3

Wilayat al-Faqih and the Meaning of Islamic Government

Amr GE Sabet

INTRODUCTION

The triumph of the Islamic revolution of Iran in February 1979 surprised many observers, and continues to baffle others today. The introduction into contemporary politics of a religious dimension challenged contemporary understandings of the human condition in ways that have called into question much of the basic premises of modern secularism. The revolution tended to be perceived largely in light of the preconceptions and predispositions of the observer rather than as something original and unique – sui generis. Many failed to see the revolution as a phenomenon that is to be understood and comprehended from within its own dynamics and on its own terms, rather than in terms of mere Western social science categories (insightful as they may be). Consequently, varied designations were and continue to be attributed to the Iranian state; ranging from it being a form of "anachronistic theocracy" to being pejoratively referred to as the "rule of the *mullahs*" or a "religious dictatorship".

Such attitudes oversimplify highly complex issues and reflect an ideological prejudice and/or lack of comprehension. The deep impact that this revolutionary phenomenon had and continues to have on the Muslim community, both Sunni and Shi'i, renders it a profound social, political as well as religious innovation that combines the twin elements of religious reasoning (*ijtihad*) and renewal (*tajdid*). Both elements were infused with the praxis dimension, beyond mere theoretical constructs, through the theory of *Wilayat al-Faqih* and the person of *al-Faqih* represented by Grand Ayatollah Khomeini.

Although steeped in Shi'i Imamite tradition, Imam Khomeini did not perceive himself a mere representative within the confines of this particular school of thought. In addition to proclaiming to represent all Muslims, he in fact challenged and transformed much of the ideas within the Shi'i tradition. Khomeini attempted to transcend sectarian divides, subtly steering Shi'ism closer to Sunnism by calling for an Islamic government to be ruled by a just *faqih*, and not necessarily the infallible Imam.[1] In this sense, Khomeini was a *mujtahid*; a creative mind and figure; an innovator and a *mujadid* (renewer) in addition to being a source of emulation (*marja-e taqlid)*. It was natural therefore that there would be significant divergences associated not only with the impositions of revolutionary conditions, but also with those of doctrinal innovation. In fact, observing the actions and doctrinal interpretations of different groups and actors during the earlier days of the revolutionary upheaval, Shahrough Akhavi described them as "so divergent that it often comes as a surprise to recall that Shi'ism is … their common reference".[2] This chapter will examine the writings and ideas of Khomeini as they pertain to his conceptualization of the role of religion and governance. It will also elaborate on the concept of *Wilayat al-Faqih* (governance of the jurisprudent) as the leadership principle which links Islam to politics. This analysis will also cover how the concept provided a reinterpretive framework that articulated an activist agenda for the *fuqaha* (jurisprudence) beyond traditional Shi'i quietism (awaiting).

RELIGION AND GOVERNANCE IN THE WRITINGS OF IMAM KHOMEINI

Quietism, or the principle of *intizar*, raised existential problems for the Shi'i community that would persist until fairly recently. They were related to the basic question, "When would the Imam come forward to establish justice and equity on earth",[3] and who was to lead and guide the Muslim community during the absence of the Twelfth Imam? The history of the

[1] See Vali Nasr, *The Shia Revival: How Conflicts within Islam Will Shape the Future* (New York: W. W. Norton & Company, 2006), p. 225; and Hamid Enayat, "Iran: Khumayni's Concept of the 'Guardianship of the Jurisconsult'" in James Piscatori (ed.), *Islam in the Political Process* (Cambridge: Cambridge University Press, 1983), pp. 164–167.

[2] Shahrough Akhavi, "The Ideology and Praxis of Shi'ism in the Iranian Revolution", *Comparative Studies in Society and History*, 25 (2) (1983), p. 221.

[3] Abdulaziz Sachedina, *The Just Ruler in Shi'ite Islam: The Comprehensive Authority of the Jurist in Imamite Jurisprudence* (Oxford: Oxford University Press, 1988), p. 5.

Shi'i, as a matter of fact, could "be described as continual wrestling for an answer to this question".[4] Imam Khomeini's writings on Islamic governance and his elaboration of the concept of *Wilayat al-Faqih* constituted not only the most recent but also the most serious and substantive effort to address this seemingly perennial problem of leadership.

In a series of lectures given at the holy city of Najaf in Iraq between January and February 1970, Imam Khomeini sought to expound the theory of Islamic government and its concomitant concept of *Wilayat al-Faqih*.[5] The latter reflected the singular principle which served to fuse religion and politics through the medium of the *faqih*. It innovatively addressed the question of who is legitimately qualified to rule during the occultation of the Shi'i Twelfth Imam as well as the breadth and domain of such rule beyond the mere spiritual and legal to encompass the political.[6]

Earlier Shi'i scholars had assumed for themselves a good measure (albeit restricted) of authority (*wilayah*) over their community in order to meet its religious, spiritual, legal and practical needs. These needs were related to teaching Islam, judging, conducting *jihad*, collecting religious taxes (*zakat*, *khums*), trusteeship over minors and the insane, and a host of other related legal and social matters.[7] Beyond these duties, however, lay the right to "sovereign" rule in Shi'i Imamate tradition, which was highly predicated on the notion of the infallibility (*'isma*) of the ruler; that is, on the prerequisite of absolute justice (*'adl*) that only a particular caliber of individuals could claim. There was general acknowledgment that despite any measure of piety, the *fuqaha* (sgl. *faqih*) could not claim infallibility, which was the sole provenance of Prophet Muhammad and the Twelve Imams. Although developing a discourse which emphasized

[4] Heinz Halm, *Shi'a Islam: From Religion to Revolution* (trans. Allison Brown), (Princeton: Markus Wiener Publishers, 1997), p. 30.

[5] Ruhollah Khomeini, *Islam and Revolution I: Writings and Declarations of Imam Khomeini* (ed., trans. Hamid Algar), (London: KPI, 1985), p. 27.

[6] The concept of Wilayat al-Faqih was discussed extensively by Mulla Ahmad Naraqi (d. 1829), although in the restricted sense of performing certain functions related to legal judgments, *fatwas*, disposal of unclaimed property, and guardianship over orphans as well as other matters. However, he did not include governing as one of the concept's prerogatives. See Saiyad Niazmuddin Ahmad, *Fatwas of Condemnation: Islam and the Limits of Dissent* (Kuala Lumpur: International Institute of Islamic Thought and Civilization, 2006), pp. 270–271.

[7] Hamid Mavani, "Analysis of Khomeini's Proofs for al-Wilaya al-Mutalqa (*sic*) (Comprehensive Authority) of the Jurist" in Linda Walbridge (ed.), *Most Learned of the Shia: The Institution of the Marja' Taqlid* (Cary, NC: Oxford University Press, 2001), p. 183.

the faithful among their followers were obligated to obey religious rulings (*fatawa*, sgl. *fatwa*) they made, in the absence of the hidden Imam, none of the Shi'i *fuqaha* could arrogate to themselves the right to rule. As such, "the wilaya transferred from the Imam to the jurists had … highly specific and well-delineated traditional connotations".[8] Khomeini was to challenge this understanding by extending the concept of *wilayah* to incorporate the right to political rule (i.e., governance). He was in fact re-politicizing Shi'ism, and thus transcending the principle of *intizar*.

There were serious implications for such an innovation. In so doing, Khomeini was not only establishing the case for the "sovereignty of the jurist", but also formulating such authority as identical with that of the Prophet and the infallible Imam.[9] But this did not mean that Khomeini was equating the jurist with these figures. He was quite explicit in clarifying that when he spoke of "same authority", he was not referring to "status" but to "function".[10] Khomeini was essentially making a claim to their governing prerogatives (i.e., political leadership), and relaxing the condition of infallibility. This tended to move him closer to the Sunni position that did not require the latter stipulation. All that was needed as far as the Sunnis were concerned – notwithstanding subsequent pragmatic Sunni laxity about such conditions – was that the ruler be just and committed to the *shariah* (Islamic law). All this constituted a challenge to the traditional Shi'i requisite of infallibility, as well as to the notion of quietism, as Khomeini was in effect doing away with the duality of religio-legal and temporal authority.[11]

In this regard, it is important to note that the frequent allusion to Khomeini as "Imam" by his loyal followers referred to leadership, and was never understood as a hint or intimation to the hidden Twelfth Imam. To the extent that there was any association made between them, it was in reference to Khomeini as the "deputy" of the Imam (*Na'eb-e Imam*).[12] The praxis of Khomeini underscored that *intizar* should not be construed as the passive awaiting for the return of the Imam, but as "an active effort of preparing the way" for such a return[13] – hence, *Wilayat al-Faqih* as

[8] Said Amir Arjomand, *Turban for the Crown: The Islamic Revolution in Iran* (Cary, NC: Oxford University Press, 1989), p. 178.
[9] Ibid., p. 178; Mavani, "Analysis of Khomeini's Proofs", p. 184.
[10] Khomeini, *Islam and Revolution*, p. 62.
[11] Arjomand, *Turban for the Crown*, p. 178.
[12] Brendan O'Leary, "Theocracy and the Separation of Power" in Mario Ferraro and Ronald Wintrobe (eds.), *The Political Economy of Theocracy* (New York: Palgrave Macmillan, 2009), p. 9.
[13] Shahrough Akhavi, *Religion and Politics in Contemporary Iran* (Albany: State University of New York Press, 1980), p. 115; Khomeini, *Islam and Revolution*, p. 62.

deputyship. As Said Arjomand states: "The Hidden Imam all but reappeared in the form of an omnipotent deputy, the Sovereign Jurist".[14] The former designation was eventually dropped in common everyday usage. It was in this sense that Khomeini was synonymously referred to as *rahbar-e enqelab* (leader of the revolution) and *vali-ye faqih*[15] (Imam and *vali-ye faqih* were used interchangeably).

Khomeini's impeccable credentials as a religious authority, as well as his charisma and revolutionary leadership, were certainly all crucial in making such profound innovations possible despite significant opposition from other equally eminent religious figures. However, it was a particular historical development which had furnished the ground for an environment permitting of such dynamism and *ijtihad* (religious reasoning). Competition between two variant schools of thought dating back to the late eighteenth century, and the eventual triumph of one school over the other by the nineteenth century, lent more power and authority to the Shi'i *ulema* (religious scholars). One rather more "traditionalist" school, known as the Akhbaris, argued for sole reliance on reports (*akhbar*) pertaining to the Prophet and the Imams. There was no need for the *ulema* to interpret them, as any Shi'i with a modicum of religious knowledge could presumably understand them on his or her own. As a corollary to this position, the Akhbaris further challenged claims to any special position for the *ulema* as *mujtahideen* (sgl. *mujtahid*) or interpreters of the faith and tradition. By contesting claims to the "collective representation of the Hidden Imam"[16], the Akhbaris were in fact weakening the role of the *ulema* in their community's affairs. The Akhbaris, however, were to decisively lose out to their Usuli rivals by the nineteenth century.

The Usulis, among whom Khomeini is counted, were inclined toward rationalist theology and stressed the necessity of *ijtihad* or reasoning, on the basis of the foundations (*usul*) and binding tenets of the faith.[17] *Mujtahideen* were needed and necessary for explaining these matters, much of which could be incomprehensible to the less knowledgeable. They were the ones most competent to interpret the faith and guide the believers. By the same token, the latter were expected to follow or

[14] Said Amir Arjomand, *The Shadow of God and the Hidden Imam* (Chicago: The University of Chicago Press, 1984), p. xi.

[15] Wilfred Buchta, *Who Rules Iran? The Structure of Power in the Islamic Republic* (Washington, DC: The Washington Institute for Near East Policy, 2000), p. 46.

[16] Halm, *Shi'a Islam*, p. 113; Nikki Keddie, *Modern Iran: Roots and Results of Revolution* (New Haven: Yale University Press, 2003), p. 19.

[17] Halm, *Shi'a Islam*, p. 112; Keddie, *Modern Iran*, p. 20; Hamid Dabashi, *Theology of Discontent* (New Brunswick, NJ: Transaction Publishers, 2006), p. 580.

emulate a living *mujtahid* (i.e., *marja-e taqlid* or source of emulation), as opposed to one who had died, unless no acknowledged *marja'* existed at that time.[18] This requirement had much to do with the recognition that the *mujtahideen*, being the most qualified custodians of the faith were, however, not infallible and therefore liable to err or make rulings that may not be relevant in different times. Emulating a living *mujtahid* therefore could rectify such shortcomings if and whenever necessary.

Unlike the Sunni *ulema*, who were and continue to be more inclined to appeal to the authority of their predecessors rather than their own, in ways similar to the Akhbaris, an Usuli Shi'i *mujtahid* can in fact appeal to his own authority when making a ruling, issuing a fatwa, or exercising *ijtihad*. Therefore, Khomeini's elaboration on this nascent idea of absolute authority of the *faqih* is to be understood within this context and by no means as a form of or a call for absolutism as such. Rather, it was to be the framework within which the *faqih* could have the full authority to exercise *ijtihad* as well as religio-politics in line with the requirements of contemporary times rather than stagnated traditions.[19] The ensuing political and regime structure and process that evolved both during Khomeini's time and after his death in 1989 was thus described by Said Arjomand as "neither a democracy nor a dictatorship" but reflective more of the "distinctive and contradictory goals of the Islamic revolution".[20] By cutting through this dichotomy, the Iranian Islamic revolution may have discovered a "third way".

The triumph of the Usuli school, galvanized by the ideas circulating in the Iraqi city of Najaf among many non-Iranian clerics (for instance, Aqa Muhammad Baqer Bihbahani[21]), significantly increased the influence and

[18] Keddie, *Modern Iran*, p. 20; Hamid Algar, *Religion and State in Iran 1785–1906* (Berkeley: University of California Press 1969), p.10. It is worth noting that this principle had been relaxed when the Iranian government and religious authorities declared after Khomeini's passing that his death sentence against British author Salman Rushdie stood irreversible. According to this new position, "the traditional principle of 'the deceased have no authority (*la qawla li 'l-mayyit*), was no longer binding (see Halm, *Shi'a Islam*, p.153). This did not only apply to Khomeini. Even in his capacity as the *Vali* (guardian), religio-political faqih of Iran, Ayatollah Ali Khamenei has permitted the followers of the late Grand Ayatollah Abul-Qassem al-Kho'i to continue to follow his rulings and emulate him despite his death and the fact that he did not accept Wilayat al-Faqih (see *Kayhan al-Arabi*, August 29, 1992, p. 1).

[19] Mohammad Saeed Bahmanpour, "On Religion, Politics and Democracy" in A. R. Koya (ed.), *Imam Khomeini: Life, Thought and Legacy* (Kuala Lumpur: Islamic Book Trust, 2009), p. 121.

[20] Said Amir Arjomand, *After Khomeini* (Oxford: Oxford University Press, 2009), p. 4.

[21] Juan Cole, *Sacred Space and Holy War* (New York: I.B. Taurus Publishers, 2002), pp. 70–74.

dynamism of the Shi'i *ulema* in ways that their Sunni counterparts could never truly match. According to Nikki Keddie, "There was now a clear doctrinal basis for appeals to the ulama over the head of a ruler, and for claims by the leading mujtahids to make political decisions provided they touched on Islamic principles, independently of temporal rulers".[22]

KHOMEINI'S DISCOURSE: DOCTRINE AND REASON

By the late twentieth century, the ground had already been laid for Imam Khomeini to make his authoritative contribution to Islamic government. His lectures in Najaf buttressed Usuli rationalist theological arguments regarding the necessity of such a government under the aegis of *Wilayat al-Faqih*. The two interrelated notions were justified by resorting to reason as well as religious doctrine. Khomeini in fact was a twentieth-century heir of a tenth-century Shi'i tradition that linked salvation to the confluence of faith (*iman*), reason (*'aql*) and knowledge (*'ilm*).[23] To which he added contemporary praxis (*'amal*). His lectures reflected those elements as he underscored three main themes. The first theme aimed at developing the discursive justification for an Islamic government with all its concomitant institutions, and for the centrality of Islamic politics. The second proceeded to make the case for the rule of the jurist, and it is here that Khomeini expounds his conceptual doctrine of *Wilayat al-Faqih*; again on the basis of reason, but more so on a broad deliberation of religious texts and traditions. Finally, the third subject matter elaborates on the course of action to be pursued in order to realize the goals and objectives stipulated in earlier themes (i.e., political praxis).[24]

Although recourse to primary religious sources pervaded all of these themes, in the first one Khomeini attempted to provide a rational basis for the necessity of having an Islamic government. When he began from the premise that the principle of *Wilayat al-Faqih* required little "demonstration" and was "self-evident",[25] he was not necessarily overstretching his case. In fact, and despite any distinguishing emphasis between Sunni notions of the Caliphate and the Shi'i Imamite counterparts, both nevertheless converged on the point that the ruler should be just, pious, sufficiently aware of and committed to his faith, and willing

[22] Keddie, *Modern Iran*, p. 20.
[23] Arjomand, *The Shadow of God*, pp. 27–28.
[24] Hamid Algar, in Khomeini, *Islam and Revolution*, p. 25.
[25] Khomeini, *Islam and Revolution*, p. 27.

and capable of implementing the *shariah*. Khomeini, in other words, did not put forth a Shi'i concept that fell beyond the pale of general Islamic consensus. The fact that the Sunnis relaxed much of these requirements over time had more to do with historical developments that compelled them to frequently revise their doctrines under the unfavorable political circumstances.

Another premise that Khomeini stipulated was that simply having a corpus of moral and punitive law is not sufficient in itself, as there must also be an executor and an enforcer which require executive and administrative institutions.[26] It was erroneous in other words to speak of Islam as just being a moral system of beliefs when it was relegated to the private realm, particularly when Islam (unlike Christianity) incorporated a body of divine law. This being the case, the preservation and implementation of law and morality required a "coercive" apparatus in the form of a government. Khomeini's argument in favor of such a state-centered sovereignty is not remarkably dissimilar from any other aimed at justifying the existence of a state in general. However, the difference is substantive in as far as the content of such a state is concerned. It is a state that is to be responsible for its peoples' good, not only "in this world" but also in the "hereafter".[27] Here again, Khomeini does not seem to be far apart, for instance, from the famous Sunni Muslim historian and sociologist Abdel Rahman ibn-Khaldun (1332–1406). Ibn Khaldun had also made a clear distinction between "rational" forms of governance solely on the basis of reason and natural law and those on divine law which sought to maintain a balance between both life dimensions – the here and now and the hereafter.[28] According to Khomeini, such a government was necessary in order to preserve the Islamic order and defend the independence and territorial integrity of the *ummah* (Muslim community).[29] In terms of structure and content, it was to be constitutional not in a positivist sense, but rather in the sense that its rulers as well people were to be constrained by conditions stipulated in the Quran and Islamic traditions. From such premises, in addition to referring to the history of the Prophet's government in Medina (622–632) and that of Imam Ali (656–661), Khomeini concluded that the necessity of an Islamic government is supported by

[26] Ibid., p. 40.
[27] Ibid., p. 40.
[28] Muhsin Mahdi, *Ibn Khaldun's Philosophy of History* (Chicago: University of Chicago Press, 1964), p. 263; Ibn Khaldun, *The Muqaddimah (An Introduction to History)* (Tr. Franz Rosenthal), (Princeton: Princeton University Press, 1958), pp. 383–385.
[29] Khomeini, *Islam and Revolution I*, p. 46.

"reason", "the law of Islam", the "practice of the Prophet" and Imam Ali as well as in Quranic verses and Prophetic traditions.[30] In those terms, Khomeini defined Islamic government as "the rule of divine law over men".[31]

The *Wali-e faqih*'s sacred and therefore divinely ordained duty was to preserve this order. Such a conceptualization, however, does engender certain tensions by raising the question of whether the *faqih* owed his position to that divinely ordained role or to the peoples' acclaim and choice. This tension should not to be confused with the notion of the divine right to rule, for the Shi'i religious field remains polycentric, and the *faqih* – usually of the rank of an Ayatollah – cannot attain that senior position independent of popular acclaim and financial support that the people can withhold in favor of another. In this respect, popular choice continues to feature prominently. The issue nevertheless lies in the balance and extent of the shifting boundaries between the *Wali al-faqih*'s authority and that of popular preferences. This was related to how Imam Khomeini had redefined the role of the *faqih* to embrace "absolute authority" over all other fields extending beyond the mere judicial and/or spiritual to also include the political, economic, and social.[32] Although this issue of authority was settled more or less during his time, the matter was brought up again under Ayatollah Khamenei. This was not simply because the latter did not enjoy Khomeini's standing, but because no one after Khomeini could have enjoyed his undisputed stature. Shortly before his death in early June 1989, Khomeini supported revising the constitution in order to separate the *marja'iyat* from the condition of political leadership, as this was seen to set an extremely high threshold of qualification that could not always be attained. Khomeini stated in a letter to the president of the Assembly for Revising the Constitution in 1989, Ayatollah Ali Akbar Meshkini, that this had been his stance since the early days of the constitution. He added: "[B]ut friends insisted on laying down the condition of the *marja'iyat*. Then I, too, agreed. But at the time I knew that in the not too distant future, it could not be implemented". Instead, he indicated that a confirmed "righteous or just *mojtahed*" would be sufficient.[33] By relaxing the condition of *marja'iyat* in addition to that

[30] Ibid., 51.
[31] Ibid., 55.
[32] Said Saffari, "The Legitimation of the Clergy's Right to Rule in the Iranian Constitution of 1979", *British Journal of Middle Eastern Studies*, 20 (1) (1993), p. 64.
[33] Quoted in Baqer Moin, *Khomeini: Life of the Ayatollah* (New York: I.B. Tauris Publishers, 1999), p. 308.

of infallibility, Khomeini was converging closer to original Sunni criteria. Unlike Sunnis, however, fallibility was not meant to be a license for the ruler to be tainted with "major sin".[34]

In the second theme, Khomeini developed the case for the governance of the jurisprudent. Because of the fact that the Islamic government is a "government of law", it follows that a ruler "unacquainted with the contents of the law … is not fit to rule".[35] This is because if the rule is dependent on the religious rulings of others, "his power to govern will be impaired" and he would be nothing more than a "*muqalid*" – an emulator. Alternatively, if he refuses to be guided by such rulings he will be "unable to rule correctly and implement the laws of Islam".[36] Khomeini's logic seems to proceed as follows: because of the comprehensiveness of the *shariah* that constitutes the basis of an Islamic government, the figure at the helm must be personally well versed and acquainted with its details in theory and practice. This is particularly the case when the ruler is expected to engage in all the complexities of politics and religion. Only an acknowledged *faqih* could have such training and qualifications, and therefore the ruler should be a *faqih*. But the *faqih* is not to be understood as someone who is simply pious and educated in religious sciences; the competence of the *faqih* necessitates both religious as well as governing capacities. Such conditions are clearly stipulated in the Iranian constitution regarding the "special quality"[37] and qualifications of the *faqih*.[38] Insofar as these special qualities were concerned, Khomeini was described by his biographer Baqer Moin as a "skilled practitioner of clerical politics"; a "master tactician"; and a "supreme strategist".[39]

[34] Khomeini, *Islam and Revolution I*, p. 60.

[35] Ibid., p. 60.

[36] Ibid., p. 60.

[37] Enayat, "Iran: Khumayni's Concept of the 'Guardianship of the Jurisconsult'", p. 165.

[38] Article 5 in the Iranian constitution stipulates the following: During the Occultation of the *Wali al-Asr* (may God hasten his reappearance), the *wilayah* and leadership of the *Umma* devolve on the just (*'adl*) and pious (*muttaqi*) *faqih*, who is fully aware of the circumstances of his age; courageous, resourceful, and possessed of administrative ability, will assume the responsibilities of this office in accordance with Article 107. Article 109 also adds:

> Following are the essential qualifications and conditions for the Leader: a) scholarship, as required for performing the functions of mufti in different fields of *fiqh*; b) Justice and piety, as required for the leadership of the Islamic *Ummah*; c) right political and social perspicacity, prudence, courage, administrative facilities and adequate capability for leadership. In case of multiplicity of persons fulfilling the above qualifications and conditions, the person possessing the better jurisprudential and political perspicacity will be given preference.

[39] Moin, *Khomeini*, p. 200.

In addition to reasoning, Khomeini sought to justify his case by falling back on Prophetic traditions (*ahadith*; sgl. *hadith*), which he regarded as supportive of *al-wilayat*. However, Khomeini argued that these traditions require reinterpretation to fit the requirements of contemporary politics. Hamid Mavani has explored the deficiencies within these traditions in one article.[40] In some ways, even Khomeini had encountered some problems with them pertaining to the extent of their authenticity and what they could realistically be interpreted to mean; for these reasons, he had to build a case for these traditions.[41] Nevertheless, and aside from these reservations, there are another series of more authentic traditions from both Shi'i and Sunni sources which hint at the governance of the jurist, and even insinuate the figure of Khomeini himself. These traditions refer to a man emerging from the city of Qum to lead and unify the people, and indicate that a time will come when men from Persia shall restore the faith. These traditions have at least partially toned down subsequent debates on the legitimacy of the concept of *Wilayat al-Faqih*,[42] for when Khomeini gave his lectures in Najaf he was certainly attempting to provide a well-reasoned religious articulation for his position. But he was in all probability unaware that he and his followers could perhaps be the subject of the latter class of traditions, and therefore could not have had recourse to them. Only subsequently could he have been aware of the possible connection. Taking note of this is important to better understand this phenomenon as an Islamic historical experience.

[40] See Mavani, "Analysis of Khomeini's Proofs".

[41] Khomeini, *Islam and Revolution I*, pp. 69–72.

[42] Two traditions by Imam Ja'far al-Sadiq (702–765) are reported as follows: "There shall come a time when the city of Qum and its people shall become a proof against the creation, and that shall be in the time of the occultation of the Mahdi, upon be peace, until his coming forth". The second tradition states: "A man from Qum shall come forth and call the people to the truth. People shall gather around him like blocks of iron. Neither raging winds will shake them, nor shall battle tire them out, nor shall they display cowardice, and it is upon Allah that they shall place their trust" (quoted in Ahmad, *Fatwas of Condemnation*, p. 275). The second tradition has also been referred to by Enayat in "Iran: Khumayni's Concept of the 'Guardianship of the Jurisconsult'", p. 168. Furthermore, a Prophetic tradition is reported as follows: When the Qur'anic verse "If ye turn back (from the path), He will substitute in your stead another people [non-Arab]; then they would not be like you" was revealed (47:39), the Prophet was asked who those substituting people might be. He put his hand on Salman al Farisi's (the only Persian Muslim at the time) shoulder and said, "This man and his people. By him in whose hands my soul is, if the faith were to be as far as the Pleiades [secular epoch?] it shall be brought back by men from Persia [The Islamic Revolution?]", Mohammad ibn Jariri al-Tabari, *Jami' al-Bayan fi Tafsir al-Quran*, fourth edition, vol. xxvi (Beirut: Dar al-Ma'rifa, 1980), p. 42. See also Muhammad Ahmad al-Qurtobi, *Al-Jami' li-Ahkam al-Quran*, vol, xvi (Beirut: Dar Ihya' al-Turath al-Arabi, 1967), p. 258.

Finally, in the third part of his lectures, and like all revolutionary theoreticians and practitioners, Khomeini addressed the crucial question of, "What is to be done", proposing and articulating an activist agenda for the clergy. He identified "propagation" of the Islamic cause as well as "instruction" of people in the political, economic and legal facets of Islam – not merely in its ritualistic aspects – as his starting point.[43] The purpose was to create an "intellectual awakening" that was to develop as a pervasive social "current", and which would eventually take shape in the form of an organized Islamic movement. The burden of this effort rested mainly on the shoulders of the *fuqaha*, who by so doing would raise the peoples' religio-political "consciousness", and only then become the true "citadels of Islam".[44] Such an agenda required that the *fuqaha* should refrain from any service in or with governmental institutions of the Shah, and reject any form of cooperation or action that may be construed as supportive of his regime. Khomeini strongly criticized those clerics that chose to stay aloof from politics or serve corrupt governments, designating them as "*akhunds*" (pejorative term for clerics).[45] According to Khomeini, it was necessary to create "new judicial, financial, economic, cultural and political [Islamic] institutions",[46] because "the ratio of Qur'anic verses concerned with the affairs of society to those concerned with ritual worship is greater than a hundred to one".[47]

This argument and position had major socio-political and doctrinal implications. Politically, it meant that Khomeini could make a clear distinction between the real *fuqaha* who were committed to their faith and those who were nothing but "people whom SAVAK [the Iranian secret police agency under the Shah] has issued a turban and told to pray". Such false *akhunds* must have their turbans stripped from them. They must be "exposed and disgraced" as he put it, lest they destroy Islam from within.[48] More importantly, from a doctrinal point of view, this position of Khomeini allowed him to challenge the Shi'i concept of *taqiya* (dissimulation), which allowed a Muslim to keep his or her true beliefs in concealment if their life was endangered. Khomeini decreed that when Islam and its welfare are endangered (as he perceived it to be) it was not

[43] Khomeini, *Islam and Revolution I*, p. 126.
[44] Ibid., pp. 127, 132.
[45] Ibid., pp. 30, 132, 144.
[46] Khomeini (1985: 146); Ibid., pp. 69–72.
[47] Ibid., p. 29.
[48] Ibid., p. 145.

permissible for the *fuqaha* to practice dissimulation or quietism, even if it were "licit" to do so and cost them their lives.[49] Given the lingering prominence of *taqiya* in Shi'ism, this was quite a profound development, as it went against the established Shi'i tradition of quietism.

WILAYAT AL FAQIH – THE STRUCTURE OF A RELIGIOUS INNOVATION

Wilayat al-Faqih constituted the parsimonious tenet that fused religion and politics in the institutionalized figure of the jurisprudent. This re-politicization of Islam in general and Shi'ism in particular gave rise to an exceptional structural arrangement of religio-political patriarchy characterized by the sociocultural hegemony of a religiously charismatic class in conjunction with a broad popular base of consent.[50] The *faqih* represented the absolute moral and monistic standards of the faith; popular will was expressed through the choice of the president and other parliamentary legislative members (*majlis*). The former, short of any conditions compromising his entitlement, occupied the position permanently through a process of selection (by the Council of Experts); the latter ran for office for only two four-year terms in recurrent elections. The symbiotic relationship between both pillars of the system is on the basis of root and branch; the absolute and the relative; moral allegiance and political/administrative choice in a unified framework of the Islamic system. In this sense, popular will falls in the domain of the contingent rather than the sovereign or the necessary. In many ways, this order was similar to Ali Shari'ati's idea of a "regime of guidance", where the authority of the leader (in this case the *Wali al-Faqih*) rested on the people "recognizing" rather than necessarily electing him. The leader, whether innately charismatic or not, was responsible "not to the people, but to the 'principles of guidance' [Islam] according to which he had to move society toward its higher goals".[51] This is an important point that distinguishes this political system in substantive and analytical terms, and should be taken into consideration so as not to confuse the electoral aspect within the system with democracy. To say that the Iranian system is Islamic means that Islamic values are primary and causal, and take precedence over values

[49] Ibid., p. 144.

[50] Mangol Bayat, "The Iranian Revolution of 1978–79: Fundamentalist or Modern?" *Middle East Journal*, 37 (1) (1983), p. 41.

[51] Farzin Vahdat, *God and Juggernaut* (New York: Syracuse University Press, 2002), p. 152.

of popular sovereignty. At the same time, this does not mean that popular will is unimportant or that the absolute authority of the *faqih* translates into dictatorship. Rather, the institutional process becomes more a reflection of an "authority-bound" regime. As opposed to authoritarianism – in which civil society is dominated by the state and largely a pattern of vertical power relationships between the two[52] – an authority-bound regime is a condition in which the character of the equilibrating relationship among the leadership, state and society is ordained according to an overarching common Islamic frame of reference. The institutional dynamics of this order has been reflected by Elaine Sciolino in the following words:

> I have learned that it is impossible to talk about a monolithic Iranian "regime" any longer; the struggle for the country's future is so far too intense for that. Today there is no unified leadership or all-powerful governmental superstructure that makes and executes all decisions. Rather, power is dispersed among and even within many competing power centers, with varying agendas and methods of operation and degrees of authority. Even as I write, alliances are shifting. Players are adapting. Coalitions are building.[53]

This reflection is supported by Eva Rakel, who also discerned formal and informal power structures comprised of state institutions as well as "networks" and "alliances" from within and outside those institutions. Such dynamics within the framework of Iran's Islamic system hardly conform to the usual designations of totalitarianism, authoritarianism or democracy,[54] and are what render its religio-political system highly unique, as it cuts through all three.

WILAYAT AL FAQIH: A THEOCRACY OR UNIQUE?

Questions nevertheless continue to be raised as to whether a religio-political system on the basis of Islam in general and *Wilayat al-Faqih* in particular is by necessity a theocratic regime. Addressing this issue remains significantly complex, as the very term "theocracy" remains contested and conceptually illusive. Frequently, proposed definitions tend to express constructed biases rather than accurate or actual depictions of the phenomenon observed. Donald Wittman, for instance, quite typically attempts to

[52] Juan Linz, "An Authoritarian Regime: Spain" in Erik Allardt and Stein Rokkan (eds.) *Mass Politics* (New York: The Free Press, 1970), pp. 251–283.

[53] Elaine Sciolino, *Persian Mirrors: The Elusive Face of Iran* (London: The Free Press, 2000), p. 360.

[54] Eva P. Rakel, *Power, Islam and Political Elite in Iran* (Leiden: Brill, 2009), pp. xxii, 5.

provide arguments against the viability of a theocratic system in favor of democracy, and clearly having Iran in mind, defines theocracy in terms that reveal his own preferences.[55] He defines theocracy as a "priestly class from a recognized religion" that "rules the country directly or indirectly through puppet political leaders". According to this definition, Wittman considers Iran to be a theocracy, but not Saudi Arabia.[56] But by the same token, if one adopts the definition of theocracy provided by Douglas W. Allen as "a government grounded and constrained by a religious theology",[57] then presumably Saudi Arabia qualifies as one. Another definition which also seems to have Islamic Iran in mind defines the term as a "political arrangement by which the main functions of secular government are discharged by a priesthood, who double as secular officials".[58] Ronald Wintrobe and Fabio Padovano perceive theocracy as nothing more than a form of dictatorship,[59] whereas Brendon O'Leary designates it as simply a form of "aristocratic or oligarchic government".[60] Definitional variations of this kind reveal that considerable uncertainty exists regarding conceptual distinctions between theocracy and an Islamic state, especially when the subtle differences between the two frequently render them synonymous. They also solely apply social theory's discursive conceptions which tend to block "the Islamic" from speaking for and representing itself. Such a hegemonic condition is of consequence, as it lends itself to mutual suspicion, malignance and demonization. Ambiguities of this kind need to be addressed in this context on the level of three dimensions: the analytical, doctrinal and hegemonic subversive ("soft" power).

Analytically, the centrality of the populist element in the Iranian system mitigates against taking *Wilayat al-Faqih* a priori as an attempt at establishing a theocracy. Given the Islamic principle and doctrine of the Seal of the Prophets[61] (i.e., that the Prophet Muhammad is the last of the

[55] Donald Wittman, "Theocracy and the Evolution of Morals" in Mario Ferraro and Ronald Wintrobe (eds.), *The Political Economy of Theocracy* (New York: Palgrave Macmillan, 2009), pp. 173–174.

[56] Ibid., p. 172.

[57] D. W. Allen, "Theocracy as a Screening Device" in Ferraro and Wintrobe (eds.), *The Political Economy of Theocracy*, p. 181.

[58] M. Ferraro, "The Economics of Theocracy" in Ferraro and Wintrobe (eds.), *The Political Economy of Theocracy*, p. 31.

[59] R. Wintrobe and F. Padovano, "Theocracy, Natural Spiritual Monopoly and Dictatorship" in Ferraro and Wintrobe (eds.), *The Political Economy of Theocracy.*

[60] Brendan O'Leary, "Theocracy and the Separation of Power" in Ferraro & Wintrobe (eds.), *The Political Economy of Theocracy*, p. 26.

[61] Qur'an 33:4.

Prophets of God), the very structure of the Islamic faith does not permit any person to make a credible claim to represent or speak for God, nor for any human mediation between man and God. And although in Islam many believe there is no separation between Mosque and state, fusion or subordination of political power to religious ordinances remains an interpretive effort on the basis of legitimate *ijtihad*, which by definition can make no claim of infallibility. As a matter of fact, the very principle of *ijtihad*, which structurally gravitates toward diverse opinions and schools of thought (*Mazaheb*), does not allow for religious centralization and subsequently theocratic/hierarchical patterns of authority. A *fatwa* or religious ruling on the basis of the *ijtihad* of a qualified *faqih* is religiously obligatory (*fard*) if there is unanimous consensus (*ijma'*) among all *fuqaha* – a rare occurrence – and religio-politically binding (*wajib*) if issued by a legitimate ruler: an Imam. Only in the former case is there a primary obligation directly derived from the *shariah*. In the latter, it becomes a secondary ordinance, binding but not necessarily obligatory, on the basis of the legitimating credentials of the leadership and the circular covenant of allegiance. In this vein, it has more to do with the practical necessity of governance than with Islamic doctrinal imperatives. The issue of blasphemy, associated with direct denial of primary obligations, therefore does not arise.[62]

The religious field in Iran, despite the fusion of political and religious powers, remains independent, polycentric and dynamic. *Al-wilayat* did not alter the basic structural relationships in the religious field. Clergymen "continue to disburse funds, aggregate followers on specific issues, articulate needs, wield the symbols of culture, administer shrines, manage and own lands".[63] Organizationally and structurally this constrains the

[62] This analysis borrows from Amr Sabet, *Islam and the Political: Theory, Governance and International Relations* (London: Pluto Press, 2008). The intimidation of some of the Grand Ayatollahs that did not agree with Ayatollah Khomeini's ijtihad into silence during the early years of the revolution had more to do with the secondary rather than primary ordinances of Islam and the situational imperatives of the time. Several of the mujtahids who did not agree with Wilayat al-Faqih succumbed to its authority on political rather than religious grounds. Their rejection of this ijtihad in many respects carries the same religiously authoritative weight as that of Ayatollah Khomeini. It was religious politics, however, that made the difference. In rejecting the principle according to this logic, the other mujtahids lacked appropriate discernment despite their religious expertise. Islam was so threatened that quietism could no longer be afforded, and activism was necessary. This was consistent with what Khomeini had stated earlier in his Najaf lectures – that mere spiritual superiority (see Khomeini *Islam and Revolution*, p. 62) was not enough to "confer increased governmental power", but that religio-political competence was also needed.

[63] Akhavi, *Religion and Politics*, p. 179.

establishment of a centralized hierarchy intrinsic to the establishment of a theocracy. The fusion of religious and political powers does not necessarily alter this condition; it simply implies a choice of a political course of action from among varied legitimate religious opinions rather than the negation of *ijtihad*'s pluralism. Policy in this case becomes a religiously legitimated decision-making process. Moreover, the circular leadership-follower-leadership relationship within which individuals have the freedom to choose their own *mujtahids* to emulate challenges the very essence of hierarchical order central to a theocratic regime. By stressing informal popular recognition of the *faqih*'s benevolence and wisdom, significant constraints on the risk of relapsing into a dominative pattern of power emanating from the fusion of religion and politics do exist. The Council of Experts which selects him for that role, taking popular recognition of the *faqih*'s preeminence in hindsight, further structures and formalizes this process.[64] Nor did the late Ayatollah Khomeini, despite his charisma, authority and control over the state's coercive apparatus seriously attempt to bring the full force of the latter against the religious field's polycentric and circular structure. In fact, the expanded terrain of religio-politics has brought in the historically overlooked popular dimension.

Unlike the broad vertical perceptions of authority associated with theocracy, an Islamic pattern of leadership, on the basis of the mutual obligations of the leaders and followers to each other, is circular. There remains, in other words, an inherent conflict between the authority patterns of theocratic hierarchy and *Wilayat al-Faqih*'s circularity. Furthermore, the polycentric character of the clerical organizational structure provides an opportunity for potential opposition to channel its energies and find expression through – and from within – the religious field itself, rather than from outside of it. Diverse popular demands, consequently, can find a differentiated religious/clerical response, which allows for the transmission of those demands to the interior of the religious field.

CONCLUSION

Islam re-politicized introduces a new dimension in world politics by reinstating Muslims as subjects rather than mere objects of Western cultural imperial hegemony. Imperialism, as Bordieu and Wacquant have

[64] The Council of Experts which comprises of 86 expert Islamic scholars, voted for from a list of candidates, is a powerful organ which in addition to selecting the *Faqih* also oversees his performance. Members of the Council are elected for a period of eight years and have the power to dismiss the *Faqih* should he fail in performing his duties, or become incapacitated for one reason or the other.

observed, "rests on the power to universalize particularisms linked to a singular historical tradition by causing them to be misrecognized as such"[65] – this is when imperialism and totalitarianism converge. By articulating an activist agenda for the *ulema*, Khomeini and the Iranian Islamic experience continues to threaten the imperial order, rendering the misrecognized recognized.

It is important to note, as this chapter has attempted to point out, that this Iranian Islamic phenomenon is not just a socio-political occurrence, but more so an unfolding religious manifestation of an innate Islamic expectation. Separated from the Islamic, the social and the political can only offer a reductive rationalization of a much more comprehensive event that can be better understood from within the context of primary Islamic sources.

At the heart of this Islamic phenomenon is a creative theory of government and leadership which sought to tackle the recurring issue of legitimacy and question of who is entitled to lead the Muslim community (*umma*). But Ayatollah Khomeini's political theory is not simply a matter of theocratic principle sanctified by the totality of a divinely commissioned sacerdotal order. *Wilayat al-Faqih* and the structure of the Islamic government may harbor theocratic elements, but it is not accurate to designate the Iranian state a theocracy. It harbors democratic elements, but it may not be correct to designate it a democracy either; it may incorporate authoritarian or totalitarian elements, but this does not necessarily translate into totalitarianism. As an outcome of *ijtihad* it remains contingent on, and thus not necessary to, Islamic doctrinal belief. Although it does confirm the leadership of the *fuqaha* as an Islamic bloc or vanguard, this remains subject to the *fuqaha*'s ability to maintain their authority and legitimacy through their bloc capacities, as well as through their commitment to the faith, people and interests. Additionally, although it insightfully addresses the issues of who is to rule legitimately and how, this does not mean that all Muslims necessarily agree or accept the associated theory of *Wilayat al-Faqih*.

Nevertheless, a discourse of governance has no doubt developed both in theory and praxis which provides a platform from which to engage issues that have dogged Muslims for a long time. Such a development carries significant implications. As John Stempel put it, "Clerical supremacy as asserted by Ayatollah Khomeini is an implied standing challenge

[65] Pierre Bourdieu and Loic Wacquant, "On the Cunning of Imperialist Reason", *Theory, Culture and Society*, 16 (1) (1999), p. 41.

to secular governments every where. If it continues to exist and prosper, a centuries-old Western trend of separation between church and state would be reversed".[66] Stempel was attesting to the fact that Imam Khomeini, the man from Qum who would bring back the faith on the eve of the fifteenth Islamic century, "viewed from whatever perspective, was not an ordinary man".[67]

[66] John Stempel, *Inside the Iranian Revolution* (Bloomington: Indiana University Press, 1981), p. 311.
[67] Moin, *Khomeini*, p. 313.