

Whistle-blowing as an Islamic Imperative: Empowering Muslim Civil Society Towards Good Governance

By *Maszlee Malik* (PhD, Research Fellow)

Executive Summary

- The increasing acts of genuine whistle-blowing, which we witness globally today, reflect the courage of the few who have stood up against the establishment to expose the wrongdoings of individuals in public office
- Unfortunately, whistle-blowing is often viewed by some Muslims, especially those in power, as a Western product that is strange and alien to the Muslim political culture
- Deductive analogies based on sound evidence from authentic religious texts encourage genuine whistle-blowing as a means to promote competency, accountability and transparency in society
- Whistle-blowing is part and parcel of a comprehensive scheme of good governance to ensure justice with mercy within the parameters of *Maqasid al-Shariah*

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Introduction

In today's enlightened age of democracy, it is rather unfortunate that when the term 'Islamic political thought' is raised, one is often confronted with two polarising points of view. The Muslim apologists will unreservedly disconnect any form of relationship between Islam and politics, which they consider as part of the secular public sphere. They perceive Islam as a set of theological arguments and rituals akin to other beliefs that must be distanced from worldly politics.

At the other extreme, there exists a Muslim political body that is obsessed with the traditional and conservative interpretations of the holy texts, and is relentless in confining the notion of Islamic politics within the limited boundaries of *hudud*, *wilayatul faqih* (rules of the clerics) and the reestablishment of the global Islamic Caliphate (*khalifah*).

Many, Muslims included, have failed to understand the ethical and moral dimensions of the term 'Islamic politics' from the holistic and all-encompassing concept of *Maqasid al-Shariah*, or 'the highest objectives of *Shariah*'. The *Maqasid al-Shariah* defines the cardinal purposes of the Muslim's individual, societal, national and global life experiences, and dictates the participation of Muslims in civil society or political governance in their mutual quest for mercy and justice for all mankind.

Al-Ghazali (d 505 AH) pioneered the development of the *Maqasid al-Shariah* concept. Often seen as a major intellectual breakthrough, it remapped Islam's imperatives (al-Ghazali, 1993). In the eighth century of Hijrah, the Andalusian scholar Imam Abu Ishaq al Shatibi al Andalusi (d 790 AH) crystallised Ghazali's ideas and discussed them further in a lucid and 'scientific' manner in his work *Muwafaqaat fi Usul al Shariat* (al-Shatibi, 1996).

Deeply rooted in the Islamic epistemology of *tawhid*, *Maqasid al-Shariah* lays down the foundation of Islamic polity encompassing the meanings and objectives of *Shariah* in attaining success (*falah*). The success of this project is reflected in the comprehensive preservation of the five essentials in human life: faith, life (*nafs*), intellect (*'aql*), progeny (*nasl*) and wealth (*mal*) (Chapra, 2008b).¹ Thus, it implies that the principles of Islamic politics are meant to lead to 'human wellbeing'.

Political activities and processes from the Islamic point of view must therefore consist of *Maqasidic* elements to fulfill the *Maqasidic* endpoints. This point of view must embrace a virtue-based consequentialist paradigm as its supreme purpose and its overriding objective is the

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

pursuit of *Adl wa Ihsan*—justice and goodness towards the attainment of *maslahah*, i.e. benefits for and between individuals, communities and nations both in this world and the hereafter.²

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

Individual Empowerment: The Basis for Active Civil Society

Muslims, as individuals and citizens of the community, are thus empowered to have their say and to determine their own destiny, and not be dictated to or bridled by the elites expressed as 'state' or 'authority'.² These ideals also reflect the notion of the clear articulation and nurturing of *responsible citizens* within a healthy democratic realm (al-Turabi, 1987: 17-18; 1987b: 20, 73, 132-33).

Essentially, every individual in the Islamic community is empowered to serve public interests of peace and justice in accordance with the *Shariah* principles. The Quran emphasises the need for this mechanism in various verses (Quran: 3: 110; 9:71; 22:41; 4:114; 5:2; 7:165; 5:78-79). Similarly, many Prophetic traditions have underpinned the major role of Muslim individuals in enhancing universal justice within a community. The four rightly-guided Caliphs received advice, complaints, oppositions and also rejections of their policies from their citizenry. This socio-political ambience reflected the political maturity of the empowered citizens and their rulers during this enlightened period.

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

Through the spirit of *Amr ma'ruf nahy munkar* (enjoin the righteous and forbid the evil), the intrinsic meaning of *Islah* guides Muslims in their continuous striving to attain *falah* in both worlds. *Amr ma'ruf nahy munkar* as an important imperative of *Shariah* also contributes toward the evolution of responsible and functioning individuals who live with the awareness of their

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

responsibility to enjoin and promote virtue, and at the same time to eradicate indecency and evil in their community. Evil is not only perceived as sinful acts by individuals, but includes also all acts of corruption, bribery, dictatorship, violation of rights, discrimination, misuse of power, and non-performance of leaders and administrators which may well lead to the destruction of the community (Abdul Tawwab, 1983: 372-73). It is only through collectively practicing the obligation of *Amr ma'ruf nahy munkar*, that society will progress and practice 'good governance'.

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

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

In al-Hud: 116, it states: *"If only there had been among the generations before you persons having wisdom, prohibiting others from Fasad (crimes and sins) in the earth, except a few of those whom We save from among them! Those who did wrong pursued the enjoyment of good things of (this worldly life) and were Mujrimun (criminals)."*

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

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

On another occasion, the Prophet said, *"The best word is the word uttered by a person before a tyrant to stop him from his evil doings."* - narrated by Abu Dawud.

In embracing the spirit of these pivotal principles, the act of whistle-blowing as a manifestation of *Islah* and *Amr ma'ruf nahy munkar* has been part of the *Shariah* imperatives, and a vital constituent of the Islamic political culture since the days of Prophet Muhammad.

Whistle-blowing: Guidance from the Prophet and His Companions

There were numerous incidences during the Prophet's lifetime which sanctioned the practice of whistle-blowing. Among them is the Prophetic tradition as reported by one of his companions, Jabir bin Abdullah who heard the Prophet say: *"Discussions are confidential (not subject to disclosure) except in three places: Shedding unlawful blood, unlawful cohabitation and unlawful accumulation of wealth."* - narrated by Abu Dawud.

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

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

The oft-mentioned incident involving Ibn Lutaybiyah demonstrates this principle succinctly. Functioning as an *Amil* (tax collector), he returned to Madinah loaded with tax revenues, and asserted that a substantive portion of the revenue was given to him as tokens from certain people. The Prophet reminded him by saying: *"What is wrong with the man whom we appointed as a tax collector and he said this is for you and that was given to me? If he stayed in his parent's house, would something be given to him?"*³

On another occasion, when reminding his companions, the Prophet was quoted: *"Whomsoever we appoint over an affair, we shall give him provision. What he takes after that is breach of trust."*⁴

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

Omar al-Khattab took a similar stance when he was elected Abu Bakr's successor. In his first speech after being appointed a Caliph, he stressed the need for accountability in his administration and the rights of every empowered citizen (Ibn al-Jawzi, 2001: 170-71).

It was reported that while Omar was delivering the Friday sermon, someone challenged him and said, *"O the leader of the believers, I won't listen to your sermon until you explain how you came up with your long dress (Arabian robe)"*. There was some distribution of fabric to the people and given the measure of distribution and of Omar's height, a robe could not have been made out of

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

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

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

his share. Omar's son stood up and explained that he gave his share to his father. The citizen expressed his approval and Omar resumed his sermon (Ibn Qutaybah, 2002: 1/55).

Omar's policy on accountability was not limited to verbal complaints and condemnations from the public. For public offices, he established a specific office to deal with the public administrators' accountability with Muhammad ibn Maslamah heading the ombudsman-like department.

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

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

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

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

Another example of accountability and public airing of grievances practiced during the period of these Caliphs can be found in the letter written by the fourth Caliph Ali ibn Abi Talib to his governor of Egypt, Malik al-Ashtar. In his advice to the governor, he asserts that: *"Out of your hours of work, fix a time for the complainants and for those who want to approach you with their grievances. During this time, you should do no other work but hear them and pay attention to their complaints and grievances. For this purpose, you must arrange public audience for them; during this audience, for the sake of Allah, treat them with kindness, courtesy and respect. Do not let your army and police be in the audience hall at such times so that those who have grievances against your regime may speak to you freely, unreservedly and without fear."* (al-Musawi, 2007: 2/ 459).

These examples illustrate the critical importance of whistle-blowing in upholding justice and good governance. Whistle-blowing has always been an integral component of the Islamic political culture, strongly rooted in the Muslims' ontological awareness since the very beginning.

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

Conclusion

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

Civil society, free from the clutches of partisan politics, should ideally be leading the whistle-blowing initiative, and Islam-based organisations and Muslim scholars ought to be spearheading this citizen watchdog initiative to guard and protect against public office abuses and waste of public funds. However, many Muslim intellectuals are gripped instead by 'red herring' issues that in many cases only serve to polarise society further. The failure to spearhead such acts would certainly send the wrong message to lay Muslims, and convince them that whistle-blowing is indeed alien to the corpus of Islamic belief.

Actionable Policy Recommendations

- 1) Governments in Muslim-majority countries should have proper policies and channels in place for whistle-blowing exercises, including enacting a more substantial and inclusive 'whistle-blowing act' to ensure a more accountable, transparent and efficient practice of governance.
- 2) Muslim scholars and intellectuals should take the lead in whistle-blowing initiatives in their countries, and to educate citizens to be more empowered and responsible.

- 3) In ensuring the effectiveness of the whistle-blowing act, as part of good governance, the size of governments in Muslim countries should be reduced to allow other civil society actors to play a substantial role as stakeholders in the decision-making process.

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