

An Outline of Governance from a Quranic Perspective

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A paper analyzing the features of Islamic law from a Qur'anic perspective. It explains how, according to Islam, politics, morality and worldly affairs cannot be separated from religion.

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An Outline of Governance from a Qur'anic Perspective

Ayatollah Muhammad Taqi Misbah Yazdi

Summarized and Paraphrased by Karim Aghili

This paper is an attempt to partially delineate the salient features of Shi'ite political thought. It seeks to clarify that Islam is an all-embracing religion consisting of a set of laws and injunctions which are requisites for the establishment of an ideal society. The paper presents a brief discussion about governance during the period of occultation of the twelfth Imam, the role of the supreme Leader and the essential qualifications for administrators of the law, especially for the one at the top of the pyramid of power.

Democracy and the Vicegerency of God

From the Islamic point of view, the goal of law is not only to bring about social order and discipline, but also to establish social justice, because firstly, without justice the order would not be durable and the masses of the people would not tolerate injustice and oppression forever; and secondly, in a society not governed by justice most people would not have the opportunity for desired growth and development and hence the goal of man's creation and social life would not be realised.

The main question is how and by whom the law should be legislated. The accepted theory in most current societies is that the laws should be legislated and approved by the people themselves or their representatives. Since the consensus of all of the people or of their representatives is practically impossible, the view of the majority (even if merely half plus one) is the criteria for the validity of the law.

This view, first of all, is based on the idea that the goal of secular law is to satisfy the people's desires but not to provide that which would truly benefit them. In other words, the goal of secular law is not to secure what is truly in the people's best interest and what is in conformity with their felicity. Secondly, since it is impossible to have unanimous agreement, we should content ourselves with the opinion of the majority.

However, the first idea mentioned is not accepted by Islam, for many people wish to satisfy their bestial instincts and temporary lusts without thinking of their disastrous consequences. Usually the number of such people is at least one half plus one, so the social laws would be dictated by the desires of such people. It is obvious that the schools which believe in a goal beyond animal lust and base desire will not be able to condone this idea.

With regard to the second idea, that is, the validity of the vote of the majority in the absence of unanimity, it should be said that only in absence of a deciding divine and intellectual criterion can the majority be the criterion for preferring an opinion. However, in the Islamic system there do exist such divine and intellectual criteria. In addition, a powerful minority, by using the facilities for widespread propaganda, has an important role in channelling the thoughts and beliefs of others, and in fact what is approved is only the desire of a limited but powerful minority, not the true desire of the majority of all the people.

Furthermore, if the criterion is that the people's choice would be valid for themselves, why should we not also accept the choice of a minority as valid for itself, even if it would result in a type of autonomy? In this case, what would be the logical justification for governments to oppose the wishes of some social groups which they rule by force?

It is worth noting that the many Qur'anic verses that refer to the vicegerency (*khilafah*) of man indicate that *istikhlaf* (appointing as successor on earth) in the sense of rule is strictly restricted in its scope of usage and does not include all humans:

God has promised those of you who have faith and do righteous deeds that He will surely make them successors in the earth, just as He made those who were before them successors, and He will surely establish for them their religion which He has approved for them, and that He will surely change their state to security after their fear, while they worship Me, not ascribing any partners to Me. And whoever is ungrateful after that —it is they who are the transgressors. (24:55).

Islam, an All-embracing Religion

Islam holds that law should be legislated in such a way that they procure the benefits of the members of society, particularly those who desire to improve themselves and to gain eternal felicity. It is obvious that such law should be legislated by one who has enough knowledge about the real and eternal benefits of humans and secondly, who does not sacrifice the benefits of others for his personal interests and vain desires.

It is obvious that there is no one wiser than Almighty God, Who has no need of His servants or their works, and Who has provided divine legislation only for the sake of benefitting His servants. Certainly, the social laws described in the Qur'an do not explicitly state all the social rules which are necessary for every time and place, but the Islamic Law does provide a general framework for the derivation of regulations necessary for changing conditions of time and place, and, at least by observing the limits delineated by this framework it may be possible to avoid falling into the deadly valley of eternal perdition.

The sacred Law of Islam as an all-embracing religion is providentially destined for the whole of humanity in all times and places, and with regard to the legal issues including the designation of the legislator, the

judge and the executor, all should be congruous with the laws and injunctions as laid down in the religion of Islam. In this regard, the Qur'an says:

So if they argue with you, say, 'I have submitted my will to God, and [so has] he who follow me.' And say to those who were given the Book and the uninstructed ones, 'Do you submit?' If they submit, they will certainly be guided; but if they turn away, then your duty is only to communicate; and God sees best the servants. (3:20)

There are some other verses which indicate that the differences between the members of a community should be settled by having recourse to the Scripture and the Law of God as was the case with the divinely-appointed prophets preceding the Prophet of Islam. For example, the Qur'an says:

Mankind were a single community; then God sent the prophets as bearers of good news and as warners, and He sent down with them the Book with the truth, that it may judge between the people concerning that about which they differed, and none differed in it except those who had been given it, after the manifest proofs had come to them, out of envy among themselves. Then God guided those who had faith to the truth of what they differed in, by His will, and God guides whomever He wishes to a straight path. (2:213)¹

On the other hand, those who claim to have the right to make laws of their own are reproved by God Almighty. For example, the Qur'an says:

Say, 'Have you regarded what God has sent down for you of [His] provision, whereupon you made some of it unlawful and [some] lawful?' Say, 'Did God give you the sanction [to do so], or do you fabricate a lie against God?' (10:59)

Do not say, asserting falsely with your tongues, 'This is lawful, and this is unlawful,' to fabricate lies against God. Indeed those who fabricate lies against God will not be felicitous. (16: 116).

There are some other verses which indicate that the Prophet of Islam was emphatically commanded by God to follow the Divine Revelation only and at the same time, he was strictly prevented from following others' views:

... Say, 'Indeed it is the guidance of God which is the [true] guidance.' And should you follow their desires after the knowledge that has come to you, you will not have against God any guardian nor any helper. (2: 120)

We have sent down to you the Book with the truth, confirming what was before it of the Book and as a guardian over it. So judge between them by what God has sent down, and do not follow their desires against the truth that has come to you. For each [community] among you We had appointed a code [of law] and a path, and had God wished He would have made you one community, but [His purposes required] that He should test you in respect to what He has given

you. So take the lead in all good works. To God shall be the return of you all, whereat He will inform you concerning that about which you used to differ. (5:48)²

The Necessity of obeying the Holy Prophet

At this point, we will refer to certain verses which relate to the holy Prophet of Islam and the necessity of obedience to him. These verses can be divided into three categories:

1. The verses which indicate that unconditional obedience to the Messenger of God is obligatory, such as:

... and whoever obeys God and His Apostle, He will admit him into gardens with streams running in them, and whoever refuses to comply, He will punish him with a painful punishment. (48: 17)

These are God's bounds, and whoever obeys God and His Apostle, He shall admit him to gardens with streams running in them, to remain in them [forever]. That is the great success. (4: 13)³

2. The verses which reprove those who disobey and oppose the Prophet, such as:

Say, 'Obey God and the Apostle.' But if they turn away, indeed God does not like the faithless. (3:32).

But whoever disobeys God and His Apostle, and transgresses the bounds set by God, He shall make him enter a Fire, to remain in it [forever], and there will be a humiliating punishment for him. (4: 14)⁴

3. The verses which are on the rule and judgement of the Prophet and which specify that obedience to his rule and judgement is obligatory. For example, the Qur'an says:

But no, by your Lord! They will not believe until they make you a judge in their disputes, then do not find within their hearts any dissent to your verdict and submit in full submission. (4:65)⁵

The Rule of *ulu'l-amr* (those vested with authority)

In the Qur'an, the necessity of obedience to those other than the Prophet has been mentioned, and they are called *ulu'l-amr* in the language of the Qur'an:

O you who have faith! Obey God and obey the Apostle and those vested with authority among you. And if you dispute concerning anything, refer it to God and the Apostle, if you have faith in God and the Last Day. That is better and more favourable in outcome. (4:59)

This verse obliges the Muslims to two types of obedience: First, the obedience to Allah; second, the obedience to the Apostle and 'those vested with authority from among you' (*ulu'l-amr-i minkum*). The

arrangement of the words shows that the obedience to *ulu'l-amr* is as much obligatory as is the obedience to the Apostle, though they are certainly lower in rank than the Apostle. This verse clearly shows two things:

First: The authority of the Holy Prophet upon the believers was unlimited and all-comprehensive. Any order given by him, under any condition, in any place, at any time, was to be obeyed unconditionally.

Second: That supreme authority was given to him because he was infallible and free from all types of error and sin. Otherwise, God would not have ordered us to obey him unconditionally.

In this verse, *ulu'l-amr*, have been given exactly the same authority over the Muslims, because both the 'Apostle' and the *ulu'l-amr* have been jointly mentioned under one word "obey"; which shows that the obedience of *ulu'l-amr* has the same standing as the obedience of the Apostle. It naturally follows that *ulu'l-amr* must also be infallible and free from any type of error and sin.

Therefore, the only way to interpret this verse is to accept that it refers to the Twelve Imams from the Holy Prophet's household, the only people for whom the status of infallibility after the Prophet Mohamamd has ever been claimed. They were, in their times, the most knowledgeable, the most illustrious, the most God-fearing, the most pious, the highest in their family lineage, the best in personal virtues, and the most honoured before God; and their knowledge was derived from their ancestor (the Prophet) through their fathers, and by inheritance and by direct inspirations from God. All the Shi'ite scholars unanimously hold that *ulu'l-amr* are meant to be the twelve Shi'ite Imams, the first of whom is Imam 'Ali and the twelfth of whom is al-Imam Mahdi.

The next verse on the necessity of following those other than the Prophet is the verse of mastership (*wilyah*):

Your guardian is only God, His Apostle, and the faithful who maintain the prayer and give the alms while bowing down. (5:55)

The Muslim scholars, Sunni and Shi'a alike, agree that this verse was revealed in honour of Imam Ali. It clearly shows that there are only three types of masters for the believers. Firstly, God secondly, His Prophet and thirdly, Ali (with the eleven succeeding Imams).

The word *waliyy* in this verse signifies worldly and spiritual authority, and what is more is that the authority of the infallible Imams is juxtaposed with the authority of the Prophet and of God.

Islamic Government during the Occultation of the Twelfth Imam

During the occultation of the twelfth Imam, Islamic society requires the existence of a government as a power which is able to prevent violations of the law, and lack of the government is equivalent to the suspension of law, chaos and the violation of the rights of the weak. For further clarification of the

necessity for an Islamic government during the occultation of the twelfth Imam, it will be pertinent to refer to the following points:

There is no separation of religion from politics in Islam. Belief in the necessity of forming a government and establishing an executive system is a part of *wilayah*. Likewise, any attempt in this direction is also part of the belief in *wilayah*. In other words, belief in *wilayah* is tantamount to that of the acceptance of the leadership of the infallible Imams.

But a profound understanding of the declaration of a divinely-appointed leader of Muslims by the Prophet would make it clear that unqualified persons should not be allowed to rule over the Muslims. Thus, anybody who believes in *wilayah* should eschew entrusting the state to unqualified persons in the absence of Imam Mahdi.

The nature of Islamic law indicates that it is possible to form a government and manage the cultural, economic and political affairs of a society. Firstly, comprehensiveness of the Islamic laws and regulations ranging from the laws regarding the relations with one's neighbours, children, family, private affairs, matrimonial matters, war, peace, relations with other countries, economy, trade, industry, and agriculture all are meant for running the affairs of the society.

These points indicate that Islam seriously deals with political and economic affairs. Secondly, a quick look at the nature of religious commandments will prove that it is necessary to form a government. Without forming a government it is not possible to execute these laws.

By establishing an Islamic government man can establish justice and execute the divine commandments. This particular feature of Islam is not only related to the Prophet's time but it is applicable to all times including the period of the absence of Imam Mahdi.

Some of the reasons behind appointment of *ulu'l-amr* (those vested with authority) by God and making their obedience obligatory are as follows. Firstly, people would feel duty-bound to follow certain rules that would rescue them from corruption. It is not possible to follow such rules unless power is entrusted to a trustworthy ruler. Secondly, the prosperity of nations depends on the existence of rulers who try to solve their temporal and spiritual problems. God, the Wise, never leaves His creatures (people) without a guide. The third reason is that in the absence of a just and qualified leader and guide, the religious commandments and orders would be ineffective or abused.

Thus, Islam is a comprehensive religion consisting of the laws on politics, society, economy, etc, and the Divine commandments are applicable to all societies in all eras. Religious commandments are not useful unless they are applied to form a state on the basis of divine guardianship. Moreover, in order to protect the Islamic system, control the borders of Muslims from any encroachment by the enemy, and prevent disorder in Islamic society, it is necessary to form an Islamic government.

The leadership of an Islamic government has not been specifically entrusted to a particular person

during the occultation of Imam Mahdi; rather a qualified leader has been characterised in a general way. Since the government is Islamic in nature, its ruler should possess at least the following two qualifications: he should have command over religious laws (*fiqh*) and he should be a just and righteous person.

The Guardianship of the Jurist

Basically, the basis of the thesis of *Wiláyat-e faqih* or the guardianship of the qualified jurist, is the proposition that a person who is nearer to the station of infallibility should occupy the position of the infallible one, i.e. on the top of the pyramid of power, in order that this position may be occupied by the one with the best knowledge of the precepts and laws and their fundamental bases, and the one who has the most piety and self-control.

By means of these two basic qualifications (expertise in jurisprudence and piety) it is at least possible that he will be less likely, intentionally or unintentionally, to transgress against values.

It should be emphasized that from an Islamic perspective no human has any intrinsic right to rule over another, even if he issues valid and just decrees. For all people, like other creatures, have been created by and are the property of Almighty God, and no one may interfere with another's property without God's permission. A human being has no right even to use his own bodily organs in a manner contrary to God's Will and consequently he cannot allow others to do so.

Hence, the only one Who Himself has an absolute right to govern. Every authority and *wilayah* should be from Him or at least with His sanction. It is obvious that no one would ever be able to execute the divine law without having the necessary knowledge of His laws, or without piety and the necessary moral qualifications.

On the other hand, we know that except for the prophets and their selected successors, no one else was specifically designated by Almighty God to execute the law and to govern. So, people must try to find persons who resemble the prophets and the infallible Imams as closely as possible. It seems that the best way is first to select committed experts of religion (pious jurists), and then to allow them to select from among themselves the best one, for the experts are more able to correctly identify the best amongst them. Such selection is safer from the defects of an intentional or unintentional character.

It has also become clear that the political features of Islam derive from the basic elements of the world view of Islam and its view of man. That is, the emphasis on the just character of law and its harmony with human spiritual development derives from the view that God Almighty created all mankind in order that people may follow the way of development toward nearness to God and eternal felicity by their meritorious conduct in life.

The right of all humans to happiness and enjoyment of the blessings of this world exists in order that all

may advance in the way of their development in a better and speedier manner. The legislation of the divine laws and religious principles, whether they apply to the individual or society, is for determining the basic outlines of this path. The conditions of expertise in law and piety, in addition to other necessary administrative qualifications, are required for securing the necessary conditions for the general development of the people, for reaching eternal felicity and for preventing intentional and unintentional deviation from the correct way of social life.

It should be noted that the ideal is that the administrator of the law should generally be completely free from ignorance, selfishness, and other vices, and such a person is one who, in religious terminology, is called *ma'sum* (infallible).

All Muslims believe in the infallibility of the Prophet, may the peace and blessings of Allah be upon him and upon his progeny, and the Shi'ites also believe in the infallibility of the Imams, peace be upon them. In the absence of an infallible person, these criteria should be observed, to the extent possible, for the selection of the leader as well as for lower positions in the hierarchical structure of the government in a proportionate manner.

The Qur'anic Basis of Shura (Consultation)

In view of the ultimate aim of consultation or *shura* as a collective rational means for arriving at truth, it may be added that the legitimacy of the principle of *shura* in Islam is supported both by reason and by prophetic revelation. Several verses of the Qur'an refer to consultation. According to the Qur'an, the Prophet himself was asked to consult the people:

It is by God's mercy that you are gentle to them; and had you been harsh and hardhearted, surely they would have scattered from around you. So excuse them, and plead for forgiveness for them, and consult them in the affairs, and once you are resolved, put your trust in God. Indeed God loves those who trust in Him. (3: 159)

She (the Queen of Sheba) said, 'O [members of the] elite! Indeed a noble letter has been delivered to me. It is from Solomon, and it begins in the name of God, the All-beneficent, the All-merciful. [It states,] "Do not defy me, and come to me in submission." ' She said, 'O [members of the] elite! Give me your opinion concerning my matter. I do not decide any matter until you are present.' They said, 'We are powerful and possess a great might. But it is up to you to command. So see what you will command.' (27:29-33)

And there came a man from the city outskirts, hurrying. He said, 'Moses! The elite are indeed conspiring to kill you. So leave. I am indeed your well-wisher.' (28:20)

House them where you live, in accordance with your means, and do not harass them to put them in straits, and should they be pregnant, maintain them until they deliver. Then, if they suckle [the

baby] for you, give them their wages and consult together honourably... (65:6)

All the above verses indicate the significance of consultation and point out to a basic reality that a number of individuals, when organized into a group, can benefit from one another's understanding and intellect for the attainment of certain goals. The least that can be said about the people coming together for mutual consultation is that their individual understanding increases.

Shura in the Political system of Islam

Here we mean by *Shura* an assembly of a group of people who are capable, reliable and well-informed about a subject for the purpose of making the best decision with respect to a given subject through consultation.

The subject of *shura* in Islam, that is, the affairs which are subject to counsel and consultation consists of all of the spheres of human life as well as the background for determination of the secondary laws (*al_ahkām al_ṭhānawīyyah*). To explain this further, it may be said that all rulings pertaining to the individual and collective life of Muslims are divided into two categories: the primary (*awwālī*) and the secondary (*ṭhānawī*) rulings.

The Primary Rulings

The primary rulings constitute all Islamic duties and obligations deduced and inferred by jurists from the four sources consisting of the Holy Qur'an, the Sunnah, consensus and reason, and are communicated to all Muslims. The primary rulings constitute the duties of all responsible (*mukallaf*) Muslim men and women.

These rulings are fixed and therefore they are not set forth for consultation, such as rulings pertaining to the acts of worship (like ritual prayer, fasting, pilgrimage to Mecca) and rulings pertaining to the commercial dealings, punishments (*ḥudud*), compensation (*diyāh*, blood money or indemnity for bodily injury), and yet others relate to the process of trial, testimony and litigation, and so on.

The general definition for this category is that these rulings are those which, being based on the Qur'an, *sunnah*, *ijma'* and *ʿaql*, with due consideration of the physical and spiritual nature of man and its proneness to various deviations and defects, and with a view to various things which are to its benefit and advantage, are not subject to any form of change whatsoever; although they are subject to modulation, depending on the varying states and conditions of a *mukallaf* (a responsible Muslim). These varying conditions of a *mukallaf* may be such as travelling, presence in one's home-town, compulsion, exigency, or any other ordinary or extraordinary condition.

The Secondary Rulings

The secondary rulings are those deduced by a fully qualified jurist with due consideration for the

circumstances and conditions of an individual or society. An example of this category of laws is the famous *fatwa* issued by the late Ayatollah Mirza Muhammad Hasan Shirazi (1815–1895), may God's mercy be upon him, forbidding the use of tobacco.

The difference between the primary and secondary rulings can be explained as follows:

1. The former are directly based on the four sources, which being the class of unchanging Islamic laws, together with the fundamental doctrines of the faith, constitute the framework of Islam. The secondary laws, on the other hand, do not directly correlate with the four above-mentioned sources, but are the product of juristic inference drawn in light of the provisional conditions of an individual or the community.

This does not, however, mean that the secondary laws deduced by a qualified jurist have no connection with the four sources of law. It means that the qualified jurist, perhaps in consultation with other jurisprudents, issues a legal verdict for the benefit of the Muslim society, or in order to thwart a danger threatening it, through inspiration from general principles and laws that specify the duty to safeguard the existence of the Islamic society.

2. An important point to note in connection with the secondary rulings is that they relate to the category of actions and affairs that are generally considered *mubḥāḥ* or neutral. The primary rulings, on the other hand, are not changeable on any account.

3. The primary rulings which are suspended in case of *idtirāḥ* (exigency), *ijbāḥ* (coercion), or *karḥiyyah* (reprehensibility) should not be confused with the secondary rulings (*al-ahkam al-thanawiyyah*). For instance, in case of insecurity of roads and sea routes the *faqih* may suspend the obligation of the *hajj* pilgrimage.

This is not a secondary ruling because the duty of *hajj* is suspended, since *'ilm* (knowledge), *ikhtiyār* (freedom) and *qudrah* (power) are the fundamental requirements for the application of an obligatory duty.

4. With the disappearance of the cause and motive behind the secondary rulings, their validity expires and the domain of its application returns to the sphere of primary rulings.

Conclusion

The Islamic system of government is based upon the Qur'an and the Sunnah. The basic rules and principles are set out in the Qur'an but the details are for the Muslim jurists to extract from the four sources. The sovereignty of God is the foundation of the system. Legislation contained in the Qur'an becomes the basic law of the state.

The aim and purpose of Islamic government is the establishment, maintenance and development of those virtues which the Creator of the universe wishes human life to be enriched by, and the prevention

and eradication of those evils which are abhorrent to God. That is why the prophets were sent by God to guide us over the centuries. It is the duty of every individual Muslim and of the Islamic government to strive for justice and to prevent and oppose evil.

If injustice spreads in a community with no one to denounce it, then that whole community and its government is considered to be transgressing the law of God. Where injustice is rife, there cannot be an enduring peace. The Qur'an warns that nations in the past have been destroyed for such neglect.

The doctrine of *wilayat al-faqih* forms the core of Shi'ite political thought. It is a position which is delegated to a just and capable jurist who takes responsibility for Islamic government during the occultation of the twelfth Imam.

Shura also plays a major role in the political system of Islam. The subject of *shura* in Islam embraces all the spheres of human life as well as the background for determination of the secondary rulings. The secondary rulings are deduced by a fully-qualified jurist with regard to the circumstances and conditions of an individual or society.

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1. See also the verse 42:3.
 2. See also the verses 33:2; 45:18; 45:19 and 5:47.
 3. See also the verses 4:69; 4:70 and 33:71.
 4. See also the verses 4:15; 4:42 and 5:49.
 5. See also the verses 4:105, 24:47, 24:48, 24:49, 24:50, 24:51 and 24:52.

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