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### The Principle of Velayat-e Faqih in Islam

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#### ABSTRACT

The main principle of Welayat is ((La Velaye Le ahd Ala Ahad)). Innate human collective life and abundant scriptural evidence have cast shadow on the first principle and knows sovereignty of the world to the God and at the same time to the Prophet and the Imams. Since Muslims are strictly forbidden to refer to kings during Qeiba time; it must be admitted that the holy God is not pleased with the neglect in the execution of Hodod (i.e. Islamic Punishment), since such an assumption is bad for the wise. The closest most qualified person for the dignity of the judiciary and the rule will be Jame-o-alsharayet faqih. He reigning supreme right to command and if there is a conflict among religious men in fatwa, this conflict is naturally accepted (already exist). As a result, each of the followers considering the ignorant reference to wise rule, are obliged to obey the fatwa by their references. The principle of religious equality is applied when the mujtahids fatawa are the same. Thus, assuming the conflict between the rulers judge with the fatwas of mujtahids, according to the prevailing philosophy of the founder of Islamic ruler that is enforced by the Holy Imam to maintain the system and to avoid chaos and anarchy counterfeiting is the "Mabsot –al- yad" commandment in keeping with the interests of Muslims that the ruler fatwa has priority over other mujtahids'. Given the multiplicity of authorities governing execution, the "Asteshab" principle is executed and the first ruler commandment is the priority. No doubt, if the ruler commandment violation is allowed, thereby the pillars of society and religion will be disturbed; because the multiplicity of gods in the sky corrupts the sky, plurality leads to corruption on earth. "Mabsot –al- yadi" mujtahids influence may have an area with the extend of Muslim religious borders; So there is not any geographical restriction, unless a state sees it as the issue of interference in the internal affairs of his country and threatening to disrupt in law. The final issue is that following the ruler commandment is not only obliged on the governor, but shall be binding in the general population of people and other Ayatollahs, as well.

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#### INTRODUCTION

The current century can be the cornerstone for the first time as a bright and dynamic "feqh law" in practice, after years of autocratic rule and before realizing oppressors and global governance by Wali Asr.

Imam Khomeini(1) of the greatest faqih of contemporary history and a senior Shi'a religious mujtahids hierarchy was able to take advantage of the "political and governmental feqh tools' " in the enforcement of the laws and regulations of Islam, such as guidelines for social, political, and sanctions. The aforesaid is an incident that occurred as the most massive transformation in the last two centuries. Although faqihs have always been experts in different fields of jurisprudence but a search of the literature highlights numerous books of feqh, it turns out that for some reason most Shi'ite faqihs votes focused on issues of personal and religious precepts and state law and social issues are less mentioned. Perhaps the reasons are: the dominance of the suppressor rulers and lack of ground for Shi'ite faqih rule, the repression atmosphere promote the separation of religion and politics and perhaps even despair from taking power by Shi'ite faqih can be among the causes and factors leading to neglect of faqih vast legal effect. Although there is no denying that after the Islamic Revolution, a

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great development in the field of research and respond to issues of public accountability "Albalavi" as "matters arising in the community" has taken place (for example the moon crescent sighting), while not enough.

Great wave of Islamic awakening in recent years in the fight against evil rulers and need to concentrate and focus on a single leader of the world to fulfill the righteous rule (that my righteous slaves shall inherit the land) and the need to respond to the questions in detail by Mabsot –al- yad mujtahid can be considered. This was the author incentive to collect the feqh scholar's views among the textbooks. Many traditional rational argument based on evidence can answer questions on the influence domain of ruler commandment and other mujtahids .It is worthy to reach a logical conclusion in terms of the range and scope of government orders issued by the ruler and each Grand Ayatollahs area of influence on the view of the law. The article simply refused frequency of the minor issues that have been raised in the other government orders in attempt to prove the necessity of governance and rule by Jame-o-alsharayet faqih citing verses and hadith, then Shahid Sadr commenting on the government's commandment that is referred to as "Mantaghat al feragh tashriee" is considered. Next we investigate problems as well as express the views of the experts and the main architect of the Islamic revolution of Iran, considering the problem of multiplicity or unity of the ruling by faqihs to answer the main question of the research.

*Research statement:*

The commandment on the conflict between the ruler faqih (Mabsot –al- yad mujtahid) and other faqihs

*Definition and description:*

No doubt that one of the concerns of the Islamic governance is "Welayat". There are many verses and hadith while strongly discouraged Muslims referring to the idolatrous insist on the necessity of Muslim governing rulers. Studying the views of the Shiite faqihs we find the consensus on the fact that the in the era of infallible Imams and Wali Asr absence, the closest to the direction of science and virtue, management and the adequacy of the Imam (7) is crystallized in the Jame-o-alsharayet faqih. In this context, several traditions including Mqboleh-e- Omar bin Hnzlh (Faenaho ghad Jaltaho Alaikum Hakma) and Toghi-e- Sharif (Faarjao ela Rawat Hadisena Faenahom Hodjati Alaikum) can be attributable.

After the establishment of the Islamic Republic of Iran by Imam Khomeini, the architect of the Revolution (1) one of the most important topics in "state feqh" was the issue of conflict between the ruler faqih (Mabsot –al- yad mujtahid) and other faqihs (for being Mabsot –al- yad on the community affairs and public affairs as Albalavi. In fact, the ruling Welayat-e faqih principle (Mabsot –al- yad mujtahid) is acknowledged by renowned faqih scholars and if a topic is sometimes confused it will be due to the different perspectives and criteria of legitimacy and illegitimacy of the ruling faqih. We attempt to offer preliminary evidence suggests the believers in legitimacy and or illegitimacy of ruler's commandment to determine Walidity or non-Walidity of each during conflict.

*Research objective:*

Although the faqihs have been of theories in different fields, but most of their arguments have been on religious ordinances and personal rituals. Also, searching the mingle books issues can be find such as enjoining the good and forbidding the evil, justice, testimonies, jihad, Hodod , Stone, divorce, etc., which are scattered. The gaps worked as an incentive to the author's to collect information from multiple scripts (that most of them were duplicates), and to provide a new and reasonable evidence reasonably necessary to ensure that is no distinction to other documents and articles in the field.

*Problem statements:*

Why the need to establish an Islamic government there ?

How to prove General Welayat-e faqih by Jame-o-alsharayet faqih?

*Faqih:*

*Literally:*

The word originated from the root word "feqh". In the dictionary, "feqh " means knowledge. Some have said "feqh is the knowledge and understanding" and a detailed understanding of the objects with the knowledge of the Shari'ah. Some also seems to have an understanding of the speakers meaning. Various sources define feqh as the sense of insight, knowledge, perception, science, religious orders, and alertness.

*Colloquial meaning of the term:*

Colloquial meaning of the term feqh the knowledge of (Shari'ah) or recognition of (Shari'ah Amaliye) that is obtained from Tafsiliieh evidence that is extracted from judgments, beliefs and morality constrains. Also, the Faqih is known as having the knowledge of lawful and unlawful. Hanafieh stated that Faqih has the knowledge of religious orders such as Halal, Haram, accuracy and corruption.

*Welayat:*

*Conceptual range:*

Welayat is of the most essential elements of the subject under investigation and it is necessary to review the various aspects of the terms. The word “Welayat” in the dictionary is defined as nearness and closeness. Accordingly, Welayat is divided into two public and particular individuals’ matters:

*Particular Welayat and examples:*

This Welayat is practiced on specific people.

- 1- Welayat on wealth and confidence of individuals such as Welayat of father and grandfather on the minor children, the insane and stupid .
- 2- Tutelary Welayat; the designated executor to the children that have appointed a guardian authorities.
- 3- Welayat of deceased authorities; heirs either by marriage or relative, heirs are responsible for (washing and shrouding, and funeral prayers) according to the trustee inherits classes
- 4- Welayat of murder victim's heirs; heirs of the victim according to the trustee inherits classes have Welayat to pardon the killer, or blood money.
- 5- Welayat of elder son in saying fathers prayers and fasts.
- 6- Welayat of endowments; endowment trustee scope of powers is determined by founder in dedication letter.

*Public Welayat and examples:*

Welayat on public includes imams and faqihs welayat. During Imam Mahdi Qeiba time, his public deputies are Jame-o-al sharayet faqihs on commandment and in the political and administrative enforcement and other authorities of Imam (7), unless in jihad onset that is dedicated to the Holy Imams (7).

Wali-e Faqih is appointed by God and Infallible Imam, according to Umar bin Hanzaleh Maqboleh: dismissing the Wali-e Faqih commandment is dismissing the order of Imam (7) and dismissing Infallible Imam commandment is to dismiss God commandment.

But there are also other subsidiary rules to realize Welayat, but attempt has made to adhere to the content adequately and briefly. Next, we compare primary and secondary precepts and express different aspects of nature and compatibility with each other.

*Establishment of Islamic rule:*

The first principle in Islam is human dignity and the rule of one on another is not accepted since its specific to the unique nature of God. Imam Ali (7) in a letter to his son Hassan bin Ali (7) also wrote: "do not be anyone's' slave, Allah has created you free.

One of main objectives of the complementary nature of Islam as a religion to meet human needs is to establish the government. No doubt in the shadow of Islamic government the society is led to prosperity and perfection. The society needs law to avoid chaos and enforcement of the law would not be possible without the leadership. Hence the necessity of governing and leadership to the community can be considered as the soul to the body. Many verses of the Quran along with many traditions consists of legal, political, and social provisions insisting in importance of Islamic government establishment. First we offer traditional evidence and then intellectual reasons.

*The reasons for establishing Islamic rule:*

*Traditional evidence:*

Many verses of the Quran refer to politics and social provisions of Muslims and prescribe the execution and implementation of its provisions which require the Mabsot –al- yad government. In addition, several traditions of the infallible Imams insist on the need to establish a government, so initially we offer scriptural traditional reasons.

*Verses:*

One goal of establishing an Islamic state in the Quran is “Indeed We have sent Our Messengers with clear proofs, and revealed with them the Scripture and the Balance (justice) that mankind may keep up justice.” In these verses, the general purpose of Messengers and the Islamic rulers of the government in the history are considered to bring justice to the community.

The verse “Verily! Allah commands that you should render back the trusts to those, to whom they are due; and that when you judge between men, you judge with justice. Verily, how excellent is the teaching which He (Allah) gives you! Truly, Allah is Ever All-Hearer, All-Seer”

The verse “Surely, We have sent down to you (O Muhammad) the Book (this Qur'an) in truth that you might judge between men ...”

The verse “And so judge (you O Muhammad) between them by what Allah has revealed and follow not their vain desires...”

The above verses are all emphasizing on the legitimacy and necessity of establishing an Islamic state based on justice and order, and the narratives of traditions are mentioned next.

#### *Scriptural Traditions:*

Islam in no circumstances renounces the necessity of political leadership, although the leader is sinful and criminal. Imam Ali (7) said: Grove fierce lion is better than the oppressive ruler and the oppressive ruler is better than ever-present chaos.

Also, he said "people need good or bad governance". He knows the necessity of forming a government as a social requirement and believes even in an emergency, with all the filth and ugliness of tyrannical regime, it is better than chaos. Elsewhere Imam emphasized that the tyrannical regime also collects and distributes national income, the roads are safe, economic activity is on, and even fights the enemy during the war. In other words, although the dissolute government suppresses a large portion of people's rights, but the benefits associated with the government, so that makes life possible. Moreover, dissolute ruler needs to maintain his rule so tries to keep secure social and economic status.

Following the traditions of leadership and governance that will lead to community cohesion there is an luminous word by Imam Ali (7), He said: "The Lord made faith obligatory to stay away from pagan and Imam to put Islamic nation in." Imam and leader keeps Islamic system such a string unify the laws of God and the nation and sponsor all the material and spiritual evolution of mankind.

Imam Khomeini states the following reasons for the necessity of established Islamic state:

- 1- Practice of the Prophet (9) in the establishment of government
- 2- The necessity of continuing the execution of God that the Prophet (9) commandment required forever.
- 3- The nature and quality of Islamic law is such that no rule such as finance, national defense, civil and penal provisions and sentences is applicable without Islamic government.

#### *Intellectual reasons:*

The continuity and survival of the community needs law and order and the people shall not exceed the boundaries of the law, for breaking the boundaries leads to corruption of society. An honest leader is required for guarding the border of law, though society will be corrupted. Another reason is that no nation can survive without a head and ignore the religious and worldly affairs, which have to do. According to Wisdom, Wise does not allow his creation deprived of what is important to them is a source of strength, issues such as fighting the enemy, the division of national income, and establish the congregational Friday Prayers, etc and all this is due to the necessity of leadership. The bottom line is that the society requires law that law enforcement is not possible without the leadership and governance.

#### *Nature and mode of government in Islam:*

Nature of Islamic rule is of Welayat kind. Welayat has several meanings including the supervision. Sovereignty is of God: "But Allah, He Alone is the *Wali*". This Welayat is an official permission for holy Prophet of Islam (9) and his Ahl al-Bayt. The Qur'an explicitly acknowledges: "Verily, your *Wali* (Protector or Helper) is Allah, His Messenger, and the believers, - those who perform *As-Salat* (*Iqamat-as-Salat*), and give *Zakat*, and they bow down (submit themselves with obedience to Allah in prayer)." Prophet of Islam (9) is wali on the lives and property of believers, higher than their own, "The Prophet is closer to the believers than their ownelves".

Of what was said, it became clear that the welayat and government is dedicated to the Creator of man, and if the Prophets and Imams have welayat, it is by order of God. If during Qeiba time welayat of Muslim community and Islamic law is at hands of Jame-o-al sharayet faqih, it is under the commandment of God otherwise stated, human beings have been born free, and no human is superior to others.

Islam consists of rules and obligations that without the establishment of a religious state cannot be adapted. Politics and religion of Islam has been mixed from the advent of Islam. The political history of Islam is witness to the fact that it is imperative that the Islamic government should be formed. Therefore, none of the Muslim, Shiite or Sunni, has doubt on the necessity of a community leader and the only difference is in the designated successor and Caliph after the Prophet (9), respectively. Their faith in God and accepted welayat and leadership Prophet (9) the Quran orders them to follow whatever God has given to him and swear allegiance to the holy prophet of Islam (9) who personally managed the affairs of the Muslims.

Islam is a political religion, more instructions are not limited to religious affairs, and most Islam commands are on urban governance and social order and earthly and heavenly bliss is provided by their obedience, such as transaction orders, political, criminal justice, etc. Implementation of legal provisions, hodod, hajj, defense, stoning, and many other laws and regulations will not be achieved unless we establish a religious government. Meeting these social needs is not the task of people but community leader's responsibility.

All faqihs have consensus on that the Holy Prophet of Islam (9) has three positions and their status :

- 1- A commission of religion and deliver the orders

- 2- judgeship and resolve conflicts
- 3- The position of the Muslim leadership and governance

Shiite Muslims believe that the issue of the caliphate after the Prophet (9) is designated to the Imams and they are dedicated to the Holy Prophet of Islam (9), and in particular the appointing of these positions was chosen by God as ruler. Important measures of the holy prophet (9) are to introduce Imam Ali (7) as the head of Islamic nation, Shiite Muslims believe in the Day of Ghadir that would legitimize the rule of the Prophet (9), the Holy Quran says: "O Messenger (Muhammad)! Proclaim (the Message) which has been sent down to you from your Lord. And if you do not, then you have not conveyed His Message".

Imam Ali (7), while establishing the government in Kufa and Medina finds the choice of leadership as a divine act. Imam Hussein (7) has sent Muslim bin Aqeel to Kufa to take oath of allegiance to the government. Imam Reza (7) also knew that the Welayt Ahdi a ruse, did not officially recognized it, and the Imams (7) or were poisoned or martyred, and or kept in the prisons and monitored for a rebellion against the government.

Perhaps the government can be divided into two general forms regarding the governors, evil rulers and divine rulers. First, we briefly discuss evil rulers and then discuss divine rulers which cover a large part of this paper.

#### *Faqih ruler:*

The political history of Islam testifies that in the presence of Imam Shiite was not always capable of understanding the Imam to address their issues and this lack of power was because of the usurping ruling powers, they stopped people to visit Imams and because they were living in various cities the people actually had no access to the occultation of the Imam. In order to resolve people problems, those imams (7) appointed some individuals as governor in the affairs of Muslims.

According to the preliminaries, we prove that the authority and leadership of the Muslim Imam in occultation (7) is the Wali-e Faqih. The intellectual reason is composed of four introductions:

- 1- The presence of government in society is necessary to provide the individual and social interests and to prevent chaos and corruption and disorder.
- 2- The ideal government is which the infallible Imam (7) is at the top to handle.
- 3- According to the fact that when deemed necessary to provide an adequate and ideal is not possible, the closest to the optimum is provided, so when we are deprived of infallible Imam we have to follow the order of infallible Imam.
- 4- The closeness of a government to that of infallible Imam (7) has been crystallized in three: one is the general knowledge of Islam rules (feqhahat), the spiritual and moral competence to maintain decency in the presence of sensual and threatening desires (righteousness) and the functionality in the management of the political and social affairs, as well understanding, courage, knowledge of international affairs and events. Accordingly, we conclude in the absence of infallible Imams, the one who is more likely than other people to meet these requirements, shall be responsible for leadership and community that will be no one but Wali-e Faqih.

Appointed Wali-e Faqih by the infallible Imams to do the social issues have proven using intellectual reasons with no need for Maqboleh Hanzaleh or other accounts.

If in the fields of feqh government's commandment is attributed to the governor, the governor means Imam or al-Faqih.

Shahid Sani, the great Imami faqihs, reminds that the meaning of absolute ruler in feqh is a just Sultan or his special deputy. In the case of absence of both, their general deputy is responsible who Jame-o-alsharayet faqih is.

One of the great scholars of the fifth century finds judiciary responsibility as one of those of faqihs in the Qeiba time. It is the Imam right to monopolize the right and Imam in occultation (Qeiba), faqihs are allowed to judge. He holds this position in the Qeiba for Shia faqihs.

Ibn Idris Helli says "If someone died without a will and heirs, it is Imam of the Muslims responsibility to appoint someone to do the necessary procedure, and if the Muslim imam is absent, the duty is on faqih and whatever he does is lawful.

Helli believes that the judge must have the Imam permission and in the absence of the Imam, Jame-o-alsharayet faqihs are to judge. In this context it is expressed that it seems ruler is Jame-o-alsharayet faqih with welayat on public interest.

Allameh Helli also believes that according to Maqboleh Omar bin Hanzaleh and Mashhoreh judgment and decision making among the people need the permission by Imam and that the permission is issued by of the Imams (7). He says, "Fatwa and commandment needs Imam Permission and no one has the right to object it except by permission of the Imam (7), Imams have issued permission of the Shia clerics to issue fatwas to the faithful and wise judgments of people and resources that they have.

Allama Majlisi believing that man is a civil being insists in the need to establish a government to meet social needs. He after approving the necessity of the government adds "If there is not Imam among the people

who protect the religion of the Prophet (9), the nation is worn and religion will be removed and Divine commands will change". But about the judge in occultation writes: "most faqihs permit judgment for Jame-o-alsharayet faqih whether objectively or sufficiently.

Another Shia scholar after arguing the need for guidance of the society and to protect their property implies that Imam is more laudable to the believers than their selves, even with the right to manipulate. He believes that people should be appointed in the Qeiba time to take the responsibility of social affairs that they are just faqihs as the most honorable people in the community have been appointed for the welayat after Imam:

Sheikh Ansari expressed permission of people property sales in some cases by the ruler claims that the ruler here means Jame-o-alsharayet faqih.

Mohaghagh Sani in his Friday Prayer treatise says "Our companions agree that Jame-o-alsharayet faqih in occultation is appointed by Imams and his fatwa is obligatory for people to follow.

Shahid Sani while claiming consensus adds that the meaning of the ruler is Jame-o-alsharayet faqih.

To explore and investigate what was considered this comes to mind that Islam rules are not only abrogated but the judgment remains to the end of the world. People need to execute commands and law is not limited to Imam Time. Shariat rules enforcement cannot be without moderator. God primarily put the responsibility on the prophets and then Imams shoulders and then appointed ones by them that are Jame-o-alsharayet faqihs. There are doubts raised about absolute and binding domain of Welayat-e Faqih leader that will be discussed briefly below.

#### Absolute and binding welayat

There are lots of different questions about realm of Welayat-e Faqih being absolute or binding answered by several experts. So we tried to answer the questions raised sufficiently concerned with research as far as possible and also the role of Governing Council in decision making is briefly presented.

The realm of Welayat-e Faqih what needs to be investigated further and there are conflicts between expert in regarding it as being absolute or binding. Welayat-e Faqih is being studied to see that it is applicable in all aspects of people's lives as that of holy Prophet and infallible Imams or the rule is finite according to laws and legislations. There are doubts raised that absolute Welayat-e Faqih is about the applicable constraints such as authoritarian rule meaning that absolute Welayat-e Faqih discretion to do whatever he wanted makes him not responsible. The term absolute here is interpreted wrong. "Absolute" literally means non-binding and is qualified in terms of social and political context. However, "absolute" means free from the binds and is about that the governor can do whatever he wants to, that is the wrong interpretation. Proponents of absolute Welayat-e Faqih and what they are called is the inclusive welayat but not in the sense that is no shackle. As Imam Khomeini explicitly stated that Welayat-e Faqih is bound to Islamic law, and is not subject to the authoritarian and it is "absolute" versus "relative", meaning that Welayat-e Faqih authority should be limited to certain matters as what was in the past. Note that, prior to the Islamic Revolution and during the rule of the Shah, which is known as "Adam-e- baste-yad", due to the imposed constraints upon the Shiite clerics they could not intervene much in social affairs. Only people met them in private in the issues of marriage, divorce, dedication and some disputes and legal matters, and there were also limited activities in case and scope by faqihs. But with the establishment of the Islamic Republic by Imam Khomeini the ground was provided to apply the rule of Shiite clerics and they could use the absolute authority of the law and legal was ordained to them by God, the creator of universe. The term absolute Welayat Faqih is used in contrast with binding Welayat Faqih in Shah's rule, and in this sense has nothing to do tyranny and dictatorship.

Another thing about being an absolute Welayat Faqih is he can apply whatever the legal authority for administration is required, and there is no difference between him and the infallible Imam. Imam Khomeini believed that all the powers specified for the welayat and the Prophet (9) are also specified for Welayat Faqih. But the Welayat of the order, other than the rule and governance is not the case. Among Imami faqihs, who seem to believe on absolute welayat, Seyed Kazem Haeri on this subject states: absolute Welayat is only way to form a "Mabsot -al- yad" government. Sheikh Ansari Although do not reject the idea that "Mabsot -al- yad" government has the right to capture the wealth of population but accepts Welayat-e-Faqih in the sense of political authority and affirms the What traditionally comes to mind is the dominance and absolute control over affairs. As when the ruler of the land says to residents "I've been designated someone on your ruling", it is understood that person involved in the sultan's authority in all matters (both partial and total). So it could be interpreted as a Welayat-e faqih is in fact the rule of law and shall operate within the rules of Islam and violation of this range is not right; as the Prophet and the Imams are the same and this concept does not require tyranny and dictatorship, and the like.

Despotism is that in case of violation can still continue governance, while in God order, if Wal-e faqih violate the law he itself is ejected from the "welayat" and his commands provides no legal obligation on anyone, however, assume that the majority of people have accepted him, in other words, if all the people are happy with him to do anything contrary to Islamic law, it is certainly no permit to do it. But the Muslims Welayat-e faqih just depends on God's holy law and commandments which fails out of the critic's questioning Welayat-e faqih.

*Conclusions:*

- The principles of sovereignty are based on no Welayat (La Velaye Le ahd Ala Ahad).
- The need for collective life of mankind is something innate and governed by the principle of non-Welayat.
- Human life is instinctively social, so there are sometimes conflicts among needs of people. To avoid chaos among them they need a ruler.
- World sovereignty is primarily for God.
- Reasons for the welayat and government are the reasons for the necessity of Imamate .
- Establishment of the rule, notification and explanation of the higher orders of Islam and the execution of God's judgment in handling the conflict clearly indicate that the Prophet had three positions and status .
- Forging a government without the authority of the ruler is vain and useless .
- Government is the necessity of society and the state government shutdown would stop Muslim.
- *In infallible* Imam Time (7), welayat is assigned to him by the Prophet according to God order (9).
- Islam commands are not only manuscripts but also to be there until doomsday.

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