

Philosophy of Islamic Constitutional Law: Shiite School Perspective

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Abstract

The objective of this work is to expound upon Shiite philosophy and constitutional theory by drawing upon the views and ideology of Imam Khomeini. In addition, this research endeavours to compare the constitutional ideas of Shiite and Sunni factions. This study employs the methodology of literature review. Several primary and secondary sources pertaining to the research objectives were thoroughly reviewed, analysed, and compared. The study's findings indicate that within Shiite ideology, the power and control over authority are exclusively attributed to God. Allah is the ultimate arbiter of all natural phenomena and every entity within it. God possesses supreme authority, possesses dominion, and bestows legislation. According to this philosophical understanding of existence, it is necessary for human civilization to be guided by a leadership that is of divine nature. In Shi'a thought, Muhammad's role as a prophet and messenger of Allah entails not only the responsibility of communicating divine law (*al-qanūn al-ilāhi*), but also the duty of putting that law into practice.

Abstrak

Studi ini bertujuan untuk mengelaborasi filsafat dan teori ketatanegaraan syi'ah yang berbasis pada pemikiran dan ideologi Imam Khomeini. Selain itu, penelitian ini juga berupaya membandingkan pemikiran ketatanegaraan Syi'ah dan Sunni. Kajian ini menggunakan metode studi

pustaka. Sejumlah pustaka primer dan sekunder yang relevan dengan tujuan penelitian dibaca, dianalisis, dan dibandingkan. Hasil kajian menunjukkan bahwa dalam pemikiran Syi'ah, otoritas dan kedaulatan adalah prerogatif Allah. Allah sebagai *hakm* mutlak bagi seluruh alam dan segala isinya. Allah adalah pemegang kedaulatan, pemilik kekuasaan, dan pemberi hukum. Dengan basis ontologi filsafat itu, maka masyarakat manusia harus dipimpin dengan kepemimpinan ilahiah. Kedudukan Muhammad sebagai Nabi dan utusan Allah, dalam perspektif filsafat Syi'ah, bukan hanya bertugas menyampaikan *al-qanūn al-ilāhi* tetapi juga pelaksana *qanūn* itu.

Keywords: Philosophy and constitutional theory, Shi'a, Sunni, law makers, *al-qanūn al-ilāhi*.

Introduction

Of the several Islamic intellectual resources, the least explored among current Indonesian Islamic scholars is the philosophy and theory of Islamic constitutional law within the Shiite school. Contemporary Indonesian Islamic scholars are believed to have psychological, theological, and political barriers that hinder their research and exploration of the constitutional philosophy of the Shiite school of thought. Psychological and theological obstacles arise, particularly when the Shiite branch of Islam is being highlighted, and is even perceived as a danger by certain extremist Islamic groups in Indonesia. The Shiite group, along with several other minority populations in Indonesia, have been frequently subjected to pressure, intimidation, threats, and discriminatory treatment by various intolerant Islamic factions.

Contemporary Indonesian Islamic thinkers are currently facing political hurdles, particularly after Joko Widodo assumed the presidency of the Republic of Indonesia. Religious matters, particularly those related to minority groups, have become

highly contentious. Under such circumstances, conducting research on religious organisations that fall outside the mainstream can subject the researcher to bullying, mockery, and sometimes even coercion and intimidation.

The Shiite Islamic intellectual heritage is notably extensive and surpasses the Sunni Islamic intellectual tradition in terms of comprehensiveness, richness, and superiority. Indonesia is home to some individuals and institutions that devote their intellectual efforts to expounding on the ideas of Shiite thinkers. Nevertheless, Indonesian Muslims encounter various hindrances, encompassing psychological, ideological, and political challenges, which result in their limited exposure to the profound contributions of Shiite Islamic scholars, including their philosophical ideas and constitutional theories.

The Iranian Revolution and Ayatollah Khomeini are inextricably linked to Iran's Islamic history and politics. The People's Revolution, spearheaded by Imam Khomeini and commencing in February 1979, effectively deposed the Shah Muhammad Reza Pahlevi's administration, resulting in a transformation of the Iranian state's political structure and transitioning it from an absolute monarchy to an Islamic Republic. Imam Khomeini, in addition to being hailed as the architect of the Islamic Republic of Iran, was also an eminent intellectual and expert in other domains of Islamic knowledge. He achieved proficiency in various disciplines, including philosophy, law, exegesis, hadith, and Sufism. Due to his extensive and profound understanding of religious matters, he has been bestowed with the prestigious title of Ayatullah, which bears great significance and honour within the ulama, particularly within the Shiite community in Iran. Moreover, he is seen as a transformative personality who achieved the remarkable triumph of Iran's Islamic revolution over the formidable imperial regime backed by global powers.¹

¹ Hamid Haji Haydar, "Filsafat Politik Imam Khomeini," *Al-Huda* 2, no. 4 (2001): 61–62.

Despite not being recognised as a political philosophy theorist, Imam Khomeini successfully formulated and implemented the concept of Islamic government in the contemporary world. Through the developed notion of *wilāyah al-faqīh*, he articulated several fundamental principles of political theory, including human nature, the establishment and purpose of a nation, legitimacy, social contract, rule of law, governance methods, democracy, constitution, freedom, and justice. Following the successful removal of Reza Pahlavi from power, this Islamic cleric and theologian established the Islamic Republic of Iran. The Islamic constitutional theory of the Shi'a school of thought, established and advanced by Imam Khomeini in the Islamic Republic of Iran, is the foundation of their legal framework. This theory encompasses the philosophy and principles of Islamic constitutional law within the Shi'a school of law. Comparatively, it differs from the Sunni school of thought in terms of its approach and interpretation of Islamic constitutional law.

This study use a literature review method to explore the conceptual framework and theory behind the administration of Islamic states within the Shi'a school. We thoroughly reviewed, analysed, and compared several primary and secondary sources that were pertinent to the research aims. This endeavour aims to elucidate the construction of Shiite philosophy and constitutional theory, rooted in the idea and ideology of Imam Khomeini, in order to facilitate a comparative analysis with the philosophy and constitutional theory of the Sunni school of thought.

Philosophy of Shi'ite Islamic Constitutional Law

According to Shi'ite and Ahl al-Sunnah beliefs, authority and sovereignty are exclusively held by Allah (QS. Al-'Arāf: 4; and Ali Imrān/3: 154). Allah is the ultimate arbiter of the entire cosmos and all its constituents. Allah is the supreme ruler, possessing absolute authority, the possessor of might, and the bestower of legislation. Human beings should be guided by a

leadership that is of divine origin. The system of human existence that derives from divine leadership, encompassing politics and economics, is referred to as the Islamic system. Conversely, the system of human life that lacks divine origins is termed the ignorant system. Due to the limitations of Allah's direct interaction with people in the world, Allah entrusted His authority to the Prophet Muhammad. Allah stated that whoever obeys the Messenger is essentially obeying Allah, and those who refuse to obey are not under the Prophet's guardianship (QS. Al-Nisā/4: 80). The Prophet Muhammad not only transmitted divine law in the form of the Book of Allah, but also put it into practice. Mere inheritance of laws will not suffice to enhance the quality of human existence, as it necessitates the exercise of executive authority to ensure human well-being and virtue. Prophets were dispatched to ensure the maintenance of justice and rescue human civilization from the clutches of injustice. Attaining this objective necessitates not only education and spiritual purification, but also power and wisdom. In light of this, the Prophet Muhammad (SAW) built a system of Islamic governance and religious leadership simultaneously.²

Following the conclusion of the *nubuwwah*, the authority over political and religious matters transitioned to the *ulu al-amr*. In Shi'ite religion, the *ulu al-amr* refers to the twelve imams in the Shi'ah Itsna 'Asy'ariyah. The Imams, who are not considered prophets and do not possess the authority of interpreting Islamic law, acquire their rights as heirs of the prophet straight from Allah through the Prophet himself. Imams possess both political and theological authority in the Islamic community after the time of Prophet Muhammad. This authority has been held by individuals such as 'Ali ibn Abī Talib and Muhammad ibn al-Hasan al-'Askari, who is often known as 'al-Mahdi al-Muntzhar' or 'Imam Zaman'. Consequently, they

² Imam Khomeini, "Sebuah Pandangan Tentang Pemerintahan Islam," in *Beberapa Pandangan Tentang Pemerintahan Islam*, ed. Salim Azzam (Bandung: Mizan, 1983), 114.

are referred to as *wali/nā'ib*.³ The current Imam is currently in a state of imperceptibility. Occultation is categorised into two distinct phases: the initial phase, known as minor occultation (*ghāibah al-shuḡhrā*), during which Imam Mahdi conceals himself in the physical realm and entrusts his leadership to deputy imams; the subsequent phase, referred to as the great occultation (*ghāibah al-kubrā*), encompasses the period following the demise of the four deputy imams until the anticipated return of Imam Mahdi at the culmination of time.⁴ During this time of great occultation, Islamic leadership must continue to guide people to the right path.⁵

The successors of the unseen Imam Mahdi were religious scholars (*ulama*) who had attained the highest level of expertise in Islamic jurisprudence (*fuqhā*), known as absolute mujtahid. In Shi'a literature, they were regarded as having satisfied the criteria of being a 'marja' *taqlīd*'. In addition to attaining a specific level of religious knowledge, it is imperative for them to possess elevated noble and spiritual ethics, enabling them to establish direct communication with the priests, particularly the elusive twelfth priest. In the Islamic state system, the *ulama* assume the role of the twelfth Imam through the institution of *wilāyah al-faqīh*. They serve as general representatives (*nuwwāb al-'ām*) of the hidden imam, carrying out his specific duties until the 'Priest of the Ages' reemerges in the world. Imam Khomeini asserts that *wilāyah al-faqīh* possesses extensive religious authority, including the governance of society and serving as both the executive and judiciary branches.⁶ Thus, continuity of leadership from the time of the prophet, the priests, to the *faqih*s is a religious necessity, because of His loving nature (*luthf*

³ Abdulaziz A. Sachedina, *Kepemimpinan Dalam Islam: Perspektif Syi'ah*, ed. A.E. Priyono (Bandung: Mizan, 1991), 14.

⁴ Mehdi Mozaffari, *Authority in Islam: From Muhammad to Khomeini* (London: M.E. Sharpe, 1987), 38.

⁵ Laurence Louër and Ethan S. Rundell, *Sunnis and Shi'a: A Political History* (Princeton: Princeton University Press, 2020).

⁶ Ayatullah Imam Khomeini, *Al-Hukūmah Al-Islāmiyyah* (Teheran: al-Maktabah al-Islāmiyah, 1983), 48.

Allah), Allah will not leave humans without divine guidance.⁷ In this regard, Imam Ja'far al-Shādiq as the sixth imam emphasized that denying the authority of a mujtahid means opposing the Imam's authority; opposing the authority of the imam means opposing the authority of the Prophet Muhammad. Opposing the Prophet Muhammad, means opposing Allah's authority; and opposing Allah's authority is the same as shirk.⁸ This view shows that *faqīh* who already have special criteria have the authority to continue the leadership of imams in guiding, directing and protecting Muslims, even though they are not *ma'shūm*. Imam Khomeini further emphasized that the absence of the Imam Mahdi does not mean the political role of the Shiite community will end. In order to build an Islamic society and state, Muslims must not wait until the return of Imam Mahdi, because Islam and politics cannot be separated, and therefore, an Islamic government must be formed based on Islamic law. Islamic law provides a 'blueprint' for the life of the state and society, with the executive being tasked with protecting, protecting and overseeing people's lives, while the judiciary functions to implement Islamic law. Meanwhile, legislative authority is limited to certain areas of a technical nature in making laws, because in essence the authority to make laws belongs only to Allah.⁹

In addition, according to Imam Khomeini, a *faqīh* is a knowledgeable individual in Islamic law who possesses the authority to administer the Islamic state and serves as a representative of Imam al-Mahdi during his hidden era. He assumes the responsibility of providing guidance to the individuals in religious and socio-political affairs. While a *faqīh* may seem to possess similar authority to that of the Prophet Muhammad and the imams, it is important to note that their positions are not identical. A *faqīh* solely assumes the

⁷ Ibid.; Hamid Enayat, *Reaksi Politik Sunni Dan Syi'ah: Pemikiran Politik Islam Modern Menghadapi Abad Ke-20* (Bandung: Pustaka, 1982), 34.

⁸ Ayatullah Imam Khomeini, *Islamic Government* (Roma: European Islamic Cultural Center, 1983), 48.

⁹ Ibid., 47–48.

responsibility of establishing and governing an Islamic state, without being bestowed with divine revelation from Allah, as was the case with the Prophet Muhammad. A *faqīh* is a knowledgeable and pious Muslim who possesses a deep understanding of Allah's commandments and has the ability to differentiate between authentic and false sunnah, as well as absolute and limited rulings. Typically, a *faqīh* must meet the criteria of a *faqāhah*, which means attaining the status of an absolute mujtahid capable of deducing legal rulings from their sources. The subsequent criterion is the demonstration of a profound level of personality, while also being devoid of negative character traits. The ultimate prerequisite is kafa'ah, which entails possessing the capacity to guide individuals, possessing information pertaining to community administration, exhibiting intelligence, and demonstrating mental and spiritual maturity.¹⁰

From the description above, it can be concluded that Shiite constitutional political law is based on the concept of *wilāyah al-faqīh*, the building of which consists of four principles. Firstly, Allah has sovereignty over the entire universe and chose humans as caliphs on the surface of the earth; secondly, human leadership that embodies God's leadership on earth is prophetic in carrying out God's regulations; thirdly, after the prophetic period ended, the *ma'shūm* priests continued the prophet's leadership line in guiding and protecting the people; and fourth, when the twelfth imam was in a supernatural state, the prophetic leadership was led by *faqīh* who had reached a certain level of knowledge and piety.

The Imamate Theory as the Foundation of Shiite Islamic State Administration

In Shiite Imāmiyah, the government belongs to the imam alone, because he has the right to political leadership and

¹⁰ Khomeini, "Sebuah Pandangan Tentang Pemerintahan Islam," 130–132.

religious authority.¹¹ They, as mentioned above, believe that those entitled to spiritual and political authority in the Muslim community after the Prophet Muhammad were Ali ibn Abī Thālib and his eleven descendants, so that this school of thought is also known as the Shi'ah Imamiyah Itsna 'Asyriyah.¹² The Shi'a Islamic community believes in family lineage, especially the family of the prophet (ahl al-bayt) who came from the Quraish tribe and more specifically from the Bani Hashim. The Imams are related to the Prophet's family, especially those descended from the line of Fatima, the Prophet's daughter who was also the wife of Imam 'Ali ibn 'Abī Thālib, as the first Imam in the Shiite Imamiyah.

The last Imam, al-Mahdi experienced complete occultation in 941 AD and it is believed that his time will come later. In the Shiite exactological doctrine, one of the most significant teachings is the doctrine of ghaybah. This doctrine is a direct consequence of the belief that this world cannot exist without an Imam who will guide humanity to the right and straight path, on the one hand, and the insecurity of the political situation of the Imam's life, on the other hand.¹³ To protect his life and continue his leadership, the twelfth Imam remained in hiding. That way, permanently, he must continue to carry out his imamate functions in guiding his followers through 'spiritual communication'.

In relation to the nature of 'occultation', al-Thūsi argued that the twelfth Imam attained occultism through two forms: (i) short occultism (al-ghaybah al-qashīrah or al-ghaybah al-shughrā); (ii) long occultation (al-ghaybah al-thawīlah, al-ghaybah al-kubrā). During the short period of occultation, the

¹¹ Sachedina, *Kepemimpinan Dalam Islam: Perspektif Syi'ah*, 153.

¹² Mozaffari, *Authority in Islam: From Muhammad to Khomeini*, 36; Ahmad Mahmūd Shubhī, *Nazhariyyah Al-Imāmah Ladā Al-Syi'ah Al-Itsna 'Asyriyyah* (Kairo: Dār al-Ma'ārif, 1988), 313; A. Rahman Zainuddin and M. Hamdan Basyar, *Syi'ah Dan Politik Indonesia: Sebuah Penelitian* (Bandung: Mizan, 2000), 54.

¹³ Al-Kulyani, *Al-Ushūl Min Al-Kāfi* (Teheran: Dār al-Kutub al-Islāmiyah, 1954), 174.

Imam's whereabouts could be known through his special followers (*khashā'ish min syi'atih*), namely 'Uthman ibn 'Amri (d. 260 AH), Abū Ja'far Muhammad ibn 'Utmān al-'Amri (d. 304 AH), Abū al-Qāsim Husayn ibn Rūh al-Nawbakhtī (d. 326 AH), and Abū al-Hasan Muhammad ibn 'Alī al-Sammari (d. 329 AH).¹⁴ After al-Sammari's death, perfect occultation began and will continue until the end of time. Only Allah knows when Imam al-Mahdi will return to the world. During the *ghaybah* period, when the *Ghaib* Imam did not have a mediator or special representative (*nuwwāb al-khāshsh*), the relationship between the Imam and his followers was indirectly carried out by *al-ruwāt*, a person who carried out the special duties of the Imam, without holding a representative position, therefore *al-ruwāt* functions as the general representative (*nuwwāb al-'āmm*) of the hidden Imam. The institution of *al-ruwāt* or *nuwwāb al-'āmm* is interpreted as *faqīh* who have reached the level of *mujtahid mutlaq* or *marja' taqlid*, which is accompanied by certain spiritual achievements.¹⁵

The transformation of the institution of *nuwwāb al-khashsh* into *nuwwāb al-'āmm*, then institutionalized in the institution of *wilāyah al-faqīh* during the period of the Imam's perfect occultation, indicates that the Shiite community still needs certain institutions regarding the imamate in order to realize its religious and socio-political functions. This need is related to the theological doctrine regarding priesthood which teaches that priests must exist in every period on this earth'. On this basis, when the twelfth Imam went unseen, certain institutions representing him were needed, such as *nuwwāb al-'āmm* and *al-ruwāt*, so it is not surprising that the institution of *wilāyah al-faqīh* was enforced in the Shi'ite Islamic state system. With this institution, the *faqīh* gain strong legitimacy to play a significant role in social politics and religion.

¹⁴ Nāshir al-Dīn Al-Thūsi, *Kitāb Al-Ghaybah* (Teheran: Maktabah al-Tsanawi al-Hadīts, 1966), 103–104; Al-Nu'mani, *Kitāb Al-Ghaybah* (Teheran: Maktabah al-Shādiq, 1977), 231.

¹⁵ Sachedina, *Kepemimpinan Dalam Islam: Perspektif Syi'ah*, 279.

In connection with the Imamah mentioned above, the great Shiite scholar, Muhammad Husayn Kāsyif al-Githā explained that the Imamate is a divine position given to His servants. Allah chooses based on His absolute knowledge regarding His servants as He chose the Prophet Muhammad. He ordered the Prophet to show it to the people and order them to follow it. Allah ordered His Prophet to firmly appoint Sayyidina 'Ali ibn Abī Talib to be the leader of the people, and make him the guide of human life, after the end of Muhammad's prophethood. Muhammad Husayn further stated,

إن الإمامية تعتقد أن الله سبحانه لا يخلي الأرض من حجة على العباد من نبي
أو وصي ظاهر مشهور أو غائب مستور وقد نص النبي ص. م. (كذا) وأوصى
ألى ولده الحسن وأوصى الحسن أخاه الحسين وهكذا إلى الإمام الثاني
عشرالمهدي المنتظر

Imami Shiites firmly hold the belief that Allah always ensures the presence of a hujjah, whether in the shape of a prophet or a recognised and influential imam, or even an imam who remains unseen and concealed, so as to guide and serve His followers. The Prophet Muhammad designated 'Ali ibn Abi Talib as his successor, and he passed this responsibility to his son al-Hasan. Al-Hasan, in turn, passed it on to his brother al-Husain, and this succession continued until the twelfth imam, al-Mahdi, whose awaited entrance was anticipated.¹⁶

The same thing was also stated by another Shi'ite cleric, namely Sheikh Muhammad Ridhā al-Mudzaḥfār who stated that 'imamah', the same as 'prophecy', cannot be realized except with the text (firm words) from Allah through the words of His Messenger, or words. the imam who is appointed with the text, if he will convey the text of the imam who is on duty afterwards. The law at that time was the same as prophethood without any differences, therefore humans did not have the authority regarding who God appointed as the guide and guide for all humans, just as humans did not have the right to determine, nominate and elect them. From this direction, the priests have

¹⁶ Muhammad Husayn al-Kāsyif Al-Ghithā, *Ash Al-Syi'āh Wa Ushuhā* (Teheran: Maktab al-Tsaqafah al-Islāmiyah, 1989), 136.

similarities with the prophets, namely that they were both chosen by Allah, the only difference is, that the election of the Prophet Muhammad was conveyed through the Angel Gabriel, while the election of the priests was conveyed by Allah through the Prophet Muhammad, and he was the one who conveyed it to the chosen ones, namely Sayyidina 'Ali ibn Abī Thālib, and 'Ali ibn Abī Thālib appointed al-Hasan, and so on.

This also means that the imams did not receive revelations like the Prophet, but they received the laws from the Prophet Muhammad. It can be further stated that even though the priests are humans like other humans, they have a very high and noble position in the sight of Allah, because of the purity of their souls, as explained by M. Ridha al-Mudzaffar

نعتقد أن الإمام كالنبي يجب أن يكون معصوماً من جميع الرذائل والفواحش ما ظهر منها وما بطن من سن الطفولة إلى الموت عمداً أو سهواً كما يجب أن يكون معصوماً من السهو والخطأ والنسيان لأن الأئمة حفظة الشرع والقوامون عليه حالهم في ذلك حال النبي والدليل الذي اقتضانا أن نعتقد بعصمة الأئمة بلا فرق

We assert that priests, akin to prophets, should be safeguarded against any form of malevolence and abhorrence, whether it be physical or spiritual, from the time they are young until their demise, whether it is purposeful or inadvertent. Furthermore, it is imperative to safeguard him against lapses in memory and errors, as the priests assume the role as guardians of the Shari'a and enforcers of religious doctrines. In this respect, their position is comparable to that of the prophets. The evidence supporting the preservation of the prophet from sin and mistake likewise supports the preservation of the priests, without any distinction.¹⁷

These priests possess a significant level of divine power (*al-quwwah al-qudsiyyah*), which enables them to gather information in any given circumstance due to the potential purity of their souls. Thus, when they seek knowledge, they get it directly through *al-quwwah al-qudsiyyah*, without the need for a teacher

¹⁷ Ibid., 51; Shubhī, *Nazhariyyah Al-Imāmah Ladā Al-Syī'ah Al-Itsnā 'Asyriyyah*, 114.

or any other medium. They are able to attain this knowledge with utmost clarity, as if peering through a transparent glass devoid of any darkness or obscurity. Sayyid Murtadha al-'Askari, who follows the Shi'ite school of thought, referenced the book al-Kāfi, which is a collection of hadiths, specifically a historical account attributed to Musa ibn Ja'far. He stated that the priests' knowledge is limited to three aspects: the past (mādhi), the future (ghābir), and the present (hadīts). Regarding knowledge of the past, it has been analysed and understood, while knowledge of the future has been documented. On the other hand, knowledge of hadith serves as a direct message to the heart or a clear message to the ear. This is the paramount wisdom held by the priesthood, and there is no successor to the prophet Muhammad.¹⁸

The high position and nature of the imams was strengthened by Imam Khomeini with the following more extreme words:

إن للإمام مقاما محمودا ودرجة سامية وخلافة تكوينية تخضع لولايتها وسيطرتها
جميع ذرات الكون. وإن من ضروريات مذهبنا أن لأئمتنا مقاما لا يبلغه ملك
مقرب ولا نبي مرسل. وبموجب ما لدينا من الروايات والأحاديث فإن الرسول
الأعظم ص. م. والأئمة (ع) كانوا قبل هذا العالم أنوارا فجعلهم الله بعرشه
مصدقين وجعل لهم من المترلة والزلفى ما لا يعلمه إلا الله.

Undoubtedly, the priests hold a praiseworthy status, achieve elevated levels of education, and possess dominion over the natural world, encompassing all aspects of nature. Indeed, within our sect, it is firmly believed that the status held by our Imams surpasses that of angels who are brought near to Allah, as well as the position of Prophets sent by Allah. Based on the accounts we possess, the preeminent Messenger (Muhammad) and the priests who existed before the formation of this world were luminous beings created by Allah to gaze at the Throne.

¹⁸ Sayyid Murtadha Al-'Askari, *Ma'ālim Al-Madrasatayn* (Teheran: al-Muassasah al-Bi'tsah, 1405), 317–318.

Allah granted them an undisclosed position, status, and authority known only to Him.¹⁹

This extraordinary assessment of the imams is of course considered excessive and illogical according to the understanding of ahl al-sunnah, because the holy and greatest human being is only Muhammad, while other humans are of the same position, there is no special privilege.²⁰ The Shiite perspective is rooted in the belief that imamate, or political leadership, is inseparable from religion. According to this view, religious teachings and laws cannot be properly upheld without imamate. Therefore, Shiite figures argue that politics and religion are intertwined, as they proclaim that our politics is our religion, and our religion is our politics (*siyāsātunā hiya dīnunā, wa dīnūnā huwa siyāsātūna*). In accordance with this conviction, the individuals entrusted with religious and political endeavours must be upheld by virtuous and eminent individuals who are far from transgressing. How can a leader exemplify the qualities and behaviours that others can aspire to? One must possess a deep understanding of Islamic law, a wealth of knowledge, a strong commitment to religious practices, a virtuous character, a distance from materialistic desires and sinful behaviour, and a strict avoidance of any form of dishonest speech. In order to effectively guide and direct their followers on the righteous path allowed by Allah, Islamic leaders must possess specific qualifications that make them role models for the people. The individuals entrusted with this mission must be guided by esteemed imams and *faqīh* who have met the requirements of knowledge and piety. The belief that political and religious leadership should be held by individuals who are virtuous, knowledgeable, and of noble character will undoubtedly be embraced by all segments of society.²¹

¹⁹ Khomeini, *Al-Hukūmah Al-Islāmiyyah*, 52.

²⁰ Farah Kawtharani, "Integrating Shi'a in the Modern Nation-State: Shaykh Muhammad Mahdi Shams Al-Din, Hizbullah, and Engagement in Lebanese Politics," *Middle East Journal* 70, no. 3 (2016): 419–438.

²¹ Abū Hāmid Al-Ghazālī, *Pembebasan Dan Kesihatan* (Gresik: Bintang Putra, 1986), 65–66.

According to the previous explanation, the transmission mechanism of power in Shiite Imamiyah can be stated as follows: After Allah delegated power to the Prophet Muhammad, it was subsequently transferred to twelve *ma'shūm* imams. Following the twelfth Imam's period of great occultism (al-ghaybah al-kubrā), the authority of the imam was passed on to *faqīhs* who met specific requirements and served as general representatives (*niyābah al-‘āmm*) to guide their people on the correct and righteous path.

Marja' taqlid is a highly revered legal authority within the Shiite community. Those who acknowledge this authority obey his fatwas, or legal opinions, and base their religious activities on them.²² Because marja' *taqlid* is closely related to the concept of ijtihad, to trace the history of its emergence it can be seen from the development or phases of the birth of ijtihad among Shi'ites. The birth of ijtihad or mujtahid among Shiites is actually not the same and much different, when compared to the birth of ijtihad or mujtahid among the Sunni community. The term ijtihad in the sense as it has developed so far actually appeared earlier among Sunnis than among Shiites.

Muhammad Ramyar put forward the phases of Shi'a law jurisprudence or Shi'a fiqh in three phases. The first phase was when al-Thūsi was able to create special foundations in the Shiite environment for carrying out ijtihad. The two phases of Ibn al-Muthahhar al-Hilli (d. 676 AH), and Muhaqqiq al-Hilli (d. 726 AH), namely the phase of limiting the space for Shiite jurisprudence. Mulla Amin Astrabadi (d. 1034 H). The three phases of the revival of ijtihad were pioneered by Sheikh Murtadha Ansari (d. 1281 H).²³ If we pay close attention, these phases in the development of Shi'a jurisprudence show the uncertainty in the development of ijtihad among Shi'a. In the al-Thusi phase, the roots of ijtihad developed positively, but this only developed in the seventh century of the Hijriyah and after

²² Sachedina, *Kepemimpinan Dalam Islam: Perspektif Syi'ah*, 12.

²³ Nurul MR Fajri, "Kontroversi Tradisionalis Dan Rasionalis Dalam Sejarah Pemikiran Fiqh Syi'ah Imamiyah," *Ulumul Qur'an* 5, no. 4 (1993): 70–71.

that, it could be said that Shiites did not recognize the word *ijtihād*. They only know the fatwas put forward by the imams.²⁴

During the second phase, the process of *ijtihād* among the Shi'ites experienced a decline once again. This decline occurred because the revival of freedom of thought was no longer present, and instead, all new difficulties were addressed by relying solely on the narrations, sayings, and texts of the imams. The Ahbari group, under the leadership of Mulla Amin Astrabadi, declared their commitment to the concept of 'returning' to this imam's text. The revival of *ijtihād* activities in Shi'ite circles occurred in the nineteenth century with the emergence of the *Ushūli* faction, led by Murtadha Ansari. During this period, modern thought started to influence and eventually take over the Shi'ite community. Ansari has authored numerous works that advocate for freedom of thought and emphasise the capability of ordinary individuals to defer to mujtahids who possess unquestionable scientific expertise. Under the Ansari regime, the practice of blindly imitating religious authorities was banned. Instead, a new approach called *taqlid* emerged, which emphasised the need of really recognising the expertise of the mujtahid.²⁵

Ushūli's victory proves that the Shi'ite community needs role model scholars who are always concerned about solving the problems of their people. The Shia ulama's need for *Ushūli* ulama became stronger after contact occurred between West Iran, precisely during the Qajar Dynasty. This contact with the West has led to Western penetration in the economic sector which threatens traditional markets, giving rise to new institutions and new jobs which ultimately give rise to liberal ideas.²⁶ The advent of these *Ushūli* clerics has led to the creation of exemplary clerics, whose religious rulings (fatwas) are highly

²⁴ Murthadha Muthahari, *Prinsip-Prinsip Ijtihad Antara Sunnah Dan Syi'ah* (Jakarta: Pustaka Hidayah, 1985), 8.

²⁵ Juan R.I. Cole, *Rival Empires of Trade and Imami Shi'ism in Eastern Arabia, 1300-1800* (London: ISMES, 1987), 43.

²⁶ Ervand Abrahamian, *Iran Between Two Revolution* (Princeton: Princeton University Press, 1982), 51.

trusted and have a significant impact on the Shiite community. The fatwas issued by these scholars, in general, no longer rely on the literal opinions of the religious leaders, but instead aim to further *Ushūli* (methodological) thinking through interaction and the incorporation of Western notions. The Shiite community requires intellectuals who possess expertise and the ability to effectively address and resolve emerging concerns. The scholars who serve as role models are referred to as marja' *taqlīd*. Initially, these marja' *taqlīd* ulama mostly operated within certain locations. However, as their views and fatwas gained significance and became a point of reference for the Shi'a community as a whole, their presence grew stronger. The position of marja' *Taqlīd* has gained official recognition from the Shi'ite community as the ultimate authority for guidance in all aspects of life. The authority of the marja' *taqlīd* ulama was reinforced with the establishment of a national-level marja' *taqlīd*, led by the esteemed Shi'ite cleric, Murtadha Ansari.²⁷

Based on the given description, it is evident that marja' *taqlīd* originated as a result of the movement of earlier Shi'a ulama, particularly during the Safawi era, and the subsequent social growth of society. Iran's engagement with the Western world played a significant role in promoting social change and necessitated the rise of marja' *taqlīd* ulama to address and solve the issues faced by the Shi'a community in the Qajar Dynasty. The emergence of marja' *taqlīd* was primarily driven by the profound Shi'ite doctrine and conviction in the ulama as the inheritors, guardians, and spiritual successors of the Prophet Muhammad, following the disappearance of the twelfth Imam from the mortal realm. This belief is substantiated not only by the normative teachings of the Qur'an and hadith, as well as the narrations of the imams, but also by the rational reasoning concerning the imperative of having a global leader following the Prophet Muhammad and the concealment of the twelfth Imam. This leader would provide guidance, mentorship, and

²⁷ Moojan Momen, *An Introduction Shi'i Islam: The History and Doctrine of Twelver Shi'ism* (New Haven: Yale University Press, 1982), 140.

direction to ensure that people live in a righteous and proper manner. Without a successor, the world would descend into chaos, resulting in numerous conflicts and the emergence of anarchy. This, in turn, would lead to spiritual, moral, mental, and physical harm on a global scale. Marja' *taqlīd* is essential in times of crisis and challenging circumstances, particularly when Imam Zaman is not present to exercise independent *ijtihād* and provide guidance for the Muslim community.²⁸

Marja' taqlīd is led by Ayatullah Uzhmā, a respected leader in the spiritual field, while the daily guidance of the people is by a Marja'. Ayatullah Uzhmā is tasked with organizing the ulama and carrying out cadre formation as well as giving fatwas as guidelines for the people. The birth of the concept of marja' *taqlīd* is the only alternative to strengthen the implementation of Shi'a ideology.²⁹ According to Imam Khomeini, the position of marja' *taqlīd* is a place where people can rely and give them divine instructions for happiness now and in the future.

If arranged chronologically, the era of leadership in the Shi'ite Imamiyah includes the era of the Prophet's leadership ('ashr al-anbiyā), the leadership of the imam ('ashr al-awshiya), and the leadership of the ulama ('ashr al-'ulamā). This last period of leadership, according to Shi'ite understanding, is as a continuation of the Prophet and a place for solving religious problems (marja'aiyyat uzhmā). Among the marja' *taqlīd* figures who have appeared in the history of Shi'ite Imamiyyah are: (i) Sheikh Muhammad Hasan Isfahani Najafi (d. 1849 AD), (ii) Sheikh Murtadhā Anshāri (d. 1894 AD), (iii) Mirza Hasan Shirazi (d. 1894 AD), (iv) Akhund Mullah Muhammad Kazim Khurasani (d. 1911 AD), (v) Sayyid Muhammad Kazim Thabthaba'i Yazdi (d. 1919 AD), (vi) Muhammad Taqi Ha'iri Shirazi (d. 1920 AD), (vii) Sayyid Abū Hasan Hisavi Isfahani (d.

²⁸ John Obert Voll, *Islam Continuity and Change in The Modern World* (London: Westviem, 1982), 27.

²⁹ Seyyed Mohsen Nourani, "A Short Inquiry on the Perceptions of 'Good Governance' in Shi'a Religious Philosophy," *Iran & the Caucasus* 19, no. 2 (2015): 145–147.

1045 AD), and Aqa Husain Burujirdi (d. 1961 AD).³⁰ The individuals named earlier were esteemed professors of the 19th century, whose scientific credentials were unquestionable. Over time, they have emerged as exemplars and a source where individuals seek counsel and religious rulings pertaining to the affairs of the community. Nevertheless, the absence of scholars with a comparable repute to theirs did not occur after the 19th century. Formulating a typology of leadership, such as the ulama mentioned above, appears to be a challenging and uncommon task. This is because the role of Marja' *taqlīd* Ayatullah 'Uzhmā requires exceptional human accomplishments, education, intelligence, high moral standards, and significant worth.

Thus, in later developments, it was observed that only Husain Burujirdi remained as the sole marja' *taqlīd* in an individual capacity. Attaining such a degree may prove challenging for individuals, so its expression materialises in the shape of a collective entity. This collective practice of following a religious authority may be traced back to the era of Imam Khomeini. It was formalised as *Wilāyah al-faqīh*, which is led by an Ayatullah. This institution is founded on four fundamental principles: the exclusive authority of Allah, the leadership of humans embodied in the Prophet, the continuation of the line of imamate following the line of prophethood, and the continuation of prophetic leadership by individuals possessing specific scientific qualifications when the priest is concealed. The function of *wilāyah al-faqīh* is an embodiment of the responsibilities of ulama in fostering intellectual growth in several scientific fields. They serve as an authoritative source for elucidating the concepts of haram and halal, act as a conduit for communication among individuals, uphold the tenets of Islamic law, safeguard the rights of individuals, and combat adversaries of the Islamic faith. The significance of the *wilayah al-faqīh* is such that the Constitution of the Islamic Republic of Iran has

³⁰ Kalim Sidiqi and Hamid Algar, *Gerbang Kebangkitan: Revolusi Islam Dan Khomeini Dalam Perbincangan* (Yogyakarta: Salahudin Press, 1984), 32.

designated the position of imam or marja' *taqlīd* as the wilayah *al-faqīh*. The Supreme Leader, known as the marja' *taqlīd*, is selected through legitimate elections and bestowed with the title of ayatollah, provided that they have acquired extensive education, experience, and specific privileges over a significant period of time.

***Wilāyah al-faqīh* as a Product of Ijtihad of Shi'ah Ulama**

The notion of Islamic politics, known as *wilāyah al-faqīh*, emerged within the Shi'ite community and was not solely introduced by Imam Khomeini, but rather had a preexisting foundation. This conception originated from the ijtihad of the ulama following the disappearance of the twelfth Imam. Sheikh Mufid, a prominent Shi'ite thinker from the fourth century Hijriyah, asserted that the leader designated by Allah is an individual who is acknowledged as possessing both political and religious power, particularly in enforcing amar ma'ruf nahi munkar. The designated leaders consist of the Prophet, the *ma'shūm* imams, the rulers appointed by the *ma'shūm* imams, and the *fakīh* who possess the necessary qualifications to enforce Islamic law as prescribed in the Koran and hadith.³¹ Mufid's ideas about the authority of the *faqīh* were continued and developed by the great scholars who followed him, such as Muhaqqiq Hilli, Muhaqqiq Karaki, Sheikh Muhammad Hassan Najafi, Sheikh Murtadha Anshari, and Sheikh Murtadha Ha'iri.³²

This idea of *wilāyah al-faqīh* was strengthened and formulated in more detail by Imam Khomeini in his work *al-Hukūmah al-Islāmiyyah*. According to Imam Khomeini, *faqīhs* who met the full requirements were given all powers and responsibilities by the twelfth Imam during his occultation, unless there were certain reasons.³³ From this direction there

³¹ Abū 'Abd Allāh Muhammad ibn M uhammad Mufīd, *Al-Muqna'i* (Qum, Iran: Maktabah al-Najāh, 1989), 81.

³² Mehdi Hadavi Tehrani, *Negara Ilahiah: Suara Tuhan Suara Rakyat* (Jakarta: Al-Huda, 2005), 46–53.

³³ Khomeini, *Al-Hukūmah Al-Islāmiyyah*, 48–49.

are two important points, namely: firstly, the majority of Shi'a ulama agree that *wilāyah al-faqīh* is very necessary in organizing social and religious life; Secondly, Shi'a *faqīhs* always place an obligation on themselves to accept and fulfill people's questions and requests regarding religious matters in accordance with the Koran and hadith.³⁴ Shi'ite belief posits that the *wilāyah al-faqīh*, which occurred during the imam's occultation, was a direct extension of the *wilāyah* of Prophet Muhammad. This ultimately led to the conviction that the highest position in Islamic society should be occupied by the individual who possessed the most profound understanding of Islam, specifically the *faqīh* during the period of the Imam's concealment. This perspective is grounded in the premise that the fundamental aim of an Islamic government is to disseminate and enforce divine mandates and principles within society. Achieving this goal necessitates the presence of a supreme leader who possesses a comprehensive understanding of Islamic teachings.

The concept of *wilāyah al-faqīh* encompasses the theological and political ramifications arising from the dispute and discord between the *Akhhbāri* and *Ushūli* factions within the historical context of Imami Shi'ah jurisprudence. This can be likened to the divergence between traditionalists (*ahl al-hadīths*) and rationalists (*ahl al-ra'y*) within the intellectual history of the four schools of Sunni jurisprudence. Shi'ite traditionalists known as *Akhhbāri* completely reject *ijtihād*. They rely heavily on textual sources to understand the Sunnah of the Prophet and the traditions of the imams. When it comes to interpreting the Quran, they heavily depend on the imams' interpretations. According to them, only the imams possess the ability to comprehend and interpret the Quran. The ulama lack the requisite qualifications and authority to interpret the Koran and address legal issues that arise within society.³⁵ From this

³⁴ Ahmad R Motameni, *Iranian Philosophy of Religion and the History of Political Thought* (California: University of California Press, 2014).

³⁵ Fajri, "Kontroversi Tradisionalis Dan Rasionalis Dalam Sejarah Pemikiran Fiqh Syi'ah Imamiyah," 69.

meaning, it is clear that the ulama do not have a political and religious area, after the occultation of the Imam of the Age, and everything that happens always adheres to the traditions of the Prophet and the priests.

In general, rationalists (*Ushūli*) do not differ much from Sunni *aḥl al-ra'y* in that they both carry out *ijtihād* activities. Even the *ijtihād* methodology or theories of *fiqh* thought (*ushūl al-fiqh*) of the *Ushūli*, as said by a Shiite scholar himself, Ahmad Kazemi Moussavi, were very strongly influenced by the *fiqh* thought of Imam al-Shafi'i and the rational theological thought of the Mu'tazilah. And one of the main reasons for the *Akhbāri*'s rejection of the *Ushūli* was based on the fact that the *Ushūli* had adopted the *ushūl al-fiqh* method and the Mu'tazilah method of rational theological thought.³⁶ In general, the principles of *Ushūli* jurisprudence are as follows: (i) approve of *ijtihād* activities; (ii) considers that legal decisions can be enforced based on strong suspicion (*zhann*) obtained through *ijtihād*; (iii) the knowledge that can be obtained from the imams can only be obtained by those who have been close to the imams, and during periods of occultation it is necessary to make *ijtihād* to face various new events; (iv) humans are divided into two groups, namely *mujtahid* and *muqallid*. A competent *mujtahid* is master of all religious disciplines, especially the science of jurisprudence; (v) considers it obligatory to obey the *mujtahid* as it is obligatory to fulfill the Imam; and (vi) performing *ijtihād* will obtain rewards in the afterlife even if the *ijtihād* is wrong.³⁷

Ushūli clerics began to apply the principles of *ijtihād* in the thirteenth century AD, precisely in the Ikhanid period, which was pioneered and championed by the great Shiite cleric, Hasan ibn Yusūf ibn al-Mutthar al-Hilli (d. 726 AH) who is known as the first *faqīh* to use the term *ijtihād* in the sense of formulating and exploring (*istinbāth*) Islamic law based on authentic sharia

³⁶ Ahmad Kazemi Mousavi, *The Establishment of the Position of Marja'iyyat-i Taqlīd in the Twelve-Shi'i Community* (Teheran: Iranian Studies, 1985), 36.

³⁷ Momen, *An Introduction Shi'i Islam: The History and Doctrine of Twelve Shi'ism*, 223.

arguments.³⁸ In this period, the involvement of *Ushūli* ulama in socio-political affairs, both in terms of legitimizing government politics and accommodating the existing power structure, was strongly reinvigorated, even adding to the limits of what *Ushūli* ulama had done in the previous period, namely During the reign of Buwaih.al-'Allāmah al-Hilli, for example, whom Ayatullah Muthahhari considered the first Shi'ite mujtahid, was once an *Ilkhanid* government official, Muhammad Khudabandah, who later converted to Shi'ism.³⁹

It is noteworthy that *Ushūli* academics have developed a thesis on Shiite political authority, which asserts that non-imam rulers are considered illegitimate due to their perceived encroachment upon the imams' rightful power. According to *Ushūli* political philosophy, ulama are seen as the overall representatives of the imams (*nuwwāb al-'āmm*). As a result, the ulama hold political authority after the imams. Contrary to popular belief, the *Ushūli* ulama did not oppose the rulers and, in fact, their political stance was more practical compared to the idealistic approach of the *Akhhbāri* ulama, who preferred to distance themselves from those in power. The political orientation of the *Akhhbāri* ulama is essentially based on their belief that political authority should be exclusively held by the imams. However, there is disagreement among them over whether the ulama should be recognised as the overall representatives of the imams (*nuwwāb al-'āmm*). According to the *Akhhbāri* ulama, the ulama do not possess the authority to hold political power, contrary to the assertion made by the *Ushūli* ulama.

Essentially, the *Ushūli* political orientation leans towards pragmatism due to practical considerations. While they believe they have a rightful claim to political power, they lack the necessary social and political influence to actually attain it.

³⁸ Ibid., 186.

³⁹ Andrew Joseph Newman, "The Development and Political Significance of the Rationalist (*Ushūli*) and Traditionalist (*Akhhbāri*) Schools in Imami Shi'i: History From the Third/Nineteenth to the Tenth/Sixteenth Century A.D" (University of California, 1986), 9.

Engaging in political confrontation or adopting a stance of detachment from the power system, as commonly practiced by *Akhhbāri* circles, is not considered a strategic approach by the *Ushūli* for ensuring the ongoing growth and progress of the Shi'ite community. Based on this premise, the *Ushūli* tend to pragmatically embrace an accommodating political stance. From a historical perspective of the Shi'ite political struggle for power, both the *Akhhbāri* and *Ushūli* circles can be considered as engaging in *taqiyyah* politics. However, it is important to note that their approaches to *taqiyyah* differ. The *Akhhbāri* ulama adhere to the model of *taqiyyah*, which is consistent with the passive form of *taqiyyah* commonly observed within the Shi'a community. Furthermore, the *taqiyyah* methodology employed by *Ushūli* ulama might be characterised as active *taqiyyah*.⁴⁰ This categorization is based on the Shi'ite historical reality itself that when the *Ushūli* ulama defeated the dominance of the *Akhhbāri* ulama and gradually gained socio-political power, they then not only did not carry out an accommodative political orientation as reflected in their active *taqiyyah* model, but also tried to carry out a revolution. In the Iranian revolution of 1979 AD, seen from this perspective, it was the culmination of the success of the Shi'ite *Ushūli* political struggle throughout its history in an effort to seize the political power of the ulama as general representatives of the imams (*nuwwāb al-'ām*), especially the general representatives of the second Imam, twelve who are believed to be Imam Mahdi who will return to the world at the end of time to create the kingdom of 'heaven' on earth.

The victory of the Iranian revolution in 1979 not only strengthened the victory of the *Ushūli* ulama, but also paved the way for the creation of a process of strengthening *marja'iyyat* institutions. From this it can be seen that the phenomenon of the emergence of *marja'iyyat* institutions is a relatively new phenomenon in the course of Shi'ite history.⁴¹ In other words,

⁴⁰ Enayat, *Reaksi Politik Sunni Dan Syi'ah: Pemikiran Politik Islam Modern Menghadapi Abad Ke-20*, 260.

⁴¹ Theda Skocpol, "Rentier State and Shi'a Islam in the Iranian Revolution," *Theory and Society* 11, no. 3 (1982): 265–283.

the centralization of the *taqlīd* mechanism of Shiite society to the marja' *taqlīd*, namely a cleric who is agreed to be the theoretical religious and political leader, has only emerged since the end of the last century. This *Marja'iyyat* institution was later realized by Imam Khomeini in the form of the *wilāyah al-faqīh* institution which has religious and political authority. Starting from Imam Khomeini's great thoughts and ideas, the Constitution of the Islamic Republic of Iran, both first drafted in 1979 AD, and the amendments made in 1989 AD, established *wilāyah al-faqīh* in the political structure of the Iranian state.⁴² In the preamble to the Constitution, it is stated that based on the principles of government (*wilāyah al-amr*) and continuous leadership (*imāmah*), the constitution prepares the ground for the realization of leadership from a *faqīh* who meets the qualifications recognized as a leader by the people. The background to the emergence of the *wilāyah al-faqīh* is explained in chapter five which states that throughout the occultation of the Imam of the Age, the government and leadership of the nation were in the hands of a *faqīh* who was just and pious, understood the conditions of his time, was wise and had extensive knowledge.

Conclusion

According to Shiite ideology, the exclusive right to rule and sovereignty belongs alone to God. Allah is the ultimate arbiter of the entire cosmos and all its constituents. God possesses supreme authority, possesses dominion over power, and bestows legislation. Human beings should be guided by a heavenly leadership. The Prophet Muhammad not only transmitted divine law, but also put it into practice. The attainment of a set of rules aimed at enhancing human existence necessitates the presence of administrative authority to enforce justice and ensure the well-being of individuals. Thus, the Prophet has instituted an Islamic administration and religious

⁴² Farah W. Kawtharani, *Political Thought in Contemporary Shi'a Islam: Muhammad Mahdi Shams Al-Din* (Cham: Palgrave Macmillan, 2020).

imamate, while also implementing his prophethood. The era of prophethood came to an end with the demise of Muhammad. Following this, political and religious authority transitioned to Ulu al-Amri, who, according to Shiite theology, were twelve immaculate and sinless priests known as *Itsna 'asriyah*. The initial Imam was 'Ali ibn Abī Talib, whereas the final Imam was Muhammad ibn al-Hasan al-'Askari, more commonly referred to as 'al-Mahdi al-Muntzhar' or 'Imam of the Age'. Presently, the Imam of the Age remains concealed from sight. The ulama, who assumed the temporary role of the twelfth Imam, were incorporated into the Islamic state system through the establishment of *wilāyah al-faqīh*. They served as overall representatives (*nawwāb al-'ām*) of the hidden imam, fulfilling his religious responsibilities, until the 'Imam of the Age' resurfaced in the world. The religious imperative necessitates a continuous line of leadership from the time of the Prophet Muhammad, passing through the imams and extending to the *faqīhs*.

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