

Volume 17, No. 1  June 2020

JOURNAL OF

Islam in Asia

A Refereed International Biannual Arabic – English Journal

INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA

إزما
ينشأ
الله
من
عباده
العلماء



JOURNAL OF *Islam in Asia*

Volume 17, No. 1. June 2020

ISSN: 1823-0970 E-ISSN: 2289-8077

Journal of Islam in Asia

EDITOR-in-CHIEF

Mohammed Farid Ali al-Fijawi

ASSOCIATE EDITOR

Homam Altabaa

EDITORIAL ASSISTANT

Kamel Ouinez

EDITORIAL ADVISORY BOARD

LOCAL MEMBERS

Rahmah Bt. Ahmad H. Osman (IIUM)
Badri Najib bin Zubir (IIUM)
Abdel Aziz Berghout (IIUM)
Sayed Sikandar Shah (IIUM)
Thameem Ushama (IIUM)
Hassan Ibrahim Hendaoui (IIUM)
Muhammed Mumtaz Ali (IIUM)
Nadzrah Ahmad (IIUM)
Saidatolakma Mohd Yunus (IIUM)

INTERNATIONAL MEMBERS

Zafar Ishaque Ansari (Pakistan)
Abdullah Khalil Al-Juburi (UAE)
Abu Bakr Rafique (Bangladesh)
Fikret Karcic (Bosnia)
Muhammad Al-Zuhayli (UAE)
Anis Ahmad (Pakistan)

Articles submitted for publication in the *Journal of Islam in Asia* are subject to a process of peer review, in accordance with the normal academic practice.

© 2020 by *International Islamic University Malaysia*

All rights reserved. No part of this publication may be reproduced, translated, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without prior written permission of the publisher.

The Objectives and Principles of Islamic Governance: Perspective of Imam Al-Juwaynī

Tujuan Dan Prinsip Tadbir Urus Islam: Perspektif Imam Al-Juwaynī

Hassan Suleiman*, Alwi Alatas**, Abdul Bari Awang*** and Mahamed Fathy Eletrebi****

Abstract

In a reality of clashing visions and perspectives, vision becomes murky, foundations become shaky, and smoky fumes rule over all. History tends to repeat itself, so after Imam al-Māwardī released his realistic vision justifying Islamic governance in his book *Al-Aḥkām al-Ṣultāniyyah*, Imam al-Juwaynī came out with his own book, *Ghiyāth al-Umam fī Tiyāth al-Zulam*, with a hypothetical mindset, to put in place the foundations and objectives of the *shar'īah* for Islamic governance, leadership of the *ummah*, and strategies to deal with the absence of a *mujtahid* and leader (*imām*). Using al-Juwaynī's book, this research aims to demonstrate his unique contributions to this vast subject, which was, and still is, slippery territory both theoretically and practically. This research uses analytical method to explain the objectives and principles of Islamic governance as explained by Imam al-Juwaynī in *Ghiyāth al-Umam* within the framework of *maqāṣid al-shar'īah*. This study finds that his thought in this field has strong correlation with the concept of *maqāṣid al-shar'īah* and can enrich our understanding about Islamic governance.

Keywords: Islamic Governance, *maqāṣid al-shar'īah*, al-Juwaynī, *imāmah*, government.

* Assist. Prof. Dr, Department of Fiqh and Usul al-Fiqh, KIRKHS, International Islamic

** Assist. Prof. Dr, Department of History and Civilization, KIRKHS, International Islamic University Malaysia, Email: alwialatas@iium.edu.my

*** Assist. Prof. Dr, Department of Fiqh and Usul al-Fiqh, KIRKHS, International Islamic University Malaysia, Email: abdbari@iium.edu.my

**** Lecturer, Universiti Islam Antarabangsa Sultan Abdul Halim Mu'adzam Shah (Un-iSHAMS), Email: fathyeletrebi@unishams.edu.my

Abstrak

Dalam realiti percanggahan visi dan perspektif, penglihatan menjadi keruh, asas-asas menjadi goyah, dan asap menguasai semuanya. Sejarah cenderung untuk berulang, maka selepas Imam al-Māwardī mengeluarkan pandangannya yang realistik yang membenarkan pemerintahan Islam dalam bukunya *Al-Aḥkām al-Ṣultāniyyah*, Imam al-Juwaynī keluar dengan kitabnya sendiri, *Ghiyāth al-Umam fī Tiyāth al-Ẓulam*, dengan satu pemikiran hipotesis, untuk meletakkan asas-asas dan matlamat syariah bagi tadbir urus Islam, kepimpinan *ummah*, dan strategi untuk menangani ketiadaan *mujtahid* dan pemimpin (*imām*). Dengan menggunakan buku al-Juwaynī, penyelidikan ini bertujuan untuk menunjukkan sumbangan uniknya dalam subjek yang luas ini, yang, dan masih, adalah wilayah yang licin baik secara teoritis dan praktikal. Penyelidikan ini menggunakan kaedah analisis untuk menjelaskan objektif dan prinsip pemerintahan Islam seperti yang dijelaskan oleh Imam al-Juwaynī dalam *Ghiyāth al-Umam* dalam kerangka *maqāṣid al-sharīah*. Kajian ini mendapati bahawa pemikirannya dalam bidang ini mempunyai hubungan yang kuat dengan konsep *maqāṣid al-sharīah* dan dapat memperkaya pemahaman kita tentang pemerintahan Islam.

Kata Kunci: Tadbir urus Islam, matlamat syariah, al-Juwaynī, kepimpinan, kerajaan.

Introduction

Despite not being codified in an independent book, the topics of Islamic governance and polity have been discussed by Muslim scholars since the early times. The Islamic state founded in Madinah did not end with the death of the Prophet ﷺ because it modeled a political state in every understanding of the word, which made the topic of governance a prevalent discussion from the earliest of times. The Qur'an speaks extensively about the concepts of justice (*'adl*), oppression (*ẓulm*), seeking counsel (*shūrā*), and the concept of authority. Allah says what translates to, "Those who if We establish them in the earth, shall establish the prayer and give the poor-rate and command that which is reputable and restrain that which is disreputable."¹ He also says, "Thus We established Yusuf in the land so that he might settle therein wherever he wishes."²

Scholars of hadith have included in their books of *Hadīth* narrations from the Prophet ﷺ when he spoke regarding the topics of seizing power, heads of state, traits of a just leader, and people's obedience to the ruler in anything other than sin. Additionally, early scholars have spoken about topics such as taxes³ and wealth,⁴ peace agreements, war,

¹ Al-Qur'an, Surah al-Hajj 22: 41.

² Al-Qur'an, Surah Yūsuf 12: 56.

³ Abū Yūsuf, *Kitab al-Kharāj*, (Egypt: Dar al-Islah, 1981).

and international relations in books of history.⁵ Imam al-Shāfi'ī founded the concept of consensus, specifically the consensus of the companions in their choice regarding the caliphate. Between the third and fourth century after *hijrah*, Imam al-Māwardī, the Shāfi'ī jurist, wrote his book *Al-Aḥkām al-Ṣultāniyyah* in the context of his time. Those years saw a growing power of the Shi'ite Buyids vizierate within the Sunni Abbasid caliphate, and the emergence of theories about leadership from other sects like Ismailism. Imam al-Māwardī's book was written in that context, which experienced the influence of the Buyids on the caliphate and the rupture of the Abbasid caliphate due to enemy's invasion and independent government in the provinces with no more than emblematic recognition to the Abbasid Caliphs. His efforts were more focused on addressing his current climate, trying to save whatever was possible and to progress without collapsing the might of the caliphate. It was in that context that he wrote about seizing power by force, succession of leadership, and the conditions of leadership, pertaining to the concerns of his day.

Imam Abū al-Ma'ālī al-Juwaynī⁶ also wrote about Islamic governance in his book *Ghiyāth al-Umam fī Tiyāth al-Ẓulam*, which was more original and less influenced by the methods and views of other nations or by philosophers and theologians.⁷ Books with similar originality were written afterward like *Sirāj al-Mulūk* by al-Tartūshī and *Al-Siyāsah*

⁴ Abū 'Ubayd al-Qāsim Ibn Salām, *Kitab al-Amwāl*, (Beirut: Dar Al-Fikr). *Kitab al-Amwāl* is the work of a great scholar, which is a comprehensive and integrative study of the Islamic financial and fiscal system, presenting the whole mosaic in historical, analytical and juristic manner, it covers the different administrative aspects of the Islamic states as well as rules of governance.

⁵ Muḥammad ibn al-Ḥasan al-Shaybānī, *Al-Siyar al-Kabīr*. Imam Muḥammad was a closest student of Imam Abū Hanīfah.

⁶ Imam Abū al-Ma'ālī (419- 478AH) was a Sunni Shafī'ī jurist and mutakallim (theologian). He is popularly known as Al-Juwainī; he is also commonly referred to as Imam al-Haramayn meaning "leading master of the two Holy mosque". Shams ud-Dīn Abū 'Abdillāh Muḥammad ibn Aḥmad ibn 'Uthmān ibn Qāymāz ibn 'Abdillāh al-Dhahabī, *Siyar A'lām al-Nubalā'* [The Lives of Nobel Figures], Vol. 18, taḥqiq, Shu'ayb al-Arnā'ūt, 3rd edition, (Muassasah al-Risalah, 1985), 468- 471.

⁷ Shaikh Shu'ayb al-Arnā'ūt said in his commentary of *Siyar A'lām al-Nubalā'* "This great book is an example of originality in Islamic political jurisprudence and its distance from the influence of other philosophies. The researchers consider this book to have a better methodology than the book of al-Māwardī (*Al-Aḥkām al-Sultāniyyah*)." Al-Dhahabī, *Siyar*, Vol. 18, 475.

al-Shar'iyah by Ibn Taymiyyah, who focused on the Islamic legal foundations and practical aspects of law.

Indeed most of the books written after the fifth century about the management of a state and the advice for kings, such as *Marāyā al-Mulūk*, are collections of the wisdom from Persia or India and do not expound on Islamic governance, for they were mostly written to solidify the reign of those rulers.⁸

Al-Juwaynī's book is unique because after he addressed the topics of governance and the role of the state, he included two possible scenarios that could occur to the Muslim *umamah*: First, the absence of an *imām* (leader) for all of the Muslims and second, the absence of qualified jurists to transmit schools of thought. With no jurist or leader, how then would Muslims live and operate? Al-Juwaynī was not typically one who would suppose meaningless hypothetical situations as intellectual exercises; rather, his experiences and research of the state of the Muslims in his time are what instigated him to consider these hypothetical situations and propose appropriate solutions. He says, "I wrote this book for a pressing reason, for I have predicted the extinction of the carriers of the *sharī'ah* and have seen in my own time that pioneers of knowledge are dying without leaving behind successors, and those characterized as students of knowledge are content with being a scarce,⁹ pursuing and competing over controversial issues."¹⁰ Al-Juwaynī further said:

"If only my poetry becomes the refuge for people when the waves of corruption rise, when people settle for extravagance and inadequacy in place of an economic system, and when Muslims are afflicted with scholars who are untrustworthy because of their sinfulness and ascetics who are unworthy of being looked up to because of their foolishness. Will there be any means to attain guidance left after this, or will people be left to roam around aimlessly, heading toward an abyss?"¹¹

⁸ This is what Muhammad al-Abdah expresses in his research entitle *Al-Siyasah al-Shar'iyah fī Kitāb Ghīyāth al-Umam*, (1432AH), 3- 4.

⁹ Meaning those who call themselves students of knowledge. This is severe criticism from al-Juwaynī of this type of student of knowledge and the methods of teaching knowledge.

¹⁰ Abū al-Ma'ālī al-Juwaynī, *Ghīyāth al-Umam fī Ittiyāth al-Zulam*, edited by 'Abd al-'Azīm al-Dīb. (Dār Al-Mīnhāj. 1432H), 521. This is the version primarily used and the introduction written by al-Dīb about al-Juwaynī is also utilized.

¹¹ Al-Juwaynī, *Ghīyāth al-Umam*, 59.

The hypothetical situation presented by Imam al-Juwaynī occurred during the absence of scholars who understood the intricacies of the *sharī'ah*, and only those who knew the basic fundamentals and principles remained. This hypothetical situation could be realized at a time or place in which knowledge is almost completely vanished, and people only remember that their ancestors used to say “There is no God but Allah”, because the *hadīth* that mentions “There will always be a group of my nation upon the truth...” negates the notion of all knowledge completely disappearing. However, al-Juwaynī’s precautions are valid based on our observations in our time, for there is scarcity of recognized major scholars who are referred in the world nowadays, and at the demise of a prominent scholar, there is no capable successor to assume his position.

The hypothetical situation proposed by al-Juwaynī in his book deserves attention and study because it offers some solutions, which is why he named his book *Ghiyāth al-Umam* (The Savior of Nations). It is a rare book in Islamic heritage, produced by a jurist and an *uṣūlī*. Al-Juwaynī who knew that the subjects of governance and leadership are open to *ijtihād* and not definitive as was the opinion of his predecessor, al-Māwardī. He argued that, “In the matter of leadership, haphazardness and confusion have become widespread, as have excessiveness and negligence. The most obvious reason for this is that the majority of those who dealt with this field tried to find definitive answers in an area clouded by speculation.”¹² This background underlines the importance of this *maqāṣid* oriented research on the view of al-Juwaynī regarding the issues related to Islamic governance. This research intended to know the objectives and principles of Islamic governance according to al-Juwaynī within the framework of *maqāṣid al-sharī'ah*. To achieve this, analytical method is used in this study, in which al-Juwaynī’s ideas on the objectives and principles of Islamic governance are analyzed in light of the concept of *maqāṣid al-sharī'ah*.

Related literatures and Researches

There are several books and articles written about Islamic governance¹³ but the researchers survey on the contemporary literatures on

¹² *Ibid.*, 59.

¹³ Islamic governance is a complex concept that has multiple meanings, Islamic governance may refer to the theological fundamentals of Islam as appeared in the Holy Qur’an, and taught and practiced by prophet Muhammad saw between 610 AD. And 632AD. Ibn Taymiyyah, *Majmu’ Fatawa*, (Riyadh: Dar’ Alam al-Kutub, 1991), 227.

Islamic governance shows that there are lack of references and studies on the topic of Islamic governance particularly perspectives of famous Islamic scholars and jurists. Here are some references related to the topic:

1. Muḥammad ‘Abd al-Razzāq al-Sayyid Ibrāhīm al-Ṭabaṭabāī, “Qawā’id fī al-Siyāsah al-Shar’iyyah ‘inda al-Imām al-Juwaynī min Khilālī Kitābihi Ghiyāth al-Umam fī Iltiyāth al-Zulam”, *Majallah al-Sharī’ah wa al-Dirāsāt al-Islāmiyyah*, Vol. 15, No. 41, 2000.
2. *Dirāsah al-Fikr al-Siyāsī ‘inda Al-Juwaynī min Khilālī Kitābihi Al-Ghiyāthī*, (Al-Ma’had al-Waṭanī al-Jazā’irī, 1995).
3. ‘Umar Anwar al-Zubdānī, *Al-Siyāsah al-Shar’iyyah ‘inda Al-Imām Al-Juwaynī Qawā’iduhā wa Maqāṣiduhā*, 1st ed, (Dār Al-Bashā’ir Al-Islāmiyyah, 2011).
4. Rāif An’am, *Al-Fikr al-Siyāsī ‘inda al-Imām al-Juwaynī*, doctorate thesis, (Al-Jāmi’ah al-Urduniyyah, 2011).
5. Rafīq al-Miṣrī, *Al-Fikr al-Iqtiṣādī ‘inda al-Juwaynī*, (Al-Jām’iah al-Qaṭariyyah, 1999).
6. ‘Abd al-Karīm al-Ḥamdāwī, *Fiqh al-Aḥkām al-Sulṭāniyyah*, 1st ed., (Morocco, 1999).

The Relationship between Islamic Governance and *Maqāṣid al-Sharī’ah*

The study of Islamic governance is closely connected to other Islamic knowledge and disciplines, specifically areas related to *maqāṣid al-sharī’ah* (objectives of Islamic law), such as the sciences of *tafsīr*, *hadīth*, and *fiqh*, especially contemporary *fiqh* and applied *fiqh*.

It may be noted that the Islamic political system can be categorized into three types of *fiqh*; *fiqh* of religion, contemporary *fiqh*, and applied *fiqh*. If expertise on Islamic rulings and law and the use of principles and evidence to derive legal rulings is in the purview of Islamic jurisprudence, then the scope of Islamic governance is even broader than that. This is because it uses scenarios grounded in reality to research issues by examining it from all aspects in order to derive rulings in line with the *maqāṣid*, and which actualize the objectives of the ruling.

It is necessary to take into account the objectives of legal rulings in this process by considering the outcomes and public interests in relation to the common good and evil (*maṣlahah* and *mafsadah*) to illustrate the perfection embodied by the Islamic legal system through combining various sciences while deriving legal rulings.

The objectives of Islamic law are considered the foundational basis that is vital to a jurist when addressing the affairs of the citizens. Politics and governance do not prosper unless the jurists are concerned with the attainment of good and warding off of evil without the interference of desires and emotions. Based on this concept, this research will try to display the strong correlation between the *maqāṣid al-sharī'ah* (objectives of Islamic law) and Islamic governance.

It is well known that the Islamic sciences often overlap with and complement each other. The science of *maqāṣid al-sharī'ah* is considered the essence of the Islamic sciences, especially when considering that the Islamic sciences contain either objectives or means. The sciences containing means do not stand alone, but they exist as a bridge to the objectives and wisdom of legal rulings. Based on this, we can assert that the Islamic sciences are all strongly correlated with *maqāṣid al-sharī'ah*, but the level of connection varies based on their methodologies and principles. We can also assert that the topic of Islamic governance is one of the sciences that are most related to *maqāṣid al-sharī'ah specifically*, because Islamic governance exists to direct the affairs of citizens in a manner that coincides with the public interest, because it is a recently developed science in Islam influenced by the needs of modern society and affected by the relationship between the rulers and the ruled.

Al-Juwaynī describes the objective of Islamic governance stating: “The main focus of (political) leadership is combining various opinions, and subjugating a majority of the people despite their differing characters, mannerisms, goals, and circumstances. Most of the problems and strife that affect the state are due to differences of opinion, because if people do not agree on one opinion, the administration will be disorganized, land will be destroyed, and territory demolished.”¹⁴ That is the essence of incorporating the *maqāṣid* in terms of attaining *maṣlaḥah* and warding off *maṣṣadah* from the ruled in their relationship with the ruler, or the Imam.

Imam Ibn Taymiyyah reiterates this important relationship between *maqāṣid* and Islamic governance and explains the meaning of authority, stating, “The objective of all authority in Islam is for the religion to be established for Allah and for Allah’s Word to be superior,”¹⁵ and in

¹⁴ Al-Juwaynī, *Ghiyāth al-Umam*, 18.

¹⁵ Taqī al-Dīn Abu 'l-'Abbās Aḥmad ibn 'Abd al-Halīm ibn 'Abd al-Salām Ibn Taymiyyah, *Al-Hisbah*, Vol. 1, tahqiq, Ali ibn Nayf, 2nd edition, (2007), 128.

the same context, he says, “The only objective of all Islamic authority is enjoining good and forbidding evil.”¹⁶

Through these short statements of scholars regarding the relationship between Islamic governance and *maqāṣid al-sharī’ah* in terms of their objectives, we can argue that Islamic governance has the same objective as *maqāṣid al-sharī’ah*. The aim of Islamic governance in terms of its organization, principles, and decision making is furthering the public interest of the people in this life and the hereafter, which is also the essence of *maqāṣid al-sharī’ah*. The source of the difference between the Islamic governance and *maqāṣid al-sharī’ah* stems from their different approaches to the means used in reaching public interest. Thus, the science of Islamic governance represents another facet of the science of *maqāṣid al-sharī’ah* which is primarily related to the practical aspects of systemic and political activity guided by the relationship between the ruler and the ruled. This is a unique characteristic of the science of Islamic governance, which makes the science of *maqāṣid al-sharī’ah* broader in scope, since the latter encompasses juristic rulings and the foundations of *maṣlaḥah* and *maṣṣadah* along with theological rulings and other aspects which cover all of the Islamic sciences.¹⁷

Terminologies related to the study

Al-Maqāṣid (Objectives):

Linguistically, *maqāṣid* is the plural of *maqṣad*, which is derived from the verb *qaṣada*. The Arabic lexicographers give multiple meanings to the word *maqāṣid* such as:

1. Steadfastness and moderation, as is the meaning in the ayah, “And be moderate in your walking, and lower your voice...”¹⁸
2. Turning toward something.¹⁹

The technical definition of *maqāṣid* according to Imam Muḥammad al-Ṭāhir ibn ‘Ashūr in his book “The Objectives of Islamic Law” is: “The meanings and underlying reasons that the Legislator (Allah) intends in all or most matters of legislation, such that its observation is not exclusive to creation in a manner specific to the rulings of Islamic

¹⁶ Ibn Taymiyyah., *Al-Hisbah*, Vol. 1, 175.

¹⁷ Al-Juwaynī, *Ghiyāth al-Umam*, 56.

¹⁸ Al-Qur’an, Luqman 31: 19.

¹⁹ Ibn Manzūr Muhammad bin Makram, *Lisan al-‘Arab*, Vol. 3, [The tongue of the Arabs], (Dar Sadir, 2003), 353.

law.”²⁰ He then defines specific objectives of *sharī’ah* as, “The manner intended by the Legislator by which to realize the beneficial objectives of the people and to implement public interest in all their activities so that their efforts to actualize their individual interests are not thwarted by establishing and maintaining public interests based on desires and heedlessness.”²¹ Al-Raysūnī defines *maqāṣid* as, “The objectives the *sharī’ah* put in place for the purpose of the interests of the people.”²²

Al-Siyāsah (Governance):

This term does not originate from Islam or its teachings, since it has a meaning that implies that one party is superior to another and it gives the ruler the authority to conduct administration in public affairs however he wishes without consequence, thus opening the doors to corruption and oppression on multiple planes.

It causes corruption in the political arena because the government of a nation falls under the control of the ruler. He has the authority to determine which interests to prefer, how to use the nation’s treasury and wealth, and he can choose to punish people even if it is unethical or illogical based on his mood or emotions without consequence.

From a social perspective, the term implicitly orders people to be obedient and submit to all the implementation of policy and law enforcement by their leaders, even in the case of wrongdoing due to corrupt leadership. In the case of national security, it brings the country closer to military, cultural, and religious conflict with other nations. In terms of enjoining good and forbidding evil, it forces religious preachers to stay silent and keep behind the shadows to avoid political penalties, which ultimately leads to killing, oppression, and violations of rights.

Ibn Nujaym defines the word *Al-Siyāsah* saying: “*Siyāsah* is made up of a lawmaker’s actions that he deems beneficial, even if there is no evidence to support it.”

While Ibn al Qayyim says, “Ibn ‘Aqil said: *Siyāsah* describes people taking action to bring prosperity and avoid corruption, even if those actions were not specifically ordained by revelation or by the Mes-

²⁰ Muḥammad al-Ṭāhir ibn ‘Ashūr, *Maqāṣid al-Sharī’ah* [The Objectives of Islamic Law], Vol. 1, (Cairo: Dar, al-Kitab al-Masri, & Beirut: Dar, al-Kitab al-Lubnani, 2010), 82.

²¹ Ibn Ashūr, *Maqāṣid al-Sharī’ah*, Vol. 1, 253.

²² Al-Raysūnī, Ahamad, *Nazariyyah al-Maqāṣid ‘inda al-Imam al-Shātibī*, (Virginia: The International Institute of Islamic Thought, 1995), 19.

231 **The Objectives and Principles of Islamic Governance: Perspective of Imam Al-Juwaynī**

senger ﷺ, and whoever says that *siyāsah* is only based on the letter of Islamic canonical law is incorrect.”²³

Shaikh al-Būṭī, a contemporary scholar, said, “Allah has given a leader a plethora of rulings called the rulings of Islamic governance and has given him the authority to operate within the guidelines of those rulings....”

Al-Imāmah (Leadership):

The theologians and jurists considered the word *imāmah* synonymous with *khilāfah* and *imārah al-muslimīn* from a technical definition. In an Islamic context, the “*imām*” is the person with the religious responsibility of either prophethood, guidance, or prayer. Allah says what translates as, “And (remember) when the Lord of Ibrahim tried him with (certain) Commands, which he fulfilled. He (Allah) said, "Verily, I am going to make you Imam (a leader) for mankind." He said, "And of my offspring (to be leaders as well)." (Allah) says, "My Covenant includes not wrong-doers.”²⁴ And “One day We shall call together all human beings with their (respective) Imams.”²⁵ In a prophetic narration by Anas, he says, “The Prophet ﷺ cursed three people: A man who leads a people who detest him”

The original use of the word “*imām*” referred to one who led the prayer, but its usage has since expanded to refer to an authority in any discipline, profession, or field of religious knowledge. However, the word has also been applied to politics, as prevailed shortly after the death of the Prophet ﷺ, as some of the *ṣaḥābah* said about Abū Bakr, “The Prophet ﷺ chose him for our *ṣalāh*, so how can we not be content with him for our religion.” ‘Alī (ra) said, “It is the duty of the *imām* to rule based on Allah’s revelation and to fulfil His trusts. If he does so, it is the duty of his constituents to listen to him and obey him.”

Ijtihād:

Linguistically, *ijtihād* means to exert effort and sacrifice until you achieve a result. Technically, *ijtihād* means to exert one’s utmost effort in forming an opinion about an Islamic ruling to such an extent that one

²³ Shams al-Din Ibn al-Qayyim, *Al-Turuq al-Hukmiyyah fi al-Siyāsah al-Shar’iyyah*, Vol. 1 (Makkah: Dar Alim al-Fawa’id, 1428H), 29.

²⁴ Al-Qur’an, al-Baqarah 2: 124.

²⁵ Al-Quran, al-Isrā’ 17: 71.

is unable to exert oneself further.²⁶ Scholars have also defined *ijtihād* as “Exerting effort to reach an Islamic legal ruling through deduction.” *Ijtihād* includes both the deduction and explanation of legal rulings and its practical applications by a *mujtahid*.

The Objectives of Islamic Governance According to Imam al-Juwaynī

Islam does not restrict governance to a particular or detailed model because any political model will eventually become obsolete. Instead, a large part of governance is dictated by the time and situation it applies to, and the details are left to *ijtihād*. Despite this, the issue of Islamic governance is not ignored by the *sharī’ah* so as to be ruled by the whims and desires of the people. Rather, Islam set some general guidelines such as the concept of *shūrā* (seeking counsel), the election of a ruler, the importance of the preservation of religion, and the idea that everyone is subject to the laws of the *sharī’ah* dictated by the Qur’an and Sunnah, the ruler and the citizens alike. It does not, however, specify details like the exact number and format of the members and membership of the *shūrā* to allow room for adaptations to various times and places.

An original element of Imam al-Juwaynī’s methodology is that he does not rely on works that quote sayings of other scholars who do not bring anything new. As if to say to the blind followers who resist change, “I am not wary of establishing a ruling which was not written by jurists or mentioned by scholars, nor do I innovate anything new or make anything up. Rather, I consider the overall principles of the *sharī’ah*, which is how all contemporary issues ought to be addressed.”²⁷

Al-Juwaynī describes his book as, “A collection of the rulings by Allah regarding leadership.” Ibn Taymiyah similarly described his treatise on Islamic governance as, “A collection of divinely inspired policy and prophetic signs.”

Choosing a Leader

This is an objective related to the necessity of leadership and who chooses the leader. Although it is a prelude to the second objective, the author wrote extensively about it despite mentioning multiple times that the third objective is what was intended. He wrote about the Islamic ob-

²⁶ Ali bin Muhammad al-Amidi, *Al-Ihkam fī Uṣūl al-Aḥkām*, Vol. 4, (Dar al-Kutub al-‘Imiyyah), 141.

²⁷ Al-Juwaynī, *Ghiyāth al-Umam*, 266.

233 **The Objectives and Principles of Islamic Governance: Perspective of Imam Al-Juwaynī**

ligation of leadership, and that a leader is chosen and elected, not appointed by a religious text. He says, “The evidence of the supporters of appointment by religious text is invalid and the only other option is an election based on a majority, as the authority of the Rightly Guided Caliphs was reliant on the pledge of allegiance (*bay’ah*).”²⁸ He also spoke about the nature of the position of a leader or caliph, “The leader is the authority in executing the law and is bound to obey the law as the citizens are.”²⁹

The leader works for the people, as one of the *ṣaḥābah* stated. In the chapter about the group of people entrusted to choose the leader (*ahl al-hall wa al-’aqd*), al-Juwaynī mentions that they should be “People with knowledge about politics and *fatwā*.” He does not mention how many people this should include and contradicts al-Ash’ārī and al-Baqillānī who were both of the opinion that one person is enough, but al-Juwaynī says that the minimum number should be an amount of people who are powerful and influential enough for the leader to be able to take charge in religious and worldly affairs. Ibn Taymiyyah agrees with him on this, and it is his opinion that establishing a state which implements the *sharī’ah* is the priority. Both al-Juwaynī and Ibn Taymiyyah did not provide details regarding who the people suitable for choosing a leader are, their required qualifications, and who appoints them. It is appropriate to say that the minimum number depends on the size of the nation and its population, but there is room for *ijtihād* in this area, especially regarding modern means of collecting the opinions and votes of the people.

Al-Juwaynī focused on two major conditions required of a leader, the first of which is knowledge. He wrote, “A condition is that the leader must be a *mujtahid* who possesses the characteristics of a *muftī*, because being a leader means leading in both religious and worldly affairs.”³⁰ Al-Juwaynī is also of the opinion that *shūrā* is not necessarily required,³¹ and most other early scholars did not research or focus enough on the concept of *shūrā*; perhaps because of their contemporary climate and ex-

²⁸ *Ibid.*, 54.

²⁹ *Ibid.*, 276.

³⁰ *Ibid.*, 85.

³¹ *Shūrā* is an Arabic word for ‘‘Consultation’’. The *Quran* and Prophet Muhammad saw teachings encourage Muslims to decide their affairs in consultation with those who will be affected by decisions. The Sunni Muslims of thought believe that *shūrā* is recommended in the *Quran* in various verses (though some classical jurists maintained its obligatory) They say that all of the first four caliphs, or rulers of Islam whom are call ‘‘the four Rightly-guided caliphs, were chosen by *shūrā*.

ternal threats it was sufficient for their leader to consult a few people and then choose the best solution in his opinion. Even if we agree with al-Juwaynī on this issue, it still does not solve the problem of how to choose a leader in the first place. The condition of knowledge has not been found in any leader since the Rightly Guided Caliphs and ‘Umar ibn ‘Abd al-Azīz, not even in any of the righteous kings throughout history. If al-Juwaynī had stated general knowledge of the *sharī’ah* as a condition, it would have been more realistic. Contemporary scholars have discussed this issue, and a majority of them agree that a Muslim leader must practice *shūrā* according to the Islamic rules and regulations.³²

The second condition mentioned by al-Juwaynī is *taqwā* and piety. Al-Juwaynī places a lot of emphasis on this qualification saying, “If the testimony of a *fāsiq* on a coin is not acceptable, how can one take charge of the affairs of the whole *ummah*? Even a father who is a *fāsiq*, despite his love for his child, is not trusted with his child’s wealth, so how can a *fāsiq* be trusted with the ultimate form of leadership?”³³ Authority and leadership in Islam are undoubtedly given to those with qualities of faith and justice, for Allah would not entrust leadership and the conducting of affairs of the people to an oppressor, as mentioned in the verse, “And (remember) when the Lord of Ibrāhīm tried him with (certain) Commands, which he fulfilled. He (Allāh) said, "Verily, I am going to make you Imam (a leader) for mankind." He said, "And of my offspring (to make leaders)." (Allāh) said, "My Covenant includes not wrong-doers.”³⁴

The most important duty of the state is to establish and preserve the foundations of religion and “Guiding the general populace under the methodology of the predecessors to avoid indulging in desires and deviant views.”³⁵ Part of the preservation of religion is inviting disbelievers to Islam using valid proofs and evidences as well as establishing the *hudūd* to assure people of their safety and dignity because “safety and wellbeing are the cornerstones of all blessings, and they cannot be enjoyed without being established.” It is important to note here that al-Juwaynī paid a lot of attention to the poor and said about those who did not pay *zakāt*, “It is within the rights that the leader should devote his primary attention to them, for the entire world does not equate to the

³² Al-Juwaynī, *Ghiyāth al-Umam*, 88.

³³ *Ibid.*, 88.

³⁴ Al-Qur’an, al-Baqarah 2: 124.

³⁵ Al-Juwaynī, *Ghiyāth al-Umam*, 190.

plight of a poor Muslim in need, and if the leader does not concern himself with them, it is the obligation of the wealthy to alleviate their need. If even one poor person is overlooked in the midst of the wealthy, the wealthy will all carry the blame and sin for that.³⁶

Before moving on from this issue in leadership, it is important to mention the issue of *ta'zir* (legal penalties determined by the state) which was of concern to al-Juwaynī. He mentioned the method used by some leaders to increase the penalties - as a preventative measure - above the limit sanctioned by the *sharī'ah* in the name of "politics". Al-Juwaynī strongly opposed this approach and any other transgressions beyond the limits of the *sharī'ah* saying, "The rich may overlook this strategy, but in reality, it is the exact opposite of what the Prophet ﷺ was sent with and is equivalent to adopting the traditions of the ancient kings and emperors as the foundations of Islam, so whoever adheres to that ideology has slipped through the grasp of the religion like hair slips through dough."³⁷

This situation that al-Juwaynī warned against actually happens. In the time of al-Ẓāhir Ghāzī (Ṣalāḥ al-Dīn's son), the governor of Aleppo, a woman who had falsely accused someone and then confessed to it was brought upon. The judge decreed that she be disciplined, and Ghāzī said, "Strike her with a *durra* as the Islamic legal punishment, and cut off her tongue as the political punishment." The grandson of Ibn al-Jawzi said, "The *sharī'ah* encompasses politics in its entirety, and anything outside of that is unlawful, so al-Ẓāhir was incorrect."

Preserving the Essence of Islam

The second objective is preserving the essence of Islam. Al-Juwaynī spoke about a situation related to the first objective saying: If the leader who possesses the required characteristics and is chosen by qualified people turns corrupt, should he be removed from office and impeached? Al-Juwaynī's response to this situation was that the leader should not be removed solely for corruption caused by minor mistakes or errors; however, if he "is continuously sinning and transgressing, is bold in his oppression, and falls into wrongdoings to the point of neglecting the essence of Islam, then it is a critical issue which must be corrected."³⁸

However, if impeaching him becomes difficult because he is backed by power and numbers, then it is necessary to be patient until Al-

³⁶ *Ibid.*, 234.

³⁷ *Ibid.*, 220.

³⁸ *Ibid.*, 106.

lah opens another path. If the harm in removing him is little in comparison to the benefit of replacing him with another, then those in charge of appointing the leaders should have him removed.

The author requires that for a leader to be removed, he must have been void of certain characteristics in the first place, so should we be lenient and accept the remaining characteristics? Al-Juwaynī is being realistic here, because if there is a case where there is a man with little Islamic knowledge but capable and knowledgeable in the matters of governance, as long as he is consulting religious scholars, there is nothing wrong with accepting him as the leader. We can go even further and say that if there is a capable man who is within the boundaries of Islam but occasionally commits sins, and there is no one else as qualified as him, there is nothing wrong in accepting him as the leader either. However, if he is shameless in committing sins publicly, there is no way to allow him to become the leader, as he could be the means of causing corruption in the *ummah*, especially if he manages to amass power and numbers.

This raises another question: What should be done if a leader seizes power by force without being appointed or elected? According to al-Juwaynī, if he fulfills all the conditions and requirements for a qualified leader, then he should be accepted as the leader. If he does not fulfill all the conditions but is still within the realm of consideration, then religious scholars should be consulted to solve the issue, as the scholars are “A model of rulings, the authorities on Islam, the heirs of prophethood, the leaders of the *ummah*, and in reality, they truly deserve to be in charge, only being commanded as a formality.”³⁹ A leader compared to a scholar is in a similar position to a king at the time of the Prophet ﷺ.

Al-Juwaynī is highlighting the importance of communal obligations which benefit the general public in these types of situations. Niẓām al-Mulk, the vizier of the Seljuk Empire, was asked to complete the important task of rectifying the state of Muslims, and only after the situation was stabilized did he perform *hajj*. This is a refutation to those who say that Allah will protect His religion, and Niẓām al-Mulk should have just put his trust in Allah. This is a “True claim that is being used to support a falsehood, and if we allow calamities to rule over us, it will lead us to neglecting righteous deeds, for the messengers relayed to us the means of doing good and avoiding evil, and all things are ultimately reliant on

³⁹ *Ibid.*, 379.

the judgment of Allah, but the only ones successful in achieving guidance are those who utilize the means they are given.”⁴⁰

We disagree with al-Juwaynī and others that have written about an authority that came to power by overthrowing the previous government through a rebellion or otherwise. Many of those who have written about Islamic governance assert that this scenario is acceptable as an exception due to the necessity of keeping the *ummah* united or in response to prioritizing external threats.

To this assertion, we respond that although this scenario was an exception which even al-Juwaynī himself was cautious when speaking about, and despite having to fulfill certain conditions, this scenario has almost become the norm now in many Muslim countries. It is almost as if this is what paved the way to the general acceptance of modern day situations of coup d'état, which has been afflicting the remains of the Muslim *ummah*. Shaikh Rashīd Riḍā says, “If Muslims made even one tenth of the effort to restore the caliphate that those trying to destroy it made, the caliphate would have returned even stronger than before, and would have ruled the world.”

Because of the general acceptance of this case that is supposed to be an exception, and because of authority not changing hands in an organized way, two opposing factions have risen in the Muslim community, and both are in opposition to rebellion. The first faction uses violence to create change every time, place, and situation, and they continue to fight and kill without attaining any religious or worldly results. “In modern history, we see violence existing within the ranks of Islam, whose perpetrators intended for it to become strong and lead.” The second faction is overly optimistic and they justify every oppressive and unjust law while submitting to their enemies, without trying to resist, even peacefully. As for revolutions led by righteous people who intended to enjoin good and forbid evil, many of them failed for reasons that are beyond the limited scope of this paper. This resulted in many people becoming frustrated and hopeless to such an extent that they become content with the bare minimum and submit to idiotic regimes.

Outside of these two factions, what is left is the majority of Sunni scholars and the prominent trend of activism that follows them which tries to fix the situation as much as it can by enjoining good, forbidding evil and admonishing leaders. However, this activism did not give rise to active organizations that are actually capable of peaceful change, taking

⁴⁰ *Ibid.*, 367.

the concept of *shūrā* from a theoretical idea to a practical application, or laying the detailed Islamic legal foundations for a legitimate state without copying it entirely from ancient Persian or modern Western sources although benefitting from them would be acceptable. It is because of the lack of such capable organizations that might and power becomes the only means for change, yielding few results. Even though the scholars accepted compromise on some of the required qualifications of a leader in order to maintain unity and the main interests of the state, these compromises should not lead to losing unity in the long run.

Take the example of the way Abū Bakr was chosen, how the *ṣaḥābah* agreed with Abū Bakr in appointing ‘Umar as his successor, the council from which ‘Uthmān was chosen, and the allegiance of most of the *ṣaḥābah* to ‘Alī, which were all vital foundations for the future of Islamic governance. In the case of ‘Uthmān, there was not enough time for the fruits of the efforts of ‘Umar to show due to the major *fitnah* that occurred at the end of ‘Uthmān’s rule, as well as the division and instability that followed such that the caliphate became a monarchy. Then began the Umayyad Dynasty which had both positive and negative aspects, then the Abbasid Dynasty which became smaller states and provinces in the east and west after al-Ma’mun and al-Mu’tasim. Even though these smaller states claimed to be under the Caliphate based in Baghdad, they were in reality completely independent, and were unable to unify enough to protect themselves from being weakened and taken over by enemies who divided Muslim lands even further.

One of the reasons for this is the rigidness - which al-Juwaynī criticized - of some who believe that Islamic governance is set in stone, and that one single leader should rule all of the Muslim lands. Although this is true in theory, but in reality it seems to be difficult especially in our contemporary Islamic states”.⁴¹ No doubt the unity of Muslim *Ummah* is possible only under the flag of *Tawhid* and the authentic following of the Quran and the teaching of Prophet Muhammad saw. Allah Almighty also commands the Muslims to observe patience and retain unity among them by following the principles of piety and brotherhood as well. At the same time it remains the core responsibility of the Muslims rulers

⁴¹ Even when Andalusia became independent, scholars were forced to allow two separate caliphs since the regions are far apart. Why should states not have some individual independence with overall unity? It is unfair to compare the past to the present in which various nations are appearing, but we can criticize stagnant ideas proposed by people who are inflexible to come up with reasonable suggestions for practical solutions.

239 The Objectives and Principles of Islamic Governance: Perspective of Imam Al-Juwaynī

to play their role in this connection⁴². However if Muslim *Ummah* united under one nation and leadership each Islamic states can have their seats like governors had in the past, however the community must be sorted by religion and not geographical boundaries.

Improving Citizens through Continuous Care

This third objective is the one that al-Juwaynī considers to be of utmost importance because it aims to attain what will exist in the future, and preserve what have already existed. This is achieved by sifting through the various levels of the *sharī'ah*, analyzing its foundations and branches, and assessing the reasons the scholars agreed or disagreed.⁴³ When introducing this objective, he mentioned the characteristics of the caliphs, leaders, and scholars who take up this responsibility, then made the details of this objective into his books *Al-Ghiyāth* and *Al-Burhān fī Uṣūl al-Fiqh*. He mentions a principle for appointing anyone who will be in a position where their opinions will be asked and obeyed or followed, that he “be outwardly God conscious and avoids questionable situations....”

Islamic Governance and *Maqāṣid al-Sharī'ah*: Shared Principles

Imam al-Juwaynī was aware of the importance of the principles of Islamic governance and of the relationship between the ruler and the ruled to address practical issues and to chapterize books of *fiqh*. In order to properly preserve and master these principles, it is necessary to have a good command of various prevalent issues in Law.⁴⁴

The purpose of establishing general jurisdiction in all three branches of government is to actualize the public interest of the people and to prevent corruption, in accordance with the *sharī'ah* and its general principles. Scholars of *fiqh* and Islamic governance have outlined the steps to be taken to monitor the political moves of a leader and to correct him when he strays from the objectives of the post he is assigned to, to ensure that all of his actions are in accordance with the objectives set by Allah.

⁴² Hassan Maqbool, “Unity of Muslim Ummah: Its Need, Importance and Suggestions”, *International Multilingual Journal of Contemporary Research*, Vol. 3, No. 1, June 2015, 26- 37.

⁴³ Al-Juwaynī, *Ghiyāth al-Umam*, 397.

⁴⁴ Al-Juwaynī further explains these in his books *Al-Burhān* and *Al-Ghiyāth*.

Every science or branch of knowledge has its own set of principles upon which it is based, and which differentiates it from other sciences. Occasionally we find that multiple sciences may share a few of the same principles, but this does not undermine the standing of each science as its own independent discipline. This is especially evident from the saying, “Islamic sciences all come from the same source despite their different methodologies and results.”⁴⁵ Islamic governance is considered a well-established science which is connected to other sciences in a variety of ways, perhaps most importantly through its principles, specifically those which relate to the *maqāṣid al-sharī’ah*. A few of the principles shared between Islamic governance and *maqāṣid al-sharī’ah* are as follows:

1. Actions are based on intentions: This principle originated in *fiqh*, but it is applicable to almost all disciplines, perhaps most prominently seen in the study of Islamic legal maxims, Islamic jurisprudence, and Islamic governance. This principle is often used by political figures when dealing with issues related to leadership and public administration, as the goal of these pursuits is not seeking fame, but rather public good in this life and the hereafter, making this a principle that draws one closer to Allah.
2. Warding off *mafsadah* precedes pursuing *maṣlahah*. Al-Juwaynī says about this principle, “The decisions of a leader are based on the public interest.” Other scholars have also used this principle to weigh and solve issues related to public administration, and in that context, Ibn Taymiyyah said, “Since it is obligatory to seek the public interest and minimize corruption, when there is a clash, it is necessary to choose the greater of the two interests by ignoring the lesser, and to repel the greater corruption by tolerating the lesser of the two.”
3. Blocking the means to corruption. This principle is an evidence mostly used by scholars of the Mālikī school of thought and a principle in *maqāṣid al-sharī’ah* which leaders must use when facing issues in which allowing a permitted act will most likely lead to an undesirable and forbidden outcome. In this case it is imperative that the leader avoids that harmful outcome by closing the doors leading to it and forbidding people from taking part in any action that will result in it.

⁴⁵ Al-Juwaynī, *Ghiyāth al-Umam*, 397.

241 The Objectives and Principles of Islamic Governance: Perspective of Imam Al-Juwaynī

These principles illustrate how Islamic governance is firmly rooted in the legislative principles found in the methods of legal deduction and *maqāṣid al-sharī'ah*. Hence, Islamic governance is a part of Islamic jurisprudence, as they share the same methodology but yield different results, and its analysis only takes on a visage of *maqāṣid al-sharī'ah* because it addresses contemporary political issues and the various natures of people over an array of times and places.

Principles Specific to Islamic Governance

Al-Juwaynī expounds in his book on the principles of leadership, including the principles related to the obligations of a leader, criminal law and punishments, employment, *da'wah* and *jihād*, communal obligations, fiscal policy, laws of impeachment, succession to power, and deputiation. The depth and length of these principles is beyond the scope of this paper, but an example, to provide a general idea and summary of the topic, can be found in the principles of a leader,⁴⁶ among which are the conditions of a leader such as knowledge, integrity, guidance, management skills, lineage, freedom from slavery, masculinity, health, complete appointment to office, and the obligation of appointing a leader whenever possible. These conditions will be explained further in the coming paragraphs.

The main principles of leadership are divinely ordained, but most of the issues related to it are undetermined and are decided by at least one member of *ahl al-hall wa al-'aqd* without needing witnesses to verify the authenticity of the appointment. The leader does not need to follow anyone, as he is a *mujtahid* who should have reached the level of being qualified enough and capable of *ijtihad*. The position of leadership is binding, and its main focus is on the community. It is forbidden to appoint someone less qualified if there is a more qualified leader available except in the case of extreme corruption in which the public interest is at stake. Among the important duties of a leader is preserving the religion of Islam, doing *da'wah* and calling people to Allah, unifying people upon the way of the pious predecessors, establishing justice, preventing oppression, actions related to *jihād*, executing legislation, witnessing large gatherings such as the *eid* celebration and *hajj*, unless there exists a threat of danger.

The leader must be removed from office if he apostates, becomes insane or mentally unstable, becomes involved in corruption or major

⁴⁶ Al-Juwaynī, *Ghiyāth al-Umam*, 114-117, 150-157, 165-168, 251.

sins, or is taken captive, but his power and influence must be taken into account.

Some principles related to leadership according to al-Juwaynī are as follows:

1. Principles for Succession:⁴⁷ The leader can individually appoint his own successor as long as the conditions of a leader are fulfilled, and the people accept the appointee as the new leader. The successor will only begin to rule when the previous leader has passed away, and it is permitted for a father to appoint his son.
2. Principles for *Ahl al-Hall wa al-'Aqd*:⁴⁸ The general populace are not considered part of *ahl al-hall wa al-'aqd*, the group of qualified people entrusted with appointing the leader. Conditions for those among this group include being Muslim, free from slavery, being a male, and being righteous, trustworthy, and pious.
3. Principles for Advisors or Ministers:⁴⁹ Advisors and ministers possess both the responsibilities of executing legislature and delegating authority. Among the conditions for this role is that the advisor must be sufficiently astute, capable, knowledgeable, intellectually talented and perceptive, and religious, which is why it is not permitted to appoint a *dhimmi* (a non-Muslim living in an Islamic state with legal protection) to the role. In terms of delegation, he must be able to independently judge, command, appoint, and remove people without needing to refer to the leader.
4. Principles for the Judiciary:⁵⁰ There cannot be more than one judge presiding over the same jurisdiction, and the court decision is legally binding to oppressive tyrants.
5. Principles for Delegation:⁵¹ Delegating certain duties is allowed, such as collecting *zakāt* and other taxes, and protecting the state. The delegation must have insight, guidance, and intelligence.
6. General Principles for Hypothetical Situations: If there is a time when there is no leader for all Muslims, they must fulfill all communal obligations without supervision. If the proper methods are forgotten, succession is determined by consensual arbitration,

⁴⁷ *Ibid.*, 112, 123, 129.

⁴⁸ *Ibid.*, 81-83.

⁴⁹ *Ibid.*, 130, 132, 136.

⁵⁰ *Ibid.*, 146, 244.

⁵¹ *Ibid.*, 136.

243 The Objectives and Principles of Islamic Governance: Perspective of Imam Al-Juwaynī

and if knowledge of the branches of *sharī'ah* cease to exist, the responsibility on people is lifted.⁵²

Conclusion

In the conclusion of this research, the researchers have found that the *fiqh* of Islamic governance, its principles and its objectives are some of the most important albeit dangerous subjects that scholars have had to deal with because of the risks of governing the affairs of the *ummah* - both internal and external - that it entails. However, the book *Ghiyāth al-Umam fī Tiyāth al-Zulam* by al-Juwaynī can be considered as one of the pillars in understanding the system of governance in Islam. Al-Juwaynī's ideas on this subject are closely related to the concept of *maqāṣid al-sharī'ah*.

Choosing a leader is one of the objectives of Islamic governance related to the necessity of leadership, and the leader should work for the people. The next objective is preserving the essence of Islam. Therefore, the leader is to abide by the laws of the *sharī'ah* like any other citizen, with the consequence that if he leaves Islam, he is to be removed from the leadership, but committing minor sins does not affect his position. The third objective is improving citizens' life through continuous care. Al-Juwaynī considers this very important to attain what are to be realized in the future and to preserve what have already existed. He also suggests several principles in the Islamic governance, in line with the *maqāṣid al-sharī'ah*, such as warding off *mafsadah* precedes pursuing *maṣlahah* and blocking the means to corruption. Several principles are also highlighted according to certain important categories in Islamic governance, such as succession, *Ahl al-Hall wa al-'Aqd* and judiciary.

The leader, according to al-Juwaynī, must make peace and reconcile between the citizens of the state, as the state is only shaken by factionalism, clashing differences of opinion, and attraction to desires. He must also unite the beliefs of the *ummah* in accordance with the creed of the pious predecessors. If the ruler has not attained the qualifications to make *ijtihād* in all his decisions, it is obligatory on him to refer to scholars, as they are the "heirs of the prophets." The primary duty of the leader is to preserve and protect Islam, to invite others to Allah, establish justice, prevent oppression and corruption, to be the *walī* (guardian) of those who do not have one, and to preside over *jihād*.

⁵² *Ibid.*, 81-161, 192, 511, 523.

In general, al-Juwaynī's ideas on the objectives and principles of Islamic governance are fully operated within the framework of *maqāṣid al-sharī'ah*. This underlines the importance of *maqāṣid al-sharī'ah* for Muslim scholars, such as al-Juwaynī, to be implemented in the Islamic governance. Some of al-Juwaynī's ideas maybe still relevant for the *ummah* today. Apart from that, Muslim scholars today can learn from al-Juwaynī's approach and methodology in addressing the problems face by the *ummah* today, especially in politics and governance.

BIBLIOGRAPHY:

Abd al-Fatah, Saif al-Din. *Nahw Taf'īl al-Namudhaj al-Maqasidī fi majal al-Siyasī wa al-Ijtimā'ī*. London: Markaz Dirasat Maqasid al-Shari'ah al-Islamiyyah, 2006.

Abū Fāris, Muḥammad 'Abd al-Qādir. *Al-Qāḍī Abū Ya'lā al-Fūrā' wa Kitābuhu al-Aḥkām al-Sultāniyyah*.

Abū Ḥujair, Majīd Maḥmūd. *Al-Mar'ah wa al-Huqūq al-Siyāsiyyah fī al-Islām*. Riyadh: Maktabah Al-Rushd.

Abū Jīb, Sheikh Sa'dī. *Dirāsah fī Minhāj al-Islām al-Siyāsī*, Mu'assasah al-Risālah.

Abū Yūsuf, *Kitab al-Kharāj*. Egypt: Dar al-Islah, 1981.

Adlān, Aṭiyyah. *al-Aḥkām al-Shar'iyyah li al-Nawāzil al-Siyāsiyyah*. Cairo: Dār al-Yusr.

Al-'Ajlān, Sheikh Fahad bin Ṣāliḥ. *Al-Intikhābāt fī al-Fiqh al-Islāmī*. Dār Kunūz Ishbīliya.

'Alī Jābir, al-'Abd al-Shārūd. *Al-Ta'addudiyah al-Ḥizbiyyah fī Zill al-Dawlah al-Islāmiyyah*. Egypt: Dār Al-Salām.

Al-Amidi, Ali bin Muhammad. *Al-Ihkām fī Uṣūl al-Aḥkām*. Dar al Kutub al-Ilmiyyah.

An'am, Rāif. *Al-Fikr al-Siyāsī 'Inda al-Imām al-Juwaynī*. Al-Jāmi'ah al-Urduniyyah, 2011.

'Ārif, Naṣr Muḥammad. *Min Maṣādir al-Turāth al-Siyāsī al-Islāmī: Dirāsah fī Ishkālīyyah al-Ta'mīm Qabla Istiqrā' wa Ta'ṣīl*. Al-Ma'had al-'Ālamī li al-Fikr al-Islāmī.

Al-Bayātī, Munīr Ḥumayd. *Al-Nizām al-Siyāsī al-Islāmī Muqāranan bi al-Dawlah al-Qānūniyyah: Dirāsah Dustūriyyah Shar'iyyah wa Qānūniyyah Muqaranah*. Dār al-Nafā'is. 1431H.

Al-Damājī, ‘Abd Allah bin ‘Umar. *Al-Imāmah al-Uẓmā ‘Inda Ahl al-Sunnah wa al-Jamā’ah*. Dār al-Ṭayyibah.

Al-Dhahabī, Shams ud-Dīn Abū ‘Abdillāh Muḥammad ibn Aḥmad ibn ‘Uthmān ibn Qāymāz ibn ‘Abdillāh. *Siyar A’lām al-Nubalā’*. Muassasah al-Risalah’. 1985.

Al-Dīb, ‘Abd al-‘Azīm. *Fiqh al-Imām al-Ḥaramayn*. Jāmi’ah Qatar.

Al-Duraynī, Fathī. *Al-Ḥaqq wa Madā al-Sulṭān fī Taqyīdihī*. Mu’assasah Risālah.

Al-Duraynī, Fathī. *Khāṣā’iṣ al-Tashrī’ al-Islāmī fī al-Siyāsah wa al-Ḥakam*.

Al-Farāgh. *Al-Tashrī’ Bayna Ahliyyah al-Ijtihād wa Āliyah al-Tadbīr*. Dār al-Maṭbū’āt al-Jāmi’iyyah al-Iskandariyyah. 2015.

Al-Ḥalw, Mājid Rāghib. *Al-Istiftā’ al-Sha’bī Bayna al-Anzīmah al-Waḍ’iyyah wa al-Shar’iyyah al-Islāmiyyah*. Kuwait Maktabah al-Manār al-Islāmiyyah.

Al-Ḥamdāwī, Sheikh ‘Abd Al-Karīm. *Fiqh al-Aḥkām al-Sulṭāniyyah*. Morocco. 1999.

Ḥasanain, ‘Alī Muḥammad. *Raqābah al-Ummah ‘alā al-Ḥukkām: Dirāsah Muqāranah Bayna al-Sharī’ah wa Nuẓm al-Ḥukm al-Waḍ’iyyah*. Al-Maktab al-Islāmī.

Ibn al-‘Arabī, Muḥammad bin ‘Abdullāh. *Aḥkām al-Qur’ān*. Beirut: Dār al-Kutub al-‘Ilmiyyah. 2003.

Ibn ‘Ashūr, Muḥammad al-Ṭāhir. *Maqāṣid al-Sharī’ah*. Cairo: Dar al-Kitāb al-Masri & Beirut: Dar al-Kitāb al-Lubnani.

Ibn Manzūr Muhammad bin Makram. *Lisan al-‘Arab*. Dar Sadir. 2003.

Ibn al-Qayyim, Shams al-Din. *Al-Ṭuruq al-Ḥukmiyyah fī al-Siyāsah al-Shar’iyyah*. Makkah: Dar Alim al-Fawa’id.

Ibn Taymiyyah. *Majmu’ Fatawa*. Riyadh: Dar Alam al-Kutub. 1991.

247 **The Objectives and Principles of Islamic Governance: Perspective of Imam Al-Juwaynī**

Ibn Taymiyyah, Abū ‘Abbās. *Al-Ta’līq ‘alā al-Siyāsah al-Shar’iyyah fī Iṣlāḥ al-Rā’ī wa al-Ra’iyyah*. Dār ‘Ālim al-Fawā’id, with revision by Sheikh ‘Alī bin Muḥammad Al-‘Umrān.

Ismā’īl, Saif al-Dīn ‘Abd al-Fattāh. *Fī al-Nazariyyah al-Siyāsiyyah min Manẓūr Islāmī, Manhajiyyah al-Tajdīd al-Siyāsī wa Khibrah al-Wāqī’ al-‘Arabī al-Mu’āṣir*. Al-Ma’had al-‘Ālamī li al-Fikr al-Islāmī (doctorate thesis).

‘Izzat, ‘Abd Al-‘Azīz. *Al-Nizām al-Siyāsī fī al-Iṣlām: Al-Nazariyyah al-Siyāsiyyah wa Nizām al-Ḥukm*.

Al-Jawzīyyah, Ibn Qayyim Muḥammad bin Abī Bakr. *I’lām al-Muwaqqi’īn*. Beirut: Dār al-Kutub al-‘Ilmiyyah. 1991.

Al-Jawziyyah, Shams al-Dīn Muḥammad bin Abū Bakr bin Qayyim. *Aḥkām Ahl al-Dhimmah*, revised and edited by Ṣubḥī Al-Ṣāliḥ. Dār al-‘Ilm li-al-Malāyīn.

Al-Juwaynī, Abū al-Ma’ālī. *Ghiyāth al-Umam fī Iltiyāth al-Zulam*, edited by ‘Abd al-‘Azīm al-Dīb. Dār Al-Minhāj. 1432H

Al-Juwaynī. *Min Khilālī Kitābihi al-Ghiyāthī*. Dirāsah al-Fikr al-Siyāsī al-Ma’had al-Waṭanī al-Jazā’irī. 1995.

Kamāl Wasfī, Muṣṭafā. *Muṣannaḥah al-Nuẓm al-Islāmiyyah al-Dustūriyyah wa al-Dawliyyah wa al-Idāriyyah wa al-Iqtisādiyyah wa al-Ijtimā’iyyah*.

Khalīl, Fauzī. *Dawr Ahli al-Ḥal wa al-‘Aqd fī al-Namūdhaj al-Islāmī li-Nizām al-Ḥukm*. Al-Ma’had al-‘Ālamī li al-Fikr al-Islāmī (master thesis).

Al-Khayyāt al-Ṭarīqī, ‘Abd Allah bin Ibrāhīm. *Maḥmūd al-Ṭā’ah wa al-‘Iṣyān*. Dār al-Muslim.

Maqbool, Hassan. “Unity of Muslim Ummah, Its Need, Importance and Suggestions”. *International Multilingual Journal of Contemporary Research*. Vol. 3, No. 1. June 2015.

Al-Māwardī, al-Qādī Abū al-Ḥasan ‘Alī bin Muḥammad al-Shāfi’ī. *Al-Aḥkām al-Sultāniyyah wa al-Wilāyāt al-Dīniyyah*, edited by Khālid ‘Abd al-Laṭīf. Al-Saba’ al-‘Ilmī.

Al-Miṣrī, Rafīq. *Al-Fikr al-Iqtisādī ‘Inda al-Juwaynī: Dirāsah Hawla al-Fikr al-Iqtisādī ‘Inda al-Juwaynī*. Al-Jām’iah al-Qaṭariyyah. 1999.

Muṭī, Aḥmad Muḥammad. *Al-Nazariyyah al-Siyāsiyyah al-Islāmiyyah fī Huqūq al-Insān al-Shar’iyyah: Dirāsah Muqāranah*.

Muḥyī al-Dīn Ṣāliḥ, Aḥmad. *Al-Siyāsah al-Shar’iyyah Ḥālah Ghiyāb Ḥakam Islāmī ‘an Diyār al-Muslimīn*. Dār Al-Salām.

Al-Namr, Sheikh Namr Muḥammad al-Khalīl. *Ahl al-Dhimmah wa al-Wilāyāt al-‘Ammah fī al-Fiqh al-Islāmī*. Amman: Maktabah Islāmiyyah.

Al-Raysūnī, Ahamad. *Nazariyyah al-Maqāsid ‘inda al-Imam al-Shātibi*. Virginia: The International Institute of Islamic Thought. 1995.

Al-Ṣalāḥāt, Sāmī. *Mu’jam al-Muṣṭalahāt al-Siyāsiyyah fī Turāth al-Fuqahā’*. Cairo: Maktabah al-Shurūq al-Dawliyyah. 2004.

Al-Ṭabaṭabā’ī, Muḥammad ‘Abd Al-Razzāq al-Sayyid Ibrāhīm. “Qawā’id fī al-Siyāsah al-Shar’iyyah ‘Inda al-Imām al-Juwaynī min Khilālī Kitābihi Ghiyāth al-Umam fī Iltiyāth al-Zulam.” *Majallah al-Sharī’ah wa al-Dirāsāt al-Islāmiyyah*, no. 41. 2000.

Al-Ṭarīqī, ‘Abd Allah bin ‘Abd al-Muḥsin. *Ahliyyah al-Wilāyāt al-Sultāniyyah fī al-Fiqh al-Islāmī*.

Al-Ṭarīqī, ‘Abd Allah bin Ibrāhīm. *Ahl al-Ḥal wa al-‘Aqd Ṣifātuhum wa Wazā’ifuhum*.

Al-Ṭarīqī, ‘Abd Allah bin Ibrāhīm. *Ṭā’ah Ulī al-Amr*. Dār al-Muslim.

Al-Wakīl, Sāmī Ṣāliḥ. *Tab’ah Kitāb al-Ummah*.

Al-Zubdānī, ‘Umar Anwar. *Al-Siyāsah al-Shar’iyyah ‘Inda al-Imām al-Juwaynī Qawā’iduhā wa Maqāṣiduhā*. Dār al-Bashā’ir al-Islāmiyyah. 2011.