

Religious authority during the Period of Occultation

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Introduction

Since the Imām of the Time ('atfs) is not present during the period of occultation, flawless interpretation of the religion is naturally not possible and there is deprivation of ideal political leadership. So, the function of religious authority and political leadership of the Imām ('atfs) is not exercised.

As such, the people will be deprived of the religious authority and political leadership of the infallible Imām ('atfs) and they have no option but to engage in "waiting". However, these questions are raised: Has the religion of Islam offered a solution to these two important issues (interpretation and implementation of the religion)? Or, have the Imāms ('a) shown a way to their Shī'ah during the period of occultation? We shall examine the reply to these related questions in the two succeeding sections on religious authority and political leadership.

Religious authority

Without doubt, flawless interpretation of the religion comes to an end with the occultation of the infallible Imām ('atfs). During this period, nothing further will be added to the corpus of the ḥadīth of the Infallibles ('a) and the main religious sources. From the existing religious sources, which include the traditions of the Infallibles ('a), the religious duties of the faithful can be inferred such that they have sufficient basis for the performance of duties. However, all people cannot deduce their duties from the religious sources.

Therefore, naturally, they must refer to those who are capable of doing this important task. In this manner, during the occultation of the Imām ('atfs) the position of intellectual authority is assumed by the 'ulamā'—who are well-versed in religious principles and capable of deducing the laws.

Of course, even during the time of the presence of the Imāms ('a), not all people had the opportunity to consult the Imām of their time. Due to distance, many had become acquainted with their religious duties through local 'ulamā' while the latter had greater chances of consulting the Imām of their time. During the period of occultation, however, there is no option but to refer to the 'ulamā'.

The 'ulamā' are those who are capable of deducing laws from the religious sources. This capability is technically called ijtihād and one who possesses this capability is known as a mujtahid.

Of course, in addition to ijtihād the intellectual authority has other required qualities such as God-wariness [taqwā] and knowledge of the state of affairs of his own time. Hence, the mujtahidīn are the intellectual and religious authorities of the people during the period of occultation.¹

Salient features of ijtihād

1. Non-monopoly.

As defined earlier, ijtihād is not a monopoly of a particular social group or class. Anyone with the required intellectual and moral qualities can be the intellectual authority. As such, according to the Shī'ah, no particular class or stratum of society is presented as the intellectual and religious authority of the people.

2. Accessibility of ijtihād.

In the Shī'ah school of thought, anyone can acquire the competence to exercise ijtihād within a specific set of rules. In the Sunnī school of thought, the door of ijtihād is closed.² The Sunnī 'ulamā' have to express views within the framework of ijtihādī viewpoints of a certain number of their great mujtahidīn. According to the Shī'ah teachings, however, the 'ulamā' always have the right to exercise ijtihād. Basically, the scholars who are competent to practice ijtihād are not obliged to practice taqlīd, for they have to act upon their personal ijtihād.³ So, it is possible to have different ijtihāds and juristic opinions at one time. It is even possible for a mujtahid to express diverse opinions over the course of time and recant his former religious edict [fatwā].

3. Ijtiḥād as rule-based.

Ijtihād as a method of understanding the sharī'ah depends on a set of rules. In other words ijtihād, which is the process of arriving at a specific understanding of the religion, is considered ijtihād only when it is derived through a specified logic. Understanding which is not anchored in technical and systematic ijtihād is speculative interpretation [tafsīr bi'r-rayy] which is devoid of any value.

Of course, it must be noted that systematic understanding does not always arrive at truth and unambiguous law. For this reason, unlike the understanding of the infallible Imāms ('a), the theory of ijtihād is not considered a flawless pillar of the religion. Rather, at most it is an understanding which serves as a proof [ḥujjah] for the mujtahid and those who emulate him [muqallidīn].

Therefore, the concept of “proof” [ḥujjiyyah] distinguishes ijtihād from speculative interpretation [tafsīr bi'r-rayy]. Forbidding of speculative interpretation starts exactly from the moment when systematic reasoning is lost. As such, in replying to a juristic question, a mujtahid must traverse difficult and tortuous ways. The reason for this is that the faqīh does not treat religious laws as facilitators. His aim is to try his best so that his deduction is within the framework of a set of rules and this is the reason for the concern for credibility—so that it may serve as “proof”.

3. Dynamism of ijtihād.

Since Islam is the final religion, it must be able to offer answers to the problems and predicaments of every age. “Final religion” means that its rules are such that they are applicable in every period. It is true that ijtihād is exercised within the framework of specific rules, but it gives the mujtahidīn the opportunity to offer answers to the problems of his particular time by referring back to the religious sources.

In the Islamic sharī'ah, there are alterable elements which make it possible for laws to be implemented in different areas. Some of these elements are as follows:

- a. In the Islamic sharī'ah, rules are presented in general form. Since the addressees of the religion are all people in all places, many of the laws are in the form of permanent rules and not confined to a particular time in history. For example, the principle of pacta sunt servanda⁴ covers every treaty at every period.
- b. In the Islamic sharī'ah, apart from the common laws that are implemented in normal conditions, certain laws are considered for special conditions which are called secondary laws [al-aḥkām ath-thānawīyyah]. These laws make it possible for the sharī'ah to conform to special conditions. For instance, in an emergency situation in which it is not possible to implement a mandatory law, as long as the situation is not normalized, it is not mandatory to implement it. Or, in the case that the implementation of a law causes harm to a person or persons, it must not be implemented.
- c. In the Islamic sharī'ah, the Islamic state has a credible standing and can issue decrees while taking the society's welfare into consideration. These decrees or laws which are called “administrative decrees” [al-Aḥkām al-Hukūmiyyeh] gives the Islamic state the opportunity to implement the Islamic sharī'ah based on the welfare of Islam and the Muslims. These decrees are within the prerogatives granted to the Islamic state.

In view of the alterable elements of the Islamic sharī'ah, ijtihād is a dynamic process compatible with time and place. Therefore, time and place are two fundamental and decisive elements in the practice of ijtihād.

It must be noted that many items or objectives assume various forms over the course of time. In consonance with changes, laws may also change accordingly. It is possible for an object to be an instrument of gambling at a certain time and place and not so at another time and place. Or, it is possible that at a certain time to buy and sell an item is not allowed for being devoid of any rational benefit, but the same item may be allowed as a commercial commodity at another time on account of its acquisition of rational utility.

It is worth mentioning that in accordance with the famous view in Shī'ah jurisprudence, persons who are not mujtahid (i.e. they are not experts in deducing religious laws) must refer to a living mujtahid. The rule of referring to a living mujtahid gives the opportunity to the people to always emulate a mujtahid who knows the conditions and exigencies of the time and address their needs in accordance with each period.

Therefore, ijtihād in the Islamic culture, especially in the Shī'ah conception, has the necessary dynamism in conforming the religious laws to current problems while ensuring that it is within the framework of its conventional rules. While connecting to the religious tradition, it addresses the needs of the changing world.

It must be added that these are the salient features of ijtihād. Ijtihād is a process which can discharge this responsibility well. However, the absence of answers to some problems in their various dimensions is not an indication of the failure or futility of ijtihād. Rather, the

reason for this is that sometimes all the potential of ijtihād in different areas are not utilized.

Sources of ijtihād

For the Shī'ah, ijtihād is performed based on the four famous sources, viz. the Qur'an, Sunnah, reason [‘aql], and consensus [ijmā’]. The Qur'an is the primary source of the religion and it is the basis of deducing religious views.

Along with the Qur'an, since the Sunnah serves as the elucidation, explanation and elaboration of the Qur'an, the authentic and credible narrations constitute a vital source, such that without them one cannot content himself with the Qur'an. Many religious laws cannot be inferred by only referring to the Qur'an. In essence, the basic function of the Sunnah is to elaborate the subjects concisely mentioned in the Qur'an.

Apart from the Qur'an and the Sunnah, which are considered the textual sources of ijtihād, the intellect or reason [‘aql] is presented as one of the sources of deducing laws. Since religion and reason are totally compatible and concordant, definite rational laws are substantiated by religion.⁵

Consensus [ijmā’] is the fourth source of ijtihād. Ijmā’ means the agreement of ‘ulamā’ on a religious law such that through this agreement, the view of the Infallibles (‘a) can be inferred. In other words, ijmā’ in Shī'ah ijtihād is a specific kind of agreement among ‘ulamā’ which uncovers the view of the Infallibles (‘a) on a particular issue. Therefore, mere consensus of a number of ‘ulamā’ and mujtahidīn on a religious law cannot be considered credible ijmā’ just because it closes the door for other mujtahidīn. Rather, this consensus must be such that it establishes its concordance with the pertinent view of the Infallibles (‘a).

Hence, Shī'ah ijtihād is practiced only within the framework of these four sources, and the logic of inferring the sharī'ah is also put into action within this parameter. Every proof which is claimed to be the basis of understanding the religion has no option but to come from one of these four sources. As such, it becomes clear that: Firstly, sufficing with only the Qur'an in understanding Islamic law and searching for all the answers in it alone is an exercise in futility and an unacceptable inference.

Secondly, relying on rationalization and personal inferences is acceptable provided only that it is substantiated by definite proof and evidence.

Thirdly, custom or usage is not automatically credible unless it is substantiated by reason or the Sunnah. In other words, if a customarily accepted rule is consistent with explicit dictate of reason or because of its persistence from the time of the Imāms (‘a) up to the present, meaning that it is evident that it is approved by them, such a rule can be considered a religious rule or decree. Otherwise, it cannot be considered an integral part of the sharī'ah.

The issue of leadership during the period of occultation

The issue of leadership during the period of occultation can be examined in two perspectives, viz. rational [‘aqlī] and textual [naqlī]. Here, we shall discuss them separately as “rational proof” and “textual proof”:

1. Rational proof

The rational approach to the issue of leadership is based on the following preliminary points:

1. From the Shī'ah viewpoint, during the presence of the Imāms (‘a) the leadership of the Islamic ummah rested on the shoulders of the infallible Imāms and the religious laws were implemented in the society by the Imām of every period who was the vicegerent of Allah and His Messenger

#7779;). Since God has introduced them as the leaders of the ummah, the rule of any other was naturally a usurpation of the authority [wilāyah] of God, the Messenger

#7779;) and the Imāms (‘a). The people were duty-bound to pave the ground for the rule of the Imām of their time.

2. The sovereignty of God in the sphere of legislation demands that the government during the period of occultation must also serve the interests of

the sharī‘ah in the realms of actions, decisions and laws. It cannot be accepted that the religion is accepted and God is the Sovereign and yet the Islamic laws are not implemented. Thus, as a rational necessity emanating from the sovereignty of God, the Islamic laws must be implemented.⁶

3. Implementation of Islamic laws necessitates a decision-making body or state. The verdicts of the sharī‘ah regarding different areas such as economics, politics, ḥudūd,⁷ retribution and punishment, training and education, and so on cannot be implemented without the existence of a government. Just as earning a livelihood necessitates the establishment of a government, the religion also cannot be implemented except through a powerful ruling authority. Accordingly, a government is necessary as a prerequisite to the implementation of the religion of God.⁸
4. The existence of a government or state naturally necessitates requirements [ilzām] and mandates [dastūr]. The state presents religious orders as legal obligations. In other words, the implementation of religion lies in the government’s imposition. This obligation is acceptable provided that the imposing institution has the competence to impose them. If the ruling person or body does not have this competence, he or it will have no right to rule and impose orders. In essence, such an imposing institution lacks legitimacy [mashrū‘iyyah].

Human beings on their own capacity have no right to oblige others to do a thing and impose orders upon them unless God, who is the Real Ruler, grants such a right. This is the principle of “man’s lack of authority” on the basis of which one has no authority [wilāyah] over another unless he has rational or textual proof to exercise such authority.

5. Since one of the elements of the Islamic government is the Islamic nature of its decisions, reason dictates that it must be headed by a person who is an expert on Islam.
6. After the acceptance of Imamate and the acknowledgment of the point that the infallible Imāms (‘a) are the true leaders of the Islamic society (after the Prophet

#7779;)) and that divine sovereignty is implemented through them, religious leadership essentially belongs to the infallible Imāms (‘a) and no other person

has the right to rule except when that right is delegated to him. In the case that there is no proof of the infallible Imām's ('atfs) delegation of this right to a specific person, since the government cannot be without a head, the most pious and most righteous person among the Islamic scholars shall act as the Imām's deputy [nā'ib].⁹

This view is a paraphrase of the theory of the guardianship of the jurist [wilāyah al-faqīh]. The concept of wilāyah in this context is nothing but the supervision of the Islamic society and it does not mean interdiction of the people. Even if all people have attained sufficient social maturity and rational growth, in the realm of government and collective welfare, there is still a need for an institution of leadership to maintain law and order. In the Shī'ah culture, this institution is what we called wilāyah.

2. Textual proof

Apart from rational proof regarding the wilāyah of the competent jurist or Islamic scholar, it can also be clearly inferred from sayings of the Infallibles ('a) that the competent jurists [fuqahā] and mujtahidīn are the deputies of the Imāms ('a) during the period of occultation and that the issue of leadership, like religious authority, is within the competence of the fuqahā. In one of his sayings, the Messenger of Allah

#7779;) has described the 'ulamā' as his caliphs. In reply to a question on the identity of his caliphs, the Apostle

#7779;) said: "They are those who narrate my Sunnah."¹⁰

Undoubtedly, the most common definition of "caliphate" is "the leadership of the ummah". Meanwhile, it is evident that the narrators of the Sunnah are those who have the competence to know the substance of religious views.

Therefore, the Holy Prophet

#7779;) has delegated the position of caliphate and leadership after him to the religious scholars. During the presence of the Imāms ('a), they were the indisputable religious scholars while during the period of occultation, the mujtahidīn are the narrators of religion.

In another narration, the Imām of the Age ('atfs) said about the duty of the

faithful in the events to come in the future: “In such cases, refer to those who narrate our traditions. They are my proof over you and I am Allah’s proof over them.”¹¹

Imām al-Mahdī (‘atfs) referred his followers to the fuqahā and this referral is not only in explaining religious issues (religious authority) but also in matters of implementation (political leadership). In other words, both religious authority and political leadership have been delegated to the religious scholars.¹²

In these narrations, a specific faqīh or mujtahid has not been appointed for the post. Any person who possesses this competence is qualified to exercise authority [wilāyah]. Therefore, these narrations indicate the general wilāyah of the fuqahā. As such, during the period of oppressive governments, in judicial affairs and some issues requiring administrative decrees, the Shī‘ah used to refer to the fuqahā as much as possible, and the fuqahā, in turn, used to address the affairs of the Shī‘ah as much as they could.

Any objection relating to the possibility of different fuqahā exercising wilāyah at the same time is unjustifiable because in periods of ṭāghūtī rule every faqīh exercises wilāyah within his own jurisdiction. Whenever the leadership of a faqīh acquires general acceptance and he has the opportunity to administer affairs, his decree is also binding upon the other fuqahā within his jurisdiction and they should not independently issue administrative decrees. Thus, upon the formation of an Islamic state, a faqīh shall exercise wilāyah over the government.

There are many ways of selecting the one among the fuqahā to head the government. One of them is through general suffrage in the sense that the faithful pay allegiance to one of the fuqahā who are competent and rightful to exercise wilāyah. Thereafter, his view shall also be binding upon the rest of fuqahā.

Hence, wilāyah, on the one hand, is an “appointed” [intiṣābī] position in the sense that the fuqahā have been designated to this position by the Imāms (‘a). On the other hand, there is also the people’s will through “election” to make “official” a faqīh’s wilāyah and the preeminence of his opinion over that of other fuqahā in the realm of government and public welfare.

Assuming that the selected person loses one of the required intellectual, practical or moral conditions of leadership, he is automatically removed from

the position of wilāyah. Similarly, if a mujtahid loses his competence in ijtihād, he is automatically removed from the position of religious authority. As such, there is a system of identification in the Islamic government which constantly supervises the administrative performance of the faqīh.

Whenever it finds out that the leader is no longer competent to administer the affairs of society, it will inform the society accordingly so that the faithful can pay allegiance to another faqīh who possesses all the necessary qualifications of a leader. In our Islamic system, the Assembly of Experts shoulders this responsibility. This assembly, composed of Islamic scholars and mujtahidīn familiar with current issues, has the prerogative to inform the people of their responsibilities toward the Leader and his leadership.¹³

Notes:

1. – See books on jurisprudence, the section regarding ijtihād and taqlīd.
2. – See Sharaf ad-Dīn al-Mūsawī, Al-Murājā‘at, Correspondence 4.
3. – See books on jurisprudence, the section regarding ijtihād and taqlīd.
4. – Pacta sunt servanda: abidance with a treaty in letter and spirit. [Trans.]
5. – Obviously, indefinite laws cannot automatically be considered religious laws. Contrary to Sunnī ijtihād in which indefinite and hypothetical laws are sometimes treated as proof, in Shī‘ah ijtihād such is not the case.
6. – See Imām Khomeinī, Al-Bay‘, vol. 2, pp. 461, 464.
7. – Ḥudūd (literally meaning boundaries or limits) in the Islamic law are generally applied to penal law for punishments prescribed for particular crimes whose extent is determined by law. [Trans.]
8. – Al-Bay‘, vol. 2, pp. 461, 464.
9. – In view of the fact that the principle is the absence of authority, we cannot choose just any person to act as the Imām’s deputy but must choose the best available person. In a government based on religious laws, the best available person is none except the duly competent jurist [faqīh jāmi‘ ash-sharāyit].
10. – This narration is recorded in Man Lā Yaḥḍuruh al-Faqīh, vol. 4, p. 420. The text of the narration is as follows:

رسول الله (ص): أَللّٰهُمَّ ارحم خلفائي. قيل يا رسول الله! و من خلفاؤك؟ قال الذين يأتون من بعدي
يروون عني حديثي و سنتي

“The Messenger of Allah

#7779;) said: ‘O Allah! Have mercy on my caliphs.’ ‘Who are they, O Messenger of Allah? And who are your caliphs?’ He

#7779;) said: ‘They are those who after me shall narrate my ḥadīth and my Sunnah’.”

11. – Shaykh Ḥurr al-‘Āmilī, Wasā’il ash-Shī‘ah, “Abwāb Ṣifāt al-Qāḍī,” section 11, ḥadīth 9. The text of the narration is as follows:

﴿أَمَّا الْحَوَادِثُ الْوَاقِعَةُ فَارْجِعُوا فِيهَا إِلَى رِوَاةِ حَدِيثِنَا فَإِنَّهُمْ حَجَّتِي عَلَيْكُمْ وَ أَنَا حُجَّةُ اللَّهِ عَلَيْهِمْ﴾.

12. – Al-Bay‘, vol. 2, p. 474.

13. – Article 107 of the Constitution of the Islamic Republic of Iran thus stipulates: “(1) After the demise of Imām Khomeinī, the task of appointing the Leader shall be vested with the experts elected by the people. The experts will review and consult among themselves concerning all the religious men possessing the qualifications specified in Articles 5 and 109. In the event they find one of them better versed in Islamic regulations or in political and social issues, or possessing general popularity or special prominence for any of the qualifications mentioned in Article 109, they shall elect him as the Leader. Otherwise, in the absence of such superiority, they shall elect and declare one of them as the Leader. The Leader thus elected by the Assembly of Experts shall assume all the powers of the religious leader and all the responsibilities arising from it. (2) The Leader is equal with the rest of the people of the country in the eyes of law.”