

ТРАДИЦИИ ЛЕГИТИМНОСТИ ВЛАСТИ VS ДЕМОКРАТИИ: ПРОБЛЕМЫ И ВОЗМОЖНОСТИ (НА ПРИМЕРЕ СОВРЕМЕННОГО АФГАНИСТАНА)

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Аннотация: Цель статьи состоит в анализе и поиске ответа на вопросы о возможностях преодоления политического кризиса в Афганистане. Автор настоящей статьи формирует свою позицию, основываясь на распространенной политической мысли, которая сегодня доминирует в западном мире и которую мысленно пытается применить к сегодняшней политической власти «Талибан*». Эту власть трудно охарактеризовать как демократическую, но она имеет свои традиционные исторические истоки. Автор делает выводы на основе проведенного анализа сильных и слабых сторон западного и восточного подходов. Показатели измерения легитимности власти позволяют обосновать вывод о том, что в Афганистане отсутствуют институты демократии. Правительство «Талибан» строит свою легитимность на основе шариата, но трактует ислам в традиционной форме, следуя принципам ал-шуря или джирга. В то же время демократия и парламентская республика могут быть вполне приемлемыми формами правления в исламском государстве, а власть в представлениях граждан может стать легитимной.

Ключевые слова: Афганистан, «Талибан», легитимность, ислам, конституция, демократия, политика, традиции, Лойя-джирга

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TRADITIONS OF POWER LEGITIMACY VS DEMOCRACY: PROBLEMS AND OPPORTUNITIES (WITHIN THE CONTEXT OF MODERN AFGHANISTAN)

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RESEARCH ARTICLE

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Abstract: The article aims to analyze and find answers to the question of whether Afghanistan's political crisis can be resolved. The author looks at the dominant political ideology in the West and tries to relate it to the Taliban's current political dominance. Although it is challenging to define this power as democratic, it has historical roots. After examining the advantages and disadvantages of the Western and Eastern approaches, the author concludes that Afghanistan lacks democratic institutions based on the indicators of power legitimacy. Sharia serves as the foundation for the Taliban government's legitimacy, but it adheres to al-shura or jirga principles in its traditional interpretation of Islam. At the same time, parliamentary republics and democracies can be perfectly acceptable forms of government in an Islamic state, and citizens may consider the government legitimate.

Keywords: Afghanistan, Taliban, legitimacy, Islam, constitution, democracy, politics, traditions, Loya Jirga

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Introduction

The article focuses on the necessity to understand the origins and causes of Afghanistan's political crisis from a theoretical perspective. The author raises the question of whether democracy is always correct and what exactly can legitimize the authority. The question of why citizens should obey their governments and where the government gets its legitimacy has always been on society's mind. Considering the anthropological and ontological perspectives of a specific society, each system and school offers a unique response to these questions based on the principles of its subject matter.

Let us look at how various political schools define legitimacy and then analyze the issues and potential for the legitimacy of power in contemporary Afghanistan based on different methodological grounds.

1. Theoretical and methodological grounds of legitimacy

1.1 The concept of legitimacy in Western schools of thought

The term «legitimacy» originates from the Greek word «*Ligitimus*» and means «legitimate», «according to the law» from the Latin root «*Leg*» or «*Lex*», law (Low) or legitimate, meaning the voluntary recognition of power by the people [Philosophy of Politics, 1998. P. 122]. Legitimacy is a crucial aspect of state power in Western political discourse. R. Koselleck links the idea of «political crisis» to the legitimacy of political and social order, i.e., power is legitimate when society willingly accepts particular types of government of any class [Koselleck, 2002].

Max Weber, a German sociologist, introduced the concept of «legitimacy» into modern science [Mommsen, 1992. P. 46]. In terms of social relations (love, competition, rivalry, friendship, social exchange, etc.), Weber typifies the social actions perceived by the individual as an imperative component of the social order: traditional, affective, value-rational, and legal [Modern Western Philosophy, 1998. P. 67]:

- traditional, complies with tradition, an individual makes a decision based on a given pattern;
- affective, corresponding to an emotional perception of the situation;
- value-rational, conditioned by the belief in the rightness of a particular action from the position of a specific value, whereas its achievement appears to be more valuable than «side effects»;
- legal, when people choose rationally the best option for reaching goals.

Accepting Max Weber's logical views of the state as a human community, S.V. Ivlev and I.S. Melnikov discuss the significance of a legal monopoly on the use of physical force on a particular territory as a component of power legitimacy, although stressing its use as a last means in civilized society [Ivlev, Melnikov, 2008].

Weber's definition of legitimacy is based on the idea

that, while allowing us to view forceful state coercion as an extreme measure, legitimacy also gives people logical means of preserving the political system's stability, ensuring order, and a civilized settlement of social disputes.

R. Ivanov's integrative approach, however, is the most appropriate in our view: «The presence of legitimacy, its stability, degree (scale), type, etc. depend on both the ruling subject and the subordinate, and therefore attributing the decisive role in ensuring legitimacy to only one of them does not correspond to the truth» [Ivanov, 2012. P. 7].

According to Western scientific theory, the legislative system and the Constitution are the only ways to realize the mechanism of legitimate power because they establish the fundamental guidelines for the government, including how officials are chosen, how governance is organized, and the rules for citizens' behavior.

1.2 The concept of legitimacy in the Eastern tradition

In the Eastern tradition, the term «legitimacy» has the following equivalents in Persian and Persian Dari: legitimacy, law and order, correctness, acceptability, legality, validity, and reliability [Philosophy of Politics, 1998. P. 122].

Hans Kelsen's «Pure Theory of Law» holds that a new order is legitimate when people start acting following that order. At that point, the coup is successful, the new order takes effect, and the new government is deemed legitimate [Thirty-three contributions to Pure Theory of Law, 1964]. Since Kelsen tries to distance himself from the political aspects by claiming that it does not matter why people agree to abide by the law, critics of this theory assume that while the legitimacy of the law is related to its authority, socio-political and moral factors cannot be ignored. Kelsen's theory has been widely acknowledged as influencing the ideological justification for supporting governments following violent coups, such as in Balochistan in 1958 [Morozova, 2011], Uganda in 1966 [Lindemann, 2011], and Southern Rhodesia in 1968 [Gonta, 2023]. Thus, according to his theory, a rogue government or a government like the Taliban can be legitimate even if it imposes its will on its citizens rather than depending on their consent.

Given that legitimacy is extracted from the fundamentals of Sharia, the definition of the term must be referred to. The definition of Sharia is to find and explain to His servants the proper, unambiguous path that complies with God's rules and orders. In Islamic schools, legitimacy is the knowledge that only what is proper and acceptable conforms to the Sharia. A government is considered legitimate if it abides by Islamic law or Sharia. One of the most crucial and fundamental questions in the discussion of the legitimacy of the political system is what Allah allows; that is, if one wishes to do something, one must verify that it is permitted by Sharia and refrain from doing anything that Allah has prohibited. When it comes to authority, the reasoning is the same: governments are responsible for their deeds and must provide a justification for their legitimacy

if Sharia permits them. Consequently, governments cannot do whatever they want; they must be responsible for their actions not only to the people but also to God.

According to Islamic systems, Allah is sovereign when the ruler (president or emir) issues a decree that conforms with the Quran and Sunnah, and then the decree must be obeyed. Political governance and official elections in Middle Eastern nations are matters for citizens who have been granted this privilege by Islamic Sharia. Accordingly, the country and its citizens approve the laws (ijtihad) of diligence after verifying that they comply with Islamic law [Gauhar, 1996. P. 74].

According to contemporary interpretations, «the constitutional recognition of the Sharia as a source of legislation is necessary for establishing the role of the Sharia in the legal system. Different versions of the Arab constitutions reflect Shariah's status» [Syukiyainen, 2016. P. 205].

2. The main part

2.1 Constitutional origins of legitimacy in Afghanistan

Let us examine the legitimacy of power in Afghanistan by applying the theoretical grounds discussed above. Afghanistan has long been known for its authoritarianism and political turmoil. In the past, Afghanistan's political system's legitimacy has been primarily determined by its governance structure and how public servants are chosen.

Afghanistan gained independence in 1919 after the Third Anglo-Afghan War. The First Constitution, based on the principles of the royal system, was ratified in 1923, during the reign of Emir Amanullah Khan. Its judicial system, citizen rights, and freedoms were all adapted to fit its framework. Despite the Constitution's secular nature, a specific article required the Emir to govern the country following Sharia law to make some allowances to the Sharia as the cornerstone of the state legal system and the new legal standards. Except for the chapter on the Shah, the Constitution persisted during the transitional period of Hamid Karzai and the succeeding reigns of Nadir Shah and Zahir Shah.

In 1973, Dawood Khan deposed the last monarch, Mohammad Zahir Shah, and turned Afghanistan into a republic. He was the first president of the democratic republic of Afghanistan from 1973 to 1978. At this time, the country's Constitution was first presented in a republican-democratic format, which founded a new governmental system.

Afghanistan's prior laws largely adhered to Islamic principles, and Islam was recognized as the state's official religion. Afghan society succeeded in balancing tradition and democratic values by adopting the 1964 Constitution. The revolution of 1978 prevented the implementation of many of this Constitution's provisions. The revolutionary council of the new government declared the repeal of this Constitution in its first decree.

The adoption of a new constitution in 1986 under President Najibullah offered some hope for the unification

of Afghan society and the rapprochement of the country. In 1990, the Constitution was revised in an effort to balance tradition and the rule of law. However, the political circumstances surrounding the Mujahideen's rise to power resulted in the declaration of Afghanistan as an Islamic republic. Even though the 2004 Constitution upholds the idea that religious and secular laws can coexist, many laws are declarative and do not provide the ruling Taliban regime with legitimacy or the country's citizens with many rights and freedoms.

2.2 Historical origins of the democratic foundations of authority in Afghanistan

We should highlight a crucial aspect of the Afghan political system. While constitutions in the modern world are approved by parliaments or referendums, in Afghanistan, there is a tradition that all crucial political disputes are resolved by the Loya Jirga (Grand Council). The procedure traditionally involves representatives of all tribes. The elders decided how to elect the supreme authority, the president, and how to appoint or elect an official. Afghanistan is a multi-ethnic country. Pashtuns are the largest group. Eastern and northern Pashtun tribes have permanent jirgas (assemblies), where many social problems, conflicts, and even criminal cases are resolved through collective decision-making. Jirgas are occasionally held in other national provinces, usually on significant issues. Among other ethnic groups in Afghanistan, it is common for tribal elders to make collective decisions.

The traditional jirga has no formal organization. Every tribe has a leader, known as a Khan or Malik, who organizes the jirga. Everyone is welcome to voice their opinions, and elders and other significant tribe members are invited. In this multi-century-old custom, women were entitled to participate in the Loya Jirga but were not permitted to attend the tribal jirga.

It is possible to conclude that the Jirga in Afghanistan is a symbol of tribal authority and that Afghan rulers have always had to modify their decisions to fit the traditional Jirga given the major events and factors that shaped the nation's development, such as the colonial era, wars, internal conflicts, and the influence of foreign powers [Asadyan, 2021].

2.3 Examining the legitimacy of authority in contemporary Afghanistan

Next, we should look at the primary indicators of legitimacy in the modern political system and determine which features of Afghanistan's contemporary political power correspond to these indicators.

The first question relates to a country's constitution's features and how law enforcement institutions are built. The recently accepted law of Afghanistan, published by Bahir Publications in 114 pages and 6 000 volumes, with an appendix of Hebatullah Akhundzadeh's decree on prayer, has nothing to do with establishing order in society. The

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Afghan people are more worried about the incorrect interpretation and application of Sharia than they are about the Taliban's implementation of it. Taliban fundamentalists argue that interpretations of Islam's universal rules are fundamentally flawed; through strict control that contradicts Islamic principles, they seek to maintain power for themselves. This is especially true for issues of equity and gender equality. Every article in the new law is dehumanizing and goes against the principles of human rights and dignity. This law's requirements that are exclusive to women, women's clothes, women's voices, and women's television are incredibly offensive and horrible and negate women's humanity [Taban, 2024].

We should note that recognizing Islam as a legal framework does not contradict basic democratic principles. For example, the king's decree in earlier eras of Afghan history upheld the idea that all state laws had to follow Islamic legal norms. Today, this principle has been constitutionalized in many Islamic countries by guaranteeing the Sharia and the subordination of state laws to the tenets of Islam. Since the Taliban government does not accept this strategy, it should have concentrated on scholarly research and a thorough discussion of Sharia interpretation as the foundation for enforcement to maintain the government's legitimacy. Ali Shariati, a political ideologue from Iran, asserts that «Muslims are entitled to interpret certain topics that are not fully explored in traditional Islamic theology» [Shariati, 1980. P. 84–86]. The example of Prophet Muhammad, who conferred with his followers and accepted the consensus even when it conflicted with his own, serves as the foundation for the deliberative principle. According to Islamic philosophy, a Muslim should not oppose the majority. Muslims in Afghanistan currently face significant obstacles to self-determination, including the extent and guidelines of their participation in social and political life while adhering to deliberative principles (al-shura), one of the fundamental tenets of Islam. This principle is also applied to the state leaders, regardless of their political status, and external forms of authority realization corresponding to Islamic principles (monarchy, republic, mixed form of government, separation of powers) are not of fundamental importance [Efimova, 2006].

Hence, the Islamic concept does not reject the deliberative Muslim participation. Such experience can be found in several countries that started building their statehood by announcing an Islamic government system. Today, many issues that previously limited the rights of certain groups of people have been resolved, and an electoral system is in place that does not affect the decline in religiosity and adherence to Islam. And such an example is Iran. Legitimate electoral or procedural legitimacy, which enables the governed to select (and replace) their leaders, is a significant element of democratic states. Authoritarian governments derive legitimacy from many sources, including ideology, nationalism, the leader's cult of personality, and, above all,

their ability to advance the economy and benefit society.

At this stage, the concept of legality is used as an element that represents the coordination of processes with existing legislation. The concept can be further rationalized by correlating legitimacy and lawfulness as form and content. But it's not always done automatically. Even if an administration is legal because it was elected democratically, it may not be legitimate because the people do not support it. Legitimacy as formal legality indicates that authority is legitimately established and exercised under existing laws; in other words, the degree of coercion necessary to carry out a specific policy can be used to measure the legitimacy of state power [Kozhevnikov, 2020. P. 37–49]. The weakness of indecisive authoritarian states is their incapacity to regain legitimacy when their charismatic leader passes, their ideology declines, or their instrumentality weakens. In democratic states, the legitimacy of a ruler is also based on instrumentality; however, the ruler's legitimacy is highly separate from the legitimacy of the system or the state. It appears that such a process of renewing leadership preserves the political system's legitimacy.

The issue of unambiguous totalitarianism in political Islam and its total lack of democratic values are two examples of such problems. Islam does not have the concept of a «citizen», but some cultures have the experience of developing an activist political culture. Following the principle of prioritizing the unity of the community (ummah), Islamic theologians hold that multiple political parties are undesirable because they can divide Muslims. The principle of al-shura or jirga followed by the Taliban is not inconsistent with its implementation in the parliamentary format.

An analysis of the legitimacy of various power structures within the framework of the chosen indicators is shown in **Table 1**.

The emphasized indicators lead us to the conclusion that there is a significant gap between the Afghan government and the people. The country's mistrust of the government is the cause of this disparity, which has given the government a crisis of legitimacy. The Islamic Emirate could not be considered a legitimate state since its government failed to protect citizens' freedom, there were no democratic institutions, human rights were not acknowledged, and women's rights were disregarded.

Conclusion

The study of the legitimacy of contemporary political power in Afghanistan allows us to conclude that it is possible to realize partial legitimacy in the Islamic state.

One of the most crucial elements influencing the stability and efficacy of a nation's state power is the recognition of contemporary international law. International organizations are still interacting with the Taliban government, indicating partial recognition of this government and a trend toward the possibility of international recognition of the Taliban government. At the same time, several

Table 1. Analysis of the legitimacy of authority						
n/a	Characteristics of legitimacy	Western-type democracy	The Sharia authority	The Loya Jirga Authority	Royal authority	Taliban authority
1	Existence of the Constitution and laws	The existing laws legally establish and exercise the authority	Legality is determined by conformity to God's rules; Sharia is recognized as a constitutional source of legislation	Elders from powerful tribes have traditions and values that determine the legitimacy of authority	The authority of the ruler (king, emir) to issue decrees (laws) is determined by their divine election	Following God's rules is a prerequisite for legitimacy
2	The principle of separation of powers	Enshrined in the Constitution	Absent	Partially existing in the jirga format as a model for the self-governing body of tribes and their subdivisions that serves as a court and a reconciling mechanism	Partially present	Absent
3	Existence of an electoral system	The people are the source of power; rulers are chosen by the people	Anything that conforms to God's rules	Partially present, representatives of powerful tribes determine primary rules and authority	Absent, a constitutional democracy only has a partial electoral system	Absent
4	Presence of democratic institutions	Democratic institutions are enshrined by law	Absent	An active Loya Jirga Institute	Some Islamic states are democratic and have republican political systems	Absent
5	Maintaining order and the rule of law	The authorities ensure order in compliance with the legislation	Duties of a Muslim, which is part of the Islamic school of rights called «Enjoining good and forbidding wrong»	Maintained within the framework of tribal traditions and rules	The authorities act according to the decrees of the ruler (king, emir)	A supervisory Authority entitled «Enjoining good and forbidding wrong»
6	Recognition of human rights	Human rights are recognized by law	Only the rights outlined in Sharia law are acknowledged	Traditionally defined rights are acknowledged	The recognized rights are those outlined in the Sharia and the ruler's (king, emir) decrees.	Only the rights outlined in Sharia law are acknowledged
7	Population's support for the authorities	The population considers the government legitimate	The government is considered legitimate mainly by followers of Islam	Populations whose representatives participate in Loya Jirga consider the government legitimate	The population considers the government legitimate	The government is considered legitimate mainly by followers of Islam

countries have stepped up their efforts to recognize the modern Afghan government. International law does not forbid states like China, Iran, Russia, Pakistan, Iran, and Uzbekistan from recognizing the Taliban government, despite the established jurisprudence of legitimacy. Therefore, how international actors interact will also determine the Taliban's future.

Accordingly, the more citizens are regarded as legitimate holders of political power, the more legitimate the government is, according to the findings of a study on legitimacy in 72 countries and the established criteria for government legitimacy. This implies that the benefit of legitimacy must originate from society and its citizens

rather than from the coercive authority that a top-down strategy offers [O'Sullivan, Healy, Breen, 2014]. However, it is determined that the Taliban government does not yet meet these requirements due to its traditional foundations and conventional ideology.

Afghanistan needs to establish institutions that emphasize the interpretation of Islam with widespread participation from believers to receive public support and develop systems that Afghan citizens can acknowledge as Shariah-based democratic laws. We hope that legislation will be adopted that meets both the public interest and the universal principles of Islam.

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