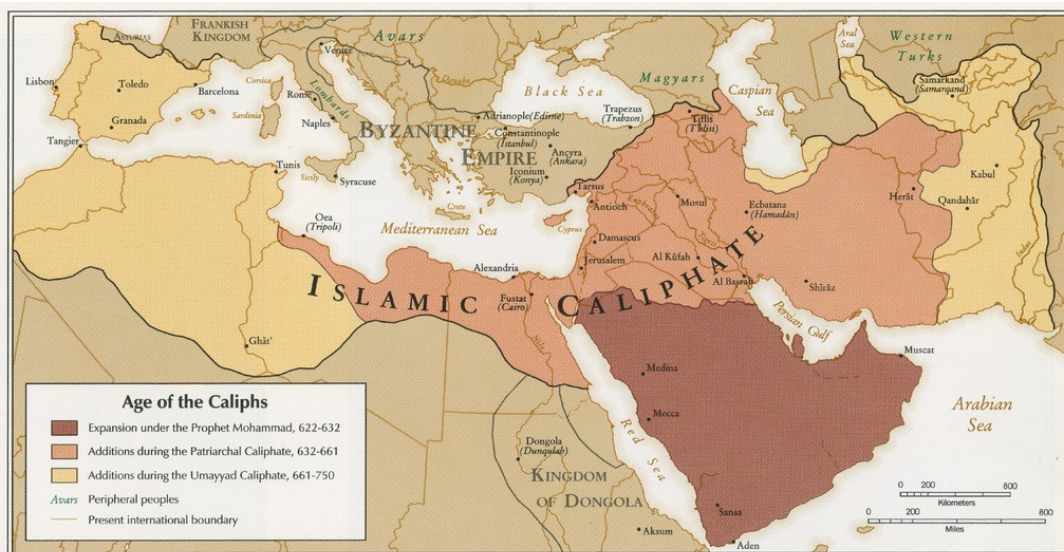


Islamic government and its Legality and Legitimacy

Islamic Political Thought (BSS474)

Josef Kraus



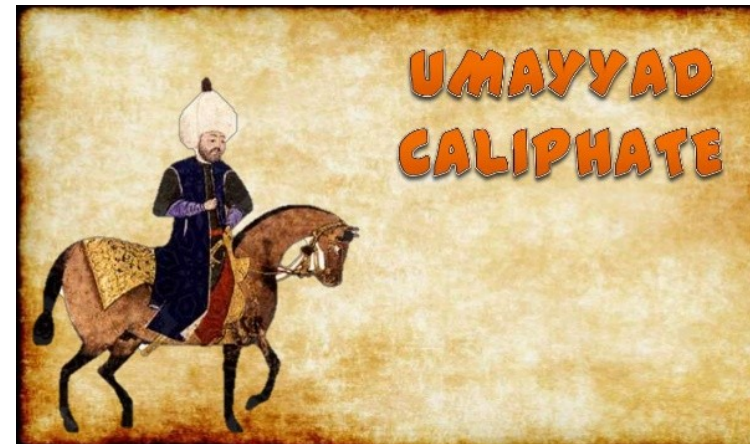
Islamic Government

- Highly personalized government
 - Caliph (ruler) is important, *malik* (king)
- No national state – caliphate governs in secular and religious matters
- Difference from Christianity
 - no supremacy of religion to politics, it is connected (historically based)
- Islamic government – good or bad
 - Bad for corruption, abuse of power (*malik*, or *jabbar* – despot)
 - Good ruled by caliph



Historical Legitimacy

- Legitimacy – Umayyad dynasty by
 - Legacy of Uthman (Ali was not proper caliph)
 - Based on religious tradition (God chose Uthman)
 - Umayyad ruler the best man, no people's interference
 - Successor established without people
 - Caliph is representative of God on Earth, living law. Importance of morality → can justify illegitimate power seizure
 - Overthrowing of Umayyad dynasty legitimate, because it transferred caliphate to kingdom (*mulk*)



Islamic Government = monarchy?

- Why Islamic government should be a monarchy?
 - No collective government, no semi-autonomous governance, not even division of *ummah* to independent authorities
 - The threat of civil war or competition of rulers
 - But (!) some sort of conciliar government with delegation of power is possible (Abu Bakr strong in religion, weak physically)
 - Historically (Umayyads and Abbasids delegated power)
- Strong support of absolutism from conservative Sunnis
 - Government is delegated by God, not people's business
- Is the ruler above law and its source, or under and part of it?

Functions of Islamic Government

- Obeying religious traditions
- Execution of law
- Declaring of armed jihad
- Ordering good and forbidding wrong
 - Not part of a legitimacy of ruler, but clergy
 - Public should not enforce good and bad, it is upon state authority
- Collection of legal taxes
 - Sunni – even bad ruler
 - Shia – only legitimate ruler with authority of Imam
- Provision of security
- Infrastructure, healthcare, educational system... development

Functions of Islamic Government

- Huge disputation about governmental duties and authority
- The necessity of Islamic government
 - Establishment of religious authority is rational necessity
 - Ruler is chosen by elites or designated by testament
 - Ruler combined political and religious function, has legislative power (beyond Quran and Sunnah), and judiciary power
 - Ruler is successor of Prophet, has duty to implement Islam to society
 - Ruler has authority over whole *dar al-Islam*
 - If ruler fulfil all conditions, *umma* has to obey and support him

Principles of Islamic Government

- According to Quran, a huge space for interpretation
- The sovereignty of Allah
 - No oppression of people
 - God is source of legitimacy, ruled by Quran and Sunnah
 - Ruler is servant of people
- Caliph of the mankind
 - Caliph implements the will of God to society as his representative, people have to obey
- Dual responsibility of government
 - Allah knows what is good and bad, ruler should obey that
 - Ruler is mainly responsible to God, then to people

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Principles of Islamic Government

- Plus additional three principles
 - Justice – according to Islamic law,
 - God supports just state even it is not Islamic,
 - ruler has to be just and resist corruption and tyranny,
 - so as judges, government representatives...
 - Equality – among people towards God (muslim / non-muslim, Arabic / non-Arabic)
 - Consultation (*shura*) – Abu Abdallah Qurtubi (Maliki): „If ruler doesn't consult with scholars, it is necessary to topple him.“
 - Some say shura is recommended, not mandatory

[The Necessity of Islamic Government]

- Legitimacy based on divine rule, or reason, or both.
- People are always bounded by state authority (fair or not)
- Islam (in contrary to Christianity) was established to create a state and government
 - Created by Muhammad, followed by right caliphs
- Ibn Khaldun – Caliphate connected to religion and prophecy, not to kingdom. But caliph is not a representative of God
- Al-Mawardi – qualifications of ideal caliph
 - Justice or moral probity, knowledge and ability to exercise *ijtihad*, the soundness of the senses, physical soundness, prudence, bravery, decent of Prophet's tribe – Quraysh.
 - In case of morality or knowledge he can consult with scholars

Seizure of Power in Islamic Government

- Historically difficult to elect or to delegate ruler, in reality every seizure of power can be legitimate (Sunni)
- Power heredity based on example of Abu Bakr who named Umar as his successor (then selected by a *shura*)
- Caliph's rule unlimited by time (until his death)
- Unlimited and unshared power of caliph (can nominate advisors, ministers, judges etc.)



Legislative Functions of Government

- Two types of legislation:
 - Divine set by God (Quran, Sunnah)
 - Human developed by *ijtihad*
- After the death of Muhammad and Rightly Guided Caliphs legislative power in hands of religious scholars
- Execution by caliphs, governors etc.
- Stagnation of legislative process in a history
 - Following ancestors
 - Growing gap between caliph and scholars

Judicial Functions of Government

- Originally in hands of a caliph, but due to growing of an IS impossible
- Umar delegated power to local judges in provinces
- Decisions based on Sharia or local traditional law
- Creation of *hisbah* institution (morality/religious police)
 - Enjoying good, forbidding wrongdoing – protection of society against violation of Islamic principles
 - *Hisbah* and its official *muhtasib* maintain public order and prevent immorality
 - Obligation of a state to ensure its citizens behave according to the code (*sharia*) and doctrine (*hisbah*)

Local Administration of Governance

- Local provinces ruled by governors
- Institute of ministry (*wizara*) administrated by minister (*wazir*)
- Mongolian invasion to Middle East ended unite caliphate
- Disintegration to regional sultanates with different rules, different law and with separation of religion and politics



[Old and Modern Theory of Caliphate]

- Old theory (OT) – authoritative (totalitarian), no space for democracy X Modern theory (MT)
- OT – Caliph from Quraysh tribe (Da‘esh and Baghdadi)
MT – not necessary
- OT – women do not participate on caliphate
MT – women are legitimate part of political society
- OT – *dar al-Islam* each area with Muslim majority, disrespect to state borders, caliphate is legitimate to enter and rule
MT – respect to current borderlines, can be more caliphates in one time (not like OT - Da‘esh and Taliban competition)

[Old and Modern Theory of Caliphate]

- Leadership and authority
 - OT – absolute power of caliph, centralized power, *ijtihad*
 - NT – lower authority of caliph, limited by *shura*
- Field of state authority
 - OT – not only public, but also private space is subject to the law and state authority – totalitarian attitude
 - NT – caliphate can't interfere into private life, only to public society
- Direction of state authority
 - OT – caliph on the top, delegates and controls power below, direct nomination, *shura* is not mandatory, public interest = interest of caliph and his advisors
 - NT – both ways of power – institutions formed by people, administrative system opened for anybody

Political Legitimacy Sunni X Shi'a

- Why one group of people rule over the other?
- Sunnis – accent on sharia, security and justice (at least one makes legitimacy for government)
 - -> no real advanced methodology of establishing and development of governance,
 - mainly based on historical events,
 - any way of seizing power is legitimate (even by force)
 - Lowering claims on rulers morality and knowledge
 - Protest against caliph means protest against security
 - Need to respect caliph even if he is not just

Political Legitimacy Sunni X Shi'a

- Shi'as – deed of ruler and the seizure of power matters
 - Accent of justice instead of security
 - Possible to protests in case of injustice
 - During Mahdi's occultation his representative (faqih) should rule
 - Power seizure by a force is not legitimate
 - Legitimacy from both God and the people
 - This theory valid since the beginning, not developed during time



Islamic State according to Shi'as

■ Groups don't believe in IS

- Rejectionists – IS is not possible, can be ruled only by Imam, state should be secular, liberalism, socialism etc. can be accepted. (Mahmoud Halabi...)
- Separationists – State shouldn't be affected by religion, Islam is important for society, no connection to politics, ruler should not rule from religious position, state should be secular, but respecting Islam (Mohsen Kadivar, Mehdi Bazargan...)
- Neutralists – Clergy should be neutral to any kind of state, but can co-exist with it, no political ambitions of clergy, politics away from religion (ayatollah Hossein Vahid Khorasani)

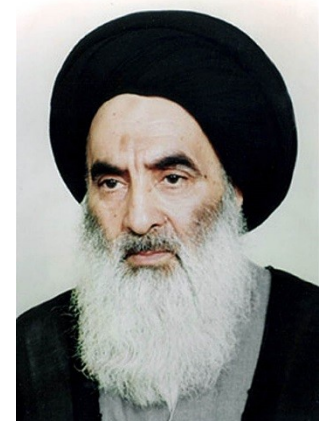
Islamic State according to Shi'as

- Groups do believe in IS – obligatory for mankind to continue Imam's tradition of rule, ruler can't be perfect, but should be the best man available
 - Father and son theory – government protecting citizens, no space for Islamic democracy, only Islamic governance, totalitarian attitude, elections upon caliph's will (ayt. Mesbah-Yazdi, ayt. Mohammad Momen...)



Islamic State according to Shi'as

- *Waqf* theory – government is given to people with religious obligations, faqih monitors the government, whether govern according to divine rule and Imam's tradition, but interferes only in specific situations (ayt. Montazeri, ayt. Sistani...)



- Judicial theory – *faqih* as a judge who is asked by people to make decision = legitimacy from people and God, if people doesn't respect the ruler, no authority from him upon them (ayt. Khomeini)

[Thank you for your attention!]

علم غیب کیا ہوتا ہے

Allah Knows Better

○ Time for Q&A