Political Legitimacy in Khomeini’s *Kashf-i Asrar (The Unveiling of Secrets)*

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The purpose of this chapter is to clarify Khomeini’s complex notion of political legitimacy in his earliest political work, *Kashf-i Asrar*, or *The Unveiling of Secrets*. While on the one hand, Khomeini is just as insistent in this work, as he would be almost thirty years later in Najaf, that Islam provides direction not only in matters of worship but in social and political matters and should be implemented by any government aspiring to secure the good of its people, his claims are qualified by four factors. First, Khomeini recognizes that Islamic law as it can be found in a body of jurisprudential work, *fiqh*,¹ does not provide for all political needs. In fact, “lawmaking” can occur, and consequently, moral judgment can be exercised in the political sphere, but within the boundaries of what is explicitly called for by the divine law, a law that is interpreted by jurisprudents who participate in government. When Khomeini says that government must implement the divine law and not the law of human beings, he does not see this conviction as incompatible with representative government, and in fact, he recommends a parliamentary form of government, where parliament is either composed of or supervised by jurisprudents. Second, the law passed by parliament, and those who are involved in the creation and passage of the law, must be evaluated and judged by members of a political community. Third, he argues that one need not be a jurisprudent in Islamic law to govern, and government includes roles best-suited for non-jurisprudents. The aim is not simply the handing over of power to jurisprudents but the creation of a constitutional system in which each member of government, jurisprudent or not, is constrained by the law. Finally, he writes at a time that he clearly does not regard as appropriate for revolution; hence, his radical encouragement for reform stops short of advocacy for a complete withdrawal of support for Mohammad Reza Pahlavi’s regime. These four factors, when considered alongside his call for Islamic government, indicate that political legitimacy does not derive from the simple and straightforward implementation of a set of law but instead, the implementation of a system of law-making which includes imperfect lawmakers and produces law suited especially for a given society. This means that due to political circumstances and to our own participation in lawmaking and political decision-making, we may be required to, at least temporarily, expect something less of government, and make it the object of our criticism.

Historical Context

Khomeini writes in the context of an intellectual debate which had been occurring in Iran perhaps most markedly since the mid-19th century, when widespread dissatisfaction with the Qajar dynasty (which ruled Iran from 1785-1925) precipitated debate on political reform and constitutionalism. A central subject of debate concerned the relationship between Islam and

¹ As distinguished from *shari’a*, which refers to Islamic law in an ideal sense, a law that cannot be abrogated or changed.
constitutionalism, and political activists included secular proponents of constitutionalism; religious scholars (‘ulama) and other intellectuals who prescribed a constitutional system of government that they viewed as compatible with, or even prescribed by, Islam; and a second group of religious scholars who were opposed to constitutionalism on a religious basis and, at the beginning of the 20th century, offered reasons for resisting the constitutionalist movement. In *Kashf-i Asrar*, Khomeini’s political theory falls within the former class of religious scholars; he views constitutionalism as compatible with Islam and certainly preferable to untrammeled monarchical government.

Though Khomeini writes almost forty years after the Constitutional Revolution, the debates concerning constitutionalism had far from subsided, since constitutionalists had not yet succeeded at establishing a functional parliamentary government and the impetus for liberal political reform still existed. Khomeini is said to have written *Kashf-i Asrar* in only 48 days because of a “sense of urgency,” and this sense of urgency was most immediately the effect of a pamphlet written by Ali Akbar Hakamizada in 1943, called *Thousand-Year Secrets (Asrar-i Hizar Sala)*, in which Hakamizada criticizes views on religious government which he attributes to Iranian religious scholars and argues for secular government. *Kashf-i Asrar* is primarily a refutation of *Thousand-Year Secrets*, but Khomeini also criticizes the ideas of the prominent anti-clerical writer Ahmad Kasravi, who followed his own “rationalist religious ethic,” as well as the Muslim reformist Shari’i’at Sanglaji. Besides his discussion of political theory, Khomeini is also concerned with condemning the modernizing reforms of Reza Shah, who ruled as shah from 1925-1941; more particularly, he protests against universal conscription, the tax system, and the reformed Ministry of Justice and its judicial procedures. He also answers Hakamizada’s criticisms of Shi’a religious practices which Hakamizada conceived were superstitious and irrational, such as the mourning ceremonies of Muharram, pilgrimage to the tombs of the imams, and recitation of prayers written by the imams, and Khomeini believed that the criticisms of Shi’a Islam espoused by Hakamizada, Kasravi and Sanglaji were the result of the anti-religious policies of Reza Shah.

Scholars differ on the precise year of Khomeini’s publication of *Kashf-i Asrar*, with estimates ranging from 1941-1945, but it must have been published in 1943 or shortly thereafter, since *Thousand-Year Secrets* was written in that year. Tabari says that *Kashf-i Asrar* was published in relative obscurity, and that it “remained relatively unknown until its re-publication in 1979.” Contrary to Tabari, Algar says that the book must have “met a need” because it was published twice in its first year. Though Tabari does not recognize the book’s popularity, he nonetheless contends that it was significant because, in his words, it was the “first systematic formulation of a position of the clerical opposition” to the political regime of Reza Shah, though this formulation of opposition was delayed until after Reza Shah’s fall. According to Tabari, whereas the clergy had for decades been reacting instinctively and in piecemeal fashion to the transformation of Iranian society…Khomeini realized that the accumulation of
changes was resulting in a new social and political structure. He was the first amongst the
clergy of his rank systematically to try to understand the implications of the conflicts
between an emerging bourgeois state and the old Islamic institutional order.\textsuperscript{x}

Political Conditions in Iran During Khomeini’s Writing of Kashf-i Asrar, under Mohammad
Reza Pahlavi

The overthrow of Reza Shah’s repressive regime in 1941 by Allied forces made possible the
open expression of political criticism,\textsuperscript{xi} and during this time, parliament began to act more
independently; it was no longer the rubber stamp parliament that it used to be.\textsuperscript{xii} It would, for
example, use its power of the purse to control governments and put into practice its right to
question and control the selection of ministers.\textsuperscript{xiii} The new king, Reza Shah’s son, Mohammad
Reza Pahlavi, was too young and inexperienced to rule autocratically; in addition, he was
weakened by the occupation of his country by foreign powers—the Soviet Union and Britain—
who had occupied the northern and southern regions of Iran, respectively, in August 1941, just
before Reza Shah was forced from his position in September 1941. The occupation was
prompted by the Allied powers’ fear of an Iranian-German military alliance—the Shah had
friendly relations with the Nazi regime—and their desire for a supply route through Iran to the
USSR.\textsuperscript{xiv} With his country under occupation, his army was preoccupied by the task of securing
internal security, so that “he could only reign, not rule.”\textsuperscript{xv} Pahlavi, during these early years, even
yielded to clerical political pressure, annulling his father’s bans on Shi’a passion plays (re-
enactments of the string of events that led to the martyrdom of the third Imam, Imam Hussain)
and pilgrimage to Mecca. Many women, during this time, began appearing in public with their
heads covered, though this aspect of Islamic dress had been banned in 1936 by Reza Shah.\textsuperscript{xvi}
Despite political conditions more favorable to airing his views, Khomeini chose to publish the
work anonymously.\textsuperscript{xvii}

During the time he was working on Kashf-i Asrar, in May 1944, Khomeini issued his first
political proclamation, “calling for action to deliver the Muslims of Iran and the entire Islamic
world from the tyranny of foreign powers and their domestic accomplices.”\textsuperscript{xviii} However,
Khomeini refrained from regular political involvement until 1962, since such involvement would
conflict with the political quietism of the senior members of the religious establishment.\textsuperscript{xix} This
concern, along with his concern with preserving the degree of unity among Iranians required to
oppose Britain and Russia, are key to understanding Kashf-i Asrar, in which Khomeini, as will
be argued, tempers his criticism of the government by clarifying that he is not calling for a
revolution. To call for a revolution would set himself too starkly at odds with the senior clerical
establishment, and a revolution would undoubtedly make Iran even more vulnerable to external
threats. Still, he levels harsh criticisms against the existing regime, arguing that it should be
structured such that religion serves as a check on political action. He advocates reform, and not revolution.

**Khomeini’s Political Thought in Kashf-i Asrar**

Three chapters of Khomeini’s work contain discussion of government in the contemporary age; they are: his chapter “On the Clergy,” “On Government,” and “On the Law.” He begins the chapter “On the Clergy” by saying that in the next three chapters he will address numbers five through nine of the questions that Hakamizada has raised in his pamphlet. Hakamizada had concluded his pamphlet by listing, in numerical fashion, the questions he wishes those who are “possessing of knowledge” to answer. It is important to keep in mind that Khomeini writes with the stated intention to answer these questions; these concerns, and not the concerns of the modern reader, are to shape his writing.

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2. My translation; all translations from Kashf-i Asrar and from Asrar-i Hizar Sala that are recorded in footnotes are my own.

3. Is their claim correct when they say that the mujtahid, during the time of the Occultation, is the appointee of the Imam [in Occultation]? If so, what are the boundaries [of this appointment]? Does it include government and guardianship, or not?

6. Wouldn’t it be better for the clergyman to earn his salary by working, or by another stable and fixed means, so that he is free to speak the truth? Or should he, as is the case today, receive his salary directly from the masses and be forced to act in a way that satisfies their desires?

7. What do they mean when they say that government is oppressive? Do they mean that because the government does not act according to its duty, it is oppressive? Or do they mean that the government must be in the hands of the mujtahid [a jurisprudent capable of employing the rational legal methodology of ijtihad]?

8. What do they mean when they say that taxes are haram [prohibited in Islamic law]? Does it mean that taxes must generally not be collected? Or does it mean that instead of taxes, zakat [an Islamically-specified tax] should be collected? If it is the latter, in modern-day contexts, such as the context of Tehran or the cities of Mazandaran or in industrialized countries, on what items should the zakat be imposed?

9. Do humans have the right to make law for themselves, or not? If they do, is obeying that law wajib [obligatory according to Islamic law], or not? If it is obligatory, if someone violates [this law], what is his/her proper punishment?

Persian Original of Questions Five through Nine:

اینکه می‌گویند مجتهد در زمان غیب نایب امام است راست است گر این راست حوزه‌دش چیست ایا حکومت و ولايت نیز در آن هست یا نه؟
**The Divine Basis of Political Legitimacy**

In his early discussion of government, Khomeini aims to bring the reader to question his or her own perception of political legitimacy—at least the perception of one who is uncritical of the political order that existed at the time Khomeini was writing. Hakamizada’s claim had been that contemporary Iranian religious culture, if not Islam in its essence, has brought Iranians to be less confident in their own agency and to neglect their own capacity for rationality. While Khomeini agrees that the symptoms exist, he does not accept Hakamizada’s account of the cause. Iranians have become irrational and unquestioning, he says, but not due to any fault of religion. Furthermore, Khomeini wants to draw the reader’s attention to a particularly relevant consequence of such qualities—an inability to develop rational political ideas. He agrees with Hakamizada—customs and habits blind us to reason, to the extent that if someone says something completely reasonable, it sounds bizarre to us. But importantly, these customs and habits stifle our political thinking. We have grown too accustomed to the rituals of the political world and have thus become subjugated by certain political masters.

If the same political relationship would occur in our personal lives—if someone stole money from us, or compelled us, with direct force, to do something against our will—then this person’s transgression would be condemned and would be conceived as an action which stands outside of reason. We would regard the transgressor as a criminal, we would believe he deserved punishment. And we would issue an identical appraisal of this type of political interaction on a slightly larger scale—if this criminal gathered a small group of twenty-three people and attacked a village, the injustice of the action would be perfectly clear to any “reasonable” person.

Khomeini continues to describe instances of transgression on a progressively larger scale until he describes a situation that sounds not unlike an event that Iran had recently experienced with Reza Shah’s rise to power. Suppose, he says, this criminal recruits an army and attacks the capital of a
kingdom, throws out the king, and takes the king’s place. Just a few days later, the name of this event suddenly becomes a coup d’état, and “they” begin to honor him and obey his law. (It is unclear, here, who Khomeini means when he says “they,” but it seems not to be “the people,” as he says that in this scenario the new ruler is honored so quickly that recent events are still bitter in the mouths of “the people.”)  

What is the difference, he asks, between each of the events that he describes, each occurring on a larger scale than the one before it? If our minds were free from the habit of unthinking acceptance of political regimes which were established (and, by implication, continue to exist) by force, we would realize that all of the events he describes are blameworthy, not simply the events that occur on a smaller scale which involve transgression that is more palpable. The transgression of a dictator who seizes power is just as repulsive in quality as the transgression of a thief. We have been accustomed to think, however, that as the scope of force becomes more expansive, the action begins to differ in kind, when in reality it only differs in scope. If we were able to exercise our reason and discard tradition, we would recognize oppression for what it is. Thus, Khomeini argues, Hakamizada is right to call us to exercise our reason, but he does not understand that the most dire consequences of our neglect of our reason occurs in the political sphere. Perhaps most importantly, we must acquire that clarity of reason that will allow us to understand that the laws that we obey have no basis other than force and is the result of no holier act than that of the transgression of a single man, a single criminal, who has managed to gather around him an army of soldiers. We must unravel our notion of political legitimacy and recognize that the imposed political rule of a single man is condemnable for the same reasons that the actions of a thief or a bully are condemnable. This kind of government involves the unlawful exercise of control by an individual over items that do not belong to him, and the unlawful exercise of force over other individuals, compelling them to act in a way that is against their will.  

Once we pull the veil aside and come to understand the injustice of a political rule that is forced upon us, our minds are free to grasp an ideal notion of political legitimacy—one that is divine. Khomeini does not stop at critiquing what, to the modern reader—though perhaps not to his own audience—is a manifestly illegitimate form of political rule. He goes on to argue that no one, except God himself, has a “right” to rule, and that humans have no right to create law for themselves. It is as if Khomeini wishes to shift our conception of political legitimacy from its comfortable and glorified position in human institutions. No human entity has a right, or any sort of moral claim, to govern or make law.  

Khomeini begins his discussion of politics in his chapter “On the Clergy” by arguing that when we speak of “right” to government, it is only God who has this right. The law of reason, given to  

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us by God and which no one is capable of contesting, says that among humans, law and government is a necessity, and it is only appropriate for one who owns everything that the people own to exercise government over them, so that exercising control over the people and their belongings means exercising control over his own belongings. Thus, the only entity whose exercise of prerogative and guardianship over all humans is, by the law of reason, appropriate, is God.

Later, in his chapter “On Government,” Khomeini addresses Hakamizada’s question, “do humans have the right to make law for themselves, or not? If they do, is obeying that law wajib [obligatory according to Islamic law], or not? If it is obligatory, if someone violates [this law], what is his/her proper punishment?” Khomeini’s answer to the first question is “no,” and this obviates his need to answer the other two—no, he says, humans have no right to create law for themselves. It opposes our reason to claim that the law of one person, or of many people, without any particular reason, must be obeyed; it conforms with our reason, on the other hand, to call these lawmakers criminals.

Khomeini is clear, in these two separate passages, about what he does—and does not—regard as the basis of political legitimacy. In a radical assertion of a right to autonomy, Khomeini says that no individual may exercise control over another individual’s life and property, unless that individual owns this life and property. At the same time, he is clear in the first passage that this is not an argument for anarchy—that according to the law of reason, government and law must exist among men. Because only God exercises ownership over the property of all individuals in a given community, he is the only entity who can claim a right to absolute governorship over this community.

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5 حکومت
6 تصرف
7 ولایت
8 The entire passage reads:

"از احکام روشن عقل که هیچکس انکار آنرا نمیتواند بکند آن است که در میانه بشر قانون و حکومت لازم است و علیه بشر نیازمند بتشکیلات و نظام نامه و ولایت و حکومت‌های اساسی است و آنچه عقل خدا داده داده حکم می‌کند آن است که تأسیس حکومت بطوری که بر مردم بحکم خرد لازم باشد متابعت و پیروی از آن از کسی روا و بجا است که مالک همه چیز مردم باشد و هر تصرفی در آنها بکنند تصرف در مال خود باشد و چنین شخصی که تصرف و ولایت در تمام بشر بحکم خرد نافذ و درست است خدای عالم است که مالک تمام موجودات و خالق اراضی و سومات است پس هو حکمی که جاری کنند در مالکت خود جاری کرده و هر تصرفی بکنند در داده خود تصرف کرده است."
Illegitimate Representative Government

However, Khomeini’s challenging of his reader’s preconception of political legitimacy does not simply aim at prompting them to realize that injustice of the tyrannical rule of a dictator and the necessity to simply replace the dictator’s government with government by divine law. He does not argue that the human plays no part in government. His claim is made less radical, and more understandable, by the clarification that representative government is not to be condemned outright, but instead reformed such that it is faithful to both the divine law and the wishes of constituents. While on the one hand, Khomeini says that only God has the right to govern, he also criticizes a corrupt form of representative government, one that is disconnected from the people—which leaves a functionally, actually-representative, ideal form of representative government unscathed by criticism.

Khomeini’s ideal representative government is, in many ways, a form of government that sounds familiar. He argues that sound reason would lead us condemn a group of people that imposes itself upon the people in the same way as a single man. If just an every-day individual wrote a book of law without having been chosen by the people to write this law, and this book of law instructed people to tasks that were “opposed to their way of living and their inclinations” then we would judge his law to oppose “reason and justice.” Khomeini here discusses “inclinations,” a word which implies ideas and desires rooted in nothing but the self, and not “interests” which are said to be objective. There is no difference, he says, between a situation in which an every-day individual is unfairly given the privilege of writing the law, a situation that so obviously elicits our condemnation, and a situation in which a hundred different individuals, “by means with which we are all familiar,” including by fabricating votes, acquire seats for themselves in parliament. Whatever laws these individuals pass, he says, are opposed to the inclinations of their constituents or are for the purpose of plundering their possessions, destroying their lives, and taking away their dignity.

Khomeini does not hesitate to move beyond the hypothetical and to openly criticize the ostensibly “representative” government then existing in Iran. Fourteen election periods have passed, and we have seen that in the era before the dictatorship [of Reza Shah], during this era, and after this era, “representation did not occur on the basis of justice and freedom.” In
addition, “the majority of people are not aware of the concept of representation, the arrival and conducting of elections, the nature of representation and the limitations of the prerogatives of the representative.” Furthermore, he says that the faulty administration of elections may be at least partly to blame. In provinces with a population of more than 20,000, no more than ten to twelve thousand voter registration cards are distributed. In such a situation, he says, “representation is oppressive and the laws of [representatives] are transgressions.” After all, when constituents do not know their rights, or the dates of elections, or what sort of behavior they can and cannot expect from their representatives; and when, on a more basic level, they are not given a ballot which they can use to vote, how can we expect representative government to fulfill its function?

Khomeini’s discussion of illegitimate forms of “representative” government allows us to more fully understand his views on this form of government, and in particular, the extent to which principles of representative government can be a basis for political legitimacy. Parallel to his condemnation of the forced rule of a single criminal, Khomeini does not issue a blanket condemnation of all representative government, but instead his description of illegitimate representative government is more particular—a particular kind of representative government elicits his condemnation here; one in which seats are bought, in which the preferences of constituents are not taken into account and instead representatives use their power to pursue their own benefit, and in which people lack the awareness and the means to participate effectively in representative government. He does not dispute the claim that elections can be a basis for legitimacy. Instead, he says that we would be fooling ourselves if we believed that representatives were actually chosen and held accountable by a majority of their constituents. And he speaks highly of one parliamentarian who he believed did fulfill his duty as representative: Hasan Modarres, a member of the 10th Parliament who was outspoken in his criticism of Reza Shah.

Here would have been an opportunity to condemn or criticize parliamentary government in its essence—to claim that the election of representatives to government will lead us further away from ideal government, in which God’s law is effectively implemented—but Khomeini instead criticizes the imperfect implementation of representative government, arguing that votes cannot be bought, a sufficient number of ballots must be distributed during elections in the provinces, and that on the whole, representatives do not act as our reason would tell us they should—that is,
in a way that results from a tie of accountability between constituent and representative. These practical criticisms indicate that Khomeini supports principles of representative government.  

**Reconciling Divine and Human Rule**

How are we to reconcile the disparate elements of Khomeini’s conception of political legitimacy—on the one hand, statements which say that the right to govern and create law belong exclusively to God, and others which say that a corrupt representative government should be reformed but not eliminated, that it is simply unfair for representatives not to faithfully fulfill the duty entailed by their political titles? While his criticism of Iran’s parliamentary government indicates that he sees representation as valuable, he stops short of arguing that the dutiful fulfillment of the wishes of constituents by representatives in government is the basis of political legitimacy. He does not argue that if representatives were to be elected and were to attempt to pass law which accords with the wishes of their constituents at any given time, there would be nothing to criticize about government. If we were able step outside of the habits that have caused us to develop notions of justice and freedom which lead us to accept a corrupt political order, we would realize that “a representative’s actions must, by the law of reason, be in accordance with the well-being and the interest of the represented, and if not, then the representative is deposed from his position according to the laws of treachery and crime…”  

Representatives cannot simply listen to the preferences of their constituents—Khomeini has an additional standard; namely, that the work of the representative must be in accordance with the well-being and the interest of the constituent.

But who is capable of passing law which accords with the “well-being and interest of the represented”? Certainly, Khomeini has no favorable expectation of leaders or lawmakers.

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16 Thus, when Farhang Rajaee argues that Khomeini sees “no fundamental distinction among constitutional, despotic, dictatorial, and communistic regimes” (*Islamism and Modernism*, 66), it is not quite so simple. Rajaee comes to this conclusion based on Khomeini’s contention, found in *Kashf-i Asrar*, that “all countries of the world have been founded on the basis of dictatorship, even though they [political leaders] have named them other things, such as constitutionalist, democratic, communist, and socialist” (365), but this is an observation of the world as he sees it; he says that in the world as it exists today, all governments exercise unlawful control over their peoples, not that all forms of government—democracies included—necessarily must be founded upon this basis. Furthermore, all governments exercise a degree of tyranny insofar as they do not implement God’s law, since only God has the right to implement law. By favoring their own law over God’s, and then denying that God has this right, they exercise tyranny not only against God but against people. While Rajaee may be correct that according to Khomeini any regime that does not implement God’s law exercises a kind of tyranny—whether it operates democratically or by rule of a dictator—Khomeini must recognize a ranking of preference among these regimes because he speaks favorably of the concept of representation.

17 "...وکیل به حکم خرد باید کارهایش موافق صلاح و نفع موکل باشد و گر نه از وکالت معزول است بحکم خیانت و "...جنایت..."
Humans are humans, he says—just like their constituents, these leaders are driven by desire, influenced by Satan, and pursue their own benefits, even sacrificing the interests of others for their own. We cannot expect an ordinary individual to prefer others over himself—although the crucial word is “expect”—we may be allowed to consider the possibility, or even to think likely, that an ordinary individual would prefer others over himself. In a subsequent section on Quranic evidence for his views on government, he says that because in every human exists the “desire for rulership over all of the world, and not one of them eats bread off of his own table, and in the nature of each person is the ability to transgress the rights of and oppress others,” God could not have possibly left humans “without a duty” to establish order in society and could not have neglected to provide them with instruction on just government. Because parliamentarians will be imperfect in their lawmaking and governors will be driven by their desires and cannot be expected to put the interest of the country above their own selfish interests, government must be constrained by Islamic law.

Hakamizada had argued that Islamic law does not speak to matters of government, so much so that if a jurisprudent were to govern he would be as unsuited to his task as would a doctor to working on an automobile mechanic and that Islamic law has no relevance to the modern world. Khomeini wants to be clear that he does not accept this claim; Islamic law, he says, is certainly relevant to the task of government, even in the modern age. Is it possible, he asks, for our reason to allow for the possibility that “a God which has created the world with such astonishing order and care, on the basis of wisdom and well-being, would…set [humans] free without instruction, without establishing a just government among them…one should not expect this of a God who acts according to reason …His law is based on justice and the preservation of a [political and social] order and rights, and of course, personal benefit and personal opinion and other productions of this world will play no part in the heavenly law.”

God, in his justice, has therefore left us with a “method of forming government.” Interestingly, his recommendations for government do not transgress the system that had been set

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18...در هر یک هوای سلطنت همه جهان است و هیچیک بر سفره خود نمیخورد و در نهاد هر کس تعدی و تجاوز
19...خدائی که این جهان را این نظم و ترتیب بیشتر از روی حکمت و صلاح خلق کرده…ممکن است بدون تکلیف رها
20...طرز تشکیل حکومت...
up by the Constitutional Revolution of 1906. He argues that the implementation of one article of the constitution in particular can help to do away with the corruption that has led so many people—not just members of the clerical class—to refrain from pledging political loyalty and support. This article prescribes the supervision of parliament by a committee of religious clerics. “Simply implement one article of the constitutional law (‘whatever law opposes shari’a does not have the force of law’),” Khomeini says, “so that all of the individuals of this country will be unified and the situation of the country will change as fast as lightning. With the implementation of this [article], those sorrowful institutions will be transformed into new institutions which operate based on reason, and with the efforts of [both] the learned and the masses, the country will develop such a change in character like the world has never seen.”

Thus, in Khomeini’s view, parliament is capable of implementing law which does not conflict with the shari’a.

How is parliament to be constituted? Khomeini mentions two types of parliaments; first, there is the “founding parliament,” which is elected by the people to reformulate the constitution and choose a new king. This parliament should be composed of “religious mujtahids who understand God’s law, who are just, who have been liberated from their desires, who are not polluted by the world and by rulership of it, and who do not have any aim but the benefit of the people and the execution of God’s law…” This body can then choose a “just monarch who does not act against God’s law and who is not oppressive and does not encroach upon the properties, lives, and dignity of the people.”

Second, there is the parliament which functions as an every-day legislative body. Just as we now establish a parliament to impose European or self-formulated law on our nation, he says, we should instead replace it with another kind of legislative body. What would be wrong with the world, he says, if parliament were to be “composed of religious jurisprudents or [operate under] their supervision, just as the law prescribes now?”

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21 "شما فقط یک ماده قانون مشروطه را عملی کنید (که هر قانونی که بر خلاف قانون شرع باشد قانونیت ندارد) تا تمام افراد این مملکت با هم هم آواز شوند و وضع کشور بر قرار نگیرد که با عملی شدن آن تمام این تشکیلات اسف اور بتشکیلات نوین خردمدئانه تبدیل پیدا کند و با تشکیل مساعی همه توده عارف و علمی کشور رنگ و رونی پیدا کند که در جهان نظیر آن را پیدا نکنید.”

22 مجلس مؤسسات

23 "مجتهدین دین دار که هم احکام خدا را بدانند و هم عادل باشند و از هواهای نفسانیه عاری باشند و آلوهه بهنیا و ریاست آن نباشند و جز نفع مردم و اجراء حکم خدا غرضی نداشته باشند..."

24 "یک نفر سلطان عادل...که از قانونهای خدا نی تخلف نکند..."

25 خود دراری

26 "از فقهاء دین دار تشکیل شود یا بنظام آنها باشند چنانچه قانون هم همین را میگوید..."
Khomeini here sets up a parallel between the system of government that existed then and what should occur within these boundaries. He takes the existing government as the raw material with which to describe his reforms of government, without significantly transforming this raw material. There is still to be a monarch, and there is still to be a parliament, but these are to be qualitatively different when they are Islamic. Instead of a founding parliament which chooses just any individual to be monarch—based on, it is implied, no specific set of standards—there should be constitutional provision for a founding parliament that is made up of mujtahids who are themselves ethical human beings and who will choose a just monarch. Furthermore, instead of a legislative parliament which passes reprehensible law, often based on no set of standards or based on a wrong (European-influenced) set of standards, there should be a parliament either composed of jurisprudents themselves or supervised by jurisprudents. It is not clear that this is Khomeini’s ideal government, but it is certainly an improvement upon the existing structure. Khomeini here describes an improved government which both includes a representative body and functions within the boundaries of Islamic law. A legislative branch, therefore, can be part of an Islamic government, and this can either be composed of elected jurisprudents or supervised by jurisprudents. Khomeini is not opposed to the principle of representation but only, he says, to parliaments made up of representatives who are ignorant of or who act wrongly and do not follow God’s law and prefer to follow European law. As long as our representatives are enamored of Europe, and not of God, he says, our country will continue to exist in its deplorable state.\footnote{Vannessa Martin says that Khomeini believes that “any sovereignty except the sovereignty of God is against the well-being of the people and is tyranny...” (Martin, “Religion and State,” 4). She then concludes from this that Khomeini rejected all forms of sovereignty, and not simply all forms of monarchy, in favor of the sovereignty of God. She argues that Khomeini was “absolutely clear in his rejection of the Western constitutionalist state. The chief reason was the question of law and the threat posed to the 
\textit{shari’a} by the law of parliament deriving its authority from the will of the people, rather than from the Divine Will” (4). However, in the passage she quotes, she understands the word “\textit{saltanat}” not to mean monarchy but more generically to mean sovereignty. It seems unlikely that Khomeini was here discussing sovereignty in a general sense, rather than a particular form of political sovereignty—monarchy—since in the sentences that precede this statement the topic of his concern had been monarchy, and not the idea of sovereignty. Khomeini had been arguing that despite the corruption of the Pahlavi monarchy, the ‘ulama have chosen not to actively oppose that regime and have chosen to instead fill non-political roles. Among the roles that the ‘ulama claim for themselves, “they have not mentioned the word ‘government,’ and they never mention the word ‘\textit{saltanat},’ even though all [forms of] \textit{saltanat}, except for the divine \textit{saltanat}, oppose the well-being of the people and are oppressive” (Kashf-i Asrar, 235). If Khomeini is here referring to a particular kind of “\textit{saltanat}” —namely, the sovereignty of a monarch—as seems more likely from the context, then there is nothing here that indicates that Khomeini is “absolutely clear in his rejection of a Western constitutionalist state.” Khomeini does state, as Martin translates, that “except for the laws of God, all laws are void and useless” (Martin, “Religion and State,” 4), but this, too, cannot serve as evidence that Khomeini rejected “Western constitutionalism,” since, as I argue, Khomeini did not believe that parliamentary lawmaking would necessarily conflict with the divine law.}
But if we are not to expect very much of human beings, if we are to doubt parliamentarians’ capacity to pass law that conforms with the two criteria that Khomeini mentions—that law not be imposed, but also that it secure the well-being of the people—and if parliamentary law must be shaped and limited by Islamic law, then what is left over of representative government? Khomeini did envision a role for a parliament, but what would that role be? What of Khomeini’s idea that “law leaves nothing out,”xxxvii that Islamic law has given us direction on how to establish a government and has given us a system of law—tax law, criminal law, civil rights law, and law according to which a political system functions?28 How does Khomeini’s argument for the crucial role of Islamic law—and the absence of a fundamental right for any other law to be enacted—square with any possible reconciliation between Islamic and representative government?

Further evidence of Khomeini’s views on representative government comes in the section in which Khomeini discusses Hakamizada’s claim that parliamentary government and Islamic government have incompatible origins of legitimacy and thus cannot be merged. If legislators must get permission from the jurisprudents to pass law, then this can mean only one of two things. On the one hand, it can be the sort of permission that has no practical relevance—legislators are able, in the end, to make the decisions they think best. On the other hand, if every act must have been gotten permission for, then this creates a crisis of legitimacy, because with the presence of the jurisprudents on the scene, the law and parliament and government “have no meaning.”xxxviii If the claim is that legitimacy depends upon the permission of religious specialists because of their understanding of the divine law, then why even have a parliament or a government? If jurisprudents are giving parliament permission to pass each and every law and the government permission to engage in each and every political act, then unless this granting of permission is simply a formality, the jurisprudents are indicating that he understands what is at stake in each decision and makes an informed choice based on not only his legal knowledge but his understanding of the circumstances and moral debates surrounding the issue at hand. After all, an act may be legitimated only by one who fully understands the law. But if the jurisprudents are in a position to grant permission, why are they not in a position to pass law? Do the parliamentarians and other members of government who have, in any case, inferior knowledge, become superfluous or second-rate in their deservedness to participate in government?

What can be understood from Khomeini’s discussion of this problem is his view of the relationship between parliament and the supervising jurisprudents in government. Is Hakamizada correct to claim that that in a government supervised by jurisprudents, a parliament can “have no

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28 "قانون اسلام در طرز تشکیل حکومت و وضع قانون مالیات و وضع قوانین حقوقی و جزائی و آنچه مربوط به نظام" مملکت است از تشکیل قانون گرفته تا تشکیل ادارات هیچ چیزرا فروگذار نکرده است."
meaning”? No, Khomeini says, it is incorrect to claim that parliament can have no meaning under the supervision of the jurisprudent. To make this claim, he says, would be like claiming that in a representative system of government “parliament is dependent upon the existence of constituents, and with the existence of constituents and elections, a representative and parliament do not have meaning.”29xxxix Because Khomeini does not elaborate on his view of the function of a representative with respect to the representative’s constituents, it is difficult to determine what he means when he argues that representation is meaningful, but he implies here that the representative fulfills a function which his constituents cannot fulfill, and this makes it meaningful. The divine law cannot do everything in Islamic government, just as constituents cannot do everything in secular government. While the ultimate service of the representative in a secular government is to his constituents, the service of a parliamentarian in Khomeini’s ideal government is to the divine essence and his law—as articulated by jurisprudents—but this law, and these constituents, do not place restraints on the parliamentarian such that there is no room for him to make any moral judgments. All that is required of the parliamentarian is not simply that he must bow to the rule of Islamic law and to the opinion of jurisprudents in power.

In his chapter “On the Law,” we can gain further insight into what Khomeini envisioned the role of a parliament would be in a government which implements Islamic law. In this chapter, he describes the relationship between shari’a and law that is passed in response to the needs of contemporary society. This is in response to Hakamizada’s argument that the shari’a was formulated to address the needs of seventh century Arabia, not a country in the 20th century which aspires to be modern. “It is impossible,” says Hakamizada, “that shari’a could provide for all human needs, in every place and in every time.”30xli Khomeini responds by saying that it is wrong to claim that God was incapable of foreseeing the needs of future societies and therefore his law is neglectful of modern exigencies. God’s law, he argues, must surely speak to modern times as well. If we truly understood God, he says, we would know that God is not neglectful of a single minute particle in this world; why, then, would he be neglectful of our need for law—political law included?

According to Khomeini, there are two sorts of law which Hakamizada claims individuals will come to need with the passage of time; firstly, law which opposes the shari’a—for example, taxes on haram (legally impermissible) items. This type of law, he says, is by no means acceptable, since it is harmful to the country and its people.31 A second kind of law that the country will come to need with the passage of time is law is not at odds with the shari’a but

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29...این مانند آن است که یک مجلس بسته به وجود موکلین و انتخابات است و با بودن موکلین و انتخابات وکیل و مجلس ..." معنی ندارد..."

30...این مسلم است که قوانین شرع هر اندادجه جامع و کامل باشد باید محال است که بتواند همه احتیاجات بشر را در هر جا و هر زمان تأمین کند..."
plays a role in sustaining the “order of the system and progress of the nation.” Islamic government, he says, can determine, “by means of religious specialists,” whether this law is compatible with Islamic law. For example, if it is determined that in order to protect the country or particular provinces, there is need for the passage of law which religious specialists have determined does not contradict Islamic law, then there is no obstacle to formulating and implementing that law. Government can implement laws, he says, “only if they are meant to secure the well-being of the country, even if they are not included in the law of Islam.”

This passage indicates that Khomeini saw a role for jurisprudents in distinguishing whether law accords with the shari’a but not necessarily in the drafting and passage of the law itself. Religious specialists must “agree to” the creation of institutions which are not mentioned in traditional religious law but for which the country has need. While “Islamic government” is concerned with drafting law (Khomeini does not specifically use the word “parliament” in this passage), jurisprudents are responsible for determining whether this law contradicts with Islamic law; if it does not, then this law is legitimate, in Khomeini’s view. Thus, while Khomeini on the one hand had argued the exclusive legitimacy of God’s law, in this section, he develops a more nuanced explanation of the term and argues that there is, in a fact, a kind of lawmaking in which humans are able to engage; however, this lawmaking is limited by the strictures of God’s law. This is despite the fact that in his chapter “On Government,” he had stated explicitly that lawmaking is exclusively a divine activity.

The extent to which Khomeini believes that humans have prerogative in lawmaking is further illustrated in another sub-section of this chapter “On the Law,” in which Khomeini discusses how to encourage in citizens obedience to the law. Hakamizada had criticized the existing state of political affairs by saying that law is only effective when humans have embraced the law fully, and he implies that religious belief has kept citizens in Iran from fully accepting state law, hindering the emergence of an effective constitutional system and legislative branch. Khomeini says that it is possible to create a society in which law is more than, as Hakamizada had contended, “a paper tree which looks like a tree on the outside, but is blown over with one gust of wind.” Law will be respected by the people, recognized as law in its fullest sense, when several conditions apply. Firstly, the people must have determined the lawmaker to be a “righteous individual who, in his lawmaking, does not consider anything but the well-being of...
the country and its people…and if they see that the lawmaker is driven by his desires and interested in power and will not keep himself from committing any crime in order to occupy a representative seat [in parliament] and [filling] a ministerial position, then inevitably the people will not have faith in this law, and we should expect that they would develop this faith.”

Furthermore, these “lawmakers must not exempt themselves from the law…” Thus, not only does Khomeini believe that lawmaking can occur within a certain sphere of legitimacy, but that the people must come to have full faith in law which has a non-divine origin, and they can arrive at this faith only when they have judged the lawmaker to have lawfully attained his position in government and to be inspired in his lawmaking by consideration for the well-being of the country and its people. Only in this way will law “plant its roots in the hearts of men.”

Secondly, not only do people internalize the state law as “law” by positively assessing the lawmaker, but also by positively assessing the law itself. Khomeini says that that the law itself must be “rational” and must have been enacted with a view to the good of the country; when the people judge the law to have these qualities, they will develop “belief and faith” in it. Mandatory military service, judicial law, customs duties, and most of our country’s laws are not worthy of faith and acceptance, he argues. Individuals can, by accessing their reason and their ability to distinguish what is in the interest of the country, come to have faith in the law. This is not to imply that humans may obey or disobey the law as they please but that law must achieve some level of respectability or of rationality if people are to take it seriously.

After his discussion of the qualities of the law and the lawmakers who will inspire citizens to obey and support their country, Khomeini uses the word “lawmaker” to refer exclusively to God. “We say that the lawmaker must be God,” he says, “and members of government must have those characteristics that Islam has specified because under these conditions the law will root itself in the hearts of men and the people will develop faith and belief in the law.”

In this concluding sentence, Khomeini uses the word “lawmaker” in a different way from his use of the word earlier
in the passage, and thus he employs the concept of law in two different ways in this part of the chapter. On the one hand, he argues that “lawmaking” may occur for the purpose of responding to contemporary exigencies but constrained by the boundaries of the *shari’a*, and he specifies the characteristics of the lawmaker and describes qualities of law that will make it acceptable to the people. This indicates not only the flexibility of law and the necessity for people to create law to the extent that it is flexible, but also that it is necessary, in Khomeini’s view, for law and lawmakers to attract the obedience and approval of the people, and for humans to issue judgment about the law and its creators. On the other hand, in his concluding sentence, he says that the only true lawmaker is God; those he had previously called “lawmakers” he calls, in his concluding sentence, “members of government.” This sort of switching of terms is only possible if the word lawmaker can vary in meaning; in this case, it refers to the makers of two different kinds of law. God the lawmaker creates perfect law, while human lawmakers, members of government, create law which only aspires to this perfection but which nonetheless can be called law and can be obeyed and respected when certain conditions apply.

**The Role of the Monarch in Khomeini’s Recommended Political System**

Given that Khomeini’s recommendation for an improved political system does not exclude the monarch, how may the monarch—who, in Khomeini’s view, must have been selected by a founding council of jurisprudents and must “not act against the divine law”—limit the parliament and the possibility of representative government? Though Khomeini’s idea of reformed government includes a monarch, to what extent does Khomeini view the monarch as able to overrule parliament? Does Khomeini align his views with the constitution produced by the Constitutional Revolution?

Khomeini is clear, in this text, that the power of the monarch must be conditional; he must be “obedient to the laws of the country, which are themselves the laws of God.” As he repeats several times in the text, he says that the monarch need not be a jurisprudent, and that the claim of the clerical class has never been that the monarch need be a jurisprudent, although he does say that at minimum jurisprudents should choose the monarch. Hakamizada had claimed that if the jurisprudents were to exercise government, then “we would have multiple shahs,” implying that the jurisprudents cannot exercise political power and serve as the successor to the Imam because this would cause diffusion of authority. Either Hakamizada does not examine the possibility that an institution could be set up which would regulate and organize their practice of authority, or perhaps his argument assumes this institutionalization but still implies that there is no religiously-sanctioned way of negotiating between the varying views of jurisprudents and establishing one “shah.” Khomeini answers, however, that no jurisprudent has ever claimed that

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41 مطیع قوانین کشوری که همان قانونهای خدایی است.···
“we are shahs, or the monarchy is our right.”**42** This means that Khomeini allows that a non-jurisprudent can fulfill this supreme executive function.

Interestingly, he says that the monarch should be a member of the military, but historical and military knowledge alone does not suffice for a king, and not just any military man can be selected to be king.” Reza Khan, he says, was a military man, but he was a poor monarch. Instead, the king must exhibit additional qualities. First, he must not “consider it permissible for himself to violate the law, and he must consider himself obedient to the law if others are to consider him worthy of their obedience.”**43** Secondly, the king must “believe the country to be of himself and himself to be of the country;” he must feel a sense of attachment to the country, such that the country’s interests and his interests are inseparable. Such a perception of his relationship to the country would prevent him from, for example, granting economic concessions to foreign powers for his own personal financial benefit. Third, the king must feel himself responsible for protecting the lives, property, dignity and honor of the people.

Thus, in Khomeini’s view, the king must both be of service to the people while at the same time limited by law passed by a parliament. Khomeini describes a monarch who benevolently struggles to do what is best for his country; if he considers the country to “be of himself,” there is a sense in which he must feel responsibility towards the country. At the same time, however, the king is “of the country”; there is a sense in which the country is an entity greater than the king, to which the king must be receptive and offer his services.

**The Role of Jurisprudents in Khomeini’s Recommended Political System**

Khomeini’s discussion of jurisprudents’ role in his recommended political system, a role which, he emphasizes, does not preclude the participation of non-jurisprudents in governing institutions, also reveals the extent to which a particular system of law, and not particular individuals or members of particular social and intellectual groups, such as jurisprudents, are crucial to his ideas on government. Hakamizada argues that certain members of the clerical class are critical of the government and claim that it is “oppressive” only because they do not hold power. He asks, “What do they mean when they say that government is oppressive? Do they mean that because the government does not act according to its duty, it is oppressive? Or do they mean that the government must be in the hands of the mujtahid [a jurisprudent capable of employing the
Hakamizada asks a fundamental question; when does a government exercise illegitimate force and become oppressive? Is there a set of duties which set the boundaries within which a government can exercise force legitimately, or is the exercise of force legitimated by the character or qualities of the individual who exercises it? More specifically, do the mujtahids approve of government according to whether it conforms in its behavior to what is regarded as its duty, or do mujtahids only approve of government when members of their own hold power?

Khomeini’s response to Hakamizada is that the standard which must be applied to determine whether a government is oppressive is one which asks whether government has acted according to duty, though he specifies his understanding of “duty” in order to make this claim. “When a government does not act according to its duty,” he says, “it is oppressive, and when it acts according to its duty, it is not oppressive; in fact, it is great and dear before God. However, the duty of government must become clear so that we can determine whether it is oppressive or not oppressive.”

The duty of our government, he then says, is simply to set up an Islamic government which will implement God’s law. The fulfillment of this duty, he says, will mean the creation of Farabi’s Virtuous City.

The purpose is not, therefore, to put the jurisprudent in power; it is not power that clergymen are interested in. Power is what someone like Hitler is interested in; Hitler, Khomeini says, who “all of you irrationally praise from afar,” even though he desired to “take Poland, though hundreds of thousands of families [would] die as a result...[Hitler’s] desire has oozed out of the most poisonous and justice-destroying of human thoughts, and any scholar who loves justice should stand against it...” The purpose is not power, and the purpose is not for the jurisprudents to govern; instead, the purpose is to govern the country by Islamic law, since this secures the well-being of the country and its people, and [governing the country by Islamic law] cannot occur without the supervision of the jurisprudent. The primary goal, in Khomeini’s view, is to secure the well-being of the country and its people. And this goal can only be achieved if Islamic law is implemented; thus, jurisprudents must supervise government or govern directly, so that Islamic law can be implemented. It is not a particular group of people who, when they assume office,
will make possible Farabi’s Virtuous City; it is the implementation of a system of law which is the key to ideal government.

Hakamizada also has the misconception, consonant with his portrayal of religious clerics as power-hungry, that jurisprudents intend to control government entirely. This would be inappropriate, Hakamizada argues, because jurisprudents do not have the skills and knowledge which would allow them to control government. If something is to be made a condition for something else, Hakamizada argues—if, more specifically, one is to argue that a condition for governorship is having knowledge of Islamic jurisprudence—there must be appropriateness to the condition. It would be laughable, he argues, if one were to argue that a condition for being an engineer is knowledge of jurisprudence, just as it is ridiculous to suggest that political duties require knowledge of jurisprudence.

In his response to Hakamizada’s claim, Khomeini argues that government must be a cooperative endeavor between experts in jurisprudence and experts in other fields which are relevant to government. Khomeini says twice in his work that “their” claim is not that the jurisprudent should be “the king, and also the minister, and also the military man, and also the street sweeper…”48“Instead” he says later, “[they mean that] the jurisprudent must supervise the legislative branch and the executive branch of an Islamic government.”50 Jurisprudents, in other words, must exercise guardianship over government; Khomeini denies that “their”

48 Farhang Rajaee interprets this statement differently, however, arguing that Khomeini is here “distinguish[ing] between holding office and acting as guardian” (Islamism and Modernism, 67). According to Rajaee, Khomeini here argues that jurisprudents will not hold direct office but instead should exercise supervision over political offices, an opinion which contradicts, he claims, Khomeini’s later prescription for the direct rule of the jurisprudents in his Najaf lectures. Rajaee argues that Khomeini “remains loyal to the prevalent ideas of Shi’ism—in the absence of an infallible imam, authority belongs to the jurisconsults—but with a qualification. He distinguished between holding office and acting as a guardian” (67). The crucial words that Rajaee does not include in his translation of this statement, however, are the “and also” which separate each of the functions listed (the king and also the minister and also the military man…). Instead, he translates the statement as the following: “When we say government and guardianship in this period belongs to the jurisconsults, we are not saying that the jurisconsults should be king, minister, military officers, or street sweeper” (67). In this translation, the emphasis that Khomeini placed on the “and also” which separated each executive political office disappears with a placement of an “or” before the last term, and the statement reads as if Khomeini is saying that the jurisprudent should not assume any one of those roles, instead of all of those roles collectively. The more accurate interpretation of Khomeini’s argument is that the jurisprudent should not necessarily fulfill every executive political function—that each of these positions does not need to be filled by a jurisprudent. Perhaps a certain ministerial position, for example, would be best fulfilled by a member of the clerical class, but other ministerial positions by specialists in other fields.

50...بلکه فقیه باید نظارت در قوّه تقنّینیه و در قوّه مجریه مملکت اسلامی داشته باشد...
argument—the argument, presumably, of clergymen—had been that jurisprudents should occupy all executive roles in government. All that the argument for Islamic government requires, Khomeini says, is that, at minimum, jurisprudents exercise supervision over the legislative and executive branches, though they may also participate in government. (Khomeini had suggested that jurisprudents occupy political office when he first described his vision of ideal government, saying that jurisprudents could either supervise or directly participate in the legislative branch; thus, Khomeini clearly considered it a possibility that jurisprudents could participate directly in government but does not indicate whether their direct participation would be preferable to their supervision.) Khomeini is intent upon making the point that the clerical class is not calling for jurisprudents to have complete control over government. While Hakamizada argues that there is no relationship between jurisprudence and government—he implies, in fact, that it would be laughable, equivalent to suggesting that an engineer must understand Islamic law—Khomeini does not entirely refute but instead tempers this claim, arguing that while the jurisprudent’s knowledge is not sufficient for government, it is necessary for government, at the very least to ensure that laws passed by parliament or actions taken by the executive branch do not contradict the law of God.

Alternate Principles of Legitimacy in Kashf-i Asrar

We have seen so far that the political system that Khomeini believes should replace the one in existence at the time of his writing derives its legitimacy from its implementation of Islamic law and from the representative decision-making that occurs within the boundaries of Islamic law. But it also becomes clear, in this work, that Khomeini recognizes other sources of legitimacy for governments which rank lower in preference than the government he recommends. Khomeini’s active effort to disprove Hakamizada’s claim that the scholarly class cares nothing for political participation and either actively opposes or does not express support for non-Islamic government (in other words, non-Islamic governments which do not implement Islamic law or feature rule by the jurisprudents) or perhaps even refrains from supporting any government which is not led by the Twelfth Imam helps us to understand the adaptability of Khomeini’s notion of legitimacy. Khomeini wants strongly to refute Hakamizada’s accusation that religious clerics have weakened government with the claim that government in the absence of the Twelfth Imam or without the leadership of jurisprudents is entirely illegitimate. One cannot simply withdraw one’s support from government so that the country becomes vulnerable to external threats, he says; instead, one must struggle for reform from within. This involves maintaining a modicum of support for existing government. Khomeini says that the mujtahids “have never opposed the [current] system of government or interfered with the independence of Islamic countries, even if they have, in the past, considered this law to oppose the laws of God and determined this government to be
oppressive…;” This is because, he says, “they consider this rotten government to be better than no government at all.” The monarch and his law clearly, then, are not “useless”; Khomeini must be using this word for rhetorical purposes. In a later section, Khomeini argues that mujtahids are crucial to strengthening the country, and therefore it was not tactical of Reza Khan to try to weaken the clerical class in his effort to create a modern nation state. The clerics are willing, Khomeini implies, to use their influence to bring the masses to support the state during times of difficulty, and particularly during times when the state’s independence is threatened, even if it means offering their support to a monarch that Khomeini condemns, in strong words, in other parts of the text. Thus, Khomeini’s primary concern, even before his concern for the implementation of Islamic law, is to maintain the country’s independence and protect the people of the country. The clerical classes will mobilize support for a non-Islamic government in order to safeguard Iranians’ ability to exercise political control over their country, free from foreign imposition.

Thus, the exclusive aim, for Khomeini, is not the establishment of religious government; there are intermediate aims as well. In this sense, the protectors of a country do have a right to govern, even if they do not implement God’s law. Right to govern is not simply derived from one’s intention to implement Islamic law. Non-Islamic government can be legitimate, though not as preferable as the government that Khomeini had earlier described, and certainly not ideal. Though earlier Khomeini had stated that only God has the right to govern, here we see that when God’s rule cannot be established (through the implementation of Islamic law and participation by jurisprudents in government), then the exercise of authority over lives and property can be justified in other ways. One cannot simply withdraw one’s support from a government which does not implement God’s law because this would leave the country vulnerable to harm—and perhaps foremost on Khomeini’s mind, harm inflicted by Britain and Russia, already occupying Iran in the North and South and ready to further take advantage of a country with a weak political system. Khomeini’s acceptance of this intermediate goal indicates that the purpose of government is more than simply one-dimensional; it is not simply about implementing all...
aspects of Islamic law, although acting in a way which does not leave the country unstable is part and parcel to the system of Islamic law. Still, it must be maintained, governors who defend the country from foreign encroachment but do not establish Islamic government are acting, at least partially, against the “right of God”—to the extent that they do not implement God’s law.

Khomeini speaks particularly of monarchical government; religious scholars (and he treats these scholars, as Hakamizada does, as a single body with seemingly a single opinion on this matter) don’t oppose cooperation and participation with a government of this kind. It is permissible, he says, and sometimes even religiously obligatory (wajib) to participate in a monarchical government—an idea which stands in contradiction to Hakamizada’s interpretation of a hadith which he says states that it is discouraged, in Islam, to cooperate with monarchical government. According to this hadith, “participation in the affairs of the sultan, aiding him, and attending to his needs is equivalent to ‘kufr’ (rejection of the existence of God).” In his response to Hakamizada, Khomeini argues that Hakamizada has misunderstood the hadith he cites. This hadith, he says, and many others like them, prohibits participation in government institutions for the purpose of aiding oppression. It is good, and sometimes, even religiously obligatory, to participate in the institutions of government “in order to prevent corruption and improve the state of the country and its people…” Khomeini then refers to a hadith by Sheikh Murtaza Ansari, who says that serving the oppressive sultan is permissible in order “to defend the well-being of God’s creatures…for some have said that participating in the affairs of an oppressive sultan is permissible if a person can return to someone what is owed to him,” and it is obligatory to participate in the affairs of sultans when one must “enjoin what is right and forbid what is wrong.” An individual’s participation in the government of a sultan is to not be condemned from the start, but instead to be either praised or condemned according to the “intention” that the individual hoped to fulfill by serving in this political role. “Treachery,” Khomeini argues, even towards a government which behaves wrongly, is haram; where refusing to pay one’s taxes would qualify as a form of treachery (though failing to fulfill compulsory military duties would not).

Monarchical political systems must not be shunned but reformed from within, and to struggle to reform the government, in fact, is often a commendable and perhaps religiously obligatory act. That Khomeini categorizes a hierarchy of political institutions, where government which

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54 "...داخل شدن در عمل سلطان و معاونت کردن از او و رفع حاجت او را کردن هم‌دوش‌کردن است.

55 "...برای جلوگیری از فساد و برای اصلاح حال کشور و توده..."

56 "...قیام کردن بر مصالح بندگان...چنانکه بعضی گفته اند داخل شدن در کارهای سلطان ظالم جایز است اگر بتواند انسان حقی را باصاحب‌کردن بررسید...

57 "امر بمعروف و نهی از منکر"
functions according to God’s law sits at the top, is also made clear when he says that though “men of reason can confirm what is ‘good’ government and government which accords with the well-being of the people and the nation, of course the best institutions were founded upon the law of God and God’s justice…” Khomeini is willing to fathom obedience to governments which men of reason discern are good, but the best institutions cannot always, it is implied, be recognized as such by men of reason. Khomeini says that ’ulama have, in fact, never opposed the principle of monarchy; if government is to be criticized, it is not to be criticized on this basis. Because Khomeini would be opposed to instructions not to participate in monarchical government, this form of government cannot be fundamentally illegitimate (“batel”). Monarchy in and of itself is not condemnable; in fact some of the great ’ulama of the past have participated in monarchical government. While monarchy may be for Khomeini an acceptable form of government, it is not ideal. However, because previous reputable ’ulama were only given ceremonial power in government, he argues, this means that monarchies of the past, such as the Safavid monarchy, which held the clerical classes in high esteem, cannot be held as an example of ideal government because the clerics were ultimately subjects to the king. While Khomeini may condone participation in monarchical government, pointing to the great ’ulama of the past who were high-ranking members of the court, and while he is careful not to call for revolution, he is quite openly calling for reform.

Khomeini’s argument, in an additional way, indicates an adaptable notion of political legitimacy. In this text, he must address two layers of accusations against the scholarly class—one which says that the scholars’ religious opposition to non-Islamic government leads them to withdraw their own support from government and encourage their followers to do the same, and the other which says that the scholars’ own religious philosophy will never, in the future, permit them to support any government which precedes the return of the Twelfth Imam. The preceding discussion has demonstrated that Khomeini seeks to disprove the first accusation—he argues that there can be a postponement of the goal to implement Islamic law if it means that stability and protection from threatening foreign powers can be achieved, and that there can be intermediate levels of legitimacy for certain forms of government, such as monarchy. The second accusation says that because the Shi‘i scholars believe that the Twelfth Imam will bring just government, all governments which come before the government of the Twelfth Imam will be unjust and hence should not be supported. The principle of taqiyya (dissimulation) during the Occultation of the Twelfth Imam will perhaps allow an individual to cooperate with or remain obedient to the government to the extent that guarantees the individual’s safety. But Hakamizada’s claim is that no individual who awaits the messianic return of the Twelfth Imam will, for reasons other than

58...اگر سلطنتی و حکومتی تشکیل شود و هر خرده‌متدی تصمیم می‌کنند که آن خوب است و مطابق مصالح کشور و مردم است البته تشکیلاتی که بر اساس احكام خدا و عدل الالهی تأسیس شود بهترین تشکیلات است...

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securing his own safety, offer his support and contribute to the existing regime. There is no hope, in other words, in any government which is not under the direction of the infallible Imam.

Khomeini seeks to refute this claim, indicating that he has a notion of legitimacy for governments which fall below the divine standard. Whereas previously Khomeini had been concerned with refuting the claim that mujtahids encourage the people to withdraw support from the government for its corruption, or that mujtahids claim for themselves the right to govern and reject any government but their own, here he is concerned with refuting a slightly different claim; namely, that no government before the return of the Imam can be legitimate, and citizens must abandon their concern for the institutions of government altogether.

Khomeini provides two possible interpretations of the hadith, presented by Hakamizada, which says that “any government before the rise of the Twelfth Imam is illegitimate (batel).” This hadith, and others which prohibit engaging in warfare on the side of anyone but the Twelfth Imam, he says, “have nothing to do with founding a godly and just government which any man of reason will feel is necessary.” In other words, such a government, a government which is “godly and just,” can be established before the return of the Twelfth Imam. Instead, he says, there are two alternate ways of interpreting this hadith; firstly, it could refer to the signs which are said to accompany the return of the Twelfth Imam, and its purpose is to warn us that any government is illegitimate which claims to have “raise[d] the flag” of the Imam before the signs that must precede his re-emergence have appeared. In other words, governments which arise before the return of the Twelfth Imam do have a claim to legitimacy but cannot appeal to the same basis of legitimacy as the government of the Twelfth Imam. The government of the Twelfth Imam, according to Shi’i belief, is perfect and unassailable, a “kingdom of God” which comes at the end of time. But according to Shi’i doctrine, there will be undeniable signs which will indicate that he is about to return, which will keep other governments from claiming to be the government of the Twelfth Imam and therefore worthy of unquestioning obedience. This hadith warns us that these signs are proof that the government of the Twelfth Imam is genuine, and any government which is not genuinely the government of the Twelfth Imam, but claims to be, is illegitimate.

Khomeini says that this hadith can also be interpreted in a second way; perhaps, he says, it means to foretell that no government which arises before the return of the Twelfth Imam will “act according to its duty.” The hadith, in other words, could be a foretelling of future events rather than a description of principle; it does not say that we should not endeavor to establish

59...هر دولتی که پیش از قیام قائم بر یا شود باطلست.

60...هیچ مربوط به تشکیل حکومت خدانی عادلانه که هر خردمند لازم میداند نیست...

61...هیچکدام به وظیفه خود عمل نمیکنند...
legitimate government before the return, but that, as events will play out, no government before the return of the Twelfth Imam will be legitimate. He draws a distinction, in other words, between a hadith which is a forecasting of future events and one which is meant to provide moral instruction. When this hadith states that all governments which come before the return of the Twelfth Imam are illegitimate, it may not be instructing us to refrain from participating in all government until the end of the Occultation but instead may be a description of fact, meant to make us aware of future events. But is not the effect of the hadith the same, in both cases? If there is to be no government which is not “illegitimate” until the end of time, does this not serve simply to make our moral duty more clear to us—that we must not, until the end of time, participate in government? However, the hadith cannot instruct us to practice political quietism because the meaning of the hadith is not clear. We cannot know for sure that the hadith is forecasting the future. And the hadith is not saying that it would never have been acceptable or encouraged for Muslims to participate in government; it is saying that as events will turn out, Muslims will never succeed in establishing legitimate government before the return of the Twelfth Imam. Thus, it makes no statement on the moral desirability of political participation during the Occultation.

From Khomeini’s analysis of this hadith and his effort to disprove Hakamizada’s claim that Shi’ite religious doctrine precludes acceptance of or cooperation with any government that emerges before the return of the Imam, three points emerge. Firstly, before the coming of perfect government, there can possibly arise “godly and just government” which is favored by men of reason. This government, while by no means immune from criticism, is still one which is necessary for human society. Secondly, any government which claims on behalf of itself that it is the government of the Twelfth Imam, when there is an absence of any of the corroboratory signs, must be recognized for what it is—a government which falls below the divine ideal for government. Finally, it is possible that all governments which come before the return of the Twelfth Imam will never cease to be undutiful; still, even in this circumstance, we must not turn our backs on government—some level of cooperation is still necessary.

Hakamizada had argued that members of the clerical class have caused people to act indifferently towards government and in fact to refrain from judging whether government has acted according to its duty because they are convinced that any government which exists before the return of the Twelfth Imam will be corrupt. “If we said that when the government does not act according to its duty, then we will consider it oppressive, and when taxes are not spent appropriately, then we will consider [paying them] haram,” according to Hakamizada, “then this reckless spending and this unawareness of duty would not have been present from the beginning.”

62 پیشگوئی

63 "ما اگر میگفتم چون دولت بوظیفه اش رفتار نمیکند ظالمکنند ظالمانی و یا چون مالیات را بیهوده خرج میکنند حرام

می‌دانیم این ول خرجها و وظیفه تشکیل‌ها از اول نمی شد."
also argues at various points in his text, as mentioned earlier, not that the religious classes urge disinterest in any temporal government but that mujtahids want to take control of government and consider any government which is not controlled by mujtahids as oppressive. Khomeini takes mentions this discrepancy, asking which of the two Hakamizada means to say is the bigger threat.

Hakamizada’s argument has interesting implications; those who await the perfect government of the Twelfth Imam, he says, do not develop their political judgment, their ability to critique government. Or, to the extent that they do judge, they do not actively hold the government accountable, withdrawing and offering their support as necessary. Consequently, even if during the period of Occultation, the most just of kings were to ascend to the throne, he would still be called an oppressor; similarly, whatever amount of taxes are levied—whether too much or too little—it would necessarily be religiously forbidden to pay taxes. lxxii

Khomeini argues in response that Hakamizada expects too little of people who believe in the eventual return of the Twelfth Imam and the state of affairs that is created by his absence. Even during the period of Occultation, he says, we are capable of distinguishing between governments that are oppressive and governments that are just. In the absence of the government of the Twelfth Imam, a government must be judged, in Khomeini’s view, based on whether it acts according to its duty. We can understand the duty of government and recognize when a government does not act according to its duty; in such a case, this government will be oppressive. For a government not to be oppressive, its institutions must function according to the law of reason, or preferably according to the law of Islam. And it is very clear, he says, that a government like Reza Khan’s which forced men to wear a foreign-style hat, tore the veils of women off of their heads, shot several hundred people in the sanctuary of Imam Reza in Mashhad, and disregarded the law of the land and the law of justice—it is clear that this government was oppressive, and assisting it would be equivalent to professing infidelity to God. We surely have the capacity to understand what oppression is, says Khomeini, because we experienced it, in all its torment, under Reza Khan.

While Khomeini says that during the time of the Occultation we should hold government accountable, he does not make any specific indication of who should hold government accountable, and by what means government should be held accountable. It may be presumed, however, that he is repeating Hakamizada’s use of “we”; Hakamizada had used it to refer, it seems, to no particular group of people, but instead to apply to members of Iranian society. When Hakamizada says that “our situation has become like this” because we do not hold government accountable through our own ability to distinguish justice from injustice, it becomes clear that the “we” refers to members of Iranian society. Thus, since it is unlikely that Khomeini would use the word “we” in any other sense, it would seem that Khomeini responds to Hakamizada by saying that individuals in society collectively should hold government accountable. He gives no indication, however, of what specific means should be used to hold
government accountable. However, it must be remembered that he began this section—as he begins most sections—by recounting Hakamizada’s accusation, which is that the religious scholars have encouraged people to withhold any judgment of government, and Khomeini aims to answer this question only by saying that the people can and should make moral judgments about their government. He does not move beyond answering this question by specifying an institutional process which can be used for the people to express their disapproval or support of government, though in other sections of his book he assumes, as has been argued, that the set of political institutions produced by the Constitutional Revolution will remain intact.

**Conclusion**

Because Khomeini’s *Kashf-i Asrar* was written as a response to particular questions posed by a critic of the Shi’a religious scholars of 20th century Iran, Ali Akbar Hakamizada, it does not purport to offer a comprehensive theory of government. However, this chapter has sought to piece together ideas that can be found in the responses that Khomeini offers to several of Hakamizada’s questions in order to clarify Khomeini’s views on the nature of political legitimacy. While Khomeini does not offer his support to a representative government which holds as its exclusive goal the enactment of the desires of its constituents, he does express unqualified condemnation of a government which ignores or misrepresents the opinions of its constituents. Thus, neither the faithful representation of constituents’ desires nor the imposition of a political order which ignores constituents’ desires is an acceptable basis of unqualified political legitimacy in Khomeini’s view. Khomeini does not relinquish the idea that there exist objective criteria by which the decisions of lawmakers may be judged—namely, the criteria defined by Islamic law—however, we must conclude that such criteria cannot be invoked to justify the imposition of law on “the people.”

When he says that the only entity which has a “right” to govern and to create law is God himself, Khomeini uses theological concepts to justify a degree of freedom from political control that is even more extensive than common liberal perspectives on political freedom; there is never, in fact, a situation in which we can say that a fallible human being has the “right” to govern. To the extent that Islamic law is incontestable in its strictures, there is no place for government and lawmaking; any governing or lawmaking which occurred in this context would be fundamentally illegitimate. However, he clarifies in his chapter “On the Law” that there is an area in which lawmaking can occur, and that is where Islamic law is silent or cannot be applied in contemporary circumstances. If his earlier contention that only God has the right to govern is applied here, this means that even when there is room for lawmaking and political decision-making, governors who engage in these activities have no fundamental right to do so. In arguing this point, Khomeini seeks to convince the reader that any effort to impose a law or the effects of a political decision on others cannot be legitimated by reference to simply the volition of the governor.
The two sources of political legitimacy that he does mention are divine and popular. Firstly, the law or the political decision must either be directly taken from the divine law, must be derived from the divine law and applied to unprecedented circumstances or situations, or must not stand in contradiction to the divine law. Secondly, and equally importantly, law cannot be imposed on individuals; even in this early work, Khomeini is clear that consent is a necessary precondition to government. Khomeini emphasizes that in order for the law of a particular government to attract respectful obedience, the people must have positively assessed both law and individual lawmakers.

In line with his views on political legitimacy, Khomeini’s recommends that either Article 2 of the Supplementary Fundamental Law of 1907—which called for the supervision of parliament by a council of mujtahids—be implemented, or that parliament itself be composed of mujtahids. Not all actors in government, however, need be mujtahids themselves or supervised by mujtahids, but all members of executive branch, including the monarch, must be constrained by the rule of law. Khomeini calls for the participation of the 'ulama in government not, as Hakamizada had suggested, because of their identities as individuals, but because of their ability to understand and keep government within the boundaries of Islamic law. The concern is not to give individuals power, but to implement the law—provided, of course, that “the people” agree to be governed by it.

Short of this political system, where the wishes of constituents and the aims of governors conform not only to each other but to a divine standard, Khomeini also recognizes other principles upon which obedience to government may be founded. These principles justify allegiance to and even participation in governments which do not aim to implement the divine law; in particular, citizens should not withdraw their support for government when this government is protecting its subjects from harm inflicted by outsiders—a concern which beleaguered Iran at the time of Khomeini’s writing. Khomeini recognizes, contrary to Hakamizada’s contention, that the doctrine of the return of the infallible Twelfth Imam should not preclude participation in any current government and calls our attention to, moreover, the imperfection of this government and the need for citizens pass judgment on it, and then seek to reform it.

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