain binding and they will remain to be the rightful rulers; with their presence among the people, the sovereignty of others will not be legitimate, legal or rightful.

We already said about the Prophet (S) that the role of the people in the establishment of the Prophet’s government was dominant and no force was used in the setting up and consolidation of his rule but the main factor was the Muslims’ acceptance and recognition. The same is true of the people’s role in the establishment of the infallible Imams’ government. That is, the people had a dominant role and no force or violence was used in claiming their legitimate and legal right; rather, the Imams (‘a) took on the responsibility of government when the people themselves went to them and entreated them to take charge of the government.

Given this viewpoint, we think that during the 25 years which followed the demise of the Holy Prophet of Islam (S) when Haḍrat ‘Ali (‘a) remained away from the government and others assumed his post, his legitimacy to rule was still in effect and his right to rule did not become invalid, but due to the lack of acceptance of the people, he did not rule. After a period of time when the people themselves went to him

and declared that they wanted him to take on the responsibility of government, he did. Referring to the reason why the Imam (‘a) accepted to be the caliph, he declared:

لَوْلَا حُضُورُ الْحَاضِرِ وَقِيَامُ الْحُجَّةِ بِوُجُودِ النَّاصِرِ... لَا لَقِيتُ حَبْلَهَا عَلَى غَارِبِهَا.

“If people had not come to me, and supporters had not exhausted the argument... I would have cast the rope of caliphate on its own shoulders.”⁹

Thus, according to the Shi‘ah, there is no difference between the role of the people in legitimacy and their role in the establishment of the government of the Prophet (S) and that of the infallible Imams (‘a); in both cases (i.e. the legitimacy and establishment of the government) they are totally similar to each other.

Recently some Shi‘ah writers have proposed the idea that the Holy Prophet (S) on the day of Ghadir only introduced Ha^qrat ‘Ali (‘a) as a candidate and the people could, if they liked, select him to be a ruler after the Prophet (S) and that history showed that the people showed no inclination toward his rule. Therefore, the criterion of legitimacy of government after the Prophet (S) was people’s acceptance and approval.

Yet, when we consider the explicitness of the verse,

“O Messenger! Make known that which hath been revealed unto thee from thy Lord, for if thou do it not, thou will not have conveyed His message,”¹⁰

the traditions on the commentary of the verse, “O you who have faith! Obey Allah and obey the Apostle and those vested with authority among you,”¹¹ and the speech given by the Prophet (S) on the day of Ghadir as well as other abundant and certain proofs at our disposal, we regard this recently proposed view as absolutely incorrect and we are quite certain of its groundlessness.

2. The period of occultation [ghaybah] and non-presence of the infallible Imams

(‘a)

If there is no consensus of opinion among the Shi‘ah jurists [*fuqaha*], there is certainly almost an overwhelmingly dominant opinion of the Shi‘ah *fuqaha* that during the period of non-presence of the infallible Imams (‘a), just like the time of the Prophet (S) or the time of the presence of the infallible Imams (‘a), the legitimacy of government is determined by God, but its actual establishment and stability depend on people’s acceptance and the community’s inclination toward it.

To the exclusion of one or two contemporary Shi‘ah jurists, all Shi‘ah *fuqaha* believe that during the period of occultation [*‘asr al-ghaybah*] a religious ruler has to be a duly competent jurist [*faqih jami‘ ash-sharayit*], who is appointed according to general designation on the basis of a noble decree of the

blessed Imam of the Age ('a) handed down to us in addition to the proofs which are available. The available views and opinions of *fuqaha* show that they all agree about this subject.

Of course, one or two contemporary jurists talk about the possibility [*ihtima*] of suggesting that the legitimacy of government during the period of occultation is decided by the people; that is, it is people's consent that grants a jurist the legitimacy and right to rule, and if people do not vote for him, his rule will never be legitimate and not only the establishment of the government of the jurist but also its legitimacy emanate from the people's acceptance and allegiance to the jurist.

It should be noted that the well-known view or the overwhelmingly dominant opinion of the *fuqaha* that the duly competent jurist [*faqih*] has the right to rule during the period of occultation by the general designation of the Imam of the Age ('a) does not mean the Imam's appointment of a specific person or a particular jurist, but that the Imam has set the general descriptions of the jurist who has the right to rule.

Now, how can a decision be made on the ruler during a time like ours and other times when we have tens or even hundreds of *fuqaha* who have reached such a position on the basis of the general designation, the government of each of whom will be legal and legitimate? It is obvious that in practice a government cannot have tens or hundreds of leaders each of whom independently assumes presidency.

It is also clear that such a government would be in a state of turmoil and chaos. So, one of them must be elected for leadership. Here a question will arise, and that is: Who or what authority is to determine who is most appropriate? In this regard, some give the right to determine to the people.

That is, they hold that people's role in the government is more effective than their role in the period of the presence of the infallible Imams ('a). During the presence of an infallible Imam, the legitimacy of the infallible Imam ('a) is determined by God and the same is true of the designation of the person but the establishment of the government of an infallible Imam is dependent on the acceptance and approval of the people.

During the period of occultation, however, two of the three phases are conditional upon the opinion and vote of the people. That is, the legitimacy of a jurist is determined by God and it has nothing to do with the acceptance or non-acceptance of the people, but the designation of the specific person and the establishment of his rule depend on the opinion and vote of the people. Therefore, we can say that there are three views regarding the role of the people in the Islamic government during the period of occultation and *wilayat al-faqih* system, which are as follows:

1. According to the first view, the government and rule of *faqih* during the period of occultation are determined by Divine Command and through the decree of the Imam of the Age ('a) and the determination of the person must, in a sense, be through the decree of the Imam of the Age ('a), but the actual establishment of the government of this person depends on the consent of the people.
2. According to the second view, the legitimacy of the government and rule of *faqih* during the period of

occultation is determined by Divine Command and the decree of the Imam of the Age (‘a), but the determination of the person as well as the establishment of the government of this person depends on people’s opinion and choice.

3. According to the third view which represents a probability, it is suggested that during the period of occultation of the Imam of the Age (‘a), even the legitimacy of *faqih* and his government depends on people’s acceptance.

Now, let us examine these three views to see which of them is consistent with the fundamentals of Islam. Of course, in our discussion of this issue which will come later, we have not forgotten to clarify the Shi’ah viewpoint in this regard. However, it is appropriate to first consider the point below.

Two prerequisites for conducting this research

For conducting such a research, we have to take into account two fundamental things:

1. *The research should be free from prejudice and it should not be influenced by the prevailing intellectual atmosphere.* Intervention of prejudice and influence of the dominant intellectual atmosphere constitute an obstacle on the way of every researcher and research. Psychologists confirm that the unconscious intervention of researcher’s inclinations while researching is inevitable. Very often, we see that in spite of the presence of numerous factors, a researcher’s attention is focused only on the factors which agree with his hypothesis and so the other factors are unconsciously overlooked. In the science of Islamic jurisprudence [*fiqh*], the jurists call this phenomenon *ijtihad bi ra’y* [*ijtihad*¹² according to one’s opinion]. This frequently occurs in the research in which popularity, endearment and social status are sought, or as a result of solitude, animosity and social boycott.

Today, things like freedom and democracy (that is, freedom in its absolute sense which is found in the Western culture and democracy in its conventional meaning which is used in politics with all its intellectual principles) are held in a very high esteem and if someone makes any remark on them, he or she will be a target of harsh criticisms and face different sorts of charges, and sometimes he or she will be subject to discredit.

It is obvious that while researching on things which are related, in one way or another, to freedom or democracy, it is quite possible that the researcher who has previous perception of the effects of the promotion of freedom and democracy as well as a critical attitude toward them will encounter prejudice and interference of the mental factors in the process of research. Nowadays, the secular communities in the West take freedom and democracy as the goddesses of the 20th and 21st centuries and regard them as man’s most sacred idols. Therefore, if someone says something critical to them, he or she will face serious perils.

We should bear in mind, however, that a true researcher is he who states clearly the findings of his

research very honestly, precisely and bravely, and avoid dealing with the marginal problems in the research that make his or her analyses deviate from what is right.

2. *The researcher should rely upon the sayings and actions of religious leaders and not upon the sayings and actions of the Muslims.* Some people imagine that for knowing the viewpoint of Islam on any subject, we have to refer to the very Muslims or to Muslim societies to see what they think, and consider what they say as the viewpoint of Islam. And in case of their difference of opinions, we would say that the view of the majority is the viewpoint of Islam, or say that Islam has two or more views and their ideas correspond with that of Islam and they are correct.

In fact, this approach is wrong and unjustifiable. If, for knowing the viewpoint of a certain religion about any subject we refer to the practices and ideas of those who belong to the said religion, undoubtedly most of our conclusions will come wrong. Christianity is a shining example of what we say. We believe that there is a great difference between true Christianity or what has been revealed to Haqirat 'Isa (Jesus) ('a) represented in "the teachings of the Messiah" and the Christianity in which the Christians believe today. Today's Christianity is replete with distortions which have crept in throughout history. This belief is based on both the dictate of reason and evidence from the Qur'an in a number of verses, such as in *Surah al-Ma'idah*, which reads:

وَإِذْ قَالَ اللَّهُ يَا عِيسَى ابْنَ مَرْيَمَ أَلَأَنْتَ قُلْتَ لِلنَّاسِ اتَّخِذُونِي وَأُمِّيَ إِلَهَيْنِ مِن دُونِ اللَّهِ قَالَ سُبْحَانَكَ مَا يَكُونُ لِي أَنْ أَقُولَ مَا لَيْسَ لِي بِحَقِّ

"And when Allah will say, 'O Jesus, son of Mary! Were it you who said to the people, "Take me and my mother for gods besides Allah"?' He will say, 'Immaculate are You! It does not behoove me to say what I have no right to [say].'"¹³

The idea of the Trinity, i.e. to believe in the union of God and Haqirat 'Isa ('a) and to assume that 'Isa ('a) is the son of God is accepted by no rational person although it represents one of the fundamental and basic Christian beliefs.

In Islam too, if, for knowing the viewpoint of Islam regarding a certain issue, we rely on the sayings and practices of the Muslims or on the view of the majority, we will possibly make similar serious mistakes. To clarify the point in question, take for example the Ahl as-Sunnah wa'l-Jama'ah who form the majority of Muslims.

They, in essence, think that there is no infallible Imam after the Prophet (S), let alone having "twelve" of them. But, as Shi'ah, we have a firm belief that the contrary is true. Furthermore, we do not regard both the belief of our Sunni brothers and that of us as the true viewpoint of Islam. Instead, we believe that the legitimacy of the rule and government of the twelve infallible Imams ('a) after the Holy Prophet of Islam (S) is the real and sole view of Islam.

As such, the correct approach to knowing the viewpoint of Islam regarding a certain subject is not to refer to the Muslims but to the true leaders of religion, the Qur'an and the books containing solid evidence about their authentic sayings and practices. This point which is very important has to be kept in mind in this research of ours or while conducting similar research projects.

Searching for the correct view about the role of the people in the government during the period of occultation [‘asr al-ghaybah]

Now that we have mentioned the two prerequisites for this research, it is appropriate to examine the correct one of the three stated views about the role of the people in the government during the period of occultation of the infallible Imam (‘a) and to discuss it.

In our opinion, the first of the three mentioned views is correct, and that is, the rule of the *faqih* during the period of occultation is determined by Divine Command and through the decree of the Imam of the Age (‘a) and deciding on the one who is to be in charge must, in a sense, be through the decree of the Imam of the Age (‘a), but the establishment of the government of this person depends on the consent of the people. The reasons for this claim of ours are as follows:

Taking into account the Islamic perspective, we believe that God is the Cause of the creation of all beings and the universe, including human beings. It is He who has covered all creatures with the garment of existence and endowed them with life. Whatever is in the heavens and the earth belongs to Him and He is the true Master of them all:

﴿ فَإِنَّ لِلَّهِ مَا فِي السَّمَاوَاتِ وَمَا فِي الْأَرْضِ ﴾

“To Allah belongs whatever is in the heavens and whatever is on the earth.”¹⁴

According to Islamic thought, all human beings are servants of God, and He is their Owner. This ownership [*mulk*] is neither nominal nor conventional; it is real ownership [*mulk-e haqiqi*]. That is, we do not, in reality, own any single aspect of our existence. Our entire existence is His and we do not own any single cell of which our body consists.

Moreover, every person admits that it is not allowed to use or take over others' property without their permission, and regards it as an undesirable and unbecoming act. Likewise, if someone takes something over from us (for example house, car, shoes, clothes, etc.) without our permission and consent, we will be annoyed and we will complain very loudly and feel we are wronged. This judgment of ours is based on the rational principle that taking over the property of others is an undesirable and unbecoming act.

Hence, if the entire universe including human beings is God's 'real property' and if the entire existence of

beings and motes belongs to Him and they have nothing of their own, and if every rational person confirms that the use of others' property is an unpleasant, loathsome and unjust act, it follows that no human being has the right to exercise authority over himself or herself or others without God's permission.

Naturally, to arrest and imprison, to fine and levy taxes, and to execute, and in sum, to exercise authority and impose different limitations in the behavior and life of individuals and groups are of the essence in governing. So, to exercise his authority a ruler must have the consent of the Real Owner of the human beings, and that is God; otherwise, all his acts, according to the dictate of reason, are undesirable and unjust and regarded as acts of usurpation. According to the proofs at our disposal, God has granted this right to the Prophet of Islam (S) and to the infallible Imams ('a) who came after him:

أَنْفُسِهِمْ مِنْ بِالْمُؤْمِنِينَ أَوْلَى النَّبِيِّ...

“The Prophet is closer to the believers than their selves.”¹⁵

يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ

“O you who have faith! Obey Allah and obey the Apostle and those vested with authority among you.”¹⁶

Also, according to the proofs substantiating *wilayat al-faqih*, such right has also been given to the duly competent jurist [*faqih jami' ash-sharaiyit*] during the period of occultation and he has been designated by Divine Command through the decree of the Imam of the Age ('a) to rule, but there is evidence that this right has been given to other people including common Muslims or members of society.

Of course, this is called general designation [*nasb 'amm*] which means that no specific person has been appointed by certain qualities have been fixed for the person who is worthy of holding the post. Now, it is clear that a government with different distinct rulers is inconceivable and in case there exist different independent rulers, no “single” government can be set up and the only alternative will be to elect one of them.

This choice is indeed similar to staying in search for the crescent [*hila*] according to which the first day of the month is fixed, or it is similar to determining on the *marja' at-taqid* [religious reference authority]. Let us expound this point:

As Muslims, it is incumbent upon us to fast in the month of Ramaḡān. But in order to know whether or not the month of Ramaḡān has begun, we have to sight the crescent to see whether or not the crescent of the first night of the month has appeared in the sky.

Once the crescent is sighted we will start to investigate to decide [*kashf*] whether the month of Ramaḡān has begun and to decide if we have to fast. In this case, we must not give “legitimacy” to the month of Ramaḡān; that is, to assume that the month of Ramaḡān has come. Rather, we have to make sure whether the crescent of the first night of Ramaḡān has come out or not. If we become quite certain that it has, then the month of Ramaḡān has come, and if it has not come out, then the month of Ramaḡān has not begun yet. Here, all we have to do is to ‘discover’ whether the appearance of the crescent is definite or not.

Or, with regard to *taqlid* [emulation],¹⁷ we believe that since not all Muslims are expert in identifying religious rulings, every Muslim has to emulate or imitate a person who has such an expertise, namely, the *mujtahid*.¹⁸

Also, when a person wants to choose someone as his or her *marja’ at-taqlid* this does not mean that this person wants to give ‘legitimacy’ to the *marja’ at-taqlid* and have him a *mujtahid*. Prior to our research, the one who is to be decided upon is either a really worthy to be *mujtahid* or not and thus, he is not fitted to be a *marja’ at-taqlid*. In our investigation, our only want will be to ‘discover’ whether he is fitted to this post or not. Hence, our concern is not ‘to produce’ such worthiness but only ‘to discover and identify’ it.

The same is true of the case of deciding on *wali al-faqih* [jurist-guardian]. That is, it is only be the general designation given to him by God through the Imam of the Age (‘a) that a duly competent jurist can have the right and legitimacy to rule. Our task is only to identify the jurist who really has such a right prior to our research.

Given this, it follows that deciding on the deputies in the Assembly of Experts [*majlis-e khobregan*] by the people and thereafter choosing the Supreme Leader by these deputies is something whose essence is not different from what we have stated. That is, it will be discovering and identifying the person who has the qualifications and legitimacy to assume the position of *wali al-faqih* and Supreme Leader. As such, both the principle of legitimacy of the *wali al-faqih* and designating him are, in a sense, ascribed to the Imam of the Age (‘a).

Of course, this ‘discovery’ does not mean that a specific person has been identified by the Imam of the Age (‘a) but as we said earlier, this case is like that of the discovery and identification of the *marja’ at-taqlid* in which also no specific person has been fixed for *taqlid* but a set of general qualifications has been defined, and whoever possesses them can become *marja’ at-taqlid* and his *marja’iyyah* [supreme religious authority] will be accepted by God and the Imam of the Age (‘a).

It has been made clear so far that just like in the time of the presence of the Prophet (S) or the infallible Imams (‘a), the people during the period of the occultation of the infallible Imam (‘a) have no role in giving legitimacy to the government of the *faqih* (neither regarding the principle of legitimacy nor regarding the decision on the qualified person).

As for the establishment of the government and rule of the *faqih* during the period of the occultation of the infallible Imam (‘a), it is, we should say, entirely dependent on the acceptance of the society and approval of the people. That is, it is the people or the Muslims who pave the ground for the establishment of this government.

So, if the people do not want an Islamic order, it will not see the light, and in setting up his government the *faqih* never resorts to the use of force. Rather, like all prophets and Imams (‘a) he can embark on establishing his government only in case the people show their inclination to his rule. In this case, like all divine precepts and decrees, the people may accept and obey him, or they may reject and disobey him. Of course, throughout history, it has been incumbent on the people to submit to the divine rule and government of the prophets and the Imams (‘a) and to officially recognize their right to rule; otherwise they will be considered sinful before God.

Reviewing and commenting on two other views

Those who believe that during the period of occultation of the Imam of the Age (‘a) the people have a certain role in giving legitimacy to the Islamic government and rule of the *faqih* (whether concerning the principle of legitimacy of the rule of the *faqih* or in deciding on the qualified person) introduce some propositions in this regard.

For example, they say that during the period of occultation of the Imam of the Age (‘a), no law and decree is found in Islam about setting up government and this affair is among the cases which the people themselves determine. For clarifying this statement, we have to point out that Islamic law contains cases whose ruling has been defined by the Islamic law as in the ruling which includes the ruling on such things like the obligatory [*wajib*], the unlawful [*haram*], the recommended [*mustahabb*], the abominable [*makruh*], and the permissible [*mubah*].

Also, there are cases about which there is no ruling in Islamic law, in Qur’anic verses or *hadith*. In such cases, *fuqaha* usually rely on certain principles and rules, and say that the things about which we have received no ruling from God and about which there is no enjoinder or prohibition are considered permissible [*mubah*]. That is, to do them or not to do them is the same, i.e. neither of them has preponderance over the other.

You are allowed to do either of them. Concerning the government of the *wali al-faqih* during the period of occultation, some maintain that since no specific enjoinder or prohibition is found in the Qur’an about this affair, and the title *uli’l-amr* [those vested with authority] referred to in the verse, “Obey Allah and obey the Apostle and those vested with authority among you” is ascribed to the twelve infallible Imams (‘a), it follows that the sacred Islamic law has not stated anything about the issue of government during the period of occultation, and so the people themselves are to decide on such a thing.

It is sometimes claimed said that on the basis of the juristic rule, “The people have full control over their

possessions,”¹⁹ the people can do with their life and property whatever they like and they have the right to delegate this right to the others or appoint them as their proxies with respect to their properties.²⁰ Consequently, during the period of occultation, it is the people who are to choose the ruler and the objective of holding general elections is that the people delegate the right they have over their lives and properties to a certain person.

Now, let us comment on these two propositions. Concerning the assumption that according to Islam the people have full control over their own lives and properties and have the right to do with them, we pose the question: Who says that Islam has given such a right to the people? On the contrary, all Muslims know that man has no right to do whatever he likes or to do with himself whatever he likes.

We have no right to blind our eyes; we have no right to amputate our hands; we have no right to burn any part of our body or destroy it. Likewise, regarding our property and wealth, we do not have the right to use them the way we like. For example, we cannot say that “This car or this house is mine and whenever I want I can set it on fire and burn it.” For this reason, committing suicide is unlawful [*haram*] in Islam. And it is for this reason that man has no right to do whatever he likes with himself.

As we have said earlier, according to Islam, we are all servants and subjects of God, and since our existence totally belongs to Him, we have no right to do whatever we like even with regard to ourselves without His permission. So, how could we, who do not have any right to do whatever we like to even with regard to ourselves, delegate this right to others and enable them to exercise authority over the society and do whatever they like with the lives and properties of individuals and interfere in their affairs?

How could we delegate to others our right or that of the people and enable them to enact and execute the laws which are prerequisite for every government, if in essence, the right to determine rulings and laws belongs to God, and their being expressed in Islamic law [*shari‘ah*] means that when we want to determine the laws related to ourselves we have to refer to the Real Owner and act according to His will?

The guardianship [*wilayah*] which we delegate to the *faqih* is something that God has granted to the *faqih* and the Imam of the Age (*‘a*) defined, and so it is not something which the people grant to him.

If we take the juristic principle “The people full control over their possessions” to mean that the people have the right to grant guardianship and authority to someone and give legitimacy to anyone whom they like, then if the people happened to reject the guardianship and governance of the *faqih* and elected a non-*faqih*, say a doctor or an engineer, as a leader, would his government be legitimate in the sight of God and His Messenger (S)? If indeed the choice of the people is the criterion for legitimacy, will, if the people voted for such people like Yazid, Harun ar-Rashid, Riḍā Khan Pahlavi, and the like, their government be legitimate and rightful in the sight of God and His Messenger (S)?

We ask those who believe that the people’s opinion is the criterion for legitimacy: If the people decide to reject our present Constitution which has been codified around the axis of *wilayat al-faqih*, what will your

stance be? Will you say that this is the view of Islam? Do those who claim they follow the line of the Imam and sometimes wittingly or unwittingly make advantage of the words of Ha^qrat Imam Khomeini (r),²¹ “The vote of the nation is the criterion,” suppose that if the people decide to reject the principle of *wilayat al-faqih* and exclude the principle from our Constitution, we should say that the vote of the nation is the criterion, and that the view of Islam corresponds with the opinion of the people? Or else, we say that it is inferred from what Imam Khomeini said in various occasions that the *wilayat al-faqih* is an irrevocable principle and for this reason it is one of the Constitution’s “basic principles”?

Regarding the other proposition that since God, the Exalted, who is the Law-Maker, has not said anything about the government during the period of occultation of the infallible Imam (‘a), it is among the issues which depend on the decision of the people, we say that this claim holds no water as we shall be in the next chapter which examines the proofs substantiating the *wilayat al-faqih*. We will see that according to the proofs at our disposal, the Law-Maker has defined our duty in relation to the government during the period of occultation of the infallible Imam (‘a).

Citing the issue of *bay‘ah* [allegiance] which was quite usual and common during the early days of Islam, some try to support the argument that the legitimacy of Islamic ruler is based on the choice and vote of the people. For example, they say that the Messenger of Allah (S) asked the people in Ghadir Khumm to pay allegiance to Ha^qrat ‘Ali (‘a) and claimed that if the legitimacy of the government of Ha^qrat ‘Ali (‘a) had indeed nothing to do with the vote of the people, then why did the Prophet (S) ask the people to give their allegiance to the Imam (‘a)?

When we investigate the status of *bay‘ah* in the early history of Islam and the Arabs of that time and delve into the sayings of the Holy Prophet (S) and the noble verse revealed on the day of Ghadir Khumm, which reads,

“O Messenger! Make known that which hath been revealed unto thee from thy Lord, for if thou do it not, thou will not have conveyed His message,”²²

we will find that *bay‘ah* is, in fact, a responsibility on the part of the givers of allegiance through which they show their obedience and pact of brotherhood to the person to whom the allegiance is given. That is, it is a means of expressing readiness to assist and cooperate with the ruler and commander, and this has nothing to do with giving legitimacy and granting the right to someone to become a ruler. As a matter of fact, through *bay‘ah* one expresses exigency to obey the legitimate and rightful ruler, and not to give legitimacy.

To sum up, in accordance with the authentic Islamic basis, the legitimacy of *wali al-faqih* is determined through general designation [*nasb ‘amm*] by the infallible Imam (‘a) and the establishment of the *faqih*’s government and rule entirely depends on the people’s consent. This is exactly the same as that which we already stated earlier about the legitimacy of the government of the Prophet (S) and the infallible Imams (‘a) and about the role of the people in establishing their government.

1. Ummah: the entire Islamic community without territorial, racial, national or ethnic distinction. [Trans.]
2. Sūrah an-Nisā' 4:59.
3. This view is based on the theory of "istislah" which is one of the theories on government and politics with which some Sunnī 'ulamā' such as Imām ash-Shāfi'ī, Ghazzālī, Māwardī, Ibn at-Taymiyyah, and others have dealt. For example, Imām ash-Shāfi'ī is reported to have said:
من وليّ الخلافة فاجتمع عليه الناس ورضوا به فهو خليفة و من غلبهم بالسيف حتى صار خليفة فهو خليفة.
For more information, see Muḥammad Abū Zahrah, Tārīkh al-Madhhab al-Islāmiyyah wa'l-'Aq'id wa Tārīkh al-Madhhab al-Fiqhiyyah [History of the Islamic Schools of Thought and the Doctrines and History of the Schools of Islamic Jurisprudence], vol. 1.
4. See, for example, Sa'd ad-Dīn Mas'ūd ibn 'Umar al-Ash'arī ash-Shāfi'ī at-Taftazānī (712/1312-793/1390), Sharḥ al-Maqṣid al-ḥalībīn (Istanbul: n.p., 1305 AH), vol. 2, p. 272; 'Alī Muḥammad and Amr ad-Dīn; Fulk an-Najāt fī'l-Imāmati wa'l-ḥalāt, 2nd edition (Lahore: n.p., 1950), vol. 1, p. 203. [Trans.]
5. It depends on whether or not we include the period of the Minor Occultation [ghaybah aḥ-ṣughrā] of the Imām of the Age ('a) when the Imām ('a) had connection with the people through his special deputies.
6. Sūrah an-Nisā' 4:59.
7. See Sulḥn al-Wā'iqn Shāhī, Shabḥ-ye Peshawar dar Dif' az 'Arām-e Tashayyū' [Peshawar Nights in the Defense of the Sanctity of Shī'ism], pp. 995-997.
Its English translation is Sulḥn Wā'iqn Shāhī, Peshawar Nights, trans. Hamid Quinlan and Charles Ali Campbell (New York: Pak Books, 1996), Last Session, available online at <http://www.al-islam.org/peshawar> [1]. [Trans.]
8. Sūrah al-Mā'idah 5:67.
9. Nahj al-Balaghah (Fayḥ al-Islām), Sermon 3.
10. Sūrah al-Mā'idah 5:67.
11. Sūrah an-Nisā' 4:59.
12. Ijtihād: inference of laws on the basis of the general principles of the Qur'an and the Sunnah. [Trans.]
13. Sūrah al-Mā'idah 5:116.
14. Sūrah an-Nisā' 4:131.
15. Sūrah al-Ahzāb 33:6.
16. Sūrah an-Nisā' 4:59.
17. Taqlīd [emulation or imitation]: The adoption of the authoritative rulings of a religious scholar [marja' at-taqlīd] of proven learning and piety in matters of religious practices. [Trans.]
18. Mujtahād: an authority on the divine law who practices ijtihād, i.e. "the search for a correct opinion in the deduction of the specific provisions of the law from its principles and ordinances." [Trans.]
19. أَلنَّاسُ مُسَلِّطُونَ عَلَىٰ أَمْوَالِهِمْ.
20. Here, if they delegate this right to somebody, it will no longer be reclaimable and returnable. But if they appoint somebody as their proxy, they can annul the deputyship and reclaim the right if they like at any time. In political thought, both views have been proposed regarding the manner of the people's choice and its nature.
21. The abbreviation, "r" stands for the Arabic invocative phrase, rahmatullāh 'alayhi, rahmatullāh 'alayh, or rahmatullāh 'alayhim [may peace be upon him/her/them], which is used after the names of eminent pious people. [Trans.]
22. Sūrah al-Mā'idah 5:67.

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