



Revival of Public Rights in Afghanistan Based on Justice and Human Dignity from the Perspective of Islamic Teachings

Ali Jan Haidari¹, Abbas Ka'abi², Majid Masoudi³

Received: 2023/05/12 ; **Revised:** 2023/07/11 ; **Accepted:** 2023/07/11 ; **Published online:** 2024/05/21

Abstract

Justice and human dignity are foundational principles of human rights both globally and in Islamic teachings. In Islam, humans are endowed with inherent God-given dignity, and their rights are founded upon justice. A person is entitled to a dignified life and the right to determine their social status, with all individual and social rights - including the right to security, education, social equality, the right to determine one's destiny, and the right to public oversight of political affairs - deriving from justice and human dignity. Among the legal implications of justice and human dignity is the Islamic government's responsibility to create legal mechanisms to actualize individuals' inherent (natural) rights. In Afghanistan, despite the establishment of the Islamic Emirate, this issue continues to face challenges. This research focuses on examining these challenges from the perspective of Islamic teachings. Using a documentary method and a descriptive-analytical approach, this study explores the issue. The results reveal that despite the religious foundations underpinning the revival of public rights, Afghanistan faces challenges such as intellectual despotism, lack of the rule of law, the absence of an inclusive government, political monopolization, patriarchy, negative attitudes toward women, tribalism, and superficial interpretations of jurisprudence and religious teachings. Misinterpretations of governance, dominance over the people, and adherence to the "theory of attaining power (Taghallub)" are major factors leading to the violation of these rights, which need to be rectified according to Islamic teachings.

Keywords: Islamic laws, jurisprudence, public-rights, justice, human-dignity, equality, governance.

1. Ph.D. Candidate in Public Law, Imam Khomeini Educational and Research Institute (**Corresponding Author**). alijohnheidari@gmail.com

2. Faculty Member, Imam Khomeini Educational and Research Institute. abaskaebi@gmail.com

3. Assistant Professor, University of Religions and Denominations. majidmasudi@gmail.com

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<https://www.jspt.ir/>

Publisher: Urwat al - Wuthqa International Academic Research Institute

DOI: <https://doi.org/10.22034/JSPT.2025.456937.1040>



Introduction

The revival of public rights from the perspective of Islamic teachings is one of the primary duties of an Islamic government. However, in Afghanistan, many people are deprived of their rights, highlighting the need to examine the foundations of the revival of public rights in order to make the current rulers of Afghanistan aware of their duties. This paper, using a documentary method and a descriptive-analytical approach, examines this issue from the perspective of Islamic teachings. The findings show that from this perspective, the revival of public rights is one of the most important religious duties and legal obligations of the rulers of an Islamic society. In Islam, the legitimacy of power is conditional upon the rulers' ability to uphold and revive public rights. In Islamic thought, unlike in secular thought, attention to public rights is aimed at gaining legitimacy for the political system, not merely gaining public acceptance. Rulers are obligated to revive public rights through a justice-oriented and dignity-based approach in exercising power, as the main purpose of forming a government in Islam is to serve the people and provide the necessary conditions for them to enjoy their human rights and spread justice throughout society. Islam's approach to governance is justice-oriented and dignity-based. Justice in Islam is the foundation of all matters and the criterion for the legitimacy of the political system. Therefore, combating oppression, which is a significant challenge in this regard, is an inherent duty of the Islamic government. Furthermore, human rights in Islam are based on human dignity, and this dignity serves as the legal foundation for the conduct of the rulers in dealing with the people. In Islam, individuals are entitled to a dignified life and to political and social rights. Protecting human dignity is obligatory, and rulers are responsible for securing and guaranteeing individuals' rights based on this dignity. Several research works have been produced on the preservation and maintenance of public rights in the form of books and articles. Mahmoud Abbasi and others, in "Citizenship Rights: From National Rights to the Revival of Public Rights" (2019), explore the concept of public rights and similar concepts, discussing the competent authorities responsible for reviving public rights and examining the challenges to the revival of public rights in Iran. Mehdi Ghamami, in "The Model for the Revival of Public Rights through Reforming Normative Systems and Judicial Structures" published in 'Islamic Law' (Fall 2018, Issue 58, p. 71), identifies the existing judicial structure in Iran as an obstacle to the revival of public rights and calls for reforms in the judiciary to address these issues. Fatemeh Afshari and Arin Patfat, in "Obstacles to the Revival of Public Rights in Iranian Law and Practical Solutions" published in 'The Public Law Journal' (Fall 2021, Issue 33, p. 117), discuss challenges like ambiguity in concepts and ineffective laws in reviving public rights. The innovation of the current research compared to the

above works lies in discussing the foundations of public rights revival in the Quran and Sunnah (two foundations of justice and human dignity) within the geographical context of Afghanistan, which was not covered in previous studies, as those works were geographically focused on the Islamic Republic of Iran.

1. Conceptual Understanding

1-1. Foundations

The term 'foundations' refers to the base or groundwork of something (Moein, 1981, p. 3777; Dehkhoda, 1958). In terminology, a foundation is anything that can serve as a basis or groundwork for something else (Group of Authors, 2018, p. 24). In law, a foundation is the hidden and powerful source that serves as the basis for all rules and justifies the obligation arising from them (Katouzian, 2001, p. 39). In constitutional law, the term refers to the most general principles, rules, and criteria upon which the legal system is based. Therefore, general benefits such as establishing justice, creating order, securing safety, ensuring material welfare, and advancing civilization and culture are considered foundations of law (Mesbah Yazdi, 2003, Vol. 2, p. 65). In any legal system, the legislator focuses on a series of general benefits, deeming a society that achieves them to be prosperous. Based on these interests, the legal system is structured so that each rule contributes to one of these benefits. These general benefits are known as the 'foundations of law' (Mariji, 2012, p. 32). The foundations of public rights revival in this article refer to anything that logically justifies the government's obligation to revive these rights and binds rulers to do so. The criteria for these foundations are the goals and aspirations of the Islamic system, such as order and security, justice, human dignity, national progress and development, achieving the ideal Islamic society, and the ultimate happiness and perfection of humanity.

1-2. Public Rights

'Public rights' is composed of two words: 'rights' and 'public.' In this text, 'rights' refers to the abilities and privileges a person possesses in relation to something or others, such as the right to life, security, education, freedom of political activities, ownership, and the ability to control one's property. The meaning of 'huqooq' in farsi is equivalent to the English term 'Rights' (Javan Arasteh, 2017, p. 8). The term 'public' refers to those living under the sovereignty of a country and having political relations with the state. The term 'public rights' is an authentic concept in Islamic jurisprudence, where many jurists, during their discussions, have addressed it as an established jurisprudential institution or concept, considering its revival as one of the duties of the Islamic state. Its equivalent in law is the term 'public law' and 'the rights

of the nation' (Ghamami, 2018, p. 71), which includes the rights of both individuals and society (Abbasi et al., 2019, p. 135). Today, public rights in a legal system are framed within constitutional rights, encompassing the rights of the nation (Constitution of Iran, Chapter III) and fundamental rights and duties of citizens (Constitution of Afghanistan, Chapter II) (Afshari & Patft, 2021, p. 112).

1-3. Revival

'Revival' (Iḥyā') is an Arabic verbal noun derived from the root 'ḥayā. Lexicographers define revival as bringing something to life, reviving, cultivating land, improving someone or something's condition, etc. (Moein, 2003, under the term revival; Dehkhoda, 1993, under the term revival; Amid, 2010, under the term revival). In legal discourse, revival refers to establishing and actualizing a legal situation, which conveys the meaning of bringing to life and improving a condition (Abbasi et al., op. cit., p. 14). Therefore, the 'revival of public rights' in terminology means creating legal grounds for enabling the fulfilment and realization of potential rights in a specific legal situation for citizens by rulers.

1-4. Justice

'Justice' in its literal sense is the opposite of injustice and refers to giving rights to their owners and distinguishing truth from falsehood. Some lexicographers define justice as equality (Raghib, 1983, p. 325; Turahīhī, 1987, Vol. 5, p. 421; Ibn Faris, 1984, Vol. 4, p. 246), while others understand it as uprightness and balance (Ibn Manzur, n.d., Vol. 11, p. 414). Raghib states: "Justice is the equal distribution of things" (Raghib, op. cit.). Ibn Manzur claims: "Justice is everything that human nature judges to be correct and upright" (Ibn Manzur, n.d., Vol. 11, p. 414). Some consider justice to be the opposite of injustice (Fayumi, 1983, p. 396; Ibn Manzur, op. cit.; Farahidi, 2004, Vol. 2, p. 1154). Farahidi states: "Justice is the opposite of tyranny" (op. cit.). Fayumi adds: "Justice is moderation in actions, the opposite of tyranny" (op. cit.). In terminology, justice means placing everything in its appropriate place (Nahj al-Balāgha, Maxims 429) or giving each deserving person what they deserve and fulfilling the rights of each rightful owner (Fayḍ Kāshānī, n.d., Vol. 5, p. 107). Justice also means negating discrimination and respecting entitlements (Motahari, 1974, pp. 13–16). In legal terms, justice refers to the concept of "placing everything in its proper place," with social justice being the most important form of justice. Social justice implies that rulers treat every member of society according to what they deserve and place them in the position they merit (Tabātabā'ī, 1994, Vol. 12, p. 478).

1-5. Human Dignity

'Dignity' in its literal sense means status, greatness (Ibn Manzur, 1994, Vol.

12, p. 510), and virtues that make a person respectable in their own eyes and that of others (Ṣalībā, 1994, Vol. 2, p. 227). It signifies value, respect, honor, prestige, purity from vileness, and cleanliness from impurities, as well as generosity (Dehkoda, 1993, p. 16070; Moein, 1981, p. 2929). In terminology, it refers to the existential nobility that distinguishes humans from other creatures in the universe or the moral nobility that reflects human personality (Mesbah Yazdi, 1999, p. 374). Dignity expresses the honor and greatness of a human being. This characteristic is intrinsic to a noble person and is associated with generosity and virtuous conduct (Moṣṭafawī, 1995, p. 49). It also refers to purity from vileness and meanness (Jawādī Amulī, 1987, p. 21). In this text, intrinsic and innate dignity is emphasized, serving as the basis for human rights in Islam and the foundation for the revival of public rights.

2. Revival of Public Rights Based on Justice and Human Dignity

Justice and dignity are two key features of good governance from the perspective of Islam. Accordingly, the Islamic ruler is obligated to establish justice in society and preserve human dignity. The Qur'an considers social establishment of justice as the purpose of the mission of divine prophets and a key indicator of piety and God-consciousness (Qur'an 5:8). God commands Prophet David to judge the people with justice (Qur'an 38:26). Furthermore, the Qur'an emphasizes ensuring justice among people (Qur'an 57:25) and freeing people from shackles and chains (Qur'an 7:157) as the main goals of the prophets' missions and the revelation of divine books. The Qur'an sees the destruction of unjust systems as a consequence of the violation of justice and oppression by rulers (Qur'an 28:59). Islamic traditions consider justice to be the foundation of all affairs, the factor that sustains the heavens, the earth, and society's order (Ahsā'ī, 1984, Vol. 4, p. 103). Implementing justice for even a moment is superior to seventy years of worship (Majlisī, 1983, Vol. 72, p. 352). From Islam's perspective, the notion of racial and ethnic superiority prevalent in modern Afghanistan is invalid and contrary to human and Islamic values, as the only criterion for superiority in God's sight is faith and piety (Ḥarānī, 1985, p. 24). Observing justice in governance is a perpetual law that should never be neglected (Nahj al-Balāgha, Sermons 126 and 232), for justice places affairs in their rightful places (Nahj al-Balāgha, Maxims 437). Therefore, social justice is the religious standard for an Islamic government, and it is the criterion for humanity or inhumanity and validity or invalidity of Islamic laws. This justice, regardless of method and tools, is an integral part of religion (Ibn Qayyim al-Jawzīyah, 2002, p. 13). The enforcement of Islamic law is possible through the implementation of justice in society (Zuhaylī, 1989, Vol. 6, p. 718). One of the most essential pillars of social justice is adherence to the principles of social

solidarity and equality. Equality among people, regardless of race, language, colour, religion, or geography, should be upheld in law, and equal opportunities and resources should be provided across various social arenas. In fact, justice in politics, justice in rights, and justice in judgment are the three core indicators of social justice, leading to the eradication of discrimination and inequality in society. Some, like Sayyid Qutb, consider the lack of justice extremely dangerous for an Islamic state, viewing the justice of rulers, the obedience of subjects, and the consultation of rulers with the people as the three main pillars of governance in Islam. If any of these pillars falter, the balance of governance collapses. From this perspective, the justice of rulers is an absolute justice, uninfluenced by love or hate, friendship or hostility, kinship or ethnic enmity (Gerami & Khosrowshahi, 2013, p. 148). Moreover, in Islam, humans possess inherent God-given dignity, which grants them a special superiority over other creatures and serves as the foundation of human rights. There are numerous Quranic verses and narrations on this subject; verse 70 of Surah Al-Isra mentions the 'honouring' of humankind, as well as their 'superiority' over many other creations. Based on verses such as 4 of Al-Tin, 29 of Al-Baqarah, 20 of Luqman, 12 and 13 of Al-Jathiyah, 32 of Ibrahim, 65 of Al-Hajj, and 12-13 of Az-Zukhruf, God has granted specific distinctions to humans, considering them worthy of honour in every respect. Additionally, traits such as the divine nature (Ar-Rum, 30), the position of God's vicegerent on earth (Al-Baqarah, 30), and being a divine trustee on earth (Al-Ahzab, 72) also point to humanity's inherent dignity. According to some views, preserving human dignity and reviving individual rights based on it are among the political duties of an Islamic state (Kaabi, 2015, p. 228), and the practical approach of religious leaders reflects this. Imam Ali (as), as the ruler of the Islamic society, instructed Malik al-Ashtar in a governmental command to uphold the respect and dignity of the people (Nahj al-Balagha, Letter 53) and considered promoting a culture of dignity, honouring human beings, and reviving individuals' rights as the duty of an Islamic ruler. He emphasized this in his guidance to governors and rulers on human rights, where he forbade them from treating people with contempt, viewing them as mere prey, and violating their rights, instead instructing them to act with humane and respectful behaviour (ibid). Human dignity encompasses the respect for individuals' personality, religion, and religious sanctities. As a result, beyond political and social rights, religious rights and the protection of individuals' sanctities also rest upon this dignity. In the governmental conduct of religious leaders, respect for individuals' personality, religion, customs, and social status was evident. Imam Ali (as) instructed one of his commanders to treat people according to their customs and religion and to honour their personal boundaries (Dashti, 2001, p. 74). Imam Ali (as) himself, in his social conduct,

aimed to preserve people's dignity, irrespective of their beliefs and religions, working to alleviate poverty. His consistent emphasis was on fair and dignified treatment of people and the safeguarding of their dignity at all costs (Nahj al-Balagha, Letter 51).

3. Obstacles to the Revival of Public Rights in Afghanistan

Public rights in post-Republic Afghanistan face numerous challenges. Intellectual despotism and a self-righteous attitude, coupled with hostile methods against differing thoughts, views, and factions, as well as misguided legal interpretations of governance and control over the people, political monopolization, and ethnic and religious discrimination, have painted an entirely harsh and rigid picture of the Taliban. This mindset poses a major threat to freedom of thought, belief, and expression in political and social realms. Under systems governed by radical fundamentalism, the most basic public rights—political, social, economic, and cultural—are often neglected, as can now be clearly observed in the territories controlled by the Islamic Emirate, where independent political and scholarly elites, scientific figures, and social development and non-governmental groups hold little to no place in the political and administrative structure of the country. Despite maintaining Islamic and scholarly identities, dissenting media outlets and publications are shut down. Women are deprived of education, employment, and social participation due to misguided religious interpretations, and the rights of ethnic and religious minorities are violated through an ethnocentric approach in governance, resulting in widespread disregard for public rights across political, social, economic, and cultural dimensions. The Taliban, believing in the theory of 'domination,' have essentially deprived citizens of political participation and the right to self-determination, showing no commitment to democratic principles. They view ruling over people through dominance and force as legitimate means of obtaining and preserving political power. Taliban leaders, due to their belief in their tribal cultural values (Pashtunwali), see power as exclusive to tribal individuals, specifically Pashtuns, immediately disqualifying non-Pashtun scientific and political elites from holding positions and rejecting an inclusive government. Even after three years of reclaiming power in Afghanistan, Taliban authorities continue to avoid forming a comprehensive government and, despite internal and international efforts and demands in this regard, have yet to provide a positive response. Thus, on a broader scale, the Taliban's governance is characterized by ethnic and religious foundations, authoritarianism, political monopolization, the lack of a national identity, the absence of rule of law and disregard for a constitutional framework, systematic discrimination against women, ethnic groups and religious minorities, and violation of their rights

through various means. Additionally, it includes enabling foreign interference and facilitating the presence of extremist and terrorist group in the country, all of which are significant challenges and obstacles to the restoration of public rights.

3-1. Ethnic and Religious Foundations

The Taliban govern Afghanistan based on specific ethnic and religious principles. They interpret religion and religious teachings in a superficial manner, which gives an insight into their heretical perspective on governance. Due to their adherence to Pashtun traditions and beliefs (Pashtunwali), they believe in political exclusivity, maintaining that power should be monopolized by the Pashtuns. From the perspective of Pashtun thinkers, all people of Afghanistan owe their existence and status to the Pashtuns, and they should accept that no one but the Pashtun can govern Afghanistan. Therefore, Pashtuns aim to maintain exclusive leadership by any means necessary, justifying any method to achieve this goal (Pahlawan, 1991, p. 75). Afghan Pashtuns follow specific customs known as 'Pashtunwali,' which is both a set of laws and an ideology in Pashtun tradition (Roa, 1990, p. 28). Thus, Pashtunwali encompasses a wide range of human behaviours and relationships among the Pashtuns, with core principles including respect for human dignity, revenge, and hospitality (Ford & Lewis, 1988, p. 42). In a tribal model of administration based on Pashtunwali, the tribal chief is seen as above all others, and his will is considered law. Additionally, the actions of the tribal chief are immune from any criticism. In the Taliban's 'Emirate' system, the political relationship between the people and the emir mirrors that between tribe members and their leader, denying the people the right to oversee the government—a right considered legitimate in Islam—and even the right to a private life within Islamic regulations (Arefi, 1999, p. 209). Consequently, this ideological basis presents multiple obstacles to restoring public rights.

In contrast, Islam acknowledges the fundamental right of people to monitor political affairs and hold leaders accountable. In jurisprudence, the principle of 'enjoining good and forbidding evil' embodies this right, promoting Islamic values through encouraging good deeds and combating social and political corruption (Kaabi & Keikhai Farzaneh, 2022, p. 161). Thus, 'enjoining good and forbidding evil' empowers the people to exercise their rights, with the implementation of these two principles enabling public rights to be preserved (ibid., p. 162). Allegiance, consultation, and other such mechanisms ensure people's involvement in governance (Shaban Nia, 2014, p. 263). According to jurists, in addition to the concept of a consultative Islamic government, the public has the right to monitor and critique the government as part of forbidding wrong (Na'ini, 2003, p. 112). Exercising this right prevents rulers from violating

public rights, rooting out despotism and sycophancy from society (ibid., p. 166). Thus, an Islamic government must create conditions that allow people to participate in governance and exercise their rights to advise and supervise. Imam Ali (as), as an Islamic ruler, stated that the people's first right over the ruler is the right to 'advice,' which signifies the people's right to participate in governance when applied to political and administrative contexts. Therefore, an Islamic government should not close off the political space or stifle constructive criticism, nor should it foster a culture of flattery and hypocrisy instead of constructive critique (Sajjadi, 2023, p. 218). Imam Ali (as) urged the people: "Do not speak to me as you would speak to tyrants and oppressors. Critique the policies and programs of my government rather than resorting to flattery and praise" (Nahj al-Balagha, Sermon 216). In the governance approach of the second caliph, it is reported that he once asked the people in a public assembly how they would respond if they saw him deviate. One of those present replied, "We will straighten you with this crooked sword if you go astray." The caliph responded, "Praise be to God for placing people among the ummah of Muhammad (pbuh) who would correct Umar with a sword" (Nabhani, 1951, p. 4). This highlights the people's right to critique and the Islamic government's responsibility to accept criticism. The suitable approach to restoring people's right to participate in governance is to return to Islamic teachings, consider the historical truths of the Islamic world, and follow the instructions of the Rightly Guided Caliphs.

3-1. Intellectual Despotism and the Denial of Public Sovereignty

The Taliban believe they are always in the right, viewing any opposition as inherently wrong. Disagreement with the Taliban equates to opposition to truth, and thus no one has the right to criticize or challenge their views, as such criticism is seen as criticism of Islam and the Prophet's tradition (Haqqani, 1999, p. 37). One of the Taliban leaders has stated: "Suspicion and slander against us is infidelity, for we seek to implement God's religion and the way of the Prophet, and to speak ill of us is to speak ill of the Prophet's way and tradition" (ibid.). Generally, intellectual superficiality, a disregard for intellectual and scientific development, disrespect for expertise, a lack of cultural sophistication, and political ignorance characterize Taliban leaders and officials from the past to the present (Haqqani, 1999, pp. 39-40). Mullah Omar, in a meeting with Kandahar's scholars, stated, "We intend to establish God's religion on His earth, serve His word, and enforce God's laws. The Taliban are engaged in jihad for territorial integrity and the implementation of Islamic Sharia" (Omar, 1999). When asked about the Taliban's governing system and its differences with neighbouring Islamic countries, he replied: "We do not look at

other governments. We lack sufficient information about their systems. Our aim is to establish an Islamic government based on the methods of the Rightly Guided Caliphs” (Sharifi, 2019, p. 94). He claimed to be chosen by God, commanded by the Prophet of Islam (pbuh) to launch a movement in response to what he described as a decline in security and disregard for Sharia (Mili, 1998, p. 32). Today, the Taliban have reasserted these claims since regaining power. They regard democracy as polytheism, deeming it unacceptable for an Islamic society, as democracy grants legislative authority to the people instead of God (Aslani & Bazari, 2021, p. 2). They see democracy and values like it as Western and heretical, believing that Western principles—including secularism, freedom, and human rights—are incompatible with Islam (Karimi, 2016, p. 32). Mullah Omar argued, “The so-called republics in weak Islamic countries are forgeries... Western-style republics and democracy are no better than dictatorship” (Omar, 1996). Some believe that Taliban ideology fundamentally rejects concepts like democracy, freedom, human rights, tolerance, and compromise (Sajjadi, 2022, p. 3). In contrast, Islamic jurisprudence and law emphasize the right of people to self-determination. The Quran (Surah An-Nur, Ayah 55) supports the legitimacy of the freedom of every human being to determine their destiny (Na’ini, 2003, p. 55), condemning the arbitrary despotism of rulers in Islamic society and upholding liberty as a fundamental human right (Khorasani, 2006, p. 246). According to the Quran, it is a right that God has granted to humans as His vicegerents on earth (Sadr, undated, p. 134). Therefore, in an Islamic political system, all individuals are entitled to self-determination and the freedom to engage in political activities within an agreed framework of Islamic values, and any discrimination on the basis of ethnicity, race, region, or religion is contrary to religious principles and high human values (Sajjadi, 2023, p. 222). Consequently, the people’s opinions serve as the basis for all political matters, and society’s institutions are rooted in the people’s will (Deylami, 2002, p. 154). From a jurisprudential perspective, the source of authority in governance is the people themselves, acting according to their will and desire (Sobhani, 1991, p. 187). The head of the Islamic government is chosen by the people, provided this choice does not contravene divine commandments. Islamic principles affirm this freedom (Moghniyeh, 1979, pp. 65-68). Prophet Muhammad (pbuh) told Ali (as): “O son of Abu Talib, the authority over my ummah belongs to you; if they peacefully accept your leadership and consent to your governance, lead them; but if they differ regarding you, leave them to themselves” (Ibn Tawus, 1950 CE, p. 180). When the people flocked to Ali (as)’s house after the assassination of the third caliph to pledge allegiance, he told them, “Leave me and seek someone else” (Nahj al-Balagha, Sermon 92). In Islamic political thought, governance is neither

absolute nor despotic; it is subject to oversight and control by the people through allegiance, consultation, or general supervision (Khomeini, 1423 AH, p. 43). In the Islamic political system, no case permits the government to exercise authority beyond the legal framework. Rather, the Islamic government must guarantee individual freedom and provide the grounds for political activity within legal boundaries (Sajjadi, 2023, p. 222). For this reason, an Islamic government cannot be authoritarian; rather, it is directly under the supervision and scrutiny of the people and their representatives. The Islamic government is responsible for following the ruling of the council in its programs, as some jurists have stated that the council is obligatory, and that the Islamic ruler is bound by its outcome as a means of eliminating authoritarianism (Zuhayli, Vol. 6, p. 652, 1986). Others believe that the government does not have the right to deprive or restrict individual freedoms without legal grounds, as freedom is a fundamental, non-negotiable principle that must be upheld (Fayyadh, 2013, p. 84). Another jurist argues that the principle of freedom is rooted in the responsibility and moral duty of human beings, and thus, an Islamic government cannot deprive people of their freedom (Mohseni, 2008, Vol. 1, p. 68). In Islamic thought, the ruler of society is not the owner of power but merely a trustee of it: "The Islamic ruler is not the owner of power but rather an executor of power on behalf of the people, as power in the Islamic political system originates from the ummah" (al-Nabahani, 1951, p. 15). In reality, the source of state authority is both God and the people (Zuhayli, 1989, Vol. 6, p. 725), and ultimate sovereignty belongs to God, which is exercised through the people. The sovereignty of the people is transferred to the Islamic ruler through a group of qualified representatives to govern in accordance with the rulings of Sharia (ibid).

Thus, the right to self-determination and the involvement of people in governance are among the fundamental rights of the nation, as emphasized by Islamic jurisprudence and law. In totalitarian and authoritarian systems, this right is often disregarded, and the people are prohibited from any political activity. An Islamic government not only cannot deprive or restrict this right, but it is also obligated to take necessary steps to restore and uphold it.

3-1. Political Monopolization

The Taliban consider the 'Islamic Emirate' to be a model of Islamic governance, claiming that they do not seek a monopoly on power: "The Islamic Emirate does not aim to monopolize power; Afghanistan is the common home of all Afghans" (Umar, 2021). The current Taliban leader, Hibatullah, also claims that they did not want a monopoly on power, but their primary goal was to establish a pure Islamic system and eradicate ignorance and barbarism

(Akhundzada, 2022). Sirajuddin Haqqani writes, "...we are committed to cooperating with other parties through consultation and with genuine respect to reach a consensus on a new and inclusive political system" (Haqqani, Sirajuddin, 2023). Taliban Prime Minister Mullah Hassan, responding to the international community's request for an inclusive government that respects civil and women's rights, claimed, "Cabinet participation is open to all, and women's rights are respected in this government" (Akhund, 2022). However, the list of announced names contradicts this, as there are no Hazara ministers or female ministers, and almost all the leaders, cabinet members, and military commanders in the Taliban group are Pashtun. Mullah Baradar claims they aim to establish an inclusive Islamic system that represents the people, addresses existing issues, and strives for the stability and welfare of the nation, which he asserts the Islamic Emirate is capable of achieving (Baradar, 2021). This claim is made while, according to the Taliban, the Emir is free to choose members of the council and select those whom he deems suitable (Haqqani, 1999, p. 28). Furthermore, from the Taliban's perspective, party pluralism is impermissible, as it is believed to lead the country to ruin. They believe that formation of political parties leads to social disintegration and fosters hostility and discord among the people (Aslani and Bazari, 2021, p. 2). Mullah Omar once said, "political parties are formed based on ethnic, tribal, linguistic, and chauvinistic tendencies, causing problems, animosity, and division among the people. There is no room in Islam for such divisive parties..." (Haqqani, 1999, p. 33). Although Mullah Omar himself viewed ethnocentrism as an obstacle to resolving Afghanistan's social and political crises and remarked in his message to the people against ethnocentrism: "Many are afflicted by the foul odour of ethnicity; ethnicity has become like a bloodstream for them... They dislike each other because of ethnic conflicts..." (Umar, 1996); during his leadership, Pashtuns dominated the Taliban movement. The current Taliban leader also holds a similar stance toward party pluralism and political diversity in society (Aslani and Bazari, 2021, p. 2). However, many believe that the Taliban tolerate and cooperate with Afghan extremist parties and groups as long as these do not challenge their interests or authority. The Haqqani Network, al-Qaeda, Tehrik-i-Taliban Pakistan, the Islamic Movement of Uzbekistan, and others are prominent among these groups, with whom the Taliban currently have no conflicts. The Taliban's only ongoing conflict is with the group known as the National Front, led by Ahmad Massoud, which opposes the formation of a Taliban-led government in Afghanistan (Shakofa, 2021, p. 8). This political monopolization by the Taliban occurs despite, as noted earlier, that from the perspective of Islam and its teachings, all people in a society possess the right to political and social self-determination and the right to participate in governance.

According to Islamic teachings, the principle of equality is one of the most important principles of public rights (Abbasi et al., 2019, p. 77). This principle is considered a fundamental tenet of the Islamic social system (Amidzanjani, 1988, p. 230). In Islam, all humans are of one essence and nature; they all share the same lineage from one father and mother, created from the same origin, and are equally honoured and entrusted with divine responsibility (Shariati, 2005, p. 96). Therefore, discrimination based on colour, race, language, or similar factors in the enjoyment of social rights is not accepted and has no place (Madani, 2014, p. 87). Today's Afghan society needs to realize the principle of equality and apply it across political, social, economic, and cultural spheres. Upholding the principle of equality by society's leaders prevents discrimination and privilege-seeking in the fulfilment of individuals' rights and curbs authoritarianism and arbitrariness by rulers. According to this principle, holding a political leadership title does not warrant preferential or unequal treatment (Mohseni, 2008, p. 62). In Islamic jurisprudence, the principle of equality is known as "equity" (Fathullah, 1994, p. 384). In political jurisprudence, equity signifies equality for all, uniform application of laws, and determining individuals' eligibility based on their capability, creativity, and performance (Tabataba'i Far, 2014, p. 169). Thus, the principle of equality is a fundamental right of the nation. An Islamic ruler loses both religious legitimacy and popular acceptance if there is discrimination and inequality, leading to a political legitimacy crisis and diminishing popular support, thereby shortening the government's lifespan.

3-2. Absence of Law, Sovereignty and the Rejection of Constitutional Necessity

The Taliban, following the 'Pashtunwali' model and superficial interpretations of religion, do not consider drafting a constitution necessary. They argue that the Qur'an and Sunnah constitute the Islamic state's constitution and even refuse to create guidelines for organizing state affairs. They believe that Islamic Sharia is comprehensive and sufficient to meet the needs of Afghanistan's Islamic society at all times (Aslani and Bazari, 2021, p. 2). Taliban Prime Minister Mullah Hassan Akhund says, "Every government in the world has a constitution that it follows, and we have adopted Islam as our constitution because we rose for the sake of Islam" (Haqqani, 2017, p. 33). Similarly, Zabihullah Mujahid states that Islamic Sharia is the standard and sole source in an Islamic society (Mujahid, 2022). While, from the perspective of Islamic teachings, the principle of rule of law is one of the most essential principles (Misbah Yazdi, 2012, Vol. 1, p. 180), adherence to it prevents discrimination and privilege-seeking in fulfilling individuals' rights and curbs totalitarianism and arbitrariness by rulers. The principle of rule of law entails that rulers must submit to drafting laws and

accept Sharia legislation since Sharia is a general and ambiguous matter that, if left unlegislated, will be interpreted for personal benefit. Secondly, rulers and society must be equal under the law. According to this principle, the title of political leadership of the community does not result in favouritism for the ruler or unequal and different treatment for them. The equality of the ruler with the weakest segment of society before the law and in enjoying privileges is a serious emphasis in Islamic political thought (Mohseni, 2008, p. 62). Therefore, based on Islamic principles, discrimination based on colour, race, language, position, and similar factors in individuals' social rights is not acceptable, leaving no room for such discrimination (Madani, 2014, p. 87).

3-3. Patriarchy and Negative View of Women

The Taliban believe that a woman's work domain is her home, and it is not permissible for a woman to leave her home except in cases of extreme necessity. It is permitted for a woman to learn her religious duties at home and through her close male relatives, but it is not permissible for her to go to school or university and learn worldly matters (Haqqani, 1999, p. 29). Based on this view, during their first rule over Afghanistan (1996-2001), they closed the doors of schools and universities to girls. Now, three years after their return to power, schools and universities remain closed to girls, and any presence of women in public life is opposed. The Taliban sometimes refer to the book by Mawlawi Abdul Hakim Haqqani, the Chief Justice of the Taliban government, titled 'Al-Imarat al-Islamiyah wa Nizamaha,' which serves as a kind of political-religious manifesto and their constitution. This book offers reliable insights into their ideological structure and behavioural principles regarding politics, religion, and women's rights. This work demonstrates the unique perspective of the Taliban toward women and their rights in society and even in the family, which reflects the influence of Pashtun customs on their religious interpretations. The status of women under the Taliban's religious government differs from the role women have held within Pakistan's Deobandi community. In the official and national Pashtun culture, a woman is confined to the home, with no right to participate in society, and must remain isolated from any non-relative males. In this culture, women lack independent identity; before marriage, they are considered the property of their fathers, and after marriage, they belong entirely to their husbands and in-laws, who decide their fate. Education and learning in public and modern schools are viewed as improper. Haqqani differentiates between public and private spheres, assigning childbirth and child-rearing to women and financial provision and outside work to men. He considers this division as part of a divine order and argues that modern notions of education, culture, and women's rights contradict the divine system, aligning instead with ignorance

and disbelief (ibid., p. 151-152). Under the section titled “Conditions and Qualities of the Imam,” Haqqani states one of the qualifications of an Imam is being male, explaining that ‘women are commanded to stay at home, and their essential state is concealment’ (Haqqani, 2022, p. 80). He references the hadith “A people who entrust their affairs to a woman will never prosper” to argue that if Aisha, the Prophet’s wife, was deemed unfit to hold leadership, then by extension, other women are even less qualified. He continues: “This task (assuming leadership) involves difficult responsibilities that a woman’s nature cannot endure; as stated in an authentic hadith, a woman is deficient in intelligence and religion” (ibid., p. 81). He adds, “Know that God has reserved a place for women within the household, among their children, and in their protection. Women are weak and therefore cannot defend against harm; hence, as scholars have agreed, they are unfit for leadership.” Citing “Zayla’i” and a narration from “Aisha,” Haqqani forbids not only political engagement for women but also their attendance at mosques (ibid., p. 153). Among the wives of the Prophet (pbuh), he references only “Sawda bint Zam’ah” as a model for Muslim women, who reportedly never left her room until her body was carried out after her death. He describes the conditions for women’s education, stressing that it should be conducted at home (ibid., p. 254-256). From the perspective of Islamic teachings, however, equal access to education for all is a fundamental right of citizens, and any form of discrimination in fulfilling this right is unacceptable. In Islam, the right to education is a universal right that every Muslim, male or female, must enjoy without exception. Inspired by the Qur’an and religious teachings, Muslim scholars and jurists regard it as the duty of the Islamic government to provide an environment for universal education, free from gender-based discrimination, to foster comprehensive human development and prevent people from being led astray (Ka’abi, 2015, p. 181). In an Islamic government, suitable conditions must be provided for the education needed by individuals, with resources allocated as required by society to all (Amid Zanjani, 2005, vol. 7, p. 315), fulfilling the government’s primary goal in cultural affairs: “the eradication of ignorance and deviation” (Javadi Amoli, 1999, p. 106). Thus, the Islamic government is responsible for educating people based on sound intellectual foundations (Sadr, 1982, p. 51). The Constitution of the Islamic Republic of Afghanistan recognizes this right for everyone (Constitution of the Islamic Republic of Afghanistan, Article 43). Therefore, gender discrimination and depriving women of their right to education, or limiting their access to higher education, which is essential for human growth, is inconsistent with religious principles. Islam views both men and women as equal in the pursuit of knowledge and urges all to seek knowledge at all times (Tawhidi, 2006, p. 155). Many believe that in an Islamic society, all people (both men and women)

should have the right to education, regardless of belief or religious affiliation (Shabannia, 2014, p. 152), and that unjust gender-based discrimination should not deprive anyone of this right to education.

3-4. Public Insecurity

Regarding public security, the Taliban claim to have succeeded in establishing security throughout the country. Hibatullah has stated, "Security is the foremost condition for the nation's prosperity and progress... Our nation will no longer allow anyone to question the peace and security of the country under foreign influence" (Haqqani, Sirajuddin, 2022). Amir Khan Muttaqi claims, "The Taliban have established historic and exemplary security in Afghanistan" (ibid.). He further asserts, "We declared a general amnesty and have demonstrated it in practice" (Muttaqi, 2021). These statements, frequently issued by Taliban leaders and senior officials, do not align with the realities in the country; eyewitnesses affirm that insecurity continues in Afghanistan, with frequent incidents of suicide bombings and explosions. The Taliban's leadership and officials' claim of a general amnesty is contradicted by the world's observation of the deadliest attacks by the Taliban-led group in areas like Panjshir Valley, Balkhab, and other parts of the country. Additionally, the expulsion, torture, and killing of individuals affiliated with previous Afghan governments and other jihadist groups further disproves their claim (Saidi, 2021). Moreover, over 15 ISIS attacks in Afghanistan have killed or injured more than 500 citizens, predominantly Shia Muslims. Pakistani airstrikes on civilians in two border districts in Khost and Kunar provinces and sporadic conflicts involving dissidents in the north indicate widespread insecurity in Afghanistan (Saidi, 2021). In the past, the forced displacement of residents from northern Kabul on 17/1/1997 and the violent treatment by some Taliban members toward other ethnic groups in the area, including horrific torture under the pretext of disarmament and area clearance, further demonstrate the Taliban's lack of commitment to their own slogans and media statements (Haqqani, 1999, p. 30). Regarding the argument that suicide bombings and explosions have decreased since the Taliban's return to power, many believe this reduction is because the Taliban themselves were the perpetrators of such acts in the past, and with their current government, there is no one else to carry out suicide bombings or explosions (Saidi, Ahmad, 2021). Meanwhile, the Islamic government has a duty to provide and guarantee comprehensive security for all citizens and to avoid ethnic, tribal, and religious biases in this regard. The right to security is a fundamental right of the nation and the cornerstone of societal structure, as the enjoyment of other rights and a dignified life depend on its existence. In Islam, providing citizens with safety for their lives, property, and

honour is a primary duty of the state. In the Quran, the importance of security is such that endangering a single life is likened to killing all humanity, while saving one life is akin to saving all of humanity (Quran, Surah Al-Ma'idah, 5:32). This security forms the basis for all subsequent civil rights and freedoms, such as freedom from slavery, protection from torture and arbitrary detention, the right to a fair trial, freedom of expression, freedom of movement, privacy rights, the presumption of innocence, the right to marry and start a family, and freedom of belief (Yadollahpour, 2012, p. 206). Social security, which rulers play a crucial role in ensuring, fosters unity between the people and the government, enhances the dignity and strength of religion, and establishes the grandeur of justice among the populace. It leads to societal reform, government's stability, and the frustration of ambition of the enemies (Nahj al-Balagha, Sermon 216). Conversely, neglecting this social right leads to discord between rulers and the people, insecurity, signs of oppression, widespread distortion in religious practices, suspension of laws, and widespread social disorder where many rights remain unfulfilled (ibid.). From Imam Ali's (a.s.) perspective, the primary purpose of establishing government is to ensure social security. An Islamic ruler should enact regulations and sincerely combat elements of societal insecurity, such as murder, looting, violation of personal honour, and assaults on individual rights, allowing people to live their lives in peace and security (Nahj al-Balagha, Sermon 131). An essential aspect of social security is economic security. In Sunni sources, economic security is regarded as one of the "objectives of Sharia" (maqasid al-sharia) (Ghazali, 1992, Vol. 1, p. 174). Accordingly, from the viewpoint of Sunni scholars like Ghazali and Shatibi, one of the primary duties of an Islamic government is to provide economic security and safeguard people's property (Ghazali, *ibid.*; Shatibi, 2004, p. 222).

Conclusion

This study has examined the issue of reviving public rights in Afghanistan based on justice and human dignity from the perspective of Islamic teachings. The analysis concludes that justice is a fundamental basis for reviving public rights. In Islam, justice is the foundation of human life, an organizer of affairs, a lifeline for society, and a means for urban development. Justice holds particular significance in governance, as it necessitates that the rights of each individual are restored, with the necessary frameworks in place for all to reclaim their lost rights. Consequently, rulers have a duty to prevent individual rights from being violated and to actively work to restore them, an imperative emphasized in numerous verses of the Quran and many narrations. Social justice is the most critical responsibility of the state, entailing that each member of society is treated according to their due and placed in a rightful position, as emphasized in

the Quran and narrations. Equality among people, fair distribution of resources, and respect for individual rights constitute three core pillars of social justice which are essential elements for an Islamic government. Human dignity is another fundamental basis for the revival of public rights. The dignity Islam accords to humankind entails various essential aspects; this dignity, in the legal dimension, requires that all humans enjoy a dignified life and complete security, that their lives, property, honour, and reputation be safeguarded. Opportunities for growth, flourishing, and societal advancement must be ensured in all spheres of life. The rights to security, education, fulfilment of basic needs, social justice, equality before the law, self-determination, and the public's oversight of political affairs are rights that must be ensured, guaranteed, and revived based on the principles of justice and human dignity. Human dignity is acknowledged in Islam as the foundation of human rights, and all human rights are rooted in this dignity; that is, from the perspective of Islamic sources, human dignity mandates that rulers in an Islamic society revive these rights and create the conditions necessary for people to enjoy their rights. The 'objectives of Sharia' mentioned in Islamic tradition are fundamentally about reviving public rights based on human dignity where the Islamic state protects people's lives, properties, honour, and reputation, principles emphasized in the practices and actions of the Imams (as), and mentioned in Sunni sources as the 'objectives of Sharia.' Furthermore, the primary philosophy of governance in Islam centers on restoring the people's rights, combating injustice, enforcing divine limits, and safeguarding the lives, property, and honour of the populace. This is the primary reason Imam Ali (as.) accepted governance over the people. In present-day Afghanistan, despite the basis for reviving public rights in the aforementioned principles, there are many obstacles, including authoritarianism, the lack of the rule of law, patriarchy and negative views on women, political exclusivism, failure to form an inclusive government, ethnic and sectarian discrimination, and widespread insecurity.

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