

Ayatollah Khomeini and the Foundation of Legitimacy of Power and Government

AYATOLLAH KHOMEINI ET LA FONDEMENT DE LA LÉGITIMITÉ DU POUVOIR ET DU GOUVERNEMENT

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Abstract: Ayatollah Khomeini, in contrary with pre-dominant trend of thought in Shi' a, announced establishment of Islamic government in the occultation era necessary and an obligation for jurists. He with invoke to a set of transmitting and intellectual reasons tried to justify his theory of "Governance of the Jurist" and granted to it a divine legitimacy, which is examined in the first part of the present research. But how he viewed the role of people in legitimizing of his acceptable type of government? Despite that he believed to divine legitimacy of Governance of the Jurists, but acceptance and satisfactory of people was also strongly emphasized by him. In second part of the present research, the researcher investigates how he combined between divine right of the jurists and popular right in legitimizing of power and government.

Key words: Ayatollah Khomeini; divine legitimacy; popular legitimacy; Shi'a jurisprudence; Governance of the jurist; Iran

Résumé: Ayatollah Khomeini, en contradiction avec la tendance pré-dominante de la pensée chiite, a annoncé que la création d'un gouvernement islamique était nécessaire et que c'était une obligation pour les juristes. Il invoque un ensemble de raisons intellectuelles pour tenter de justifier sa théorie de la "gouvernance des juristes" et lui donner une légitimité divine, ce qui est examiné dans la première partie

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de la présente recherche. Mais comment il voit le rôle du peuple dans la légitimation du modèle de gouvernement acceptable? Malgré sa croyance à la légitimité divine de la gouvernance des juristes, il a aussi mis l'accent sur l'acceptation et la satisfaction du peuple. Dans la deuxième partie de la présente recherche, l'auteur étudie la façon dont il a combiné le droit divin des juristes et le droit populaire dans la légitimation du pouvoir et du gouvernement.

Mots-Clés: Ayatollah Khomeini; légitimité divine; légitimité populaire; jurisprudence chiite; gouvernance des juristes; Iran

Since the time of the holy prophet's demise, the most controversial issue in Islamic community was dispute over general characters and qualifications of his successors and mode of succession of power. Islamic scholars with different theological, juridical, philosophical and political perspective attempts were concentrated on finding response to three fundamental questions: 1- Who should govern? 2- How should be governed? And 3- What are the mutual rights and duties of people and holders of power? Shi'a believes in two principles of imamate and occultation of infallible Imam and the postulation that leader of Islamic community as successor of holy prophet must be infallible, caused undeniable result in the process of formation and development of Shi'a political thought. This belief that absolute power belong to God and successor of holy prophet should receive the right of guardianship and leadership from God, and the Prophet notified the issue of Caliphate after himself to Muslim, is foundation of Shi'a political thought. Therefore, the issue of legitimacy and illegitimacy of power and government from Shi'a jurists' point of view should be deliberated from this perspective.

Like other Shi'a jurists, Ayatollah Khomeini believes that the absolute power belongs to Almighty God and He is the owner of government and leadership and has the intrinsic guardianship for everything and everybody. This sovereignty and guardianship has not been appointed by someone else to God (Khomeini 1995, 160). Therefore the origin and the source of authority is God, the creature of the world. In his ever first political book, *Kashf al Asrar*, he indicates that:

The only government that one should consider as legitimate and accept it full-hearted is the government of God; He all whose affairs are legitimate and right and all creatures of the world belongs to him. Repossessing anything is repossessing His own property and laying the hold of anything from anybody is laying the hold of His own thing. Nobody is able to deny this fact (Khomeini N.D, 222).

In this book, he insists that based on reason, only the one is able to govern others that are the possessor of all their affairs and any repossession of their properties is repossession of his own properties. Reason demands that such a power is only Almighty God, the One who is the possessor of all creatures, the creator of the earth and human being. Every decree issued by God is judgment in his own territory and every repossession is repossessing his own donations (Khomeini N.D, 222). Therefore, based on the reasons mentioned, it is just He who has the right to govern people. In Ayatollah's opinion, the fundamental principle of government in Islam is the fact that nobody has the right to govern others but God, and also legislation is only the right of God (Khomeini N.D, 184). Also in the case that the right to legislation and government should be proved for someone other than God, this should be done by appointment from Almighty God (Khomeini 1995, 160). Ayatollah Khomeini infers from unity of God principle that "this principle teach us to surrender only to Almighty God and not to obey anyone else, except for the cases that this obedience is obedience of God" (Khomeini 2006, vol.5, 387). According to the above descriptions, this essential question is put forth that in his opinion which governments are appointed by God and what are the reasons of their legitimacy?

1. THE FOUNDATION OF THE LEGITIMACY OF PROPHET AND SHI' A' S IMAMS GOVERNMENT

As mentioned above, in Ayatollah Khomeini's opinion nobody has the right to govern others but God and in terms of reason, God should establish a government for people and legislate for them because it is a must for their life. Ayatollah Khomeini believes that God has appointed the right of governing to the Prophet through sending Islam and its religious rules. Therefore, until the Prophet is alive:

It is not permissible to repossess this sovereignty and taking the responsibility of it with all its dimensions of authority and governmental status, because this repossession is expropriating the status of the Prophet and this repossession of the governance and its dimensions, is in any form, repossession of the sovereignty of other one (Khomeini 1995, 159-160).

In this regard Ayatollah Khomeini insists on the fact that if the Prophet decided to establish a government, it was with the permission of God and God has appointed him the status of Caliph of God in the earth (Khomeini 2005, 29). That is why all authorities appointed to the Prophet is from God and people should obey the governance of him, consider it legitimate and also know that God made him qualified for this sovereignty and considered it requisite to obey him. Therefore, the obedience of the Prophet is obedience of God. This fact is inferable from the command of God for obedience of Him and the Prophet that is mentioned explicitly in Quran (Khomeini 2005, 29-30).

Ayatollah considers only the Shi' a infallible Imams as legitimate and qualified for taking the responsibility of political affairs of the Islamic society after the Prophet demise. The Shi' a' s Imams received the right of guardianship and leadership from God and the Prophet, since God demands the Holy Prophet through revelation to notify Muslims the issue of Caliphate after himself. In order to do so, the Holy Prophet appointed Ali ibn Abitalib to caliphate according to the rules and in obedience to the command of God (Khomeini 1986, 74). Based on this point of view, the source of legitimacy of infallible Imam' s authority is the decree and command of God. To prove the legitimacy of the infallible Imam' s sovereign, Ayatollah Khomeini in opinion of whom the Imams have the responsibility of Muslim' s caliphate based on divine appointment, refers to some intellectual and transmitting reasons.

The most important intellectual reason is that intellectually it is not possible that Almighty God lays the great foundation of monotheism, justice, and belief and then He himself try to demolish it, and not determine the future status of His people after the Prophet' s demise. Reason demands that God should command in some way to maintain the just authority and to strengthen the foundations of justice and monotheism and not to appoint the future of the religion to the grudge of spiteful and whimsical people, because all of His affairs are based on wisdom. After appointment of the Holy Prophet and sending divine rules all of which was based on reason and wisdom, it is not reasonable for God not to issue appropriate commands for the Prophet in order to make this great foundation and this divine religion permanent and also determine the destiny of people and Quran after the Prophet and not to appoint His own Imams (Khomeini N.D, 106-108).

By referring to some intellectual and transmitting reasons, Ayatollah tries to prove that in the era of presence of infallible Imams the only legitimate authority is that of them, because it was only insisted on their legitimacy by God and the Prophet. Obedience only to them as God-appointed leaders and authorities and guardians of the affairs of Islamic society has been required (Khomeini 1995, 159-160). The above mentioned point of view in regard to the foundation of legitimacy of the Prophet and Imams is agreed upon by all Shi' a jurists.

2. THE FOUNDATION OF LEGITIMACY OF GOVERNMENT IN THE OCCULTATION ERA

The discussion about the source of legitimacy of government in the occultation era of the infallible Imam resulted in different approaches among Shi' a scholars because no special person has been announced from God as ruler in occultation era. Only some of the characteristics of the ruler have been mentioned. The essential question is that in the occultation era, what are the main principles and foundations of legitimacy of governments? And how their authority could be legitimized?

In historical process of political thought formation among the Shi' a jurist, two points of view have been formed in regard to the sources of the legitimacy of government. In order to have a better understanding of the thoughts of Ayatollah Khomeini in regard to the foundation of legitimacy of governments in the occultation era it is necessary to have a brief investigation of these two approaches in the Shi' a political jurisprudence. The first insists on the divine legitimacy of government and the other puts forward the theory of dual legitimacy (divine-popular) of governments. Those who believe in divine legitimacy of government maintain that Prophet has the divine guardianship in managing social affairs and political leadership of the society. This divine guardianship is appointed to Shi' a' s Imams after the Prophet' s demise and the Imams are appointed to political guardianship of the Islamic society by God. In the occultation era of the infallible Imam, just jurists are Caliphs of God on the earth, and the representatives and deputies of the infallible Imam that guardianship and guidance of Islamic society is their religious task. They have the right to govern the Islamic society as representatives of the infallible Imam and the divine guardianship has been appointed to them directly and without the medium of Islamic *umma*. Based on this view, people and their acceptance play no role in granting legitimacy to guardian of the jurist (*valiye faqih*) and it is the people' s duty to obey him. For example Muhaqeq Al Karaki (d.1533), the famous jurist of Safavid era considers the most important duty of people against the governor as assisting him and obeying the rules issued by him and also referring to him in religious, political, and social affairs (Al Karaki 1986, 375). According to this approach, regarding the divine legitimacy of jurist' s authority, the vote and satisfaction of people are not essential elements in legitimization of the authority

Based on the approach of the other groups of Shi' a ulama who believed in divine-popular legitimacy of the government in occultation era, God has handed over the responsibility of leading and political governing of the Islamic society to people and they are responsible for establishing government in the framework of Islamic rules and decrees based on the commands of God. According to this view point, people have absolute right to decide about their social destiny and nobody is permitted to deprive them of this divine right (Kadivar 2001, 49). Therefore, in accord with constitutional law which is compatible with injunction of Islam, people have the right of electing leader and political administrators of country to govern the affair as their representatives. Since in this approach God is considered as origin and main source of legitimacy, therefore people are authorized to enforce their authority and to determine their destiny only in the framework of religious rules. This legitimacy is considered divine. On the other hand, since people play the role of medium between God and their government, and their will makes the government established and makes it legitimate, the popular legitimacy has an essential share of legitimacy. Due to the reason mentioned, this legitimacy is called divine-popular. Therefore, in this approach the foundation of legitimacy is based on two main conditions: 1- obedience of injunction of law and 2- enjoy of popular satisfaction and support.

Regardless of the similarities between the two theories, it is claimed that in the theory of jurist' s direct divine legitimacy, governing is a religious requisite for the jurist and people are required to obey the governor as a religious task. But, in the theory of popular - divine legitimacy of the government, people has special and exclusive rights in establishment of the government and it is just based on their vote in the framework of religion that the governmental system is legitimized.

Here, this question is put forth that Ayatollah Khomeini's opinion on the source of legitimacy of government in the occultation era is closer to which the approaches mentioned above. Some of the researchers claimed that Ayatollah Khomeini believes in just jurist's direct divine legitimacy and considers no role for people in legitimization of government. A second group concluded from their investigation and analysis of Ayatollah Khomeini's works that he, in spite of his belief in guardianship of jurists, maintains an essential role for people in legitimization of government. The analysis of the works of Ayatollah reveals that he, on the one hand insisted on the divine legitimacy of jurist's authority in his political and jurisprudential books, and on the other hand in the same books, in his speeches, interviews, letters, and messages frequently insisted on the importance and necessity of the role and place of people in the structure of a theological government. That is why it is necessary to investigate and consider the evidences proposed by him on the one hand for divine legitimacy of jurists guardianship and on the other hand the criteria of popular legitimacy of the Islamic government and finally make a comprehensive evaluation of his points of view in regard to the source of legitimacy of jurist's guardianship.

3. THE SOURCES OF DIVINE LEGITIMACY OF JURIST'S GOVERNMENT

In Ayatollah's point of view, guardianship and sovereignty belongs to Almighty God and if He decides, this guardianship can be possessed by others in the condition that this transference is approved by God (Khomeini 1995, 160). It clearly determines that in Ayatollah's point of view guardianship and sovereignty has only one source and that is divine appointment. Ayatollah has insisted frequently on this fact in his several jurisprudential books in which he dealt with the issue of Islamic government and its source of legitimacy. For example in one of his juridical book, *Makaseb al Moharrama* (Forbidden Trades), he explicitly maintains that:

The ones not appointed by Almighty God are not legitimate to play a role in administrating of society and take a responsibility in it, because this possession by them is considered as repossession of this status and their engagement in the governmental affairs in any form is considered as repossession of others sovereignty and interference in it (Khomeini 1995, 160).

In Ayatollah's point of view, the criteria of the government legitimacy is appointing by holy Shari'a and in terms of Shari'a only jurists are recognized in charge of guardianship and governing the Islamic society (Khomeini 2006, Vol.10, 308). Therefore, because from his point of view it is just the jurists that possess the required criteria for establishing a legitimate government, they are responsible for guardianship and leadership of the Islamic society and they are qualified for leading Muslims (Khomeini 1986, 33) and they are guardian of all religious, political, and social affairs of Muslims as representatives of the infallible Imams (Khomeini 2006, Vol.11, 403).

The essential question that the researcher faced within her study of the foundations of legitimacy of government in Ayatollah's opinion is that which intellectual reasons and which transmitting reasons have been proposed by him for proving the legitimacy of the guardianship and authority of jurists in the occultation era. The study of Ayatollah's works including the jurisprudential and political books and *Sahifeye Nour* collection, including all his correspondences, messages, declarations, speeches, and interviews from 1943 to his death on 1988 reveals the following reasons as the most important intellectual and religious evidences and are foundation of Ayatollah's efforts for proving his point of view.

Ayatollah Khomeini attribute to some intellectual reason to prove and justify divine legitimacy of Governance of the Jurist. According to him, nobody has been appointed to hold the governmental affairs in the occultation era, the necessity of maintenance and implementation of Islamic rules and establishment and development of order and peace in the Islamic society depend on the existence of

Islamic government in the country. Accordingly, based on wisdom, permanence of government and guardianship in the occultation era is essential (Khomeini 2005, 33). After the above introduction, Ayatollah proposes some reasons for proving the intellectual necessity of the establishment of government by the qualified jurist. According to him because the Islamic government is based on the divine law legislated for implement of the rules and development of peace in the world, the governor of this government as a divine government should have two important characteristics. It is not possible for a law - based government to be established unless the leader of it has these two characteristics: mastery on the *Shari' a* as the divine law and 2- justice i.e. possession of belief and ethical perfection. In terms of reason, it is clear that God will never appoint a fool person or a tyrant to the governance of the Muslim' s *umma* and never assign such a person as the holder of the Muslim' s destiny, life and properties. That is because the holy *Shari' a* considers it very important to maintain the Muslim' s life and properties. It is not reasonable except for the case that the divine law is executed by a just and wise governor (Khomeini 1986, 29-30).

From this statement, two conclusions are drawn: first, establishment of Islamic government in the occultation era is required and although God has not appointed a special person as governor of the Islamic country in the occultation era. But, the same characteristics considered requisite for the rulers from early Islam to the era of the Shi' a' s last Imam i.e. mastery of law and justice, are required for the rulers of the occultation era too. In Ayatollah' s opinion only the jurists are real jurisconsults due to their deep knowledge of Islamic jurisprudence and also due to their beliefs and ethical characteristics possess justice. Therefore, intellectually only they are able to enforce Islamic guardianship and government; not the fools and tyrants because God never appoint the affairs of His people to sinful people (Khomeini 2005, 33).

Ayatollah Khomeini intellectually considers the guardianship of the jurists the same as the guardianship of the prophet and the Imams. He maintains that "all of the affairs appointed to the Prophet and the Imams are appointed to just jurist and intellectually we cannot make a difference between these two" (Khomeini 1986, 35). Therefore, if such a jurist is able to establish the Islamic government, he has the same guardianship as the one possessed by the Prophet in leading the society and it is required for all people to obey him. He then insists that the idea that the governmental power of the Prophet were greater than those of the Ali ibn Abitalib, or that those of the Ali ibn Abitalib were greater than those of the *faqih*, is false. Naturally, the virtues of the Prophet were greater than those of the rest of mankind, but superiority with respect to spiritual virtues does not confer increased governmental powers.

God has conferred upon government in the present age the same powers and authority that were held by the Most Noble Messenger and the Imams, with respect to equipping and mobilizing armies, appointing governors and officials, and levying taxes and expending them for the welfare of the Muslims. Now, however, it is no longer a question of a particular person; government devolves instead upon one who possesses the qualities of knowledge and justice (Khomeini 2005, 34).

Ayatollah in effort to prove divine legitimacy for jurist government invoked to some transmitting reason too. One of the most important narrative evidences used by Ayatollah Khomeini for proving the divine guardianship of jurists that has been discussed in his "Islamic Government" book and "Book of Transaction" (*Ketab-al-Baye*) is a narration from the last Shi' a Imam, Imam Mahdi: "In case of newly occurring social circumstances you should turn for guidance to those who narrate our traditions, for they are my proof to you, as I am God' s proof" (Khomeini 2005, 50). Ayatollah writes in description of the concept of being God' s proof that this means that the Imam has a divine appointment and also has an absolute guardianship for people. It is not the case that he is the only source of expressing and describing divine rules. So, from the statement of the Imam that I am God' s proof and jurists are my proof to you, it is inferred that whatever appointed by God to him and he has the guardianship of them, is deserved for the jurists and they have the same guardianship is recognized by the Imam for them (Khomeini 1986, 47).

The second reason proposed by Ayatollah in proving the legitimacy of jurist' s authority is a *Hadith*

narrated from the holy Prophet by Ali ibn Abitalib:

The Commander of the Faithful relates that the Most Noble Messenger said: "O God! Have mercy on those that succeed me." He repeated this thrice and was then asked: "O Messenger of God, who is those that succeed you?" He replied: "They are those that come after me, transmit my traditions and practice, and teach them to the people after me (Khomeini 2005, 38).

In Ayatollah Khomeini's opinion the clearest meaning inferred from the word caliphate in this *Hadith* is guardianship and government. By the narrators of *Hadith* it was not meant the ones whose job is only to narrate *Hadiths* and have no idea and religious verdict of their own, but the ones who expands the Islamic sciences, declares the religious rules, and trains people for religious affairs, like the Prophet and the infallible Imams who have expanded and published the Islamic ordinances. Also those who are able to investigate and remove the contradictions between different narrations based on valid intellectual and jurisprudential criteria. These are qualified jurists who have a comprehensive mastery over the Prophet's narrations. It seems not reasonable that the caliphate of the Prophet and leadership of the Muslim's affairs is appointed to an unacquainted and unaware person that is incapable of recognizing the rules of God and his only task is narrating a couple of *Hadiths* (Khomeini 1986, 37- 40). It is concluded totally that according to this *Hadith*, jurists are appointed to caliphate and authority of Muslims by God and their sovereignty has the divine legitimacy according to this appointment by the Prophet.

The third narration invoked by Ayatollah in proving the divine legitimacy of the jurists in the occultation era is the one from Imam al Sadeq. Umar ibn Hanzalah says: "I asked Imam al Sadiq whether it was permissible for two of the Shi'a who had a disagreement concerning a debt or a legacy to seek the verdict of the ruler or judge". He replied: "Any one, who has recourse to the ruler or judge, whether his case is just or unjust, has in reality had recourse to *taghut*..." Umar ibn Hanzalah then asked: "What should these two Shi'a do then, under such circumstances?" Imam al Sadiq answered: "They must seek out one of you who narrate our tradition; who is versed in what is permissible and what is forbidden; who is well acquainted with our laws and ordinances, and accept him as judge and arbiter, for I appoint him as judge over you" (Khomeini 2005, 56). In Ayatollah's opinion, by the phrase "I have appointed them as judge over you", it is meant that only the ones who possess the characteristics mentioned in this *Hadith* are considered qualified by the Imams for governmental and legal affairs of Muslims, and Muslims are not authorized to refer to anyone except for them (Khomeini 2005, 56). Therefore, Imam al Sadeq's insistence on the appointment of jurists for guardianship and sovereignty is an insistence on the divine legitimacy of their governance and all Muslims are required to obey them.

From all intellectual and transmitting reasons proposed by Ayatollah in proving the guardianship and sovereignty of jurists it is concluded that the legitimacy of the guardianship and sovereignty of jurists is neither because of the people's will nor the dominance and force of the jurists themselves nor the charismatic characteristics of them but only the divine appointment of them and this right is preserved for them forever. Accordingly, Ayatollah denies any source of legitimacy for guardianship over Muslims by those who are not appointed by God and considers the will and the rule of God as the only criteria of the validity of any sovereignty. He argues in Islam, it is only law that rules over the society. Even the limited powers given to the Prophet and his successor have been conferred upon them by God.

Whenever the Prophet expounded a certain matter or promulgated a certain injunction, he did so in obedience to divine law... Divine law obtains both for the leader and the led; the sole law that is valid and imperative to apply is the law of God. Obedience to the Prophet also takes place in accordance with divine decree... Obedience to those entrusted with authority is also on the basis of divine decree... Individual opinion, even if, it is that of the Prophet himself, cannot intervene in matters of divine law; here, all are subjects to the will of God (Khomeini 2005, 30).

According to the above mentioned statements, Ayatollah concludes that obeying the sovereignty and guardianship of the jurists is obeying the divine rules because they are appointed by God. If they don't

have the opportunity to establish a government, their guardianship is preserved and they have the divine legitimacy. In the case, jurists have the opportunity to establish their government, since their guardianship is equal to the guardianship of the Prophet and the infallible Imams in different religious, political, and social affairs, obeying them is required for all members of the Islamic society (Khomeini 1986, 33 & 40).

4. THE FOUNDATION OF POPULAR LEGITIMACY OF JURISTS' GUARDIANSHIP

After investigating the principles of the divine legitimacy of jurist' s guardianship and authority from Ayatollah Khomeini' s point of view, this question is put forth that what is the role of people in a government based on jurist' s guardianship? Whether the jurist' s guardianship system, is a system designed for governing over people, or the ideas of people have a reasonable and appropriate place in this system and according to it, this government can be considered as a government for people. In order to find a clear answer to this question, the researcher by investigating the jurisprudential and political works of Ayatollah Khomeini searched for the recognized rights of people in an Islamic society and in the jurist' s guardianship system.

5. THE RIGHT OF SELF-DETERMINATION

One of the primary rights of each nation that is mentioned and emphasized by Ayatollah in many instances is the right of determining their own destiny, the concept that is mentioned in the international declaration of human rights too. He states in this regard that: "one of the primary rights of each nation is the right to self-determination and determination about the form of government" (Khomeini 2006, Vol.4, 367). This principle is an absolute intellectual principle that has been accorded by Islam (Khomeini 2006, Vol.6, 13). Both, in the years before the Islamic Revolution and the years after it, Ayatollah has insisted on the principle of people' s self-determination in many instances as one of the fundamental necessities of establishing the Islamic republic regime. For example in the early months of Islamic Revolution, in response to a question about the form of determining the future political system of Iran, Ayatollah declared that "determining the political system will be done through the vote of the people themselves. A referendum will be held for the proposition of Islamic republic" (Khomeini 2006, Vol. 3, 52). In another occasion he declares his idea about the role of people in determining their desired type of political system as follows:

We do not intend to impose something to Muslims. Islam does not allow us to be dictators. We are obedient to the people' s vote. Whatever the vote of people is, we follow it. God does not authorize us, and the prophet does not authorize us to impose something to Muslims. Sometimes we may ask them for something, a humble request... but the principle is that these kinds of affairs are not in our hands but it is in the nation' s (Khomeini 2006, Vol.10, 181).

He states explicitly that in Islamic Republic, the governments should be obedient to the people' s vote and are not authorized to impose their desires and ideas to the people, nor according to Islam, neither according to constitutional law. He does not consider the governments authorized to assign duties to the people. In Islam, as he believes, the task of the governor is not governing over people but its main task is serving people in order to achieve their goals and requests in the framework of the Islamic rules: "whatever the vote of people is, the governor should follow it and dictatorship is not allowed by Islam" (Khomeini 2006, Vol.10, 181). He announces one the reasons of his opposition against the royal

regime of Iran as lack of people's contribution in choosing the form of the government and the governors. He says:

If the royal system has been selected by the ancestors of the nation in a legal and intellectual manner, because the present nation had no role in this selection, this is considered illegitimate; because the present nation is not in favor of maintaining this political government and no nation is authorized to make decision in this regard for the next generation of the country. What are important are the will, the vote, and the idea of each nation in their own time (Khomeini 2006, Vol.5, 105).

That is why he considers the government of Shah illegitimate, because Shah's governance is in contradiction with three Islamic principles in terms of sovereignty: 1- the principle of the Islamic governor's justice, 2- the principle of the Muslims' freedom in electing the governor and determining their destiny, and 3- the principle of the Islamic country's independence.

6. THE FREEDOM OF EXPRESSION AND CHOICE

In Ayatollah Khomeini's opinion, freedom is a natural and intrinsic right of human and this right is from his primary and innate ones. Islam also, has insisted on the freedom of will, desire, expression, choice and also the freedom of people in the framework of Islamic rules. He articulates in this regard that the creator of the world, the whole universe and the human is the Almighty God, who is aware of all facts and is able to do everything and is the owner of all things. This principle teaches us that human should be obedient only to the Almighty God and should not obey any human being except for the cases that this obedience is the obedience of God. Accordingly no human being is authorized to oblige others to obey him. From this ethical principle the principle of human's freedom is inferred based on which no one is authorized to dispossess liberty of a person, a society or a nation, or legislate for them and make regulations for their habits and relationships according to his own incomplete cognition or his own will (Khomeini 2006, Vol.4, 166).

He states that liberty is the most significant thing bestowed by God to human and according to the above mentioned ethical principle freedom is one of the primary foundations of Islam. He indicates: "the actual Muslim is by nature free" (Khomeini 2006, Vol.2, 263).

In Ayatollah Khomeini's point of view, because freedom is a right bestowed by God to human, it is considered to be natural and primary. That is why "it is nonsense to grant freedom to man, because this is already belonged to him" (Khomeini 2006, Vol.2, 263). He insists that the freedom of expression and the freedom of self-determination are primary rights of man in the society; the rights that do not belong to a special individual or social class, but were considered for everyone (Khomeini 2006, Vol.5, 120). Based on this view point, he supposes the life value dependant to the freedom; freedom of speech, writing, idea and freedom in self-determination.

7. THE MAJORITY'S VOTE VALIDITY

A study of Ayatollah Khomeini's works shows clearly the importance and value of the majority's vote in his point of view. The most important manifestation of the people's vote value is his insistence on people's will and desire in determination of the Islamic governmental form after the Islamic Revolution. In response to the question of a reporter about the form of the government that will be substituted after overthrowing of Shah, Ayatollah replied: "our plan is referring to the public vote. Determination of the political system will be done by people themselves. We will hold a referendum in

this regard” (Khomeini 2006, Vol. 4, 358).

One of the most important reasons of his opposition to Pahlavi royal regime was lack of their reference to people’ s vote. During 10 years period of his leadership, in several occasions, Ayatollah Khomeini insisted on the validity of Islamic Republic due to the public vote. Even he limited the validity of the jurist’ s guardianship system to the direct or indirect vote of people: “you and I cannot determine destiny of the coming generations. We have the right to determine our destiny” (Khomeini 2006, Vol.8, 147-148). In another occasion he says: “the majority’ s vote...is valid. Whatever they say is valid, even if they sustain a loss in this process.” (Khomeini 2006, Vol.8, 247).

He accepts the role of public vote in legitimization of the jurist’ s authority and in the last months of his life insisted on the importance of the people’ s vote in maintaining the Islamic Republic and jurist’ s guardianship: “Jurists have guardianship of all affairs, but leadership of the Muslim’ s affairs and establishment of Islamic government depend on the majority’ s vote that is mentioned in institutional law also” (Unpublished documents of Ayatollah Khomeini, document 657: The Institute for Compilation and Publication of Imam Khomeini’ s Works). He does not consider it appropriate to disobey the nation’ s votes by any one even the jurists because the Islamic Republic is depend on the people’ s vote and the power and authority is their right and belong to them (Khomeini 2006, Vol.8, 247 & Vol.14, 165). With an experience of about 10 years in leading Islamic Republic, in last days of his life, Ayatollah insists that: “in Islamic Republic, except for the cases that there is a danger for Islam and dignity of the regime in wise experts view point, no one is authorized to impose his vote to others” (Khomeini 2006, Vol.21, 142). Or he says: “every individual is required to obey the law, even in the case of its opposition to one’ s own desire, because the only criterion is public vote.” (Khomeini 2006, Vol.14, 244).

From the sum of Ayatollah’ s speech and writings it is concluded that the majority’ s vote validity is considered by him as a fundamental principle in his political thought and the legitimacy and validity of all authorities, even the jurists, depend on all Muslim’ s vote. Any disobedient to it is not acceptable for anybody in any occasion.

8. THE RIGHT OF PEOPLE TO SUPERVISING THE GOVERNMENT’ S FUNCTION

One of the other essential rights of the nation in jurist’ s guardianship is the right to supervising the government’ s function and even the jurists. He considers this right as one of the religious rules of Islam according to the principle of ‘enjoining good and prohibiting evil’ . He recognizes many political and social functions for this principle in governing the Islamic society in an appropriate way. According to Ayatollah Khomeini, every member of the Islamic society including the ordinary people and authorities are required by religion to supervise each other performance permanently: “all of us are responsible, not only for our own affairs, but also for other’ s affairs...if I commit something wrong, you are responsible for telling me why?...it should be prohibited...all people should enjoin the good and prohibit the evil” (Khomeini 2006, Vol.8, 487- 488).

In his opinion, supervising the function of the ruler is not only a right, but also a requisite for people; a requisite that should be observed by them (Khomeini 2006, Vol.13, 193). He insists that:” this is a public advice and is very important for me...be cognizant that even one step should not exist against the trend of Islam...all members of the society are required to supervise” (Khomeini 2006, Vol.8, 4-5). Ayatollah considered the duty of enjoining good and prohibiting evil a requisite for the jurists themselves

that are governors of the Islamic society affairs and considered them obliged to be responsible for all members of this society. In his point of view, every individual has the right to criticize directly and publicly the Islamic country governor and in the case that the function of the leader was against the principles of Islam and he has no satisfactory explanation for it, he will be deposed automatically from his post (Khomeini 2006, Vol.4, 190).

He believes that Islam has some regulations and some mutual rights for the relationship between the ruler and the people. In the case of observing these regulations and rights, there remains no tyrant and no oppressed individual. In his point of view, governing is essentially a divine task that is held by an individual. Therefore, government is not a means of superiority over others, and anyone who acts against the rights of people in his own favor should be criticized directly by the nation (Khomeini 2006, Vol.5, 409). Accordingly, governors should not suppose that nobody is eligible to oppose whatever they do and whatever they say. In the case of any disobedient to religious rules in governing the Islamic country, the governor loses his legitimacy. Ayatollah insists on this fact in Book of Transaction : “in Islam, government is not based on dictatorship i.e. the will and the vote of one person...whatever exists in government and its related dimensions, and even obeying them should be in accordance to the interests of people (Khomeini 2006, Vol.2, 461). The above mentioned interests of people can be all or most of whatever is known as the people’ s rights. Establishing the government and sovereignty is in the condition of observing the divine rules and interests of the people; of course the divine rules also include the interests of people.

An investigation about the rights of people in Ayatollah Khomeini’ s opinion and his method in 10 years period of leadership shows that in contrary to the views of those who believe that he is only in favor of divine legitimacy of power and government and no role for people is recognized by him in this regard, or the role of people is confined only to the stage of establishment of the government, in many instances he considers the legitimacy of the government dependent to the will and desire of people and clearly announce the governments that are not based on people’ s vote as illegitimate and illegal. In Ayatollah’ s opinion the Islamic government’ s legitimacy is based on two parallel wings: 1- divine appointment and 2- majority’ s vote and confirmation of the jurist authority by people. It is based on this view point that he insists the governments of even righteous rulers will be illegitimate without acceptance of people (Khomeini 2006, Vol.5, 244). On the one hand, he considers the divine legitimacy as an essential principle of the Islamic government and on the other hand insists frequently on the necessity of regarding the popular legitimacy.

In Ayatollah’ s opinion, the task of the religious scholars is guiding and motivating people not governing and dominance. The fact that the jurists should be the governors does not mean that he governs according to his divine legitimacy without popular acceptance and satisfaction. In Islamic government what governs the society is Shari’ a and divine rules, not the jurists themselves; it is the popular will not the desire of the government. Jurists are required to endeavor to establish the Islamic government and implement the divine rules. But in the case that people do not select them, although their guardianship is preserved for them, they have not the right of authority. The concluding point is that not only there is no contradiction between divine legitimacy and popular legitimacy in Ayatollah’ s pint of view, but also these two are mutually necessary, and lack of each one, results in illegitimacy of government and sovereignty.

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