

## ISSUES OF SOVEREIGNTY AND ITS LEGAL ASPECTS IN ISLAMIC PRIVATE LAW

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### ABSTRACT

*One of the words that is currently most often heard in our ears is sovereignty. It would not be an exaggeration to say that the protection of the sovereignty of the states of the world has come to the fore at a time when the number of threats under the guise of economic, political, military and religious threats is growing in a particularly dynamically developing world.*

**KEYWORDS:** *Sovereignty, Sovereignty Of Folk, The Sovereignty Of A Nation Supremacy, Completeness, Indivisibility, Equality, Inviolability, The Institution Of State Power.*

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### INTRODUCTION

First of all, it would be useless to recall once again what the concept of sovereignty means. Sovereignty (Franz.souverainete - supreme power), meaning the supremacy of power and independence. Also, the fundamental principle of international law and international relations is respect for the sovereignty of states by other states. [1]

We know that sovereignty can be divided into three types, based on the science of constitutional law:

- The first is state sovereignty;
- The second is the sovereignty of the nation;
- Third is the sovereignty of folk.

**State sovereignty** is the supremacy of power within the country and complete independence in external relations.

For the first time, the concept of state sovereignty was introduced into the dialogue by the Frenchman Jean Bodin. Bodin believed that state sovereignty is the most important feature for independent states, and this sovereignty embodies the eternal, absolute and indivisible supreme power.

**State sovereignty is also divided into internal and external:**

**Internal sovereignty** means the supremacy and fullness of state power and independence, equality of society in relation to all other bodies and organizations in the political system;

**External sovereignty** in its own name means the equality and independence of the state as a subject of international law from relations with other states and independence in conducting its internal foreign policy and that no one has the right to interfere from outside.

**The sovereignty of a nation** is the right of a nation to full power, political freedom, the opportunity to freely choose its life path without any interference, to independently resolve issues related to the development of its national needs, to protect national honor and dignity, to protect state power and interests, to protect culture, language, traditions, national institutions, etc. means creation.

**Sovereignty of folk** is the principle of the constitutional order of all states with democratic principles. We will not look for an example from afar. "Uzbekistan is a sovereign democratic republic". In addition, the national anthem says: "The hoop is the only source of state power. [2]"

A striking example of people's sovereignty is the definition "state power is exercised in the interests of the people and only by bodies authorized by the Constitution of the Republic of Uzbekistan and laws adopted on its basis". From this it can be understood that representatives of all nationalities living in the same territory (state) together constitute one people. For example, the people of Uzbekistan are common, they include more than 130 nationalities and nationalities. Above, it was not in vain that I paid more attention to the concept of sovereignty. [3]

The reason is that it helps us a lot in the analysis and understanding of issues of sovereignty in Islamic law, and it is clear that every issue related to religion requires a high degree of precision and deep analysis. Even a small mistake can get us off topic.

Novgorodtsev noted that "the supreme power is one and indivisible, for it in no case allows another power standing above itself or next to it." It is obvious that in a particular state there is no state supreme power. [4]

In order to be able to distinguish state sovereignty from its concrete and other sovereignties, it is desirable to first find out what features it has. Below I will list the signs of state sovereignty:

- Supremacy (lack of other state power);
- Independence (ability to make decisions independently);
- Completeness (prevalence in all spheres of public life);
- Indivisibility (unity of power);
- Equality (having rights and obligations, like others);
- Inviolability (impossibility of arbitrary alienation or seizure of legitimate power).

Based on the signs above, below I will begin my analysis through the principles of sovereignty:

The unity and indivisibility of the territory (a constitutional ban on the separation of territories from the state);

- The unity and indivisibility of the territory (a constitutional ban on the separation of territories from the state);
- Inviolability of territorial borders (it is possible to protect the territory of the state from external invasion forces and transfer part of the territory to another state);
- Non-intervention in internal affairs (ban on financing of political parties and movements from abroad and interference in the internal affairs of political parties and movements of a foreign state).

Through the study of the state law of countries where Islamic law is applied, we learn the essence of the Islamic state, its specifics, differences from other countries, domestic and foreign policy, the state mechanism and its components, organization principles, tasks and activities of state bodies, directions, relationships between the central and local authorities and administration, country administrative-territorial structure, relations between various territorial units, acquisition and exclusion from citizenship, the legal status of citizens, their rights and obligations, protection, restriction, deprivation of them by various state bodies and we know the essence. [5]

*In addition*, our knowledge of Islamic state law and its institutions will deepen and expand our knowledge of the nature, form of government and administrative-territorial structure of modern Muslim states, their domestic and foreign policies, and the current state of Islam. Under the guise of religious fanatics and extremists will help us quickly understand the lies.

The development of Islamic state law is a long process. Before the formation of a single Islamic state in the Arabian Peninsula, the Arabs lived in different tribes. In the absence of a single supreme power, there were various military, political and economic conflicts, violence and immorality between them. The advent of Islam and the establishment of a central authority in the Qur'an and the Sunnah of the Prophet (peace and blessings of Allaah be upon him), the main sources of Islamic law, led to the end of internal strife and the emergence of a single centralized sovereign state. [6]

The law of the Islamic State is regulated by norms:

- The Holy Quran;
- The Sunnah of the Prophet Muhammad (peace and blessings of Allah be upon him);
- Works of ijma and purulent Muslim statesmen and lawyers.

According to jurists, the number of verses in the Qur'an on state law is ten, and there are dozens of hadiths in this field. In addition, there are more than a dozen verses and about forty hadiths related to the rights and obligations of citizens. This suggests that some analysts are wrong in saying that Islam does not provide sufficient grounds for governing the country. [7]

Identifying the subject and object of each problem under study is important in illuminating the topic. The subjects of the Islamic state's legal relations are state bodies, officials, citizens - Muslims, Zimmis, non-believers living in the Islamic State, non-Muslim foreigners who came to the Islamic State for one reason or another. The object is the forms and methods of organization and implementation of state power and administration, the order of acquisition of citizenship, the rights and freedoms and obligations of citizens. [8]

*In my opinion*, it would not be fair if we do not mention the legal institutions of the Islamic State.

- The institution of state power - is the source of power - state sovereignty - the organization and implementation of power - a set of norms governing the relationship between public authorities and citizens;

- The institute of public administration is a set of legal norms that determine the organization of executive bodies, their functions, powers, main activities, relations with other bodies and citizens of the state;

- The institute of administrative-territorial structure of the state is a set of norms regulating the interaction of administrative-territorial units of the state with the center;

- The institution of citizenship is a set of norms defining the procedure for acquiring and losing citizenship, the rights and freedoms of citizens, their guarantees, and the obligations of citizens;

- The institution of officials is a set of norms governing the relationship with citizens and the appointment and dismissal of officials, defining their duties, powers, rights and responsibilities.

It is a natural process for political institutions in a country to be interconnected. It is important to note that any change in one institution or state can affect others. [9]

As mentioned above, the sovereignty of the state is supreme and indivisible. The peculiarity of the emergence of statehood in the Arabs is that the process was religious in nature. In Islam, power belongs to Allah and is the only supreme source of power. therefore, power cannot be divided into sectors. The Holy Qur'an states that Allah is the Creator and Ruler of the universe. "Did you not know that to God belongs the kingdom of the heavens and the earth, and that you have no friend or helper other than God?" He also said: "Verily, your Lord created the heavens and the earth in six days, then He is firm on the Throne. mute) is Allah. Be aware that ,Creation and command belong to Him. Blessed be Allah, the Lord of the worlds".and "Judgment belongs to Allah alone. He explains the truth. He is the best of judges. [10]

Here we can see its peculiarities. That is, in Islamic teaching, especially in the Qur'an, the idea of the authority of Allah, the authority of His Messenger, and the authority of the rulers who grew up among the Muslims is firmly established. Like other issues, this has been proven. would like to draw your attention to verse 59 of Surat an-Nisa '. "O you who believe! Obey Allah ,Obey the Prophet and the rulers from among yourselves! ..."

*In addition*, the hadiths of the Prophet (peace and blessings of Allah be upon him), which follow Islam after the Qur'an, contain hadiths related to the above issue. According to him, obedience to Allah, obedience to the Prophet, and obedience to our own commanders are commanded. In particular, the Prophet (peace and blessings of Allah be upon him) said, "Whoever obeys me, he has obeyed Allah. Whoever disobeys me disobeys Allah". "Obey the rulers, and God will ask them for your rights." For example, the hadith "One of the five qualities I require of you is obedience to the rulers". [11]

*Nevertheless*, it is no exaggeration to say that the right to supreme power in the Muslim community was one of the most important and acute problems in the political history of the caliphate in the seventh and tenth centuries AD.

Prophet Muhammad ruled the country during his lifetime. After his death, as they say, a new caliph had to be elected. The elected caliph was to be with him in Makkah and Madinah, and to be a free, mature, sane, representative of the Quraysh tribe. It is also believed that he should be able to independently resolve issues that are not regulated by the Qur'an and the hadiths, have a good knowledge of the Shari'ah, and be able to conduct high human, military affairs. He must also have a great reputation for Muslims to obey his commands unconditionally. In fact, the first four caliphs (Abu Bakr Siddiq, Umar, Uthman ibn Awfan, Ali ibn Abu Talib) fully met the above requirements. According to some sources, they were called "caliphs ar-Rashidin" or "caliphs on the right path". [12]

Many Muslim communities believe that the establishment of a caliphate was necessary. It is the duty of the head of the Islamic State and of all members of the Islamic community who elect and control the caliph and advise him, as well as all Muslims.

*In line with this view*, Islamic scholars have argued that among religious beliefs, Muslims need caliphate control in order to fulfill their religious obligations and abide by the rules of Islamic law.

Sovereignty of Islamic law - the exercise of supreme authority - is enshrined in Sharia law, that is, it is related to the will of Allah. As I mentioned above, issues that have not been resolved by the Qur'an and the Sunnah of the Prophet (peace and blessings of Allaah be upon him) can be resolved through legislative action. One of the main duties of the Caliph is to protect the Qur'an and the Sunnah of the Prophet (peace and blessings of Allaah be upon him), the Shari'ah in general, and the Muslim community from any kind of aggression. [13]

In Islamic law, the power of the head of state is not absolute power according to Sunni teachings, and the head of state has no special privileges or immunity. Like ordinary citizens, they must abide by Sharia law and can be prosecuted for any offense. Of course, imagining that a head of state has no privileges or immunity is far from the truth, especially for the present period. It is no exaggeration to say that such a Sunni system is based on the principle of equality of all human beings, just as the head of state is defined in Islam.

*As I mentioned above*, over time, new social relations are being formed, and in parallel, the law must develop. Unless there is a rule in the Qur'an and the hadiths regarding any social relationship, it is resolved by law. But the exercise of legislative power is not within the authority of the caliph. On the contrary, as a mujtahid, he has the right to put into practice new legal norms. [14]

From this we can say that the legislative, executive, judicial and military powers of the state were officially in the hands of the caliph. Due to his authority, the caliph appointed or dismissed high-ranking officials and performed other important duties. In the state mechanism, after the caliph, the highest official was the minister. Based on Islamic law, there are two types of ministers: *the first, ministers with broad powers; the second is ministers with limited powers. The senior minister served as chief of staff. He also served as his adviser as the closest official to the caliph. Keeping the seal of the caliph ensured the execution of his order.* In addition, it has performed important functions such as liaising with the governments of other states, monitoring the condition of strategically important roads, and the activities of local governors (rulers). In short, the minister was the head of the executive branch. This position was established during the

reign of the Abbasids. However, other sources make it clear that the post was established during the Umayyad period. As usual, the minister was accountable to him, appointed by the head of state.

There were also special government agencies. They operated in the following areas:

- Finance;
- Military affairs;
- Agriculture;
- Management of state property;
- land registration, etc.

The palace was also attended by the chief of the caliph's guards, the chief of staff, and other important and influential officials.

Outside the center, military campaigns in the 7th and 8th centuries resulted in significant changes in the system of local government. At the same time, as the power of the heads of state was strengthened, local governments were adapted to the Persian rule.

The territory of the state was divided into provinces, and these administrative units were headed by military deputies (amirs) appointed by the caliph. Of course, they are subordinate to the caliph. The caliph usually appointed emirs from among his relatives or close friends. However, among the amirs in the regions, he was considered a representative of the region or was also appointed from among the former rulers. There are various reasons for this. The emirs had the military, the financial apparatus, the guards, and the judiciary. Assistants to the emirs assisted in the exercise of these powers. The judiciary was later transformed into a separate independent authority. In turn, smaller territorial units from the province, such as cities, are governed by mayors, and Muslim religious communities are governed by sheikhs. [15]

The heads of the provinces were appointed and dismissed by the caliph. The executive, military, and financial powers are concentrated in the hands of provincial leaders. The emirs had two deputies: the administration of finance and the administration of justice.

From this we can conclude that the emirs also assumed a number of benefits in addition to the authority of governing their territories. place of residence, political and economic situation of the territory, the welfare of the population may comply with Sharia law, is personally responsible for the activities of a fair court would also like to mention that I have mentioned above that a special person (judge) has been appointed to conduct the trial. But first, the judiciary was in the hands of the Prophet (peace and blessings of Allaah be upon him). By the time of Caliph 'Umar, judges had been appointed to administer justice in the major administrative cities of the Caliphate, particularly Madinah, Busra and Kufa. In other areas, the judiciary continued to be under the authority of provincial governors.

In practice, due to the circumstances and the demands of the time, the judiciary was later separated from the executive branch and began to function as a separate independent authority. Local authorities did not have the right to interfere in the decisions of judges. The head of state is the chief judge. However, since the administration of justice was the work of clerics, in practice the supreme court was administered by a panel of influential clerics. It was they who

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acted on behalf of the caliph and appointed lower judges and supervisors from among the clerics. However, some sources state that the Abbasid dynasty introduced the position of "Qazi ul-quzzot" in the second half of the eighth century. Such a person, acting on behalf of the head of state, has considered complaints and appeals against the appointment and dismissal of all judges and the decisions and rulings of judges. In modern parlance, it served as a higher court.

At this point, I thought it appropriate to dwell on the powers of judges. Judges have different powers. For example, they reviewed all court cases in their area, monitored the execution of their decisions and sentences, and supervised prisons and jails where prisoners were held. They also considered the approval of wills, the distribution of inheritance, marriage, and other matters that are now considered civil matters. In addition, they checked the legality of land use regulations and managed the foundation property. They based their rulings on the Qur'an and the Sunnah. Judges' rulings are generally unchanged and have not been appealed. Except in exceptional cases, when the rulings of the judge are changed by the caliph or his representatives.

I must say that the above cases were for Muslims. The cases of non-Muslims (dhimmis) in the state were often heard by courts composed of their own clerics.

In the early years of its existence, the caliphate was a centralized theocratic monarchy, according to its form of government. Great power is concentrated in the hands of the caliph. As I said earlier, they were elected by the scribes, but after a while the state power was passed down from generation to generation according to the will of the caliph.

I Can give a clear answer as to what kind of state it was according to the structure of the caliphate, which at one time ruled over large areas. The state is unitary in structure. The following hadith is the basis for me to make a clear statement on this matter. "No one should harm the unity of the Muslim community." Even from the point of view of this hadith, the system of public administration is strictly centralized, the state territory is divided into provinces, cities, villages and managed by local officials under the strict control of the center.

State sovereignty, form and structure of government, the sovereignty of the first Islamic private Islamic state during the Umayyad and Abbasid rule was formed on the basis of modern requirements.

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