

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Shi'a Political Thought:
The History and Evolution of Wilayat-al-Faqih

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dedicated to the sun behind the clouds

“Allah strengthens whomever He wishes with His help. There is indeed a moral in that for those who have insight.” (3:13)

Introduction

In this paper, I argue that the modern day Wilayat-al-Faqih (guardianship of the jurist) in Iran is a replication of an old idea which gives legitimacy to the Iranian government. This research would then inform academics about the historical context of Iran's political philosophy and how this doctrine is not a new phenomenon but rather a theory of governance and political philosophy found in the Safavid Empire (1502-1736 AD). This research is important because it points to how Iran seeks legitimacy through its Shia identity and history for better understanding the state.

I will do this by describing the role of jurists in Safavid politics and how they informed government policies and legislation. My theoretical expectations for this project is to give an understanding of guardianship (*wilayah*) and the role of a jurist (*marja*) in Safavid politics and compare that to modern day interpretations of guardianship of the jurist post-1979 Iran. I also intend to analyze misconceptions about guardianship of the jurist (*wilayatul faqih*) as well as opposition to create a new way of thinking about Iranian politics.

What are the roots of the Shi'a political theory of "leadership of the jurist" in Safavid Iran between the years 1550-1650AD and did scholars hold positions similar to that of the Supreme Leader in Iran now?

Western political and theological discourse does not currently compare the Safavid political system and Wilayat-al-Faqih; instead, western discourse is strict in thinking that the 1979 Iranian Revolution is the first instance in history of Shi'a political thought and its

implementation. Western discourse also has minimal literature showing how the Iranian government seeks legitimacy through its Shi'a identity and Safavid history.

I hypothesize that Wilayat-al-Faqih was in effect during the Safavid court through the implementation of the sheikh-al-Islams and Ayatollah Khomeini simply brought this system of governance back and applied it to modern statehood. However, due to changes in Shia jurisprudence and the implementation of a Shia state after the overthrow of the Pahlavi dictatorship in 1979, the responsibilities of a jurist have expanded in the modern era to include a more politically dominant role of the faqih rather than interpreting sharia and implementing it as legislation as was done during the Safavid empire. This system of government gives the Iranian government a sense of identity and legitimacy by connecting them to their Shia heritage and history and is crucial for understanding their actions and politics.

I will first outline Shia Islamic history and beliefs along with an overview of key concepts of my topic. I will then discuss the meaning of Wilayat-al-Faqih and how Ayatollah Khomeini interpreted and elaborated this doctrine. I will then explore the Safavid court and the power of jurists (*fuqaha*) in regards to implementing jurisprudential issues such as the collection of the alms-tax and leading the congregation during Friday prayers.

Literature Review

In one chapter of Linda Walbridge's anthology *The Most Learned of the Shi'a: The Institution of the Marj'at Taqlid*, Hamid Mavani explores the hadith literature Khomeini uses as evidence for the *ulema* to be the "holders of authority" as in verse 59 of Surah Nisa of the Holy Quran.

Anthony Black's book covers shows how political thought has not only changed but also highlights key scholars- both Sunni and Shi'a - as well as key movements within the history of Islam. It offers a concise and comprehensive history of political philosophy from the time from Muhammad ﷺ to present day while also elaborating on key figures such as Allamah Majlisi and Muhaqqiq al-Karaki who were major players in Safavid politics and who I will be looking into more deeply to ascertain how their responsibilities are that of a *wali-ul-faqih*.

Nura Hossainzadeh's article, "Ruhollah Khomeini's Political Thought: Elements of Guardianship, Consent, and Representative Government" argues that Khomeini's theory of governance is often described in absolutist terms and the author instead proposes that it can be analyzed in terms of limited guardianship. The article uses speeches of Khomeini to show that he argued that the necessary conditions for political legitimacy is popular consent, public approval of the *faqih* (guardian), and representation in a legislative assembly. The author assumes that the discourse surrounding the Iranian Revolution is one that suggests that Ayatollah Khomeini calls for the maximum authority by the jurist and argues against this opinion.

Abbas Amanat's chapter "From *ijtihad* to *wilayat-i faqih*: The Evolving of the Shi'ite Legal Authority to Political Power" in his book *Apocalyptic Iran*, he argues against

Wilayat-al-Faqih. Amanat asks what the historical and legal process was in Iran which transformed the authority of the jurist (*marja*) into “a binding, all-embracing, and authoritative office of the wilayat-i faqih with claim over the judicial and political authority” (Amanat 2009) post-1979. He is tracing the history and evolutions in Shi’a Islamic law and seeks to argue that the legal system in Imami Shi’ism did not modernize, but he does not explain what he means by modernity. In addition, he argues that the positions of *sadr* and Shaykh-al-Islam during the Safavid Empire did not give the jurist legal authority to enforce rulings nor did the jurists govern as in post-1979 Iran. He is the only scholar I found who discusses the political dissidence in modern-day Iran against Wilayat-al-Faqih. While Amanat’s argument is compelling, he does not explain how the colonial period influenced the role of jurists nor does he explain how the transition from an empire to a state changed the role of a jurist if at all nor does he focus on the theological basis for which Wilayat-al-Faqih is rooted.

Andrew Newman is also a leading scholar in Near Eastern studies. His book *Safavid Iran: Rebirth of a Persian Empire* gives a detailed overview of the Empire with specific focus on each Shah (king) who ruled and their relationship with religious clerics.

Throughout my literature review, I have found that academics are either exploring the influence of jurists on politics during the Safavid Empire instead of comparing this doctrine to Safavid politics or scholars refute the claim that modern-day Wilayat-al-Faqih has any comparison to Safavid politics. Moving forward, I will analyze how the *scope* of authority a jurist (*marja*) had during the Safavids has evolved as opposed to researching the evolution of a jurist’s authority itself and researching the specific responsibilities of the jurists during the Safavid Empire.

The Theological Context

Two Weighty Things

Shia'ism can be summarized by the Hadith-al-Thaqalayn at Ghadeer-e-Khumm in which Muhammad ﷺ is narrated to have said: "I leave behind two weighty things: the Quran and my Ahlulbait (my family)."¹ This is understood in terms of guidance and what is legitimate authority to be followed after his passing. Since the Quran is the book of guidance, placing the Ahlulbait with it in this statement shows that they too have the same function as the scripture. The Ahlulbait comprises the immediate family² of the Prophet ﷺ, his only child Fatima ؑ her husband, Ali ؑ and her two sons Hassan ؑ and Hussain ؑ and nine of Hussain's descendants making up fourteen infallible guides. As per the verse of purity (33:33), they are considered to be purified from sin³ making them infallible leaders and the worthy of divine sovereignty. Furthermore, Ghadeer-e-Khum was the place in which the authority of Ali ؑ was officially established by the Prophet ﷺ after his last Hajj⁴ in which he said, "Whomsoever I am his *mawla* (leader/guardian/sovereign), then Ali is his *mawla*."⁵ Through this narration (among others), Shia'ism holds the legitimate authority of Ali ؑ as the successor of the Prophet ﷺ and

¹ [Muslim 2408](#), [Tirmidhi 3788](#) and [Tirmidhi 3786](#) are a few reports regarding this statement

² [Tirmidhi 2999](#)

³ The Prophets are all considered to be infallible in addition to these fourteen and infallibility is capable of everyone not just these individuals. However one should note that infallibility does not mean that they cannot commit mistakes since mistakes are not in the category of sin. There is also no original sin in Shi'a Islam. For more information refer to *Tafsir al Mizan* by Allamah Tabatabai or *A Shi'a Encyclopedia* by Al-Islam.

⁴ There are many reports that say that the designation of Ali ؑ to succeed Muhammad ﷺ was done plenty of times before this event in various gatherings; however, Ghadeer was when all the Muslims were gathered for this announcement and gave their allegiance to Ali ؑ.

⁵ Sunan Ibn Majah, Vol.1.Book 1, [hadith](#) 121 (english reference). While the Shi'a define the word "mawla" as leader, in the same way the Prophet was the leader of the Muslim nation while Sunnis interpret this word for meaning "friend." For more on this refer to Wilfred Madelung's *The Succession to Muhammad*

it is this authority that Wilayat-al-Faqih then continues in the absence of a divinely appointed leader.

The twelve Imams are understood as being “held to be necessary to the constitution of the Universe and of true religion. The Imam is God’s proof (Hujjah: guarantee), he is the pillar of the Universe, the ‘gate’ through whom God is approached. Knowledge of revelation depends upon him” (Black 2001). They are not political leaders because of family ties but rather because of their designation by the divine which gives their political and spiritual authority legitimacy, and they are the moral exemplar of revelation and the interpreters of the law (*sunnah*) from the Quran, in order to serve as the vicegerent of Allah (swt) on Earth.

At Muhammad’s ﷺ deathbed, it is here that Saqifa occurs, a *shura* council in which the companions present with Abu Bakr and Umar “elect” Abu Bakr as the successor of the Prophet ﷺ. In fact, even Umar, the second caliph, admits that the pledge of allegiance to Abu Bakr at Saqifa was “nothing but a prompt sudden action which got established afterwards”⁶ and in Shi’a thought, this coup d’etat begins the line of illegitimate rulership.

The Occultation of the Twelfth Imam⁷ & Marja’iyya

In Shi’a political thought, the Imam ع would be the one to take the position of political leadership after the Prophet’s ﷺ passing; however, due to external threats to the Imam, the twelfth and last Imam ع went into a period of hiding or major occultation in 878AD. This is not to say that the Imam ع is not active in the community and working internally to better the lives of people, but that his identity is not openly known. The former Imams ع had established a

⁶ [Bukhari 6830](#)

⁷ For more information, read Muneer Al-Khabbaz’s *The Mahdi: Understanding the Awaited One* or *The Book of Occultation* (Kitab al Ghaybah) by Abu Abdullah Muhammad ibn Ibrahim Nu'mani (d.970 A.D).

wakala system in which they had designated agents and representatives to deliver questions and messages from the Shia to him owing to the threat to their life by the Abbasid dynasty; however, the crisis occurs when the Imam ع is in occultation which creates the question of rulership and clerical authority.

Today clerical authority has become institutionalized in order to interpret the law. If an *alim* (scholar/scientist) were to complete *ijtihad*, or strive for legal reasoning in order to interpret law, then they become a *mujtahid*. It is the *mujtahid* who would be regarded as the *faqih* provided that they meet the other qualifications such as piety and justice in a legal framing of Wilayat-al-Faqih.⁸ Once they are given permission by their peers, they are able to become a *marja*, someone who issues decrees (*fatwas*) on legal matters and has followers in aspects of law. This institution is called *marja-e-taqlid* because the Shi'as are emulating the *marja*'s legal advice. This also shows that while *sharia* is unchangeable and objective, *fiqh* (jurisprudence) is changeable over time and in different situations and contexts which is why in Shi'a law, legal rulings can and have changed over time as new information, and new scholarship emerged by the *ulema*. The only station higher than a *marja* is today known as the Supreme Leader or a Grand Ayatollah. The ranking of the scholars is thus critical to understand how *wilayah* does and does not play a role in the system of legal emulation (*marja-e-taqlid*) of a just *marja*.

⁸ These qualifications are based on hadith in which the Imams have said that the fuqaha are to receive deputyship of the twelfth Imam ع. One such tradition is recorded by Al-Tabarsi in which the 11th Imam, Imam Hasan al Askari ع said: "It is obligatory for the populace to follow the jurist who refrains from committing wrong, mentions his faith, opposes carnal desire, and obeys Allah's command." This report can be found in al-Tabarsi, al-Ihtijaj, II., 263-4; al-'Amili, al-Wasa'il, XVIII, 94-5 or in the book *The Occultation of the Twelfth Imam (A Historical Background)* by Jassim M. Hussain.

What is Wilayat?

When trying to understand the system of the doctrine of Wilayat-al-Faqih in modern Iran one must break apart the definitions of *wilyah* and *faqih*. According to Dr. Mohseni's lecture *wali* means "to be near or to be close to someone or something" as well as "to be in charge" "to exercise authority" and also "love" "faithfulness" "loyalty" (00.22:55). This is emphasized in the verse of *wilayat* in the Holy Quran [5:55] in which the God establishes Himself as the absolute guardian and then includes "His Apostle" that being the Muhammad ﷺ and the believer who "maintain[s] prayer and give[s] charity while bowing down" which is in reference to Imam Ali ⁹ ع. The Quran later asserts that those who follow the *taghut* [2:256], or those rulers other than one He has chosen, are following an illegitimate authority. Therefore, ultimate sovereignty and authority comes from the divine which is then entrusted to the Prophet ﷺ and he is then commanded to give this vicegerency to the Imams ع to act as guardians of the message which encompasses spiritual and socio-political authority which establishes legitimate authority on Earth. As the goal of humanity is perfection, the *wali* exists to provide an example to guide people towards righteousness and perfection, towards the divine itself.

In Surah Nisa, 4:59, those "vested with authority" continue this system of vicegerency whereby the authority (*Wilayat*) is entrusted to the just and capable scholar (*faqih-e-adil*), who acts as a deputy to the absent Imam: "O you who have faith! Obey Allah and obey the Apostle and those vested with authority among you..." (The Holy Quran, trans. Quli Qarai). While "those vested with authority" refers to the Imams ع, it was then reinterpreted in light of hadith literature

⁹ Refer to *Asbab al Nuzul* by Ali ibn Ahmad al-Wāhidī trans. Mokrane Guezzou for Ibn Abbas's hadith regarding this event

to include the *ulema* as well. Thus, “the guardianship of a jurist is legitimized and his authority is related to the original and absolute authority of Allah” (Vaezi 2004).

In essence, authority comes back to the divine through the application of divine law by the Prophet ﷺ, the Imams ع after him and the *ulema* in the Imam’s absence. However, one key difference as Vaezi points out is that while the Prophets and Imams were specifically chosen to be the *wali*, the *ulema* are not chosen by name and can thus be “implicitly chosen” which then raises the question of who gets to be the *wali* and how they are chosen which is outside the scope of this paper.

Wilayah in itself is a doctrine that manages *hisbiya* or social affairs of the people, or day to day tasks that require an authorized guardian to oversee them such as endowments, funerals, and inheritance. While these socio-political affairs were originally managed by the Prophet ﷺ and the Imams ع, Wilayat-al-Faqih operates to give the *ulema* the authority to manage *hisbiya* affairs in society far before Khomeini’s time. Other responsibilities of the Imams ع entrusted to the *ulema* based on the *hisbiya* affairs include political affairs including the Eid-ul-Fitr, Eid-ul-Adha and Friday prayers as well as issuing legal punishment (*hudud*), collecting taxes (*khums*), waging holy war and defense (*jihad*). These affairs cannot be conducted in the Shi’a community without the Imam ع unless the political authority of the Imams ع extends to someone else in their absence.

Wilayat al Mutlaqah (absolute authority) is the type of *wilayat* that currently governs the interpretation of Wilayah-al-Faqih in Iran today and this is the absolute authority of the *faqih* or the jurist. This jurist can be different people depending on the framework of the doctrine. For instance, if one were to look at Wilayat-al-Faqih from a mystical approach, then an *arif* or a

mystic would be the faqih whereas from a legal approach it would be the *mujtahid* according to Dr. Mohseni. Interestingly, it holds the same meaning as Wilayat-al-Amma: “He [Khomeini] was a jurispudent, but his approach wasn't a jurisprudential approach, in many ways, his approach was a spiritual mystical-irfani approach and the reason he said that wilayat-al-mutlaqa is mutlaqa is [because] mutlaqa is the Irfani-spiritual word for wilayat-al-amma” (Mohseni, 00.52.26). This would mean that divine sovereignty (*wilayah*) is absolute in its scope of authority and belongs to the sovereign. The difference between the *irfani* (mystical) approach and the jurisprudential approach to Wilayat-al-Faqih is key in understanding how Ayatollah Khomeini implemented changes to this historic doctrine.

Historically, *Wilayat-al-Faqih* has been understood as *Wilayat-al-Amma* (universal authority) and *Wilayat-al-Khass* (general authority) such that now in Iran the decision of the *wali* is the same decision of that of the Prophet ﷺ and the *faqih* has the full responsibilities as an infallible Imam ع. This does not mean that the *faqih* is at the degree of the infallibles but it is in the responsibilities that they have to exercise. In fact, *Wilayat-al-Amma* dates even before the Safavids to Sheikh Mufid (1022 AD)’s saying, “It is the duty of the ruler of Islam (*Sultan-e-Islam*) who is appointed by Almighty God to implement *hudud*. Sultan-al-Islam is the infallible Imam from Mohammed's (phbh) family or the rulers and governors (*hukm*) who are designated by them. They have entrusted this duty to the *fuqaha*, where possible.” Since Sheikh Mufid - one of the leading classical scholars of Shia’ism - lived before the modern era and even hundreds of years before the Safavids, it shows how *wilayat* is a doctrine that is inherent even in early Shi'a discourse and not something created as a result of the Iranian Revolution. The “rulers

and governors designated by them” are the *ulema* or the *fuqaha* and this shows how *wilayat* gives legitimate authority of rulership to the faqih to implement *sharia* (Islamic law).

Sheikh Hasan al Tusi (d. 1067 AD) also says that “carrying out Islamic sentences and implementing religious injunctions is obligatory at the ear of occultation” (Mohseni). The guardian and governor he says is “the agent and representative of the Absent Imam. If the *fuqaha* are not to have the general vicegerency, all the affairs of the Shi’a will remain unattend” (Mohseni) because Wilayat-al-Amma or Wilayat-al-Mutlaqa is the doctrine that gives the *ulema* authority to perform *hisbiya* duties in the first place, giving them the legal authority to lead a nation.

What leadership entails and the extent of authority is then disputed and has historically expanded but this does not negate the history of the doctrine itself. Rather, it shows how the dynamism and universality of *wilayat* in Shia Islam and Shia jurisprudence. Since there are dozens of types of *wilayat*, defining this term is crucial for understanding the context and scope of authority being discussed especially since these different types of *wilayah* are intertwined together as well as we have discussed in amma and mutlaqah, both are synonyms denoting the same concept. To understand the application of the *ulema*’s authority, we can analyze the Safavid dynasty and the clerical order that existed in the Empire itself and compare that to Khomeini’s authority.

Safavid Politics

What began as a Sufi order changed to a Twelver Shi’a Empire within the course of a few decades and through mass conversion on part of the *ulema* from Jabil Amil and surrounding

areas. *The Oxford Handbook of Iranian History* speaks about the beginning of the Safavid Empire from the Sufi mystic, Shafi Al Din who according to Another Shaykh Junayd “had altered the character of the Safavid order from a Sufi brotherhood to a messianic movement with far reaching political aspirations” (Daryae 2011). The messianism of the first Safavid king, Ismail I was later rejected by his son Tahmasp as the Safavids moved toward a growing relationship between the clergy and the king. Throughout the Safavid Empire then there was a position of a *faqih* established called Shaykh-al-Islam who worked in the judiciary to uphold Islamic law and also manage the *hisbiya* affairs of the community. There were also *sadrs*, descendants of the Prophet ﷺ appointed to another political position who were meant to overlook the Shaykh-al-Islams but in reality were influenced by them as in the case with Karaki and were leaders of religious administration (Newman Year: 1999).

The Safavid court consisted of a Shah (king) and scholars who they would refer to and assign as Shaykh-al-Islams in various different cities throughout the Persianate Empire, most notably in Isfahan, which served as the cultural and political capital of the Empire. Shaykh-al-Islam was a political role given to jurists in each city in which they could enact laws and rulings based on Islamic principles (Momen 1986). They were also responsible for writing orders (*fatwas*) and issuing verdicts of law in addition to teaching and controlling the schools (*madrasas*) and acting as a jurisconsult to the Shah. In fact, “the rulers sought their endorsement and approval before assuming the throne or declaring jihad” (Mavani 2011). The introduction of Amili scholars from Jabal Amil, most notably, Muhaqqiq al Karaki paved the conversion of Persia from Sufism and Sunni Islam to Twelver Shia Islam. While early in the Safavid Empire the Shahs such as Shah Tahmasp retained their piety and propagated Shi'ism as the main religion

of the Empire unlike the latter Shahs such as Shah Sulyman who abandoned faith, giving opportunity for the *ulema* to take more power.

Muhaqqiq-Al-Karaki as the Representative of the Imam ع

Muhaqqiq al-Karaki was one Shaykh-al-Islam during the Safavid Empire who held perhaps the most power than any Sheikh-al-Islam did and paved the changes made to the *ulema*'s authority in the court. He was one of the leading Amili scholars brought to consolidate Shia Islam in Safavid Iran and also was an Usuli, meaning that he was a rationalist in terms of his beliefs on *sharia* (Islamic law) interpretation by using legal reasoning (*fiqh*).

Karaki first joined the court of Shah Ismail I in order to encourage more Amili jurists, that is jurists from the city of Jabam Amil and it was under his guidance that “the ‘Amili ‘ulama and their allies first threatened the Persian aristocrats and succeeded in obtaining critical positions at the court” (Moazzen 2018). The Qilizbash were threatening the Persian aristocracy so in order to consolidate power under Tahmasp and also in light of the Safavid dynasty’s effort to make Twelver Shia Islam the dominant religion, Amili *ulema* were brought for the mass conversion and through Karaki, they succeeded in gaining political power. In fact, Karaki was not only one of the leading *ulema*, he was also in the fold of the question of political legitimacy:

Al-Karaki, like succeeding ‘Amili theologians, never accepted claims by Safavid followers that the Shahs were the rightful Imams, and agreed that the political state of the Mahdi is the ideal legitimate form of authority for Shi’ites. Nonetheless, they considered the religious service and support, which a cleric renders to a ‘just’ ruler in the absence of the Imam, necessary and spiritually rewarding. Shi’ite law differentiated between the just and unjust ruler and considered the sovereignty of the latter illegitimate. Adept and pious jurists can even assume the functions of the ‘just’ ruler during the period of awaiting the Mahdi, known as the Occultation (*ghayba*). (Abisaab 2004).

Abisaab also notes that “Al-Karaki, like succeeding ‘Amili theologians, never accepted claims by Safavid followers that the Shahs were the rightful Imams, and agreed that the political state of the Mahdi is the ideal legitimate form of authority for Shi’ites.” (Abibab 2004). This meant that the cleric “renders to a ‘just’ ruler in the absence of the Imam,” (Abibab 2004) because it is a just ruler that under Shi’a law would be considered legitimate. This line of thinking directly correlates with the concept of Wilayat-al-Faqih because the *faqih* or the most learned person is in political power otherwise the government in the absence of the Imam is illegitimate. While these *fuqaha* are not above criticism, they are considered to be the just and rightful political leader owing to their spiritual and intellectual status from a legal perspective.

Karaki also claimed to be the representative of the Imam of the Time, Imam al-Mahdi عج and held power in the Safavid court in which he was using this doctrine to justify his actions. He supported the doctrine of *wilayat* by issuing a statement saying that the that the *faqih* had power in the absence of the Imam (*wilayat-al-amma/mutlaqah*):

Imami fuqaha have consensus on the point that the fully qualified faqih, known as a mujtahid, is the deputy (*nayib*) of the infallible ones (peace be upon them) in all the affairs attendant upon the deputyship. Hence, it is obligatory to refer to him in litigation and accept his verdict. If necessary, he can sell the property of the party who refuses to pay what he is due...rather, if it were not for the Wilayat al-amma many of the Shi’a community’s affairs and needs would remain undone. (Vaezi 2004).

He is arguing that the *wilayah* not only is in the hands of the *ulema* during the occultation but also was one who was appointed as the wali during the reign of Shah Tahmasp.

Karaki also established Friday prayer in the absence of an Imam ع (Encyclopaedia Iranica) which shows him enacting the authority given from Wilayat-al-Amma in practice. The Friday prayer can only be led by the Imam and so if someone else leads it, it is akin to usurping the right of the Imam. However, the doctrine of Wilayah-al-Faqih made it so that the fuqaha can lead the

congregational prayer as it creates a chain of authority that ultimately leads back to God.

According to Abibab in her book *Converting Persia*, Karaki, “made it [Friday prayer] optional (al-wujub altakhyiri) rather than obligatory (al-wujub al-‘ayni)” (Abibab 2004) and also declared that congregational prayer must be held by a designated mujtahid who is qualified to act as the general deputy of the Hidden Imam ﷺ. Furthermore, Karaki has said that not only is there consensus of a “fully qualified faqih, known as a mujtahid” as “the deputy (nayib) of the infallible ones (ع)” (Newman 2006). Newman also explains that the *naib* position was “a senior cleric empowered to undertake certain specific duties of absent Imam had been available for some centuries,” (Newman 2006) for which Karaki was the first cleric “to articulate the concept of *niyaba amma* (general deputyship)” which is yet another example of how the terminology of *wilayat* has shifted and changed throughout the centuries. *Wilayat-al-amma* is essentially acting as the representative and while the former title of the mujtahid exercising this role would be considered the *naib*, it does not negate that the position and responsibilities are the same.

Without *Wilayat-al-Amma*, the *hisbiya* affairs of the Shi’a community will remain undone as well further showing how this doctrine is similar to Khomeini’s own *Wilayat-al-Mutlaqa*. For instance, verdicts would be issued on property rights: “Hence, it is obligatory to refer to him in litigation and accept his verdict. If necessary, he can sell the property of the party who refuses to pay what he is due...rather, if it were not for the *Wilayat al-amma* many of the Shi’a community’s affairs and needs would remain undone” (Vaezi 2004). Aside from instituting Friday prayer, he also was named the deputy of the Imam: “During the same year, and as a sign of al-Karaki’s eminence at the court, Shah Tahmasb issued a royal decree (*farman*) declaring him the deputy (*na’ib*) of the Imam ﷺ and giving him the title ‘Seal of

the Jurisconsults' (*khatam al-mujtahidin*). Al-Karaki reinforced the legal rules of religious observances with such rigor and alacrity and went 'to such extreme limits' in disseminating the Imami madhhab that some nicknamed him 'the inventor of Shi'ite religion'" (Abisaab 2004). Amanat argues that "although the office of shaykh al-Islam was held by a high-ranking jurist, this was not understood to be a legal supervision over the entire judicial community. Nor did it mean administrative or financial control, a task that the Safavid state consistently conferred on a non-clerical bureaucrat with the title of *sadr*" (Amanat 2017). Despite this, the office held by Karaki was so powerful that he was able to dismiss two *sadrs* and also was favored more by Shah Tahmasp owing to his position and prestige that the Shah himself intervened to protect Karaki's reputation when others tried to sabotage him (Abibab 2004).

Therefore, Muhaqqiq al-Karaki extended to the jurist a socio-political base independent from the sovereign making it clear that "every Imami jurist who believes that the *fuqaha* are able to fulfil this function during the period of occultation (*ghaibat*), would also have admit to the validity of *Wilayat al-amma*" (Vaezi 2004) because it is only through *wilayat al amma* that he was given the legitimacy to enact these policies and rulings.

Allamah Majlisi as Lawmaker

Matsunaga Yasuyaki in his article "Examining the Views of Allamah Majlisi on Legitimate Political Authority (Sultanat-I Mashru'ah) and the Guardianship of the Jurist (Wilayat-i Faqih)" says that Allamah Majlisi was promoted to the title Shaykh-al-Islam in Isfahan making him the most powerful politico-religious figure in the city. Majlisi was not alone in this position; many such clergymen were given titles of Shaykh-al-Islams throughout the Safavid period which shows how the political system was heavily influenced and involved in

matters of religion. Andrew Newman writes that Allamah Majlisi “reinforced the position of senior clerics, including himself, as delegated by the Imam to interpret issues of jurisprudential and theo- logical import” (Newman 2006) which makes Majlisi, like Karaki, a powerful enough cleric to impose religious injunctions to the state and also proclaim deputyship to the Imam.

This deputyship is in one sense Wilayat-al-Faqih as one of the roles of the *faqih* is to act as the deputy of the Imam in his absence and undertake the responsibilities that that Imam would have otherwise performed. Indeed, Majlisi undertook “such matters of daily practical import to the community as the conduct of Friday prayer and the collection and distribution of religious taxes, during the occultation” (Newman 2006). The religious tax, or *khums* is the annual alms-tax given on $\frac{1}{5}$ of a Shia’s annual savings to the family of the Prophet ﷺ and the poor (10% each) and is incumbent upon every able Shia to give who has savings left at the end of the year after their yearly necessities are paid. This alms-tax cannot be paid to any layperson or to the charities directly unless one is certain that the money will go towards the needy so the ‘ulama were charged with authority to collect this tax and distribute it amongst the poor and indicate which charities are verified to be given to directly, which is why the doctrine of Wilayat-al-Faqih allows the jurists (*fuqaha*) to collect khums. This institution shows an act of power and authority that is exercised by the religious clergy and without them, it will not be able to be done, thus, people will have to forego this religious obligation. The doctrine of Wilayat-al-Faqih - when interpreted simply as power of the clergy - institutionalized a form of extraction. Therefore, not only is Majlisi, similar to Karaki in that he too is proclaiming to be the deputy of the Imam, he is also extracting taxes which gives him considerable power and in this way is also performing the duties of the Imam ع.

Fayd Kashani, another prominent *mujtahid* in the Safavid Empire and a contemporary of Majlisi highlights the political and social role of the infallibles and jurists in the absence of the Imam ﷺ: “The obligation of jihad, bidding the right, forbidding the wrong, aiding in righteousness and piety, issuing verdicts, judging between the people upon foundations of truth, and establishing divine punishments and penalties are necessities of the religion. These religious issues are so important that Allah sent prophets to take charge of them. Prophethood would have yielded no results if these matters are disregarded. Religion would be destroyed” (AIM 2016). Since these acts are dealing with *hisbiya* affairs, they would require sovereignty or a divine appointment to conduct, such as jihad, issuing verdicts, and judging between people and “The jurists are responsible for all of these matters because of their truthful representation. The two Sheikhs, `Allamah, and some other scholars hold this opinion because the jurists have been granted permission to do so by the Imams (a).” (AIM 2016). Kashani explicitly mentions Allamah as being a supporter of the jurist overtaking these acts that are performed by the Imam ﷺ which would in turn mean that Allamah is supporting the doctrine of Wilayat-al-Faqih. Furthermore, Majlisi’s concentration of power under Shah Sulyman and as a mujtahid and Shaykh-al-Islam who would collect taxes, lead Friday prayers, and also envisioning “the monarch as essentially an executive officer, to be supervised by the religious scholars,” (Algar 2001) Majlisi is acting per the doctrine of Wilayat-al-Amma just like Karaki before him and other Shaykh-al-Islams during the Safavid Empire.

Ayatollah Khomeini's Approach to the Doctrine of Wilayat-al-Faqih

In Iran, a council of scholars is elected by the people to choose a jurist (faqih) amongst themselves to be the Supreme Leader. According to Dr. Mohseni, “what he [Khomeini] produced was not new at all but it was in terms of the modern state” (00.05.34). Because Khomeini was a mystic in addition to being a jurist, he approached the doctrine of Wilayat-al-Faqih from a mystical (*irfani*) approach rather than just a jurisprudential approach as it was practiced in Safavid Iran and even before that with scholars like Sheikh Mufid. The theological justifications for Wilayat-al-Faqih rested on continuing leadership in the absence of the Imam ﷺ and were sourced from the Quran, most notably the exegesis of the verse of obedience (4:59). The exegesis explaining “those vested with authority” included the Imams and the *ulema* as per the hadith literature.

While the literature states that he implemented absolute *wilayah* (*wilayat-mutlaqah/wilayat amma*), despite Al-Karaki acting as a *wali-faqih* during the reign of Shah Tahmasp around 1523 AD, Khomeini also required the consent of the people as a necessity for an Islamic government to rule according to the article “Ruhollah Khomeini's Political Thought: Elements of Guardianship, Consent, and Representative Government” by Noura Hossainzadeh. She argues that Ayatollah Khomeini argued for consent by the people for the government that is ruling them but also to establish divine law: “Khomeini is clear in Islamic Government that because a divine law already exists there cannot legitimately exist a body in government which legislates in the same sense that God has legislated” (Hossainzadeh 2014). Ayatollah Khomeini argues that the “ideal government does not include an assembly”

(Hossainzadeh 2014) but also one that has “an assembly that plans... in which jurists see to it that Islamic law is implemented” (Hossainzadeh 2014). These jurists then do not make the laws but they plan, execute, and interpret divine law (sharia) for that society.

Ayatollah Khomeini’s justification for Wilayat-al-Faqih goes back to the Prophet ﷺ and the government of Imam Ali ع. The Prophet ﷺ was not only a messenger for the faith but is also regarded as a political leader and “executor of the law” (Hossainzadeh 2014), that being *sharia*. According to Shi’ism, it is only rational then that Muhammad ﷺ must have appointed a successor and the Shia doctrine mandates a continuation of guidance after the Prophet’s ﷺ demise which is then enshrined in the twelve Imams.

A key component of Ayatollah Khomeini’s governance is that the political authority must continue after the occultation of the last Imam ع and this is extended to the *ulema* despite not being “comparable in their spiritual qualities to any of the infallible Imams or the Prophet.”

(Hossainzadeh 2014). In relation to the occultation, Hossainzadeh includes a transcript of the Najaf lectures by Ayatollah Khomeini:

when we say that after the Occultation, the just faqih [jurisprudent] has the same authority that the Most Noble Messenger and the Imams [pbuh] had, do not imagine that the status of the faqih is identical to that of the Imams and the Prophet ﷺ. For here we are not speaking of status, but rather of function. By ‘authority’ we mean government, the administration of the country, and the implementation of the sacred laws of the shari’a. These constitute a serious, difficult duty but do not earn anyone extraordinary status or raise him above the level of common humanity (2014).

Interestingly, Wilayat-al-Mutlaqa has been found in mystical doctrines that Khomeini then applied to an institutional and jurisprudential system of the modern Iranian government (Mavani 2013). Mavani also claims that Wilayat-al-Amma was propagated by other scholars in the twentieth century before Khomeini by Ayatollah Boroujerdi and Mulla Ahmad Naraqi as well as

Ayatollah Mutahari, and even Mula Naraqī (d. 1829) and also Shaykh Mortadha al Ansari (d. 1864) from the nineteenth century. Despite hinting at consent of the population to be governed being necessary for an Islamic government, “Khomeini stops short of saying that consent is an indispensable precondition of legitimate government,” (Hossainzadeh 2014) and frames his argument in relation to citizens who want Islamic law in their governance.

Given the opportunity to create a Shia state and reeling from the grievances of the Pahlavi dynasty, Khomeini introduced a mystical (*irfani*) approach to the doctrine of Wilayat-al-Faqih rather than creating this doctrine in the first place. Ammanat Abbas, a critic of this doctrine points out that “[Khomeini’s] theory no doubt had an unmistakable mystico-philosophical core that was colored on the outside by Shiite legal trappings.” (Mavani 2013). In his poetry, he writes, ““Fāṭī, you and the reality of gnosis? What does this mean? What does it mean to discover the essence without ascertaining qualities prescribed?” (Farhosh-van Loon 2016). Farhosh-van Loon uses this poetry to show how he would fuse politics into his mysticism and arguably writing that it is the mystic, the one closest to the divine who can assume political power along with being the most learned jurist among other qualifications. The “reality” of the gnosis is this inner journey one undertakes to control their ego (*nafs*) and in turn become purified and assume nearness to the divine. In addition, Khomeini speaks about the inner revolution necessary for a jurist to undertake in his book *Forty Hadith*: “It is possible that your intellect should perceive something by means of a rational proof, but until your heart has submitted that knowledge is of no use.” Here he is connecting his own mysticism back to the Prophets ﷺ and Imams ﷺ and fusing mystical, philosophical, theological and legal frameworks of Wilayat-al-Faqih together. Knowledge is both internal and rational, and it is the inner knowledge

- when “your heart has submitted” - that creates wisdom and enlightenment. Hamid Algar records Khomeini’s speech in which he invokes divine sovereignty by commenting on the Quranic verse on the Taghut (2:258): “faith in God immerses the believers in the light of God. The darkness of despotism, the darkness of repression, the darkness of dependency, the darkness of injustice ... People who are oriented to God, whose aim is a godly one, are delivered from all types of darkness - outer and inner - and are immersed in an ocean of light,” (Algar 2001). While sovereignty is sourced in the divine, it is the expulsion of darkness - inner purification - that creates light and success for people. It is this light then that conquers over despotism, repression, dependency and injustice both internally in the human soul and politically in a God-conscious government and society. Therefore, Ayatollah Khomeini’s writing and persona all show how he “encapsulates the image of the perfect man (insān-i kāmil), an image that is ideologically entwined with that of the vilāyat-i faqīh, who also abandons ego and material ties and concentrates solely on God and piety” (Farhosh-van Loon 2016) because of his charisma and his mannerisms in public.

While medieval philosophers such as Al-Farabi, Ibn Sina, and Ibn Rushd were theoretically debating Islamic governance as well, they were not - as Beatrice Zedler points out - “leaders of revolutions” unlike Ayatollah Khomeini. His opportunity to overthrow the Pahlavi regime, which was already unfavorable among the masses, for an Islamic government that possessed charisma and unapologetic Shia’ism, recalling Imam Ali ؑ’s own caliphate, was not only remarkable but also an opportunity for Shi’a government outside the scope of theoretical what-ifs. The concept of Wilayat-al-Faqih appears to be a new one because Shi’as were never given political power until the Safavids and the doctrine was again revived in 1979 because

Shi'as were given the chance under Khomeini to have a state in the modern world. The institutionalization and bureaucracies are evidently different and why would they not be?

Empires and monarchies of the past can be reconciled with this doctrine because it does not require a jurist to be the sole political power, that is just the modern application because of the opportunity presented and also one can argue because of the unfavorable nature of the Shah. If the Pahlavis had in fact not repressed the *ulema*, would the *ulema* of Iran and the Shah be working together under an Islamic government as they did in the Safavids? The doctrine of Wilayat-al-Faqih is not one that describes the scrupulous, detailed bureaucratic and institutional foundation of an Islamic government; rather, it is a doctrine explaining who can have legitimate power and authority in the absence of the Imam عج. Depending on the ideological framework used, the leader or the *wali* would fit that ideological model as Dr. Mohseni points out in his lecture. Originally, in the Safavid court, Karaki and Majlisi along with all Shaykh-al-Islams were operating within a legal framework, because their power was based in managing day to day *hisbiya* affairs such as Friday prayers, endowments, tax collection, and more which would be theologically and jurisprudentially forbidden in Shi'a Islam had it not been for the doctrine of Wilayat-al-Amma. Their political position, ability to perform punishment (*hudud*), in the absence of the Imam عج and being given the title of the representative of the Imam عج also shows how Wilayat-al-Mutlaqa and Wilayat-al-Amma are interchangeable and were employed in the Safavid court as it is applied in modern Iran with the *wali* being the deputy of the Imam عج and exercising the same amount of power.

However, after the Shah was deposed and Khomeini came to prominence, Wilayat-al-Mutlaqa expanded to an institutionalized role called the Supreme Leader within the

context and the state apparatus of the modern world. In this, Khomeini argued that the *wali* was arguably the Perfect Man, Plato's philosopher-king and so, the *wali* should be one who is a philosopher and one who has reached enlightenment. The aim of creation is perfection, why then should the ruler not be as close to perfection as possible even if he be fallible? Furthermore, the mystic is the one who has cleansed his heart and purified himself and such has the ability to rule in this manner. Whatever the framework employed to justify who should be the *wali* - which is already flexible given the hadith literature and verse on *wilayah*- the manner in which Khomeini employed the necessity of all four frameworks - philosophical, mystical, theological, and jurisprudential - shows how he was bringing this timeless doctrine into the modern era and complementing the doctrine with a state system.

The critics that Khomeini faced against his idea of *Wilyat-al-Mutlaqah* were also the same as Karaki. For instance, "Maghniyah clearly rejects the core of Khomeini's revisionist thesis that the *wilayah* exercised by the *faqih* may be universal (*'ammah*) and thus no different from the authority exercised by the Prophet and the Imam." In Karaki's time, Mir Ghiyath al-Din, like several Persian aristocrats, rejected al-Karaki's claims to authoritative religious leadership (Abibab 2004). Others were personally antagonistic against him and wanted him out of office such that they would try sabotaging his reputation. Before the advent of Mir Mu'izz al-Din, al-Karaki acted as the interim sole *sadr* with full authority to appoint deputies and agents. These developments point to the shifting social boundaries between the aristocratic and the clerical elite. They also reflect the unstable fluctuating nature of the *sadarat* during the early reign of Shah Tahmasb (Abibab 2004).

The *wilayah* of jurists in the sense of their exercising a juridical supervisory function over matters for which no legally responsible individual could be identified is well established. For instance, Ayatollah Muntaziri wrote a four volume work on Wilayat-al-Faqih, and he says that Wilayah-tash'ri'iyah or wilayah i'tibariyah is the right of disposition and command (Akhavi 1996). Although the office of Shaykh al-Islam was held by a high-ranking jurist, this was not understood to be a legal supervision over the entire judicial community. Nor did it mean administrative or financial control, a task that the Safavid state consistently conferred on a non-clerical bureaucrat with the title of *sadr* (Amanat 2009). Therefore, Ayatollah Khomeini did not introduce the doctrine of Wilayat-al-Faqih but rather he brought it into the context of a modern state and introduced mystical and philosophical elements from its original legal approach during the Safavids.

Conclusion

One common misconception about Wilayat-al-Faqih is that the modern *'ulema* are at odds with one another and have differing, contradictory opinions about this doctrine. Ahmed Vaezi's book *Shia Political Thought*, disbands the idea that *marjas* disagree about this doctrine; on the contrary, he says, "All scholars and jurists accept that the Marja'a has a duty to act as vicegerent on behalf of the absent, infallible Imam. However, it is the scope of authority in this vicegerency that is contentious." (Vaezi 2004) This is also promoted by Payam Mohseni in his lecture on Wilayat-al-Faqih as well.

Another criticism that can be raised is that sadrs exercised authority over clerics and theologians in the Safavid court. But despite this, "It is unlikely that the sadrs were responsible

for the implementation and propagation of Shi'ism even though they held exclusive administrative authority over theologians and judges" (Abisaab 2004). While institutions were different and the Empire was run by Shahs instead of the Supreme Leader, the doctrine of wilayat faqih is historic because the wilayat can not only be implemented and expanded throughout history, but it also requires opportunity which the 1979 Revolution gave the people. The doctrine itself is not about political institutions but rather about legitimate rulership. As long as the faqih exercise judicial power, they are working within the confines of wilayat al faqih because it is this doctrine that gives them the authority to even enact Islamic rulings. Furthermore, wilayat-al-amma or wilayat-al-mutlaqa are interchangeable terms both meaning "absolute authority of the jurist" which was not only exercised by Karaki in the court of Tahmasp, but also encouraged by the King himself, who gave Karaki ijtiḥad and made him the leading scholar of his reign. In addition, "Wilayah may be unacknowledged by the people, but that does not vitiate it" (Akhavi 1996). While this claim has weight to it, the extent of Karaki's power also extended to him being able to debate with the sadrs and even dismiss them: "During Shah Tahmasb's reign, recorded incidents of conflict between the sadrs and al-Karaki suggest that the latter had sufficient stature and power to challenge the authority of the former. Indicative of his position, al-Karaki caused on two occasions the dismissal of a sadr" (Abisaab 2004).

Another criticism is that "marja'iyat was meant primarily to address the need for communal leadership rather than a supreme legal authority" (Amanat 2017). This is true, marja'iyat actually is not part of Wilayat-al-Faqih nor is it even an aspect of the Iranian government today as per the rule changing which allows any just and capable alim (jurist/scientist) or someone learned in the faith to be able to hold the office of Supreme Leader.

Wilayah is a doctrine that extends beyond institutions and is about giving the people divine leadership. Marja'iyat has to do with emulating *ulema* in terms of legal rulings not in terms of political leadership; the fatwas given by *ulema* are ijthadi-based fatwas or legal-reasoning based orders. However, the wali is able to give orders that are hukm or rights-based, meaning that he is using his right and authority as the trustee of the Imam in his absence to issue this verdict. There can only be one *wali-ul-faqih* and so the marja'iyat do not have a role to play in *wilayah*.

Future research can look at the necessity or lack thereof of having a marja as the wali-faqih as this is not a requirement set forth in the doctrine itself. While both Khomeini and Khamenei are marjas, Khamenei had not reached the status of marja before becoming Supreme Leader and his opponents argued against his appointment to the office of Supreme Leader for this reason. This can also be applied with the current President and the future of the Supreme Leader; can Rouhani become supreme leader even though he is not a marja? Would it be better for Iranian geopolitics if he is a *marja*? This would imply that the literature on the topic of Wilayat-al-Faqih is also misunderstood in thinking that it is the marja'iyya system who have sole access to the title of Supreme Leader which has implications in the way in which we understand Iranian politics because the distinction between a faqih and a marja is not even met by western academia. Furthermore, one can argue that Khomeini's mystical approach to Wilayat-al-Faqih actually gives more power to the *faqih*. The role of human rights within Shi'a politics is also another topic that can be researched further as Iran is currently held liable to human rights abuses despite Shi'a doctrine mandating human rights as an essential component as part of the faith itself. In conclusion, researching the history of the doctrine of Wilayat-al-Faqih shows Iran has

continuously sought legitimacy through their Shi'a faith and sheds light on a much misunderstood nation.

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