

The Concept of al-Hakimiyyah

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Al-Hakimiyyah

One of the issues, that needs explanation and clarification is the issue of "*The verses of judging according to what Allah has revealed*". Indeed, the necessity of such explanation is to protect our youth from the ignorant misleading misconceptions propagated by the excessive extremists. In fact, such issue requires stating its genuine definition, which this research has tackled as follows:

- 1st: Definition of "Hakimiyyah" in language and as a term.
- 2nd: The several meanings of the word "Hakimiyyah" given to Allah Almighty.
- 3rd: Is it permissible to use the word "Hakimiyyah" with any human being?
- 4th: Refuting the misunderstanding concerning "The verses of judging according to what Allah has revealed" and arguing its propagators.

First: Definition of "Hakimiyyah" in Language and as a Term.

Hakimiyyah in Language:

The lingual source of "Hakimiyyah" is "Hakam", a derivative of "Hukm" which means "to prevent" or "restrict".

The word "Hukm" means knowledge, comprehension and judgment, as Allah Almighty says: "*And We gave him judgment, while still a child*" [Q:19:12], which means that Allah Almighty provided him with knowledge and wise judgment.

Also, "Hukm" means judicature: to adjudge among people; to adjudge in favor or to adjudge against.

Again, "Hukm" could mean "to master"; he/she mastered something.

Hakimiyyah as a Term:

Hakimiyyah means that Allah Almighty is the sole source of all the judgments in the Islamic Shari'ah imposed on rational Muslims.

Allah Almighty says: "*the judgment is Allah's alone. He decrees the truth, and He is the Best of Deciders*" [Q:6:57].

The scholars of the principles of Islamic jurisprudence stated in the thesis of ruler, that the ruler and legislator is Allah Almighty, solely.

Al-Amidi said: "*I know there is no ruler or sovereign but Allah Almighty and there is no judgment but only what Allah has revealed*".

Imam al-Ghazali stated that: "*the one who is worthy to rule is the creator, and the absolute belief is that the owned should abide with the commands of the owner, and there is no owner but the creator who rules, instructs and commands, solely*"

Second: The Meanings of "Hukm" (judgment) as for Allah Almighty

Allah Almighty has been called "Hakem" in Holy Quran with three meanings as follows:

First: the legislative judgment:

Allah Almighty says: "*You do not worship, apart from Him anything but [mere] names that you have named, you and your fathers. Allah has not revealed any warrant regarding them. Judgment belongs only to Allah. He has commanded that you worship none but Him. That is the upright religion, but most people do not know*" [Q:12:40]

Hence, the legislative judgment is concerned with the doctrine ('Aqida) that is based upon absolute monotheism (Tawhid). When Allah Almighty says "*Judgment belongs only to Allah*", then, he revokes all the alleged actions of their gods.

This means that the judgments concerning the doctrines, worships and dealings, whether to permit or prohibit them, only belong to Allah Almighty, since he is the creator of everything and the knower of everything.

Allah Almighty says: "*O you, who believe, fulfill your bonds. Lawful to you is the beast of the flocks, except that which is now being recited to you; game not being lawful to you when you are on pilgrimage. Verily, Allah commands whatever He desires*". [Q:5:1]

The judgment of Allah here is the divine legislation concerned with bonds and pledges, as Allah says: "*Allah commands whatever He desires*", meaning that Allah Almighty decrees whatever he likes and impose whatever he likes on his creatures and decides what is permissible and impermissible, according to the necessities only known and destined by Allah Almighty, solely. Thus, we must fulfill our bonds and vows towards Allah Almighty and never nullify or violate them.

Hence, Allah's legislative judgment is a commandant and a duty assigned to all human beings; whoever complies and avoided the impermissible shall win and rejoice, yet, whoever rejects and disregards Allah's commands shall lose in life and the hereafter.

Allah Almighty says: "*Yet if there should come to you guidance from Me, then whoever follows My guidance shall not go astray, neither shall he be miserable* But whoever disregards My remembrance, his shall be a straitened life. And on the Day of Resurrection We shall bring him to the assembly, blind*" [Q:20:123-124]

Second: The cosmic determinist rule:

which means that Allah Almighty has set and predetermined all the universal and cosmic laws that rule all creatures according to Allah's will only; it happens whenever he likes and no human being can change it or rebel against it.

Allah Almighty says: "*Or is it that they have not seen how We visit the land, diminishing it at its outlying regions? And Allah judges; there is none that can repel His judgment and He is swift at reckoning*". [Q:13:41] and "*Allah is more knowledgeable of how long they tarried. To Him belongs the Unseen of the heavens and the earth. How well He sees!*"

How well He hears! They have no guardian besides Him, and He makes none to share in His rule". [Q:18:26]

Third: The hereafter judgment:

meaning that Allah will reward or punish people for their actions in the doomsday when they stand before Him, as Allah Almighty says: *"Then they are restored to Allah their Protector, the True. Surely His is the judgment. He is the swiftest of reckoners". [Q6:62],* and *"O Allah! Originator of the heavens and the earth!, Knower of the Unseen and the visible, You will judge between Your servants concerning that wherein they used to differ". [Q:39:46]*

Third: Using the Word "Hukm" (to judge) with Human Beings

As mentioned above, the ruler and the governor is Allah Almighty, and the meaning of Hakimiyyah has been explained according to how it was mentioned in the Holy Quran.

The question is: is it permissible to give the word "Hakimiyyah" to one of the human beings?

The answer is: yes, it is permissible, as many of Quran verses assigned Hakimiyyah to human beings; Allah Almighty says: *"O David! We have indeed made you a vicegerent on the earth; so judge justly between people and do not follow desire that it then lead you astray from the way of Allah". [Q:38:26]* and *" And David and Solomon, when they gave judgment concerning the tillage, when the sheep of a [certain] people strayed into it; and We were witnesses to their judgment.* And We gave understanding of this to Solomon. And to each We gave judgment and knowledge". [Q:21:78-79]*

Allah Almighty addressing His Prophet: *"Surely We have revealed to you the Book with the truth so that you may judge between people by that which Allah has shown you. And do not be a disputant for traitors". [Q:4:105]*

The above mentioned verses assigned "Hukm" (judgment) to Allah's prophets and messengers, who are infallible by the divine revelation. The question is: shall you mention other verses that assigned "Hukm" to other common people who do not enjoy infallibility by divine revelation?

I may say: yes, the Holy Quran included several verses where "Hukm" (judgment) has been assigned to other human beings rather than the prophets; Allah Almighty says: *"whoever of you slays it willfully, then the compensation shall be the equivalent of what*

he has slain, of flocks, to be judged by two just men among you" [Q:5:95]. Allah says, concerning marital disputes: " And if you fear a breach between the two, send forth an arbiter from his folk, and an arbiter from her folk, if they desire to set things right, Allah will grant them success. Surely Allah is ever Knower, Aware". [Q: 4:35]

Indeed, Quran has labeled adjudicators as judges, as Allah Almighty says: "*Consume not your goods between you in deception, and proffer them to the judges, that you may consume a portion of other people's goods in sin while you are aware". [Q:2:188]*

Allah addresses His Prophet saying: "*And follow what is revealed to you, and endure [patiently] until Allah give judgment, and He is the Best of Judges". [Q:10:109]*

Allah Almighty says in Noah's mouth: "*truly Your promise is the Truth, and You are the Most Just of Judges". [Q:11:45]*

This demonstrates that it is permissible to give the word "Hukm" to both Allah Almighty and human beings; however with two different meanings, yet without the contradictions that may occur in other words that share similar meanings.

Hence, Hakimiyyah, as attributed to "Hakem" could refer to Allah Almighty or one of the human beings, who can rule in this life under other titles such as Imam, Caliph, prince, king, president...etc. all these titles refer to one concept which is leading people according to Allah's ordinance and managing life according to the religious rules.

Sorraya Aziz

Fourth: The misconception of the verses of judging according to what Allah has revealed, criticizing this conception, and refuting the suspicion of those saying it

The "Hakimiyyah" concept was unknown in Islamic history until the fourteenth Hijri century; the first to use it was Abul A'la al-Maududi. After him, Sayyid Qutb repeated it. Since then, the term "Hakimiyyah" has been used widely among Islamic groups. They mean by it: There is no one but Allah, the Highest Governor, the Ruler, and the Supreme Legal authority. For them, "Hakimiyya" belongs solely to Allah; it is not permissible for any human being.

Furthermore, Maududi said, "Hakimiyyah refers to the highest authority and absolute power; it belongs only to Allah, according to what is termed today in politics."

He also said, "Allah is the originator of the rules, his will enacts the law, and individuals have to obey Him. As for Allah, no law restricts Him and imposes obedience on Him; He is the absolute omnipotent, and it is not permissible to ask Him about His orders".

Then, he said, "It is not permissible for anyone except Allah to execute His judgment on servants of Allah; this right is permitted only for Allah."

It is worth mentioning that Sayyid Qutb followed in his footsteps, as he said that ruling is limited to Allah for His divinity, as Hakimiyyah is one of the specifications of divinity. Those who claim this right; thus usurp the right which belongs to Allah alone, either an individual, a class of people, a party, a body, a nation, or all people in the form of an international organization. Whoever disputes Allah in the first specification of His divinity; then he disbelieves in Allah.

As Allah said: "I do not know of any god for you other than me." [Q. 28: 38], or he said: "I am your most high lord!" [Q. 79:24] As Pharaoh said it out loud, however, he claimed this right and disputed Allah in this right once he set Shariah aside from Hakimiyyah and derived laws from another source.

Once he decided on the entity that owns Hakimiyyah, which is the source of authorities, another entity except for Allah, even if this source is all humanity.

From the foregoing, it is clear that Hakimiyyah by those; is one of the religious fundamentals and the core of faith. Consequently, if it is not applied or refused, then it is outright disbelief. As Allah said: "Whoever does not judge according to what God has revealed - such are the disbelievers." [Q. 5: 44]

Qutb interpreted the above-mentioned verse as follows: "The generality of this statement makes it absolutely unrestricted to time or place. The ruling is definitive and applicable to everyone who does not judge according to God's revelations, regardless of where and in which period he lives. The reason is the one we have already explained. A person whose judgment is at variance with God's revelations denies that Godhead belongs to God alone.

A basic quality of the Godhead is the authority to legislate, as also His sovereignty. Whoever observes something other than God's revelations in his judgment not only rejects a particular aspect of Godhead but also claims for himself certain qualities of Godhead.

If that is not unbelief, I wonder what it is.

For what use is a verbal claim of being a believer or submitting to Allah when action denies such a claim?

Thus, Hakimiyyah, by those who refuse human rule, demands raging against this rule. Therefore, the political theory in Islam was established on removing all authority of legislation from human hands.

Discussing this misconception:

First: There is no incompatibility between calling Allah or the human "a ruler" since this name is verbally mutual.

We should confirm that the ruler is a human being who has no infallibility and is brought by the stakeholders with a free choice through a referendum called allegiance (or direct vote, as it is called now). His governance should be based on components such as justice, consultation, and diligence in enacting laws and legislations which his nation needs and make his rule among his people fair and just. Such governance does not contradict the fact that the rule is for Allah Almighty.

Second: The most dangerous thing about the Hakimiyyah concept is that they put the human against Allah; they always compare the divine approach and human approaches. If we acknowledge this concept, we close the door to the diligence of veterans.

How is that, while Shariah's texts urge self-reflection and further consideration? Also, the Prophet Mohammad (Peace Be Upon Him) asked Muadh Ibn Jabal how he would judge when the occasion arose, and he replied that he would judge following Allah's Book. He asked what he would do if he could not find guidance in Allah's Book, and he replied that he would act following Allah's Messenger's Sunnah. He asked what he would do if he could find no guidance in Allah's Messenger's Sunnah, He replied that he would do his best to form an opinion and spare no pains. Allah's Messenger then tapped him on the breast and said, "Praise be to Allah who has disposed His Messenger's Messenger to something with which Allah's Messenger is pleased!" The Prophet Mohammad (Peace Be Upon Him) was satisfied with the one who he assigned as a Judge in Yemen to be diligent, for which no special provision is made. Rather, he said, "Praise be to Allah who has disposed His Messenger's Messenger to something with which Allah's Messenger is pleased!"

Then, the call of those needs evidence, and if we accede to them, this will disable the human mind from playing its role in enriching the intellectual life.

Third: Introducing the Hakimiyyah concept in this form is considered as using religion to gain power and governance and also transforms the political conflict into a religious conflict, allowing faking Ummah's awareness to come to power.

Fourth: Their saying: power in the hands of humans is disbelief, contradicts the fundamental of Islam that the society monitors the Muslim ruler; it appoints and dismisses him.

This is evidenced by the saying of Abubakar as-Saddique (may Allah be pleased with him): "Oh people, as I have now been placed in a position of authority over you, and I am not the best of you, if I do good, then help me, and if I do wrong then correct me."

Fifth: Some state affairs need legislations, for which no special provision in Quran or Sunnah is made. So, we wonder, what should the ruler do concerning these affairs?

Therefore, the legal provisions are derived -after the Holy Quran and Sunnah- from consensus, analogy, approval, public interest, custom, Istishab (continuity), and the Shariah of our predecessors.

Sixth: Using the verse of al-Maidah to describe those who do not judge according to what Allah has revealed as disbelievers.

According to Ahl al-Sunnah wa'l-Jamaa'ah (Asharism), faith is the affirmation of the heart, but not necessarily by the utterance of the tongue, or the actions of the limbs. Except for this saying of the majority of scholars, it is the saying of Khawarij who describe any Muslim does not judge according to what Allah has revealed as a disbeliever. It is worth mentioning that the investigative Imams responded to Khawarij and clarified the nullity of their saying in many ways, mentioned by Imam Fakhr al-Din al-Razi, when he interpreted the verse of al-Maidah, as he said, "The second issue: The Kharijites said: Everyone who disobeyed Allah is a disbeliever. Besides, the majority of scholars said, It's not that. As for the Kharijites, they used this verse as a pretext. As they said, It is a text that everyone who rules without what Allah has revealed is a disbeliever, and everyone who is guilty, has governed without what Allah has revealed, so he must be a disbeliever.

Samira Sakr

Mutakallimun (scholars of Kalam) and Interpreters mentioned in this regard:

- This verse "Whoever does not judge according to what God has revealed - such are the disbelievers" [Q. 5: 44] was revealed to address a matter related the Jews. However, this is a weak point. Others mentioned that this verse might mean that disbelievers are those who were mentioned earlier who did not judge according to what God has revealed. However, this is a weak point as well.
- Ibn al-Anbari mentioned that the verse might mean that the one who do not judge according to what God has revealed did an action similar to actions of disbelievers. However, this is also a weak point.
- Abd al-Aziz Ibn Yahya Kinani that the verse "Whoever does not judge according to what God has revealed" means that anyone who does not judge according to God's law is a disbeliever. This is true because a disbeliever is someone who does not judge according to God's law in all aspects. However, a disobedient is someone who believes in what God has revealed but sometimes does not put it into action. This is also a weak point.
- Ikrima mentioned that the verse "Whoever does not judge according to what God has revealed" tackles the condition when someone denies with all his heart what God has revealed and does not utter it by his tongue. With regards to the one believes with all his heart what God has revealed and utter it explicitly, but sometimes does not act in contradiction to it; he is not considered a disbeliever. This is the right clarification.

Based on this, the one who does not judge according to what God has revealed because one does not believe that it is true is considered a disbeliever. With regards to a Muslim who believes in that what God has revealed with one's heart and tongue can never be regarded as a disbeliever under any circumstance.

Seventh: Declaring those who do not judge according to what God has revealed is a matter that contradicts with the guidance of Prophet Muhammad (PBUH). Hudhaifa Ibn al-Yaman said "There will be leaders who will not be led by my guidance and who will not adopt my ways? There will be among them men who will have the hearts of devils in the bodies of human beings. I said: What should I do. Messenger of Allah, if I (happen) to live in that time? He replied: You will listen to the Amir and carry out his orders; even

if your back is flogged and your wealth is snatched, you should listen and obey." (Sahih Muslim)

This Hadith indicates that even leaders who do not follow the guidance of Prophet Muhammad (PBUH) are not considered disbelievers. Although the above-mentioned Hadith clarified this matter, there are still questions about: Did this verse address exact people? Or did it address everybody?

The answer is: this verse "Whoever does not judge according to what God has revealed" was addressed to the Jews based on the following:

First: The reason for the revelation of this verse.

This verse was revealed because of an instance of adultery happened with the Jews. They changed the judgment of Allah (stoning to death) that was prescribed as punishment in the Torah. They wanted Prophet Muhammad (PBUH) to pass another judgement.

Al-Bara Ibn Azib reported that there happened to pass by Prophet Muhammad (PBUH) a Jew blackened and lashed. Prophet Muhammad (PBUH) called them (the Jews) and said: Is this the punishment that you find in your Book (Torah) as a prescribed punishment for adultery? They said: Yes. Prophet Muhammad (PBUH) called one of the scholars amongst them and said: I ask you in the name of Allah Who sent down the Torah on Moses if that is the prescribed punishment for adultery that you find in your Book. He said: No. Had you not asked me in the name of Allah, I would not have given you this information. We find stoning to death (as punishment prescribed in the Torah). But this crime became quite common amongst our aristocratic class. So when we caught hold of any rich person, indulging in this offence, we spared him, but when we caught hold of a helpless person we imposed the prescribed punishment upon him. We then said: Let us agree on a punishment which we can inflict both upon the rich and the poor. So We decided to blacken the face with coal and flog as a substitute punishment for stoning. Thereupon Prophet Muhammad (PBUH) said: O Allah, I am the first to revive Thy command when they had made it dead. He then commanded and the offender was stoned to death. Allah, the Majestic and Glorious, sent down this verse "O Messenger, let them not grieve you those who vie with one another in disbelief, such as say with their mouths, 'We believe' but their hearts do not believe; and from among those of Jewry, who listen to calumny, listening to other folk who have not come to you; perverting words from their

contexts, saying, 'If you are given this, then take it; but if you are not given it, then beware!' Whomever God desires to try, you cannot avail him anything against God. Those are they whose hearts God did not desire to purify; theirs shall be degradation in this world, and in the Hereafter theirs shall be a great chastisement." [Q. 5:41]

It was said by the Jews: Go to Muhammad; if he commands you to blacken the face and award flogging as punishment for adultery, then accept it, but if he gives verdict for stoning, then avoid it. It was then that Allah, the Majestic and Great, sent down these verses "Whoever does not judge according to what God has revealed - such are the disbelievers" [Q. 5: 44], "Whoever does not judges according to what God has revealed, those are the evildoers." [Q. 5: 45], and "Whoever does not judge according to what God has revealed - those are the wicked." [Q. 5: 47]. All these verses were revealed in connection with the non-believers. (Sahih Muslim)

Second: the context of the verse which will be tackled in the following point.

Eighth: With regards to the context of the verse: This verse is from Surat Al-Ma'idah that talked about Ahl al-Kitab (People of the Book) especially the Jews. In addition, the previous verses to this verse talked about the Jews as well as the following verses to this verse. Allah Almighty Says in Surat Al-Ma'idah, verses from 41 to 46: "O Messenger, let them not grieve you those who vie with one another in disbelief, such as say with their mouths, 'We believe' but their hearts do not believe; and from among those of Jewry, who listen to calumny, listening to other folk who have not come to you; perverting words from their contexts, saying, 'If you are given this, then take it; but if you are not given it, then beware!' Whomever God desires to try, you cannot avail him anything against God. Those are they whose hearts God did not desire to purify; theirs shall be degradation in this world, and in the Hereafter theirs shall be a great chastisement. [41] Listeners to calumny and consumers of unlawful gain. If they come to you, then judge between them or turn away from them. If you turn away from them, they cannot harm you at all; and if you judge, then judge justly between them; God loves the just. [42] But how is it that they make you their judge when they have the Torah, wherein is God's judgement; and then they turn away, after that? Such are not believers. [43] Surely We revealed the Torah, wherein is guidance, and light by which the prophets, who had submitted, judged for those of Jewry, as did the rabbis, and the priests, according to that which they were

bidden to observe of God's Scripture and were witnesses to. So do not fear men, but fear Me, and do not sell My signs for a small price. **Whoever does not judge according to what God has revealed - such are the disbelievers.** [44] And therein We prescribed for them that a life for a life, and an eye for an eye, and a nose for a nose, and an ear for an ear, and a tooth for a tooth; and for wounds retaliation; but whoever forgoes it out of charity, then that shall be an expiation for him. Whoever does not judges according to what God has revealed, those are the evildoers. [45] And We caused Jesus son of Mary to follow in their footsteps, confirming the Torah before him; and We gave to him the Gospel, wherein is guidance and light, confirming the Torah before it, and as a guidance and an admonition to the God-fearing. [46]

These verses were addressed to the Jews. Allah judged them as disbelievers because they not only refused Allah's judgment with regards to stoning who committed adultery to death but also judged according to their whims.

Some ask: If this verse was addressed to the Jews, Is it applicable to people of other divine religions if they did as the Jews (did not judge in accordance to what God has revealed)?

A group of scholars answered 'yes' because what was revealed to the Jews is what was revealed to people of other divine religions.

Another group of scholars answered 'no' since this judgment is concerned to the Jews only but not a general rule to follow with Muslims.

Ayat Nabil