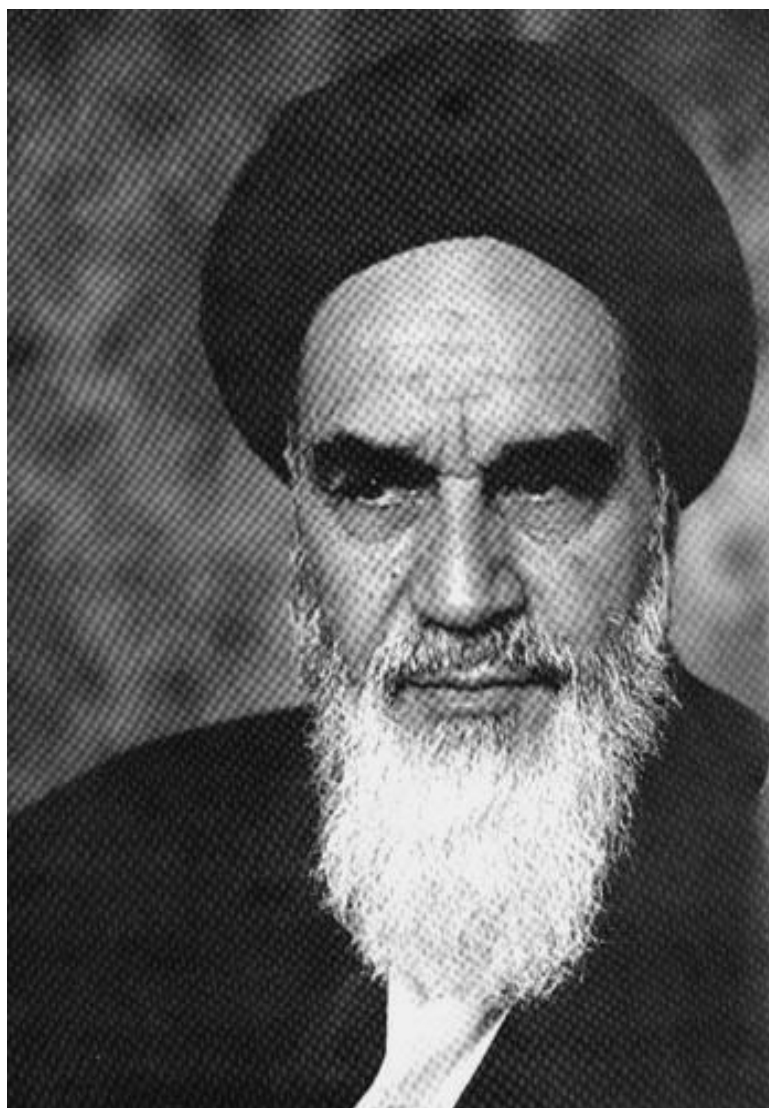




**IN THE NAME OF ALLAH,
THE ALL-BENEFICENT, THE ALL-MERCIFUL**



**Concept of Freedom from the Viewpoint
of Imam Khomeini (s)**

**International Affairs Department
The Institute for Compilation and Publication of
Imam Khomeini's Works**



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Introduction

Wakeful fitrat (primordial nature) of man in our time does not negate new positive achievements of civilization nor does he appreciate its impurities. Man today awaits a fresh atmosphere of life in which he experiences dignity of life associated with justice and freedom. In addition, Islamic Revolution is a promising ray of hope opening into an atmosphere expected by man. This is a big claim that would be realized sooner or later when:

Firstly, fundamental thoughts of Islamic Revolution that is the torch light leading to the truth of genuine Islam of Muhammad (PBUH) is understood and reflected in the words and deeds of the prominent leaders of this revolution.

Secondly, we can achieve a correct understanding of man and his serious questions by including two elements of time and place that constitutes the ground for dynamism of human thought. Islam as a religion appreciated by both present and future man shows its superiority of logic and capability in settlement of the problems and predicaments of human beings.

In this vast gathering place, a more important step consists of calculated understanding of the thoughts of the supreme Leader of Islamic Revolution.

II *Concept of Freedom from the Viewpoint of Imam Khomeini (s)*

The present attempt takes up the concept of freedom that is a key category, highlighting it in the thought of Imam Khomeini. The attempt aims to understand and explain the theoretical pillars of the concept. Imam Khomeini observed:

"It is man's primary right to be free; I want to express my words with freedom."¹

"Of the highest blessings in the world is man's freedom. Man is ready to sacrifice everything one has for freedom."²

"Is idea of freedom conferrable?! This expression is an insult. The term that we granted freedom is a crime. Freedom belongs to people; law has awarded man with freedom; God has granted man freedom."³

Did Imam Khomeini as a political leader make these statements under the prevalent political conditions and atmosphere or has he expressed these views as theoretical foundations of his thoughts?

What appears in this book is an attempt to provide answer to theoretical pillars of the concept of freedom and the thought of Imam Khomeini (s).

International Affairs Department

¹ *Sahifeh-ye Imam*, vol. 3, p. 510.

² *Ibid.*, vol. 10, p. 467.

³ *Ibid.*

Chapter1

Knowledge of Man

Preface

What is important is that we do not know ourselves; we neither know our God nor ourselves. We have neither faith in God nor do we accept that we are nothing; we also do not believe that He is everything.¹

Today, categories such as civil society, democracy, human rights and the two concepts of freedom and law that constitute the above key categories are the most important cultural, social and political challenges of our society. These concepts have been widely and seriously treated as axis of debate by men of knowledge, triggering expression of different and at times conflicting views. On the one hand, some believe that there is irreconcilable incompatibility between Islam and the said concepts. On the other hand, contrary to them, some thinkers opine that we can naturalize categories such as civil society, democracy and ... based on Islam and within the framework of its exhilarating teaching and by using prophetic tradition and lifestyle of Immaculate Imams (s). We can thus attain to a sort of religious democratic government and benefit from collective achievements of human beings in this respect with a view to our religious and national religious culture. The present research

¹ Ruhollah Khomeini, *Interpretation of Hamd Surah (Chapter of Praise)*, p. 108.

work, however slightly, present a transparent cultural atmosphere of society in this respect.

In the present paper, we are going to deal with the concept of freedom from the perspective of Imam Khomeini. Before proceeding into the subject, one had better have a logical and clear picture of freedom, yet one should acknowledge that definition has always been a difficult work to do. To this end, one can inquire encyclopedia and dictionaries, yet one cannot expect them to resolve subjects that are complex and difficult in conceptual terms and methodology. However, there is a feeling that one should seek to achieve a definition or implication of them, yet one should not present one's definition with the framework of abstract and potential phrases, one-dimensional and fixed.

To achieve a comprehensive definition in political categories including freedom one should particularly know that:

Each and every significant political teaching is constituted on specific concept of man with human nature and a general theory of human society having logical relation with that concept.¹

The value and credit these definitions obtain stem from their link with that worldview. Therefore, these concepts can be readily compatible with general appearance of major political platform.

From the viewpoint of Imam Khomeini, knowledge of man is rooted in all understandings while somehow returning to the type of man and his relations including ideological, social, political and economic ties. Therefore, in his book *Misbah ul-Hidayah ilal Khilafateh wal-Wilayah*, he writes as such:

The rungs of the ladder of all verities for a traveling mystic are verily knowledge of the self. Therefore, it is upon you to

¹ Arilaster Antoni, *Emergence and Fall of Western Liberalism*, p. 16.

achieve this knowledge. Knowledge of the self is the key to and torchlight of all lights; everyone who has come to know oneself has come to know one's Creator.¹

Before proceeding into the subject of the knowledge of man, it is necessary to understand Imam Khomeini's epistemology and understanding of the world of existence and God. Imam Khomeini (s) has dealt with the study of man and his relations. As such, it appears that it will not be out of place to make a reference of the pillars of their knowledge of man.

Pillars of Imam Khomeini's viewpoint of the knowledge of man

Imam Khomeini's worldview signifies ontology, knowledge of God and knowledge of man. This knowledge emanate from religious knowledge that is the manner of maintenance and understanding of religion. The type of understanding and interpretation of Islam by Imam is such that he called it genuine Islam. Imam Khomeini viewed Islam as a comprehensive religion in the following words:

Islam is a school that contrary to non-monotheistic religions is involved in all personal, social, material, spiritual, cultural, military, political, military and economic gamuts, not ignoring even an iota. It does not ignore whatever plays a role in education of man and society, be it material or spiritual progress. It has pointed out the obstacles and problems on the way of individual and social perfection struggles to remove them.²

In fact, it can be said that look of Imam Khomeini at Islam is perhaps a majority viewpoint in the sense that everything should be religious and Islamic and religious things in which all

¹ Ruhollah Khomeini, *Misbah ul-Hidayah ilal Khilafateh wal-Wilayah*, translated by Ahmad Fehri, pp. 32-33.

² *Sahifeh-ye Imam*, v. 21, pp. 402-03.

sharia laws, rules and various regulations could be inferred. These are various regulations a general social order can make. In this legal system everything man needs is provided, ranging from association with neighbors and children and neighbors to children, tribes and relatives and friends as well as private affairs and marital life to regulations dealing with war and association with others including the manner of association with neighbors and children, tribes and families. Association with other nations includes penal codes, executive laws to legal trade, industry and agriculture before conclusion of marital status and entering into embryonic law is on the agenda. For example, how should wedding be carried out and what food should he take during fertilization of ovum. During the sucking period, what duties should be fulfilled by father and mother and how should the child be raised. How should man and woman treat each other and deal with their children? There are laws and instructions for all these stages so that Islam would train real human being, perfect man and teach man, who is the dynamic and embodied law and volunteer and automatic executor of law.

It is clear to what extent Islam attaches significance to government and political and economic relations of society so that all conditions are applied to serve education of refined and virtuous man.

Imam Khomeini believes:

"Muslims can live in security and peace when they retain their faith and erudite ethics and are placed under the canopy of just government and law- a government whose establishment and procedure of administration and laws have been charted out."¹

Based on his special understanding and interpretation of Islam, Imam Khomeini has reached a special perspective of God and the world of existence. He has established no

¹ *Islamic Government (Guardianship of the Jurist)*, p. 153.

association with anything and entered in no matter unless with a view to his pure monotheistic look in which everything lies in Him. Whatever cloth he has put on is embodiment of the divinely names and attributes. The world consists of fixing the general that has no credit; whatever exists is because of Him and is derived from Him. In explicating his monotheistic viewpoint, he writes in the exegesis of Chapter Hamd as such:

"Basically, according to reality, nothing exists save the Exalted Truth; whatever exists would point to him. ¹

From the viewpoint of Imam, existence is manifestations of Allah and whatever exists is manifestation of the Truth. Discussion about existence is exactly discussion about existence of God and His attributes, manifestations and epiphanies. He observes:

"Pens, tongues, words and writings are inadequate to sing the praises of the endless blessings awarded to the world and everything in it. The Creator had adorned the world of the unseen and the seen and the secret and the open with whose all-out brilliant manifestation. Thanks to His existence, He has conveyed to us everything thorough His chosen ones, as 'Allah is the light of the sky and the earth.' With His beautiful emergence, He has unraveled the curtain of His beauty as... ²

The Imam's discussion of the world of existence, Creator of existence and the Exalted Truth is a profound and mystical subject indicative of a complete conviction; heart felt faith and certain conclusive knowledge of the speaker of these words in connection with verity of his words.

Considering the significance of the above points, let us begin the present attempt by description and enunciation of the viewpoint of Imam Khomeini about man.

¹ *Interpretation of Hamd Surah (Chapter of Praise)*, p, 157.

² *Sahifeh-ye Imam*, vol. 20, p. 311.

Study of Man

Man is the mirror of observation of objects; God looks at the created through this mirror. Ratio of man to God is like ratio of eye to its pupil. In the same way, that eye looks at the created things by its pupil, God looks at creatures through man.

Imam Khomeini (s) in many of his works has raised his viewpoints on man and issues related to him such as the subject of creation of man, truth of man, and education of man and ... However, in the books of *Misbah ul-Hidayah ilal Khilafateh wal-Wilayah*, *Exposition of Sahar Supplication* and *Forty Hadiths*, he has exclusively treated the subject of man.¹

Man from Imam Khomeini's perspective

Intellectual system of Imam Khomeini is oriented towards a religious and mystical order in the sense that the depth of the Imam's thought lays the foundation of a subtle and mystical epistemology that is strongly man-oriented. In other words, the Imam's religious order orients towards man; that is, in the view of Imam, religion is for man and at the service of man. The Qur'an and prophet have been sent down for man. As such, all political thought of Imam Khomeini (s) and his perception of politics and government and management are rooted in his mystical outlook and wise perception of existence and manifestations of Names and Attributes of Right, quality of reference to God, stations and stages of spiritual journey towards God and man and concepts such freedom, law and all political affairs in their entirety. In this mid, man is the original concept, because according to sociable wisdom of Imam Khomeini (s) perfect man is the pick of the basket of the world of existence and noblest of creatures. Everything is for man.

¹ Ruhollah Khomeini, *at-Ta'liqah 'ala Sharh-e Fosus ul-Hikam*, p. 60.

Mission of prophets and bringing Books, all their teaching and struggles aim at paving the way towards what man is deserving of. This natural creature travels towards the celestial Truth. Divinely wisdom and favor necessitates that every creature attains to his deserving perfection. Imam Khomeini (s) in this respect observes in exegesis of Chapter 'Alaq:

"The discussion revolves around the role of prophets is man's education and knowledge. Prophets have come to educate human beings; they have come to transform this natural creature from the stage of nature to supreme station, metaphysics and beyond the celestial world. The entire discussion of prophets is about man. From the beginning, every one of the prophets was delegated to educate man."¹

"Prophets came to make man conscious and to educate man; they have come for man and for producing real man. The book of prophets is the book to produce real human beings. The Holy Qur'an is a book for producing real man. The subject of the knowledge of prophets is man; whatever exists with regard to man is word. Man is the source of all good. If man is not made a real human being, man would be the source of all tyrannies. Man stands at a crossroads: one way leads to being a real human being and the other way deflects man from becoming real human being in which case it is not clear what animal man would² turn out to become."

The look of Imam Khomeini at man is based on his monotheistic viewpoint, mystical perspective and wise perception. This matter is the provenance of the thought and life style of Imam Khomeini in other activities. Therefore, Imam Khomeini (s)'s knowledge of man as the most key knowledge is raised in structure of the Imam's thought. As long as the type of Imam's look at man and his perception of stations of humanity have not been made clear, understanding of Imam of other

¹ *Sahifeh-ye Imam*, vol. 8, p. 324.

² *Ibid.*, pp. 325-26.

affairs would not be clear correctly.¹ In elaboration of this matter, he introduces in *Mesbah al-Hedayat ala al-Khalafat val Velayat* knowledge of self as key to understanding all verities.

In discussion about man, Imam begins from the truth of man because the original existence of man is his truth. In addition, this truth is so high that understanding of which is synonymous with knowledge of God. One who gains knowledge of one's self would know one's Creator. Creation of this truth is followed by the Creator's congratulation and felicitation. *Fatabarak Allah Ahsan Al-Khaleqin*. However, truth of knowledge of man that is a holy truth is not possible and feasible for all unless for God Almighty and divinely 'ulama (religious scholars).²

Everything begins when God speaks of creation of a creature who is caliph or vice-regent of Him. Caliph signifies successor, and he should be endowed with all aspects, attributes, and perfections of successor and makes the impacts, and manifestations of successor appear in oneself and full sized mirror of the successor so that title of caliph would be applied to him. In addition, God introduces man as His caliph on the earth. The angels protest and ask: Are you appointing a caliph on the earth that is ruinous and blood-shedding? Since angels in their opinion considered the purpose behind appointment of caliph on the earth for signing the praise of God, they considered them superior to such station and implicitly proposed them for this station. God said in response to the angels and rejected their offer saying: what I know, you do not know. (I know something you do not know). By this expression, God announces that truth of man is a fact incognito and He said in this respect:

Moreover, God taught all names to man; then presented them to the angels and observed if you are right, tell me about

¹ Mostafa Delshad, *Ariz-e Khorshid*, p. 133.

² *Sahifeh-ye Imam*, vol. 12, p. 422; vol. 14, p. 8.

these names. They said; Glorified thou are; we know no knowledge unless what thou have taught us, as you are the Wise and the Knowledgeable. God said: O, man! Inform them of the list of the names. In addition, since man was informed those of their names, God said did I not tell you that I know what is hidden in the skies and on the earth; I know what you reveal and what you hide.¹

All man's excellences, privileges and superiorities lie in knowledge of all names. The truth of man in his knowledge of the entire names has lied. Therefore, answer to this question as to why mankind is the caliph of God and why angels with all their holy station and doxological station enjoy is that man deserves of knowing all the Names; other creatures did not have such capacity and talent. From the viewpoint of the Imam, truth of man is a comprehensive verity covering all creatures of the world of Islam and this station is only deserving of man. God expresses this truth in Exposition of Sahar Supplication and expresses:

"Know that man is the only creature comprehensive of all objectives, symbolic and intuitive stations and all unseen and seen worlds; everything in them exists in man's complex and hidden existence."²

It is for this reason that caliph of Allah like the Exalted God who is One Who is to be succeeded enjoys all the reciprocal attributes; therefore, when God protested against Iblis (Satan) and observed:³ why did you not prostrate to one whom I created with my two hands? That is, you who are the creature of a single hand of existence should bow down before one who is created by two hands.⁴

¹ *Surat al-Baqarah*: 31-33.

² *An Exposition of 'Sahar' Supplication*, translation, p. 34.

³ *Ibid.*, p. 75.

⁴ *An Exposition of 'Sahar' Supplication*, translation, pp. 58-9.

In response to God's answer Satan said: You created me out of fire and man of clay.¹ Imam Khomeini believes that here Satan showed pride to Adam who is God's creature, not to God. It considers Him to be great and man small.² Due to this pride, Satan was driven out of God's threshold;³ the order came: on the account, Satan told God since you mislead me; I will also adorn the land for them and mislead all of them save your upright servants.⁴ God said in response: This is the path that leads to me; in fact, you have no domination over my creature unless those of deviants who follow you.⁵

Satan announced due to adoration of the world affairs he would mislead all human beings except the sincere ones; that is, those who see none save God and seek none save God and God has made them sincere for him after they made them sincere for God. However, in contrast to Satan's claims who said I would mislead all save sincere creatures, God said you cannot mislead any one of my creatures; you have no way to do so with my creatures save those who would follow You who want to infiltrate into them. As stated by God:⁶

Approach of the verse indicates that by servants is not simply meant sincere creatures but all human beings, unless those who choose to be deviant and are misleader. Satan's domination is exercised over those who consider him as superintendent and guardian and those who take partner for God.⁷

¹ *Surat al-A'raf*: 12.

² *Forty Hadiths (An exposition of ethical and mystical traditions)*, p. 99.

³ *Surat al-A'raf*: 13.

⁴ *Surat al-Hijr*: 39-40.

⁵ *Surat al-Hijr*: 41-2.

⁶ *Surat al-Hijr*: 42.

⁷ *Surat al-Nahl*: 100.

Satan dominates one who is selfish and egoist. In addition, slave of one's carnal desire. In fact, there are two types of deviations; primary deviation and secondary one. When selfish man is selfish and lover of the world and superficial and leave his will to the will of one's carnal passion, one has been affected by primary deviation and been remote from the truth. God gives such a person to be dominated by Satan. Therefore, Satan finds a way into one's and leads one's to deviation along with him and this is secondary deviation that is in fact punishment of the primary deviation. In other words, when one chooses deviation, one would be assisted on the course and no one would receive any domination in this respect. Satan rules only those who are inclined to deviation, not all human beings. God's predestination necessitates that God dominates only those who are willing to be deviated, not all human beings and divinely predestination necessitates that God dominates those who are willing to be following Satan and entrust their destiny to him. They are those who govern ¹ them by Satan. Based on this tradition and divinely designation in epistemology of Imam Khomeini no creature can dominate man and no Satan and power can exercise control or domination over man's actions unless man himself opens the way for infiltration and domination. Relationship of creatures with man is a longitude relation and as long as man does not provide the ground for influence and domination of a power over them. Influence and domination is not possible. ² As such it can be deduced that when Satan that is man's biggest and most powerful enemy has no domination over man and man's deviation depends on one's request and will. And man is free to be deviated. In other affairs, the principles are primarily based on man's free will and freedom.

¹ Mostafa Delshad, *Arez-e Khorshid*, pp. 120-21.

² *Ibid.*, p. 119.

In the sight of Imam, man is the mirror of objects to be observed; God looks at the creature through this mirror. Proportion of man to God is like eye to pupil. In the same way, that eye looks at things by pupil; God also looks at creatures from the perspective of man.¹ In other words, man is the middle man for diffusion of excellence of existence to creatures.

On this basis, the distance of *asfal safelin to ala eliin* is the way and path of man's movement towards man.

With a view to viewpoint of Imam Khomeini regarding man's path that begins from *asfal asafelin* and ends in *ala eliin*, perhaps one can understand that scope of action and realm of movement of man is commensurate with his path from *asfal asafelin to ala eliin*. During this journey man enjoys freedom of action and free will and can take step on the straight path or go to both extremes. As put by the late Imam:

"Man accompanies animals as far as the stage of animalism is concerned; from this stage he has two ways before him that should traverse with free will. One is the stage of happiness that is the straight path of *rab ul alamin – ana rabbi ala serat mostaqim*- and the other is the way of adversity that is the winding way traversed by the expelled Satan. Therefore, if forces and members of his body is devoted to the possession of *rab ul alamin* and was trained by Him, gradually heart that is the king of this body will be surrendered to Him and when the heart is subjected to training of *rab ul alamin* other army will follow the example of him and the body will be thoroughly trained by Him." ²

From the viewpoint of Imam, since man has two creations and two celestial and terrestrial worlds or the world and the hereafter; one's is a two-dimensional creature with various forces consisting of lust, wrath as well as reason. From the beginning of one's birth, man grows in this creation and by

¹ Ruhollah Khomeini, *at-Ta'liqah 'ala Sharh-e Fosus ul-Hikam*, p. 60.

² *Interpretation of Hamd Surah (Chapter of Praise)*, p. 45.

stepping on this world lives with carnal desires and animal passions.¹

And the reason that God has endowed these forces to man from the beginning of birth is that man needs these forces in personal and specie life, his survival and progress and journey towards God Almighty and could benefit from these forces in favor of material and spiritual life.²

As viewed by the Imam, happiness and adversity of man and his elevation and degradation hinges on control and guidance of these forces.

***Fitrat* (primordial nature)**

***Fitrat* from the perspective of Imam Khomeini (s)**

Considering that man is a creature with two states, this and otherworldly- and enjoys numerous forces; therefore, he is a two dimensional creature. In each dimension, man is possible to grow and progress to an infinite extent. In this mid, what counts is that God has not left man alone in this arena. In fact, He has provided the ground for man to become divinely oriented and travel towards the truth of humanity by way of one's *fitrat*. In addition, in the Imam's political thought and understanding of the viewpoint of Imam towards man, correct understanding of *fitrat* has a key role and everything should be in conformity to the correct and favorable example of *fitrat* and set right in the way of *fitrat* so that the journey towards perfection has been accomplished correctly.

From his viewpoint, by *fitrat* Allah is meant that God Almighty has created people on it and it is a state in which

¹ Ruhollah Khomeini, *Forty Hadiths (An exposition of ethical and mystical traditions)*, p. 168.

² Ruhollah Khomeini, *at-Talab wal-Iradeh*, p. 156.

creatures grow and is requisite to their existence and is among things that in the origin of creation constitute their substance.

"Divinely *fitrat* is among the favors God Almighty has granted man from among the entire creatures. Other creatures either do not at all have such *fitrat* as cited above or are imperfect and enjoy a small share of it."¹

In various narrations, different examples have been cited and Imam Khomeini in these respects believes:

"*Fitrat* is not exclusive to monotheism; in fact, the entire true disciplines have been endowed with such state by Almighty God."²

The Almighty God has made no differentiation among human beings in ingraining *fitrat* in man. God has made everyone according to divinely *fitrat*. Hazrat Imam Khomeini explains this matter in the following words:

"Know that although Almighty God has diffused qualified materials in deserved and talented man without showing envy, at the same time He has constituted divinely *fitrat* within all human beings whether good or bad or auspicious or vicious. God has ingrained in all human beings the love for absolute perfection; therefore, He made all human beings big or small interested in seeking perfection. Man is thus interested to be without defect, good without being evil, showing light without darkness, knowledge without ignorance and power without disability."³

¹ *Forty Hadiths*, p. 180.

² *Ibid.*

³ *At-Talab wal-Iradah*, p. 153.

Various types of *fitrat*

From the viewpoint of Imam Khomeini (s), man enjoys two types of *fitrat*:

"God Almighty implanted these two types of *fitrat* in man's nature with His favor and divine dispensations: one being original and the other subsidiary. Original *fitrat* consists of love for absolute perfection and subsidiary *fitrat* comprises disgust and hate of imperfection."¹

In explanation and exposition of these two types of *fitrat*, Imam Khomeini in the book of 'Exposition of Hadith, Army of Reason and Ignorance' has written:

"*Fitrat* is love for absolute perfection and good and happiness. The entire human beings range from auspicious and vicious, learned and ignorant, supreme or inferior and intrinsic and favorable. If man investigates into the entire genealogy of humankind and inspects the entire divergent tribes and sporadic tribes in the world, one cannot be found according to the principle of creation. In this mid, *fitrat* is not directed at perfection and lover of good and happiness ... And the other of the two types of *fitrat*, is that of hating imperfection, evil and adversity and this intrinsic nature is accidental. Subsequent to it, *fitrat* of love for perfection is disgust of imperfection that is favorable and intrinsic in man. ... These two types of *fitrat* cited above are the intrinsic non-veiled *fitrat* that have not been subjected to laws of nature. In fact, aspect of their spirituality and brilliance is extant."²

And,

It is clear that absolute perfection, pure beauty and knowledge and power and other perfections cannot be found except in essence of Almighty God in absolute way. No defect and limit exists in it except in essence of Almighty

¹ Ibid., p. 154.

² *An Exposition of Hosts of intellect & Ignorance*, pp. 76-7.

God. It is He who is the absolute identity and pure existence and all perfection. Therefore, man loves beauty of Allah and truth. Life tilts towards it although one is unaware of this willingness and interest. Therefore, in narrations of the interpretation of the verse *fitrat*-Allah al lati.....¹ *Fitrat*-Allah has been interpreted as *fitrat* and knowledge and monotheistic *fitrat*. Only God is the source of peace of hearts and return towards Him; He is the end of any destination and ultimate goal of all wishes."²

These two types of *fitrat* are means for man's journey towards the Beloved. Therefore:

"Man should make these two types of *fitrat* his horse for traveling and ascending towards Him. With these two wings man flies to his main nest that is the threshold of the Friend and His Throne."³

Imam Khomeini believes that,

"The rules of *fitrat* are like instruments of existence; all human beings are common to it and have no difference in it."⁴

In addition, Imam Khomeini considers the rules of *fitrat* as parts of evident rules if not more evident than palpable rules, writing that:

"Rules of *fitrat* are more evident than all obvious rules, because in all rational rules we do not have a rule corresponding to the one on which no one violates or has violated."⁵

In explaining the matter that principle of existence is, the sublime source of His Majesty is among the *fitrat*. Imam Khomeini (s) acknowledges that:

¹ *Surat al-Rum*: 30.

² *at-Talab wal-Iradah*, pp. 153-54.

³ *Ibid.*, p. 154.

⁴ *Forty Hadiths*, p. 180.

⁵ *Ibid.*, p. 181.

"one of the types of *fitrat* that the entire hierarchy of human beings are intrinsic on it and there is not a single one to be opposed to it and nothing can change it is the *fitrat* of love for perfection; if one studies in all stages of human life and inquire each of the individuals of different tribes and nations, one can find this love and affection in one's substance; one will see that one's heart is directed at perfection and that in all one's movements, pauses and arduous endeavors one is engaged in every branch; love for perfection has driven them to do it although in discerning the perfection and example of the Beloved, the people have the highest differences."¹

"Therefore, this light of *fitrat* guided us towards the fact that all hearts of the hierarchy of human beings ... are naturally in their meandrous primordial nature tilted towards perfection that has no defect. It loves beauty and perfection that has no imperfection and seeks knowledge in which there is no ignorance, power and a reign without impotence, a life without death. Finally, absolute perfection is the Beloved of all. ... Therefore, the current love of yours needs an actual Beloved and this cannot be chimerical and with strong imaginative power because any fanciful thing is imperfect and *fitrat* bends towards perfection. Therefore, actual lover and actual love is not possible without Beloved and there is no beloved except the perfect Essence which *fitrat* gives regard to. Hence, requisite to love for absolute perfection is the absolute, perfect Existence."²

Also,

"Of the *fitrat* that *fatar alnas alayha* is the *fitrat* of disgust with imperfection; ... Hence, what *fitrat* tilts towards it should be single and united because any diversity and combination is imperfect; diversity will not be unlimited and what is imperfect is hated by *fitrat* not heeded by it; therefore, of these two types of *fitrat*: comprising *fitrat* of attachment towards perfection and *fitrat* of detest of

¹ Ibid., pp. 182-83.

² Ibid., pp. 183-84.

imperfection, unity or monotheism is also demonstrated. Rather coming together of the right of the entire perfections and glorification of the sacred essence of the entire defects is also proven." ¹

In addition to it, from the viewpoint of Imam Khomeini, belief in the Day of Judgment is a natural affair as he has written the following to demonstrate it:

"One of the divinely types of *fitrat* that have been found is the entire family of human being; hierarchy of man over it is the *fitrat* of love for ease." ²

Hence, if absolute ease and rest without mixture and adversity is the end of wish and Beloved of all. Everyone seeks that lost Beloved in something; therefore, one will be attached to whatever one imagines. One can find one's beloved in it although in the entire world in this life such an ease is not found. ³ Hence, man's Beloved in this world will not be found while:

"Actual forced natural love in the entire hierarchy of mankind and human family is not possible without existing actual Beloved. Therefore, in the house of research and world of existence a world must be available in which comfort is not confused by affliction and tribulation. It has absolute pure rest with pain and suffering and pure meandrous joy by grief and distress in there. The blessed house and that generous world is the sacred Essence [other world]." ⁴

It is understood from the above statements that although Imam Khomeini considers principle of monotheism and other rightful disciplines like prophethood, the Day of Judgment and existence of angels something natural, it should be noted that in

¹ Ibid., p. 185.

² Ibid., p. 186.

³ Ibid.

⁴ Ibid.

his numerous works including *Talab wa Eradeh*¹ and Exposition of Hadith (narration) of Reason and Ignorance² he states that God has implanted two types of *fitrat* in man's nature: *fitrat* of love for absolute perfection that is the main *fitrat* and *fitrat* of detestation and disgust of imperfection that is a subsidiary *fitrat* and *fitrat* of love of rest.³ Moreover, after explaining the types of *fitrat* and arguing about them adduces that monotheism and rightful disciplines such as the Day of Judgment and Prophethood that are natural, not that he imagines existence of God or other disciplines in actual way and specific manner in one's mind; all individual human beings enjoy it.

Man's Happiness

Man's Happiness from the Viewpoint of Imam Khomeini (s)

Among the issues examined in the knowledge of man is the issue of man's happiness. In view of the fact that in Imam Khomeini's viewpoint the term comprehensive consists of all names and divinely attributes created with two hands of divinely love and wrath and has two arches of ascend and descend comprising vast freedom of action from the Abaddon to Highest stations in Paradise that is the scope of action and realm of his activity enjoys special superiority to other creatures. Therefore, the late Imam Khomeini believes it to be necessary that this man at least thinks that whether his Sustainer who has brought him into this world and provided all instruments for his comfort and convenience and supplied so much blessing and gifts ... are these facilities only for this animal life and practice of lust which we share with all other

¹ *At-Talab wal-Iradeh*, p. 154.

² *An Exposition of Hosts of intellect & Ignorance*, p. 79.

³ *Forty Hadiths*, pp. 185-86.

animals or whether there is other purposes are at work.¹ In his treatise *Talab wa Eradeh*, Imam Khomeini regards man's happiness and goal and purpose in man's life in this world examined from different viewpoints and states that in the view of the public and the wise happiness signifies provision of all instruments of enjoyment and peace and fulfillment of all means for exercise of passion and animal lusts and whatever is incompatible with forces of the soul being fulfilled always or most of the time. He considers the opposite to these things to be adversity.² Anyone who commands means and possibilities of carnal passions and all one's animal forces in peace and enjoyment for good, one is happy. In addition, one who does not enjoy any of these carnal enjoyments at any time, he is wicked and unlucky. In addition, if not being absolutely happy or absolutely unfortunate, hence happiness and adversity is additional and relative.

In addition, happiness in the sight of believer in the other world lies in the fact that causes him to go to paradise and adversity in their view implies causing him to go to hell.³

To put it differently, from the viewpoint of Imam Khomeini the destination is that:

"Man's path appears that actual thing is that man's path is actualized and becomes real human being. Actual man turns to an actual man; natural man becomes a divinely man with everything of one's being divinely whatever they see is to see right."⁴

From the viewpoint of Imam Khomeini, "traversing the path leading to happiness and journey in the ascending arch of man and reaching the main destination that is the station of meeting the Right or traversing the course of adversity is not

¹ *Forty Hadiths*, p. 6.

² *At-Talab wal-Iradeh*, p. 137.

³ *Ibid.*, pp. 137-138.

⁴ *Interpretation of Hamd Surah (Chapter of Praise)*, p. 174.

intrinsic in man. It is rather an affair of existence and is inferred from aspects of existence that does not need any cause. Therefore, it is optional and volitional in man who is free to choose the either ways."¹

Imam believes that for man to traverse one's arch of ascension towards perfection and to reach the final destination and achieve the lofty happiness, God has not left man alone. Rather, He has equipped him with special means and resources and guided him. Firstly, the entire hierarchy of humankind has been granted free will with special *fitrat*. Therefore, man enjoys a special *fitrat* of his own leading him towards a special tradition in life and specific way leading to distinct goal and destination. He believes:

"These veils and darkness and opacities dominate the soul. It happens less frequently that one can rid of these veils automatically and with its original *fitrat* travels towards his original world and reach absolute perfection, light, beauty and absolute majesty. Thanks to His eternal favor and inclusive mercy God Almighty has sent eminent prophets (peace be upon them) for training man and sent down divinely Books so that they would help internal *fitrat* from outward aspect and save the soul from this thick² sheath."

And,

What prophets sought was to make all affairs divinely oriented; all gamut of the world and the entire dimension of man is the epitome of the universe; one man becomes divinely when whatever man does is divinely oriented."³

The prophet's important work is to make people reach the point of perfection and other works are means; the end is the absolute perfection."⁴

¹ *At-Talab wal-Iradah*, p. 140.

² *An Exposition of Hosts of intellect & Ignorance*, pp. 78-9.

³ *Sahifeh-ye Imam*, vol. 8, p. 62.

⁴ *Ibid.*, vol. 12, p. 425.

Since government is a necessary matter for guidance and happiness of man, as believed by the Imam Khomeini, dignity of politics and dignity of government has been demonstrated for prophets. Therefore, he says:

"Politics signify that it should push forward and guide the society to where is to the interest of society and benefit of people. In our narrations, these have been demonstrated for the holy prophet with the term politics." ¹

From this viewpoint, Imam Khomeini (s) holds that in addition to the following, prophets and resorting to *sharia* of prophets and guidelines of immaculate Imams is another important and fundamental agent in the course of ascending arch and reaching perfection and happiness is establishment of Islamic government.

From the viewpoint of Imam, goal of Islam and mission of prophets is to introduce God and train man and enabling him to reach the destination; that is, Almighty Allah.

Establishment of Government in the world and expansion of justice from the viewpoint of prophets has lofty dignity; they are means and instrument for reaching that sublime aim and nothing else. It is not the destination; these are all means to make man reach another stage for which prophets have come." ² From this perspective it is inferred from the above remarks that establishment of government and dispensation of justice are not intrinsically a value; they are rather instruments and means; their value is followed by aim and purpose through which they are supplied and fulfilled. In addition, in the view of Imam, dignity of the world of nature and material world in the sight of prophets is a lofty status. He stated in this respect:

"Prophets view this world as means; it is a way; it is a path leading to a higher destination that man does not know, but

¹ Ibid., vol. 13, p. 431.

² *Interpretation of Hamd Surah (Chapter of Praise)*, p. 174.

prophets know. They are aware of where they lead to if they are wanton and end to where if bridled. ... All the affairs that are destination in the sight of these governments are path in the sight of prophets. The entire world in the sight of prophets is not an end. It is not an altar and destination; it is a path from where one should reach a stage that is the supreme human stage. If a creature, a man reaches this supreme human stage, one enjoys happiness and one's happiness is not restricted to this world. The destination is a world beyond this world. They see what is beyond this world. An unseen world that is not known by the people of the world. He is happy in this world as well, but he is not restricted. The destination is a world beyond this world. They saw what is beyond the present world. An unseen world that is now unknown to us ... Imam's plans has come for all human dimensions of Islam. This corrects man and builds him and all his dimensions, not simply one dimension and not even his spiritual dimension alone in a way that he is neglectful of this world of nature and not simply his natural dimension to be content with. This destination is a means, yet this means they were delegated to correct this means so that it would be a means.¹

It appears that in view of the Imam's viewpoint on the material world, justice and government and the significance of these affairs have in the course of ascending arch of man and reaching happiness and have a main destination. It can be concluded that lack of establishment of correct and just government in the world and dispensation of all-out justice and failing to pay heed to natural dignity and material status of man during the ascending arch has eclipsed reaching to final destination by man and make it difficult. As such, competent attention to these affairs is the most important obligations although they enjoy supreme status.

¹ *Sahifeh-ye Imam*, vol. 11, pp. 450-51.

Chapter 2

Definition and Source of Freedom

Definition of Freedom

Freedom is not something to have definition. ¹

In the course of history, question about freedom and its nature has always been subject of contemplation by thinkers and intellectuals. One of the ways to achieve knowledge on nature of something is to present a comprehensive definition of the subject. However can one present a definition of the subject of freedom like other things or not? Many of today's thinkers believe that due to special nature of freedom, presentation of its definition is impossible. One such thinker is F. Rozental who opines that although different definitions of freedom have been presented and concept of freedom has been subject of great literary works, presentation of objective definition of freedom is impossible. ... Efforts to give definition of man's freedom have been technically unsuccessful and will always be as such." ²

It should be acknowledged that history of freedom has been interlocked with the history of man's life on the planet earth with an unbreakable link. Gradually, the concept of freedom has been turned into one of the most important factors contributing to movement of history across the world. Rozental believes:

¹ *Sahifeh-ye Imam*, vol. 10, p. 94.

² France Rozental, *Concept of Freedom from the Viewpoint of Muslims*, p. 18.

"In the course of its history, freedom has rid itself of the restraints of definition and turned to one of the important and vigorous abstract concepts that have no external corresponding example and definable instance except what man's mind has given it." ¹

Also, Moris Cranston believes:

"Freedom has many definitions; when one says 'I am free', one should see from what one is free; one should name the bond, encumbrance or restriction from which one man is free." ²

Bonds are opposed to our desires; freedom is opposed to bonds. One should know that there is not a single freedom but many freedoms. And they are as different as bonds, restraints and restrictions. From the viewpoint of Cranston, some people have got accustomed to freedom that never ask 'freedom from what' while one should always raise this question." ³ when one speaks of freedom, one cannot rest assured as to whether one has clarified one's desired meaning by placing an epithet before a name. For example, we often hear people speak about 'economic freedom' and 'religious freedom' while neither of them is without ambiguity. Therefore, by placing an epithet before 'freedom' one cannot remove the ambiguity, except saying that freedom from what or for what freedom is.

Imam Khomeini (s) by virtue of the basics of epistemology and knowledge of man believed that freedom is one of the dimensions of man's existence and the highest blessing and gift God has endowed upon man. He observes:

"Blessing of freedom is the highest gift enjoyed by man." ⁴

"Freedom is the best blessing God has gifted man." ¹

¹ Ibid.

² Moris Cranston, *A New Analysis of Freedom*, p. 13.

³ Ibid.

⁴ *Sahifeh-ye Imam*, vol. 8, p. 491.

By his birth man has received this blessing (freedom) from his Creator. Hence, freedom is intrinsic in man who is naturally free; freedom is not something others want to grant man. In this respect, he says:

"What sort of freedom have they granted? Freedom?! Can freedom be donated?! This very expression is an offence. The word that 'we endowed freedom' is a crime. Freedom belongs to people, God has granted freedom to people; Islam has granted freedom; the constitutional law has given freedom." ²

In the viewpoint of Imam, freedom is an important thing and should not be taken as insignificant because:

"Of the highest blessings in the world is man's freedom. Man is ready to sacrifice all one has for freedom." ³

"The life in which there is no freedom is not life." ⁴

On this basis, from the Imam's viewpoint, freedom is intrinsic in man who is inherently and naturally free, freedom is not definable; he refers to instances of freedom. In an interview with Oriana Fallaci, the Italian correspondent in response to the question of this correspondent who demanded a simple definition of freedom stated:

"Freedom is not definable. People are free to express their view. No one obliges them to have this or that belief. No one bind you to go this or that way. No one would force you to choose this or that matter. No one would obligate you where you must live or what job to have. Freedom is something clear." ⁵

It may be gathered from these utterances that freedom in the view of Imam is not a whimsical, imaginal thing and

¹ Ibid., vol. 7, pp. 367-68.

² Ibid., vol. 3, p. 406.

³ Ibid., vol. 10, p. 467.

⁴ Ibid., vol. 7, p. 419.

⁵ Ibid., vol. 10, pp. 94-5.

contrived by human mind. It is rather real and emanates from man's existence. Since man is a two-dimensional creature, man's freedom has different aspects and dimensions. On this basis, Imam Khomeini (s) elaborates on the concept of freedom, its provenance, its expanse as well as its logical and rational limit.

By virtue of his epistemology and knowledge of man and based on his viewpoint on man, Imam Khomeini believes in free will and freedom of man in thought, practice and behavior. The source of this freedom is deduced from the principle of monotheism that constitutes the basis of all Islamic tenets while the provenance of this freedom is the Almighty God. He writes:

"My beliefs and those of all Muslims have been cited in the Holy Qur'an or by prophet of Islam (s); the rightful followers after the prophet have also substantiated them. The root of all those beliefs- that constitute the most important and most valuable beliefs- is the principle of monotheism or unity. According to this principle, we believe that the Creator and Sustainer of the world, the entire universe, the world of existence and humankind is only the sacred Essence of Almighty God Who is aware of all verities and capable of doing everything and being owner of everything. This principle teaches us that man should be surrendered only by the sacred essence of the Truth and not obeys any human being unless his obedience is equivalent to that of God. Therefore, no man has the right to force other human beings to give in to him. We understand the concept of freedom of mankind from this ideological principle and that no individual has the right to deprive other human beings, society and a nation of freedom."¹

On this basis, he believes that attention to faith in God causes all darkness to be removed on the way of believers. They will be rescued from all sorts of darkness, material and spiritual gloom, darkness of despotism, suffocation, dependence on other

¹ *Sahifeh-ye Imam*, vol. 5, p. 378.

than God and tyranny, and entering the light of freedom." ¹ In his opinion, freedom constitutes the fundamentals of Islam as he observed in an interview:

"One of the fundamentals of Islam is freedom." ²

And

"Islam is the faith of freedom and independence." ³

And

"There is no suffocation in Islam; there is only freedom in Islam for all classes including women, men, the white, the black and for all." ⁴

And

"Gift of freedom is the highest gift enjoyed by man." ⁵

And freedom of man has been recognized by Islam and *Sharia* in different occasions as has been stated in the following words:

"You should know that you can be independent with Islam and that you can be free with Islam; Qur'an has created you free." ⁶

And

"According to *Sharia*, people are free."⁷

As such, by virtue of the above statements it can be deduced that such belief and insight in Imam has been profound and age old and rooted in his special understanding of the

¹ Ibid., vol. 7, p. 135.

² Ibid., vol. 4, p. 242.

³ Ibid., vol. 6, p. 526.

⁴ Ibid., p. 463.

⁵ Ibid., vol. 8, p. 491.

⁶ Ibid., vol. 7, p. 24.

⁷ Ibid., vol. 6, p. 526.

source of the world of existence and the genuine Islam of Muhammad (s).

Also in the sight of Imam Khomeini under the canopy of pure Islam, man's freedom can be provided and preserved. Islam is the religion of freedom and independence. Islam is a religion in which all achieve their right and observes all rights." It is Islam that provides us with freedom, a healthy freedom- a correct freedom."¹ "And under the shadow of Islam in its real sense and freedom in its glorified sense is materialized."²

In the opinion of Imam, the source of man's freedom is the Creator and God Almighty by creating man implanted freedom in man's essence. As such, freedom is inherent in man as he states:

"Real man of Muslim nation is naturally free."³

Also, he believes that God has granted freedom as natural rights of man and primal right of human being. He has stated this matter in different languages:

"Freedom is a gift that is the first right enjoyed by man; right is the first thing man enjoys; he should be free. Man should be free in his votes, in his acts and his engagement in his government."⁴

"Independence and freedom are two things that the entire human being considers it man's primary right and all human beings seek it."⁵

Also, he says:

"The preamble to declaration of freedom of human rights is freedom of individual. Every individual human being is free

¹ Ibid., vol. 7, p. 542.

² Ibid., vol. 14, p. 404.

³ Ibid., vol. 4, p. 242.

⁴ Ibid., p. 114.

⁵ Ibid., vol. 5, p. 43.

and should be free. All should be equal in the face of law. All should be free in place of one's residence, in one's dwelling place, in one's job and in once policy."¹

"They [religious minorities] should enjoy natural rights God has granted to all human beings."²

From the entirety of the utterances of Imam Khomeini, regarding the source and root of freedom it appears that as a *faqih* (Jurist) versed in *usul* and believing in nobility of station and nobility of permissibility are taken as primary principle. Freedom of humankind has been recognized as preliminary principle and lays the foundation on freedom of man and neither bans nor forcing man. Accordingly, right of others including right of living and the right of protection of essence is recognized for man.

¹ Ibid., v. 3, p. 332.

² Ibid., v. 4, pp. 363-64.

Chapter 3

Dimensions of Freedom

Freedom of man is worthy of examination from different aspects including philosophical and legal aspects.

Philosophical Freedom

In the course of history, a question always engaging man's attention is whether man is really free or constrained? In other words, is man free in his deeds and behaviors or if all affairs are in the hands of a super natural power – God? In response to the question two viewpoints have been raised: the first is that man is really free and is under neither domination or influence of a will beyond his power nor is man subject to a series of natural causes and effects. The second view consists of the fact that man is not only free in his deeds and behaviors but also forced in his deeds. Even some have gone so far as to say that man is forced in his free will. In any case, man should go the same way God has destined for him. In material thinking too, the idea is that determinism governs the world. That is, in natural affairs and in society nothing is without cause. Rather, every natural and social phenomenon is the effect of a cause. Man's will is also subject to natural and social laws. From this viewpoint, there is no difference between material determinism and divinely fatalism. Both are forced and every two human beings are subject to one ruling will.

In the first viewpoint, freedom and responsibility of man is raised. Conversely, in the second viewpoint since man is forced, raising the idea of freedom and responsibility of man is meaningless, because acceptance of determinism requires negation of freedom and consequently negation of responsibility.

On the question if man is free or forced and in other words, if actor and creator of man's actions are man himself or God, numerous discussions have been raised among different Islamic dominations since the early days of Islam up to the present day. The question is one of the issues having been raised in Islamic philosophy and theology under the title of determinism and freedom; in this respect, Islamic denominations are classified under two categories:

Individuals who entirely deny performance of action by man attributing all human acts to God. They are called pure fatalists such as the sect of *Jahmiyeh* and *Asharite* who believed that man has a power but this power has no effect on performance of action.¹

Mutazelite who believe that man has power over his acts both bad and good and one who favors one's deeds deserves reward and punishment in the Hereafter. God is glorified to be attributed to oppression, evil, disbelief and sin.² These affairs are objectionable and performance of objectionable affairs is impossible by God.

In contrast to these two groups, Shia *ulama* and *Imamite* denomination believes in the theory of neither fatalism nor freedom but something between the two. The *Imamite* researchers and philosophers believe that man's action is man's creation without intermediary and creation of God with intermediary such as other creatures in view of other means. As

¹ Abd ul-karim Shahrestani, *Mellal wa Nehal*, p. 110.

² *Ibid.*, p. 68.

put by Allamah Hilli in his book *Kashf al-Morad*: By call of conscience we find that some action is our freewill such as sitting and standing; if we do not want, we refuse to do it. Part of the actions is beyond our free will. Whether we want or not it will be issued such as breathing, throbbing of the pulse and the like. ... Philosophers argue that God wanted that people should be free and act according to one's will. Therefore, whatever they do has been done by them and in contrast to God's will and decree, there is not God because God wanted people to be free.¹ In this sense, in the thought of shia this matter is neither fatalism nor freedom, but something between the two; that is, man's freedom is limited and relative and his free will is in line with the divinely will and decree.

Imam Khomeini as a Shia philosopher believes that man is neither absolutely free in one's actions and deeds nor purely forced, but between the two. Based on his ontology, epistemology and knowledge of man, he begins to explain the question. In addition to examining the question in sporadic way in his different works such as the book *Forty Hadith*, this question has been dealt with; an independent book under the title of *Talab wa Eradeh* he has compiled in this connection and has treated the subject in detail.

Significance of philosophical discussion of freedom is not hidden to anyone; *he presumes the subject of legal freedom and other freedoms of man*. If we cannot demonstrate man's freedom from philosophical viewpoint and as a result regard man in philosophical dimension overpowered and forced and lacking freedom, subject about man's freedom in other issues and discussion of man's responsibilities and his reward and punishment in the face of his deeds would be taken useless and redundant.

¹ Helli, Hasan ibn Yousef, *Kashf ul-Morad (An Exposition of Tajrid ul-Aqayed)*, p. 429.

Legal Freedom

While philosophical freedom deals with freedom want and will and examines its existence or absence in man, legal freedom based on philosophical freedom has presumed freedom of man in his actions and behavior, treating the musts and must not of human freedom and its imitations. In other words, philosophical freedom is the pillar and foundation of legal freedom. Without accepting man's philosophical freedom, one cannot discuss legal freedom in society. In fact, legal freedom is based on philosophical freedom.

Legal freedom signifies absence of a ban and denotes the type of rights and individual and social freedoms provided in the constitution. In fact, borrowing from Noiman legal freedom consists of contents of these very charters.¹ As such, it appears that in order to understand legal freedom, the regulations liable to civil laws and individual and social freedoms should be examined.

Man's civil laws and liberties are based on individual rights and ban on coercion and compulsion on the part of government unless the opposite is proved. Of course, this is a hypothesis because no political system exists and cannot exist to accept individual's freedom absolutely and unconditionally. However, intervention of government in individual freedom depends on permission of law. To put it differently, in order for the government to interfere in individual freedom it should seek the permission of government, it should first demonstrate that it is authorized to take such an action. And demonstrating this matter is only possible by reference to law. As a rule, such affairs stand in need of distinct government authorities; that is justice courts of administrative courts. On this basis, nature of legal freedom; that is, civil rights freedom imply civil rights and individual and social freedoms based on three hypothesis:

¹ France Noiman, *Freedom, Power and Law*, p. 71.

adducing arguments for intervention is always vested with the government and the only way to demonstrate one's claim is referral to law. Legal procedure should have been legally provided.¹

This concept from political viewpoint depends on the conception of law and that ruler-devised law. Ruler-devised laws are those passed in accordance with written principles or unwritten principles of the constitutional law and are thus valid.

Natural and inherent rights of human beings only enjoys credit at the scene of political realities and is recognized valid when turned into frame or organizations; that is, on the condition that there is authorized system that can put into practice those laws in the face of contradictory regulations of ruler-devised laws. In other words, in civil society natural law and natural inseparable law of man is possible on the condition that it has a meaning in politics recognized by government organizations. When such, it will come under the ruler-devised laws. In the same manner, civil laws are put in constitutional laws when they come under judicial or fundamental law procedure in partial form.

Legal freedom foundation consists of the fact that no behavior is liable to punishment unless openly and clearly banned in law. From this matter, it is deduced that any practice not banned outright in law is permissible.

Meantime, man in philosophical dimension in action and behavior is considered free, also maintaining legal freedom. Details of this matter would be treated in chapter of the limit of freedom.

¹ Ibid.

Chapter 4

Aspects of Freedom

Freedom has different angles and aspects and can be studied from different perspectives including personal or individual, social and political aspect. In other words, freedom can be classified and studied as individual freedoms and social freedoms. Lawyers and scholars of politics usually differentiate between human laws and civil or political laws or in a different terminology individual and social and political freedoms. In their opinion, human rights are essentials of man's nature as a free and equal creature. All including citizens and foreign residents and passer bys can enjoy them. But civil or political laws stem from political structure of the government and nature of political and democratic systems being either socialist or despotic and ... determine the nature and expanse of political laws.¹

In this part of the present research work attempts has been made to treat with viewpoint of these scholars and thinker on individual freedoms and social and political freedoms.

Individual and personal freedoms

Personal freedom that is called absolute freedom and freedom of the body and is the most important individual rights signifies that man is free in coming and going and choosing residence

¹ *Freedom, Power and Law*, pp. 94-5.

inside or outside of the country as well as in private life and relations and also being immune from any kind of transgression and violation on life, property, house and life.¹

Personal freedom is the foundation of other rights and liberties, because when man's body is not free or not provided, use of other rights and freedom has not meaning. For instance, people who are in prison or do not basically have personal security, for him enjoyment of freedom of labor, gathering and political freedom is not feasible. In fact, with lack of personal freedom other freedom of human being is also lost. On this basis, presence of personal and social rights is precondition for political and civil rights. Without freedom of the person and without freedom of communication and association, it is not possible to discuss political rights and political laws.

Theological, jurisprudential and fundamental foundations of personal and social freedoms of man from viewpoint of Imam Khomeini (s)

Imam Khomeini (s) based on the system of epistemology and ontology and knowledge of man believe man is a free creature and no one and nothing dominates him even Satan that is his biggest enemy. As it was pointed out earlier, from the viewpoint of Imam Khomeini the source of man's freedom is glorious God and Creator of the existence. From the principle of *towhid* (Oneness) that is the root of all religious beliefs, he deduces freedom of man. As such, he believes that man is inherently and intrinsically free and freedom is a divinely blessing and gift granted man by God. Although from the viewpoint of Imam, man enjoys full and absolute freedom, at the same time in social society and gathering freedom has limitation, because exercise of absolute freedom by individual members of society results in chaos and disorder and

¹ Manuchehr Tabatabaei, *Public Freedoms and Human Rights*, p. 21.

disintegration of political system and society. Therefore, Imam believes in freedom within the limits of law.¹ He considers determination of the limit and border of "divinely laws" and "civil freedom" to be devolved upon law and believes that freedoms should be within the limits of sacred laws of Islam and that the constitutional law should be provided in best possible manner.² Only law can determine the cases of freedom and duty of citizens and Islamic government is obligated to be concerned for implementation of law for establishment of order and security and morality, safeguarding the realm of people's freedoms as well. Imam Khomeini (s) both at the scene of society and gathering maintains social and political freedoms for man within the limits of law and also believes in pale of freedom for man in a way that even law should not interfere and this is personal realm of man.

Foundation of epistemology and ontology, his viewpoint in this respect has been treated. Here, it appears to be necessary that prior to presentation of viewpoint of Imam Khomeini (s) regarding individual and social freedoms, we will deal with some of jurisprudential and fundamental foundations of his viewpoint in this respect.

Principle of Unity

The foundation and source of belief of Imam Khomeini in freedom of man and the fact that man is inherently and naturally free lies in the principle of unity that constitute the foundation of all religious beliefs. From the principle of unity, he deduces freedom of man in the following words:

"From this ideological principle, we learn the freedom of man that no individual has the right to deprive another man or society or a nation of freedom ... Decadence and fall of

¹ *Sahifeh-ye Imam*, vol. 7, p. 487.

² *Ibid.*, vol. 12, p. 283.

man are due to denying him freedom and surrender in the face of other human beings. Therefore, man should rise up against these bonds and chains and slavery and stand against other who invite to slavery and liberate him and his society so that all would surrender to God and be His slave." ¹

As such, man is indebted to no power and individual as far as his freedom is concerned. As put by the Imam, freedom is not something to be granted; it is the natural right given by God to man. No power can deny man of this freedom.

Principle of permission and ban

In Shia school of Islam in the realm of *fiqh* or jurisprudence, two schools and disciplines are raised consisting of advocates of *usul* (fundamentals of *fiqh*) and *Akhbarion* (traditionalists). In many cases, the two have profound differences. One instance deals with the present subject as to whether the primary principle in objects is the principle of ban or permission or principle of reverence and prohibition. The fundamentalists consider the primary principle to be that of ban and permission and believe that freedom and ban implies using all objects and creatures and limitation and is banned to seek need for religious and legal arguments. In contrast to this group, traditionalists hold that the first principle is that of ban on actions and behaviors and use of objects unless cases prescribed by the lawmaker. For this reason, traditionalists in cases whose verdict is not clear in *sharia* rule to be necessary for one to be cautious. In more precise term, in the misgivings regarding rulings and banned cases, in case of absence of the clear text, they rule the necessity of exercising caution. However, fundamentalists maintain that man is committed to clearance although they consider caution to be permissible.

¹ Ibid., v. 5, pp. 387-88.

Imam Khomeini, as a scholar advocating *usul*, considers the primary principle to be ban and permission. In his book titled *Makaseb Muharama*, he writes:

There is no doubt that the primary cause like nobility of hal and originality of permissible and generality of the fact that whatever on the earth has been created for man is that it is permissible to use everything in a way unless there is an argument substantiating its prohibition.¹

On this basis, it appears that it can be deduced that freedom from the viewpoint of Imam is the primary principle, and binding divinely laws and religious and legal restrictions are secondary and in the second degree. In other word, from the viewpoint of Imam human being in performing any act and measure for any action and exercise in every thing has not been banned and prohibited by *sharia* and law are free and dominant.

Also, accordingly the lifestyle of the wise drives one that principle of legitimacy and permissible and in other words right of human freedom is the primary principle, because the lawmaker during legislation of civil, penal and eve constitutional law do not first legislate a law expressive of the fact that they consider freedom of man in these affairs to be out of question and legislation of law is considered useless. *Sharia* also is a set of laws and its lawmaker in it like other legislator in expressing prohibition and ban and restriction of activity of man is treated. And from another method it has not been used and this matter connotes that performance of the lawmaker is based on lifestyle of the wise. Therefore, God and his messenger consider freedom of man in this world to be definite and legislation of law for it has been prohibited. Prophets have come to express the limited cases of obligation and say that in what area people are not free. This approach of expression *sharia* is indicative of the fact that it is not necessary for people

¹ Ruhullah Khomeini, *al-Makasib al-Muharama*, vol. 1, pp. 48-9.

to gain permission for any action they want to perform. No prophet has quoted that God has permitted people to use His blessings and anyone in any work for instance opening and closing one's eyes, sitting or walking and drinking should seek permission.

Therefore, principle of freedom needs not forfeit of lawmaker, because it is inherent inhuman and emanates from Him. Therefore, reason argues that before entry of *sharia*, man can do whatever he can and this matter indicates aspect of human realities that is the right of freedom of man.

Fughaha (jurisprudents) interpret this right of freedom as permissible. Permissible is the same ruling of reason for freedom of man in his behavior before entry of *sharia*. The verdict of reason for license of man's exercise in him and nature and ruling that it is not necessary for any and all action to have religious permission, it is only sufficient not to have religious ban.¹ While in contrast to Imam and advocates of *usul*, traditionalists for observance of "divinely prohibitions" restrict man's freedom. In contract, the principle of permissible, principle of danger has been accepted. Therefore, the principle in exercise of control over others and dominating them is *hazar* (that is, ban and absence of license of exercise of control). Reason rules that one cannot exercise ownership in property of other without one's permission. This ruling of reason is unexceptionable and includes God's properties as well. Resources of man and nature belong to God and man is His possession; hence, as long as on His party man has not receive license and permission, man is not free in performing any work. In this connection, such is the argument:

Principle in everything is prohibition, and that the world is all including the say and the earth is the possession of God as the possession himself is the creature of almighty God.

¹ Muhammad Jafar Langrodi, *Legal Schools in the Laws of Islam*, pp. 65-6, 121, 132-3.

Therefore, all works including movement and stillness is performed, no one has the right to exercise control over the world unless by His permission, because both possessor and what is subjected to exercise of control are possession of God.¹

And in ruling being unknown, the verdict is necessary to be cautious.²

Principle of ban of the private realm

By private realm is a sphere of the private life of persons' entry into which and inspection in those realm is banned and maintained as not harmful. For example, inspection from house of persons in order that how much the property of individuals and quality of life of them is, is banned and its performance a crime and liable to prosecution. As such, Imam Khomeini despite the fact that realm of authorities of *Velayat-e Faqih* is considered very extensive, he considers it in his book *al-Bai* as consisting private life of individuals.³

In aspects dealing with government all that which is at the commander of the Messenger of God and the Imams in aspects dealing with government all of what is at the command of just *faqih*... however, if for holy prophet (s) and Imams (PBH), a *velayat* – not in the sense of government- is demonstrated. This *velayat* (guardianship) is not fixed for *faqih*. Therefore, if we come to believe that the immaculate Imams exercises *velayat* over diverse of wife or sale of her properties or seizing it, if public does not require expediency so required, this *velayat* is not fixed for *faqih*.

¹ Ibid., p. 193.

² Jafar Sobhani, *Tahzib ul-Usul (connotations of lessons of Imam Khomeini)*, p. 212.

³ Ruhollah Khomeini, *Kitab ul-Beia*, vol. 2, p. 489.

Irrespective of these cases, Imam Khomeini (s) in other place as the case may arise, has expressed different statements and speeches in the are of prohibition of entry into private life of individuals including in the eight-point order in Azar 1361 in article six he has cited:

Principle of prohibition of private sphere

By private realm is meant sphere of private life of man's entry and inspection of which is banned and maintained as not harmful. For example, inspection of house of person in order to find out the quality of life of them is banned and its performance forbidden and liable to prosecution. As such, Imam Khomeini despite the fat that sphere of authorities of *velayat-e-faqih* is extensive; he does not consider examination of private life of individuals to be permissible. In his book *Ketabul Bai'a* he writes in this respect:¹

In aspects dealing with government all that which is at the command of the messenger of God (s) and Imam after him (PBUH) is at the command of just *Faqih*... however, if for prophet of Imam (s) and Imams (A) a *velayat*, not in terms of government, is demonstrated, this *velayat* for *faqih* is not demonstrated. Therefore, if we believe that immaculate Imams (a) enjoys *velayat* over diverse of ma's wife or sale of his property or seizure of it, if public expediency does not so requires, this *velayat* is not demonstrable for *faqih*.

Irrespective of this case, Imam Khomeini (s) in other places proportionate to different situation, speeches and different speeches in the field of prohibition of entry into private life of individuals including in the eight point commandment in Azar 1361 cites in article six:

¹ Ibid.

No one has the right to enter the house or shop or place of work of person without permission of their owners or arrests of somebody or in the name of discovery of crime or commitment of sin prosecute him ... or for discovery of sin or crime however cardinal, uses eavesdropping or seeks the secrets of people and inspects the sins of others or the secrets others have told him to disclose even for one person. All these are crime and sin. ¹ none of the judges has the right to issue verdict primarily by means of which the agents to enforce the verdict are authorized to enter the houses and places of work of individuals being neither safe and team houses nor place of conspiracy against Islamic Republic establishment and the party issuing and executing such a verdict would be liable to legal and religious prosecution. ²

Principle of Clearance

Rakhs (permission) is a principle comprising recommended, abominable and permissible things. Imam believes that *rakhs* is beyond the sphere of enjoining to good and forbidding the evil acts, because *rakhs* covers the scope of individual's private life and is simply forbidden and authorized ones that can be taken as subject of enjoining to good and forbidding the evil deeds by others. ³ In other words, divinely obligations in the limit of forbidden and obligator things and in the scope of recommended ones comprising abominable and permissible ones, man has freedom of choice and action and no one can object man.

¹ *Sahifeh-ye Imam*, vol. 17, p. 140.

² *Ibid.*, pp. 141-42.

³ Ruhollah Khomeini, *Tahrir ul-Wasilah*, v. 1, pp. 463-82; *Treatise on practical laws*, pp. 395-96.

Principle of domination of individuals over properties and one's self (rule of dominance)

This principle, both enjoys jurisprudential backbone and foundations and also being constituted on rational argument and reasoning. The most important *hadith* used by *fughaha* as basis of jurisprudence is the rule of dominance having been used by application of *fughaha* and Islamic *ulama* and professors of law is a *hadith* quoted by the holy prophet (s) to the sense that ...¹ people are owner and dominant over their properties and riches.

Also, rule of domination is a rational rule.² Contents of the rule is its clear dominance in which people have the right to any type of material and legal domination in one's property and can enforce this right in any way they want. In other words, any type of domination as long as not being demonstrated in terms of its illegitimacy by the lawmaker, it is authorized and legitimate by the owner.³

Article 30 of civil law says in this respect:

Any owner in proportion to one's property has the right to exercise any form of domination and benefit unless cases law makes exception.

Article 31 stipulates that:

Any property owned by its owners cannot be deprived unless by the rule of law.

¹ *Behar ul-Anwar*, vol. 2, p. 273; Abubakr Muhammad ibn Hasan Beihaqi, *The Great Traditions (al-Sunan ul-Kobra)*, v. 6, p. 100.

² Mustafa Muhaqq Damad, *Rules of Fiqh* (civil section 2), p. 121.

³ *Ibid.*, p. 122.

In the constitutional law, this law has been counted respectful. In this respect in article 46 of the constitution we read:

Anyone is the owner of product of his business and legitimate work and no one can deprive other as owner in proportion to one's business and labor deprive others of one's business and work of others.

And in completion of the above principle in article 47, it is provided:

Personal ownership obtained from legitimate way is respected.

Imam Khomeini (s) also has not been negligent of the contents of the rule of dominance ¹ and in different cases contents of this law and principle has been notified including man's domination over ones life and self and the fact that man is the owner and are owner of their property and riches in which case he observes:

If you believe in laws of Islam these laws of Islam has created man of Islam free; Islam has created man to be dominant over one's self, property and life and principles. God has ordered man to be dominant, free; man is free in choosing one's residence; every human being is free in housing in drink and eatable. What is not opposed to divinely laws, it is free; it is free in policy. ²

No one has the right to transgress the property of others moveable or immoveable or violates the rights of others or confiscate it unless by the rule of religious judge and that after precise examination and demonstration of the verdict from religious viewpoint. ³

¹ Ruhullah Khomeini, *ar-Rasael*, p. 61.

² *Sahifeh-ye Imam*, v. 1, pp. 286-87.

³ *Ibid.*, vol. 17, p. 140.

Based on the viewpoint of Imam Khomeini it can be said that this rule derived from narrations of holy prophet of Islam conveys something over domination of individuals over properties. If man dominates over his property in initial manner, dominate over their prestige and life. If people dominate their property and are no longer authorized to exercise control over them, then they are dominated over them and can do whatever they want. Man is owner of him and no one can limit one's ownership and domination of individual over him and prevents him from his possessions.

From this rule it is clearly deduced the negation of domination of others over individual. In this respect, some *fughaha* (plural of *faqih* or jurisprudent) like Sheikh Murteza Ansari considers lack of *velayat* (governance) of man over man to be a rational rule and some others like Allamah Mameqani absence of obligation of obedience stems from a primary rational principle and Imam Khomeini (s) believes that the primary principle is that ruling of one over other in judgment and other than this is not effective.¹

Principle of defending and projecting essence (self)

Right to life and protection of essence, is one of the natural and inherent rights of and it is considered the basis all human rights, because all rights are constituted and dependent on existence of the person himself and without him it has no conception. Since life is a gift bestowed upon man by god, not only, no government can deprive this right of individual or inflict any harm to his body and psych, rather every government is obliged to respect the life of individual and its citizens and make greater efforts to protect their life. And this is one of the main duties of government. In fact, survival of any society and the entire

¹ Ruhollah Khomeini, *al-Ijtihad wal-Taqlid*, p. 18.

foundation of national and international security are established on it.

Principle of negation of seeking loan and fault.

The term seeking loan is opposite to the term wealth that means arduous, tight, hard, difficult, tough and the day becoming hardened and be indurate.¹ Also, fault in terminology means straitened, narrowness, tight, sin and forbidden. In the Qur'an, too the term seeking loan and guilt have been used in this sense.

One of the public laws set in Islam is a type of laws set for observance of the masses representing other laws of God such as law of guilt and law of harm and necessity and aversion and the like, these laws oversee other laws for observing the condition of people.

By passing such laws, Islam has sufficiently observed exigencies of time and countries and persons. Therefore, if in some countries or for a number of person's necessities of something happen, according to these laws changes are introduced in the primary laws.²

The principle of negation of hardship and guilt which are also called the principle of compulsion discusses the subject that individual or majority members of society or the entire society at times suffer from strained circumstances and have to act in contrast to an imperative law (in contrast to a necessary law). In such cases, should one succumb to compulsion in respect for legal necessity and shoulder the load of trouble and hardship? In Islamic law, the rule of compulsion and negation hardship and guilt has been accepted with its unlimited expanse and the rule of "al-Zarorat Tabih al-Mahfozat is of unquestionable rules of Islamic *fiqh* or jurisprudence. Sheikh

¹ *Rules of Fiqh* (civil section 2), p. 79 onward.

² *Kashf-e Asrar*, p. 315.

Muhammad Taqi Esfahani believes that author of the book usurpation who is among Imamite *fughaha* any *haram* or forbidden practice excluding murder of Muslim is permissible or authorized for the helpless.¹

Rule of understanding hardship and guilt or compulsion in law is such that if in contrast to a necessary law is not acted, the extent of loss caused by practicing that law is equal or greater than the extent of benefits of acting according to that law. In this case, rule of reason is that in contrast to that law and in line with repulsing loss should be acted, because one knows that infrastructure of laws comprise computation of expediencies and corruptions and subject of discussing compulsion can be both necessity of every individual human being in life and emergency in society.²

Distinguishing emergency and difficulty in individual matters lies with the individual and in social affairs with the masses of people.

The rule of hardship and guilt is a rational rule and among instances of rational virtue and indecency, because what is advisable for society is good and what is to the detriment of society is bad.

The glorious God says in the holy Qur'an:

God does not want to press you, but wants to purify you.³

God has not put blame and hardship in your religion.⁴

Concept of the above verse is that whenever as the result of exercise of religious commandments and necessities, the adult bound to perform religious precepts is liable to hardship and

¹ *Legal Schools in the Laws of Islam*, p. 125.

² *Ibid.*, pp. 128-29.

³ *Surat al-Maidah*: 6.

⁴ *Surat al-Hajj*: 78.

guilt, these commandments and necessities would be discharged from one's responsibility.

Personal and individual freedoms from the viewpoint of Imam Khomeini (s)

Imam Khomeini in view of his philosophical, jurisprudential and *usuli* foundation, as pointed out in preceding pages, believed in individual and personal freedom as primary right and the most important individual rights and believes that individuals in their private and internal life are free to choose their housing, coming and going, communication and association with others, defending their life and property, drinking and eating and selecting job. They also enjoy the right to protect their essence and personal immunity and security including life security, prestige and private life (security of housing, place of work, coming and going, correspondence, secrets and personal properties). In fact, security of housing is complementary to personal security and freedom of housing. Personal security not only consists of life and property of individual, but also his housing. The individual's house is immune from transgression and without permission of the owner of the house; one cannot enter one's house or inspect it. Even government agents also have no right to enter anyone's house unless with permission of judicial authorities and by observing legal formalities. By observing immunity of housing, one can enjoy full independence in one's internal and private life with complete confidence and safety. Foregoing this, if one's house is to be subjected to transgression and interference at any time or inspected willfully, one's immunity mind, freedom and mental comfort would be deprived and one's individual independence and in general personal security would lose its confidence.

Also, freedom in internal and private life in the sense of being immune from interference of others in family affairs and

conjugal life and also being immune from inspection and scrutiny into physical condition and personal status and other affairs, eavesdropping of private dialog of the individual and its registration by cassette, etc., and taking picture of person or assemblage of it without his permission and its distribution, intervention in private life of individual that has been declared banned commonly and religiously.¹

As put by Imam Khomeini (s) in his eight-point decree in defending individual freedoms and these rights and freedoms being immune from interference and appropriate other individuals, government and government agents:

No one has the right confiscate or summon without verdict of the judge based on religious standards however, the timing of confiscation may be slight. Confiscation or summon by force is a crime and causes religious punishment.

No one is entitled interfere and or confiscate the property of other whether moveable or immovable unless by the rule of religious judge and that after precise survey and demonstration of ruling from religious viewpoint.

No is authorized to enter the house or shop or place of work of a person without permission of the owner nor can arrest anyone or in the name of discovery of crime or commitment of sin conduct prosecution and attention or insult an individual and perpetuate inhuman and un-Islamic acts or listens secretly to the telephone or cassette record of other in the name of discovery of crime or discovery of center of sin or for discovery of sin and crime however big it might be or seek the secrets of people or inspect the sins of other or disclose for others the secrets others have given him.²

The above materials denote that Imam Khomeini (s) maintain private sphere in life of individuals and in that sphere, one is immune from the interference and confiscation of others

¹ *Public Freedoms and Human Rights*, p. 37.

² *Sahifeh-ye Imam*, vol. 17, p. 140.

and intervention and supervision of ruling body and are in safety.

Freedom of idea

In Islam, democracy is available and people are free in Islam to express their views and in their practices.¹

Freedom of idea is counted as among the individual and private freedom of man. This is the basis and substance of man's thought and root in freedom of thought and idea. Freedom of idea consist of free selection of any thought that individual considers equal and the same as truth. This thought depend on what zone it is related; and said freedom is called in the same name. For example, if thought is in regard to ethics of religion, it is called the freedom of conscience or religion. And if it is related to politics, it is called political freedom. And in case it is regarding science and art, it is called freedom of science and art.

On this basis, it has been said freedom of idea consists of the fact that:

Any individual approves of any thought including social, philosophical, political or religious thought or considers it the same as truth and chooses it freely without being faced with concern or fear or transgression.²

Freedom of idea on the one hand is rooted in the fact that man's ideas and belief like any other thing affiliated to ethics comes under the sphere of private affairs. On the other hands, it has a base in verities that is the same as human rights and is a total of imperishable natural right that guarantees freedom of idea or faith of any human being at least in definition only due to being human being, consisting of:

¹ *Sahifeh-ye Imam*, vol. 5, p. 468.

² *Public Freedom and Human Right*, p. 65.

Freedom of idea and thought stem from the same talent of human being that can reflect on issues. This human talent should definitely be free, because progress and perfection of man hinges of this freedom.¹

Basically, whether belief means definite or suspicious does not apply to correct matter. Therefore, anyone with any belief considers it right and correct. Therefore, one who considers a thought wrong can in no way come to believe in it and accept it in one's heart? Foregoing this, one should accept that society two contradictory things finds reality at a time and place. In fact, emergence of idea in man is in such a way that man primarily comes to be certain of a belief or conjecture it and then automatically comes to believe in it. As such, according to some thinkers idea is not a volitional act so that its prohibition or prescription applies to it.² In fact, idea is like love; it is neither volitional and nor forcible. On this basis, neither *sharia* nor any other authority can regard man forced in choosing an idea because imposition of idea is not possible.

Since Islamic *sharia* is rational and in conformity with human nature, in Islam freedom of thought and idea has always been respected and the book of God and life style of the holy prophet (s) and immaculate Imams (A) always invite people to reflection and thought and contemplation and listening to different words and beliefs and following the best of them. As stated by the holy Qur'an in verses 17 and 18 of Chapter *Zumar*, respect for freedom of thought and idea is counted as tokens of guided and wise individuals.³

God in the holy Qur'an everywhere calls man to thought, contemplation, reflection and realization about secrets of the world of existence (journey in macrocosm and microcosm) and history of the past and teaching advice and human reason is

¹ Murtada Mutahhari, *About the Islamic Revolution*, p. 6.

² Muhammad Hussein Tabatabaei, *al-Mizan*, vol. 2, pp. 523-24.

³ *Surat al-Zumar*: 17-8.

invited to judgment and arbitration. Also, ideas that are opposed to reason and ethics are not accepted and do not maintain value for it. On this basis, God rejects the idea and belief by way of abomination and there is no compulsion in religion. The right direction is henceforth distinct from error,¹ is considered to be its motto.

Also, God says:

And if thy Lord willed, all who are in the earth would have believed together. Wouldst thou (Muhammad) compel men until they are believers?²

In fact, a school prevents freedom of idea and thought that does not believe in its religion and platform. While implication of verses of the holy Qur'an and lifestyle of holy prophet of Islam (s) and other *ulama* of religion indicate support and defense of Islam for freedom of thought and idea and respect for it and secret of survival of Islam lies in this matter.

Imam Khomeini,³ inspired by his knowledge pillars believes in freedom of thought and idea. In his viewpoint:

Freedom of ideas in Islam has existed from the beginning. In time of our Imam ('a) and in fact in time of prophet, it was free, people made their words.

As believed by Imam, in the holy Qur'an we read there is no force I religion. It is for this reason that it is not possible to impose idea. It is impossible that at random one imposes one's ideas.⁴ One trained by school of Islam is one who if understood that his word is right, one should put it forward by argument⁵ (journey in macrocosm and microcosm) and history of the

¹ *Surat al- Baqarah*: 256.

² *Surat al- Yunus*: 99.

³ *Sahifeh-ye Imam*, vol. 6, p. 277.

⁴ *Ibid.*, v. 14, p. 93.

⁵ *Ibid.*

antecedent and learning advices of them calls on man and invites man's reason to judgment and arbitration.¹

Islam is opposed to imposition; Islam is not a school of imposition; Islam promulgates freedom in all its dimensions.²

As held by Imam,

In Islamic except in rare cases and prestige of Islam is at stake, and that with the discretion of the subject laying with the wise experts no one can impose one's votes to others.³

In this government, all are free to express their view.⁴

Every individual enjoys the right of freedom of idea and expression.⁵

All individuals enjoy freedom in any belief.⁶

People's ideas are free. No one binds them to hold such a view.⁷

In Islamic Republic, communists are free in expression of their ideas.⁸

Firm and solid belief of Hazrat Imam in freedom of expression is because in his view, idea should be answered by idea and logic and argument with logic and argument, as he says:

Anyone can express his views and Islam has provided answers to all ideas and Islamic government answers all logics with logic.⁹

¹ Ibid.

² Ibid., vol. 11, p. 157.

³ Ibid., vol. 21, p. 142.

⁴ Ibid., vol. 5, p. 476.

⁵ Ibid., p. 139.

⁶ Ibid., vol. 4, p. 435.

⁷ Ibid., vol. 10, p. 94.

⁸ Ibid., vol. 4, p. 364.

⁹ Ibid., p. 411.

We have proof; one who has proof does not fear the freedom of expression.¹

Islam is the religion documented by argument and hinges on logic and does not fear freedom of expression and the pen and does not fear raising other schools whose withdrawal in its environment schools are fixed and in presence of their scientists have suffered defeat.²

As such, nature of system and Islamic government requires that:

Environment of science should be a free environment.³

Door of *Ijtihad* should always be open and ... social and jurisprudential viewpoints in different perspectives in different fields including opposing to each other are free are presented and no one has the right to prevent the.⁴

In other words, one (including legal or real persons) should not block the gate of *Ijtihad* and freedom of thought and belief. Because in the sight of Imam necessarily closure of gate of freedom of thought and idea and blockade of gate of *Ijtihad* and imposition of idea and belief on other result in suffocation and despotism and eventually resulting in dictatorship. He defines association between lack of freedom of thought and belief with freedom of expression with creation of dictatorship in such manner:

Dictatorship emerges gradually in man. From the beginning, he imagines that he is a man with different dictatorship. However, sometime when it happens in ideas and in narration begins imposition. He wants to impose their views on others. Not that demonstrates with argument; he want to impose over other. He is a dictator that man wants to think, other accepts without reason. Once a fair man that says I

¹ Ibid., vol. 6, p. 277.

² Ibid., vol. 10, p. 81.

³ Ibid., vol. 3, p. 307.

⁴ Ibid., vol. 21, p. 177.

should see and sit with each other, know that your words is true or my word is true. Once it is such that since in one's spirit prevails dictatorship and he himself is not aware of and wants to impose on others what he understand that material and force others to accept it. It starts from here. Then in graduate when a power emerges, it take a step higher and then gradually when a power is found, from here a step will go forward and for instance the environment it has and in proportion to the freedom attitude it has proportional to the amount o the power it has and in proportion to the for example environment he starts gradually to exercise dictatorship. When man enters society ... gradually that goodness has existed in his inner self and then and goes towards growth. First, he himself is unaware of the matter; he does not know that this procedure is dictatorship. He imagines that the procedure if human and Islam procedure. However, he moves forward ... Do not imagine that first Reza Khan was a dictator or Hitler was a dictator ... gradually when he enters society and gains power the more the power, that habit existing in his inwardness grows constantly. It gains power gradually until once dictatorship emerged like Hitler or in our country; a dictatorship was imposed like Reza Khan. ¹

Freedom of Religion

Freedom of religion is one of the forms of freedom of belief and in general freedom of thought and conscience in the sense that anyone enjoying freedom of thought, conscience and religion or belief to one's selection also freedom of tools of religion or beliefs, whether in individual or collective form, whether openly or secretly in acts of worship and implementation of etiquettes and customs and teachings of religion. ²

¹ Ibid., v. 14, pp. 90-1.

² *Natural Freedoms and Human Rights*, p. 94.

Any religion has two elements: first belief in special world view about creation and about relation between individual and God and principle that is more linked with metaphysics. Second, conduction of some ceremonies and religious obligations and implementation of rules of *sharia* and its propaganda; in fact announcement of freedom of religion guarantees two freedom for individual: A) enjoying freedom or accepting a religion B) freedom of tools of religion or beliefs and conduction of ceremonies and religious obligations.

Since religious freedom is a branch of freedom of belief and belief is not a volitional practice to be liable to enjoining and forbidding, acceptance of religion and religious belief is not subject to force and coercion. Therefore, motto of there is no force in religion in Islam. Although it considers its religion to be superior, it respects freedom of people in selecting their religion and does not force anyone to accept Islam. As stipulated by Allamah Tabatabaei:

In the sentence there is no force in religion has been rejected, since religion consists of a series of scholarly disciplines that bring about scholarly knowledge and is comprehensive compared to all those disciplines is one word and that consists of beliefs. Belief and faith are affairs of the heart in which one cannot use reluctance and coercion. Since application of reluctance is only in apparent practices that consist of material and physical movements (mechanical). However, beliefs in the heart have causes and effect of the type of the beliefs and perception and it is impossible that for example ignorance results in knowledge or non-scholarly premises give birth to scholarly verification. In this connection, he said:

There is no force in religion has two possibilities: one is that the sentence may be informative and wants to relate a state of creation and observes that God has forced no one to accept a religion and resulting in religious decree that reluctance in

religion has been negated and force in religion and belief is not permissible. If it is a compositional sentence and wants to state that people should not be forced to accept a belief and faith in that case too the said negation depends on a creative fact in the sense that reluctance affects only in physical actions, not beliefs of the heart. ¹ Only by talking, discussion, and debate individuals can be convinced of accuracy or invalidity of a belief.

All human beings are supposed to make efforts to understand the right religion in logical way and select it and the most important effort in understanding it is the truth. In viewpoint of Imam, too this effort of man for understanding the truth is important. In his belief, the effort that is made by the rule of man's truth-seeking and searching nature determines the border between salvation and rescue. In the realm of understanding the truth and practicing it only failure and shortcoming of individual makes them deserving of worldly and other worldly reproach. Therefore, those who traverse a path without fault and come to believe in something and act accordingly are people of salvation although they have chosen a wrong path. In this respect, Imam Khomeini (s) in his book *Al-Makaseb Al-Muharame* writes: since disbelievers are certain of verity of their religion and invalidity of other religion, they are excused and are not sinful. Even if their *ulama* having been raised in environment of disbelief have come to believe in their invalid religion in certain way and reject any reason against their ideas, but they consider it likely, their religion is invalid and out of obstinacy refuse to study other argument, they are responsible and deserve divinely chastisement. ² Therefore, Imam believes what is necessary for man's salvation is his effort and thinking not its result. Whatever the result of contemplation if its premises has been applied without dereliction of one's duty would be accepted by the divine,

¹ Muhammad Hussein Tabatabaei, *al-Mizan*, vol. 2, pp. 253-54.

² Ruhullah Khomeini, *al-Makasib al-Muharrama*, vol. 1, p. 133.

because the thought cannot be accepted but treated with violence with some of its results. As such, it appears that application of the verse 85 of chapter Al-e Emran ... refers to those who have shown negligence in understanding the truth.

Although those who neglect in understanding the truth deserve censure and reproach, duty of Islamic government is to remove the obstacles on the way of understanding the truth for human beings and provide the necessary facilities for understanding and enhancing knowledge of people towards the truth. In Islamic society, no one is deserving of censure and harsh treatment and punishment because of religion and religious beliefs or one's being religious or non-religious.

In this respect, Imam Khomeini (s) in response to this question that many of the people in Iran, particularly among the intellectuals and despite belief in religious obligations do not act according to them or basically do not believe in religion. What will be the treatment of Islamic government in the face of such people? The Imam says:

We try to show these individuals the way of salvation and rescue; if they do not want to traverse this path, they are free in their daily life unless want brew harmful plots against the people and the country.¹

In addition to believing that man is free in choosing and accepting religion and having religious beliefs, Imam Khomeini also believes that expression and presentation of different jurisprudential and theological ideas and beliefs are free in religious issues, because a small section of beliefs and religious rulings enjoys rational evidence, Qur'anic frankness or narrative concatenation and a major section of it is suspicious Qur'anic appearances or narrations issued suspiciously.²

¹ *Sahifeh-ye Imam*, vol. 5, p. 414.

² Mahdi Muntazer Qaem, *Personal and Intellectual Freedoms from Viewpoint of Imam Khomeini and its jurisprudential Foundations*, p. 94.

In this wide circle, the door of *ijtihad* and scholarly effort is open to all so that in proportion to one's status give their view, express their viewpoint without any concern, worry, propagate, and teach. This practice does not cause canonization and innovation because any religious theory in fact indicates amount of understanding of the possessor of that theory from Qur'an and Sunnah, not being definitely the words of religion. The *Fatwas* (religious decrees) by *maraja taqlid* (religious sources of imitation) is although subject to their certainty, they know that most of these ideas and views can be subject to revision and undergo change. Their understanding of revelation is not the revelation. Although *fatwas* of *fughaha* are valid and proof, requisite to a theory to be, a proof is not its relation to *sharia*. Validity and proof of *fatwas* of *fughaha* means that since in their deduction method of reason has been applied, it is binding, no more. If we want to come to believe other than this, we should be able to demonstrate it. In the realm of *ijtihad*, naturally, many different and occasionally contradictory ideas and beliefs are raised and the right word is one of those cases. However, it will be reason so that people to be prevented from making efforts on the way of understanding the right and truth and expressing their views and ideas. In elaborating the matter, Imam Khomeini (s) states:

It is possible understanding of people is different from ours and we cannot close the gate of *Ijtihad*. *Ijtihad* has always existed, exists and will exist. However, the issues raised today greatly differ from those in the past. Understandings from Islamic laws are different. We should not struggle over understandings.¹

And government should not prevent from expressing beliefs and religious views and close the gate of *ijtihad*. Imam believed:

¹ *Sahifeh-ye Imam*, vol. 19, p. 304.

In Islamic government, the door of *ijtihad* should always be open and the nature of revolution and the system always necessitates that theories of *ijtihad* and *fiqh* or jurisprudence in different fields even though opposite to each others should be presented freely and no one has the right to stop it.¹

If there is no possibility of free presentation of different religious ideas and views and religious views cannot review each other, the prevailing religious theory would require force and violence for its survival and religious rulers will turn to despotism by justifying that they are protecting religion. Ignoring and ignorance of different religious views as put by Imam Ali (a) brings up religious people narrow minded and uncompromising.

In addition, freedom of expressing view in the sphere of religion is not in the monopoly of *maraja*, *mujtahids* and experts in fundamentals and secondary principles of religion. In the same way that people are not banned from expressing views on different sciences and entry into those realms is not regarded a crime, entry of people in religious subjects and expressing view on those subjects are also freed. Due to principle of freedom, all people are free to express any religious view and preventing them requires rational and religious reason without which one cannot deprive them of their rights. Depriving people of their rights is against *sharia* and reason. Therefore, anyone deeming it likely that a religious theory is correct can express it. However, since obeying conjecture and ignorant movement and issuance of fatwa out of ignorance and unawareness has been against reason and intellect and has been banned in Islam, acting according to ideas and views, which one is not certain of, is not usually permitted and its exercise should be avoided.

In Islamic society, Muslim man is free to select religion and hold religious ideas, views, and expressing those ideas and

¹ Ibid., vol. 21, p. 177.

beliefs, also practicing them freely. By the rule of intellect, people should obey God and worship him. Obedience to God implies acting out of heart and volition. If religious practices are not exercised out of heart and volitionally but done out of fear or force, obeying God and worshipping Him is not appreciated. Therefore, it would be devoid of spirituality and would produce no impact on elevation of man's spirit and proximity to the Right. In fact, it will be a hypocritical and cunning practice.

In Islamic government in addition to the fact that Muslims both shia and suni are free in holding religious views and expressing them freely, non-Muslims and followers of other religions are also like Muslims are free in holding and selecting religion and religious views and expressing and propagating their ideas and acting according to them.

From the viewpoint of Imam Khomeini (s), all activities of religious minorities including the Jews, Christians and Zoroastrians enjoy full religious freedom in their beliefs and ideas and exercise of their religious practices and rituals. In fact in the view of Imam:

Islam has given freedom to any religious minorities more than any other religion and school. They also should enjoy their natural rights granted them by God to all human beings. We will take care of them in the best possible way.¹

Islamic government is a democratic government in the real sense of the word and brings full freedom for all religious minorities and anyone can express his ideas.²

In viewpoint of Imam religious minorities while people are free in their thought and belief, they are also free to act according to their religious ceremonies and rituals. Imam Khomeini says:

¹ *Sahifeh-ye Imam*, vol. 4, pp. 363-74.

² *Ibid.*, pp. 410-11.

All religious minorities are held in esteem in Islam. All sorts of freedom are provided for performing religious obligations. We are not opposed to any human being. They are Iranian like other Iranians and enjoy all sorts of rights.¹

Of course, it should be noted that Imam Khomeini (s) meant religious minorities, followers of official religions and those recognized in the constitutional law of the country like the Jews, Christians, Zoroastrians and Islamic denominations such as Hanbali, Shafei, Maleki, Hanafi and Zeidiyeh and no pseudo religious, feigned groups contrived by colonialists and foreigners. In this respect, in response to a question, the Imam says: Is there religious and political freedom for Bahais in the future government? The Imam replies: Freedom for individuals detrimental to the country will not be given. In response to the question that if freedom for their religious ceremonies to be performed to which the Imam gives negative answer.²

Freedom of Expression

One who has proof does not fear freedom of expression.³

Freedom of idea and freedom of expression are not inseparable. Freedom of belief without freedom expression has no value, because thought and reflection is an internal reaction and a spiritual matter. In fact, though is part of man's heart and inner hidden things and is concealed in the secret place of one's heart and no one has access to it. Therefore, thought and idea without word and without expression and announcement of it has no value. Only when freedom of belief finds meaning that in a way that thought and belief is expressed and surfaces through talk, writing, behavior and etc in the outside world.

¹ Ibid., vol. 5, p. 424.

² Ibid., p. 299.

³ Ibid., vol. 6, p. 277.

Islam whose ideological foundations are constituted on thought and intellect has not created any obstacle for expression of thought. In fact, from the very beginning its opponents have been challenged and invited for clash of ideas. In Islam, giving liberty is the principle in the sense that anything is permissible unless one adduces preventive argument. Among these works, include the expression of materials and dissemination of ideas. In the lifestyle of the holy prophet of Islam and the immaculate Imams have laid stress on freedom of expression and conduction of many of Islamic instructions including enjoining to good deeds and forbidding the evil acts, benevolence for rulers of Islamic lands, truth seeking and quest for right, ... are based on existence of freedom of expression.

Imam Khomeini (s) based on foundations of knowledge and viewpoint and its special understanding of Islam and in other words based on the genuine Islam of Muhammad (s) believe that in Islam freedom of expression and freedom of ideas have existed. In the early days of Islam, in time of the holy prophet (s) and the immaculate Imams individuals were free to express what they want ¹ and they could express their ideas and views. Also in the Islamic Republic, any individual enjoys the right of freedom of expression and idea.

The important point is that this viewpoint and belief of Imam has its root in the logic and the fact that Islam is a religion believing in reasoning. The Imam says:

Islam is a religion based on reasoning and logic and does not fear the freedom expression and the pen. ²

And

We have proof. One who has proof does not fear freedom of expression. ¹

¹ Ibid., vol. 5, p. 139.

² Ibid., vol. 10, p. 81.

Therefore, it appears that the main reason for objection to freedom of expression and belief is more due to weakness of argument and reasoning of individual and the system than other reasons. As put by Professor Mutahhari:

Any school of thought believing in its ideology has to be supporter of freedom of thought and freedom of idea. Conversely, any school of thought no having faith in itself, bars the freedom of expression and freedom of thought.²

Despite the fact that the above statements openly denotes the existence of freedom of belief and expression in the Imam's thought, he differentiates between freedom of belief and freedom of expression and insult and affront, strongly standing against it. His verdict regarding to the author of the book *The Satanic Verses* and his letter to the then manager of IRIB for airing an insulting program from radio calling for punishment according to discretion of ruler of those responsible for the program is because in this respect he stipulates if in his message on publication of the book *The Satanic Verses* he stresses:

So that no longer anyone dares to insult Muslim sanctities.³

Here discussion deals with insult and affront and transgression. Subject of insult and affront is not of the category of belief. Free belief and expression of it is also free, but transgression and insult, as is banned in the entire world, is forbidden from the viewpoint of Imam as well.

Social Freedoms

All women and men should enter in social affairs and in political matters and supervise them. They should oversee

¹ Ibid., vol. 6, p. 277.

² Murtada Mutahhari, *Causes of Tendency towards Materialism*, p. 85.

³ Ibid., vol. 21, p. 263.

Majlis and functions of the government and express their view.¹

In addition to individual and private freedoms, there is another freedom and that is social freedom. In addition to individual and private freedoms that are rooted in man's nature and essence, man joins a social gathering and lives in a civil society because man enjoys a set of other freedoms called civil and social freedoms. This type of freedom represents the extent and limit of freedom of action and behavior of man in social scene and his participation in sovereignty of society. In other words, other form and limit of power the citizens can exercise legitimately with regard to sovereignty of society.

Among the social freedoms, one can cite the political freedoms and freedom of election and those are based on individual and private freedoms because by negation individual and private freedoms social and civil freedoms would be negated. However, reverse of it is not applicable.

In this section of the research, we attempt to study the ideas and viewpoints of Imam Khomeini (s) on social and civil freedoms.

Political Freedoms

Among the social and civil freedoms, man accepts when joining the society is political freedom:

In defining political freedom, it is said that political freedom signifies that the individual can participate in political and social life of his country by way of election of rulers and political officials, obtain public posts and political and social designation of his country, or in societies freely express his views and thoughts as advisable. Universal Declaration of Human Rights considers the basis and source of political

¹ *Sahifeh-ye Imam*, vol. 13, p. 193.

sovereignty to stem from will of people and openly announce that anyone has the right to participate in general administration of the country and join the public and political designations of his country.¹

If politics is taken to mean mutual relation of people and government, political freedom is the right of active presence of people in political scene. Whatever people are active in the scene of government, they can play more effective role and enjoy greater freedom. However, government is independent and needless of people and people's presence is diluted and passive, the ruling body enjoys greater freedom and people's freedom in such conditions would minimize. As such, political structure of society and countries in realization of freedoms is of special significance.

Political freedom has two practical and theoretical dimensions. Practical dimension of political freedom consists of people's participation in the government including formation and determining the type of government, determining the ruler, legislator and supervision over it. And supervisory dimension that consists of expression of political idea of people voiced regarding legitimacy and efficiency and nature of performance of powers of the ruling body.

Political Freedom in Imam Khomeini's Thought

Government from viewpoint of Imam Khomeini (S)

Viewpoint of Imam Khomeini (s) on political freedoms is rooted in pillars of knowledge and their understanding of the government, the nature of government, legitimacy of government, and goals of government and more important of all the role of people in government. On the necessity of establishing government from causes including preservation of

¹ *Public Freedoms and Human Rights*, p. 96.

the right of people, preventing the aggression and transgression on the rights of people, preventing chaos, providing order and law in society and safeguarding the religion of God can be cited.¹ By virtue of these necessities imam maintains for existence of government, government in political thought of Imam, has fully human nature and government deserves truth of government that government should rule the heart of people, not government over Abadan and government for people and no people for government as stated:

An Islamic government is a just government that should be subject to people and government should be for people not people for government. Islamic government is a government that is for people who should be rendering servant.²

Addressing the officials and rulers of the Islamic countries, he says:

You make effort to rule over the heart of people of your country not government over Abadan ... their governments should be effort to gain the heart of people of them; government over hearts; a sweet government; in contrast to government over Abadan working for their heart... if we government over spirits and leaders of Islamic countries govern over spirit and hearts of nations should be gained. With this diversity of population and with these reserves they will not be so much vulnerable. All the countries that want to transgress over them, they confront ... as it was the case in the early days of Islam when people's heart were for government. The government in early days of Islam was the government over hearts. Therefore, with small populations big emperors were overpowered.³

As such, in the view of Imam in government there is no place for domination and ruling because these are instruments and tools of government over Abadan. In government over

¹ *Guardianship of the Jurist*, pp. 38-40.

² *Sahifeh-ye Imam*, v. 6, p. 478.

³ *Ibid.*, vol. 14, pp. 179-80.

hearts, the art of government is another art and based on influence in hearts and based on tools and suitable instruments of it. Because goal of Islam is basically domination seeking and overpower over a tribe and trampling and not colonizing them, but goals of Islam and army of Islam is the guidance of human beings and absorbing the hearts of human beings. From the view of Imam, Islam wants hearts of human beings that are wandering and seeking absolute perfection and do not know where they are; these wandering states want to be guided and should be guided towards the way to reach there.¹

Based on the view the nature of government and government relations is seen delicate and human, Imam believes that principles and methods of this type of government should supply be relationship of hearts and administration of hearts. And government over hearts is based on mercy and love and leniency and compromise or tolerance is achieved not based on violence and cruelty and severity and coercion.²

On this basis Imam based on ontology and knowledge of man and type of understanding of Islam leniency and compromise is seen as manifestations of mercy of the right almighty and are of the opinion that leniency is from man's stingy natures and requisites of nature of Allah. In his book *Exposition of Hadith of Army of Reason and Ignorance*, this matter is explained as such:

Leniency and compromise and association constitute the manifestations of mercy of the divine and aspects of it. A heart in which manifestation of mercy has befallen and creatures of God look at the view of mercy and affection and kindness; of course, such a heart in all aspects and stages cited earlier in previous chapter should be treated with leniency and compromise. In association with its type rather in association with other than him including animals under

¹ *Ibid.*, vol. 12, p. 506.

² *Ariz-e Khorshid*, p. 245.

his control and he exercises him in them and associate with the servants and slaves and intercourse with them and in association with family members and neighbors in particular. In a word, with all guilds of people, one should association with leniency and mercy and affection. Such is the case with regard to guidance and teaching of creator and implementation, order and divinely negation, mercy and emotion of them in inviting this holy job and of course something of ray of light of divine mercy is found by friendship and toleration is done and severity and violence and the like of it is far from away.

And since this premise is obvious; it was clear that association or toleration is among natures of fermentation and is instruments of Allah's nature, because all the hearts of human family according to nature, fermented to mercy and the world is map of divine and compassionate mercy is the key to door of existence as it is the key of book of creation.

The heart that is polluted with grudge and justice with creatures of God and treat them with violence and rending has been outside of the divinely nature and due to attachment to the world and its allurements and attachment to love of the self and selfishness and egoism has been veiled from the principle of nature.

And it is necessary that love for the almighty that is among noble natures ... love for impacts of creation and requisite to leniency and compromise.¹

Based on this insight, Imam believes leniency and compromise in conducting have a role in all affairs including worldly matters and religious and spiritual things and serves as factor contributing to progress in material and spiritual purposes.

Know that leniency and compromise in performing affairs has full intervention whether in relation to association with the people and doing worldly affairs or regarding religious

¹ *An Exposition of Hosts of intellect & Ignorance*, pp. 318-20.

affairs and guidance of people and enjoining to good and forbidding the evil and whether regarding austerity of the self and journey towards almighty God.

And perhaps this holy *hadith* states that "leniency has prosperity and rending and violence is ominous" ¹ may be referring to this matter. For instance, concerning performance of worldly affairs as it is possible with regard to leniency and compromise, man conquers the heart of people, humiliates, and tames them. It is not possible one to be successful in affairs with intensity and violence. Supposedly, one obeys us by using intensity and domination, since his heart is not with us, man will not be immune from treason. However, leniency and friendship calms the heart and by calming it, all outward and inward forces would be docile and conquer of heart and superior to conquer of countries.

Services out of sincerity and self-sacrifice are all from conquest of hearts. With conquer of hearts, conquer of countries is also possible. Islamic conquests were due to conquest of the heart by Islamic military. Foregoing this, with that small number and equipment, these advancements would be impossible.

In brief, leniency and compromise are effective compared to all other things in progress of purpose. As is the case in worldly purposes, in religious purposes such as guidance of people leniency and compromise is of the most important things without which that holy purpose would not be workable. ²

On this basis, God's general order for wayfarers of the path of Right is to act by leniency and compromise and treat with people calmly and with lenient expression. God addressed Moses and Aaron in the following words: Go, both of you, unto

¹ Imam Sadiq ('a) quoting from the holy prophet (s), *al-Kafi*, vol. 2, p. 11.

² *An Exposition of Hosts of Intellect & Ignorance*, pp. 315-16.

Pharaoh. Lo! he hath transgressed (the bounds). And speak unto him a gentle word, that peradventure he may heed or fear.¹

Also in the sight of Imam, government in no way is not regarded as a goal and purpose and desirable, but has always been a means for reaching goals and its value is to the extent that it should be applied for materialization of desirable goals. In other words:

To assume the function of government does not in itself carry any particular merit or status; rather, it is a means for fulfilling the duty of implementing the law and establishing the Islamic order of justice. The Commander of the Faithful ('a) said to Ibn 'Abbās^{17a} concerning the nature of government and command: "How much is this shoe worth?" Ibn 'Abbās replied: "Nothing". The Commander of Faithful ('a) then said: "Command over you is worth still less in my eyes, except for this: by means of ruling and commanding you I may be able to establish the right"—i.e., the laws and institutions of Islam—"and destroy the wrong"—i.e., all impermissible and oppressive laws and institutions.²

In fact, government in the view of Imam Khomeini (s) is a means for realization of lofty human and divinely goals. In subjects dealing with *velayat-e-faqih* (Islamic government), he has discussed the goals of government in detail. And in different occasions and cases after the victory of Islamic Revolution has treated the case. Among these goals is establishment of right and eradication of wrong, dispensation of justice, salvation of the oppressed from the hands of tyrants, realization of religion, security, welfare and education.³ And these goals are the aims of all prophets, saints of God and Imams who have devoted all their life to realization of these goals. From the perspective of Imam, the final goal of government is to educate people and provide the necessary

¹ *Surat al-Taha*: 43-4.

² *Islamic Government (Guardianship of the Jurist)*, p. 54.

³ *Sahifeh-ye Imam*, vol. 9, p. 437.

ground for flourishing of human talents towards absolute perfection and manifestation of truth of man.¹ And other goals including security, justice, and welfare and ... provide the ground for realization of this goal.

Role of people in determining the type of government

When the nature of government is a human nature and government and management affairs constituted on mercy, love, leniency and compromise, place for the political legitimacy of such government is rooted in satisfaction of people.

In political thought of Imam despite the fact that absolute sovereignty is the right of God and He is the source of all legitimacy and verities, government of people over people is also a divinely love and is regarded legitimate in the sense that right to government is absolutely deserving of God and one should only surrender to Him and obey Him. One should obey that which brings His obedience or returns to His obedience. Imam deduces from here that right of government that is absolutely deserving of God and be transferred to competent individuals as trust and proxy and delegation to be executive of divinely orders and laws.²

On this basis, as believed by the Imam right of sovereignty of people has been recognized by God almighty and the merciful God has entrusted people to determine the political destiny of people. In addition, the first principle is that only government of people over people is legitimate and this legitimacy stems from the right of inherent and intrinsic freedom bestowed upon man by God. This right belongs to all

¹ Ibid., vol. 7, p. 530.

² Ibid., vol. 8, pp. 281-82.

people and all people of a society share in administration of the general affairs of their society. As put by Imam Khomeini:

The important thing is that the primary right of anyone, any society and any gathering is to choose something regarding the destiny of one's country.¹

Therefore, enjoys the right to use the right to use power and sovereignty as this right because he has gained the right from and acts as proxy as stated by Imam in this respect:

The monarchical regime is a wrong thing; what is royal regime? People should select one; for example, let us suppose that a lawyer is to us determined to interfere in their affairs. Every when they did not want him he do go away. A regime that is established in this manner if man came to know that anything one does is beyond the power of people to tell them to go away, it will be there to the end. People cannot escape it. Whatever wrong such a person does is open. One's arms are wide open. He does not fear to be removed. There no ouster at all. He is there to the end. All are lover of the shah. If one is told to be the president of a country for five years, ten years, and eight years for example and administer the affairs of the country, people would choose one. However bad this man would be, he thinks of himself at least because he argues well I would be removed from my post as president; when I step down, people will treat me badly. If I do injustice to one, they will deal with me seriously. Power is now in my hand. After five years, I am an ordinary man like other people. Therefore, he avoids doing so.²

In the view of Imam, establishment of government is meaningless except by will and demand of people. Government should have the form of representation and administrators should represent people and their power and authority stem from sovereignty right of people that is entrusted to people

¹ Ibid., vol. 4, p. 492.

² Ibid., pp. 493-94.

from God. People should determine their own destiny and no one has the right to impose on people something that people do not want, because right of sovereignty belongs to people and people are source of legitimate sovereignty and government should follow the dictates of people. Undoubtedly, if rulers do not see their power and sovereignty to be stemming from the right of people's sovereignty, they would go corrupt and grow authoritarian. This fact is a rational thing. In this respect, the Imam says:

Authority should be in the hands of people. This is a logical issue. Any wise people accept this matter that destiny of everyone should be in his/her own hand. We and a population that belong to them should spend whatever in the country for their own interests; one whose origin is separate from people and says who the people are and whatever I say is true and do whatever I wish, how is it possible that people would give their destiny to such a people to do whatever he wishes and tells the people not to interfere.¹

From the viewpoint of Imam, sovereignty of government lies in the fact that it should be established according to the demand of people; therefore, he believed the right to determine political destiny of people has a period in its place and no one can spoil this right that stem from divinely absolute sovereignty right. If in a period people represent one to administer the government and in later periods, other people do not want that form of government, they can cancel that representation and determine their political destiny the way they want.² Imam Khomeini in his historical speech in 12 Bahan 1357 in Behesht Zahra Cemetery said:

We suppose that all of a nation give their vote for one to become sultan or king. Well, since they exercise control over their destiny and free to choose their destiny, their vote is workable for them. However, if a people gave vote – even all

¹ Ibid., p. 494.

² Ibid., vol. 6, pp. 11-2.

the nation – to the posterity of the kind to become king, why such is the case? Can people of fifty years ago determine the fate of people of next generation? Fate of every nation is vested with the same people. ... People in one hundred years ago or one hundred and fifty years ago has been a nation with a destiny and had the right for himself but had no right to determine our destiny and dominate a sultan or king over us. ... Everyone's destiny is in his own hand. Are our fathers are our guardian? Can people in eighty years ago or one hundred years ago determine the fate of a nation that is going to come in later years? ¹

Also in the viewpoint of Imam to the effect, that right to sovereignty and legitimacy of government belongs to people, monarchical and military government runs counter to rational rules and human rights as he says:

The monarchical regime is basically from the beginning inconsistent with law and contradictory with ration and wisdom and against human rights. ²

People have not right to select a regime for the future; that is, today all fates of a nation are administered by the people. And people have the right to select one as sultan, as president or as any title or in any capacity. This treatment is correct. The people himself did it with their own free will. However, do people have the right to decide on the fate of later class, for children or children of our children? In no way such a right is accepted for anyone. You yourself according to human right should rule over your destinies and exercise control over your own destinies, but you cannot exercise control over the destinies of other countries nor can you control the destiny of other nations. You cannot interfere in the destinies of those who have not yet come to existence. There is no right for you to do so. Therefore, monarchy in the sense that it should be

¹ Ibid.

² Ibid., p. 11.

hereditary for one person is not legal and is against human rights.¹

In contrast to the viewpoint of those who do not maintain any right for people in the government or consider people's role passive or believe in shadow role and subsidiary role for people, in Imam's political insight, the original and key role in government vests in people in the sense that government without people and without their desire does not find expression and minus approach and vote of people does not find political legitimacy. Without all-out presence and participation, government cannot be administered well. Therefore, people's role in government is creative, preserving and reformatory. Realization of government and expedience and correction and subsistence of it and journey towards its goals depend on people. From the viewpoint of Imam, people's role in government is so important that all affairs should be based on and dependent on public's vote.

On this basis, with a view to right of people and their role and standing in government, in Imam's political thought, social and political freedoms of people have been recognized and no one has the right to rule over people without their will/demand or desire or those who impose them on people when people do not want them and urge the people to accept their beliefs and ideas reluctantly or treat them as guardians do and imagine them as minors and decide in their place as he observed:

We do not plan to impose anything on our nation; Islam has not allowed us to exercise dictatorship. We are dependent (follow the) on people's vote. In whatever way our people voted, we will follow suit. We have no right. God almighty has not given us right; prophet of Islam has not given us right to impose something on our nation ... However, the basic

¹ Ibid., pp. 197-98.

thing is that the issue is not in the hands of me and the like of me; it is the right of people.¹

In addition, Imam in relation to significance of the view of people addressed the officials and said:

What majority said, their vote is valid even though it is wrong and is detrimental to them. You are not their guardian to say it is to your detriment. We do not want to do it. You are not their lawyer. ... You should move on the road our nation has set and the issues dealing with representation even though your belief is that the route traversed by the nation is against its interests. Well, let it be so. The nation wants to do it. What is it up to us and you? He wants something against his interest. People as voted and the vote he has given are obedient.²

From the view of Imam, the best system that can supply the role of people in the government is republic. In other words, the government that can cover the total interests of a society and supply the freedom and independence of a nation and country and the suitable round is Islamic goals, is the Islamic Republic. As in this respect in Aban 1357 in an interview with daily guardian reporter observed:

We want establishment of an Islamic Republic and that is a government dependent on public votes, the final form of government with a view to current conditions and exigencies of our society will be determined by the people.³

Imam in describing the Islamic Republic observed:

However, republic means that everywhere is republic, but this republic depends on a constitution that the law of Islam. If we say Islamic Republic is because both the conditions selected and laws prevailing in Iran are based on Islam.

¹ Ibid., vol. 11, pp. 34-5.

² Ibid., vol. 9, p. 304.

³ Ibid., vol. 4, p. 248.

However, our selection lies with the nation and the form of republic is the very republic in all other countries.¹

The goal of Imam in presenting the Islamic Republic was that in the face of western democracy and religious government, the church leaders in the Middle Ages or Caliphate of Umayyad and Abbasid in history of Islam presented a new theory of government and put into practice. In explaining the method his proposed government, the Imam states:

Government of Islamic Republic as desired by us has been inspired from the approach and procedure of the holy prophet of Islam (s) and Imam Ali (a) and depends on the public vote of people and the form of government would be determined by referring to vote of the people.²

As put by Ustad Mutahhari, in the type of government proposed by Imam Khomeini, that is, Islamic Republic:

Republic specifies the form of government and Islamic its content.³

Role of people in determining functionaries

In political outlook of Islam Khomeini government is totally of people and role of people in government is not formal and honorary but participation of people in administration of government is full-sale and all-out. People not only have a determining role in establishing government and determining the role of government has a determining role, rather in determining the ruler and governors of society, people's vote and view is determining and they have the final say.

In Imam's political thought, government means manner of administering the country that is a common practice and is part

¹ Ibid., p. 479.

² Ibid., p. 334.

³ Murtada Mutahhari, *On the Islamic Revolution*, p. 62.

of order of the self. Therefore, determining the type of government and government functionaries also follows it as part of order of the self and taken as limits of authorities of people. Although in political theory of Imam in time of occultation of Imam of the Time (May God hasten his reappearance) who are versed in divinely *sharia* more than others and are capable of leading Islamic society are appointed by the holy prophet (s) and immaculate Imams (a) to *velayat*. However, since those qualified for the post are usually more than one, here it is place to refer to selection of people. For leadership of the Islamic system there is no way except dissatisfaction and surrender to vote of majority of the individuals of society. In preferred manner, appointment of government functionaries including the presidential office, minister, governor general, Majlis representatives, legislative and other organizations are within the limits of authority of people.

Imam believed that in the Islamic Republic no officials can perform an act against the nation.

Here [in the Islamic Republic] votes of people reign. Here it is the nation that holds the rein of government. These organizations are determined by people. And violation from rule of people is in no way authorized for us nor is it possible.¹

Public supervision of people over manner of administration of the government

Supervision signifies attending to and investigating into manner of performance of government functionaries and its collation and assessment of activities and their performance with the laws and regulations passed and general interests of the country including the way and means of participation of people in political affairs of society.

¹ *Sahifeh-ye Imam*, vol. 14, p. 165.

In political insight of Imam by virtue of the fact that all organizations of government from top to bottom are determined with the vote of people. Taking care of good performance of affairs is also vested with the people. All individuals should participate in administration of affairs of society and be present. As believed by the Imam:

It is today that all layers interfere in issues of their country and in political questions of the government. It is today when the entire people whether respected women or brothers interfere in their destiny.¹

You ladies and brothers and other brothers and sisters should make serious efforts to preserve this mental development. Interfere in your political issues and in social affairs of yourselves.²

In the same way that men should interfere in political affairs and preserve their society, women should also interfere and protect the society. Women should also be shoulder to shoulder with men in social and political activities.³

In general, people should interfere in social and political affairs in society and also supervision and taking care of manner of performance of government functionaries rule, in addition to:

All should give their views and none is allowed to understand something and do not say. When they understand, they should express. This may be in terms with anyone who might be and opposed to anyone who might be.⁴

As such in political thought of Imam the door of criticism and comment for people on social and political issues are always open. And this matter (right to supervise and criticize) is the right of people and part of people's political freedom.

¹ Ibid., vol. 8, p. 384.

² Ibid.

³ Ibid., vol. 18, p. 403.

⁴ Ibid., vol. 13, p. 102.

Officials should not imagine that whatever they way and do no one has the right to criticize them. In the Imams view criticism and denigration is a divinely gift for the growth of human beings.¹

In the Imam's insight, people has even have the right to supervise over activities and practices of the leader and the administrators of Muslims and criticize and question him. The realm of his activity and performance is not outside the framework of supervision of people. In this respect, he writes:

Every individual members of the nation has the right to impeach the ruler of Muslims in front of others and criticizes him and he should provide convincing answer. Foregoing this, if he has acted in contrast to his Islamic duties, he would be removed from the leadership post automatically; there are other criteria that settle this problem.²

On this basis when people have the right to question and call to account the highest authority in the country, they are also free to criticize and question the other officials:

They are free to enter gathering and watch; they are free to serve the country as they do as you see. They are free to talk about the interests of the country, raise question and raise voice against the government and government and non-government officials. There is no restriction and bound in this respect... This freedom our people enjoy today, our women, men, writers, this freedom is to the advantage of you in all affairs. You are free to take to the street and raise your demands, criticize the government and anyone who has been deviated. There is no one to tell you why.³

In former regime, no one had the right to raise a word. No one had the power to criticize. ... Now the way for criticism

¹ Ibid., vol. 20, p. 451.

² Ibid., vol. 5, p. 409.

³ Ibid., vol. 10, p. 186.

is open; all come and criticize; all criticize the government; all criticize everything that is not correct and give guidance.¹

In this way, Imam recognizes the freedom of expression and the right to express view and criticize for people with regard to different social and political issues and at the same time differentiates between criticism and revenge and betrayal of secret, believing:

Once one makes criticism, healthy criticism, this is useful. Once it is revenge not criticism; this not to be done, this does not conform to standards. Since one is not good with one begins writing against him; it is not a correct thing to do. But criticism is good.²

The goal behind supervision and taking care of affairs is to correct them. General supervision depends on three pillars: knowledge, judgment and report and information to concerned officials.

People can play their role in different social arena correctly and participate in social and political issues effectively when they are sincere the current of affairs in the country. Imam considered knowledge as affairs of the country being their right and called on them to use this right and be aware of the procedure of current of the country's affairs. Obviously, people can be aware of the issues of the country when functionaries and administrators consider people their trustee and provide them with the current of different issues in the country and do not conceal anything from them. In general, in government and Islamic country excluding private and personal affairs of people and security matters nothing is among the secrets and confidential information. As put Imam Ali (a) during his administration addressed the people and said:

¹ Ibid., vol. 11, p. 9.

² Ibid., vol. 19, p. 362.

Your right over me is not to conceal anything from you excluding war secret.¹

That means only affairs concerned with security of people and society is exempt. Imam Khomeini (s) taking Imam Ali (A) observes:

In Islamic Republic, all news particularly issues dealing with war and way of treatment of big governments with the noble people of Iran should be recount to people.²

From the viewpoint of Imam, awareness, participation and supervision of people in different affairs of the country do not disturb security of the country; it is in fact guarantee for security of the country as well.³ Knowledge and information of people from different political, social, economic and cultural issues can serve as guide and produce effective role in correction of the government when people have the right to judge the good and bad performance of rulers based on their own knowledge, express them freely and notify the results to the concerned officials.

In such a system when all organs of the government from top to bottom is determined by vote of people; everything is liable to amelioration and idea of overthrow has no place because people know with their vote they change everything and correct them. Survival and health of all things in government depends on people as put by Imam Khomeini:

If you want your country to be yours and this people, protect this nation as warmly as it is. ... This people should be protected so that we can be protected and so that the country would be preserved.⁴

¹ *Nahjul Balaghah*, Letter 5.

² *Sahifeh-ye Imam*, vol. 17, p. 13.

³ *Ibid.*, vol. 15, p. 16.

⁴ *Ibid.*, vol. 13, p. 386.

Real support of people for the government guarantees its survival; support of people hinges on the fact that people should believe that the government is entirely in their own control and everything is administered with their vote and serves their interests. As put by Imam in his address to the guards:

Do not imagine that military power has preserved you; power of faith has preserved you; support of people; you should preserve this backbone. If this backbone God forbid is lost, we all would be lost and Islam would be subject to other troubles. ... We should preserve the people. If once, people take to the streets and chanted slogan against us and some other people, well then what a disaster it would be.¹

Also among the instances of people's political participation, holding of free elections deals with different subjects and issues of society. Imam believed in the affair of election government officials should provide more than the right to supervision and tools to the extent governments should supply; they are not entitled to do more than this.² People are free in elections and no one has the right to impose views on people. Since this subject will be treated separately, we will avoid going to details here.

Freedom of Elections

All classes of people should participate in elections and select individual/s that are competent to take the rein of affairs.³

Another type social freedom that is very important and fundamental is the freedom in elections. Freedom of elections is the most important pillar of Islamic government and indicative of the role of people's direct intervention in determining their

¹ Ibid., vol. 17, pp. 251-52.

² Ibid., vol. 9, p. 121.

³ *Sahifeh-ye Imam*, vol. 5, p. 473.

destiny and in a way supervision over and response to performance of functionaries and government officials. In Imam Khomeini's political perspective, hold free election in a way that being candidate and voting, being election and selection is not in the monopoly of any special group. And condescending atmosphere should not govern it. Such behavior is instrument of democracy in Islamic Republic of government of religious democracy as desired by the Imam because in climate of such election people can play their true role and mission in the government as he said in this respect:

Destiny of people is in their own hand and election is for producing impact on your destiny. ... Elections aim to determine the destiny of a nation.¹

This is the undeniable right of people; it is a right endorsed by the entire world that argue to be given to nations; the foundation on which democracy is constituted is that people should be free in their vote, in selection of their representatives to sent to the Majlis (Consultant Assembly); destiny of a nation should be in the hands of people.²

If we want to consider conditions for free elections one can name conditions such as ban on reluctance, preventing coercion, voluntary inclination, free choice and intelligent selection and the first and second conditions have positive aspect and the third and fourth condition negative aspect.

In Imam Khomeini's political thought, these four conditions have been treated in different forms. Imam Khomeini based on his political insight stressed that people are free in giving their vote and no coercion should oblige them to do so. As he said in the first elections in Islamic Republic when referendum was Islamic Republic system:

¹ Ibid., vol. 18, p. 367.

² Ibid.

I expect the noble people of Iran to vote for the Islamic Republic as only this is the course of Islamic revolution and those who are opposed are free to raise voice. Prominent *ulama* in provinces and sub-provinces and villages as well as the nation are bound to prevent anyone attempting to deny anyone freedom and take care lest everyone would give one's vote freely.¹

Also in this respect, he said:

As I have previously said, people are free to give vote to qualified persons and no one is entitled to force others.²

At the close of elections of Experts Assembly, he addressed the Friday prayer leaders across the country and underscored the freedom of people the affair of election and absence of reluctance, saying:

Invite the people, *ulama* should go to the polling booths and vote; invite the people to vote. People and you are free to give to anyone they desire even if the gentlemen, let us say *ulama* in Tehran or Qom Theological Seminaries have not introduced them. You are not bound to select one whom they have proposed. Of course, they have examined; they have expertise in this matter and have studied the case and have done it with study. However, this does not cause one to oblige one to vote for so and so. All are free and you should consider God's gratification...Go and cast your own votes.³

In addition to this, Imam stressed voluntary presence of people in elections and believed that elections belong to the people and is not in the monopoly of any special party or group:

People across the country are free to select the individual they desire; no one has the right to impose him or candidates of other groups. No official, part or group has the right to

¹ Ibid., vol. 6, p. 265.

² Ibid., vol. 17, p. 133.

³ Ibid., p. 120.

insult others with different views or God forbid make disclosure.¹

The Imam's stress and sensitivity laid on freedom of people in election and that election should not be the monopoly of any group or special party was so high and strong that as soon as murmurs were heard that elections is the right of *mujtahids* and that a special group should have a determining role and people follow them and that students should not interfere in elections, he reacted strongly and described it a matter more dangerous than separation of religion of politics and a detested conspiracy for elimination of people and dilution of the presence and trampling the right of freedom of people and in this respect in nine Esfand 1362 said:

As I have said repeatedly and as has been underlined also by others election is in the monopoly of anyone; neither in the monopoly of clerics, nor in the monopoly of parties and groups. Elections belong to all people. Destiny of people is in the hands of people themselves. Election is for producing impact on destiny of you people. As I have heard, in university some people have said intervention in election is intervention is politics and this is the right of *Mujtahedin*. By now, they said that *Mujatahedin* should not interfere in elections; this was inconsistent with the right of *Mujtahedin*; they suffered defeat in this matter, now they are saying the reverse. This is on this account. When they say election is a political matter and political matter is the right of *Mujtahedin* both arguments are wrong. Elections determine the destiny of a nation. Supposing that elections are a political matter as it is the case, it is determining the destiny of the entire nation. That is, the destiny of the masses of people depends on this election as far as their life in this and the next world is concerned. It is not such that elections should be acted by a number of *mujtahids*; this has a meaning that for example two hundred *mujtahid* in Qom and one hundred *mujtahid* in other place and they should come and select. People should

¹ Ibid., vol. 18, p. 327.

be brushed aside?! This is a conspiracy. As for hundreds of years, they conspired that clerics should be separate from politics and made great use of it and we suffered a lot and are still suffering, now that they saw this suffered defeat they have charted out a different design. They rise that election is the right of *Mujtahedin*. Election or intervention in politics is the right of *Mujtahedin*. The university goers should know that in the same way a *Mujtahid* should interfere in his own destiny, a young university student should also interfere in one's destiny. There is no different between university students and high school students. All are together. If they have gone to university and raised such issues, this is a plot to disappoint you young people. ... At that time they made mischief by raising the idea that religion is separate from politics and deal great blows to us and we suffered a lot, while they benefited much. This matter has been defeated; now they say that politics is the right of *Mujtahedin*; that is, only 500 people should interfere in political affairs of Iran; the rest should go after their business. People, as they say, should go after their business; they should have nothing to do with social matters; a few oil mullas should come and interfere. This is worse than the previous plot for Iran, because that brushed aside a group of the *ulama* and because of them; a large class of people was removed. However, this removes the entire nation. This does not mean that they want to involve the *mujtahids*; they want to destroy the *mujtahids* with the hand of the people. Universities should be careful that if such individuals are in universities to make mischief, they should be careful not to be fooled. They should interfere in the affairs of election. Election determines the destiny of even you who are there. It is a matter that destiny of the masses of people is decided by election; duty of the masses of people is to interfere in the elections. It is not simply concerned with one class or two classes; all should interfere. The mischief they are now making, as I have been told, aims to disappoint some of our young adults. Defuse this mischief and enter the elections actively. Appoint some people and elect

them yourselves. If you want to see all classes you desire their words and their candidates, you also follow them.¹

Also close to elections of Islamic Republic, system addressed the people, saying:

You are free, but determine your destiny with your freedom. All classes should vote and participate and all classes are free to vote.²

In Imam's political thought people do not need guardian and are sufficiently wise and mature and enjoy the power to discern that can control their own destiny and determine their own destiny. He said in this respect:

As I have said time and again, people are free to elect and do not need guardian. No individual or group has the right to impose an individual or individuals on people. Islamic society of Iran who have accepted sovereignty of God, the Islamic Republic and its lofty values thanks to their political intelligence and growth and have remained loyal to this great covenant and big promise enjoy the power to discern and selection of the fittest candidates. ... No one should expect them others not to express view and proclaim existence.³

On wise presence and selection with knowledge and awareness addressed the people and said:

Market should discern them. Factories should discern themselves; no one should be impressed by others. ...⁴

An important point in the Imam's thought regarding election is to hold a healthy election with satisfaction of people. Imam Khomeini stressed that all officials of the system should make efforts so that election would be held correctly and I

¹ Ibid., pp. 367-69.

² Ibid., vol. 6. p. 433.

³ Ibid., vol. 21, p. 10.

⁴ Ibid., vol. 18, p. 285.

accordance with law and satisfaction of people and safe and secure atmosphere and in free way. In this respect, he says:

No one is superior to others in election; all individual members of the nation are one and the same in elections... Election should be in a way that people like it, not in a way that liked for example by the khan. We want it to be approved by people; that is, people feel that election as stipulated in election law and as stressed by Islam should be acted. Action is yours; law is a written thing that is done determining a duty, but that which is important in action. Action should conform to law and people should be satisfied in action. Attention to this matter is requisite to note that saboteurs are also found to stonewall. Unquestionably, in time of elections saboteurs are found as well trying to damage the election and make commotion. They may do these things. You should strongly stop these sabotages to prevent them from stonewalling. Everyone should come and cast one's vote calmly. One who comes to the polling booth and wants to work sabotage or tell people to vote this or that is not correct. Whoever has done campaign for him has a limit. There is not room for any word to stay there and say so and so is good and so and so is bad. These words should be stopped so that a good election would be God willing held.¹

After the election the most important issue is acceptance of the vote of people and comply with the rulers and functionaries in the face of the results obtained from free and legal elections. Imam Khomeini believes, vote of people is the yardstick even if opposed to interests of some. In this respect, he says:

Whatever majority said their vote is valid even though against the interests of them. You are not their guardian to say this is to the detriment of you. We do not want to say so. You are not their guardian, nor are you their lawyer. ... You should move on the road related to you duty as representative of people and traverse on the road set by our nation even though you idea is that this course traversed by the nation is

¹ Ibid., pp. 380-81.

against its interests. Let it be. People want this way. What had it to do with us and you? People want something against his interests. The people have voted - a vote that is to be obeyed.¹

Freedom of the Press

Print media are free in dissemination of all facts and realities.²

Freedom of the print media is the basis and foundation of a democratic system, because print media is one of the effective instruments of supervision over administration of affairs of society and government and is tantamount to eye and ear of the nation. By print media, the nation can gain access to correct information and reports regarding different issues and affairs of society, judging the procedure in administration of different political and public decision-making administration of affairs of society and play its role in administration of affairs of society and supervising the performance of rulers. Montesquieu considers print media as a power in the government due to the role it plays in supervision of public affairs of society and as power appearing in its face, regarding it as part of political freedoms.

Print media is embodiment of civilization of a nation and token of his growth and awareness. Rate of growth of development of print media in every society is expressive of rate of his growth and awareness. Regarding any nation, one can judge from the print media, it has. Print media in its special and terminological term is usually applied to periodic publications such as newspaper and magazine, but print media in its general term consist of periodic print media such as book, bulletin, film and scrip (cinema and theater) as well, even comprising radio and television because of

¹ Ibid., vol. 9, p. 304.

² Ibid., vol. 4, p. 266.

being new instruments of distributing ideas and thoughts are part of media.¹

Today, print media plays an important role in social and political life of a country due to the role it has in brightening the minds and beliefs of people and guiding them. Experience has demonstrated it that when there is no criticism, threat of transgression and violation in society is greater and rulers and leaders without fear of protest and being called to account misuse their power, but when print media and freedom of print media is available and the door of criticism is open all officials and government authorities are careful of their behavior and treatment and take consideration of the condition of people in all states.

In the Imam's political insight, existence of print media and freedom of the press in society enjoys special society. In the view of Imam, print media in every country plays a fundamental role in creating healthy or unhealthy atmosphere.² Therefore, he stressed that the print media should be primarily free and independent and thinks of independence and freedom of the country and being at the service of Islam. He says:

Print media should always be at the service of dear Islam, people and the country.³

Magazine ... if it has a material should cover materials to mobilize people for preservation of independence, preserve freedom and protect the country.⁴

Secondly, it should be free in expressing the facts of affairs of society, supervising the performance of government organizations and criticizing the government officials and authorities:

¹ Manuchehr Tabatabaei, *Public Freedoms and Human Rights*, p. 82.

² *Sahifeh-ye Imam*, vol. 12, p. 209.

³ *Ibid.*, p. 283.

⁴ *Ibid.*, vol. 8, p. 497.

Print media are free in dissemination of all rights and realities. As far as any form of gathering and parties do not pose a threat to the interest of people are free and Islam has specified all the aspects and borders of the media. ¹

Imam Khomeini differentiated between criticism and expression of facts, enlightening people with plot and hostile treatment and says:

Once again, I call on print media across the country to come and hand in hand write the materials freely but do not conspire. I have said repeatedly that print media should be independent and free. ²

In the course of victory of revolution, I noted that freedom of the press is what we want, but treason and conspiracy is seriously and without connivance is prevented. ³

All media are free unless covering materials detrimental to the country. ⁴

The pen is free, the newspaper is free that does not want to push the nation backward and spoil. ⁵

Newspapers should not have hostile attitude towards anyone; they should have the form of guidance and express the materials. Criticism should be there. As long as criticism is not there, a society will not be corrected. Defect will prevail anywhere. Man is full of defects from top to toe; these defects should be highlighted and criticized in order to correct the society. ⁶

Also, radio and television should be independent and free and air all sort of criticism with impartiality so that we would

¹ Ibid., vol. 4, p. 266.

² Ibid., vol. 12, p. 208.

³ Ibid., vol. 9, p. 352.

⁴ Ibid., vol. 5, p. 416.

⁵ Ibid., vol. 10, p. 350.

⁶ Ibid., vol. 14, p. 401.

not witness radio and television of the time of the deposed shah.¹

Freedom of Parties

All the parties working for the interests of the nation would be free.²

Among social freedoms, freedom of parties and in other words freedom of political activities within the framework of groups and parties. Of desirable features of society in Imam's political thought participation and cooperation of masses of people in administration of affairs of society. Among the instruments of such affairs is freedom of parties. As such, in his opinion activity of political parties and societies and associations are free within the framework of law. They are free in expressing their views and ideas and viewpoints about affairs of society. In explaining this matter, Imam says:

All parties in Iran are free unless working against the interests of the nation. In that case, their activity would be withheld. However, expression of ideas are free.³

Any form of gathering and parties by people are free in case they do not threaten the interests of people; Islam has determined the limits and border in all aspects of it.⁴

The above statements make it clear that in Imam's political thought activity of different parties and social groups are entirely free. Even activity of left and Marxist parties is free in case they only express their view and are not detrimental to the nation. As said by Imam in an interview with daily Ettelaat in response to a question about freedom of activity of left and Marxist parties:

¹ Ibid., vol. 12, p. 208.

² Ibid., vol. 4, p. 249.

³ Ibid., vol. 5, p. 540.

⁴ Ibid., vol. 4, p. 266.

If they are to the detriment of the nation, they are prevented; if not and only express their views, there is no ban.¹

In continuation of the interview when asked what you meant that parties would be free or not, he says:

All people are free unless a party that runs counter to interests of the country.²

In view of foundations of political thought of Imam Khomeini (s) it can be deduced that he was not believed in single voice society, rather holding that all individual members of a country and all parties and political groups are free in their social and political activities even if opposed to ruling political system over society and holding views and ideas different with thoughts prevailing in society. They are free in expressing their ideas and criticism provided that their ideas do not run counter to the interests of the nation and the country in practice and do not chart out conspiracy and overthrow of system and do not take up arms in the face of the system. In this respect, they say:

You now see that some parties that are devious and we do not consider them among the Muslims nevertheless since they do not plan to take up arms and only have political words; they are free and can also have newspaper freely. Therefore, know that it is not such that we are hostile to other parties or other groups. ... As long as they are not at war with us and Islamic countries and have not taken up arms against Islam are freely acting and freely making their words.³

In addition, Imam believed that presence of different parties and social groups in society has no problem. It is not such that only one party would exist in society in the name of *Mustazafin* (oppressed) Party. To elaborate, he says:

¹ Ibid., vol. 5, p. 520.

² Ibid.

³ Ibid., vol. 14, p. 343.

I should note that when we said a party name "*Mustazafain* Party in the entire world it did not mean the correct parties existing in Iran. Regional parties are different. Party in the entire regions and entire places is a different party. If God willing Muslims succeeded in establishing an oppressed party for the entire world, it is most timely, but it does not mean that there should be no party in the regions. Not at all! In regions, parties exist and they are free as long as their conspiracy has not been disclosed.¹

From the total curls and waves of the above materials it is understood that since Imam believed in participation of the public in leading and administering the society, different parties and social groups are maintained as place for presence and participation of people in social arena and believed that they are free in their activity and expression of view regarding different issues in society within the framework of law.

Regarding the ideas mooted by John Lock and Montesquieu regarding freedom of parties it should be said that if they have not directly raised issues on freedom of parties, by considering that their firm believe in freedom of ideas and freedom of expression and political freedom, one can deduce that they naturally agree with freedom of social and political activities of individual members of society in integrated form and collectively.

¹ Ibid., vol. 9, p. 339.

Chapter 5

Limits of Freedom

Rights and limits are inseparable; everywhere there is a right there is a limit and everywhere a right is given, a duty is also at hand. If rights are not included as such and are raised unilaterally, emergence of moral corruptions and behavioral abnormalities would be inevitable. When individuals enjoy their freedom and at the same time, moral bounds slide its justifier into oblivion, contradiction would emerge between freedom and order. As said by Brodo, in such state of affairs the individual's autonomy turns into autonomy of the powerful. Henceforth, individual self-control is assessed based on existing resources for imposition of one's will; in this way by relieving of moral standards, one will be liable to justify selfishness of the powerful and encouragement of the rascals who practice sleight of hand.¹

In this way freedom and individual autonomy that belongs to all religions is practically raised in the form of privilege for a special group. Freedom dominates the powerful over the weak and the affluent over the destitute. It becomes instruments of suppression; law also removes the barriers of the work. Despite believing in full freedom of human being in thought, deeds and behavior, Imam Khomeini (s) does not recognize absolute freedom of individuals in social practice and in social scene. In fact, it can be said that restrictions dealing with freedom stem

¹ *Liberalism*, p. 50.

from the nature of political societies. In the opinion of Imam Khomeini (s), presentation of an unlimited society implies stealing the dignity of men and women in that society.¹

And:

Freedom is not for everyone to do whatever one desires and doing smuggling, overcharging, disrupting the borders, disturbing the system and failing to consider the national, government and Islamic regulations.²

If anyone thinks that now that one is free, one can do whatever one wishes, this culminates in chaos.³

In this way, based on the viewpoint of these thinkers (such as Imam Khomeini) freedom of individual in society accompanies limits to fulfill the right of freedom and guarantee health of individual and society. The question raised here is what restricts freedom. In other words, what does restrict freedom? From the viewpoint of thinkers, in general factors determining the limits of freedom consist of reason or intellect and law that would be separately treated.

From the Imam's intellectual-philosophical system, one can deduce that he maintained special role for enjoying freedom and restricting it. He believed that freedom worked within the limits of law and rational functions:⁴

You gentlemen, and we here, you there and the entire nation everywhere should make sound use of freedom. Freedom should not be misused. All should act according to the regulations set by *sharia* and the intellect ...⁵

It can be said that he has accepted application of reason in freedom whether its utilization and its restriction does not

¹ *Sahifeh-ye Imam*, vol. 4, p. 3.

² *Ibid.*, vol. 8, p. 38.

³ *Ibid.*, vol. 12, p. 55.

⁴ *Ibid.*, vol. 7, p. 320.

⁵ *Ibid.*, vol. 8, p. 39.

consider reason alone as guidance of human performance in enjoyment of freedom. Rather, based on pillars of his knowledge and philosophy, he lays the foundation on revealed and divinely religion and regards the laws and instructions stemming from it as practical guidance of man.

Law

In Imam Khomeini (s)'s insight it is not such that now that man is free, man has no restraint and can do whatever one wishes. Freedom of man in addition to reason is restricted and law determines the limits of man's freedom. He says:

We all should be wakeful and notice not to misuse freedom. Now that we are free, if chaos takes place ... such freedom should not exist among the people. In Islam, such a freedom is not raised as to harass the people if one is free or deal unjustly with people. Such is the case with other things. ¹

In fact, the freedom desired by Imam has a limit and law will determine its border. He believed:

In any country, freedom is within the limits of law. reiterating that freedom is within the limits of the laws of that country. People are not free to break the law. Meaning of freedom is not to say whatever one wishes against the law, the constitution of a nation and the laws of a nation. ²

The freedom desired by the Imam is within the limits of Islam and law. One should not violate law on account of freedom. He says:

We approve of the regime granting full freedom. ³

¹ *Sahifeh-ye Imam*, vol. 8, p. 274.

² *Ibid.*, vol. 7, p. 535.

³ *Ibid.*, vol. 4, p. 3.

In an Islamic regime, open and full freedom will exist; only freedoms would be denied that are against the interests of the nation and inflicts a blow at the prestige of the individuals.¹

In the view of Imam, law includes the *sharia* law, civil law and even common law. When he says 'freedom is within the limits of law' he means *sharia* law, civil law and common law. He said:

Freedom is within the limits of law. That is, the amount God Almighty has granted us freedom; we are free in that limit. We are not free to do corruption; we are not free to do acts in contradiction of chastity. No man is free to do acts contradicting chastity. No man is free to harass his brother. Freedom is within the limits of law. The amount of freedom God Almighty has given people is more than that given by others. They have given illogical freedoms; here God has granted logical freedom. The freedoms people have given are not freedom; freedom should be logical and based on law.²

Imam believed that:

Limit of freedom should be something people desire, not that man is free in contrast to the nation.³

Freedom does not mean that:

Anyone does whatever one wishes. Smugglers do smuggling or one does overcharging, disrupting borders and the system refuses to consider national, government and Islamic regulations; this is not the meaning of freedom. Freedom is within the limit of regulations. Regulations should be preserved. No one has the right to transgress upon you; you are free and no one is entitled to restrict you but all should preserve the regulations.⁴

¹ Ibid., vol. 5, p. 489.

² Ibid., vol. 8, p. 283.

³ Ibid., vol. 12, p. 299.

⁴ Ibid., vol. 8, pp. 38-9.

In addition, Imam Khomeini in his different statements restricts freedom to these matters that are not in contrast to the interest of people and the country, against Islam and Islamic criteria, is not to the detriment of the country and not being in contrast to chastity and not causing corruption, conspiracy and sabotage. Of course, such affairs should be specified, determined and drawn up within the framework of law so that one can enforce them without spoiling the rights of individuals. Foregoing this, these concepts due to being general and ambiguous in nature can be readily misused with individual understandings and interpretations.

In the viewpoint of Imam Khomeini, law has two aspects and plays two roles. Law determines the limits of freedom, as pointed out, and guarantee and support of freedom and causes development and expansion of freedom. In this respect, he writes:

Freedoms in the limits of sacred laws of Islam and the constitution are secured in best possible way. ¹

The constitutional law has given freedom to people in housing, in personal works, in property, in life. ²

Constitutional law is the very law of Islam and the law of Islam causes real freedoms and democracy and guarantees the independence of the country. ³

In the sight of Islam, all parties, societies and religious minorities and different associations are free provided that they do not violate our nationality and do not plan to ruin our nation and do not act against the constitution and the Islamic Republic system and Islam. ⁴ Based on the political thought of Imam, under the banner of the law ruling the society, rights of all

¹ Ibid., vol. 12, p. 283.

² Ibid., vol. 1, p. 288.

³ Ibid., vol. 5, p. 472.

⁴ Ibid., vol. 11, p. 148.

individuals ranging from any class and religious and social class is protected. In this respect, he observed:

Rights of all individuals whether Sunni brothers or Shia brothers or those of official religions, their rights have been contained in the constitution. Islam also maintains right for them and treats them with Islamic justice.¹

In Islam, there is no difference between classes of people. In Islam, rights of all nations have been observed. Rights of Christians, rights of Jews and Zoroastrians have been respected. It considers the entire individual members of the world to be human beings and maintains human rights for them. It looks at the entire world with love.²

By Islamic government, Imam meant the rule of law, as he believed: Government of Islam is the rule of law. ... Government in Islam implies obeying law. In such government the ruler is in fact law, not personal taste and view of a person; all people are protected by law; they are under the canopy of Islamic law; no ruler and no official in Islamic Republic establishment has the right to take a step in contrast to regulations and laws of the pure *sharia*.³

Also, none of the officials and authorities of government have the right to deny people or individuals of the people in contrast to the law and personal freedom of individual members of the nation or deprive them of the right provided in the constitutional law. Such practices are regarded as crime and liable to punishment. He addresses to judicial officials as such: Judges should be careful lest treatments and rulings issued would be in conformity with *sharia* yardsticks and legal regulations. The *sharia* and legal rights of clients should be observed with utmost caution.⁴

¹ Ibid., vol. 14, pp. 279-90.

² Ibid., vol. 6, p. 468.

³ *Islamic Government (Guardianship of the Jurist)*, pp. 44-5, 73.

⁴ *Sahifeh-ye Imam*, vol. 18, p. 294.

In total, it appears that from statements of the late Imam in this respect one can deduce that in society people enjoy freedom of action in their social practices. Of course, this freedom is associated with law and is restricted by law, because freedom without law led to chaos. And no system and society would be established. Also, one should be noted that by the law ruling the society is the law that recognizes freedom and human rights. In this state of affairs, freedom under the canopy of law would exist in society and law supports freedom.

Chapter 6

Methods of Research and Guarantee of Freedom

From what was pointed out in which in Imam's sight freedom is an inherent aspect of man's existence; therefore, one's freedom from the entire existence is inseparable and indivisible. Supply of freedom in different aspects including social and private freedoms and social freedoms are the big concern and preoccupation of freedom-seeking thinkers. As such, preventing the menacing damages of freedom from their view are of great significance. Now, discussion revolves around the guarantee of that, which Montesquieu calls security. That is, how one can safeguard this freedom and liberties in the face of restrictions that social existence does not justify? Of course, these obstructions are different, but in their view, the most major of the obstacles and threats menacing freedom is verily-illegitimate (anti-*Sharia*) works and absolute political authority. Therefore, an important issue is safeguarding man's rights and freedom in the face of the power of ruler and its necessity depends on observance of these rights and freedoms. That is, what guarantee is available for realization and observance of different aspects of freedom in society by the government?

From their viewpoint, materialization and guarantee of man's rights and liberties in society hinges on institutionalization and recognition of them in social and government structures. For this purpose, thinkers called for

sovereignty and establishment of a political regime based on existence of constitutional law, separation of power and rule of law in order to prevent emergence of self-centeredness and despotism.

Imam Khomeini (s) based on his political insight towards the nature of government and standing of the government and his political experience believed that Islamic establishment based on Islamic rules and laws is the best way of government that can secure the interests of the total individual members of society and realize and guarantee the human rights and freedoms in society. In addition to republicanism and establishment of the constitutional law and rule of law and principle of separation of powers names the supervision of a leader selected by people and being responsible for good performance of the affairs of government under the rule of *velayat-e-faqih*.

In total, thinkers propose major principles and methods for realization and guarantee of different aspects of freedom in society and believe that without them realization is freedom is basically impossible, these being consisting of:

- Political system based on the constitutional law,
- Rule of law,
- Principle of separation of powers,
- Principle of Right of revolution,
- Supervision of just *faqih* that Imam Khomeini has raised it in addition to the cited principles.

Imam Khomeini in view of pillars of his political thought; that is, his viewpoint on nature of government introduces the standing of government and goals of government and role of people in government, system of republicanism based on public votes of the people as the best methods of government, enabling

to cover the total interests of society and securing the freedom and independence of the people and the country and be a suitable ground for implementation of the Islamic goals. For this purpose, he considers Islamic Republic as form of the political system of the country that republicanism represents the form and frame of executive of the system. Islamism constitutes the content of the system. In other words, the system raised by the Imam is based on two pillars: public freedom (majority of vote of people) and laws of Islam and in explaining this subject:

We seek the establishment of Islamic Republic and that is a government based on public vote.¹

Republic in the sense that everywhere should be republic based on a constitution that is the law of Islam. Our call for Islamic Republic is because both conditions of the one elected and laws prevailing in Iran are based on Islam. However, election is vested with people and the form of republic is the same republic found everywhere.²

Imam Khomeini (s) on the one hand in view of the special role of the constitution believed in public covenant of the nation and Iranian society in post-revolution period needed a new covenant and in other words new constitutional law. Also, on the other hand, in order for immediate and all out establishment of Islamic Republic system, codification of process of administration of society, involving the people in their political destiny and full scale stress laid on public presence and vote of people exerted all their concerns in post revolution period over establishment of Experts Assembly, legislation of constitution and approval and confirmation by people in shortest possible time. In this manner, after confirmation of Islamic Republic establishment by the people in Referendum of 12 Farvardin 1358 (1979) in shortest time possible constitution of the country was drawn up and approved by the nation and general freedoms

¹ *Sahifeh-ye Imam*, vol. 4, p. 248.

² *Ibid.*, p. 479.

of individuals were specified and declared. Then Imam attempted to place all affairs and activities of government within the framework of the constitution.

Imam Khomeini introduced the constitution of the country as pattern and practical guidance of organizations and executive and military bodies of the Islamic Republic establishment and underlined the need for obeying it. In this respect, he says:

Criteria in enforcing organizations are the constitution and violation of it is not permissible neither for anyone nor functionaries of the country both civil and military as well as common people.¹

If all the individuals in our country and all the groups in our country and all the organizations across the country humble before law and respect law no difference would emerge. ... Of course, dictators dislike law ... However, the law belonging to the entire nation ... and for peace of mind of the entire nation ... should be respected.²

In fact, from the viewpoint of Imam Khomeini practical commitment to constitutional law and precise implementation of it by all organizations and masses of people and legal and real personalities are the most important instruments of power and bars emergence of dictatorship in the country. Failing to implement the constitutional law and trampling upon the fundamental rights of individual members of the nation renders the constitution beyond the scope of possibility.

¹ Ibid., vol. 14, p. 201.

² Ibid., p. 414.

Rule of Law

The principle of rule of law is the most important methods of research and guarantee of freedoms in human societies and this means that:

All the forces and public organizations should be brought under the supervision of law and all public officials should be bound to observe law and regulation in decisions they adopt and practices they make.¹

In fact, rule of law is a common and conclusive concept comprising all government forces in the sense that all general activities including legislation, judicial, executive and administrative are subject to law and individuals can prevent their violation by referring to competent judicial authorities. In accordance to this principle, legislative power is subject to regulations of constitutional law and cannot violate it. Judicial power is subject to law and officials and officers of executive power are also obliged to observe law and regulations.

Concept of law covers different elements consisting of the constitutional law, ordinary law, administrative law, international covenants and general principles of law.²

In legal parlance, a system based on the principle of the rule of law is called the regime of law or rule of law that stands in contrast to police regime in which government and administrative officials act according to their likes and dislikes and occasionally without regard laws and regulations dealing with private and public affairs of people without interfering in them.³

In fact, it can be said that establishment of the rule of law the most important category of a civil society and a

¹ *Public Freedoms and Human Rights*, p. 192.

² *Ibid.*

³ Ahmad Naqibzadeh, *Politics and Government in Europe*, p. 27.

fundamental guarantee for securing the rights and freedoms of individuals.

In order for law to rule, it should enjoy features including:

first, there should be rules in which no mention has been made of partial cases or special individuals and in advance legislated for collation of all cases and all individuals absolutely.¹ In other words, subject of law is always general; that is, law always includes citizens in plural form and their practices in absolute manner and never considers a special man and a single practice.

Second is that law should be clear and distinct.²

Third is that law should not be retroactive.³

Rule of law should be accomplished in view of the cited features including the methods of guarantee, research and continuation of freedom. In other words, from viewpoint of freedom, being general and non-personal nature of law is counted as guarantee for preservation of individual rights and freedoms. And procedure of ratification of law and formalities of legislation would subject approval of law to criticism and supervision of public opinion and if we do not say would loose the possibility of any type of conspiracy of hasty or uncalculated measure against individual rights reducing them to minimum extent, also law not being retroactive provides another guarantee in terms of freedom.⁴

The principle of the sovereignty of the law in Imam's political thought would be fundamental and basic principles as put by Imam Khomeini:

¹ *Freedom and Power and Law*, p. 74.

² *Ibid.*

³ *Ibid.*

⁴ *Public Freedoms and Human Rights*, pp. 196-97.

We want to have a government to observe law and be a legal government- the government that tramples all human laws, all world laws and deals with people in any way it desires. We are opposed to him (such a government and law). We want a government like the government of Islam in which nothing other than al laws would prevail; only law should govern.¹

Like Ayatollah Naeini author of treatise *Tanbih al-Umat wa Tanzih al-Mela* who believed that the aim for codification of law is to preserve the system and bridle the power of despotism.² To preserve the dignity and value of human beings and prevent dictatorship, Imam Khomeini underscored the need for sovereignty and obedience of law and believed that obeying law is like *taqwa* or piety.³

In Imam's insight, law includes divinely law and the laws written by the lawmaker, common law, by sovereignty of the rule of law and need for obeying it by masses of people the Imam meant also both divinely laws and civil written laws. In his book *Kashful Asrar*, he explains thus:

The laws written by the author makes the country in need of it, while there is no sign of them in *sharia* are of two kinds: one those opposed to *sharia* law like tax on prostitutes and banderol of drinks and the like of them. Such laws are harmful to the country and masses of people and opposed to interests of the country. ...

And other laws ... that are not opposed to *sharia* laws and are today involved in order and advancements of the country, Islamic government can collate such laws with Islamic laws by religious experts and legislate on them. ... If they are opposed to laws of Islam, that is not the case and if not opposed ... the government can put them into stream in

¹ *Sahifeh-ye Imam*, vol. 4, pp. 406-07.

² Hussein Abadian, *Theoretical Pillars of Monarchical and Legitimate Government*, p. 73.

³ *Sahifeh-ye Imam*, vol. 14, pp. 221, 414-5.

accordance with interests of the country although there is mention of them in the laws of Islam. For example, in the early days of Islam due to limitation of Islamic country, they were not in need of bank and registration of properties and lands and head counting or census and the like. ... However, laws of Islam have not basically stopped their formation.¹

As such, regarding sovereignty of divinely law and obedience of them, he believes:

Government of Islam is the rule of law ... Government in Islam implies obedience to law.²

Excluding divinely laws, no one has the right to rule. No one is entitled to rule. Neither *faqih* nor non-*faqih*. All should act according to law. All are executor of law; both *faqih* and non-*faqih* is executor of law.³

Ruler is in fact law. All are under the protection of law, the law of Islam; people and Muslims are free within the scope of *sharia* regulations. ... Whenever Islamic government is established, all live in the shadow of law and with full security; no ruler has the right to take a step in contrast to rules and pure *sharia* laws.⁴

Government of Islam is the rule of law. In this mode of government, governance is exclusive to God and law is the rule and command of God. Law of Islam or ordinances of God is binding for all individuals and on Islamic government. All individuals from the holy prophet (s) to Caliphs and other individuals are subject to law to the end.⁵

Imam Khomeini (s) regarding necessity of the rule of constitutional law derived from divinely law and obedience of it. Generally speaking, regarding written laws passed by the Majlis and approved by the Guardian Council, he observed:

¹ *Kashf-e Asrar*, pp. 294-95.

² *Islamic Government (Guardianship of the Jurist)*, pp. 44-5.

³ *Sahifeh-ye Imam*, vol. 10, p. 353.

⁴ *Islamic Government (Guardianship of the Jurist)*, p. 73.

⁵ *Ibid.*, pp. 44-5.

People ... voted to the constitutional law; the people who voted for the constitution expect the constitution to be implemented. Not anyone can get up in the morning and say ... I do not accept the constitution. ... All should be bound to obey the law even though against their views. One should accept the law. Criterion is the majority and discretion of the Guardian Council that law is not opposed to Islam is the yardstick and all should succumb to it. As a theology student, I may be opposed to many things, but when it became law and approved, we should therefore accept.¹

On this basis, Imam invites all to practice of law, because constitutional law is the border and limit expressing duty of everyone. Duties of president, government, Majlis and the army are stipulated.² Based on the special significance he maintains to law, he designated 1360 (1981) as the year of implementing law. He says: We should act according to law in a way that both Islam and the world consider our work as a correct behavior.³

In this way, in the viewpoint of Imam Khomeini, Islamic government is the rule of law, not obstinacy and not the rule of an individual over people.⁴ He believes that other than divine law no one has the right to rule; no one is entitled to rule; neither *faqih* nor non-*faqih*; act according to law; all are executor of law.⁵

In addition, Imam believed that all are equal to law. In Islam, all including even the holy prophet of Islam are in line in the face of law and without any privilege.⁶ Law is not simply for common people and exempts the powerful.⁷ All individuals

¹ *Sahifeh-ye Imam*, vol. 14, p. 377.

² *Ibid.*, p. 380.

³ *Ibid.*, p. 414.

⁴ *Islamic Government (Guardianship of the Jurist)*, p. 48.

⁵ *Sahifeh-ye Imam*, v. 10, p. 353.

⁶ *Ibid.*, vol. 14, p. 221.

⁷ *Ibid.*, vol. 4, p. 329.

should conform to law, not law conforms to them.¹ All are equally present in the face of laws of Islam that is the divinely law whether ruler or the ruled, whether prophet or Imam or other people.²

In this way, in Imam Khomeini's political thought, sovereignty belongs to law, not a wayward and despotic individual. No one is beyond the rule of law and if goes outside the framework of law and one's legal limits and duties, one should be dealt with.³ He believed:

Humility in the face of religion and law revision in approbations and submission of religion is the token of martyrdom and civilization becoming law and agreement of international etiquette. And obedience to law and recalcitrance in the face of demand of people is custom of Middle Ages and against etiquette.⁴

In the sight of Imam, opposition to implementation of law and preventing implementation of law signifies dictatorship:

If somewhere law was practiced and a group wants to raise voice against this practice in the streets, this is the meaning of dictatorship that I have said repeatedly that moves forward systematically. ... If law is not practiced in a country, those who want to break the law, they are dictators coming forward in the guise of Islam or in the form of freedom and the like of these words.⁵

As such, Imam believed Majlis is among the bodies existing in one country is above.⁶ Center of all laws and powers is in Majlis. Majlis guides all ad should do so.⁷ Finally,

¹ Ibid., vol. 14, p. 415.

² Ibid., vol. 11, p. 2.

³ Ibid., vol. 14, p. 229.

⁴ Ibid., vol. 1, p. 110.

⁵ Ibid., vol. 14, p. 415.

⁶ Ibid., vol. 12, p. 200.

⁷ Ibid., p. 347.

Majlis is on top of all affairs of the country.¹ Submission to Majlis signifies surrender to Islam.² Islamic Consultative Assembly stands on top of all organizations of Islamic Republic system.³

In this way, Imam Khomeini subjects all government organization and officials to written laws, introducing the Majlis or legislative power on top of all organizations. Also, Imam provides for three characteristics of law consisting of being common and absolute, being clear and transparent and not being retroactive. In a message to Experts Assembly, constitutional law stresses the said features.⁴

Principle of Separation of Powers

Separation of powers is one of the important categories of civil society, because from viewpoint of freedom form of government and political structure of it and nature of relations between government branches of power are of great significance. It is because historical evidence indicate that absolute democracy will possibly lead to result in dictatorship to a great extent such as absolute democracy of M. Robespierre the first revolutionary regime of France and absolute democracy of Lenin; the first turn to a tyrant an despot and the latter founded the dictatorship of labor class in the Soviet Union. As such, it appears that acceptance of national sovereignty and transfer of power to nation for realization freedom is not sufficient. It is rather necessary that as suggested by Montesquieu, government organization is set up on the basis of power separation and government forces are arranged in a way that functionaries did not enjoy the facility for misuse of

¹ Ibid., vol. 17, p. 115.

² Ibid., vol. 14, p. 370.

³ Ibid., vol. 18, p. 420.

⁴ Ibid.

power. Theory of Montesquieu gradually engaged the attention of thinkers in a way that today separation of power manifests a fundamental design for preventing or withholding concentration of political power in the hands of one person or one group ranging from governors to others and avoiding despotism and hegemonic behavior. He considers it requisite to democratic government based on constitutional law. Generally speaking, separation of power runs counter with any form of dictatorship and totalitarian regime. By and large, concentration of all government authorities is in the hands of an individual or a government organization.

Imam Khomeini (s) before dealing with philosophy and fruits of separation of power in detail has considered separation of power based on the constitutional law and absence of intervention of powers in duties of each other has been underscored. In an address to heads of three powers, he says:

Only try to fulfill your duty well and do not interfere in the scope of duties of others so that independence of any of the power would not be injured. ... These forces ... are separately independent and separate from each other and each should fulfill its work.¹

He believes that each of the three branches of power should act in accordance with the duty the constitution has provided and avoid interference in the function of other powers. In this respect, he says:

Law has assigned duty for all; if one abandons law and wants to interfere in the works of others one has acted in contrast to *sharia*. ... Mr. President should well act according to the function ascertained by law. Majlis should not interfere in the executive and the executive in the legislative and both in the judiciary. Judicial power should perform their judiciary work and this is an important task. The legislative should carry out its inspection and this is important. The government is

¹ Ibid., vol. 13, p. 62.

responsible for execution and should perform its work and this is an important task.¹

Regarding the significance of executive power, he believes:

Counterfeit of law is of no avail singly and does not provide happiness for human beings. After legislation of law, an executive power should be created. In legislation or in one government if executive power is not available there is defect. For this reason, in the same way that Islam it has legislated law it has set a legislative power.²

Also, regarding the independence of judicial power is haven for people has stressed repeatedly and highlighted its significance to officials:

Of the points I should note is that judicial power as pointed out by Aqa (implying the leader) is to be an independent power; that is, everywhere in the world there is this name that judicial power is independent. Now in our country in which Islam has granted independence to judicial power and judge and judicial power is independent and no one should interfere in it.³

Judicial power that is haven for oppressed people is an independent power and no authority has the right to interfere in it. If anyone is found that unwittingly interferes in judicial affairs should know that one has acted in contrast to *sharia* instructions and the Islamic Republic of Iran. In addition, if they interfere wittingly they are deserving of punishment and prosecution and it is upon the government and the executive power that withholds violation and transgression everywhere.⁴

And the meaning of independence of judicial power from Imam Khomeini's viewpoint means:

¹ Ibid., p. 62.

² *Islamic Government (Guardianship of the Jurist)*, p. 21.

³ *Sahifeh-ye Imam*, vol. 18, pp. 226-27.

⁴ Ibid., p. 339.

In case a verdict is issued by judges, no one even *mujtahids* has the right to contravene and violate the verdict. No one has the right to interfere in judicial affairs and intervention is against *sharia* and preventing the verdict of judge runs against the *sharia*. ...

I reiterate that judicial independence signifies that if judge issued a verdict, that ruling is occasionally investigated by an authority and other than that authority, no one else has the right to interfere.¹

In the viewpoint of Imam, all powers and officials are obliged religiously to fulfill their legal duty, the duties ascertained by the constitutional law for all including the Majlis, the government and the president. If one relinquishes the law and wants to interfere in the work of other, one has acted against the *sharia*.²

Right of Revolution

Declaration and recognition of individual rights and freedoms according to the constitution is only one stage of the work. The fundamental stage is an executive provide and guarantee and mechanism that can guarantee its execution by public organizations and individuals. Some of these official and organized executive guarantees in the sense that the legislator has predicted and organized them officially, but some of the executive guarantees are unofficial and unorganized, only being maintained by the public opinion as a means to defend freedom. Occasionally, if law has recognized them, it does not specify the nature of its implementation such as right of revolution and public riot against tyranny, strike and demonstration.³

¹ Ibid., vol. 19, p. 121.

² Ibid., vol. 13, p. 62.

³ *Public Freedoms and Human Rights*, pp. 197-98.

Although Imam believed that due to special criteria and limits Islam ascertained by Islam between the government and rulers and people and setting rights for each of them over the other and in case of observing of which never relation of dominated and dominator would be created. And dictatorship and despotism would never come to govern.¹ In spite of this due to extraordinary significance he maintains for protection of the rights and freedom of people; eventually he recognizes the right, the revolution and rebellion for people against rulers deflected from the right path and trampling upon the rights of people. In view of the pillars of his epistemology and political knowledge it is deduced that the right for rebellion and revolution against oppression ad tyranny and domineering and authoritarian governments is among the primary and natural rights of human beings and revolution and rebellion for gaining freedom in the eye of Imam Khomeini is regarded as a progressive and wise matter. This question has an old history in the Imam's thought. The first handwriting extant from him in regard to combat against tyranny and colonialism is traceable to 1943 when it begins with the following words of God:

Say (unto them, O Muhammad): I exhort you unto one thing only: that ye awake, for Allah's sake, by twos and singly.²

He believes that these words are the sole way to save the world both this and other worldly.³ He presents his goal for revolt to be improving situation of the country and religion of God and invites the people towards this important question. He says: Today is a day when the divinely breeze has begun blowing and is the best day for corrective uprising.⁴

For improvement, Imam Khomeini maintains stages ranging from advice and preaching to law and litigation from

¹ *Sahifeh-ye Imam*, vol. 5, p. 409.

² *Surat al-Saba*: 46.

³ *Sahifeh-ye Imam*, v. 1, pp. 21-2.

⁴ *Ibid.*, vol. 23.

judicial authorities and eventually rebellion and public revolt. In this respect, he says:

The people are duty bound to support governments in Islamic Republic that is at the service of the nation. However, if people saw a government acting in contrast, the nation gives it a slap on the face. If you saw a tyrant organization that wants to oppress the people, you should lodge complaint against it and courts should seek pleading with justice ... Goes and gives a slap on the face of the tyrant regime. ¹

Muslim should be like this; if whoever he might be including the Muslim caliph ... or any other government authority, if he saw the concerned has been deviated, one should draw one's sword and cause the official concerned to set his feet right. ²

Of course, one should note that Imam considers rebellion and revolution to be permissible in special conditions. It is not such that he accepts anyone in any condition accomplishes it and leads the society to chaos and disorder. In the Islamic Revolution, Imam begins advice and admonition and advices and preaches, warns the cases of violation of law and negligence of officials in affairs to people and notifies the higher authorities of the then government the different cases including trampling upon the constitutional law and failing to observe Islamic criteria and people's rights time and again and since the then ruling body fails to give regard to the notices, eventually invites people to open rebellion and revolt, calling for removal of the then ruling government and creating order and new government under the title of Islamic Republic.

¹ Ibid., vol. 6, p. 461.

² Ibid., vol. 8, p. 6.

Supervision of Just *Faqih*

In Imam's political thought, one of the other agents guaranteeing the rights and freedoms of people in society is the just leadership of *faqih*. Just and qualified *Mujtahid* and *faqih* is selected by people so that he could stop despotism and bullying with supreme supervision of his over legal and government organizations and guarantee the observance of the rights of people by different government organizations. Imam Khomeini calls this matter *velayat-e-faqih*. From his viewpoint:

Today and always existence of *Vali-e Amr*; that is, guardian and establisher and order and law of Islam is necessary-existence of a ruler the bans aggressions and tyrannies and aggressions on the rights of others should be trusted, worthy of trust and guardian of people of God, guidance of people towards training and beliefs and rulings and systems of Islam and prevent innovations that enemies and atheists in religion and in laws and systems they impose.¹

But *faqih* ... is an individual all whose moral aspects and religions and nationalism and knowledge and practice are fixed before the nation.

From the viewpoint of Imam Khomeini, qualified *faqih* has guardianship over all fields of Islamic society. Meaning of the term trusted in *hadith al-Fughaha umana al-Rasol* we read: it is this measure that *fughaha* has come we read that *fughaha* implement all the affairs provided in Islam in the form of trust, not simply preaching.² However, realization of this matter; that is exercise of *velayat* by qualified *faqih* depends on the desire and will of people and their selection of freedom; in fact, I is the people who select the *vali-e-faqih*.³ In response to a question on what conditions qualified *faqih* can exercise control over Islamic society, he writes:

¹ *Islamic Government (Guardianship of the Jurist)*, p. 40.

² *Ibid.*, p. 73.

³ *Sahifeh-ye Imam*, vol. 10, p. 256.

He has *velayat* (guardianship) in all forms, but guardianship of the affairs of Muslims and establishment of government depends on the vote of majority of Muslims as stipulated in the constitutional law. In the early days of Islam, it was construed as paying allegiance to *vali* of Muslims and paying allegiance to him.¹

Of course, in Islamic Republic at present exercises his right to electing the leader indirectly through his representative in Experts Assembly and Imam Khomeini writes in this respects that:

The Experts Assembly for determining the leader of 'council of leadership' ... attaches special significance In addition, as I, notice earlier people are free to give their vote to qualified individuals and no one is to be forced to give vote to one certain person.²

If people voted to assign their just *Mujtahid* for leadership of their government and when they chose an individual to take the reign of leadership, supremacy of him is acceptable to people in which case he would be *vali* selected by people and his ruling influential.³

In the Imam's viewpoint, the leader selected by people undertake numerous functions and roles one of which consists of supervision over implementation of divinely law such as preservation and guarantee of the rights and freedom of people and:

Velayat-e-Faqih that is guardianship over affairs not allowing these affairs to get out of its channels, supervise over Majlis, over the president and over all organizations.⁴

Given the wide scope of authorities and authority of *vali-e-faqih* in response to misgiving of creation of despotism and

¹ Ibid., vol. 20, p. 459.

² Ibid., vol. 17, p. 133.

³ Ibid., vol. 21, p. 371.

⁴ Ibid., vol. 10, p. 311.

dictatorship, Imam Khomeini stressed repeatedly the rule of law in Islamic system in rejection of the above doubt. He says:

Other than divinely law, no one is entitled to rule. No one is deserving of ruling. Neither *faqih* nor non-*faqih*; all act in accordance with law. They are executive of law; both *faqih* and non-*faqih* is all executor of law. *Faqih* supervises over the fact that those who enjoy government power execute the law, do not violate; they are not supposed to rule but rather wants not to allow these governments that return to arrogant powers and dictatorship after a while to accomplish this end.¹

Faqih does not want to bully other people; if a *faqih* wants to hector, this *faqih* no longer holds the power of *velayat* and is ousted from Islam. In Islam, law governs. The holy prophet was subject to law, subject to divinely law; there is no talk of dictatorship; we want to stop dictatorship.

Velayat-e-Faqih signifies *velayat* (guardianship) over affairs of the world, not allowing these affairs to get out of its channel. He supervises Majlis, the president, the prime minister, all organizations and the army lest it should do a wrong thing. ... *Velayat-e-Faqih* is against dictatorship; it should not be taken as dictator.²

Government of Islam is a government opposed to dictatorship; the one placed by Islam for government is the one who is opposed to dictatorship as prescribed by religion. His government rules that dictatorship should not be practiced. They imagine that when they agreed that just *faqih* who is knowledgeable and informed of so and so aware tyrant impermissible standards so and so official should determine the official in the way of judges. If people selected a chief for people, that also give permission. Dictatorship ... Islam has assigned a just informed sympathetic *faqih* for people to supervise or let us suppose govern I because of

¹ Ibid., p. 353.

² Ibid., pp. 310-11.

preventing unjust practice, unjust should not come and pillage the people.¹

As believed by Imam, *vali-e-faqih* supervises the implementation of law and duty bound to act under the law and the three branches of power of the country functions under the supervision of the *vali-e-faqih*. Despite the fact that Imam believed that fully qualified *velayat-e-faqih* does not result in dictatorship. In spite of this, they consider it necessary to supervise the performance and deeds of the leader; in this respect, reasons should be enumerated:

The first reason is based on man being liable to error. Imam believes:

All those whom we see went corrupt were not so from the beginning ... then when they reached a station it was not such that they have done dictatorship from the outset, but gradually, little by little moved towards dictatorship; the Satan lingering in man's psych drags man towards corruption with utmost mastership. ... None of us imagine that we are far from corruption; all are exposed to corruption. All of us grapple with Satan. ... No one has been corrupt from the very beginning. No one is safe from being entrapped by Satan and corruption.²

As such, irrespective of immaculate Imams in all other human beings there is possibility of error as he says in this respect that "only prophet Muhammad (s) and other prophets and³ Imams did no commit mistake; all other ones perpetrated mistakes.

The second reason is based on possibility of disintegration of the habit of justice. In this respect, in *Tahrir ul-Vasileh* Imam Khomeini (s) has written that: Attribute of justice is destroyed by committing big sins or repetition and insistence on small

¹ Ibid., vol. 11, pp. 304-05.

² Ibid., vol. 14, pp. 368-69.

³ Ibid., vol. 12, p. 37.

sins. In fact, by perpetrating small sins [even for once and without repetition] justice is destroyed even with caution.¹ By virtue of significance and sensitivity of *velayat* or guardianship of the affairs of Muslims, significance of this matter is multiplied; therefore, regarding deeds and behavior causing the leader and *valie-faqih* of Muslims to lose his *velayat* and authorities, Imam Khomeini writes:

If *faqih* steps its foot wrongly, if he commits a minor sin, he would be ousted from *velayat*.²

If the first authority in our country commits a mistake, Islam will oust him; if he commits tyranny, slaps on the face of one by way of oppression, Islam would oust him; he is no longer competent to rule over an Islamic government.³

The third and most important and profound of the reasons is based on fundamental difference between action of God and creatures of God including man. From the viewpoint of Imam Khomeini, since:

For absolute action of the Right, there is no purpose and end excluding His sacred essence and intrinsic manifestations. It is not possible for the sacred Essence to seek other end than creating objects but His Essence and emergence and manifestation of His sacred Essence. Any Actor makes a creation with the purpose ad end of other than essence, for whatever end it might be, even though reaching the benefit and the reward of good deeds or for worship and praise is supplement to it and its existence is superior to its non-existence. It requires defection, defect and benefit. This is impossible for the perfect absolute sacred essence and intrinsically rich and inclusive Necessary. Then in His actions dexterity and question of dexterity is not available. Forgoing this, *yosa'al ina yafiki*, and etc, since His sacred Essence is absolute perfection and beauty; therefore, end of

¹ *Tahrir ul-Wasilah*, vol. 1, p. 10.

² *Sahifeh-ye Imam*, vol. 11, p. 306.

³ *Ibid.*

all movements and actions is His sacred Essence. For Him His sacred Essence has no end but Him. Fala ... etc, Almighty God is an Absolute Wise; therefore, any action issued from Him is in its utmost stability and firmness; therefore, contrary to other creatures it should not be subject to questions.¹

Hence, since Almighty God is the ultimate perfection in His action, He is not called to account. However, other creatures including the human being is not as such and seeks other purposes and ends in their essence other than nature is called to account because of his inherent weakness and defect essentially and practically.²

In other words, irrespective of the Almighty God, other officials are responsible for their deeds and behaviors and must be accountable for their acts. *Vali-e-faqih* and leader of Muslims is no exception to this rule. And an official is responsible to be responsive to his acts; Imam Khomeini believed that belief in lack of responsibility and absence of responsibility of leader in the face of the Almighty and people is a type of polytheism, because this matter is a type of self-conceit, as said by Imam Khomeini (s) in explaining the matter in the book *Forty Hadith*. He writes:

Among *fughaha* and *ulama* versed in *fiqh* and *hadith* (narration) and *Tolab* (theology students) individuals are occasionally found to despise other people and showing conceit over him and regard him to deserving of all sorts of honor and esteem in which case all people would obey him and whatever he says, they would not raise question. They should consider them la ... they should abandon all their knowledge of which they have smattering of and reject other disciplines and sciences without calculation and reject other *ulama* and sciences out of ignorance. He presents it in a way

¹ *Forty Hadiths (An exposition of ethical and mystical traditions)*, p. 602.

² *Ibid.*

that his being a religious man has despised and insulted them while religion is glorified from such flippant moods.¹

While vanity is vested in God Almighty and one who disputes over it, God Almighty shatters him and makes him abject.²

Since Imam Khomeini lays great stress on sovereignty and observance of law, procedure and nature of supervision over performance of leadership is also accomplished according to the constitutional law.

¹ Ibid., p. 83.

² Ibid., p. 86.