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Legitimacy and Acceptability

Question No. 23

What is the basis of legitimacy of governments in different schools? Compare them with the viewpoints of Islam and Shiism.

To investigate the idea of “legitimacy” in Islam and other schools, we should first have a definition of it; then we can scrutinize its basis in different views and test them.

The definition of legitimacy

“Legitimacy” is derived from the adjective “legitimate” (meaning legal). The term “legitimacy” is used with relatively different meanings in sciences related to politics:

1. In political philosophy, theology and jurisprudence, “legitimacy” means “being right” and is used as contrary to “usurpation”; here it can be called “normative legitimacy”.
2. In political sociology – which is a descriptive science seeking to explain political phenomena, behaviors, and structures through economic, cultural, and social factors, and looks at political structures free from values – “legitimacy” is generally used in the sense of “acceptability”. In this view, there is no room for asking about the relation of “legitimacy” and “acceptability”, since they are used interchangeably. So, this issue must be studied with a normative view.

The sources of legitimacy

Philosophers and politico–sociologists have presented different views on sources of legitimacy. Max Weber mentions three sources for legitimacy: (1) tradition; (2) charisma or particular personal characteristics; (3) law. Accordingly, he believes in three types of legitimacy:

A. Traditional legitimacy, which is rooted in the traditions common among people of a nation, such as hereditary governments, patriarchy, apartheid, aristocracy, and so on.

B. Charismatic legitimacy, which stresses the personal characteristics of the ruler, and is based on the unusual and exceptional submission to a person due to his sacredness, heroism, and exemplarity.

C. Rational/ legal legitimacy, which is based on rational agreements.[1](#)

Fredrich believes in five sources for legitimacy:

1. religious; 2. philosophical and legal; 3. traditional; 4. methodical; 5. empirical.[2](#)

Some scholars have classified the origins of government and the sources of legitimacy as follows:

First: The libertarian theories

These theories are divided into three groups:

- a. The social contract theory. According to this theory, there is a contact between State and the citizens, thereby they feel themselves liable to follow the State's ordinances and, in return, the State is committed to provide order, welfare and security for them.
- b. The public will theory. According to this theory, if all or most of the people demand the ruling of some persons, their government would be legitimate.
- c. The consent theory. The consent of the society members to a government is a criterion for its legitimacy, leading to political obedience commitment on their part; in this way, the government will have the right to order and the people to obey.

The critique of the views

Each of the abovementioned views suffers from some specific and some common defects; here, we only mention the common defects for the purpose of brevity:

First. All of these views lack comprehensiveness regarding the criterion of legitimacy. In other words, all of them just consider the question of "where to take the political power from". However, they do not consider the question of "how to use the power" as a criterion for legitimacy. As a result, if the government does not observe the ethical values, it would be still legitimate. This is not acceptable on any basis other than ethical positivism wherein there is no room for ethical values.[3](#)

It may be said that the society can provide enough guarantee for observing moral values in the social contract, change its attitude toward the rulers, or declare its discontent to immoral behaviors to negate the government's legitimacy, or force the rulers to observe those principles.

It should be said, however, that observing moral principles would be subject to social will, contract and consent, with no role in legitimacy or illegitimacy. Thus, if the society submits to the oppression of the rulers, their legitimacy would persist.

Second. In every society, there is a minor opposition group. Based on the abovementioned theories, it should be known how the situation would be for the minor groups who do not want the government and have not taken part in the social contract, or those who are not content with the existing government, or those who are not qualified to have a role in government (such as minor persons, the mad, etc.). In other words, if legitimacy is only subject to a contract, public will, or the citizens' consent, then it would no longer justify governing the groups excluded, or obliging them to obey the government. Furthermore, the opposition may be a major group of society, not a minor one. It is reasonable, thus, to look for another source of legitimacy for government, which can justify governing all people. Otherwise, there would be no government in the world justifiable based on the "democratic" theories.

Third. In many cases, the social context changes. For example, with the legal maturity of the minor persons, new individuals would become qualified to take part in the social contract, and some previously qualified persons die. It is probable that these new individuals might have attitudes, wills, or interests different from the previous ones.

Besides, the previous individuals may change their minds. According to democratic theories, as soon as the society's view changes or the social context alters, the government and the ruler must lose their legitimacy in principle. In this case, by enforcing some changes – such as changing the number of the opposing groups from 49% to 51% – the government or the ruler should be substituted by a new one; here, the previous contract or consent can no longer be effective in the new situation. Therefore, the viability of the government – even for a few determined years – necessitates a better criterion.

Second: The functionalist theories

These are the views which believe in the government's role and function as the criterion for its legitimacy. The most prominent theories of this kind are as follows:

First. The theory of justice and moral values. In this view, enforcing justice is the source of political legitimacy. Therefore, any government who attempts to enforce justice is legitimate, and those governments or rulers moving in a contrary direction lack legitimacy. Here, by "justice" it is not meant a most essential moral value; rather, what is meant is the enforcement of justice in the political behavior of the rulers. According to this theory, therefore, if a person is oppressive out of the realm of political power but do justice in his political behavior, his government would be legitimate; this legitimacy is not dependant on the rulers' "personal justice".

Second. The theory of fulfilling needs. According to this theory, the effort to provide welfare, security and happiness for the members of society is the basis of political legitimacy.

Critique

Putting aside the problem of defining "justice", the defect of these two theories is their justification of the rulers' ordinances only; they are silent about other parameters underlying the puzzle of "legitimacy".

Nevertheless, the ordinance's being merely just, or its being issued for providing public welfare and common good, does not justify a particular person or group's government; especially if different individuals or groups enforce justice or fulfill society's needs to an equal degree. In the latter case, which one is legitimate to govern society? Why is it necessary to obey one, and disobey the other? Any criterion in this respect would eventually lead to leaving the basis and moving towards one of the rival theories.

Third: The theory of divine legitimacy

In this theory, the source and criterion for legitimacy is God's ordinance and permission. The theory of "divine legitimacy" has been discussed in three ways throughout history.⁴ Here, for brevity purpose, we just mention the viewpoint of "Islam".

Legitimacy in Islam

In studying the theory of "legitimacy in Islam", we should distinguish between the origin of legitimacy and the sources for recognizing it. The origin of legitimacy is where the legitimacy has originated from. By the source of legitimacy, we mean the evidences and the sources of discovering legitimacy in Islam, i.e. the Book and the Sunna.

The only intrinsic origin of legitimacy in Islam is God; for the Creator of the universe and human, the owner of all existence, the influential power is the Lord of the universe and all human beings. In Islam, government and political sovereignty – as a kind of dominion over the creatures' affairs – are considered as matters within the jurisdiction of God. The doctrine of Unity in divine Lordship – whether in the system of creation or the system of legislation – does not accept any other origin along with God. The Holy Quran says on this point:

إِنَّ الْحُكْمَ إِلَّا لِلَّهِ

***"The decision is only for God."* (6:57)⁵**

إِنَّمَا وَلِيُّكُمُ اللَّهُ وَرَسُولُهُ وَالَّذِينَ آمَنُوا الَّذِينَ يُقِيمُونَ الصَّلَاةَ وَيُؤْتُونَ الزَّكَاةَ وَهُمْ رَاكِعُونَ

***"Your rulers can only be God and his messenger and those who believe, who establish worship and pay the poor due alms, and bow down [in prayer]."* (5:55)⁶**

أَمْ اتَّخَذُوا مِنْ دُونِهِ أَوْلِيَاءَ ۚ قَالَ اللَّهُ هُوَ الْوَلِيُّ

***"Or have they chosen Lords besides Him? But Allah is the only Lord."* (42:9)⁷**

Therefore, no one has the right to govern people or interfere in their affairs unless he is proved – through a valid religious evidence – to have been appointed or allowed by God to do so. Divine appointment or permission can be stated either directly or indirectly – by the Prophet or Imams. Besides, all Muslims believe that the Prophet had been appointed by God. This has been mentioned by the Holy Quran in numerous verses. Some of them follow:

النَّبِيُّ أَوْلَىٰ بِالْمُؤْمِنِينَ مِنْ أَنفُسِهِمْ

“The Prophet is superior to the believers than themselves.” (33:6)⁸

أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ

“... obey Allah and the messenger and those of you who are in authority.” (4:59)⁹

وَمَا كَانَ لِمُؤْمِنٍ وَلَا مُؤْمِنَةٍ إِذَا قَضَىٰ اللَّهُ وَرَسُولُهُ أَمْرًا أَنْ يَكُونَ لَهُمُ الْخِيَرَةُ مِنْ أَمْرِهِمْ

“It is not right for a believing man or woman, when Allah and His messenger has decided an affair (for them) that they should claim anything in their own affair.” (33:36)¹⁰

Besides, Imami Shiites, based on definite evidences, believe that Imams have been especially appointed by God.¹¹

Additionally, the Shiite scholars – based on rational and transmitted evidences – believe that just and qualified Muslim scholars have been appointed by the Legislator and are representatives of Awaited Imam in governmental affairs as well as political and social leadership during the Occultation period. Of course, this idea – called “Wilayat-e Faqih” – is not restricted to Occultation period, but is realizable during Imam’s presence while he is able to exercise discretion; Malik Ashtar, for instance, was appointed by Imam Ali (as) as the governor of Egypt.

Choosing the Authoritative Muslim scholar (“Wali Faqih”)

Besides this view – called the theory of “appointment” and well-known to the Imami scholars – a new theory has been presented by some other scholars. According to this view, the “Authoritative Muslim scholar” is not appointed by the Legislator; rather, He has obliged people to choose a just and qualified Muslim scholar as the leader. This latter person enjoys authority after being elected by people, and is allowed to exercise discretionary power in social affairs, taking on the leadership.

A comparative study or value judgment of these views requires a special opportunity. But the important point is to find out whether the basic question of the present discussion has a different answer according

to these two views. If so, what is that difference?

Some have called the first view “divine legitimacy” and the second one the theory of “election” or “divine–demotic legitimacy”. It should be noted that the basis of both views is the very theory of “divine legitimacy”, for both of them consider God as the intrinsic origin of legitimacy, not accepting any other source besides Him. Thus, adding the adjective “demotic” is a kind of loose expression of the idea. In other words, the demotic origin of “authority” in this view is a conventional provision stipulated by the Holy Legislator in conferring the authority to the Muslim scholar and affirming it. Therefore:

1. If the theory of “election” considers the government as an earthly and ascending affair, it is completely far from the general attitude of Islam.
2. If it believes in two “earthly” and “celestial” sources, it indulges in dualism.
3. If it considers the demotic legitimacy at a level lower than the divine legitimacy, it is not a theory contrary to divine legitimacy; rather, it is a subcategory of theory of “divine legitimacy”. Such a view is also consistent with the theory of “appointment”. In other words, the theory of “appointment” makes the “divine authority” conceivable in two ways:

First. Absolute appointment, according to which the Legislator does not include people’s choice in the process of Authoritative Muslim scholar’s appointment, insists on authority of the righteous and qualified Muslim scholar, affirms his social controls and obliges submission to his orders in social affairs.

Second. Conditioned appointment, according to which the Legislator affirms the authority of the Muslim scholar after his election by people, not before it.

[1.](#) Max Weber, *Economics and Society*, p. 273–4.

[2.](#) Bonyadhay–e ilm–e siyasat, p. 107.

[3.](#) For further information, see Bonyadhay–e ilm–e siyasat, ch. 6; nazariyyihay–e khastgah–e dolat; falsafiy–e siyasat, Imam Khomeini Educational and Research Institute.

[4.](#) See: Muhammad Taqi Mesbah Yazdi, *falsafiy–e siyasat*, p. 177.

[5.](#) The Qur’an, An’am (6), 57.

[6.](#) The Qur’an, Ma’ida (5), 55.

[7.](#) The Qur’an, Shura (42), 9.

[8.](#) The Qur’an, Ahzab (33), 6.

[9.](#) The Qur’an, Nisa’ (4), 59.

[10.](#) The Qur’an, Ahzab (33), 36.

[11.](#) For further information, see Ayatullah Makarim Shrazi, *Payam–e Qur’an* (thematic commentary of Quran), 9 (Imamate in Quran).

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