

(Guardianship of the Jurists (Fuqaha

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The guardianship of the Jurists is the process of continuity of Imamate. In this context according to several hundred traditions of the Holy Prophet which have been narrated by accredited companions of the Holy Prophet the number of infallible Imams is twelve. Eleven of the twelve exalted personages have been martyred after him through poisoning or with swords because they fought against the despots of their times.

Our twelfth Imam, Imam Mahdi is in occultation and according to hundreds of reliable traditions he will reappear by Allah's command to establish a just government. Since people have not been able to accept his leadership, Allah has kept him in His Protection until an opportune time.

As for example when a certain government lights eleven lamps and the people extinguish them it will preserve the last lamp at a safe place and will not light it until people become so much mature and enlightened that they understand the utility of light.

Similarly when Allah sent eleven infallible Imams and the people tortured them, made them captives and martyred them, Allah has kept the twelfth Imam in His safe custody until the opportune time. On the other hand Allah has not left us to ourselves without guidance during the period of occultation of the twelfth Imam Mahdi but He has entrusted us to just, pious and virtuous jurists so that we may faithfully follow them. Therefore, it is incumbent on all Muslims to protect the Islamic system and obey the commands of Allah which the just jurists issue.

Islam has such rules and regulations in different fields of activities, financial, economic, punitive, administrative and judicial that these cannot remain suspended, nor can they be controlled by ignorant and selfish people. Islam does not allow that a particular group of persons may start ruling the other. Thus Islam has entrusted the job of enforcing the rules and regulations to the jurists and pious people only so that they may issue decrees in accordance with the Divine Commandments. The obedience to these jurists by the people is as obligatory as it is to the Holy Prophet and the Infallible Imam.

The Role of the Jurist

Now a number of questions arises here. Do the Muslims need some system of Government? Should an Islamic State be protected and defended or not? Should the lands be safeguarded? Should laws be promulgated in an Islamic State? Should the right of the oppressed be restored

to him? Should or should not the voice of Islam reach every nook and corner of the world? Were the teachings of the Prophets and the Imams confined to their time only or were they applicable to all places and all times?

If the answer to these questions is in the affirmative and Islam has its own system of social structure and laws and regulations, and the rights should be honoured, and the land should be safeguarded then the form of government must be Islamic, because without a system based on just and correct lines, especially when the enemies of Islam have a big farcically alluring system with them, we cannot protect our religion, laws, country, life, property and honour.

If the government is necessary then the ruler is also necessary, because the government cannot be run without a ruler. Therefore, since Islam needs a government for enforcing its laws, we should find out the qualifications of the ruler and know whether he has a deep understanding of the Divine commandments, is just and competent, and can appreciate and face difficulties. If it is necessary that the ruler should be a true Muslim, well-informed, pious, virtuous and statesman, then that person must be a jurist, and his government will be called the government of the jurist.

Those, who do not believe in the concept of the guardianship of a jurist should study the following view-points and accept anyone of them. (i) Islam is confined only to prayers, fasting, individual worship, moral values only and it does not envisage the solution of social problems, justice, political and economic problems.

(ii) Islam was only meant for the duration of the lifetime of the Holy Prophet only, and it was abandoned after him and now its important social problems are confined only in books.

(iii) Important social laws should be enforced by the ignorant and wicked persons only.

If none of the above-quoted view-points is acceptable or appeals to reason, then we must accept the guardianship of the jurist, which means that the enforcement of Islamic laws and solution of difficult problems should be solved by eminent Muslim scholars and thus we must not think that the guardianship of the jurist is unjustifiable.

Is it not narrated from Imam Ja'far Sadiq that "in the Holy Qur'an all the individual and collective needs of the society have been described". (al-Kafi, vol. I, p. 59)

Hence, are the government, ruler, administration and various fields of human activities not included among the important needs of the society? The Holy Prophet said, "I am grateful to Allah that I have described all the requirements of the Ummah before my death".

Is there not the need of a ruler and the government during the occultation period of Imam Mahdi in the Islamic society?

Imam Ali Riza while dealing with the problem of guardianship says, "There is no nation which is

without its leader and the social structure of a society is directly concerned with the leader and that people should manage the public treasury by keeping an account of its income and expenditure, organize the society, fight against the enemies and protect the society from internal dissensions and disunity. If there is not going to be any such leader, then the nation will break up into pieces and the Divine commandments and the teachings of the Holy Prophet

will be tampered with at the command of despotic ruler". (Biharul Anwar, vol. VI, p. 60)

You will note that the question of leadership and the government has been stated to be the most important problem by Imam Ali Riza. It is obvious that for the benefit of the poor masses management of the public treasury, equitable distribution of wealth, struggle against enemies, administration of social institutions are not such that they are only concerned with the time of the previous infallible Imams and that the Ummah should be left to itself during the occultation of our living Imam Mahdi that is to say, there should be no need of a government or a ruler during the period of occultation.

Thus Islam acknowledges the existence of the society and the necessity of the government and its ruler, but what is important is that we should know the conditions and qualifications of the ruler, and what type of the government it should be and how it should carry on the administration. According to common sense and keeping in view the various Islamic narrations, the responsibility of the government should be laid on the shoulders of the just jurist. We reproduce here excerpts from some narrations:

(i) The Holy Prophet considered the jurists as his caliph. 506

(ii) The living Imam Mahdi with his own hand wrote in reply to a letter: "You should refer to our narrators about your problems and difficulties for they are our argument and proof on you just as we are the argument and proof of Allah".

(iii) When Imam Ja'far Sadiq was asked about the problems which are referred to despotic administration for decision he said, "Referring to these departments is very bad because it is referring to the despot and if someone gets back his right from these despotic departments it becomes unlawful. On such occasions however, it is your duty to refer to those people who know our teachings and narrations fully well, because I declare them as the qazi (Judge) for you.

Thus you should remember that if this jurist has given you his decision and you consider it worthless it is as if you have considered the Divine command as worthless. If anyone disobeys these jurists, it is as if he has disobeyed us, and whosoever disobeys us, has in fact disobeyed Allah and this action amounts to polytheism".

(iv) The Holy Prophet said, "Scholars are the successors of the Prophets". (Wasa'il, vol. XVIII,

(v) Imam Kazim said "Jurists are the fortresses of Islam". (Kitabal Bai', Ayatullah Khumayni)

(vi) Allah has taken an assurance from the scholars that they would not pass over the gluttony and oppression of the despots in silence and would not ignore the hunger of the poor.

(Sermon—7, Peak of Eloquence, ISP, 1984)

Naturally in a society supporting the oppressed and crushing the tyrant do need a government or its operative agency.

(vii) In the Holy Qur'an we have been taught that in a society we should stick to justice. Can justice in a society be maintained without the existence of a government or a ruler?

(viii) Imam Husayn says, "Discharging of the duties and the enforcement of laws should be in the hands of the scholars, God-fearing and pious persons. These are the people who do not make any changes in the Divine commands pertaining to lawful and unlawful things, and who are the custodians of trusts". (Tuhaful 'Uqul, p. 242)

(ix) Imam Ali says, "Scholars are the rulers of the people". (Ghurarul Hikam, quoted from al-Hayat, vol. II, p. 293) Thus it is deduced that in an Islamic society the head of the government should be a just jurist with all the prescribed qualifications. These very jurists are the authorized representatives of the infallible Imams during the period of the occultation of our living Imam Mahdi. If the authority and guardianship of the jurist is terminated, the despots would raise their heads and the Divine commandments will be altered.

- It is not known as to what is the objective of those people who oppose the jurist?
- Do they say that for Muslims no government and no administration is necessary?
- Do they say that some system is necessary but there is no necessity of an administrator, ruler or guardian?
- Do they say that guardians and the rulers of the people should be those who have no concern with Islam?
- Do they say that the ruler should be a jurist and Muslim but it is not necessary that he should be just and pious?
- Do they consider that guardianship of the jurist is some sort of a dominating force? Is the jurist a representative of a particular group or class of people?
- Does the selfishness of the jurist not nullify his sense of justice and fair-play by which his guardianship in the society will automatically cease to exist?

Is the acceptance of the jurist's guardianship tantamount to setting up various centres of authority and domination?

When it is meant that the laws and commandments which have passed through the channel of

a just jurist may not be diverted to divergent and un-Islamic directions, their representatives are delegated all the powers to exercise their authority on their behalf. Hence there is no question of setting up independent centres of authority and power, as actually the authority and power only emanate from the Divine commands which are enforced by the just jurist only. We would ask those who oppose the guardianship of the jurist as to whom they want to entrust the affairs of the Ummah? We ask whether the Muslims should not follow someone in their affairs or is their following restricted to worship of Allah only? Is there not the possibility of a lawful or an unlawful thing in matters of social problems such as strikes, rehabilitation, travels, disputes, agreements, pacts, appointments, dismissal etc.? Should we not follow some jurist in all those matters where there is a question of lawfulness and unlawfulness? Should the leadership of the Muslims be entrusted to an un-Islamic leader? Will it not be like handing over the administration of a medical college to a man who is not a physician himself?

Is the handing over of the Ummah to an unjust ruler not a great injustice to humanity? Has the time not come when we should protect ourselves from false leadership, unscrupulous politicians and professional opportunists, we should come under the Islamic protection, and accept only that leadership, which is compatible with the standard laid down by Qur'anic revelations. However, the topic of Imamate has become a little lengthy but it would have been an injustice if we had not dealt with the leadership of the people and its way and means during .the occultation period of our present Imam Mahdi