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Chapter 1: Wilayat al-Faqih, Exigency and Presuppositions

The importance of discussing wilayat al-faqih

Our political system, which is now more than two decades old and which thrived at the cost of the pure blood of thousands of noble and self-denying individuals, is a system characterized by its Islamic nature. The establishment of this system is ascribed to numerous contributory factors but the key factor is the love for Islam, and as Islamic system its survival will not be possible without preserving this feature.

A sociopolitical system with its Islamic character has to be based on Islamic principles and values both in legislation and execution. This characteristic will continue to exist as long as the people and those who accept this system believe in Islamic doctrines and abide by Islamic values. If, God forbid, Islamic beliefs and thoughts are gradually forgotten by the members of society, essence of Islam will be subject to deviation or if the people forget the foundational values of Islam and deviant trends emerge, the edifice of the Islamic system will decay and there will be nothing to guarantee its survival in the long term.

Of course, the name of Islam may remain, but its essence and truth will fall into oblivion. Muslim society already had such an experience during the early days of Islam, and that is when after the demise of the Prophet of Islam (S)2 the Islamic and divine system was transformed into a monarchial and *taghuti3* government of the Umayyads4 and 'Abbasids,5 and only the name of Islam remained and then Islamic beliefs were distorted and Islamic values were forgotten, and the status of the government was more lamentable. This bitter experience ought to be a useful lesson to all of us.

This situation went on like like for fourteen centuries until another revolution patterned after the divine revolution of the Prophet of Islam (S) took place in the world, and a new sociopolitical system anchored in the Islamic principles was established.

Yet, we should know that just as the first Islamic system and revolution of the Holy Prophet (S) was not

immune from dangers and it did not last long before deviation actually permeated in society, the immunity of this revolution will not be guaranteed unless we learn from the past and unless the Muslims show great perseverance in preserving this system. Their devotion to Islamic beliefs and values should be such that they would be ready to resist such elements and dangers and offer their lives and properties for the preservation of this sacred system of Islam.

One may ask: From where can deviation originate? The reply is that deviation initially surfaces in people's way of understanding. In other words, if the people do not try to understand Islamic foundations and principles properly or if their awareness diminishes, satanic hands will be actively involved and propagate incorrect thoughts in place of Islamic knowledge, and try to deviate the people by groundless thoughts through the use of propaganda. Therefore, those who are loyal to this revolution and worry about it should strive with utmost vigilance for preserving people's Islamic thoughts and beliefs and decisively parry any threat that may divert their minds and beliefs.

Parrying these threats does not mean that the ideas and beliefs of others be suppressed because surfacing of deviant ideas cannot be controlled by restricting the freedom of people's minds. Doubts are raised and deviant ideas are put forward. As a result, erroneous ideas and thoughts will willy-nilly find their way to people's minds.

Therefore, the most appropriate way of encountering intellectual and ideological threats is to strengthen people's intellectual foundation and to widen their knowledge about Islam lest they should be affected by deviant ideas because when their religious and ideological knowledge is very firm, they would not be influenced by doubts, and most important, they would be able to clear these doubts up. Thus, one of the most important issues that ought to be widely discussed and settled as one of the social problems is the issue of the legitimacy of this system or in other words, the issue of Islamic government.

Our revolution came to establish an Islamic government but the image the people had about the Islamic government was general and ambiguous. It is true that this general and ambiguous picture was enough to topple down the *taghut*, but it is not enough to achieve and preserve unerringly the Islamic system and to make this idea settle, by the help of God, the Exalted, in the hearts of people and future generations for centuries.

These concepts should be made clear and the people should have a more realistic perception of the Islamic government and understand its exigency so that they may be prepared to defend their ideas against the opposing schools of thought and theories and not be satisfied with chanting slogans.

The academic status of the question of wilayat al-faqih

When we say that we are supporters of the Islamic system and our society has to be governed according to Islam, we mean that the government should be based on Islam. Of course, attempts were made to consolidate the foundations of this system in our Constitution and to rely upon them. The

principle of *wilayat al–faqih* [guardianship or governance of the jurist] is the most important of all other principles. At this juncture, we shall touch on the issue in question so as to explain what we mean when we say that the system and government must be Islamic.

The ideological nature of a system and its reliance upon specific principles and values—in other words, the dependence of a system on a set of specific principles, doctrines, ideas, and thoughts—manifests itself in at least two dimensions; the "legislative" dimension and the "administrative and executive" dimension.

Of course, a third dimension, i.e. the "judicial" dimension can also be considered, but this dimension is not as firm as the two dimensions already mentioned. In any case, there are two main dimensions, i.e. the legislative and the executive, and the judiciary comes next. In view of this introduction, we may say that if *firstly* the laws, which the system regards as binding and which the system is ready to defend, are Islamic, and *secondly* those who are in charge of executing these laws reach the said position according to Islamic standards, principles and values, then it is an Islamic system.

We do emphasize the idea that the Islamic nature of a system is conditional on the existence of the two dimensions. As such, if the laws are drifted away from the Islamic path and non–Islamic laws are to be the criterion of execution, or if all the laws are purely Islamic and consistent with the Qur'an and the *shari'ah* [Islamic law] but those who are in charge of the affairs and executive officials have not assumed the said responsibilities according to Islamic standards and criteria but through non–Islamic ways, the system will in neither cases be "Islamic" in the exact sense of the word.

So, theoretically, two main points come to the fore in this discussion. The first point is related to the kind of conditions and criteria which contribute to Islamizing legislation and legislature. The other point is on how and when, according to Islamic law, executive and administrative officials can acquire and on what basis they can exercise authority over the society and people.

These two issues are placed under a general subject called "Islamic political philosophy". Our main concern in this book is the second issue and our treatment of the first issue will be postponed. In this discussion we have kept two things in mind; treating the subject with great accuracy and discussing things in as simple manner as possible so that it may be a source of interest not only to highly educated people but also to the general public.

The presuppositions of the theory of wilayat al-faqih

According to Islam the theory of *wilayat al–faqih* is among the subjects of the philosophy of politics. Every theory has to be based on an array of prescribed principles and presumptions accepted by those who regard the theory as valid. A thorough examination of the principles that confirm the soundness of the theory of *wilayat al–faqih* and establish its superiority to other theories of the philosophy of politics naturally requires numerous discussions and voluminous books, which is not our concern as of the

moment. Some of these discussions like those related to the exigency of government can be found in the book, *Huquq va Siyasat dar Qur'an* [Law and Politics in the Qur'an]. Nevertheless, we will touch on whatever relevant to the issues treated in this volume.

1. The need for government

The first principle and presupposition of the theory of *wilayat al–faqih*, which is approved by most other political theories is the principle of the need of society for government. It is opposed only by anarchism. Anarchists believe that people conduct themselves well by abiding by moral principles without the need for government, or they at least advocate the idea that the government should move in a direction leading to this end.

That is, activities are carried out alongside the process of educating the people whereupon there is no need for government. The other philosophical schools, however, consider such proposition unrealistic. Also in practice, thousands of years of experience show that in all times there are individuals who are indifferent to moral laws and if there is no authority to control them, social life will end up in chaos and turmoil. In any case, the principle of the need of society for government which is accepted by all schools of political philosophy, with the exception of anarchism, is affirmed by the theory of *wilayat al-fagih*.

2. The legitimacy to govern is inherent in no individual or group

We can define 'government' in a simple way as "the apparatus which oversees the collective conduct of society and strives to direct it to a specific end." Authority is either exercised through peaceful means or through the use of force. In other words, if some individuals refuse to follow the direction set by the government, they will be compelled to comply with the rules set by the government by force and the use of military and disciplinary organs.

This definition along with its explanation applies to both legitimate and illegitimate governments. Therefore, we ought to know what the criterion or the condition of the legitimacy of a government is. Is legitimacy inherent in any individual or group? Or, is it inherent [dhati] in anyone but something delegated by someone else? Some philosophers and schools of political philosophy hold that if someone has a superior and greater physical power, or is brighter and more intelligent than the others, or racially superior to them, naturally such a person is good enough to be a ruler.

Although these observations are attributed to some statesmen and political philosophers, the political foundations of the theory of *wilayat al–faqih* are contrary to them. This theory is founded on the presupposition that the right to rule is inherent to no one and is not automatically assigned to anyone. That is, no one has a legal right to be a ruler due to his being born of a certain parentage.

The right to rule is not something hereditary that can be transferred from one's father and mother.

Rather, the legitimacy of a ruler and government must emanate from another source. Most philosophers and political philosophy theoreticians accept this principle and also the previous one, and the majority of

schools of political philosophy such as the schools supportive of democracy agree with our idea that the right to rule and govern (i.e., legitimacy) is inherited by nobody and it is not automatically assigned to anyone. Rather, it is supposed to be delegated to others by the authority to whom this right originally and essentially belongs.

As such, by establishing these two principles, we have excluded anarchism and the schools and theoreticians that assume that certain individuals and groups automatically and inherently have legitimacy to govern and so they are naturally superior to others.

3. God as the only essential source of legitimacy

After the acceptance of the second principle, this question will naturally surface: What is that source which grants legal authority and legitimacy to a ruler and government? So it is in this point that the theory of *wilayat al–faqih* and political philosophy of Islam differ from most other schools especially the current theories.

According to this principle which is one of the key foundations of the theory of *wilayat al-faqih* and political philosophy of Islam and accepted unanimously by Muslims and perhaps, by many religions with divine origins apart from Islam, the right to rule and govern, to bid and forbid, originally belongs to God, the Exalted. Of course, it is worth noting that "to govern" in its specific sense and that is one's performing of certain actions and direct management of the affairs applies only to human beings, and it is not applicable to God, the Exalted. But its broad sense which involves the instinctive right to rule and to designate the ruler is ascribed to God, the Exalted—the Lord and the Real Owner of everything who s created the world and all beings including man:

"To Allah belongs whatever is in the heavens and whatever is in the earth."6

Here "real ownership" is used as distinct from "nominal ownership". In the case of nominal ownership, a person is recognized as "owner" according to a contract between a number of individuals. So, this contract may not be identical in all societies. For example, it might be that in a certain society the contract considers those who find any gold mine, for instance, to be its owners, but in another society it considers all mines as the property of the public and the government is to take charge of them.

Real ownership, however, arises from a sort of ontological relationship in which the existence of the owned thing [mamluk] is originally ascribed to the existence of the owner [malik]. This kind of relationship is technically called the cause–and–effect relationship. In such an ownership the "contract" does not stipulate that the owned one belongs to the owner, rather the owned one truly and ontologically belongs to the Owner and owes existence to Him.

Accordingly, since all human beings are created by God, they are all owned by Him. So the human being not only has no authority whatsoever over other human beings but has no inherent authority over himself because the possessor of authority is someone else. In accordance with this conviction, no human being has the right to amputate any organ of his body, blind his eyes, or commit suicide because the existence of any human being belongs to someone else.

Most of the schools of political philosophy and other cultures oppose this presupposition and hold that every man is free. Therefore, since the authority over the life and property of people and wills and rights of individuals is of the essence in governing, Islam says that no one other than the one who has been delegated by God has the right to have authority over others. In any case, the belief that no one has authority over the servants of God without the permission of God, the Exalted, is a fundamental principle in Islamic thought.

It is by the acceptance of this principle that political philosophy of Islam can be distinguished from other existing schools in this regard and the theory of *wilayat al-faqih* from other theories of government and political systems.

It is for this reason that those who believe in the legitimacy of the government of the elite, the philosophers and sages, the nobles and affluent, or those who gain a victory in a war and take over through violence and the use of force and even the theory of democracy (including democracy in its different interpretations and approaches) follow a separate from that of Islamic thought.

For example, as a theory democracy is founded on the idea that sovereignty originally belongs to the people and it is their right and it is their vote that determines the legitimacy of ruler and government and gives them legal authority to rule. When we examine the third presupposition already mentioned, we find that it is not consistent with the theory of *wilayat al-faqih* because on the basis of the third presupposition, just as an individual does not inherently have the right to rule, the aggregate of people and society do not inherently have such a right.

This is because the entire universe and whatever in it belong to God and everything is originally owned by God, the Exalted, and all their movements and acts must have to be in accordance with the command or prohibition of the Real Owner. They have no right to rule over others or to choose someone to rule.

Relevant to this presupposition, we may also point to one of its ramifications which is accepted by all Muslims and that is, due to His original and essential right to govern, God, the Exalted, has in a lower degree, granted this right to the Noble Prophet of Islam, Harrat Muhammad ibn 'Abd Allah (S) and appointed him a governor having authority over people's lives, property, rights, and freedom.

Again we emphasize that there is a great difference between the theory of *wilayat al-faqih* or Islamic government in its true sense and as understood and declared by "true Islamologists" [*Islamshinasan-e rastin*] (an appellation used by Imam Khomeini (*qs*) to describe the late Ayatullah Murta a Mutahhari)7

and the theory of democracy, and the theory of *wilayat al-faqih* cannot compare with the theory of democracy.

Those who wanted or want to do so, whether those who during the early days of Islam and after the demise of the Messenger of Allah (S) designated a ruler contrary to the explicit injunction of God and His Apostle (S) or those who being fascinated by or deluded by the Western culture, present today such an interpretation of the theory of *wilayat al-faqih*, either have no proper understanding of Islam, or had done or are doing so for personal and political reasons.

According to Islam, the right to rule and to designate a ruler originally and essentially belongs to God, the Exalted, and it is only He through His decree that this right can be granted to someone, and as we mentioned in the supplementary point to the third presupposition, this right was first granted to the Noble Prophet of Islam (S).

4. The inseparability of religion and politics

One of the most important presuppositions of the theory of *wilayat al–faqih* is the inseparability of religion and politics; in other words, politicalization of religion. So, it is incorrect to think that Islam is only concerned with man's personal affairs in this life and has nothing to do with social matters including those political affairs and the management of society, or to assume that these affairs can be managed by individuals who are free to act according to that which they think appropriate and agree upon.

According to the theory of *wilayat al-faqih*, apart from its political laws, Islam has a specific theory about government and determination of sovereignty. It is evident that if a person believes that there is no relationship between religion and politics, religious scholars and jurisprudents are responsible only for religious affairs, political affairs is the concern of the statesmen and these two realms are totally separate from each other, then there will remain no place to discuss the issue of Islamic government and the theory of *wilayat al-faqih*. Although the purpose of this book is not to prove the soundness of these presuppositions and elaborate on the issues related to them, on account of the distinct importance of the fourth presupposition, the next chapter is devoted to the treatment of it.

- 1. It is three decades now. [Trans.]
- 2. The abbreviation, "s", stands for the Arabic invocative phrase, sallall hu 'alayhi wa lihi wa sallam [may God's salutation and peace be upon him and his progeny], which is used after the name of the Holy Prophet Muhammad (S). [Trans.]
- <u>3.</u> The term teghet applies to any idol, object, or individual that prevents men from doing what is good, and leads them astray. The term has been used eight times in the Qur'an. Prior to Islam, teghet had been the name of one of the idols of the Quraysh tribe. This name is also used to mean Satan. Moreover, the term is attributed to the one who rebels against lofty values, or whose despotism surpasses all bounds and who claims the prerogatives of divinity for himself either explicitly or implicitly. [Trans.]
- 4. Umayyads: descendants of Umayyah ibn 'Abd ash-Shams ibn 'Abd al-Man®f from the Quraysh tribe, and members of the dynasty that ruled at Damascus from 41 AH/632 CE until 132 AH/750 CE and transformed the caliphate into a hereditary institution. Mu'®wiyah ibn Ab® Sufy®n was the first of the 'Umayyad line. This kingdom ended with the murder of Marw®n II, the last 'Umayyad caliph. [Trans.]

- 5. 'Abbasids: offspring of 'Abbs ibn 'Abdul-Muttalib, uncle of the Holy Prophet (S), and the dynasty that replaced the 'Umayyads and established a new caliphal capital in Baghdad. This dynastic rule began in 132 AH/750 CE with the caliphate of 'Abdullsh as-Saffsh. With the rise of various local rulers, generally of military origin, the power of the 'Abbasids began to decline from the fourth/tenth century and it was brought to an end by the Mongol conquest in 656 AH/1258.

 [Trans.]
- 6. Serah al-Baqarah 2:284. In this volume, the translation of Qur'anic passages is adapted from Sayyid 'Ale Quie Qare'e, The Qur'an with a Phrase-by-Phrase English Translation (London: Islamic College for Advanced Studies Press, 2004). [Trans.]
- 7. Professor Tyatulleh Murtad Mutahhar (1298–1358 AHS) was born to a family of clergymen on Bahman 13, 1298 AHS [February 3, 1920] in the village of Far men near Mashhad. At the age of 12, he went to Mashhad where he learned the basics of Islamic sciences and then moved to Qum where he attended the sessions of the great authorities of the theological center. From 1319 AHS [1940] Mutahhar attended the sessions held by Imm Khomein and other famous teachers of the time. Moreover, he himself gave lectures in subjects like Arabic literature, logic, kalem [scholasticism], jurisprudence [fiqh], and philosophy. In 1331 AHS [1952] Mutahhar moved to Tehran and in 1334 AHS [1955] he was invited to teach Islamic sciences at the Faculty of Islamic Sciences, Tehran University. He was arrested in the midnight of Khord 15, 1342 AHS [1963] and remained in prison for 43 days. After Imm Khomein smigration to Paris in France, Mutahhar went to meet him and he Imm assigned to him the responsibility of organizing the Revolutionary Council. On the night of Ord behesht 11, 1358 AHS [May 1, 1979] Mutahhar was martyred by one of the agents of the terrorist Furquen group. He wrote more than 50 books and tens of articles, and delivered scores of speeches. Imm Khomein said of Mutahhar string written and spoken words are, without exception, educational and enlivening... I recommend that the students and intellectual group not to let Mutahhar swords be forgotten by un–Islamic tricks..." [Trans.]

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