

Velayat-e Faqih

Innovation or Within Tradition

by

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ABSTRACT

The concept of *Velayat-e Faqih* as a type of Shi'ite Islamic government gained popularity three decades ago, after the Islamic revolution in Iran. The new constitution of the Islamic Republic of Iran was based on *Velayat-e Faqih*, proposed by the Imam Khomeini many consider him as the leader of the Islamic Revolution and the founder of the Iranian Islamic Republic. What is *Velayat-e Faqih*? Who can be the *Vali Faqih*? Why wasn't this idea proposed before Islamic Revolution in 1979? Did all the Shi'ite religious scholars endorse this idea or the *Vali Faqih* himself? All of these questions ultimately lead us to ask whether this concept has been drawn from Shi'ite Islamic discourses or it may perhaps be considered a novelty: a secularization of religion. These questions are increasingly discussed in academia and in the large public arena. Moreover, this discourse has divided Shi'ite Muslims into three groups: supporters of the *Velayat-e Faqih*, its opponents, and the silent group. It is important to analyze the position of all those groups including the silent group who did not publicly endorse or reject the theory. The theory of *Velayat-e Faqih* has emerged from the Imamate doctrine, which constitutes a cornerstone of Shi'ite sect of Islam. It is necessary to understand this political doctrine in relation to the context within which this concept of leadership had emerged. In order to overcome the ambiguities surrounding the relationship between *Velayat-e Faqih* and the position of Islamic jurist as a source of guidance and imitation (Marje Taqleed), it is necessary to discuss the various dimension of guardianship in the absence of the infallible Imam. Furthermore, the focus of this research is to review whether the concept of *Velayat-e Faqih* was innovated after the Islamic Revolution of Iran or existed within the Shi'ite tradition.

DEDICATION

I dedicate my Master's Thesis to my family. A special feeling of gratitude to my loving parents, Fazl Ahmad Rezai and Rona Rezai, whose words of encouragement and push for tenacity ring in my ears.

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PREFACE

This thesis is submitted in partial fulfillment of the requirements for a Master's Thesis Degree in Religious Studies at Arizona State University. The work was compiled from August 2015 to April 2016. The question that preoccupies this thesis is about Velayat-e Faqih, after the Islamic Revolution in Iran, millions of Shi'ites around the world raised the question of whether the concept of *Velayat-e Faqih* originated from the Shi'ite sect of Islam or something that the ideologues of the Islamic Republic have envisioned in the revolutionary spirit of the time, but introduced as having derived from the Shi'ite tradition. As a graduate student, I became motivated to study this debate. The purpose of this thesis is to introduce the discourse around this topic, taking into consideration not only scholarly debate but also religious debates. Although I was previously familiar with the discourse, my perspective was not informed by scholarly research. The eagerness to learn about these debates motivated me to pursue this project. I wanted to contribute to the discourse, but at the same time my goal was to increase my knowledge about it by completing this research.

The work is based on the existing scholarships that contributed to the promotion of a new interpretation of this notion. Majority of the literature I used for my research came from publication in the United States, though my fluency in Farsi enabled me to also use the literature published in Iran. I had the privilege to visit Iran in 2015 as a visitor and meet with a number of scholars in the city of Qom and Mashhad. Unfortunately, I was not able to conduct official interviews with scholars in Iran, who supported the theory. Since I entered Iran as a visitor, I did not have permission from the Iranian government to conduct any type of research or to interview religious scholars or

professors at the institution of higher education. Yet I have drawn on my informal conversations with them. Finally, I would like to mention that all Farsi translations in this thesis are mine.

CHAPTER 1

INTRODUCTION

A. Significance of Study

The concept of *Velayat-e Faqih* as a type of Shi'ite Islamic government gained popularity three decades ago, after the Islamic revolution in Iran. The new constitution of the Islamic Republic of Iran was based on *Velayat-e Faqih*. The idea was initially introduced by Ayatollah Sayed Ruhollah Musavi Khomeini (1902-1989) in his book, *The Islamic Government* and was later developed by the ideologue of the Islamic Republic. What is *Velayat-e Faqih*? Who can be the *Vali Faqih*? Why wasn't this idea proposed before Islamic Revolution in 1979? Did all the Shi'ite scholars endorse this idea or the *Vali Faqih* himself? All of these questions ultimately lead us to ask whether this concept has been drawn from Shi'ite Islamic discourses or it is just a novelty. These questions are increasingly discussed in academia and in the large public arena. Moreover, this discourse has divided Shi'ite Muslims into three groups; supporters of the *Velayat-e Faqih*, its opponents, and the silent group.

There are several different English translations for the Arabic term of *Velayat-e Faqih*. One of the translations is "Guardianship of the Jurist", which means the *Faqih* (Islamic Jurist) has the custodianship right over people. The term *Velayat* is derived from Arabic word 'wilaya', which means "to have power over something or someone". The *Velayat-e Motlagheye Faqih* (absolute guardianship of the jurist) thus means that the 'Islamic Jurist' is allowed Guardianship over issues, which in this case include the governance of the country. Iran is the one country among all Muslim states, in which the constitution is based on the idea of Absolute Guardianship of the Jurist.

The theory of *Velayat-e Faqih* has emerged from a principle Shi'ite belief, suggesting that God is just and will never leave the people without guidance, reflected in the idea of Edalat, justice. Imamate is hence essential to and inseparable from edalat, exemplified by the fact that after the death of Prophet Mohammad the Shi'ite Imams became the religio-spiritual leaders of the Muslim community. Imamate is constitute a cornerstone of Shi'ism. It is necessary to understand this political doctrine in relation to the context within which the concept of leadership has emerged. In order to overcome the ambiguities surrounding the relationship between *Velayat-e Faqih* and the position of Islamic jurist as a source of guidance and emulation (marje taqleed), it is necessary to discuss the various dimensions of guardianship in the absence of the Twelfth Imam. Furthermore, to verify the view that assumes this doctrine is an entirely new thesis and is in opposition with the traditional position of scholars and jurists, it is vital to briefly explain the historical background of *Velayat-e Faqih* in the Shi'ite sect of Islam.

B. Historical Background of Shi'ite Muslims

Shi'ite in Islam encompasses about twenty percent (300 million) of the Muslim population in the world. According to 'Pew Research Center ', "there were 1.6 billion Muslims in the world as of 2010, roughly 23% of the global population"¹. The Shia and Sunni division dates back to the death of Prophet Mohammad; the division emerged when the followers of the Prophet faced the decision on Prophet's successor as

1. *Pew Research Center*, accessed February 23, 2016, <http://www.pewresearch.org/fact-tank/2015/12/07/muslims-and-islam-key-findings-in-the-u-s-and-around-the-world/>

2. For more detailed see Shi'a Islam: Heinz Halm: *From Religion to Revolution* (Princeton: Markus Wiener Publishers, 1999), 24-27

the next leader of Muslims. Shi'ite consists of those who favored Ali ibn Abi Taleb², the son-in-law, and cousin of Prophet Mohammad. Shi'ites claim that Prophet Mohammad had designated Ali ibn Abi Talib to be his successor in his last pilgrimage to Mecca, which is known as the event of *Ghadir Khumm*. In Islam, there are five schools of thought, four of the schools represent Sunni Muslims and one Shi'ites. Shi'ite Muslims have one major school of thought, known as the Jafary. There are other small groups among Shi'ites known as the Zaidi and Ismaili. The name of the groups refers to the number of Imam the followers of these groups officially recognize. The Zaidi group was formed by the followers of Zaid ibn Ali ibn who is considered as the fifth Imam. According to Zaidi's theory, Ali ibn Abi Taleb, al-Hassan and al-Hussein are the first three rightful Imam. After them, the Imamate is open to their descendants. While the majority of Shi'ites consider Mohammad Al-Baqir to be the next Imam after Ali Zayn al-Abidin, Zaidis take Al-Baqir's brother Zaid as Imam. All four Sunni school of thoughts officially recognized the Jafari fiqh which represents the majority of Shi'ite Muslims. The institution that distinguishes Shi'ite from Sunni is Imamate, and the primary dogma of the institution is that the successor of the Prophet Mohammad should be a spiritual leader with the ability to interpret Quran and Sharia, and simultaneously by a political leader.

In the first chapter of his book, *The Shia Revival*, Vali Reza Nasr talks about the history of Shi'ite and the division between Shi'ite and Sunni sects of Islam. Both

branches accept the division of their sects and have their own justification for this division.

The dissenting voices rejected the legitimacy of the first three Rightly Guided Caliphs, arguing that God would not entrust his religion to ordinary mortals chosen by the vote of the community and that Muhammad's family popularly known as the Ahl al-Bayt (people of the household)- were the true leaders of the Muslim community, or the blood of the Prophet ran in their veins and they bore his charisma and the spiritual qualities that God had vested in him. Abu Bakr and Umar were particularly at fault for ignoring the Prophet's wishes about how his authority should be handed on and convening a gathering at Saqifah Bani Saeda to elect his successor. This view would become foundational to Shiism.³

For Shi'ite Ithna Ashari (Twelver), Ali ibn Abi Taleb is considered to be the first Imam and the other eleven Imams were his decedents. Shi'ite claims that all twelve Imam, who succeeded the Prophet, were free of error and were infallible. Shi'ite scholars believe that verse 33 in the chapter Al-Ahzab in the Quran was revealed to endorse the purity of Prophet's family. "...O family of the house, Allah only wishes to distance fault from you, and to cleanse you, and to purify you abundantly"⁴. Although many Sunni scholars agree with Shi'ite scholars in this matter, they do not accept this verse as an endorsement for Ali to be the successor of Prophet Mohammad. Ali ibn Abi Taleb was accepted by Sunni Muslims as the fourth of the 'rightly guided caliphs' but Shi'ite believed in his right to be the first Imam. "The Shi'ites do not acknowledge the first three caliphs. They consider Abu Bakr, Umar, and Uthman as usurpers of the caliphate; for the Shi'ites, ever since Muhammad's death, Ali was the legitimate caliph and imam"⁵.

3. Vali Nasr, *The Shia Revival* (New York: W. W. Norton & Company, 2007), 37
4. Abdullah Yusuf Ali, trans., *The Holy Qur'an* (New Delhi: Islamic Book Service (P) Ltd., 2012), 33:33
5. Heinz Halm, *Shia Islam: From Religion to Revolution* (Princeton: Markus Wiener Publishers, 1999), 5

Ali's two sons Al-Hassan and Al-Hussein continue the line of the Imams until Mehdi the twelfth Imam, who is believed to have ascended and will return to earth to bring justice and establish Allah's government. "Whatever version of Shi'ism one looks at, at whatever point it may have expressed itself in Islamic history, the crucial point has been the doctrine of the Imamate, the figure of the Imam, who is not merely the successor of the Prophet in a legislative, administration, and even military capacity, but is also in some sense an extension of the spiritual dimensions of the prophetic mission"⁶.

According to Shi'ites, there are several reasons for Ali to be the rightful Caliph and successor of the Prophet. Ali and Prophet Mohammad were paternal cousins which also give a reason for a close lifetime association between the two. Also, after the death of Prophet's grandfather, he was raised by Ali's father in the same house with Ali. Ali ibn Abi Taleb was the first person besides the Prophet's wife, Khadija, to make a declaration of his faith in Islam. It was also Ali who slept in the Prophet's bed on the *hijra* or migration from Mecca to Medina. In fact, the group who planned to kill the Prophet came after him on that night, but found Ali on his bed and left. On the night of migration, Muslims feared, having received the news that unbelievers would attack the house of the Prophet and stab him. Ali was one of the closest companions of the Prophet Mohammad in addition to being his cousin and son-in-law. He was also the Prophet's son-in-law. In fact, the Shi'ites argue that Ali was the only qualified person who could marry the daughter of the Prophet, Fatima.

6. Hamid Algar, *Roots of the Islamic Revolution in Iran: for lectures* (United States: Islamic Publication International, 2001), 14

The word 'Imam' and its plural 'A'immah' are used in the Qur'an a total of twelve times. It is used seven times in singular form and five times in the plural form. When the Qur'an relates the hardship that Prophet Abraham went through as a test by his Lord and, successfully passed the test, he was given the title of Imam. "...I will make thee an imam to the nations"⁷. Shi'ite scholars claim that the authority of Imam is the same as that of the Prophet.

The disagreement among Shi'ites and Sunni Muslims is over the meaning of this word. The word 'Imam' means the leader of congregational prayer among Sunni Muslims; however, for Shi'ite, the word Imam is exclusively for Imam Ali and his eleven descendants, who are the successors of the Prophet Mohammad. According to Shi'ite, along with and based on Edalat, justice, Imamate is one of the pillars of Islam; therefore, Imam is an important figure in Shi'ite sect of Islam. According to Shi'ites Ma'ad (resurrection) is the fifth pillars of Islam. Belief in the day of Judgement when all human beings will be raised from the dead and all their good and bad deeds will be ultimately judged and recompensed accordingly. Just as pursuit for justice is inseparable in any society on earth, and the ultimate day of judgment inseparable for mankind. Some Shi'ite theologians believe that Ma'ad is significant to Adel and Imamate and to the debates on Vali Faqih. According to Shi'ite scholars all twelfth Imams are infallible, divinely appointed from birth, and bestowed with divine knowledge. A'imah are the representatives of God on this earth, and they are the real teachers of the Qur'an. The first

7. Abdullah Yusuf Ali, trans., *The Holy Qur'an* (New Delhi: Islamic Book Service (P) Ltd., 2012), 2:124

Imam is Ali ibn Abi Taleb and the last is Imam Mehdi, who is still alive and in occultation, but he will return before the end of the world.

According to Shi'ite theologians from the first day when God created a human being, He has never left humanity without a leader. From Adam to Mohammad, Prophets were appointed by God to guide the people and show them the righteous path and prohibit them from deviation. After the death of Prophet Mohammad, his twelve successors were the guiding Imam in the world. Imam Mahdi is the twelfth successor of the Prophet, who is still alive, but in occultation. After the death of Imam Hassan Al-Askari the eleventh Imam of Shi'ites (874 AD), Mohammad Al-Mahdi became the twelfth successor of Prophet Mohammad. In the first stage of his occultation known as 'Ghaibate Soghra' (minor occultation, 874-941 AD) he had four representatives through whom he was in contact with people. The minor occultation did not last long; Imam Mahdi went to Ghaibate Kobra (greater occultation, 941-present) which still continues. In the second stage, Imam did not have a direct representative through whom he could communicate with his followers. There are hadiths related to Imam Mahdi in Shi'ite books, where the Imam Mahdi said that Maraa'je Taqleed⁸ (source of emulation) are my indirect representatives, and people should go to them to ask their religious questions and other religious concerns. The current leader of the Islamic Republic of Iran is considered, by this supporters, as the leader of all Muslims around the world for being assumed to be the indirect representative of Imam Mahdi. While the tension and claims have to connection with Imam Mahdi have not been rare, historically, Shi'ite ulama have

8. Marje Taqleed (source of emulation). Today there are more than twenty Maraje' Taqleed in the world

generally argued that no one can claim to be the appointed or representative of Imam Mahdi. In the next chapters, I will further discuss the idea of the representatives of Imam Mahdi.

C. Methodology

Since the greater occultation of Shi'ite twelfth Imam, the question has been raised: who is the representative of the twelfth Imam on earth who has the right to take leadership of Shi'ite Muslims? Prior to the Islamic Revolution, the Shi'ite clergy, for the most part, argued that the Shi'ite religious leaders have no right to establish government during the occultation period of the twelfth Imam because of the absence of legitimate unified religious and political authority and due to the fact that they are not infallible. Yet this matter has been the subject of debate. One group of Shi'ites says that we have to wait until the Imam returns and it is He who will establish a just government and that Imam Mahdi will return precisely when corruption and tyranny have become exceedingly intolerable. His return brings justice and sets things right. In contrast, the second group argues that Muslims should be prepared for his return by establishing an Islamic government under the leadership of just and qualified Vali Faqih and those who prove to be the real partisans of the Imam Mahdi through the effort to create a just society will be his companions at the time of his return. They argue that God is Just and would not accept the Muslims to suffer under corrupt and unjust governments. This group is considered to be the followers of Ayatollah Khomeini and his ideology.

Throughout its history, Shi'ite scholars have written numerous books in attempts to explain the role of *Faqih* (jurist) in Islam. It is crucial, therefore, to review and analyze

the resources that they use to support their views, including, for instance, the Quranic verses and the hadiths upon which they build their position in supporting *Velayat-e Faqih*. The leader of the Islamic Revolution argued that the Shi'ite *fiqh* (jurisprudence) is complete and that it can provide solutions to all human problems. Based on this philosophy, Ayatollah Khomeini established the government in Iran after the Islamic Revolution in 1979. It has been reported that the eleventh Shi'ite Imam said: "If there is anyone among the *fuqaha* who is in control over his own self, protects his religion, suppresses his evil desires and is obedient to the commands of his Master, then the people should follow him"⁹. The above-mentioned hadith is been used by Khomeini to justify his position. However, many contemporary Shi'ite scholars reject Khomeini's argument and state that such a claim is in conflict with Shi'ite's basic principles. This hadith has been reported in many Shi'ite historical and hadith books by many different scholars. However, according to the opponents of *Velayat-e Faqih*, there are many Hadith and verses in the Qur'an which deny *Velayat-e Faqih*.

It is also important to analyze the position of Shi'ite contemporary scholars who are against the concept of *Velayat-e Motlagheye Faqih* (the absolute guardianship of the jurist). Their main argument is that the *Velayat* is from God, not from people. Ayatollah Sayed Hossein Borujerdi (1947-1961), was one of the most significant clergies who did not believe in the clergy intervention in politics unless for spiritual advice. Ayatollah Khomeini was his student and did not challenge the regime of Shah until Borujerdi's death. After the death of Ayatollah Borujerdi, Khomeini began his protest against the regime. Ayatollah Khomeini was aware that there were many ayatollahs in Qom who did

9. Ahmad Ghafari, transl., *Al-Ithtijaj Al-Tabarsi*, (Iran: Thawi al-Qurba, 2009), 263

not endorse the conjoining of religion and politics. But a group of ulama in Qom¹⁰ and Najaf chose not to take any position on the issue and have remained silent until now. The clerics like Ayatollah Mohammad Shirazi, Ayatollah Khoonsari, Ayatollah Mohammad Rohani and few others who spoke out against the establishment of a government based on this concept were isolated and were not allowed to speak publically. Ayatollah Montazeri, who was at the time of revolution the closest cleric to Ayatollah Khomeini and one of the founders of *Velayat-e Faqih*, later opposed it. After the death of Khomeini, Montazeri said that Sayed Ali Khamenei is not qualified to be the successor of Khomeini. This statement intensified the problem he already had with the government. After that he was not even allowed to teach in Hawzah (seminary).¹¹ Moreover after the controversial Iranian presidential election in 2009, he spoke in favor of two candidates, Mousavi, and Karroubi and condemned the result of the election. Ayatollah Montazeri was under the house arrest after the death of Ayatollah Khomeini and remained in his house until he died in 2009.

However, Shi'ite scholars after the occultation of the twelfth Imam have endorsed the concept of *Velayat-e Faqih*, which gives authority to Shia *Marje Taqleed* (source of emulation) to make legal decisions within the confines of Islamic Law for his followers during the absence of Shi'ite twelfth Imam. Today the *Maraa'je Taqleed* is considered to be the indirect representative of the twelfth Shi'ite Imam.

10. Qom is well known for its many religious seminaries and institutes that offer advanced religious studies. These collectively make up the Hawzah (a short form of *al-Hawzah al-'Ilmiyah*), which presently consists of over 200 education and research centers and organizations, catering for over 40,000 scholars and students from over 80 countries of the world.

11. Since Iranian writers and journalists are not allowed to write about Montazeri, I have to rely on outside publications. For instance this website has a good article:
<http://www.pbs.org/wgbh/pages/frontline/tehranbureau/2009/12/grand-ayatollah-hosseini-montazeri-1922-2009.html>

There is a third group of Shi'ite *fuqaha* (jurists) who are silent and do not take any position on this issue. While many of these scholars reside in Iran, there are some who live abroad. How can their quietness be interpreted? Is their silence a sign of agreement or disagreement? Today both the sympathizers and the opponents of *Velayat-e Motlagheye Faqih* claim this silent group as their supporters. The Grand Ayatollah Sistani, who now resides in Najaf, Iraq, is considered to be one of the most knowledgeable clergies. For the past twenty years since becoming a *Marje Taqleed* (source of emulation) of Shi'ite around the world, he did not take any position toward *Velayat-e Motlagheye* nor toward Iranian supreme leader. Million of Shi'ite Muslims worldwide follow him, announcing his endorsement or rejecting the concept of *Velayat-e Motlagheye Faqih* can empower or harm the government of Iran. Therefore, it is important to examine the silent position of Ayatollah Sistani and couple of others, who so far have not taken any position on this matter.

In this thesis, I would also examine in which historical period the concept of *Velayat-e Motlagheye Faqih* has come to take its current form. It is important to analyze the position of Shi'ite high ranking clergy for the past four decades. But the main question on which I will concentrate will be the legitimacy of *Velayat-e Motlagheye Faqih* among Shi'ite Muslims and Shi'ite high-ranking clerics.

For the past two decades, the technology has advanced, and the majority of the people around the world have access to a computer and the internet. The advanced technology in the twenty-first century may not be positive for everyone and in all aspect of our lives, but it has been greatly beneficial to academia. Today scholars, professors, or students can access an enormous corpus of scholarship available online and can launch

their own website or create a weblog where they can share their work, opinion and etc. I have used this opportunity to enrich my study by watching hundred of hours of lectures by scholars who speak about *Velayat-e Faqih*. For instance, a Shi'ite cleric Hassan Allayari has more than twenty lectures on Youtube on this topic. Some of the videos are from his Television show, which contains debates between him as an opponent of *Velayat-e Faqih* and different scholars, who are considered to be the supporters of *Velayat-e Faqih*.

In 2015, I had an opportunity to visit Iran for a couple of weeks, as a visitor. In this trip, I had a chance to visit a few important religious cities such as Qom and Mashhad. The city of Qom is one of the most important cities for Shi'ite Muslims around the world. The significance of this city is that many Hawzas (seminaries) are located there and most of the *Maraa'je Taqleed* of Shi'ite live there and teach the students, who will be Shi'ite religious scholars in the future. The city of Qom has hundred of thousands of visitors, who come for pilgrimage to Shrine of the Lady Fatima Mahsoomeh, the aunt of Shi'ites' eight Imam. When I was in Qom, I had informal meetings with a number of Shi'ite clerics, who were experts in Jafari fiqh. Although these meetings were informal, I had a good and informative discussion regarding *Velayat-e Faqih*. Some of the clerics, who were teaching in Hawza openly to talked about *Velayat-e Faqih* in general, though without taking any political positions.

D. Literature Review

The body of literature on *Velayat-e Faqih* has mostly concentrated on Iran after the Islamic Revolution of 1979. The literature has been extensively discussed by many theologian and scholars of social science. The Iranian scholars' works have tended to

focus more on the political and social aspects of this concept. My project will be different from the established literature on this subject as my focus will be on the debates on the legitimacy of *Velayat-e Faqih* in the Shi'ite *fiqh*. A large number of these scholarly books are written in Farsi and Arabic. Some of the references in this thesis will be from the books written in Farsi by the Iranian scholars who are in favor of *Velayat-e Faqih*.

Many well-known Shi'ite scholars supported Ayatollah Khomeini in the beginning of the Islamic Revolution, which led to its victory in 1979. However, a number of these scholars turned away from Ayatollah Khomeini after the new constitution was written. The disagreement between Ayatollah Khomeini and other religious scholars (*fuqaha*) started when the new constitution in Article 110 granted unlimited power and authority to the *Vali Faqih* (Guardian Jurist). This was the beginning of dispute among Shi'ite *ulama* which divided the *Fuqaha* into different groups. Many of them were forced to stay home because of their position against the given authority to the *Vali Faqih*. The opponent clerics believed that they should not get involved with politics, but rather be the religion-spiritual advisors for the head of the government.

Ayatollah Mesbah Yazdi is one of the Shi'ite clergy in Iran who currently supports the idea of *Velayat-e Motlagheye Faqih*. He is a member of Iran's Assembly of Experts. The members of this council are responsible for choosing the Supreme Leader. He is also the director of the 'Imam Khomeini Education and Research Institute in Qom. Yazdi argues: "Whether people are religious or irreligious when they don't have access to infallible Imam, they must refer to someone who has a position close to him."¹² Ayatollah Makarem Shirazi, Noori Hamadani, Abdullah Javadi- Amoli, Mesbah Yazdi, Ayatollah

12. "The official website of Mesbah Yazadi," accessed March 1, 2016, <http://mesbahyazdi.ir/en>

Mottahari and Ayatollah Beheshti, well known and respected clergies in Iran, have been supportive of Ayatollah Khomeini. They are more contemporary religious scholars in Iran, who are in favor of *Velayat-e Motlagheye Faqih*.

A rigid dichotomy exists between scholars who approve *Velayat-e Motlagheye Faqih* and those who take a different approach by opposing the concept. The body of literature comes mostly from outside of Iran. In addition to the Iranian scholars of social science, there are a number of theologians who have written on or spoken against the concept of *Velayat-e Faqih*. In this thesis, I will review the work of a few of these scholars. However, my concentration will remain on the question of the legitimacy of *Velayat-e Motlagheye Faqih* in Shi'ite *fiqh* (jurisprudence), which ultimately is the foundation for the Shi'ite school of thought. I will focus on this issue after the Iranian Islamic Revolution.

In his book, *Wilayat al-faqih and Democracy* Mohsen Kadivar an Iranian theologian and scholar talks about contemporary Iranian politics and the compatibility of *Velayat-e Faqih* with democracy. In his other book, *The Theories of State in Shi'ite Fiqh* he discusses the question of political legitimacy as the most fundamental topic within political thought. The author explains that the issue of political legitimacy within religious thought was raised in response to the fundamental question on whether God has granted sovereignty to a specific person or a class of people. He also raises the question of whether God has granted the right to self-determination within the framework of the objectives of religion and regulations of sharia to all of the ummah. Two tenets of

political legitimacy could be derived by the Shi'ite fiqh: "the basis of direct divine legitimacy" and the "divine-democratic legitimacy."¹³

Abdulkarim Soroush is considered to be one of the most influential Iranian thinkers. He believes that the theory of *Velayat-e Faqih* is the same as religious tyranny, and with this theory you cannot establish a democratic state. Soroush believes that the absolute power will bring absolute corruption. In his book, *Reason, Freedom and Democracy in Iran* he challenges and criticizes the clerical rule in Iran. Soroush argues that clerical government is not a system that would satisfy people and be compatible with values of the twenty-first century.¹⁴

One of the points Soroush makes is that when a government is secular that does not mean that people have to abandon their religion. "Secularism has been understood as a deliberate effort to exclude religion from worldly affairs. But the truth is that secular governments are not opposed to religion; they accept it but not as a basis for their legitimacy or as a foundation for their action."¹⁵ Many scholars may agree with him that it depends on the personal preference whether one wants to be religious or abandon religion; others, however, may disagree with him arguing that taking into consideration that many of the Muslims who have migrated to secular countries, like the United States and European countries, have lost their Islamic identity. Some have even turned away from their religion through their exposition to ideas and values that oppose the teaching of Islam.

13. Read more in detail at <http://en.kadivar.com/>

14. For detailed discussion see, Abdulkarim Soroush *Reason, Freedom and Democracy in Islam*, 34-52

15. Abdulkarim Soroush, *Reason Freedom and Democracy* (Oxford: Oxford University Press, 2000), 56-57

In his book *After Khomeini: Iran Under His Successor*, Said Amir Arjomand examines Iran under the successors of Ayatollah Khomeini up to the present day. Arjomand's description of the post-Khomeini era is very similar to Anoushiravan Ehteshami's *After Khomeini: The Iranian Second Republic*. Both scholars are analyzing the political and social aspects of the Islamic Revolution of Iran.

The "Hudson Institute" published Arjomand's article "The Iranian Revolution in the New Era". In this article Arjomand argues that to understand the extent to which the relationship between the Iranian government and the Shi'ite clerical hierarchy has changed over the past years, it is useful to look back in history—in fact, fifty years beyond the founding of the Islamic Republic thirty years ago.¹⁶

Anoushiravan Ehteshami has written a series of books on Iran, religion, and Shi'ite contemporary politics. In his book *After Khomeini: The Iranian Second Republic* he discusses the administrative structure of Iran. Favorably clerical, theocratic and under the influence of the *Fuqaha*, after the 1979 Islamic Revolution the government was led by Ayatollah Khomeini. "In order to institutionalize the authority of post-Khomeini *Faqihs* and the principle of the *Velayat-e Faqih* system, the 1979 revised constitution enshrines the many informal levers of power that the late Ayatollah Khomeini himself controlled."¹⁷ Ehteshami also talks in this book about the changes that were made to the constitution and new economic policies. He argues that one of the goals of the second republic was to strengthen the defensive system at the time when the economy was declining and money spent on the military was increasing.

16. For more detailed read Arjomand's article which was published in Hudson Institute. Houston Institute is an American non-profit institute, which was founded in 1961 by Herman Kahn.
<http://www.hudson.org/research/9871-the-iranian-revolution-in-the-new-era>

17. Anoushiravan Ehteshami, *The Iranian Second Republic* (London: Routledge, 1995), 49

Asef Bayat too is one of the Iranian scholars whose scholarship has contributed to contemporary discourses on Islam and particularly on Iran. In one of his books *Making Islam Democratic*, he raises a question: is democracy compatible with Islamic faith? How can governments establish democracy if they are authoritarian? He argues that first and foremost democracy is a system of government where the power is given to people. “The God-given sovereignty of the umma (community of Muslim believers) underlies democratic governance based upon pluralism, difference, and human rights.”¹⁸ Bayat clearly states that Iran has an authoritarian government, which means that people have little or no power at all. Asef Bayat challenges the dominant interpretation of Islam and Muslims and makes a strong argument about the diversity of Muslims in the world. The diversity exists in lifestyle, ideology, interpretation of Islam, and all forms of economic, social and political variables. Bayat is still an optimist, believing that one-day countries like Egypt and Iran will be able to implement democracy and democratization.

E. Conclusion

Besides the above-mentioned names, there are other scholars who have written books, articles and given lectures on this subject. Among these scholars is Vali Nasr’s *The Shia Revival*, which goes beyond the Sunni-Shia history and analyze the existence of a Shia revival that can potentially lead to conflict that will shape the future of Islam. Ervand Abrahamian approaches the Islamic Revolution from a different perspective arguing that Khomeinism should be considered as a populist movement rather than a religious resurgence.¹⁹ Hamid Algar and Mehrzad Boroujerdi have also contributed to

18. Asef Bayat, *Making Islam Democratic: Social Movements and the Post-Islamic Turn* (Stanford: Stanford University Press, 2007), 5

19. For more description see Ervand Abrahamian, *Khomeinis*, 22

this scholarship. Along with other Iranian religious scholars and thinkers, many Iranian religious clerics who live outside of Iran have, in the past three decades, questioned the legitimacy of *Velayat-e Motlagheye Faqih* from a theological perspective. A number of those clerics have addressed the topic through talk shows with in-depth discussions in religious television channels. Since these TV discussions are related to my field of study, I will be using some of the debates in my fourth chapter where I will be discussing the position of opponents of *Velayat-e Faqih*. My analysis of the debates has resulted in a different understanding of the role and potential impact of the information technology on the concept of *Velayat-e Faqih*. I have made extensive use of television discussions and lectures that address the issues relevant to my topic. While providing invaluable information, I concede that such programs may offer an opportunity for the propagation of hate and the promotion of radical viewpoints. Media plays a critical role in providing networks that encourage different ideologies.

CHAPTER 2

THE THEORY OF VELAYAT-E FAQIH

A. Introduction

Shi'ite Islam is the second largest branch of Islam after the Sunni branch. Shi'ites follow the teaching of Prophet Mohammad and revere his descendants also known as Ahl al-Bayt. Shi'ites believe that Prophet's bloodline continued through his daughter, Fatima Al-Zahra and his cousin and son-in-law, Ali ibn Abi Taleb. Shi'ites believe that only the decedents of the Prophet can be the true source of guidance, thus rejecting the first three caliphs Abu Bakr, Omar, and Othman after the death of the Prophet. The first stage of the political disagreement of the history of Shi'ite was that Fatima Al-Zahra and Ali did not give their allegiance to Abu Bakr. According to Sunni Muslim Ali and his wife Fatima did not give their allegiance till one year later but after that, they recognized Abu Bakr as first Caliph. However, Shi'ites denies this statement. The Shi'ite scholars argue that the first three Caliphs had to follow Ali, who was the rightful successor of the Prophet and he was chosen by the Prophet to be his successor. This created a division between those who followed Ali as the successor and those who gave their allegiance to the first Caliph, Abu Bark. The term '*Shia*' is from the Arabic word "Shaya'ah" or "Tashia Lahu" which means "to love, to follow and support". That group of followers were known as the followers of Ali and remained faithful to the line of Fatima and Ali from Prophet Mohammad's Ahl- al-Bayt (household of the prophet). Shi'ite scholars contend that the term '*Shia*' has been mentioned in the Qur'an.²⁰ Although many scholars argue that the Shi'ite was formed later; nevertheless the events after the death of Prophet Mohammad

20. Abdullah Yusuf Ali, trans., *The Holy Qur'an* (New Delhi: Islamic Book Service (P) Ltd., 2012), 83-84

mark a juncture between the divisions of Muslims into two groups. Shia origin and history are divided into several periods, the first period being after the Prophet passed away. Events that followed the death of the Prophet, such as Ali's assignation, and the Battle of Karbala, which led to the martyrdom of Imam Hussein, the Third Imam of Shi'ite, and seventy-two of his male companions, and the captivity of women and children, rendered this distinction even more intense. In this chapter, I will highlight and analyze the Sunni and Shia split, and the event of Karbala which constitutes a crucial juncture in the construction of Shi'ite Islam. In addition, I will examine the importance of Imamate, the twelfth Imam occultation and the concept of *Velayat-e Faqih*. It is necessary to examine the origin, history and belief of Shiites for drawing a line that may explain how and why the concept of *Velayat-e Faqih* came to be formed and practiced in the Islamic Republic of Iran. I will also review the emerging of the term '*Motlagheh*' (absolute) from the concept of *Velayat-e Faqih* and will assess the textual context of *Velayat-e Faqih* in the Qur'an and Shi'ite hadith.

The New Tensions between Shia and Sunni

The tension between Sunni and Shi'ite Muslims has escalated further in the last few decades. There are many reasons that have caused this escalation of tension between the two sects of Islam. The political tension between the government of the Islamic Republic of Iran and Saudi Arabia and their influences on other Muslim countries is one of the reasons. For fourteen hundred years after the death of Prophet Mohammad both Sunni and Shi'ite Muslims coexisted, but at the same time, sectarian mobilization has

caused a lot of conflicts in recent years.²¹ Shi'ite and Sunni sectarian mobilization are more political rather than religious, for centuries the leader of each sect competed for political power to further his agenda. But others do not see this divide as merely about political and power, but rather they argue, as does Vali Nasr, that Shiism and Sunnism are not merely about power but about who is more righteous. "Shiism and Sunnism not only understand Islamic history, theology, and law differently but each breaths a distinct ethos of faith and piety that nurtures a particular temperament and a unique approach to the question of what it means to be a Muslim".²²

The division between Muslims did not exist during the life of Prophet Mohammad; everyone was Muslim under one umbrella of Islam. Both Sunni and Shia believed in the oneness of God, accepted Mohammad as the last Prophet, and the Qur'an as a divine revelation. All observant Muslims, regardless of being Shi'ite or Sunni, also believe that prayers, fasting, paying alms, and when physically and financially able, fulfill their pilgrimage to Mecca. On these pillars, all Muslims agree. The Sunni-Shi'ite separation was rooted in the question of who should have succeeded the Prophet after his death in 632. The death of Prophet Mohammed was the first historical crisis faced by the Islamic community. At that time, some believed that the new leader of Islam should be chosen by the people, however, others thought that only the Prophet's descendant have the right to the caliphate and the leadership of Muslim ummah. While Sunni and Shi'ite sects of Islam agree on the Oneness of God and that Mohammad was the messenger of God, they differ sharply on the leadership of the Islamic community after the Prophet's

21. For an account of the split between the Sunni and Shi'a branches of Islam see John L. Esposito, *Islam the Straight Path* (Oxford: Oxford University Press, 2005), 43-50.

22. Vali Nasr, *The Shia Revival* (New York: W. W. Norton & Company, 2007), 34

death in 632 C.E. Although the question of who should serve as Prophet Mohammad's successor and be the caliph of the Muslim Community at the time might now seem like an ancient history to a non-Muslim, the conflicting perspectives on the caliphate actually cast light on broader differences between these two sects of Islam. The Sunni Muslims believe that Prophet Mohammad left the process of determining who would succeed him to the Muslim *ummah* (community) to decide. According to Shi'ite teaching, however, God chose Prophet Mohammad's successor like the Prophet's before him. Shi'ite argue that the successor of the Prophet must be an just in order to lead the Muslim community since the notion of Imamate and Justice are interconnected. They also argue that Prophet Mohammad informed the Muslim *ummah* when he was alive that Ali will be his successor. Esposito writes,

Sunni and Shii Muslims also developed differing doctrines concerning the meaning of history. For Sunni historians, early Islamic success and power were signs of God's guidance and reward to a faithful community as well as validation of Muslim belief and claims. For Shii, history was the theater for the struggle of an oppressed and disinherited minority community to restore God's rule on earth over the entire community under the Imam. A righteous remnant was to persist in God's way against the force of evil (Satan), as had Ali against Muawiyah and Husayn against the army of Yazid, to reestablish the righteous rule of the Imam. The lives of the suffering Imams, like that of Husayn, were seen as embodying the oppression and injustices experienced by a persecuted minority community. Realization of a just social order under the UIma was to remain a frustrated hope and expectation for centuries the Islamic community remained under Sunni caliphate government.²³

According to the Shi'ite interpretation of the event at the *Ghadir Khumm*, during the return from the last pilgrimage²⁴ to the Kaaba, Prophet Mohammad knew the end of his

23. John Esposito, *Islam: The Straight Path* (New York: Oxford University Press, Inc., 2005), 44

24. The last pilgrimage of Prophet Mohammad is also known as '*Hajat Al-Wadaa*' which means the farewell pilgrimage. The Prophet Mohammad perform his last pilgrimage in the 10th year (632 CE) of the Islamic calendar.

life was near and appointed Ali to be his successor, and become the leader of the Muslim *ummah*. This was the first time that the Muslims with this magnitude gathered in one place in the presence of their leader, the Prophet Mohammad. On his way to Mecca, more than seventy thousand people followed the Prophet. On this day, Prophet Mohammad spent approximately five hours in this place. He recited nearly one hundred verses from the Qur'an, reminded and warned people of their deeds and future.

The followers of Imam Ali argue that the Prophet appointed Ali as his first successor in Ghadir Khumm. All Shi'ite religious scholars throughout history claimed that the event of Ghadir completed the religion of Islam. They argue that verse three of chapter five in the Qur'an proves the truth of Ghadir. "...this day I have perfected your religion for you and completed my favor to you. I have approved Islam to be your religion..."²⁵ However, this is not the only verse in the Qur'an that was revealed at the event of Ghadir. According to Shi'ite scholar's verse 67 in chapter five commands the Prophet to convey the message of God to all believers. "O messenger, deliver what is sent down to you from your Lord; if you do not, you will not have conveyed his message. Allah protects you from the people. Allah does not guide the nation, the unbelievers".²⁶ The followers of Ali claim that he was the only one with the spiritual authority to rule Islam after the Prophet.

Allamah Abdul-Hussain Amini (1902-1970) is a great and well-known Shi'ite scholar; he is the author of Al-Ghadir book. The book has twenty volumes and took him more than ten years to complete it. The main subject of this book is the famous hadith of

25. Abdullah Yusuf Ali, trans., *The Holy Qur'an* (New Delhi: Islamic Book Service (P) Ltd., 2012), 5:3

26. Ibid, 5:67

Ghadir Khum as perceived by Shi'ites. It is reported that at Ghadir Khumm the Prophet gave a long speech at the end of which he asked people: "Am I not more appropriate for authority over you than yourselves?" When people joyfully replied yes, Prophet Mohammad continued with the assertion: "For whoever I am the Wali (leader), Ali is his or her leader too". The author of *Al-Ghadir* travels to many countries in order to gather all the Hadiths from 2nd century to 14th century of Islamic Calendar. Amini's goal in his book is to prove to Sunni Muslims that Ali was the first successor of Prophet Mohammad according to a hadith attributed to the Prophet. Although Sunni Muslims do not entirely disregard this hadith, their argument is that Prophet Mohammad meant whoever loves me, should love Ali. The word '*wali*' (leader) which is the main message of this hadith is controversial in Islam. "According to the Shi'ite interpretation of the events at the pool of Khumm, the Prophet, who knew his end was near, declared Ali to be his successor as the leader of the Islamic community".²⁷ However, for Sunni Muslims *Wali* means merely loving and trusting someone, while Shi'ite interpret the term *Wali* as the leader.

The majority of the Muslim (Sunni) believed that the Prophet died without designating a successor and establishing a system for the selection of his successor. Sunni Muslims believe that the caliphate should go to whoever was chosen and whoever had the political leadership. According to majority Muslims around the world, Abu Bakr is the first righteous caliph. Omar ibn Khattab succeeded the caliphate after the death of Abu Bakr. Umar ibn Khattab ruled the Islamic Caliphate for 10 years, and Uthman succeeded Umar after his assassination. Twenty-five years after the death of Prophet Mohammad, Ali ibn Talib became the fourth rightly guided caliph. The period of the

27. Heinz Halm, *Shia Islam: From Religion to Revolution* (Princeton: Markus Wiener Publishers, 1999), 3

leadership of the Prophet Muhammad and the four rightly guided caliphs is especially significant in Sunni Islam. According to Esposito, the period provided “the idealized past to which Muslims have looked back for inspiration and guidance, a time to be remembered and emulated”.²⁸ In the 40th year of Hijrah, in the morning of 19th of the Ramadan, Ali was struck with a poisoned sword by Ibn Muljam while offering his prayers in the mosque of Kufa. Ali was buried in the city of Najaf, Iraq. After the death of Imam Ali, his older son Al-Hassan became his successor and was the Imam of ummah for 45 years. When Al- Hassan was poisoned and died, his younger brother Al-Hussein became his successor.

The Event of Karbala

Imam Al-Hassan ibn Ali (625-670 CE) was proclaimed as the Caliph, however when Muawiya moved to Iraq, Imam Al-Hassan announced his abdication.²⁹ According to Shi’ite historian and scholars, Imam Al-Hassan is considered a martyr since he was poisoned by one of his wives, who received the order from Muawiya. According to Sunni Muslims, Muawiya was appointed as the governor of Sham (Damascus) by the third Caliph Uthman. After the death of the third caliph, Muawiya claimed that he is the fourth caliph of Muslims and did not pledge allegiance to Imam Ali. Muawiya and his clan ruled the Muslim nation for many years, their reign is known as the Ummayyad dynasty. The conflicts and wars between Ali and Muawiya resulted in the creation of the third group known as Khawarej (outsiders). This group rejected both Ali and Muawiya. Unlike his father, Imam Al-Hassan did not get into a war with Muawiya but signed a peace

28. John Esposito, *Islam The Straight Path* (New York: Oxford University Press, Inc., 2005), 36

29. Imam Al-Hassan is the first son of Imam Ali and Fatima Al-Zahra. He was born in the city of Medina three years after the *hijra* (624 CE). After his father Ali ibn Abi Taleb was killed he became the second Imam of Shi’ite Muslims.

agreement with him. After the death of Imam Al-Hassan, his younger brother Al-Hussein became the third Imam of Shi'ites.

Imam al-Hussein was the grandchild of Prophet Mohammad and the second son of Imam Ali and Fatima. He is the third Imam of Shi'ites after Imam Ali and Imam Hassan. Imam Hussein lived under the most difficult conditions of suppression and persecution during the reign of Muawiya and the last few months during the reign of Yazid. After the death of Muawiya, his son Yazid succeeded to the caliphate and required well-known people to give the oath of allegiance to him. The oath of allegiance was an old Arab practice meant to carry out important matter such as the governorship. Al-Hussein, his family, and his companions set out from Medina to Kufa with the news received from Muslims in Kufa saying that more than, thousand people would support and pledge allegiance to him if he would come to Kufa and establish a government. On the way to Kufa Imam Al-Hussein was intercepted by military forces from Yazid and was faced with two options: either to give his oath of allegiance or face death. Unlike his brother, Imam Hussein did not pledge allegiance to Yazid (son of Muawiya) and declared his refusal to recognize Yazid as the Caliph of Muslims. As it has been reported, when leaving Medina toward Mecca, Imam Al-Hussein had said: I am not rising against Yazid as an insolent or an arrogant person, or as a mischief-monger, or tyrant. I have risen against Yazid as I seek to reform the *ummah* of my grandfather. The uprising against Yazid resulted in the martyrdom of the Prophet's grandson, his male family members, and companions and the women and children being taken captive.³⁰

30. See Roy Mottabedeh, *The Mantle of the Prophet*, for detail on Imam Hussein and the tragedy of Karbala, 20-23

The tragedy of the Karbala is marked as a significant event in the history of Muslims. Imam Al-Hussein and his companions were killed by Yazid's army in Karbala. Shi'ites around the world mourn for at least 13 days in the month of Moharram each year. Commemorating the death of Imam Al-Hussein on the tenth day of Muharram, which is known as *Ashura* is one of the important rituals of Shi'ite Muslims that is practiced in various ways. Every day from the first to the thirteenth of Muharram Shia Muslims gathers in Mosques and Islamic centers to commemorate the martyrdom of Hussein. This commemoration not only happens in the countries where the majority population is Muslim but across the globe from East to West and North to South. The main day of this ritual is the tenth day, the day that Imam Al-Hussein was killed by Yazid's army. In many Islamic countries, the tenth day of Moharram is an official memorial day, when thousands of Shi'ites go to main streets of their cities and perform the ritual of Ashura.

Arbaeen (40th) marks the end of the forty-day mourning period for the grandson of Prophet Mohammad. This is the biggest annual gathering of Shia Muslims worldwide. In fact, this is the biggest gathering of people in the entire world. Since the collapse of the Saddam' Regime, millions of Shi'ite across the world have gone to Holy city of Karbala in Iraq during the month of Moharram, where the Shrines of Imam Al-Hussein and his half-brother Abbas are located. "Iraq says up to 17 million made the pilgrimage over 40 days this year, more than a million from Iran, and many remained for the ceremony of Arbaeen."³¹ In 2014, the record of visitors to Karbala was over eighteen million people during the Arbaeen. Since the commemoration of Imam Al-Hussein is an important part of Shi'ite beliefs and requires a deep concentration and explanation, I will end with a

31. *Shia pilgrims flock to Karbala for Arbaeen climax* "BBC News" December 14, 2014, accessed March 2, 2016, <http://www.bbc.com/news/world-middle-east-30462820>

famous slogan among Shi'ite Muslims which has been reported in many historical books: "Everyday is Ashura and every land is Karbala".³² Shi'ite argue if people would understand the meaning of this slogan and observe it in every land they stay in and every day they live the right of Islam for which Imam Al-Hussein was martyred, would be met.

There is a strong connection between the uprising of Imam Al-Hussein and the notion of the Imam in Shi'ite Islam. Often the Shi'ite clerics suggest and encourage Shi'ites to concentrate on the event of Karbala, which is in their belief the inspirational source for of the Shi'ite Muslim from a sociopolitical aspect. It has been reported in Shi'ite hadiths when the twelfth Imam returns he will take revenge of Imam Al-Hussein. By doing that he will prove the world that Imam Al-Hussein followed the path of his father Ali and his grandfather the Prophet Mohammad. Many Shi'ites Muslims say that they have two things that cannot be taken away from them, Ashura and Imam Mahdi.

B. The Notion of Twelfth Imam Among Shi'ite Muslims

Imamate and Justice in Shi'ite Islam

Justice and Imamate are the two main interconnected principles of Shi'ite Islam. If you separate one from the other, then the concept will loose its meaning. Justice by itself is not enough because you need a leader to practice justice in society, and an unjust leader cannot guide the community. The word Imam (vali) have been mentioned in the Qur'an several times. Of course, the indication of these verses are reflected in the Hadiths from Prophet Mohammad and accepted both by Sunni and Shi'ite Muslims. "Your guide is only Allah, his messenger, and the believers; those who establish the prayer, pay their

32. For more details read Hamid Algar: *Roots of the Islamic Revolution in Iran* (Islamic Publication International, 2001), 14-16

obligatory charity, and bow down (in worship).”³³ According to Shi’ite scholars, this verse is the obvious endorsement of Ali’s Imamate after the Prophet Mohammad.

Shi’ite and Sunni both agree on essential details of the principles and acts of the pillars. Although the Shi’ite do not refer to these principles by the same name. According to Shi’ite Muslims, the five pillars of Islam are the following: Oneness of God, the justice of God, prophethood, the leadership of mankind and the resurrection. For Sunni Muslims, Usool-e Deen (Basic Principles) also know as the five pillar of Islam is Oneness of God, prayer, charity, fasting, pilgrimage to Mecca. Shi’ite consider prayer, charity, fasting and pilgrimage to Mecca as Furu-e Deen (Practical Laws). In regards to Imamate, Shi’ite says, Imamate is a continuation of Prophethood. As the prophecy is from God, the Imamate is also from God, and only God can appoint someone to this position. However, Shi’ite do not believe that the Imams received revelation from God, but their knowledge is from God. Sunnis disagree with this idea and argue that Imamate is not like prophecy. A Prophet has to be from God, but Imam can be chosen by people. Furthermore, Sunni and Shi’ite scholars narrated this hadith from Prophet Mohammad, where he says: “Whoever dies without knowing his Imam has died as an ignorant”.³⁴ Shi’ite believe that God will not leave the world without an Imam even for a moment, therefore, everyone must know who the Imam of his time is.

Believing in a person, whose coming will bring justice to the entire world, does not belong only to Muslims; it has its roots in all Abrahamic religions. The advent of this

33. Abdullah Yusuf Ali, trans., *The Holy Qur’an* (New Delhi: Islamic Book Service (P) Ltd., 2012), 5:55

34. Muslim ibn Al-Hajjaj, *Sahih Muslem*, volume 6, 22, hadith 4686 accessed February 27, 2016, <http://www.dic-chicago.org/books/SahihMuslim.pdf>

person is promised in Judaism, Christianity, and Islam. Therefore, one can say that the followers of all monotheistic religions believe in the appearance of this ‘Messiah’. In Christianity this Messiah is Jesus, and in the Shi’ite sect of Islam, he is Mahdi the twelfth Shi’ite Imam who is believed to be alive but in occultation and invisible to people. The Sunni Muslims argue that the Mahdi has not been born yet. The Qur’an and Sunnah have promised that Mahdi will come before the end of the world and will bring justice to all humanity. This is an ongoing discourse between theologian scholars in all monotheistic religions. There have been several instances where individuals claimed to be Messiah among Christians and Muslims. The idea of the coming twelve Imam and the second coming Messiah Jesus are two different ideas. The first is a socially constructed idea and the second is a religious belief. In his book *The Shadow of God and the Hidden Imam*, the Iranian scholar, Said Amir Arjomand notes:

The Imams are said to be the *hujja* (evidence, proof) of God, of which this world cannot be devoid in any moment. As the evidence of God, the Imams are the light (*nur*) of God, his witnesses (*shuhada*), gates (*abwab*), and sign (*alamat*). Spirit (*Ruh al-qudus*), and, above all, are “those firm in knowledge” (*rasikhum fi’l-‘ilm*) not only do they know the “apparent” and “real” meaning (*zahir* and *batin*) of the Quran, but they are also in possession of other allegedly revealed books, and know Hundredth of Greatest Name of God.³⁵

Some of the qualities connected to the Imam, such as ‘*Hujjah*’ (proof of God) and ‘*Vali*’ (the guardian), refer to their great authority and are essential to recognizing Shi’ite political thought. Although the Imams did not receive direct revelation, it is believed that they have a close spiritual relationship with God. According to Shi’ite doctrine, there is

35. Said Amir Arjomand, *The Shadow of God and the Hidden Imam*, (Chicago: The University of Chicago Press, 1984), 37

always an Imam of the era who has knowledge of all the aspects of the Muslim community.

Imam Mahdi's Occultation

The distinctive dogma of Shi'ite Islam is Imamate, which states that the successor of the Prophet should be more than a political leader; the successor should also be a religious leader with the knowledge of Islam and interpretation of Quran and Sharia. According to Shi'ite theologians from the first day when God created a human being, he never left humanity without a leader. From Adam to Mohammad, Prophets were sent by God to guide the people and show them the right path and prohibit them from deviation. After the death of Prophet Mohammad, his twelve successors were the guiding Imams in the world. Imam Mahdi is the twelfth successor of the Prophet, who is still alive according to the Shi'ite belief's, though in occultation. He is considered to be the representative of God on Earth. However, this is the belief of Shi'ite ithna ashari, not all Shi'ite branches.

The stories of the first eleventh Imams is historical, but the history of twelfth Imam is miraculous. After the death of the eleventh Shi'ite Imam Hassan Al-Askari (846-874 CE), his seven-year-old son Mohammad Al-Mahdi (869 AD), some historian stated that he was 5 years old was announced as the twelfth Imam, before going into hiding. "The twelfth group, who are the Imamites, maintain that the case is not as all other factions having upheld. There is a hujja [proof] for God on earth among the descendants of al-Hasan b. Ali [al-Askari]. God's decree is in effect and he is the legatee[wasi] of his

father... The earth cannot be void of hujja...”.³⁶

The central Shi'ite dogma around the Hidden Imam is the faith of his occultation and return. The doctrine of occultation is the belief that God has kept Mahdi away from the eyes of others in order to save his life. Miraculously, he has been kept alive by God from the first day he was hidden. The twelfth Imam's occultation had two stages, the minor, and the major Occultation. During the first Occultation, the Imam was in communication with people through his four representatives. However, after the threats from the Imam's enemy, he entered into Greater Occultation which is continued until today. Today he is not in direct communication with human nor does he have a direct representative. The *Maraa'je Taqleed* (source of emulation) are however considered to be the indirect representative of Imam Mahdi.

Eventually, the Hidden Imam will return, but no one knows when this is going to happen. Although there are some signs of the events narrated in the hadith that predicts his return, nothing can indicate its exact time. The story is told that Imam Mahdi will return before the Judgment Day and will battle evil, and only after defeating the evil forces, he will establish God's government and rule the entire world. “During his occultation, the twelfth Imam is the unseen Lord of the Age (Imam al-Zaman), the permanent Imam until the day of judgment. With his “second coming” there will be a reign of justice until the return of Jesus at which time the world will end”.³⁷ He will rule the world and bring justice to all humanity for several years before the judgment day.

36. Said Amir Arjomand, *The Shadow of God and the Hidden Imam*, (Chicago: The University of Chicago Press, 1984), 40

37. Vali Nasr, *The Shia Revival* (New York: W. W. Norton & Company, 2007), 67

Shi'ite also believes when the Imam appears, several Prophets, including Moses, Jesus, Idris, Elias will pledge allegiance to Imam Mahdi.

C. The Concept of Velayat-e Faqih

The Shi'ite branch of Islam is relatively different from other branches of Islam. Therefore, we observe some unique ideas in this branch of Islam. The concept of *Velayat-e Faqih* existed in the Shi'ite school of thought from centuries ago. It is essential to review the significance of this concept in the Shi'ite *fiqh* (jurisprudence). Also, it is important to analyze the interpretation of Shi'ite religious scholars in this notion. Although the exact term of *Vali Faqih* does not exist in Shi'ite hadiths, a comparable term has been used. "Faqihs are the trustees of prophets, as long as they do not become materialistic."³⁸ The definitional meaning of *velayat* is protector and governor. Of course, this position first belongs to God, then God gave this authority to the prophet and his successors. "Believers, obey Allah and obey the messenger and those in position of authority among you."³⁹ Many of the Shi'ite interpreters of the Qur'an state that God refers to Shi'ite twelve Imams when he says "those with authority among you." The Arabic word *wali* has several meanings, such as a friend, supporter, and protector. There are a number of words derived from the root of 'wali', for example 'welayat' and 'mawla'.

38. Kolaini, *Usool-e Kafi*, volume 1, 46, accessed March 2, 2016, <http://www.momin.com/Books/Kitab++Usool+E+Kafi+--Volume+I-64/Usool+E+Kafi+--Volume+1-6749.html>

39. Abdullah Yusuf Ali, trans., *The Holy Qur'an* (New Delhi: Islamic Book Service (P) Ltd., 2012), 5:59

In religious texts and sources, the term *velayat* is given two definitions: *genetic velayat* and *legislative velayat*. *Genetic velayat*- means to have control over the creatures; it is clear that only God has such a *velayat*. God is the creator of all universe; only God has the control over everything in this world changes and survival of all creatures are in God's hand. For this reason, he has *genetic velayat* over everything. *Legislative Velayat*- is when someone has the right to give commands and prohibit something. The Prophet and Imams have the right by the permission of God to order the people, and this applies to *Vali Faqih* as well, but the *Vali Faqih* is not infallible. Throughout the history of Shi'ism, we can not find a single *faqih* who say that *faqih* has no *velayat* (guardianship). "The traditional ulema had used the term *velayat-e faqih* (jurist guardianship) to mean the mujtahid's (highest religious level) jurisdiction over religious foundations and those in dire need of guidance-namely minors, widows, and the mentally incapacitated".⁴⁰ The majority of Shi'ite scholars agreed on this definition of the *Velayat-e Faqih*.

Velayat-e Motlagheye Faqih

In 1979, the Islamic Republic of Iran was established based on the theory of *Velayat-e Motlagheye Faqih* (the absolute guardianship or mandate of the jurist). What is certain is that all faqihs agree that the principle of *Velayat-e Faqih* is proven in *Jafari fiqh* but the disagreement among religious scholars is over the scope of the authority of *Vali Faqi*. If you consider his *Velayat* (guardianship) and power of authority over the administration of the government, then the term *Motlagheh* (absolute) applies to him. Since this term was added to *Vali Faqih* by faqihs, who helped Imam Khomeini with the establishment of the Islamic Republic, therefore they are the ones who define the term

40. Ervand Abrahamian, *A History of Modern Iran* (New York: Cambridge University Press, 2008), 146

Motlagheh (absolute). Ayatollah Montazeri argued that the notion of Motlagheh did not entail infallibility. Not all clerics and scholars defined the concept of *Velayat-e Faqih Motlagheye* (the absolute guardianship of jurist) as the absolute authority who can rule the government however he wants without anyone having the right to criticize his decisions. Rather the *Velayat-e Motlagheye Faqih* was to mean that when *faqih* becomes the head of government, he receives legal authority that any leader can have. He has the authority over limits and regulations defined by Sharia. This exists in other governments. That means the head of government has an option to use all his necessary authority to administrate the government.

Before the Islamic Revolution in Iran in 1979, the faqihs (jurist) were not involved in political affairs of the society. Also, today the big challenge that the government of Iran faces is from traditional religious scholars who oppose the *Velayat-e Motlagheye Faqih*. Their argument is that such a phenomenon does not exist in Shi'ite fiqh, some even argue that it is, in fact, anti-Shi'ite *fiqh*. Despite all opposition from Shi'ite high-ranking ulama and the Shi'ite scholars of social science who reside outside of Iran, the ideology of *Velayat-e Motlagheye Faqih* has grown stronger. For instance, Ayatollah Montazeri, one of the founders of the Islamic Republic became a strong opponent of Ayatollah Khamenei, the current leader of Iran, in the last years of his life. The central question among Shi'ites has always been whether or not they can establish any type of government during the absence of twelfth Imam. Hamid Algar, for instance, responds to this question in the following words,

There are contradictory conclusions that may be drawn from the illegitimacy of existing power. One tends in the direction of quietism and the other in the direction of open manifestation. One important doctrine of Shi'ism which

operated in the direction of quietism was *taqiya*, the preservation of the community through its virtual self-effacement in a political sense. After the disappearance of the Imam both options were open, that of quietism or revolutionary action. Progressively under the impact of particular circumstances, the second course came to be chosen.⁴¹

Algar emphasizes the revolutionary action on the disappearance of the Imam only, rather than drawing other reasons for Shi'ite revival.

The notion of Hidden Imam has been interpreted differently by two groups the quietists and the active clergy. The fact that people had different choices made them more susceptible to the idea of progress and resistance. The first group believes that in order to make the appearance of the twelve Imam sooner, we need to prepare our self for his return by establishing a government in accordance with the Islamic law and Shi'ite fiqh. The quietest group argues that the twelve Imam will return when the world is absolutely corrupted and we should not act until he returns, otherwise we will delay his return. In the following chapters of this thesis, I will examine the position of supporters and opponents of *Velayat-e Motlagheye Faqih* as the research progresses it requires a deep deconstruction.

41. Hamid Algar: *Roots of the Islamic Revolution in Iran* (Islamic Publication International, 2001), 32

CHAPTER 3

THE SUPPORTERS OF VELAYAT-E MOTLAGHEYE FAQIH

A. The Islamic Revolution of Iran

The victory of the Islamic Revolution in 1979 resulted in the establishment of Islamic Republic of Iran based on the concept of *Velayat-e Motlagheye Faqih* (the absolute guardianship of the jurist) which led to the division of Shi'ite Muslims into two groups, the supporters of *Velayat-e Motlagheye Faqih* and its opponents. The supporters included clerics, scholars and ordinary people who mainly reside in Iran. Among the supporters were some clergy who did not support the idea but remained silent. In this chapter, I will examine what motivated the clerics in supporting and promoting the theory and practice of *Velayat-e Motlagheye Faqih*. It is also important to analyze the role of Khomeini as a leader and why he was given the title 'Imam'. Giving the title of Imam to anyone except the twelve Imams contradicts Shi'ite beliefs. Shi'ites only consider the twelve successors of Prophet Mohammad as Imams. However, in some cases, the title of Imam is given to certain religious scholars and political figures to recognize them as spiritual leaders with exceptional knowledge of Islam. After the Islamic revolution, Khamenei was given the title of Imam by some of his supporters to recognize him as a leader of the revolution. Although he was not considered Imam as the successor of the Prophet Mohammad.

The supporters refer to a number of verses of the Qur'an and Hadiths to legitimize the theory of *Velayat-e Motlagheye Faqih*. However, these verses of the Qur'an and hadiths have been interpreted differently by different religious scholars, and these particular hadiths are considered either weak or irrelevant to the concept by the

opponents. It is also important to review the position of contemporary *Maraa'je Taqleed* (source of emulation) and the *fatwas* the supporters have given in endorsement of *Velayat-e Motlagheye Faqih*. The influences of the Islamic Republic of Iran on other Islamic countries to empower the Shi'ite minority groups and in create political and militia parties in Iraq, Lebanon, and Afghanistan are other issues that need to be examined. The Iranian clerics are interested in expanding the idea of *Velayat-e Faqih* in neighboring countries to gain more support and endorsement internationally.

The Islamic revolution was a radical and pervasive change in Iranian society that aimed to overthrow the Shah and establish a new system of government based both on Sharia and civil law. According to supporters of the Islamic Revolution, the dominant cause of the revolution was a religion since religion was not as important for Pahlavi Dynasty. Many supporters of the Islamic Revolution like Motahari argued that modernization, secularization along with inequality and limited freedom lead to the Islamic revolution. Major reforms and upheavals were taking place in the period leading to Iran's Islamic Revolution of 1979. "The revolution erupted not because of this or that last-minute political mistake. It erupted like a volcano because of overwhelming pressures that built up over the decades deep in the bowels of Iranian society".⁴²

The Islamic revolution definably brought changes; but was it able to bring changes that the majority of the people were looking for? At the present time, religious autocracy rules the nations, whereas before the revolution a secular autocracy ruled over the population. The majority of the people, who have accepted religion to be in every aspect of their life, led the revolution, although there were other reasons too. The new

42. Ervand Abrahamian, *A History of Modern Iran* (New York: Cambridge University Press, 2008), 155

theocratic government that was based on sacred law changed the nation of Iran. Major changes in Iranian society included education, women's rights, and the economy as well as international and domestic policy changes. Persia today known as Iran or Islamic Republic of Iran is one of the oldest civilizations, with historical and urban settlements, dating back as far as four thousand years ago. A few years after the death of the Prophet, the conquest of Persia led to Islam being predominately the religion of Iran, which has lasted till today.

The widespread dissatisfaction with Pahlavi's rule led in 1978 to the growth of support for Ayatollah Ruhollah Khomeini. In 1978, Ayatollah Khomeini, then a religious leader, was living in Najaf, Iraq but due to fear of the Iraqi Regime that the uprisings in Iran may encourage the Shi'ite within Iraq expelled him and since no neighboring country accepted him, he went to Paris. The leaders played a critical role in encouraging and guiding the people to demand a revolutionary change. The success of the Islamic Revolution of Iran owed a great deal to the leadership qualities of Ayatollah Khomeini. In his book, *The Turban for the Crown*, Arjomand asserts:

Khomeini's charismatic leadership was undoubtedly a major factor both in the revolutionary politicization of Shi'ism and in the success of the Islamic revolution in Iran. Khomeini's courage and unswerving determination in challenging the Shah were indeed extraordinary personal qualities that could and did generate charisma. It would, however, be wrong to conceive charisma too restrictively as the extraordinary quality of the individual to whom it is attributed. Charisma is also much in the eye of the beholder and is determined by his or her cultural sensibilities. Khomeini's embodiment of Islam, which most of his followers considered endangered, had as much to do with his charismatic appeal as did his heroic stature and resolution.⁴³

43. Said Amir Arjomand, *The Turban for the Crown* (New York: Oxford University Press, 1988), 100

Turmoil and riots in major cities of the country brought down the autocratic ruler. On January 1979, the Shah fled the country, and Ayatollah Khomeini assumed control over the country. In April of 1979, the official declaration of the Islamic Republic of Iran was made by authorities. The Shah traveled to many countries before entering the United States in October of 1979, for medical treatment of lymphatic cancer. A few weeks after Shah entered the United States, the Iranian militants seized the United States' embassy in Tehran and took as hostages around 66 Americans.

Upon the victory of the Islamic Revolution, Imam Khomeini began to set up a government based on sacred law (hokumat-e-shariyya). Imam Khomeini appointed Mehdi Bazargan as the first prime minister of the Islamic Republic of Iran because there was no other individual in the rank of the revolutionary that could compete with his credentials and due to the trust he had among the vast majority of the people. But he resigned within a year stating that clergies were undermining his government and complained about the Basij (people's militia). Mehdi Bazargan (1907-1995) was an engineer, an Islamic scholar, and a pro-democracy activist. He was a campaigner for democracy and human rights during the rule of the Reza Shah. A few years after the Islamic Revolution, the country had to go through reformations that were ordered by Imam Khomeini. During the Islamic Revolution in 1979, Bazargan played a crucial role. In late 1978 before the Islamic Revolution, he went to Paris to meet Ayatollah Khomeini. Bazargan disagreed with Khomeini on nature and the name of the new republic. During the meeting with Khomeini, Bazargan insisted on the term democratic in the name of country's post-revolutionary political system, but Ayatollah Khomeini assured him that Islam is democratic by nature.

Oppositional political parties which included the Communists, Constitutionals, Freedom Movement of Iran and Mujahideen Khalq Organization were banned from being part of the government. These political parties had actively participated in the Revolution in 1979 against the Shah in an effort to change. The revolutionary courts were set-up to punish members of the Shah's regime.

From 1979 to 1989 Iran was under the leadership of Imam Khomeini. In 1989 Imam Khomeini died the age of 86 from cancer and a heart attack. The country was devastated by the death of their charismatic leader; this was yet another major tragedy with which that Iranian people had to cope. The Iran-Iraq War was significant to the Iranian polity on many aspects. At the time of Imam Khomeini's death, Iran was weakened economically and militarily by eight years of war with Iraq. The United States and other western countries saw Imam Khomeini as an evil old man but, his supporters saw Imam Khomeini as a man who had freed Iran from foreign tutelage and had given voice to a religious revival. Ayatollah Khomeini was the primary religious leader of the Islamic Revolution (1979). At the beginning, the Islamic Revolution emerged from different ideological factions (communist, religious, liberals and socialist). Each of these parties was hoping for reform during the first stage of the Revolution in 1979. All the political and religious parties shared one goal, to end the Reza Shah's kingship and establish a new democratic state. However, Ayatollah Khomeini and his followers proved to be the most powerful of all the groups. Later the revolution was introduced as an Islamic Revolution, without recognizing the role of other parties.

Iran-Iraq War

Less than two years after the Islamic Revolution, Iran faced another period of bloodshed. In September of 1980, Saddam Hussein invaded Iran and hence began the Iraq-Iran War. The Iran-Iraq War was multifaceted and included religious schisms, border disputes, and political differences. The war contributing to the outbreak of hostilities ranged from centuries-old Sunni versus Shi'ite and Arab versus Persian religious and ethnic disputes to a personal animosity between Saddam Hussein and Ayatollah Khomeini. The war started with the invasion of western and southwestern Iran by missile attacks, later use of chemical weapons and attacks on oil tankers in the Persian Gulf. Saddam Hussein claimed that the attack on Iran was over a land dispute. Iraq wanted to reclaim the waterway that was signed over to Mohammad Reza Shah in 1975. In addition, Saddam Hussein's Regime wanted to gain control over the region of Khuzestan located in western Iran as the area rich in oil. What Saddam hoped for and openly claimed was a quick and decisive war, which would not only establish Iraqi regional dominance but overthrow the regime of Ayatollah Khomeini. Saddam Hussein's regime was initially successful, but Iranian resistance proved strong, and Iraqi troops withdrew from captured regions. Imam Khomeini declared that Iran would not accept a cease-fire, and later started a series of offenses, which led to capturing several regions of Iraq. Upon Iran attacking Kuwait oil tanks, the West became involved in the war. In 1988, Iran was forced to accept a cease-fire mandated by the United Nation.

The United States and European countries became involved in this war directly or indirectly. Each of the Western States was seeking their political and economic interest in this war. Iran was supported by Syria and Libya and received much of his weaponry

supplies from China and North Korea. Iraq received much wider support, both from Arab and Western countries, the Soviet Union was its largest supplier of arms. The Persian Gulf countries were concerned to be attacked by Iran, therefore, they took the side of Iraq, and this was one of the reasons for their attack. The Iran-Iraq War lasted eight years more than both World Wars. The war left more than 1.5 million dead and a heavy economic burden on both Iran and Iraq.

Ayatollah Khomeini the founder of the Islamic Republic

Ruhollah Mousavi Khomeini was born in 1902 in the well-known religious family in the provincial town of Khomeini. His father was also a clergy who studied both in Esfahan and Najaf's seminary where he obtained his higher degree in theology. Khomeini's father was killed in 1902 when he was four months old. Khomeini's mother also belonged to a highly respected *mujtahid* family in Esfahan her father's name was Akhund Hussain Khonsari. His mother died when he was sixteen years old.⁴⁴ Khomeini received his early education in public school in the town where he was born. At the age of eighteen, he went to the city of Arak in Iran to study theology with Abdul Karim Haeri. Ayatollah Haeri was a well-known and respected *Marjae Taqleed* at that time. He was the founder of an important *hawza* in Qom, Iran. In 1921 Haeri was invited to come back to Iran he accepted his invitation of people and returned to Qom. In addition to being a student of Haeri, Khomeini searched for other leading members of *ulama*. Beginning in the 1930s, he joined seminary teachers where he published commentaries on hadith, ethics, and *erfan* (mysticism).

44. Edvard Abrahamian, *Khomeinism: Essays on the Islamic Republic* (Los Angeles: University of California Press, 1993), 5

As a young scholar in Qom, according to Abrahamian “Khomeini argued that Islamic values should be used as a means of fighting unjust governance and to establish a just society. Khomeini was often viewed in the West as a traditional member of the Shi'ite religious establishment, but this perspective failed to recognize that he had challenged the conservative religious leadership in Iran. In this respect, Khomeini's assertion that active religious guidance was necessary for governing legitimacy represents a break from traditional Shi'ite religious thought”.⁴⁵

In 1941 Ayatollah Khomeini published his first criticism of the Shah and the secularization of the country called ‘Unveiling Secrets.’ In early 1960’s Khomeini led the anti-legislation demonstration that allowed women and non-Muslims run for office. He was imprisoned briefly in 1963; after he was released, Khomeini led more antigovernment demonstrations. Khomeini was exiled by the Shah in 1964 to Turkey, but he migrated to the city of Najaf, Iraq where he produced the book ‘Guardianship of the Islamic Jurists’. In 1977 Khomeini was expelled from Iraq, he thus migrated to Paris and made an agreement with other Iranian exiles to produce articles and audiotapes that were smuggled into Iran. Ayatollah Khomeini’s writings and audiotapes have contributed greatly to the destabilization of the Shah’s regime. Ayatollah Khomeini was a charismatic leader who had great influence over the diverse population. His arguments were good enough to convince people to rise against the Shah and claim their independence. In 1970, he presented numbers of lectures, in which he condemn the institution of monarchy and also suggested a new interpretation of the concepts in *fiqh* such as *velayat al-faqih*.⁴⁶

45. Ibid, 22

46. Ibid, 10-11

In his book *Al Hukuma al Islamiya* (Islamic Government), which was first published in 1970 in Iran Khomeini argues that Muslims must develop a government according to Islamic law, like Prophet Mohammad and his successor Ali did in their time. He argues that the leadership of the Islamic government should be vested in fiqh, emerging from the higher ranks of the religious establishment. “He also argued that the concept of *velayat-e faqih* implicitly involved the notion of a “social contract” between the religious judges and the population”.⁴⁷ Khomeini came to the conclusion that there should be two qualifications for the ruler of an Islamic State. The ruler should have a masterful knowledge of Islamic law, and be totally just in its execution. Based on these two qualifications, he stated that *fuqaha* (jurists) are the appropriate adjudicators of Islamic law during the occultation of the twelfth Imam. “*Agar fardeh layeqeh ke darahe in do khesla't bashad ba pah khast va tashkeel hokumat da'd, haman velayati ra ke hazrate Rasule akram dar amre edareh jameha dasht daraa mebashad, va bar hamaheh mardom lazem ast ke az uh etahat konnand*”. (If a person is capable and has these two qualifications if he stood up and established a government, he has the same velayat (guardian) that Prophet Mohammad had on society's affairs and people must obey his orders).⁴⁸

B. Velayat-e Faqih and the New Constitution

The first draft of the constitution of the Islamic Republic of Iran was prepared and written by Ayatollah Beheshti, Mehdi Bazargan, and couple other clerics who supported

47. Ibid, 34

48. Imam Khomeini, *Velayat-e Faqih* (Tehran, Moasese Tanzeem va Nashreh Asare Imam Khomeini, 2011), 50

the idea of Ayatollah Khomeini. Before the victory of the Islamic Republic of Iran, Bazargan traveled to Paris and met with Ayatollah Khomeini to discuss the content of the constitution. In a sense, some of the principles proposed to the constitution were copied from the French constitution. The founder of the Islamic Republic of Iran endorsed the draft, Khomeini noticed that the constitution was based on his idea which he wrote in his book *Hukumat-e Islami* (Islamic Government). Supervision of the government was the role of *Vali Faqih* in the initial constitution. However, in the first amendment of the constitution, *Vali Faqih* who is given the title of Religious Supreme Leader is granted other authorities too. The constitution provides for the leadership of a fully qualified *faqih* whom the people consider as the religious leader to ensure that no institution deviates from that which is acceptable in Islam, of course in their interpretation.

Ayatollah Khomeini was against using the term democratic in the new constitution. Although he did not oppose democratic principles, he still was against incorporating the term democratic in the constitution. Khomeini argued that Islamic principles are democratic, therefore there is no need to associate the Islamic State of Iran with Western democracy. Instead, he suggested establishing an Islamic Republic in which supreme power is held by the people and people elect the president.

The constitution of the Islamic Republic of Iran is not solely based on the Islamic law (shariah). The constitution of the Islamic Republic of Iran is the combination of the Islamic Law in accordance with the Shi'ite *fiqh* and international civil laws. The constitution was adopted on October 24, 1979, and went into effect on December 3, 1979. The first amendment to the constitution was ratified on July 28, 1989. After the first constitution of the Islamic Republic was approved it stated that the position of the Vali

Faqih should be occupied by a Marje' Taqleed (source of emulation) accepted by the majority of the people. Few years after the Islamic Revolution while Ayatollah Khomeini was still alive, the first amendment was made to the constitution of Iran. The Speaker of the Assembly for the Amendment of the Constitution, Shaykh Ali Mishkini, wrote a letter to Ayatollah Khomeini asking him about the question of "Marja'yat and Vali Faqih". In respond to his question Ayatollah Khomeini wrote him a letter: "From the beginning I was of the view that marja'yat is not a necessary condition for Vali faqih. A just mujtahid who is recommended by the Assembly of Experts can assume the leadership of the Islamic society. I mentioned this point while experts were preparing the constitution, my friends were insisting on the marja'yat as the necessary condition for Vali Faqih. Hence, I agreed with their proposal. At that time, I was sure this condition could not be fulfilled in the future". Accordingly, the Constitution was changed and the condition of "marja'yat" was taken out from the qualifications of the Vali Faqih, who was to assume the supreme leadership of the Islamic Republic of Iran. The Article 107 and 109 clearly states that ijtehad is a sufficient qualification for the leader, and the Vali Faqih does not have to necessarily be a Marje Taqleed. Iran is considered to be the first Shi'ite Islamic country in the world with such a unique constitution.

The constitution of the Islamic Republic of Iran perspicuity accepted the *Velayat-e Motlagheye Faqih* in Chapter 8, Article 57. This is how it has been described: "The powers of government in the Islamic Republic are vested in the legislature, the judiciary, and the executive powers, functioning under the supervision of the absolute religious Leader and the Leadership of the Ummah, in accordance with the forthcoming articles of

this Constitution. These powers are independent of each other”⁴⁹. Despite the division of the three branches of government, the constitution gives the *Velayat-e Faqih* total control over the affairs of the state. The eleventh sections of Article explain the duties and power of *Vali Faqih*. Thus, the phrase *Velayat Motlagheye* (absolute guardianship) in Article 57 outlines the authority of the Supreme Leader, and his authority is explained in details in Article 110. As a result, the authority of the Supreme Leader is limited to these eleven sections in Article 110⁵⁰, and this is the definition of *Velayat-e Motlagheye Faqih* in the constitution of the Islamic Republic of Iran. Besides the Supreme Leader, no one else has the same authority unless the Supreme Leader delegates part or all of his duties to another person.

The Assembly of Experts for the Leadership (Majlis-e Khobraganeh Rahbari) is the only constitutional figure with the authority to appoint and terminate the Supreme Leader. The Assembly has 86 members, who are all Islamic scholars and jurists and every eight years they are elected directly by the people from all provinces. The Assembly of Experts has three tasks:

- A. To select the Supreme Leader in accordance with Article 107.
- B. To oversee the Supreme Leader’s abilities to determine whether he is able to perform his duties. Also, the Assembly has a committee who is in charge of controlling the continuation or qualification of the Leader, which is specified in the constitution.
- C. The third task of the Assembly of Experts is to dismiss the Supreme Leader if he is not able to perform his duties described by the constitution or if he did not have some of the

49. The Constitution of the Islamic Republic of Iran, Article 57, accessed March 5, 2016, <http://www.wipo.int/edocs/lexdocs/laws/en/ir/ir001en.pdf>

50. Refer to constitution of Iran to read all sections in article 110: <http://www.wipo.int/edocs/lexdocs/laws/en/ir/ir001en.pdf>

initial qualifications such as “social and political wisdom, prudence, courage, administrative facilities and adequate capability for leadership”.⁵¹ However, the Assembly of Experts has ever critiqued the current Supreme Leader Ayatollah Khamenei or the founder of the Islamic Republic of Iran, Ayatollah Khomeini.

The formation of the constitution of Iran after the Islamic Revolution carried the support of many well-known *fuqaha* (jurists). Many of those jurists who supported the theory of *Velayat-e Motlagheye Faqih* held different positions in the government and are still in power⁵². However, few of those jurists like Ayatollah Montazeri took a different position later after the death of Imam Khomeini by criticizing and questioning the qualification of the current Supreme Leader. In the next section, I will concentrate on those jurists who still support the concept of *Velayat-e Motlagheye Faqih*. It is crucial to analyze their views because some of them are considered to be *Marje Taqleed* (source of emulation), who have thousands of followers among Shi’ite Muslims. In addition, it is important to examine how they interpreted hadith, that highlight the role of *faqih* during the occultation of Imam Mahdi.

C. The Ulama who support Velayat-e Motlagheye Faqih

The discourse of *Velayat-e Faqih* has a long history in Shi’ite *fiqh*, and the roots of the doctrine should be sought in Shi’ite hadiths and rational arguments. It is true that there are numerous understanding of theories that have been advanced regarding the *Velayat-e Faqih* among Shi’ite religious scholars. In the modern era, it was Imam

51. The Constitution of the Islamic Republic of Iran, Article 111, accessed March 5, 2016, <http://www.wipo.int/edocs/lexdocs/laws/en/ir/ir001en.pdf>

52. For description of how Khomeini and his followers responded to critique of Velayat al-Faqih, see Said Amir Arjomand, *The Turban for the Crown* (New York: Oxford University Press, 1988), 23

Khomeini, who looked at the theory with a new vision and proposed a political system in the form of *Velayat-e Motlaqheye Faqih* and established a government based on his new interpretation. However, he was not alone in the formation of the Islamic Republic of Iran. There were many jurists who supported and took part in the formation and implementation of this vision.⁵³ In this section, we will review the arguments of some high ranking jurists like Ayatollah Montazeri, Motahari, Mesbah Yazdi, and Makarem Shirazi. These are the *jurists* who had significant input on the creation of *Velayat-e Faqih* and defended Imam Khomeini's theory against those who rejected and questioned the legitimacy of *Velayat-e Motlagheye Faqih*.

Ayatollah Hosseinali Montazeri was one of the founders of *Velayat-e Faqih* in the early stage of the Islamic Revolution of Iran in 1979. He was born in 1922 in Najafabad, Iran and died on December 2009 in Qom. He studied theology both in Esfahan and Qom under a number of prominent scholars. He reached the highest ranking authority in Shi'ism which is *Ayatollah al- Ozma* (Grand Ayatollah). He was an activist against the regime of Reza Shah and Mohammad Reza Shah and was arrested several times and served a prison sentence. During the prison time, Montazeri, Khamenei, and Yazdi planned the formation of Islamic government based on Khomeini's theory of *Velayat-e Faqih*. Ayatollah Beheshti joined them when they were released from prison.

In 1978 when Montazeri was released from prison he went to Paris to meet Ayatollah Khomeini. Montazeri was an important figure in the Islamic Revolution and the establishment of the Islamic Republic of Iran. In November 1985, Khomeini appointed him as his deputy to succeed him as a supreme religious leader in the case of

53. For more detail on this subject, see Roy Mottahedeh, *The Mantle of the Prophet: Religion and Politics in Iran*, 196

his death. Montazeri had a long and close connection with the Islamic Revolution of Iran and with Imam Khomeini. In 1986 in response to people's request, Montazeri sent his representative to prison to observe the condition of prisoners. His action and his reports were not well received by the Regime. In 1988 after thousands of people were sentenced to death penalty, he wrote a letter to Imam Khomeini and criticized Ayatollah Khomeini for killing thousands of people who already had the time sentence or were even be freed. In response to Montazeri's letter Khomeini proclaimed that he is naïve and influenced by the opponents. Ayatollah Khomeini banned him from traveling outside and within Iran, or from meeting with press and appearing in public. He was only allowed to teach students at his house not even at the hawza. Despite all these disagreements, his position toward the idea of *Velayat-e faqih* did not drastically change. He endorsed the *Velayat-e Faqih* under the frame of law and did not believe in the unlimited authority of *Faqih* in all aspect of the government.

Besides the disagreement over the changes made to the constitution, Ayatollah Montazeri was also against the decision of the *Assembly of Experts* for appointing Ayatollah Khamenei as the successor of late Imam Khomeini. He believed that Khamenei did not have the religious credibility to be the Supreme Leader of Iran.⁵⁴ After the 2009, presidential election in Iran, Montazeri harshly criticized the Iranian government. Montazeri was under house arrest since 1989, but his position regarding the presidential election intensified his situation. He was not allowed to teach at the Hawza (seminary) or

54. Since it's difficult to have access to books of Montazeri, because the Iranian government banned the publication of his books, lecture etc. I used some of his speeches on "YouTube". In this video clip he talks about the religious credibility of Ayatollah Khamenei. "YouTube": <https://www.youtube.com/watch?v=Zscr1llzIc>

in any other public places. After he died in 2009, the government of Iran prohibited people from going to his house or having any connection with his son.

Ayatollah Murtaza Motahari was a popular figure among religious scholars in Iran. He was the head of the department of Theology at the University of Tehran. Before his assassination, he served as the president of the Constitutional Council of the Islamic Republic of Iran. Motahari was one of the most multitalented Islamic scholars, writers, and thinkers of recent times. Motahari argued that *Velayat-e Faqih* is an ideology and *Vali Faqih* is an ideologist. He believed that the issue of *Velayat-e Faqih* is not that the *Vali Faqih* wants to be the head of State. The role of *Faqih* in Islamic countries where the people committed to Islam and accepted Islam as an ideology will be that of an ideologist, not that of the governor. When the people accepted the ideology, certainly they have a role for the ideologist. He is the one who oversees and determines if this ideology is implemented in the right way or not. Motahari's argument is that *Velayat-e Faqih* (guardianship of the jurist) is an ideological theory. And essentially the people should elect the *faqih* (jurist), and in this sense, this idea is compatible with democracy. Ayatollah Motahari further states that if the *faqih* was appointed by the previous *faqih*, in that case, we could say that it was against the principles of democracy, and it would be like a monarchy. Unlike the monarch, the *Faqih* is elected by the people, therefore, it is not in conflict with democracy.⁵⁵

Political Thought of Ayatollah Motahari is the title of the book which is published by the Institute of Science and Islamic Culture in Iran in late 2009. In this book, the editor has gathered the speeches and lectures of Ayatollah Motahari, including his

55. For detail refer to his interview which is on the *Youtube website*, accessed March 19, 2016, <https://www.youtube.com/watch?v=v3ATMTEzFuw>

rational and narrative arguments. Islam is the religion of coexistence that oversees both materialistic and afterlife aspects of human life. In other words, it is in a conflict with secular theory. Therefore, the *faqih* must clarify the connection between people and religion during the occultation time; otherwise, the religion of Islam will face skepticism. In this subject, Motahari notes, “dohreh imamat ke monqazee shoda deegar imami zuhur mohayan nadarad ke mardom dar avayejeh ejtamaei ba u rjou konand, ba in khater imam mi ayad naeb ham mohayan mekona” (the Imamate period is expired, there is no specific time for his return that people can address their social needs, for this reason, Imam appoints the general representative)⁵⁶.

Ayatollah Mesbah Yazdi is another Shi'ite religious scholar who supported *Velayat-e Motlagheye Faqih* from the beginning of the Islamic Revolution. He studied Qur'an exegesis, attended classes of Ayatollah Khomeini and studied the philosophies of Ibn Sina with Allamah Hussain Tabatabai. He is now the director of the Imam Khomeini Education and Research Institute in Qom. He was elected in 1990 to the Assembly of Experts from Khuzistan. Since then, he has served as a member of the Assembly of Experts. In the latest election in spring 2016, he did not get enough vote to be re-elected as a member.

Ayatollah Mesbah Yazdi argues that the theory of *Velayat-e Faqih* is one of the important and central foundation of Islamic political system during the great occultation of the twelfth Imam. Further, he indicated that one of the stipulations people have is over the term *Moltaqeyeh* (absolute). Unfortunately, people and scholars understood this as a dictatorship, without looking into the scholarship of Shi'ite scholars throughout the

56. Najaf Lakzai, *Andeshesh Siasi Ayatollah Motahari*, (Tehran: The institute of Science and Islamic Culture 2009), 184

history. “*Velayat-e Motlagheye Faqih* does not mean that one person would say whatever he wants and people should obey his orders, it is backward thinking.”⁵⁷ He also believes that the *Vali Faqih* has the authority over the people’s life, therefore, the *Vali Faqih* can make the appropriate decision for the people.⁵⁸

Grand Ayatollah Makarem Shirazi is a *Marje Taqleed* (source of imitation) who resides in the Holy city of Qom. Shirazi is another high-ranking cleric who endorsed the theory of *Velayat-e Motlagheye Faqih* from the beginning of the Islamic Revolution. All those scholars who have written in favor of *Velayat-e Faqih* stated that the theory is to benefit Muslim communities. The argument is that nobody says whether peace is going to benefit Muslims. The *Faqih* is allowed to declare a war or the opposite way. Essentially the *Velayat* is to protect the interest of Islam and Muslims. And if we accept this principle, then the range of *Velayat* will be vivid, and the intended purpose of *Motlagheh* (absolute) is for the interest of Islam and Muslims. According to Shirazi, this principle applies to the twelfth Imam as well, he gives an example from the lives of Imam al-Hassan and Imam al-Hussein to back his argument. “*Imam Hassan for the interest of Muslims signed the peace agreement with Muawiya, and Imam Hussein for the interest of Muslims fought and was martyred*”.⁵⁹ In response to a question, to one of his emulators Shirazi stated: “*We believe that Vali Faqih is the representative of the Imam of our time*

57. Ayatollah Mesbah Yazdi, *The Official Website*, accessed March 6, 2016, <http://mesbahyazdi.org/farsi/?..lib/velayat/ch06.htm>

58. Ibid

59. Ayatollah Makarem Shirazi, *The Official Website*, accessed March 5, 2016, <http://makarem.ir/index.aspx?lid=0>

during his occultation”.⁶⁰ He also argues that other *Mara'aje Taqleed* (source of imitation) must obey the order of *Vali Faqih* as a Supreme Leader.

The above-mentioned scholars were the supporters of the formation of the *Velayat-e Faqih*, and actively participated in the mobilization of people against the Shah's regime. Despite their different approaches, all of the jurists have a similar viewpoint about the implementation of *Velayat-e Faqih* in the government. Imam Khomeini's vision for a future was clear and precise. Those who supported the ideology still do three decades later. Despite their criticism of the current government, the religious scholars mentioned above have a solid understanding of *Velayat-e Faqih* that enables them to voice their opinion in the matters of religion and politics.

D. Velayat-e Faqih in the Qur'an and Hadiths

The Qur'an is the primary sacred text of Islam, Muslims, gives the highest regard to the authority of the Qur'an and its "miraculous" nature. Hadiths are the secondary source for Muslims to refer to in seeking religious guidance. The significance of Qur'an and Hadiths is reflected in the Islamic societies, including Iran. The concept of *Velayat-e Faqih* as I earlier mentioned has its roots in the Qur'an and Hadiths. These texts have been the basis for those who despite some disagreements still support the notion of the "guardianship of jurists". In spite of the fact that majority of both the Qur'an and hadith references do not support the concept directly, proponents of the notion of *Velayat-e Faqih* see the concept be inbuilt in those verses of the Qur'an and hadiths. Imam Khomeini said: "Qurane majid va sunnat shamele hamah dasturat va hakameh ast ke

60. Ibid

bashar barahe saadat va kamala khod hetiyaj darad”.⁶¹ (The Holy Quran and Hadiths include all orders that mankind needs for happiness and perfection).

This question that has been addressed to the supporters of *Velayat-e Faqih* is whether they can prove this theory from the sacred book of Muslims, the Qur’an, or if there are any verses in the Qur’an that talks about *Velayat-e Faqih*. Most of the Shi’ite scholars agree that there are many verses in the Qur’an which indicate the *Velayat* of Ali ibn Abi Taleb. The scholars who are supportive of *Velayat-e Faqih* interpret a number of these verses in a way to prove to opponents that *Velayat-e Faqih* is one of the most important principles of Shi’ite fiqh. “Believers, obey Allah and obey the messenger and those in authority among you. Should you dispute anything refer it to Allah and the messenger, if you believe in Allah and the last day”.⁶² Although this verse does not specify who those with the authority are, these scholars suggest that this verse refers to *Fugaha* (jurists). Jurists are the indirect representative of Imam Mahdi during his occultation for the believers according to Imam Khomeini and many other scholars.⁶³

According to the supporters, the *Velayat-e Faqih* is the continuation of the prophecy of Prophet Mohammad and the *Velayat* of Imam Ali; therefore, some of the verses in the Qur’an where they talk about the prophecy of the Prophet Mohammad and the *Velayat* of Imam Ali apply to *Vali Faqih* as well.⁶⁴ Below I will mention verses that are believed to be the proof of the prophecy of Prophet Mohammad and the *Velayat* of

61. *Hukumate Islami dar Kauthere Zolal Andisheh Imam Khomeini*, (Tehran, Entesharate Daftare Tablighate Islami, 1998), 123

62. Abdullah Yusuf Ali, trans., *The Holy Qur’an* (New Delhi: Islamic Book Service (P) Ltd., 2012), 4:59

63. For more see, *Hukumate Islami dar Kauthere Zolal Andisheh Imam Khomeini*, 56

64. For more on the medieval Shi’ite discourse regarding the nature of velayat see Said Amir Arjomand, *The Shadow of God and the Hidden Imam*, (Chicago: The University of Chicago Press, 1984), 141

Imam Ali. “The prophet has a greater right on the believers than their own selves”.⁶⁵

This verse of the Quran alone indicates that if the Prophet made a decision on their behalf, people must obey that.

“It is not for any believer man or woman to have the choice in the affair when a matter is decreed by Allah and his prophet. Whoever disobeys Allah and his messenger strays into clear error”.⁶⁶ The following are the verses that are used as the proof for the *velayat* of twelve infallible Imam, “Your guardian can be only Allah; and his messenger and those who believe, who establish worship and pay the poordue, and bow down”.⁶⁷

“Believers, obey Allah and obey the messenger and those in authority among you”⁶⁸. The above-mentioned verses from the Qur’an, which tells Muslims to obey the Prophet and those who are guardian over the people, are not limited to any particular case or a specific time. Since the establishment of government is one of the necessities of the Islamic societies and it’s not allocated only to the time of Prophet Mohammad and the twelve Imam, it can be concluded from these verses the legitimacy of *velayat* (guardian) to lead an Islamic government at any time.

Hadith is considered to be the second important source for all Muslims after the Qur’an because hadith signifies the saying and actions of the Prophet Mohammad. Unlike the Sunni Muslims who considers credible only those hadiths that are from the Prophet, for Shi’ite Muslims hadith is not only the sayings and actions of the Prophet Mohammad but the narrations from Prophet’s daughter, Imam Ali and their eleventh sons, who are the

65. Abdullah Yusuf Ali, trans., *The Holy Qur’an* (New Delhi: Islamic Book Service (P) Ltd., 2012), 33:6

66. Ibid, 33:36

67. Ibid, 5:55

68. Ibid, 4:59

rightful successor of Prophet according to Shi'ites. Fewer of Shi'ite scholars believe that hadith in a way is the interpretation of the Qur'an because every time a verse of the Qur'an was revealed the Prophet interpreted and explained the verse to his companions. For instance, the Qur'an does not mention how many times a Muslim has to pray, and the details on how to perform other religious duties. However if a hadith contradicts the Qur'an then no matter how authentic this hadith is it will be rejected. Like any other religious guidance, the supporters of *Velayat-e Faqih* refer to and use hadiths from the Prophet and the twelve Imams to back up their argument. I will review one of the significant hadith that has been reported by many Shi'ite scholars to endorse the concept of *Velayat al-Faqih*.

Sheikh Kolaini is one of the most important Shi'ite scholars; he is the author of *Usule Kaafi*. Shi'ites have four hadith books, and *Usule Kaafi* is the first hadith books in Shi'ite *fiqh*. Kolaini narrated hadith from Omar ibne Hanzalah:

When Imam Ja'far Sadiq (AS) was asked about the problems, which are referred to despotic administration for the decision, he said: Referring to these departments is very bad because it is referring to the despot and if someone gets back his right from these despotic departments it becomes unlawful. On such occasions, however, it is your duty to refer to those people who know our teachings and narrations fully well, because I declare them as the Qazi (Judge) for you. Thus, you should remember that if this jurist has given you his decision and you consider it worthless it is as if you have considered the Divine command as worthless. If anyone disobeys these jurists, it is as if he has disobeyed us, and whosoever disobeys us, has in fact disobeyed Allah and this action amounts to polytheism.⁶⁹

Imam Khomeini believes that the above *hadith* implies divine legitimacy of the *Velayat-e Faqih* because Imam Sadeq used the term '*hakem*' (governor) instead of '*Qazi*' (judge).

69. Kolaini, *Usool-e Kafi*, volume 1, 67, accessed March 2, 2016, <http://www.momin.com/Books/Kitab++Usool+E+Kafi++Volume+I-64/Usool+E+Kafi++Volume+1-6749.html>

In regards the authenticity of this hadith, Khomeini notes in his book *Velayat Faqih* that “*in rovayat az vaza’at ast, va dar sanaat va delalatah vas-vasahey nest. Jahe tardeed nest ke Imam foqaha ra baraye hukumat va qazavat ta’heen farmuda’ ast; bar umumeh moslamanan la’zem ast ke in farma’ne Imam rah eta’hat nomayand*”⁷⁰ (This hadith is obvious, and there is no doubt in its authenticity. There is no doubt that Imam appointed jurists as governors and judges, and all Muslims are required to obey the command of Imam).

The discourse of *Velayat-e Faqih* has been controversial over the past four decades. Although the concept was not an innovation; nevertheless, as any other discourse, it naturally had supporters and opponents. The addition of the term *Motlegheye* (absolute) created an obstacle for the concept to be accepted by everyone. *Velayat-e Faqih* was a religious discourse, but it took a political form as it is the essential rule is holding not only religious but political power. The jurists who have defended the notion from the Qur’an and hadith persist on their opinion, and for them, the *Velayat-e Faqih* is the absolute way of ruling an Islamic State.

70. Imam Khomeini, *Velayat-e Faqih* (Tehran, Moasese Tanzeem va Nashreh Asare Imam Khomeini, 2011), 77-80

CHAPTER 4

THE OPPONENTS OF VELAYAT-E FAQIH

“Religion forbids us from assuming a God-like character. This is especially true in politics and government, where limiting the power of the state, division of powers, and the doctrine of checks and balances are established in order to prevent accumulation of power that might lead to such Godly claims.”

–Abdolkarim Soroush

A. The Challenges to the Concept of Velayat-e Faqih

After the Islamic Revolution in 1979, Iranian intellectuals and Shi’ite *fuqaha* (jurists) have engaged in several debates concerning topics of fundamental political and religious importances. From the first days after the establishment of the Iranian government based on the theory of *Velayat-e Faqih*, the debate over this concept started. More importantly, a trend had begun, examining the nature of *Velayat-e Motlagheye Faqih*. The questions address the following issues: Can Shia form a government during the occultation of Imam Mahdi? What role does the *faqih* (jurist) have in the political system? Why did Shi’ite scholars before Imam Khomeini not propose a similar idea? These questions have been discussed among Shi’ite scholars and the general public for the past three decades. And many scholarly books and articles have been published on this topic. The nature of this debate deserves more discussion.

This chapter seeks to outline the positions of three groups, to determine what ideas are being put forward in response to the questions mentioned above. The three groups include Iranian Shi’ite traditional clergies, Iranian social scientist scholars, and the silent group among the Shi’ite clergy. The third group includes well-known and respected *Mara’je Taqleed* (source of emulation) who have not endorsed or rejected Imam Khomeini's interpretation of *Velayat-e Faqih*, rather they remained silent. It is

important to examine the position of each group on the concept of *Velayat-e Faqih*. The first two groups deny the legitimacy of Iranian government based on the theory and the idea proposed by Imam Khomeini. The third group which includes high-ranking clerics is also important because if they endorse or oppose the concept of *Velayat-e Faqih* as a political system, it will bring significant changes among Shi'ite Muslims.

The Iranian government and supportive scholars of *Velayat-e Faqih* were challenged from the beginning of the Islamic Revolution by many Shi'ites *fuqaha* (jurists) and scholars. The main argument is that there are many transmitted reasons indicating that until the appearance of Imam Mahdi, Shi'ites are prohibited to constitute any type of government. The followers of Imam Mahdi have to wait until he returns, only then he will establish a unified government and will bring justice to all humanity. The opponents also refer to the Qur'an and Hadiths, similar to the supporters of *Velayat-e Faqih*, to make their argument stronger and valid. However, the issue is that each group interprets the same verses of the Qur'an and Hadiths differently. For instance, the following verse of the Qur'an has been interpreted by both groups to legitimize the *Velayat-e Faqih* and to contest it. "Say: 'obey Allah and obey the messenger. If you turn away, upon him only rests what is laid upon him, and upon you rests what is laid on you. If you obey him, you shall be guided. It is only for the messenger to deliver a clear message.'"⁷¹ The opponents' argument is that only Prophet Mohammad and his twelve successors were appointed by God to govern according to God's law.

In his book, *Velayat Faqih*, Imam Khomeini compared *Velayat-e Faqih* regarding velayat (guardianship) of the Prophet Mohammad said: "Velayat e faqih am'on velayate

71. Abdullah Yusuf Ali, trans., *The Holy Qur'an* (New Delhi: Islamic Book Service (P) Ltd., 2012), 24:54

rassullah ‘st’ (Guardianship of the Jurist is same as Guardianship of the Prophet).⁷² He believed that *Velayat-e Faqih* is a continuation of the Prophet Mohammad’s prophecy and the Imamate of *a’immah*.⁷³ This particular slogan has been criticized by many opponents, these opponents argue that *velayat* only belongs to the Prophet Mohammad and twelve infallible Imam and no one else can claim that.

The first group of opponents includes high-ranking Shi’ite clerics who opposed the concept of *Velayat-e Faqih* like, Ayatollah Khomeini, Ayatollah Sharyatmadari, Ayatollah Khoonsari, and other scholars. The focus will be on the position of the above-mentioned names to analyze why they were against the concept. Many of these scholars were sentenced to house arrest until they died because of their disagreement with *Velayat-e Motlagheye Faqih*. The authorities in Iran banned publication of their books. How much can these critics and their opposition put the legitimacy of *Velayat-e Faqih* under question? If the concept has a root in Shi’ite *fiqh*, then why did great scholars before Khomeini not constitute a government according to this notion? This question has been raised by the students and followers of above-mentioned individuals and addressed to the supporters of *Velayat-e Faqih*. The discourse between *ulama* over this concept divided them into two groups in the past three decades. Although the debate is among religious experts, it has an impact on the ordinary Shi’ite Muslims in their everyday life, which leads these groups to insult each other and accuse one another of not being true Shia due to opposing or supporting *Velayat-e Faqih*.

72. Imam Khomeini, *Velayat-e Faqih* (Tehran, Moasese Tanzeem va Nashreh Asare Imam Khomeini, 2011), 50

73. A’immah in Arabic is plural for of Imam

B. The Position of Shi'ite Contemporary Religious Scholars

Ayatollah al-Uzma Sayed Abu al-Qasim Khoei (1899-1992)

Ayatollah Abu al-Qasim Khoei considered one of the greatest and most influential Shi'ite scholars in the twentieth century. He is the master and teacher of many Shi'ite contemporary scholars like Ayatollah Ali Sistani, Ayatollah Mirza Jawad Tabrizi, Ayatollah Sayed Hussein Fadlullah and many other scholars. Each of these scholars reached the highest rank of religious status which is *Marje Taqleed* (source of emulation). About 70% of Shi'a scholars worldwide are either graduates of Khoei's *hawza* or students of such graduates.⁷⁴ Khoei's endorsement was very important for Shi'ite scholars regarding their political or social movements. Ayatollah Khoei died in 1992 in Najaf, Iraq while he was under house arrest by Saddam Hussein's Regime. Khoei was buried near the Shrine of the first Shia Imam in Najaf, Iraq.

The majority of Shi'ite religious scholars including Ayatollah Khoei agreed that *faqih* (jurist) has *velayat* (guardianship). The dispute among scholars is over the limits of their authority. Some of the *fuqaha* like Sheikh Ansari, Ayatollah Tabrizi, and Ayatollah Khoei argued that the *faqih* has *velayat-e hasaba*, which means he is responsible for acting on behalf of orphans and those individuals who are mentally disabled who cannot make a decision on their own.

Khoei was against the theory of *Velayat-e Motlagheye Faqih* he argued that the absolute guardian of *faqih* (jurist) cannot be granted during the occultation of Imam Mahdi. He stated that *velayat* (guardianship) was only dedicated to the Prophet

74. For Khoei's full biography see Al-Islam.org, accessed March, 13 2016, <http://www.al-islam.org/articles/brief-biography-in-memory-of-ayatullah-al-uzma-sayyid-abul-qasim-al-khui-yasin-al-jibouri>

Mohammad and the A'imma. "In the time of occultation, there is no evidence that proves the velayat of fuqaha. Velayat is only the prerogative of the Prophet and Imams. The fuqaha not only do not have Velayat in general affairs, but they do not have any legal Velayat in non-litigious affairs."⁷⁵ Furthermore, he said that the existent hadiths are not sufficient evidence to prove the *Velayat-e Motlagheye Faqih*. Khomeini does not deny the concept, but he argues that it is difficult to prove the absolute guardianship for *faqih* as appointed legal position. Khomeini said: "during the occultation time *faqih* does not have the right to claim that he is the appointed representative of the twelfth Imam."⁷⁶

Ayatollah Khomeini's position on *Velayat al-Faqih* as a form of government has been interpreted in different ways. The supporters of Khomeini's theory always tried to interpret Khomeini's view on *Velayat-e Faqih* to validate the establishment of the Islamic Republic of Iran. At the same time, the opponents of *Velayat-e Motlagheye Faqih* strongly believe that Khomeini was against the concept and never endorsed Khomeini for establishing Islamic State based on the theory of *Velayat-e Faqih*. This is an ongoing discussion between the two groups since the death of Ayatollah Khomeini.

Ayatollah Sayed Mohammad Kazim Sharyatmadari (1905-1986)

After the Islamic Revolution of Iran in 1979, Ayatollah Sharyatmadari announced his opposition to Article 110 in the constitution of Iran, which described the authority of *Vali Faqih*. He was against the unlimited authority of *Vali Faqih* and did not vote for the Article 110 in the constitution. After the death of Ayatollah Broujerdi in 1962, Sharyatmadari became one of the leading *marja'je taqleed* in Iran with the followers in

75. Mohammad Akram Arefi, *Andisheh Siasi Ayatollah Khomeini* (Tehran: The Institute of Science and Islamic Culture 2002), 111

76. Ibid 115

Iran, Pakistan, India and Persian Gulf countries. Sharyatmadari, along with Ayatollah Golpayagani and Marashi Najafi in Qom became famous as the ‘ayate solasa’ (three ayatollahs), who were Iran’s most senior clergymen.

In June 1963 due to the opposition of Ruhollah Khomeini with the six principles of the White Revolution, the Iranian Shah arrested Khomeini and sent him to prison in Tehran. According to the constitution of that time, *marja’je taqleed* (source of emulation) had immunity from prosecution. Since Khomeini was not known as a *marje taqleed*, the intent was to send him for trial and to execute him. Ayatollah Sharyatmadari collected signatures from other clergy and traveled to Tehran where he delivered the petition to the Shah in which the clergy had endorsed Khomeini before Khomeini was Hojatal Islam. Introducing Khomeini as a *marje taqleed* and Ayatollah prevented him from being executed and led to his release from prison.

After the arrest of Sadeq Qotbzadeh with charges of attempt for overthrowing the regime and bombing Khomeini’s house, Sharyatmadari’s name was mentioned as a supporter of Qotbzadeh. This led to his house arrest. He was removed from his position as *marje taqleed* (source of emulation) by *jameh modaresin* (teachers society) of the Qom seminary. Ayatollah Sharyatmadari, who saved Khomeini’s life before the Islamic Revolution by giving him the title of *marje taqleed*, wrote the following letter to Ayatollah Khomeini in 1981, “If the intention was to dishonor me, it was completely obtained, and if the purpose was to remove me from the position as a *marje taqleed*, then the goal was reached.”⁷⁷ In April 1986, Ayatollah Sharyatmadari died suspiciously, in one of the hospitals in Tehran. According to the Iranian government officials, kidney

77. *Rasaam*, accessed March 18, 2016: <http://rasaam.net/Fa/Resume.aspx?i=1>

diseases was the cause of his death. The Islamic Republic of Iran banned his family members and supporters from holding a funeral for him and buried his body at night time in one of the cemeteries in the city of Qom.

Besides the two above-mentioned high ranking religious scholars, there are other clerics who are against the constitution of Iran, based on the theory of *Velayat-e Faqih*. Since Ayatollah Khomeini did not reveal his actual and practical idea of his theory before the Islamic Revolution, a number of clerics were on his side in the first stages of the revolution but changed their position later. When Ayatollah Khomeini and other scholars who supported his idea began introducing the theory of absolute *velayat-e faqih*, a lot of the clerics turned away from his idea. In fact, this disagreement led to their house arrest and to banning them from speaking publically and publishing their work.

C. The Position of Iranian Social-Scientist Scholars on Velayat-e Faqih

Abdulkarim Soroush

Since the Islamic Revolution in 1979, Abdulkarim Soroush has been actively engaged in the discourse regarding the nature of the Islamic Republic. Soroush has widely published scholarly books in Farsi, and his ideas have attracted many scholars, students and ordinary people across the globe. A limited biographical background will be provided on Soroush and the development of his ideas.⁷⁸ Soroush attended prominent religious secondary school in Tehran. He studied pharmacology at Tehran University, then received his doctorate in analytical chemistry in England. When he was in England

78. For more complete biographical information on Abdulkarim Soroush, see Afshin Matin-Asgari, *Abolkarim Soroush and the Secularization of Islamic Thought in Iran*, vol 30, number 1-2

he began studying the philosophy of science, which marked a distinct turning point in his intellectual development.

Soroush served as an ideologue of the Iranian government during the first few years of the Islamic Republic of Iran. He defended the new regime against its critics and especially Marxist ideology. He was appointed directly by Khomeini as a member of the Advisory Council of the Cultural Revolution, where he was responsible for the revision of academic curricula to ensure its compliance with Islamic values. In 1987 after some disagreement with the management, he resigned from his position. His credentials as a pious Muslim and participation in the post-revolutionary political process provided him with a defense against those who questioned his faith in Islam. He has been attacked frequently because his ideas on politics and religion are controversial in today's Iran.

Soroush believes that the theory of *Velayat-e Faqih* is the same as religious tyranny, and suggested that with this theory a democratic state cannot be established. Soroush believes that absolute power will bring absolute corruption. In his book, *Reason, Freedom and Democracy in Iran* he challenges and criticizes the clerical rule in Iran. Soroush argues that clerical government is not a system that would satisfy people and be compatible with values of the twenty-first century.⁷⁹ Furthermore, Soroush argues that religion and politics are closely related in religious countries does not mean that the fact that religion should be reduced to a means of legitimizing political ends. Equally, the scholars cannot be regarded as the official interpreters of religion, and remain subservient to the government; instead, there should be extensive reforms of the clerical establishment. In his view, the use of religion as an ideology is one of the major

79. For more detail see Abdolrazim Soroush, *Reason, Freedom and Democracy in Islam* (Oxford: Oxford University Press, 2000), 34-52

obstacles to the growth of religious knowledge.

Since religious scholars or *fuqaha* (jurists) rule the government of the Islamic Republic of Iran, the seminaries where *fuqaha* are taught and trained may feel obliged to encourage theories that support the religious government. The anti-government opposition is highly discouraged, and those who demonstrate opposition are usually unsuccessful by failing to realize that the seminaries are not a space of resistance. The seminaries aim to silence the opposition by training *faqih*s to support the current ideology. Soroush makes this point by saying,

Rather than guiding and criticizing the ruler, the seminaries will offer opinions and issue *fatvas* that meet the rulers' tastes, or they will close the door to the debate concerning various theoretical issues. If in the seminaries, for example, the right to discuss the issue of *velayat-e faqih* is not exercised and opposing and supporting opinions are not freely exchanged, this is an indicator of a problem that must be removed.⁸⁰

According to Soroush, many Shi'ite theologian and scholars agree that *Velayat-e Faqih* should be abolished, but its dismantlement will occur only if all demand it. It is not enough if a scholar or a thinker writes a book to criticize and oppose the theory of *Velayat-e Faqih*. It requires the voice of the majority. Soroush believes that the theory would come to its end because every day the theory of *Velayat-e Faqih* reveals its results and people become familiar with its consequences and how it affects the social and political life of Iranian people.

80. Abdolkarim Soroush, *Entezarat-e daneshgah az hawzeh*, 5, cited in Vakili, Valla Vakili, *Debating Religion and Politics in Iran: The Political Thought of Abdolkarim Soroush*. (New York, Council on Foreign Relations, 1996), 7-8

Ayatollah Mohsen Kadivar

Ayatollah Mohsen Kadivar is an Iranian theologian and Islamic scholar who lives in the West since mid-2000 was born in 1959 in the southern province of Fars, Iran. After beginning his studies in the natural sciences at the University of Shiraz, where he obtained a degree in Electrical Engineering, Kadivar undertook religious studies at Shiraz and Qom Seminaries. It was in Qom that his studies of *fiqh* brought him under the teaching of Ayatollah Montazeri. Upon completion of his seminary work, he pursued Islamic Studies at the University of Qom, then at the University of Tehran. His studies included philosophy, Islamic theology, as well as human rights and the application of *fiqh* in the political sphere. He is the author of many books on Islam, Islamic laws, democracy. Kadivar is fluent in Arabic and English and had published articles in different academic journals.

In his book, *The Theories of State in Shi'ite Fiqh* Kadivar discusses the question of political legitimacy as the most fundamental topic within political thought. Kadivar explains that the issue of political legitimacy within religious thought was raised in response to the fundamental question of whether God has granted sovereignty to a specific person or a class of people. He also raises the question of whether God has granted to all of the ummah the right to self-determination within the framework of the objectives of religion and regulations of sharia. Kadivar calls for the separation of the institutions of religion and politics. He argues that when political power is combined with religious power, the result will be the politicization of religion and oppressive government. He believes that *Marja'iyat* (source of emulation) and *hawzahs* (seminaries) must serve as supervisors over government and society and should act independently

from the ruling government. He argues that in order for a religious government to be legitimate it must pursue religious goals and enjoy the support of a majority of religious people in society.

Kadivar states that, according to those scholars who support *Velayat-e Faqih*, the concept is the same as guardianship of father to his children or guardianship of orphans, mentally disabled and incapable people, who cannot manage their affairs. They think that people are incapable of their social affairs, and they are unable to make a wise decision, therefore, the society needs someone who will make the decision for them. In the public sphere, people think they are the ones who make decisions, but it is not them, but the Supreme Leader who makes the final decision. Today democracy is in conflict with *fuqaha* (jurists) ruling the country. Kadivar believes that the majority of the religious scholars are criticizing the government of Iran, and they have announced that *Velayat-e Faqih* has no legitimacy. When the leader is an unjust person and does not have the support of the majority of the people, his government is illegitimate, and he must be dismissed from his position, even though he is still in power.

In his book *The Trivialization of Shi'i Marja'yyat* Ayatollah Kadivar opens a debate regarding Iran's Supreme Leader on his *marja'yat*. This book is divided into four sections, covering the life of Khamenei from his childhood until the present time. In his opinion, the fast promotions of Khamenei from the rank of *hojat al-Islam* (proof of Islam) to Ayatollah (Sign of God) and then Grand Ayatollah or *marje taqleed* (source of emulation) raise valid questions and doubts about the natural process of these promotions. This is how Kadivar explains the purpose of writing this book by posing research questions:

I tried to answer the following questions: When did Khamenei start thinking about *marja'iyat*? When did he start giving *fatwas*? Who are the members of his *Shouraye Istifta* (committee providing consultation for issuing fatwa)? When did he begin to teach *kharij-efiqh* (advanced *fiqh*)? Has he ever taught the advanced methodology of *fiqh* (*kharij-e usul*)? When did he begin to collect *Shari'a* funds? When did he take on the responsibility of paying the stipends of seminary students? What did he write in *fiqh* and *usul* during his claim of *marja'iyat*? What has he published in *usul* and argumentative *fiqh*? What are the foundations of his methodology (*mabani-e usuli*) and principles of *fiqh*? Has he ever published a complete *fatwa* treatise? If no, then why? Who supported his *marja'iyat* and with what goals? Who were the major critics of his absolute *ijtihad* and his qualifications for *marja'iyat* and *fatwa*? What was their reasoning on both sides? What institutions were responsible for preaching, propagating and fixing his *ijtihad* and *marja'iyat*? How did the more traditional part of the Seminary respond? How was *maraj'iyat* influenced by his political role as Supreme Leader?⁸¹

Kadivar answers to each of the above questions in four sections of his book. In the first section, Kadivar talks about how Khamenei imitated Ayatollah Khomeini until he was fifty years old. While Ayatollah Khomeini was alive, Khamenei did not consider himself to be a *mujtahid* (qualified religious authority). This was a concern for many scholars after Khamenei was elected by the Assembly of Experts as the successor of late Ayatollah Khomeini. Among them was Ayatollah Montazeri, who was against the election of Khamenei; Montazeri had doubts on Khamenei's *ijtihad*.

Said Amir Arjomand

Said Amir Arjomand draws a profile of Ayatollah Khomeini, the man behind the Islamic revolution who was a charismatic spiritual leader but after the revolution became a politician who established the *Velayat-e Faqih* to discipline his followers. Arjomand argues that the idea of *Velayat-e Faqih* developed a power struggle, because less and less

81. Mohsen Kadivar, *The Trivialization of Shi'I Marja'iyat*, 8, accessed March 15, <http://en.kadivar.com/2014/03/25/the-trivialization-of-shii-marjaiyyat-impeaching-irans-supreme-leader-on-his-marjaiyyat/>

influential as a political ideology in Iran as time passes. Arjomand compares the constitution of Iran to the papal monarchy and argues that the constitution of Iran resembles what had been written thirteen hundred years ago. The following statement summarizes Arjomand's thoughts on *Velayat-e Faqih* and the current constitution of Iran based on *Velayat-e Faqih*.

It places the judiciary system under the exclusive control of the hierarchy, with a provision for extensive revision of the legal codes to render them Islamic. The constitution is also remarkable in its relating to koran verses and the Traditions as sources of the Shi'ite Sacred law in an appendix. Furthermore, by putting a doctrinally novel emphasis on the continuous quality of Imamate (imamt-e mostmarr), it endows the jurist, as the representative of the hidden Imam, with supreme power over men and responsibility toward God. Finally, it sets up a clerically controlled Council of the Guardianship of the Constitution with inordinately extensive powers to represent the Shi'ite religious institutions and to ensure that the legislative and executive branches of the state remain within the straitjacket tailored for them.⁸²

Arjomand wants to show how the constitution of the Republic of Iran uses which is most sacred to the people to maintain control over the nation. It could be said that Iran's current constitution favors an absolute rule by clergy thus making it in a way close to dictatorship in which all the power belongs to only one person. Arjomand argues that the current government of Iran is not compatible with democracy due to its constitutional amendments that prevent certain aspects of democracy to work. The success of the revolution and the continued existence of the theocratic government have been due to suppressing those who are against the government's ideology. Arjomand calls the oppositional mara'je as a new oppositional Shi'ite jurisprudence; they reject the official interpretation of *Velayat-e Faqih* and instead are in favor of the *usuli* principles of the collective authority of jurists.

82. Said Amir Arjomand, *The Turban for the Crown* (New York: Oxford University Press, 1988), 151

D. The Silent Group of Shi'ite Mara'je Taqleed

After the Islamic Revolution of Iran, the Shi'ite branch sect of Islam faced a social and political division, which was not reported in the Shi'ite history since its establishment. Right after the revolution when Ayatollah Khomeini introduced his theory of *Velayat-e Faqih*, a number of high-ranking Shi'ite scholars supported him and many others opposed his idea. There is also a third group who did not take any position toward the idea of Ayatollah Khomeini nor to the new political system of Iran. Among them, there were and still are Ayatollah Sayed Ali Sistani and Ayatollah Sheikh Wahid Khorasani. However, since then, both side, the supporters, and opponents, have been claiming their endorsement for their sides. Here, we will review why some of the highest-ranking Shi'ite religious scholars never took any position on *Velayat-e Faqih* as a form of government.

Ayatollah al-Ozma Sayed Ali Sistani

Ayatollah Sistani is an Iranian Shi'ite *Marjeh Taqleed*, who lives in Najaf, Iraq. He is among the distinguished students of late Ayatollah Khomeini. After the death of Khomeini, he became the *Marjeh Taqleed* (source of imitation) of million of Shi'ites around the world, especially for the Shi'ites in Iraq. Sistani has the highest rank among the *mujtahids* and scholars across the Islamic world, especially between the *mara'je taqleed* in Najaf Iraq.⁸³ During the Saddam regime, Ayatollah Sistani was under house arrest for many years. Although he was under the pressure of Saddam regime, he never wanted to migrate from Iraq, not even to the neighboring country of Iran where he was born. Ayatollah Sistani does not get involved in politics directly, but since the collapse of Saddam regime

83. For more detail on his biography refer to his official website, accessed March 14, 2016 <http://www.sistani.org/english/data/2/>

in 2003, he has advised the government of Iraq. "Al-Sistani endorses the new Iraqi government. Says the new government lacks "legitimacy of elections" and does not represent "in an acceptable manner all segments of Iraqi society and political forces. ... Nevertheless, it is hoped that this government will prove its efficiency and integrity and show resolve to carry out the enormous tasks that rest on its shoulders."⁸⁴ For the past 23 years, Ayatollah Sistani stayed in his house near the Shrine of Shi'ites first Imam, Imam Ali and did not appear in any public arena and did not meet with any TV, radio or any type of news reporters.

Quietists group is represented by Ayatollah Sistani, Vahid Khorasani, and some other grand Ayatollahs. As was mentioned earlier, Ayatollah Sistani never took any position on the concept of *Velayat-e Motlagheye Faqih*. However, the supporters of *Velayat-e Faqih* in Iran argue that he does endorse the political system in Iran, which is based on the theory of *Velayat-e Motlagheye Faqih*. On the other hand, the opponents argue that Ayatollah Sistani's quietism is a sign of denial. He does not publicly reject the theory of *Velayat-e Faqih* to prevent conflicts between the government of Iran and Iraq. He also has not taken a position so as to prevent any type of tension between millions of Shi'ite who consider themselves as *muqaled* (emulators) of Ayatollah Sistani and Ayatollah Khamenei. This is the belief of one part of the opponents of the Iranian government. The more extreme group of opponents decried Sistani for his quietism. They argue that if Ayatollah Sistani openly announces his disapproval it could end the regime of the Islamic Republic of Iran. This would occur because he is considered as the most high-ranking and respectful *Marje Taqleed* among the Shi'ite branch of Islam.

84. CNN, accessed March 14, 2016, <http://www.cnn.com/2013/07/17/world/meast/grand-ayatollah-ali-al-sistani-fast-facts/>

Ayatollah Sistani has responded to the question of one of the Shi'ite who is his *muqaled* (emulator) regarding the concept of *Velayat-e Faqih*. When Shi'ite have a religious question or wants to know how to perform or to do something in accordance to Shi'ite *fiqh*, then he or she will ask his *marje taqleed* (source of emulation) for clarification and guidance. The question and answer which is translated into different languages are posted on his official website.

Question: "What is Grand Ayatollah Sistani's opinion about Wilayat-e-Faqih (governance of jurist)?"

Answer: Every jurisprudent (Faqih) has wilayah (guardianship) over non-litigious affairs. Non-litigious affairs are called "al-omour al-hesbiah". As for as general affairs to which social order is linked, wilayah of Faqih and enforcement of wilayah depends on certain conditions one of which is the popularity of Faqih among the majority of momeneen."⁸⁵ This is the only question that has Ayatollah Sistani answered regarding *Velayat-e Faqih*, and this is the only statement on this issue which is posted on his official website.

Ayatollah al-Ozma Sheikh Wahid Khorasani

During this period of time, the position and opinion of Ayatollah Wahid Khorasani about *Velayat-e Faqih* is very important. Like Ayatollah Sistani, he is considered to be a religious scholar who is part of the quietest group. Unlike Sistani, the Grand Ayatollah Khorasani lives in Qom, Iran and has continued teaching at the *hawzeh elmiyeh* (seminary) Qom after the Islamic Revolution in 1979. Nevertheless, his quietism is a little different from Ayatollah Sistani, who has not spoken out regarding Ayatollah Khomeini and his idea of *Velayat-e Faqih*.

85. Ayatollah Sistani website, section of questions and answers, accessed March 14, 2016 <http://www.sistani.org/english/qa/01204/>

Ayatollah Khorasani criticized the government of Iran at different times during his lectures for students in *hawza*. The supporters interpreted his critics positively as they argued that if Grand Ayatollah was not interested in the success of Iranian government under the leadership of Ayatollah Khamenei, he would not have taken any position.⁸⁶ There are not a lot of speeches or written statement from Ayatollah Khorasani regarding *Velayat-e Faqih*. The opponents of *Velayat-e Faqih* argue that if he rejects the concept or opposes the system of the Iranian government, then supporters of Khamenei will treat him as previous scholars like Ayatollah Montazeri who was sentenced to house arrest until his death. What is accepted by both sides is that the Supreme Leader and Ayatollah Khorasani have a disagreement over the Sunni minority group in Iran. Khorasani criticizes Khamenei for giving a lot of freedom to the Sunni minority group in Iran and for supporting other Muslim countries with majority Sunni population.

Like any other revolution in the world, the Islamic Revolution of Iran which is based on the unique concept of *Velayat-e Faqih* has its supporters, opponents and other who tend to not take any position. Because the nature of this revolution which was based on religion, and particularly on the Shi'ite school of thought, it is crucial to determine the position of the well-established and well-known religious authorities have taken a position on this concept. Even though written materials of the opponents of *Velayat-e Faqih* exist today, which clearly indicates their opinion, the discourse and question can deny the theory still remains. It is also important to see how the position of the silent group will change in the near or far future. Will one day these scholars openly deny or

86. On Khorasani's position about velayat al-faqih from the respective of velayat al-faqih supporters, refer to article in *Tebyan* website: <http://hozeh.tebyan.net/newindex.aspx?pid=141061>

endorse the concept of *Velayat-e Faqih*? This question will remain in the mind of million Shi'ite who still cannot decide which way to go.

CHAPTER 5

CONCLUSION

The development of Imam Khomeini's concept of *Velayat-e Faqih* (guardianship of the jurist) can be described as a response to the complex and significant social, political and economic pressures on Iran during the twentieth century. The loss of the prestige and power of the *fuqaha* (jurists) under the Mohammad Reza Shah before the Islamic Revolution and social upheaval in Iran were the main factors that led Imam Khomeini and other *fuqaha* with, similar ideas to address the social and political issues of their time. After experiencing all the challenges with monarchy Khomeini eventually came to the conclusion that only *fuqaha* can rule and could establish and maintain just governance, and lead the nation towards unity with God. Initially, this idea was supported by many Shi'ite scholars and some other political parties who were oppressed by the monarchy system. However, after the Islamic Republic of Iran was established, all other political parties who had supported Khomeini during the revolution were eliminated from the new government unless they entirely followed him.

The new interpretation and development of *Velayat-e Faqih* by Imam Khomeini was drastically different from the definition offered by scholars and *fuqaha* many years before he introduced this rendition. The accepted definition of the concept by the previous *fuqaha* was limited to the boundaries of *fiqh*, and the supervisory role of the Vali Faqih, but did not assume *fuqaha* to get involved in politics. Based on his new interpretation of *Velayat-e Faqih*, Imam Khomeini proposed the establishment of an Islamic state according to *sharia* law and asserted the *fuqaha* whom he argued were uniquely qualified to interpret Allah's law. Imam Khomeini argued that in terms of

governing there is no difference between the *faqih* exercising the *fiqh* (jurisprudence) and the Prophet Mohammad and A'imma. Furthermore, according to Imam Khomeini's argument, the authority of *faqih* is the same as the Prophet Mohammad and the twelfth Imam whose legitimacy have derived from their connection and true submission to God.

The concept of *Velayat-e Faqih* was discussed amongst the *fuqaha* before Imam Khomeini, but Khomeini changed the notion to become more than a juristic theory. As a result of the Islamic Revolution in 1979, Khomeini's theory of *Velayat-e Faqih* was enunciated widely in the constitution, leading to its formation as the ideology of the Islamic Republic. Moreover, the new Islamic Constitution resulted in a variety of contradictions with many democratic values. Khomeini's interpretation of *Velayat-e Faqih* is being challenged by many theologian and scholars of social science like Mohsen Kadivar and Abdolkarim Soroush.

Many Iranians reject a good number of the assumption and the overall ideology of Imam Khomeini's concept of *Velayat-e Faqih*. As a result, they also contest the legitimacy of the religious government on this notion. The discourse also underlines the limitation of *fiqh* as a new conception of an Islamic Republic. The supporters of Khomeini's notion, who to a certain extent share a similar religious background, argue that meaningful change will come from religious circles.

On the other hand, there are other Shi'ite religious scholars who are mostly Iranian citizens but reside outside of the country, who strongly oppose the concept of *Velayat-e Faqih*. The argument they make is that the Shi'ite Imams prohibited their followers from establishing any type of government during the occultation of Imam Mahdi. In fact, today the discourse among opponents expanded worldwide from Iranian

fuqaha to Iraqis, Afghanis and other Muslim countries with the majority or minority Shi'ite Muslims. Many of the non-Iranian theologians who are involved in the discourse challenged the supporters of Imam Khomeini and his doctrine. Nearly many clerics who are against the theory of *Velayat-e Faqih* are graduated religious scholars from seminaries in Qom. Despite all the efforts of the supporters of *Velayat-e Faqih* to represent the Iranian government as the only State that is based on Shi'ite *fiqh*, this claim has been the source of serious disagreements among Shi'ite worldwide.

The main discourse over *Velayat-e Faqih* is about the interpretation of this concept. The Shi'ite *fuqaha* since the occultation of twelfth Imam did not disagree on the existence of this notion in Shi'ite *fiqh*. This was the beginning of a new page in the Shi'ite history. The traditionalist Shi'ite *fuqaha* disapproved the establishment of Shi'ite government based on the concept of *Velayat-e Faqih*.

In the present time, it is very difficult for Shi'ites in Iran and Shi'ites who are not Iranian citizens to understand the different interpretation of *Velayat-e Faqih*. The majority of Shi'ites who do not have enough knowledge and are not experts in the field are left with two options. Either they follow the position of contemporary *fuqaha* who support Imam Khomeini and his idea that Shi'ite must have a government based on Shi'ite *fiqh* during the occultation of Imam Mahdi, or they follow the second group of Shi'ite religious scholars, who strongly oppose and reject Khomeini's idea, which gives an absolute power to *faqih* to rule and oversee all the political, social and economic affairs of the government. However, one cannot live in Iran and openly follow the position of the second group. The following two main questions still remain among ordinary Shi'ites today. If the concept existed in Shi'ite *fiqh*, then why the *fuqaha* before

Imam Khomeini did not establish a government according to the Shi'ite fiqh? How should Shi'ites administrate their political affairs during the occultation of Imam Mahdi without an official Islamic State? These questions and concerns became the topic of most academic and religious gatherings among Shi'ite Muslims around the world.

It is impossible to determine how long the Iranian government will remain and rule based on the concept of *Velayat-e Faqih*. Many of the opponents believe that after the death of the current Supreme Leader the notion of the *Velayat-e Faqih* will no longer exist. Today with the advanced technologies, everyone including the clerics, have access to many scholarly resources which previously were not available. This opportunity allows the new generation to have access to Shi'ite historical hadith and textual resources, to make a decision whether they want and need the direct involvement of religion with politics. However, it is very difficult to remove the concept of *Velayat-e Faqih* from the current Constitution of the Islamic Republic of Iran. The argument would suggest that while Khomeini's notion of *Velayat-e Faqih* may pass into history, it served to establish an Islamic state. Therefore, making it possible for such a state to change towards a more democratic state. According to experts, it requires a lot of efforts to clarify the misconceptions that have been enforced on Shi'ite for the past three decades.

Three decades ago when the Islamic Republic of Iran was based on the Sharia' law and the theory of *Velayat-e Faqih* the expectation was that the regime would not last long but will collapse in a few years. However, today the Islamic Republic of Iran is one of the most powerful countries in the region, despite the vast international isolation and all the extreme sanctions that were imposed on Iran. The *Mara'je Taqleed* (source of emulation) and many other scholars who support the theory of *Velayat-e Faqih* argue that

one of the reasons that the Islamic Republic is successful for the past three decades is because of the wise leadership of Imam Khomeini and the current Supreme Leader Ayatollah Khamenei. According to the Iranian officials, the *Velayat-e Faqih* gained support not only inside the Iran but outside of the country as well. Shi'ites in Pakistan, Afghanistan, Lebanon, Syria in other Muslim countries are loyal to Ayatollah Khamenei as the *Vali Faqih*.

Future Research

In this thesis, my goal was to examine the position of three different groups with a direct or indirect connection with the *Velayat-e Faqih*. As it was previously discussed, the concept of *Velayat-e Faqih* was no longer seen operative in Shi'ite fiqh after the occultation of the Shi'ite twelfth Imam. However, the disagreement among scholars is over the different interpretations that came into existence since the Islamic Republic of Iran was established. Khomeini's notion of *Velayat-e Faqih* arose from within a unique historical context, which made possible for it to be accepted as the ideology of the Islamic Republic.

It is very difficult to question the legitimacy of *Velayat-e Motlagheye Faqih* (absolute guardianship of the jurist). To a large extent, this is due to the founders having derived the concept from the Qur'an and Shi'ite historical and authentic hadiths books. For the religious scholars like Khomeini, Montazeri, Motahari and many others the *Velayat-e Faqih* is the continuation of prophecy and the *Velayat* (guardianship) of *a'immah*⁸⁷, and it is one of the requirements of Shi'ite jurisprudence. To justify their claim they refer to many verses of the Qur'an and hadiths from infallible Imams, which

87. A'immah is plural for Imam

have been discussed in the previous chapters. At the same time, the opponents criticize them for misinterpreting verses of the Qur'an and misleading their own people. For the question of whether the *Velayat-e Motlagheye Faqih* is legitimized or not one may offer no clear answer. In order to find the answers to the above question, the topic requires deep research to examine and analyze the concept of *Velayat-e Faqih* from different perspectives.

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