

WHISTLEBLOWING AS ISLAMIC IMPERATIVE, AN EPISTEMOLOGICAL APPROACH IN EMPOWERING MUSLIM CIVIL SOCIETY TOWARDS GOOD GOVERNANCE

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Abstract

The increasing acts of genuine whistleblowing, which we witness today globally, reflects courageous acts of the few who have stood up against the establishment to expose the wrong doings of individuals in public office and the gross abuse of public funds are exemplary acts of piety in the pursuit of good governance to attain the well being of the society. This act of nobility unfortunately, often viewed by some Muslims, especially those in power, as part of Western products that is strange and alien to Muslims' political culture. This paper aims to apply the deductive analogies based on sound evidence from authentic religious texts, to illustrate the nobility and righteousness of genuine acts of whistleblowing to encourage and promote competency, accountability and transparency in our societies. This research too will try to prove that modern day whistleblowing is part and parcel of a comprehensive scheme of good governance to achieve the highest goal of Islamic polity to ensure justice with fairness and mercy within the parameters of *Maqasid al-Shariah*.

Keywords: al-Quran, Civil Society, Empowerment, Good Governance, Whistleblowing, *Maqasid al-Shari'ah*, Shura, 'Ulama.

Introduction

In today's enlightened age of democracy, it is rather unfortunate that when the term 'Islamic political thought' is raised, one is often confronted with two polarized and contradicting points of view. The Muslim apologists will unreservedly disconnect any form of relationship between Islam and politics, which they consider as part of the secular public sphere. They perceived Islam as a mere set of theological arguments and rituals akin to other beliefs and must be distanced from worldly politics. On the other extreme, there exist a Muslim body politic, obsessed with the traditional and conservative interpretation of the holy texts, and relentlessly confining the notion of Islamic politics within the limited boundary of *hudud*, *wilayatul faqih* (rules of the clerics) or the re-establishment of the global Islamic caliphate (*Khalifah*).

Many Muslims included, have failed to understand, Muslims included, the ethical and moral dimensions of the term 'Islamic politics' from the holistic and all encompassing concept of *Maqasid al-Shariah* or the highest objectives of *Shariah*. As the true and authentic compass of the entire corpus of Islamic legal prescriptions, the *Maqasid al-Shariah* defines the cardinal purposes of the Muslim's individual, societal, national and global life experiences. It is these higher objectives of *Shariah* that dictate the Muslims participation in civil society or political governance in their mutual quest for mercy and justice for all mankind.

Al-Ghazali (d 505 AH) pioneered the development of the concept *maqasid al-Shariah*. It was a major breakthrough, remapping our religious imperatives and threw a whole lot of new challenges for legal scholars (al-Ghazali, 1993). There was unfortunately a lull, a void that was later to be addressed by the brilliance of the Andalusian scholar in the 8th century of Hijrah. Imam Abu Ishaq al Shatibi al Andalusi (d 790 AH) crystallized the ideas of Ghazali and discussed this in a very lucid and “scientific” manner in his masterpiece *Muwafaqaat fi Usul al Shariat* (al-Shatibi, 1996)

Deeply rooted in the Islamic ontological based epistemology of *tawhid*, *maqasid al-Shariah* lays down the foundation of Islamic polity encompassing all the meanings and objectives of the spirit of *Shariah* in attaining success (*falah*) in the worldly life. The success of this human project is reflected in the well-being of human society which is nurtured and protected by the comprehensive preservation of the five essentials in human life: faith, life (*nafs*), intellect (*‘aql*), progeny (*nasl*) and wealth (*mal*)¹ (Chapra, 2008b). Thus, it implies that the principles of Islamic politics must lead to ‘human well-being’.

Political activities and processes from the Islamic point of view must therefore consist of *maqasidic* elements to fulfill the *maqasidic* endpoints. It embraces a virtue-based consequentialistic paradigm, as its supreme purpose and overriding objective is the pursuit of *adl wa ihsan*, justice and goodness towards the attainment of *maslahah*, public interest and benefits for and between individuals, communities and nations both in this world and the Hereafter².

Embodied in the *Maqasid al-Shariah*, are a few cardinal principles in relation to the Islamic political framework. These include the concept of ‘*Adl wa Ihsan* (justice with fairness and mercy); *Amanah* (trust and responsibility); *Shura* (mutual consultation) and *Islah* (continuous transformation towards the society’s well being). These maqasadic concepts and principles empower Muslim individuals to be responsible and functioning players in the political process. Put another way, all Muslims are inherently vanguards of the Islamic polity. This individual empowerment has been promoted in Islam through the al-Qur’an, the Prophet’s traditions and the administrations of the four rightly-guided Caliphs (Imarah, 2005: 38-62).

Individual Empowerment: the Basis for Active Civil Society

Muslims as individuals and citizens in the community are empowered to have their say and to determine their own destiny and not be dictated or bridled by the elites under the yoke of ‘state’ or ‘authority’². These ideals also reflect the concept of empowered civil society centred on the concept of *responsible citizen* and can be clearly articulated within the healthy environment of democracy (al-Turabi, 1987: 17-18; 1987b: 20, 73, 132-33).

Essentially, every single individual in the Islamic community is empowered to preserve justice and peace for the public interest according to these principles,

1 (see: Quran, 2:189; 3:130; 3:200; 5:35; 5:100; 24:31; 28:67; 24:51).

2 Imarah (2005: 44) thus describes an Islamic political culture as *Siyasah Ra’iyyah* (civil politics).

which are the main objectives of *Shariah*. Al-Qur'an emphasizes the need for this mechanism in various verses (Qur'an: 3: 110; 9:71; 22:41; 4:114; 5:2; 7:165; 5:78-79). Similarly, many authentic Prophetic traditions have underpinned the major role of individuals in enhancing universal justice within a community. The four rightly-guided Caliphs received numerous unsolicited advice, complaints, oppositions and also rejections of their policies from their citizenry. This socio-political ambience reflects the political maturity of the empowered citizens and their rulers during this enlightened period.

In the same way, *islah* as a landmark theme in the individual's lives will transform them into self-actualised people striving to achieve *ihsan* (excellence) in their daily life in their pursuit of *falah*. These righteous concepts thus take centre stage in the society and consequently determine the consistency of justice, benevolence, religiosity, good governance and the development of the *ummah*. As an imperative, this concept allows for vertical accountability of peer assessment to be implemented within the larger governance process to ensure the trust is delivered effectively. At the same time, both top-down, and bottom-up evaluations as part of *islah* at all levels of governance and community life will enable accountability to be exercised comprehensively.

Through the spirit of *amr ma'ruf nahy munkar* (enjoin the righteous and forbid the evil) the intrinsic meaning of *islah* is articulated to guide Muslims in their continuous strive to attain '*falah*' in both worlds. *Amr ma'ruf nahy munkar* as an important imperative of *Shariah* also contributes towards the evolution of functioning and responsible individuals who live with the awareness of their responsibility to enjoin and promote virtue and at the same time to eradicate indecency and evil in their community. Evil is not only perceived as the sinful acts of individuals, but includes all acts of corruption, bribery, dictatorship, violation of rights, discrimination, misuse of power, and non-performance of leaders and administrators which would lead to the destruction of the community (Abdul Tawwab, 1983: 372-73). It is only through collectively practicing the obligation of *amr ma'ruf nahy munkar*, that the society will progress, achieving unprecedented heights in development, hence 'good governance'.

Any effort to eradicate evil in a community reflects the true meaning of faith and religiosity as it proliferates the exercise of justice, and epitomizes the wider implication of jihad according to the Qur'anic verse (9: 111-112) (Taleqani, 1986: 63). The effective implementation of *amr ma'ruf nahy munkar* also stipulates the importance and the active participation of individuals as citizens in governance activities (al-Zamili, 2009: 335-37).

This injunction is illustrated in the Quranic verse: "Let there arise out of you a group of people inviting to all that is good (Islam), enjoining *al-Maaruf* (righteousness) and forbidding *al-Munkar* (evil and forbidden) and it is they who are successful" (Al Imran (3): 104)

In al-Hud : 116 it was mentioned that: "If only there had been among the generations before you persons having wisdom, prohibiting others from *fasad* (crimes and sins) in the earth, except a few of those whom We save from among them! Those who

did wrong pursued the enjoyment of good things of (this worldly life) and were *Mujrimun* (criminals).”

In a tradition narrated by Muslim, Prophet Muhammad was reported as saying: “Those who witness evil must correct it firstly with his hand, failing which, with his mouth (verbally), failing which, with his heart and that is the lowest of *Iman*.” (Narrated by Muslim)

It was also narrated that the Prophet said, “The master of all martyrs is Hamzah bin Abd-al-Muttalib [Prophet’s uncle] and any man who was killed because he stood up to an unjust *Imam* [leader] and enjoined for what is right and forbade what is wrong.” (Narrated by al-Hakim)

In another occasion, the Prophet said, “The best word is the word uttered by a person before a tyrant to stop him from his evil doings”. (Narrated by Abu Dawud)

In embracing the spirit of these pivotal principles; the act of whistleblowing as a manifest of *islah* and *amr ma’ruf nahy munkar* has been part of the *Shariah* imperatives, and a vital constituent of the Islamic political culture since the days of Prophet Muhammad.

Whistleblowing: Guidance from the Prophet and His Companions

There were numerous incidents during the lifetime of the Prophet which sanctioned the practice of whistleblowing. Amongst them is a Prophetic tradition as reported by one of his companions, Jabir bin Abdullah who heard the Prophet say: “Discussions are confidential (not subject to disclosure) except in three places: “Shedding unlawful blood, unlawful cohabitation and unlawful accumulation of wealth”. (Narrated by Abu Dawud)

In another Hadith, Zaid bin Khalid reported that the Prophet said: “Shall I not tell you who is the best of witnesses? The one who brings his testimony before he is asked for it, or tells his testimony before he is asked for it.” It is evident from this tradition, that the Prophet was encouraging his ummah to blow the whistle voluntarily, as a moral obligation towards the *maslahah*, (public interest and benefits of the larger society). If we look at it from the angle of *Amru bil Maaruf*, (enjoining goodness) *Wal Nahy an Al Munkar* (and forbidding wrongdoing) or from the perspective of *Shahada* (witness attestation) which is mandatory upon Muslims, then whistleblowing is a “duty” because the purpose of whistleblowing is the same as that of ‘enjoining goodness and forbidding wrongdoing’.

The civil and political administration of the Prophet as leader of the city state of Madinah, was a showcase of competency, accountability and transparency. These were similarly applied to the administration of government revenue and expenditure in the provinces (al-Buraey, 1985: 245).

The oft-mentioned incident involving Ibn Lutaybiyah demonstrates this principle succinctly. Functioning as an *Amil* (tax collector)) he returned to Madinah loaded with tax revenues, and asserted that a substantive portion of the revenue was given to him as tokens from certain people. The Prophet reminded him by saying:

“What is wrong with the man whom we appointed as a tax collector and he said this is for you and that was given to me? If he stayed in his parent’s house, would something be given to him?”³.

On another occasion, the Prophet was quoted as constantly reminding his companions by saying:

“Whomsoever we appoint over an affair, we shall give him provision. What he takes after that is breach of trust.”⁴

The four-guided Caliphs, the successors of Prophet Muhammad continued the benchmarks of competency, accountability and transparency in their administration of the state. Abu Bakr, the first caliph after Prophet Muhammad, stressed the importance of accountability and the behaviour of individuals with authority in the community in his very first speech to the Muslim community after being elected as the Caliph by saying: *“Cooperate with me when I am right, but correct me when I commit error; obey me so long as I follow the commandments of Allah and His Prophet; but turn away from me when I deviate.”⁵* His other companions often held him to account for his decisions and state administration.

This was also the position of Omar al-Khattab when he was elected as the successor of Abu Bakr. In his maiden speech after being appointed as caliph, he stressed the need for accountability in his administration, and the rights of every empowered citizen (Ibn al-Jawzi, 2001: 170-71).

It was reported that while Omar was delivering the Friday sermon, an ordinary person rose and interrupted saying, *“O the leader of the believers, I won’t listen to your sermon until you explain how you came up with your long dress (Arabian robe)”*. Apparently, there was some distribution of fabric to the people and given the measure of distribution and the height of Omar; he could not have made a dress out of his share. So, a vigilant voice of egalitarianism unhesitatingly challenged Omar, the leader of a vast caliphate. Omar’s son stood up, and explained that he gave his share to his father, so that a dress could be made to fit Omar. The vigilant voice then expressed his approval and sat down, and Omar resumed his sermon (Ibn Qutaybah, 2002: 1/55).

Omar’s policy on accountability was not limited to the primitive style of verbal complaints and condemnations from the public. As for the public offices, he established a specific office to deal with the public administrators’ accountability. The office was designed for the investigation of complaints that reached the Caliph against the officers of the State. When it was first established, Omar appointed Muhammad ibn Maslamah to take the responsibility of this ombudsman-like department.

3 Narrated by al-Bukhari (1985: 2/917, 6/2559, 2624, 2631) and Muslim (no date: 3/1463).

4 Narrated by Abu Daud (al-Tarifi, 2005: 2/683), and al-Dhahabi (2001: 5/2533) recommended the hadith as authentic.

5 Narrated by al-Hindi (1989: 5/835) and Ibn Kathir (no date: 6/301), and both categorised the narration as authentic (*sahih*).

In important cases, Muhammad ibn Maslamah was deputed by Omar to proceed to the location, investigate the charge and take action. Sometimes an Inquiry Commission was constituted to investigate the charge. Whenever the officers raised complaints against him, they were summoned to Madinah, and the case was brought before the Caliph himself. The caliph also dismissed governors when the people complained against them; amongst them was the Prophet's companion, Saad Ibnu Abi Waqqas due the people's complaints against him (Majdalawi, 2000: 86 and 90). The same function was conducted in a later phase of Muslim history by a specially designed office known as *Diwan al-Mazalim*, which can be understood as the classical version of the contemporary ombudsman.

Once while delivering a sermon, Omar said:

“My rights over public funds (the Baitul Mal) are similar to those of the guardians of an orphan. If well placed in life, I will not claim anything from it. In case of need, I shall draw only as much as it constitutionally allowed for providing food. You have every right to question me anything about, any improper accumulation of the revenue and bounty collections, improper utilization of the treasury money, provision of the daily bread to all, border-security arrangements and harassment caused to any citizen.” (Ibn Saad, no date: 3: 215-19).

He was recorded by historians to have issued a certificate of witness by a group of elders to all duly appointed governors stipulating that the governor should not ride an expensive horse, or eat white bread, or wear any fine cloth, or prevent the people's needs (from being satisfied) (al-Tabari, 1994: XIV/ 113).

The example of Omar showcases the practise of transparency where a ruler, as well as the state officers, should have nothing to hide from the public and is open to scrutiny of their usage of public funds.

Another example of accountability and public airing of grievances practised during the period of the rightly-guided Caliphs can be found in the famous letter written by the fourth Caliph, Ali ibn Abi Talib to his governor of Egypt, Malik al-Ashtar. In his advice to the governor, he asserts that:

“Out of your hours of work, fix a time for the complainants and for those who want to approach you with their grievances. During this time, you should do no other work but hear them and pay attention to their complaints and grievances. For this purpose you must arrange public audience for them; during this audience, for the sake of Allah, treat them with kindness, courtesy and respect. Do not let your army and police be in the audience hall at such times so that those who have grievances against your regime may speak to you freely, unreservedly and without fear” (al-Musawi, 2007: 2/ 459).

All of these examples illustrate the importance and critical role of whistleblowing as another facet of ensuring competency, accountability and transparency in upholding justice and good governance. Whistleblowing has always been an integral

component of the Islamic political culture strongly rooted in their ontological awareness since the very beginning.

Furthermore, Muslim scholars, both the past and present, have been very prolific in their writings on topics related to accountability and the practice of *mazalim* and *hisbah* (public inquiry). Amongst the most famous was *al-Ahkam al-Sultaniyyah*, the magnum *opus* of Al-Mawardi (al-Mawardi, 1995) in which he dealt with both the topics of *mazalim* and *hisbah* extensively. Another classical scholar, Ibn Taimiyah, also authored a book titled '*Hisbah*' in which he discussed the issue of *hisbah* as a pertinent responsibility of every Muslim individual and also an obligation upon Muslim rulers (Ibn Taimiyah, 1985). Al-Ghazali, also dealt with the issue of accountability of a ruler and his officers in his celebrated, '*Nasehat al-Mulk*' as his advice to the prince of the Sultan during his time. However, it was the prominent vizier and scholar, Nizamul Muluk who deliberated brilliantly on these topics in a very normative meaning in his illustrious treatise, *Siyasat Nameh*.

Conclusion

The aforementioned deductive analogies based on sound evidence from authentic religious texts, illustrates the nobility and righteousness of genuine acts of whistleblowing to encourage and promote competency, accountability and transparency in our societies. Even though there is no direct reference to modern day whistleblowing *per se*, the principles which it embraces implies that whistleblowing is part and parcel of a comprehensive scheme of good governance to achieve the highest goal of Islamic polity to ensure justice with fairness and mercy within the parameters of *Maqasid al-Shariah*. Moreover, the practice of whistle blowing is also considered as an act of worship.

The increasing acts of genuine whistleblowing in many Muslim countries, and Malaysia mainly, which we witness today, does not augur well for the state of trustworthiness and integrity of our political governance. The courageous acts of the few who have stood up against the establishment to expose the wrong doings of individuals in public office and the gross abuse of public funds are exemplary acts of piety in the pursuit of good governance to attain the well being of the society.

Regrettably, this noble cause is being led by politicians and non-scholars instead of an 'apolitical' or non-partisan entity or individuals in many parts of the world, especially in Muslim countries. Civil society, free from the clutches of partisan politics should ideally be leading this whistle blowing initiative. We would dare add that Islamic-based organizations and the Muslim scholars due to their ontological-awareness ought to be spearheading this citizen's watchdog initiative to guard and protect against waste and loss of public funds and abuses of public office. However, disappointingly, many of our intellectuals whom we had expected to be at the forefront of such righteous efforts in the realm of civil and political governance, are however engrossed by 'red herring' issues that in many cases only serves to polarize further the society. The failure of the intellectuals to spearhead such an initiative would send a wrong signal to the lay Muslims, and convince them that whistle blowing is alien to the corpus of Islamic belief.

Actionable Policy Recommendations

- 1) Governments in Muslim majority country should prepare proper policies and channels for whistleblowing exercise, including enacting a more substantial and inclusive 'whistle-blowing act' to ensure a more accountable, transparent and efficient practice of governance.
- 2) Muslim scholars and intellectuals should take the lead in any of whistle-blowing initiative in their countries based on their inner conviction, and parallelly continue to educate the citizen to be more empowered and responsible.
- 3) In ensuring the effectiveness of whistle-blowing act, as part of good governance, the size of the government in Muslim countries should be reduced to allow other civil society actors to have a substantial role as stakeholders in the decision making process that involve public interest.

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