

Functions of the State in Light of the Purposes of Sharee'ah

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Abstract: The Islamic state has always been the center of the political analysis even some see that it is the essence of studies on politics. At this age, political studies neglected this subject. The research at hand aims at developing a study on the Islamic state. Any study about the Islamic state must touch on state functions as the state with its history and different models seek to achieve certain functions. Researchers used in this study the inductive approach through extrapolating the jobs of the Islamic state throughout the history of Islam in the past and present times. Also, the researchers relied on the analytical approach through analyzing the historical facts of the functions of the Islamic state, especially in the modern age. Researchers concluded at the end of the research a number of scientific results, most notably: The responsibilities of the Islamic state, regardless of its contents are determined by some beliefs and political ideologies. These responsibilities differ from a country to another depending on the difference of faiths and ideologies. It can be said that there are collective doctrinal rules that set the content and ideological dimensions of these functions and control its inside and outside activities. Scholars of political thought in Islam in its early centuries stated that Sharee'ah is a methodology for administering worldly life or behavior and handling the conditions and turnings of life. Sharee'ah should be the scale and reference of all matters of worship and worldly behavior. Based on that, the functions of Islamic state centralize on the establishment of Islamic Sharee'ah and the application of its rulings in the Muslim community.

Key words: Islam, functions of the state, purposes of Sharee'ah, muslim, community, Malaysia

INTRODUCTION

The Islamic state has always been the focus of political analysis even some believe that it is the essence of studies on politics. So, any study about state must handle the functions of state because the state should not be considered a goal in itself but a means to achieve an aim sought by its members. As a human congregation, the aim of state gets such importance or priority not because of its being a general aim but due to the value of the activity of state in comparison with any similar gathering such as a syndicate or party. Thus, any congregation including state should be evaluated in light of its objectives as a tool to achieve them. The state with its history and different models seeks to attain certain functions. These functions, regardless of their contents, are stated by some beliefs and political ideologies. So, researchers find that these jobs differ from a country to another relying on the difference of faiths and ideologies to the extent that it can be said that there are some

collective doctrinal rules that determine the contents and dimensions of these functions and govern its activities both inside and outside. State has become the tool and means of the gathering in establishing its faith or political ideology and this represents a basis for state legitimacy and a justification for its existence. As far as the Islamic state is concerned, the Qur'an and Sunnah provide a set of principles that should govern the state in its internal and external relations and also offer a set of goals and objectives that state should seek to achieve in its political movement and exercise. These principles, goals and objectives that represent Islamic doctrinal values by its origins have an essence with a general and abstract human nature and significance. Also, they form absolute moral principles. The Islamic creed confirms a set of values and rules governing the individual and collective behavior and controls the functions of the state. This is accomplished by legislative bases through which a believer can adhere to his religion in accordance with the essence of Islamic creed represented in the principles of

monotheism, especially in its political dimensions. This way monotheism would combine between individual and collective adherence upon individuals and the state as well and an essence for its functions.

STATE FUNCTIONS IN THE THOUGHT OF ISLAMIC HERITAGE

First (writings that did not specify state jobs): The writings of this trend have generally focused on imamate, caliphate and emirate as a job leads to achievement of certain goals derived from the Islamic faith. Most of traditional writings focused on the responsibilities of state as being duties of the ruler. Al-Qady Abu Yusuf referred to that saying: Rulers are accountable before their Lord just as other responsible persons. He went on explaining the tasks assigned to the caliph:

Establish right in what Allah The Almighty assigned to you and do not deviate lest your subjects will deviate. O Commander of Believer, I advise you to preserve what Allah The Almighty confides to you and care for what Allah The Almighty charged you with and beware of wasting your subjects, for Allah The Almighty will take their full rights from you and you will get lost. Do not slacken to establish what Allah The Almighty charged you with.

Then, he explained the core of these tasks saying:

Allah The Almighty made rulers as His vicegerents in His earth and empowered them to illuminate for their citizens all ambiguous and suspected things. This is achieved by enforcing Allah's punishments and returning rights back to its owners for establishment, clearness and reviving customs enacted by the devout (Yusuf and Ibrahim, 1397)

It appears from the above-mentioned words that the writings of this trend addressed the functions of state as being duties of the ruler or the caliph. Perhaps this resorts to the centralism of the leadership of the state throughout the Islamic historical experience or possibly that most of these writings mentioned that caliphs or those in power charged scholars to clarify the aspects of their functions and guide them or that scholars do their duty in advising and directing rulers (Hamid, 1989).

It is noted that the justification provided by these studies for the establishment of the Caliph or the ruler is carrying out these duties and enforcing these specifications. Perhaps the conditions to be met in the

caliph are just necessary guarantees for carrying out these duties. The writings of this direction are generally characterized by defining the content of tasks by resorting to determining some duties that increase and decrease according to the writer and to be committed to the caliph. Most writings of this direction confirm what the researchers opined. In this regard, researchers point to the words of Al-Mawardy in his book *Sultanic Rulings and Religious Guardianships* where he categorized the duties or functions to ten categories:

- Preserving religion with its established principles
- The implementation of rulings between the disputed people
- The protection of Muslim people and especially the weak of them and defending women
- Establishing the corporal punishment prescribed for crimes so that prohibitions are not violated
- Reinforcing fortifications by military supplies and force
- Fighting foes of Islam after calling them to Islam until they adopt it or make a covenant of protection
- Collecting spoils and alms according to the obligations of Sharee'ah
- Assessment of payments and the required things in treasury
- Employing trustworthy people and the sincere
- Undertaking his responsibilities with himself and considering conditions to promote the policy of the nation and safeguarding religion

The purposes of caliphate and caliph are defined by Al-Mawardy as It (caliphate) is made to succeed Prophethood in protecting religion and controlling life. The caliphate undertakes the religious and worldly tasks in consideration of that he is the successor the Prophet (Peace and blessings be upon him). Researchers notice that Al-Mawardy did not separate between religion and life so that the political tasks or functions are assigned to an independent prince while the caliph enjoys a general religious authority. Rather, the duties or functions of the caliph are the application of the rights of Allah The Almighty and people in the Muslim community (Al-Mawardy and Habib, 1979).

Second (works about the functions of state): The works in this regard have been able to overcome a lot of criticism directed to the former trend. They tried to be more accurate and specifiable of the functions of the state. However, they followed the same course of the former trend by categorizing the functions of state among the duties and responsibilities of the caliph or ruler. Yet, these

writings linked the functions of state by the concepts of purposes and interests of Sharee'ah. The works of this trend provided a comprehensive overview of the meaning of the functions as they determined the significance of each function of the state so that we can differentiate between essential and subsidiary functions.

At the same time, they gave a centered and an overview that lacks details concerning the jobs of state as they did not explain or analyze of the stages of strength or weakness of the state in relation to its inability or failure to perform its basic functions. It must be noted that the writings of this trend formed a continuous current along the stages that the Islamic state went through whether at times of political prosperity or deterioration.

Ibn Taymiyah is considered a leader in this trend. He linked the concept of function to the concept of rulership especially in its legislative aspects. Ibn Taymiyyah pointed out that Allah The Almighty created people to worship Him and that worship includes all that Allah The Almighty loves of words and deeds (Taymiyyah and Al-Islam, 1961).

In this sense, establishing worship requires regulating the whole of one's life, deeds, actions and relations with people in accordance with the approaches set by Islamic law. Man cannot live according to the teachings of Islam and regulate his relations with others according to the bases of Sharee'ah unless the society is founded upon Islamic grounds that help him have this form of life. Actually, founding the community on Islamic rules cannot be fulfilled by mere preaching and guidance but by the government that directs society properly and oversees its safety by its authority and power (Zidan, 1965). Illustrating the functions of state, Ibn Taymiyyah singled out a chapter in his book; Legal Policy for Rectification of the Ruler and the Ruled and entitled it Rulerships derived from the saying of Allah The Almighty (Quran 58:4). He viewed that the verse generally identified the functions of state as it obligates restoring trusts and administering justice for both these principles represent the body of fair and valid policy. Carrying out these tasks is equivalent to obedience to governors. Ibn Taymiyyah elaborates on that saying, The intended purpose of rulership is safeguarding the religion of people which if lost, they will suffer a clear loss and nothing benefit them from the pleasures of this life (Taymiyyah and Al-Islam, 1961). He linked between rulership or functions and the purposes of Sharee'ah as he viewed that rulership or functions are means of achieving the purposes of Sharee'ah. The aim of rulership is safeguarding the religion of people which is the greatest purposes of Sharee'ah. Researchers notice that he stressed on the

ultimate goal of state represented in achievement of goals of Islam and administering justice in the process of succession to achieve the principle of worship to Allah The Almighty alone. This is because justice includes the principle by which we govern interest which is unknown matter while justice is what Allah The Almighty prescribed for us of rulings (Al-Mubarak, 1968).

To sum up, the functions of state according to Ibn Taymiyyah are linked to the purposes of Sharee'ah and that the essential purpose of Sharee'ah that other purposes share is preserving religion. Thus, all functions of the Islamic state are pathways to achieve this objective. Accordingly, the criterion of practicing functions of state is realizing the interest of Sharee'ah governed by the logic of justice represented in the Islamic Sharee'ah and linking the functions of state with purposes. The interests of Sharee'ah are considered in light of rulership or function as practicing a job must be in accordance with the interest of Sahri'ah and achievement of the purposes of Sharee'ah.

THE FUNCTIONS OF STATE IN MODERN ISLAMIC POLITICAL THOUGHT

The most distinguishing characteristic of modern writings about the functions of the Islamic state is presenting the Islamic political system and Islamic government as synonyms of the Islamic state (Al-Mawdudi and Al-Ala, 1981). In addition, most of these works applied the European view about the concept of the nation-state upon the concept of the Islamic state. These writings discussed the independent moral personality of state and its pillars according to French jurisprudence and tried to find equivalents to them in the Islamic political thought. This may be due to the fact that these writings were a reaction to other writings that denied the political sides in Islam. Thus, they were defensive in nature and tried to create equivalents to the approaches of the European political thought and made a lot of research and discussion about the issue of whether Islam is only religion or religion and state to reach the conclusion that Islam is a religion and state as well.

In addition to what is mentioned above, some of these writings confused the concept of the function and the tools or the means. They mentioned three functions of the Islamic state namely, legislation, execution and judiciary. Actually, these functions are means to achieve a more comprehensive task that surpasses the function of the political system to a more comprehensive function of the state represented in protection and application of a particular system of values and putting it to reality.

Muhammad bin Sulaiman Al-Tmawy said regarding the three authorities, we want to show the basic concepts of these authorities in the Islamic political thought. We recognize that the modern terminology in this concern are quite strange for a political system applied 14 centuries ago. However, the undisputed fact is that the earlier Arab countries knew three distinctive functions, namely legislation, execution and judiciary in accordance with distinguished fundamentalist principles (Al-Tamawi, 1979).

Though, these writings applied the Western concepts of state on the concept of state in Islam and mentioned three authorities or functions of the Islamic state, some of these writings tried to show that the Islamic state recognized the principle of separation of powers (Al-Banna, 1988).

Researchers noticed in the writings of this trend their emphasis on the separation between the religious functions and the political functions so that it can be said that the separation between the religious and political functions with regard to the Islamic state is a feature of many recent writings. Researchers think that this separation confutes the claims of separating between religion and state in cases where state protects religion but in a way separated from political matters.

The study of professor As-Sanhury about caliphate is an example of these writings. He depended on the identification of the functions of state by Al-Mawardy but he gave it the powers of the government. He saw that it is divided into two categories: religious and political powers. As-Sanhury elaborated on the powers entrusted to the caliph such as religious powers which include protecting faith, jihad (strive for the sake of Allah The Almighty), zakah (obligatory almsgiving), salah (prayer), fasting and hajj (pilgrimage) (As-Sanhury and Ahmad, 1989)

As for the political powers, he viewed that they have a flexible and developed nature evolving pursuant to circumstances as they are included in the worldly part of the rulings of fiqh (Islamic jurisprudence). These powers are related to administration of justice among the people, security, border defense, finance and the appointment of governors, workers and personnel.

It should be noted that most of those who advocated the separation between religious and political features tried to refute the charge of theocracy from the Islamic political system. We realized this clearly with As-Sanhury who aimed with this division of functions to deny the existence of a religious authority for the caliph as in the Catholic Christianity. The caliph exercises religious powers but he has no religious authority similar to the powers exercised by the Pope. The caliph does not have the authority of forgiveness and expulsion from religion. He would neither receive confessions nor give blessings

and is not sacred. Also, he does not have the right to give fatwas (religious edicts) in matters of religion, unless he is mujtahid (a scholar qualified to exercise juristic effort to infer expert legal rulings) but he does not have the authority to enforce his ijihad (legal reasoning). Sheikh Mohammed Abdu made it clear that there is no religious authority in Islam and his views in this concern are of great significance. He said, there is not religious authority in Islam except the authority of good advice. He by no means accepts the religious authority and considers this one as of the principles of Islam. He said, it is not in Islam the so-called religious authority in any way and Muslims did not know in any age the religious authority of the Pope in Christian nations (Abdul, 1972).

Yet in spite of the attempts to separate between the religious functions and political functions, the Islamic political thought did not separate between religious and political matters because the dividing line between religion and politics is the distinction between the rights of Allah The Almighty and the rights of people. Actually, this does not mean that the political specifications are outside the scope of religion because the Islamic Sharee'ah contains both of them even if they are included in the scope of ijihad. So, the political matters are included in religious matters and are not separated from them. There are many writings in this direction that tried to show a description of the functions of Islamic state based on Islamic doctrine, on the grounds that the Islamic state in essence is representative of that doctrine. It is a tool and means to establish this doctrine. There are many serious attempts in this field.

The Islamic state should strive for two great goals. The first is administration of justice in the life of people and the elimination of injustice and tyranny. The second is the establishment of religion. Performing salah and paying zakat through what the powers and means of the government. This system constitutes the cornerstone of the Islamic way of life. It should spread goodness and righteousness, command what is good which is the original purpose of Islam and uproot evil (Al-Mawdudi and Al-Ala, 1981).

Researchers conclude from all of the above that the Islamic political thought viewed that the functions of the Islamic state are the intended goals and aims to be achieved by the state as set by the basic values of Islam. According to the Islam, functions are just values and objective practice to achieve them. These values in the Islamic political thought are based on a central basic value which is monotheism which is the essence upon which Islam is founded as much as it considers of the oneness of Allah The Almighty (Abu Zahra, 1977). Since monotheism is the essence of Islam, it is also the essence of the functions of the Islamic state.

Islamic religion came to affirm a basic principle which the society neglected during the period of ignorance which is the principle of monotheism. The Prophet (Peace and blessings be upon him) was sent to call the society to abandon multiple gods and worship Allah The Almighty Alone. The call of the Prophet (Peace and blessings be upon him) included that people submit to the Sharee'ah; the Qur'an and Sunnah which Allah The Almighty commands. Therefore, the basic function of state is the application of Islamic Sharee'ah because the application of this monotheistic value is the essential aim of the state insomuch as the primary objective of state. So, it represents the substantial value of each function. The Islamic state seeks to achieve its functions in practice as it seeks to establish the purposes of Sharee'ah. Thus, the purposes of Sharee'ah form the aims and purposes of Islamic state determined by the collective logic of the Islamic message which is centered on realizing the interests of people in this life and hereafter and is not accomplished except by following what Allah The Almighty revealed (Al-Haddad and Hubaysh, 1983).

CONCLUSION

Researchers deduce, from the above, a number of bases including: The functions of the Islamic state regardless of its content are determined by beliefs and political ideologies and these functions differ from one country to another depending on the difference of faiths and ideologies. It can be said that there are collective doctrinal issues that determine the content and dimensions of these functions and control their movement both inside and outside. Also, state has become a means of the group to achieve its faith and political ideology. This represents the basis of state legitimacy and justification for its existence. The Islamic thought with all its directions and various stages made the application of Islamic Sharee'ah the primary objective of the functions of the state. Scholars of political thought in Islam in the 1st centuries viewed that Sharee'ah is an approach of regulating worldly life and behavior and dealing with its conditions and circumstances. Sharee'ah is the criterion and reference of matters of worship and worldly things. Thus, the legitimate state should be tried on the basis of referring to Sharee'ah as being the basis and the reference. Based on that, the functions of the Islamic state is based on the establishment of Islamic Sharee'ah and

enforcing its rulings in Muslim community. These are the most important functions of the Islamic state as shown by ancient scholars and current thinkers.

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