

A Genealogical Reconstruction of *Wilāyat al-Faqīh* as Theological Constitutionalism

Ahmad Nabilul maram^{1*}

¹UIN Sunan Ampel Surabaya, Indonesia,
nabilulmaram@gmail.com

* Corresponding Author.

Article History:

Received: August 20, 2025

Accepted: December 27, 2025

DOI:

<https://doi.org/10.62032/aijit.v3i2.129>

Abstract: Contemporary analyses of *Wilāyat al-Faqīh* predominantly utilize security studies or political realism frameworks, effectively reducing the doctrine to an instrument of state hegemony. This externalist approach, however, creates an epistemic blind spot regarding the internal normative constraints that bind the jurist-ruler. This article bridges this gap by reconstructing the doctrine's genealogy through a qualitative doctrinal analysis of primary Shi'i jurisprudence, tracing the trajectory from the Safavid-era works of Al-Karakī, through the Qajar-era synthesis of Narāqī and the restrictionist critique of Anṣārī, to the revolutionary treatises of Khomeini. The study demonstrates that the transition from restricted agency (*wikālah*) to general vicegerency (*wilāya 'amma*) was not a rupture but a dialectical expansion of "collective obligation" (*farḍ kifāyah*) intended to prevent the suspension of divine law. Results indicate that the jurist's authority is legally conceptualized as "trusteeship" (*amānah*), a functional construct (*i'tibārī*) designed to negate arbitrary tyranny (*tāghūt*) via institutional checks. Consequently, the institution operates as a form of "Theological Constitutionalism," where the ruler's legitimacy is continuously contingent upon adherence to justice (*'adāla*) and constitutional procedure. These findings challenge the "Theocratic Absolutism" thesis, suggesting that the system's internal logic is closer to a rule-of-law mechanism than a charismatic dictatorship.

Keywords: *Wilāyat al-Faqīh*; Shi'i Jurisprudence; Islamic Political Theology; *Amānah*; Theological Constitutionalism.

INTRODUCTION

The contemporary academic discourse surrounding *Wilāyat al-Faqīh* (Guardianship of the Jurist) is overwhelmingly dominated by a "Securitization Paradigm" that reduces complex doctrinal formulations to mere instruments of geopolitical strategy (Monnier, 2024). While this lens offers explanatory power regarding Iranian state conduct, it systematically obscures the doctrine's internal jurisprudential logic and philosophical roots (Hakim, 2018). Existing literature frequently treats the doctrine as a justification for proxy warfare, neglecting its role as a mechanism for resolving the theological tension between divine legislative sovereignty

and the necessity of executive agency during the Occultation (Scharbrodt, 2020). Consequently, a significant epistemic gap persists: the failure to analyze *Wilāyat al-Faqīh* within the continuum of Islamic public law (*fiqh al-ḥukūmah*), distinct from the exigencies of political expediency. As Mustopa and Bisri (2024) argue, the doctrine is not purely a political instrument but a framework for implementing Islamic justice, necessitating a study aligned with Islamic jurisprudential tenets rather than political utility alone.

Moreover, the reduction of the doctrine to "authoritarianism" ignores the role of *maṣlaḥa* (public interest) in Khomeini's formulation. Scholars such as Fadlallah have posited that notions of *maṣlaḥa* play a central role in the operationalization of *Wilāyat al-Faqīh*, suggesting that governance is fundamentally a moral obligation aligned with the preservation of the Islamic social order (Nachman, 2017). This perspective underscores the inherent complexity of Shī'ī political theology, rejecting the notion that *Wilāyat al-Faqīh* is merely a pragmatic tool of statecraft while asserting that it embodies deeper religious convictions. These convictions necessitate adherence to *Sharī'ah*, even amidst the challenges posed by fallible human governance.

Post-1979 discussions often pivot to the dilemma of legitimacy in the absence of the Infallible Imam (*al-Ma'sūm*). This raises uncomfortable questions about the *ta'til* (suspension) of the *Sharī'ah* under fallible governance structures. As noted by Al-Rikabi (2012), reliance on a fallible clerical authority introduces a critical tension within Shī'ī political thought, rendering the legitimacy of governance contentious. However, the literature often misinterprets this tension as validation of secularism or rejection of the state, rather than as a debate over the modality of divine implementation. Mauriello (2019) explores how *Wilāyat al-Faqīh* seeks to address this legitimacy crisis by grounding political authority in the clerical class, positioning it as a necessary, albeit imperfect, mechanism of governance in the absence of the Imam.

Furthermore, existing narratives frequently mislabel the "Quietist" tradition, associated with scholars like Ayatollah Ali Sistani, as a wholesale rejection of governance. Scholarship on the Najaf school often depicts these attitudes as oppositional and dismissive of political engagement, failing to recognize the nuanced disagreements over the modality of influence (Mustopa & Bisri, 2024). Sistani's approach must be understood not as a withdrawal from the political sphere, but as an alternative framework that critiques the excesses of politicized Islam without discarding the notion of governance itself. Al-Rikabi (2012) elaborates on this distinction, stating that Quietism emphasizes the need for proper, just governance while rejecting extremist political activism.

During the Occultation of the Twelfth Imam, implementing divine law faces significant challenges. Scholars such as Akhavi (1996) have noted that the Prophet's role encompassed both legislative and executive dimensions, necessitating the continuation of governance by a capable substitute when the Imam is absent. Much Shī'ī political-theology scholarship stresses that only the Prophet and Imams can establish an entirely legitimate state, portraying all interim rule as inevitably corrupt or merely tolerated. Yet, major *Uṣūlī* strands explicitly establish ongoing deputies to avoid a vacuum in the execution of law. Mullā Ṣadrā presents *ijtihād* as a continuation of *nubuwwah* (prophethood) and *imāmah*, with jurists inheriting the Prophetic/Imamic function of giving binding rulings and exercising guardianship (*wilāyah*) after revelation ends (Toroghi & Shahrudi, 2020).

Crucially, later thinkers such as Mullā Aḥmad al-Narāqī developed this into a general deputyship (*al-niyābah al-‘āmmah*), in which jurists assume the Prophet/Imam's leadership role in implementing *ḥākimiyyah* (sovereignty) and *Sharī'ah* in society, not just in private law (Scharbrodt, 2019; Toroghi & Shahrudi, 2020). These discourses directly thematize the "Crisis

of Implementation": if the law is complete and eternally valid, some form of divinely grounded executor is necessary, and *Wilāyat al-Faqīh*—in maximal or limited forms—is presented as that functional substitute. Literature that centers only on "non-governmentalism" or secular coexistence thus captures one historical response but fails to account for this robust *Uṣūlī* solution.

The dominant narrative in Western literature often misinterprets *Wilāyat al-Faqīh* as a manifestation of authoritarianism. This perspective fails to recognize the constitutional constraints and ethical dimensions intrinsic to the concept of *Amānah* (trusteeship). Western International Relations and comparative politics literature often treats *Wilāyat al-Faqīh* as synonymous with absolutist theocracy, emphasizing concentration of power and repression (Kawtharani, 2019). This lens spotlights authoritarian outcomes but neglects the internal language of *Amānah* and conditional legitimacy. By reading *Wilāyat al-Faqīh* primarily through the lens of empirical authoritarian practices, much Western literature overlooks how *Amānah* functions as a juristic and ethical constraint: the guardian is not a sovereign owner of power but a trustee bound by *Sharī'ah*, communal rights, and, in many modern formulations, popular will.

METHOD

This study employs a qualitative, doctrinal legal analysis (*uṣūlī* reconstruction) to investigate the internal juristic architecture of *Wilāyat al-faqīh*. The selection of this design is predicated on a critical epistemic distinction: prevailing literature in security studies and international relations essentially treats the doctrine as an epiphenomenon of statecraft or proxy warfare (realism). Such approaches methodologically obscure the normative constraints and internal logic that bind the jurist (*faqīh*). Consequently, a purely political analysis fails to explain the doctrine's resilience and its specific legalistic claims. To bridge this gap, this research utilizes a reconstructive approach, treating *Wilāyat al-faqīh* not primarily as a political manifesto, but as a derivative of *fiqh* (substantive law) governed by strict methodological rules (*uṣūl al-fiqh*).

To operationalize this design, the data corpus was constructed from primary jurisprudential texts spanning the pre-revolutionary and revolutionary periods. Selection criteria prioritized treatises that articulated the theoretical transition from restricted guardianship (*wilāyat al-ḥisba*) to general vicegerency (*al-wilāya al-‘amma*). Key texts included the juristic works of Mullā Aḥmad al-Narāqī, Mīrzā Nā’īnī, and Ruhollah Khomeini, specifically his Najaf lectures, *Hukūmat-i Islāmī*. Crucially, the data collection process distinguished between political speeches and technical jurisprudential argumentation. The study isolated core legal mechanisms, specifically *tazāḥum* (conflict of rulings), *maṣlaḥa* (public interest), and *amānah* (trusteeship), from their subsequent operationalization by state actors. This filtration ensured that the "Scholarly Field" was analyzed independently of the "Political Field," preventing the retrospective projection of contemporary geopolitical behavior onto foundational legal theory.

Data analysis proceeded through a thematic synthesis rooted in the hermeneutics of Shī‘ī legal theory. First, the study deconstructed the genealogical arguments linking juristic authority to the preservation of the Sharī‘a’s integrity. Second, the analysis mapped the internal regulatory mechanisms asserted by the jurists to constrain absolute authority, effectively reconstructing an "ideal-type" of the institution. This normative model was

juxtaposed against external political descriptions to identify where strategic appropriation deviated from doctrinal intent.

FINDING AND DISCUSSION

From Permissible Agency to the Theological Imperative of Governance

The doctrinal architecture of *Wilāyat al-Faqīh* is frequently misidentified as a modern ideological rupture. However, the internal juristic data reveals a systematic continuity rooted in the classical concepts of *wikālah* (agency) and *farḍ kifāyah* (collective obligation). This section reconstructs the transition from the *faqīh* as a limited financial agent to the *faqīh* as the indispensable executor of divine law.

The foundational logic for juristic authority during the Occultation (*ghayba*) is not initially framed as sovereign rule, but as a procedural necessity governed by the laws of agency. Al-Karakī (1988) establishes the permissibility of delegation in religious financial obligations: "There is no doubt that it is permissible to appoint the Imam as an agent in collecting alms... and likewise to authorize the owner to deliver them." Crucially, al-Karakī extends this logic to the *faqīh* during the Occultation, asserting, "It is also permissible... to appoint a *faqīh* (jurist) to distribute the Imam's share... since this is an act that admits deputation (*niyābah*)." He further qualifies this authority with a procedural safeguard: "As a precaution, the ruler (*ḥākim*) should identify those entitled, because it constitutes absentee property" (Karakī, 1988).

This textual evidence isolates the "atomic" unit of juristic authority: the management of *māl al-ghā'ib* (absentee property). By classifying the distribution of *khums* and *zakāt* as acts admitting *niyābah*, al-Karakī legally decouples the function from the infallible person of the Imam. The authority here is not inherent to the jurist's person but is derived from his capacity to act as a trustworthy agent (*amīn*). The invocation of the term *ḥākim* (ruler/judge) in the context of "precaution" suggests an early institutionalization; the *faqīh* is not merely a private distributor but a public trustee whose validation is required to discharge the obligation.

The scope of the *faqīh's* agency expands dramatically when addressing the penal code. Al-Karakī asserts, "It is permissible for the person entitled to retaliation (*qiṣās*) to appoint an agent to carry it out... The same applies to legal punishments (*ḥudūd*) in absolute terms." He explicitly rejects the suspension of these laws during the Occultation, stating, "There is no distinction in this regard between the presence or absence of the entitled party." This authorization is bounded only by the condition of capability: "Authority is not restricted to a particular individual unless... those capable of defense cannot repel harm except through collective action" (Karakī, 1988).

Here, the argument shifts from financial administration to the state's monopoly on violence. By asserting "no distinction" between the Imam's presence and absence regarding *ḥudūd*, al-Karakī effectively closes the door on the "suspension" (*ta'ṭīl*) of penal law. If the *ḥudūd* (divine limits) are absolute, and the Imam is absent, the agent empowered to execute them assumes the *de facto* power of the state. The mention of "collective action" to repel harm anticipates the need for a coercive apparatus, a proto-state structure, rather than a lone jurist acting in isolation.

Al-Karakī frames the preservation of social order as a "collective obligation" (*farḍ kifāyah*). He lists duties such as "engaging in crafts and professions upon which social order depends," "preventing harm to Muslims," "assisting those who seek help," and "adjudication." Crucially,

he defines these as obligations "whose realization is decisively intended by the Lawgiver, without concern for the identity of the individual who undertakes it."

The utilization of *farḍ kifāyah* acts as the bridge between individual religious duty and public governance. The concept of "decisive intent" (*gharaḍ*) implies that God desires a functioning society regardless of who leads it. Therefore, if the social order depends on "crafts," "defense," and "adjudication," and these are neglected, the qualified jurist is obligated to intervene. The logic transforms governance from a "right" of the Imam to a "duty" of the community.

While Al-Karakī established the permissibility of specific functions, it was Mullā Aḥmad al-Narāqī (d. 1245 AH/1829 CE) who systematically consolidated these disparate duties under the comprehensive title of *Wilāyat al-Faqīh*. In his seminal work *ʿAwā'id al-Ayyām*, Narāqī articulates a theoretical breakthrough by formulating the principle of "General Deputyship" (*al-wilāya al-ʿamma*) (Narāqī, 2000). He argues that the qualified jurist possesses authority over "all matters in which the Prophet and the Infallible Imams had authority," except those specifically excluded by *Sharīʿa* evidence. This effectively reverses the burden of proof: rather than asking if a jurist *may* perform a state function, the default assumption is that he *must*, unless explicitly forbidden.

Narāqī supports this expansion by drawing on traditions such as "The scholars are the heirs of the prophets" (*al-ʿulamā' warathat al-anbiyā'*) and the *Fiqh al-Riḍā* narration, which compares the rank of the jurist to that of the "prophets of the Children of Israel." Furthermore, he employs a rational argument based on duties that "must be carried out." Narāqī contends that God has mandated specific religious and social duties, such as protecting public assets and administering justice, which He does not wish to see neglected (Narāqī, 2000). Consequently, in the absence of the Imam, the responsibility for these indispensable tasks logically devolves to the *faqīh* as the authority most competent in divine law.

Narāqī's intervention represents the critical "bridge" between the Safavid-era functionalism of Al-Karakī and the revolutionary statism of Khomeini. Prior to Narāqī, the jurist's authority was often analogized to a custodian guarding orphans' property—a reactive and limited role. Narāqī transformed this paradigm, effectively elevating the jurist to the status of an "Acting Executive" who inherits the operational mandate of the Imam. By subsuming the execution of punishments (*ḥudūd*), issuing fatwas, and managing public wealth under a single "General Vicegerency," Narāqī provided the dogmatic infrastructure that enabled later jurists to conceptualize the *faqīh* not just as a judge but as a ruler. This shifted the discourse from "permission to act" to "mandate to govern."

Despite Narāqī's expansionist synthesis, the trajectory toward *Wilāyat al-Faqīh* was neither linear nor uncontested. A formidable "restrictionist" counter-current is epitomized by Sheikh Murtaḍā al-Anṣārī (d. 1281 AH/1864 CE), the supreme jurist of the post-Narāqī era. In *Kitāb al-Makāsib wa al-Bay' wa al-Khiyārāt*, Anṣārī strictly delineates the scope of the jurist's authority, confining it primarily to two spheres: the issuance of legal opinions (*iftā'*) and adjudication (*qaḍā'*) (Anṣārī, 1995). He explicitly challenges the validity of textual evidence used to support general governance, asserting that traditions such as the *Maqbūla* of ʿUmar ibn Ḥaṣṣalāh and the epistle of the Hidden Imam do not substantiate authority over the "lives and properties" (*al-anfus wa all-amwāl*) of the community. For Anṣārī, absolute authority over such matters is the "exclusive responsibility of the Prophet and the Infallible Imams" (*mas'ūliyya khāṣṣa*). He maintains that these narrations merely clarify the jurist's duty to expound religious laws (*aḥkām shar'iyya*) and do not confer a mandate for political sovereignty or the collection of taxes like *khums* and *zakāt* in a governmental capacity (Anṣārī, 1995; Kadivar, 2020).

Anṣārī's intervention functions as a critical dialectical check within the genealogical history. By rejecting the "General Vicegerency" over public affairs, he re-anchors the jurist's role in the scholarly and judicial domains. This creates a distinct bifurcation in the *Uṣūlī* tradition: the "Maximalist" school (descending from Narāqī), which views the state as a necessary vehicle for religion, and the "Restrictionist" school (led by Anṣārī and later Akhund Khurasani and Ayatollah Khui), which views political sovereignty as distinct from juristic authority during the Occultation. This divergence demonstrates that the eventual dominance of the Khomeinist model was a result of a specific jurisprudential choice to revive Narāqī's thesis over Anṣārī's caution.

Acknowledging Anṣārī's critique creates a more robust historiography. It prevents reducing *Wilāyat al-Faqīh* to a monolithic Shi'i consensus. Instead, it frames the doctrine as the victor in a centuries-long internal debate. When Khomeini later revives the doctrine, he is consciously overriding the Anṣārī consensus that had dominated the seminaries, arguing that the "restrictionist" view leads to the practical suspension of Islam's social laws—a consequence that Anṣārī accepted as a limitation of the era, but which Khomeini rejected as a violation of *tawḥīd* (Khomeinī, 1994).

Khomeini elevates Narāqī's functionalist argument to a theological imperative. Drawing directly on the precedent set by *'Awā'id al-Ayyām*, Khomeini argues that "the fundamental nature of law entails its execution in society." Consequently, "the suspension of law is a violation of monotheism" (*tawḥīd*) (Mauriello, 2019). For Khomeini, the *Wilāyat al-Faqīh* is the mechanism that prevents this violation, transferring "religious and moral responsibility to qualified scholars." (Khomeinī, 1994).

Khomeini's intervention acts as the "capstone" to the genealogical structure built by Al-Karakī and systematized by Narāqī. While Narāqī argued for the necessity of a general deputy to execute essential duties, Khomeini asserts its *ontological necessity* for the preservation of Islam itself. The argument that "suspension is a violation of monotheism" reframes political apathy not as piety, but as a theological error. The state is thus reconceptualized: it is no longer a necessary evil to be tolerated, but the only vessel through which *tawḥīd* can be fully realized in history.

This reconstructed lineage definitively refutes the "rupture" thesis common in Western scholarship. The transition from Al-Karakī's *wikālah* (16th century) to Narāqī's *wilāya 'amma* (19th century), through the contestation of Anṣārī, and finally to Khomeini's state (20th century) demonstrates a dynamic internal evolution of *Uṣūlī* thought. The "Quietist" tradition, often juxtaposed against Khomeinism, is revealed not as a total rejection of governance, but as a rigorous adherence to the Anṣarian restriction on the *scope* of the "General Deputyship."

The Jurist as "Trustee" (*Amīn*) vs. "Sovereign"

The operational logic of *Wilāyat al-faqīh* is frequently misinterpreted through the prism of Weberian sociology, which classifies authority (*Herrschaft*) into traditional, charismatic, or legal-rational typologies. However, the internal jurisprudential evidence suggests a fundamental category error in this application. The jurist's authority is not predicated on "the probability that specific commands will be obeyed" (Kausar, 2020; Weber, 1968), but instead on the concept of *amānah* (trusteeship), which reframes governance as a burdensome duty (*taklīf*) rather than a right to dominate.

A critical examination of Khomeini's later theoretical elaborations reveals a pivotal distinction between the intrinsic authority of the Infallible Imam and the extrinsic authority of

the jurist. The concept of *amr i'tibārī* (rational/constructual matter) posits that the *faqīh's* governance is a social contract valid only insofar as it fulfills specific legal functions. As articulated in recent scholarship analyzing the primary texts, "the authority of the jurist is not endowed with intrinsic spiritual significance akin to that of the Imam, but rather is contextually authorizing and dependent on fulfilling the functions prescribed by Islamic law" (Mauriello, 2019; Mustopa & Bisri, 2024). This functional necessity aims "to guide the community and ensure justice... thereby framing their role as both a privilege and a responsibility" (Mauriello, 2019).

The categorization of the jurist's authority as *i'tibārī* (nominal/constructed) rather than *takwīnī* (ontological/generative) is the central mechanism that prevents *Wilāyat al-faqīh* from technically evolving into divine right absolutism. If the authority is *i'tibārī*, it acts as a "legal fiction" or a "rational convention" necessary for social order, stripped of the metaphysical infallibility that shields the Imam. This implies that the *faqīh's* orders are binding not because of his person (*dhāt*), but because of his office's function in executing the law. Consequently, the legitimacy of the "Sovereign" is revocable; it is contingent on the continuous delivery of justice and adherence to *fiqh*. The "Sovereign" here is, paradoxically, a "Subject" of the law he administers.

This finding fundamentally challenges the application of Weber's "Charismatic Authority" to the institution of *Wilāyat al-faqīh*. While Western discourse often fixates on the charisma of Khomeini the individual, the *institutional* theory is resolutely "Legal-Rational" in a specific Islamic sense. Kausar (2020) and Lottholz & Lemay-Hébert (2016) attempt to map Iranian governance onto Weber's grid, emphasizing clerical domination. However, the *i'tibārī* nature of the office suggests that the system is designed to survive the loss of charisma. By grounding authority in functional necessity (*ḍarūra*) rather than personal sanctity, the doctrine creates a "Rational-Legal" checking mechanism that Weberian models—focused on the *source* of obedience rather than the *purpose* of rule—fail to capture. The jurist is not a charismatic prophet-king, but a "General Deputy" (*nā'ib 'āmm*) operating under a strict job description.

The doctrine's internal lexicon consistently reframes political power as a theological burden. In Khomeini's jurisprudence, rule is defined as a *taklīf*—"a burdensome duty to implement Sharī'a for the community's *maṣlaḥa*—derived from legal reasoning, not from followers' belief in the leader's right to rule" (Kara & Bahmanpour, 2020). This aligns with the Mulla Ṣadrā-inspired philosophical discourse, which views *wilāya* as "Divine trusteeship and moral burden... entrusted to scholars as *nuwwāb 'āmm* and *awliyā' al-umma*" (Toroghi & Shahrudi, 2020). The epistemic source of this authority is explicitly identified as "divine law and justice, not belief-based legitimacy or effectiveness of command" (Toroghi & Shahrudi, 2020).

The shift from "Right" (*ḥaqq*) to "Duty" (*taklīf*) inverts the standard trajectory of sovereignty. In conventional state theory, the sovereign possesses rights (to tax, to punish, to war). In the *Wilāyat* model, these "rights" are merely tools to discharge the primary *taklīf* of implementing Sharī'a. The concept of *amānah* (trusteeship) further binds the ruler; a trustee does not own the trust, he merely manages it for the beneficiary (the *umma*). If the trustee acts against the beneficiary's interest (*maṣlaḥa*) or violates the terms of the trust (*Sharī'a*), his authority theoretically evaporates. This structure imposes a "thick" normative constraint on the ruler, distinct from the "thin" procedural constraints of modern constitutionalism.

This "Trusteeship" model presents a direct counter-narrative to the "Theocratic Absolutism" thesis prevalent in Western critiques. As Mauriello (2019) argues, characterizing Iran's governance as purely theocratic overlooks the "underlying principle of *Amānah*," which

posits authority as a "burden to uphold justice... rather than serving arbitrary power." The Weberian definition of authority as the "probability that commands will be obeyed" is here shown to be insufficient because it is value-neutral; it cares only about *compliance*. The *Wilāyat* model, however, is value-centric; authority exists *only* to realize justice. Thus, Mustopa & Bisri (2024) are correct to assert a "paradigm shift away from the notion of governance as a monopoly of power." The *faqīh* is an "ethical steward" whose legitimacy is not measured by his monopoly on violence (Weber), but by his fidelity to the Trust.

The practical application of this trusteeship is mediated through *uṣūl al-fiqh* tools, specifically *maṣlaḥa* (public interest) and *tazāḥum* (conflict of rulings). Kara & Bahmanpour (2020) demonstrate that *Wilāyat al-faqīh* emerges from these mechanisms, "aiming to keep Shari'a socially responsive while remaining under law." This methodology allows the jurist to prioritize "higher" objectives (e.g., preservation of the Islamic state) over "lower" ritual rulings, not as an act of arbitrary suspension, but as a calibrated legal calculation. The goal is "to realize justice and preserve faith/orthopraxy, not to secure obedience as such" (Toroghi & Shahrudi, 2020).

External observers often misread the invocation of *maṣlaḥa* as the state overriding religion (secularization from above). However, viewed through the lens of *amānah*, it is the trustee navigating conflicting duties. If the "Trust" (the Islamic society) is threatened, the trustee is legally obligated to take extraordinary measures to save it, even if it means temporarily suspending secondary rules. This is not the "unconstrained sovereign suspending Shari'a at will" (Kara & Bahmanpour, 2020), but a "constrained trustee" compelled by the hierarchy of values within the Shari'a itself. The constraint is internal to the legal logic: the *faqīh* cannot rule based on personal whim (*hawā*); every decision must be traceably grounded in a *fiqhi* justification of public interest.

Specifically, this *usuli* constraint dictates that *maṣlaḥa* cannot abrogate the primary objectives (*Maqāṣid*) of the Shari'a, but rather serves as a methodological tool to navigate legal gridlocks (*tazāḥum*) while remaining within the epistemic boundaries of established jurisprudence.

This nuanced understanding forces a re-evaluation of the "Authoritarian" label. While the *political outcome* may resemble authoritarianism, the *jurisprudential logic* is distinct. The Weberian model of "Legal-Rational" authority assumes obedience to abstract rules. In the *Wilāyat* system, obedience is to the jurist's interpretation of justice. Mustopa & Bisri (2024) argue that this "taklīf expected of jurists entails continuous engagement with legal principles... rather than being an authoritarian structure." It is a system of "Epistemic Guardianship" where the legitimacy of the command rests on its alignment with the "dynamic understanding of justice." Consequently, portraying the system merely as "clerical domination" (Lottholz & Lemay-Hébert, 2016) ignores the intense internal contestation over what constitutes valid *maṣlaḥa*. This contestation presupposes the ruler is accountable to the law, not above it.

Constitutionalism against Tyranny (*Tāghūt*)

The most potent internal justification for *Wilāyat al-Faqīh* is its formulation as a negating force against *tāghūt* (tyranny/idolatrous rule). Far from establishing a clerical dictatorship, the jurisprudential and constitutional evidence suggests the doctrine was constructed as a "Rule of Law" mechanism designed to delegitimize arbitrary power (*hawā*) through rigorous institutional oversight.

The jurisprudential definition of *tāghūt* is rigorous and rooted in the primary sources of Shī'ī law. The prohibition against seeking judgment from unjust rulers is absolute, grounded in the Quranic injunction to "disbelieve in the *tāghūt*" Qur'an al-Nisā' (4): 60. The *Maqbulā* of 'Umar ibn Ḥaṣṣalāh provides the operational definition: Imam al-Ṣādiq declares that "Whoever seeks judgment from the *tāghūt*... only takes unlawful gain (*suḥṭ*), even if the right is genuinely his." Key jurists systematically echo this prohibition; Al-Muḥaqqiq al-Ḥillī and Muḥammad b. Makkī al-Jizzīnī al-Āmilī (al-Shahīd al-Awwal) classifies it as an explicit act of disobedience. Consequently, *tāghūt* represents "sovereignty unmoored from law"—the institutionalization of caprice (Makki al-Jizzīnī al-Āmilī, 1989; Muḥaqqiq al-Ḥillī & Tabrīzī, 1868).

This legal categorization frames the *Wilāyat* system as a counter-structure to tyranny. If *tāghūt* is ruled by personal whim, then legitimate *Wilāyat* must be ruled by objective standards. Legitimacy in Shī'ī political thought is thus procedural, not merely substantive. A correct verdict issued by an arbitrary power is legally void because the *source* of authority is corrupt. The doctrine aims to depersonalize power; the *faqīh* rules *only* because he is the vessel of the law, whereas the *tāghūt* rules *despite* the law.

The theoretical constraint of '*adala* (justice) is operationalized institutionally through the Assembly of Experts (*Majles-e Khobregan*). Article 107 of the Iranian Constitution explicitly strips the Supreme Leader of personal immunity, stating: "The Leader of the State is equal with the rest of the people of the country in the eyes of law." Furthermore, Article 111 establishes a concrete mechanism for removal: "Whenever the Leader becomes incapable of fulfilling his constitutional duties, or loses one of the qualifications mentioned in Articles 5 and 109, or it becomes known that he did not possess some of the qualifications initially, he will be dismissed." The authority to determine this dismissal is vested exclusively in the Assembly of Experts (Article 108) ("Constitution of the Islamic Republic of Iran (1979, Amended 1989)," 1989).

This constitutional provision refutes the thesis of "Theocratic Absolutism." Unlike the classical theory of the Divine Right of Kings, which holds that the monarch is accountable only to God, the *Wali Faqīh* is subject to continuous horizontal accountability. The power of the Assembly of Experts creates a "Supervisory Loop": the Leader does not have absolute tenure; his office is conditional on retaining specific qualifications (justice, piety, administrative capability). Article 111 transforms the theological concept of "automatic dismissal" (*in 'izāl*) into a positive legal procedure. If the Leader slips into *tāghūt* behavior (arbitrariness) or loses mental competence, the "experts" are constitutionally mandated to remove him. The system functions not as a pyramid with the Leader at the apex, but as a loop where the "experts" (elected by the people) hold the "guardian" in check.

The qualifications for leadership listed in Article 5—being a "just (*'ādil*) and pious (*muttaqī*) jurist," "fully aware of the circumstances of his age," and "courageous"—are not merely honorifics but legal conditions precedent for authority. Article 107 mandates that the experts review all qualified jurists and select the one "most proficient in Islamic laws... or in political and social issues." This implies that authority is meritocratic and revocable. The Constitution further stipulates that, in the event of dismissal, a temporary council (comprising the President, the Head of the Judiciary, and a Guardian Council jurist) assumes leadership duties, ensuring that the functions of the state continue even when the person of the Leader fails ("Constitution of the Islamic Republic of Iran (1979, Amended 1989)," 1989).

By codifying these requirements, the Constitution institutionalizes the concept of "Conditional Tenure." The *Wilāyat* is not a blank check; it is a revocable contract of governance.

The rigorous selection process described in Article 107 ("review and consult among themselves") and the dismissal clause in Article 111 act as structural bulwarks against tyranny. The jurist is constrained not only by his internal moral compass (*'adala*) but by an external body empowered to judge his performance against the criteria of *fiqh* and political efficacy. This aligns with Nā'īnī's constitutional theory, in which the limitation of power is necessary to protect the people's rights from the "usurping" tendencies of the state (al-Nā'īnī, 2012).

Beyond the formal constitutional structure, a critical "sociological check" exists in the lack of a theoretical hierarchy among jurists. Imam Khomeini himself explicitly acknowledged that "jurists do not have absolute authority... over other jurists of their own time," affirming that one *faqīh* cannot validly dismiss another from his religious rank. This principle preserves the autonomy of the independent *Marja' iyya* (sources of emulation) within seminaries such as Qom and Najaf. This autonomy is structurally reinforced by the institution of *Taqlid* (emulation), which allows every Shi'i believer to choose their own spiritual guide.

This absence of hierarchy creates a system of "Dual Loyalty" that acts as a buffer against totalitarianism. While the *Wali Faqih* commands political obedience, independent Grand Ayatollahs (such as Sistani in Najaf or traditionalists in Qom) command religious allegiance through *Taqlid* (Saouli, 2014). If the state issues a directive that flagrantly contradicts the consensus of the *Marja' iyya*, it risks a legitimacy crisis. This "Polycentric Authority" means the Supreme Leader does not possess a monopoly on religious truth. The historical precedent of the Constitutional Revolution (1906), where scholars split into pro- and anti-constitution factions, demonstrates that the clerical establishment is rarely monolithic, preventing the consolidation of absolute power (Milani, 1994).

These dynamic challenges the monolithic view of Iranian politics. The persistence of figures like Muhammad Husayn Fadlallah and Ali Sistani, who offer "third ways" between Quietism and Khomeinism, proves that the *Wilāyat* model operates within a competitive marketplace of ideas. As observed in post-2009 critiques, in which scholars used jurisprudential arguments to challenge state authority, the Hawza's independence remains a latent but potent constitutional check (Browsers, 2012; Mavani, 2013). It ensures that the "Guardian" is constantly scrutinized not only by the Assembly of Experts but also by his peers in the seminary, who owe him no theoretical obedience.

CONCLUSION

This study has undertaken a genealogical and structural reconstruction of *Wilāyat al-Faqīh*, shifting the analytical focal point from geopolitical realism to internal jurisprudential logic. The primary theoretical contribution lies in demonstrating the continuity between classical concepts of agency (*wikālah*) and modern statecraft. Far from being an ex nihilo innovation, the doctrine represents the operationalization of *farḍ kifāyah* (collective obligation) to preserve the integrity of the Sharī'a. The analysis reveals that this evolution was not linear but dialectical; it required the revival of Narāqī's "General Vicegerency" to overcome the "restrictionist" consensus epitomized by Sheikh Anṣārī.

By characterizing the jurist's authority as *i'tibārī* (rational/constructed) and rooted in *amānah* (trusteeship), the research invalidates the application of Weberian "charismatic domination" to this institution. Instead, it reveals a system of "Theological Constitutionalism" explicitly designed to serve as a check against *ṭaghūt*. This is achieved not only through the moral requirement of justice (*'adāla*), but also through concrete institutional mechanisms—

such as the Assembly of Experts and the polycentric authority of the independent *Marjaʿiyyah* — which subject the sovereign to procedural limits.

These findings carry significant implications for policy analysis. Understanding the Iranian state requires engaging with its specific legal rationality; decisions often misread as irrational ideology are frequently grounded in the calibrated logic of *maṣlaḥa*. However, this logic is not a blank check for arbitrary suspension of law; it is a methodological boundary that compels the trustee to be grounded in the hierarchy of values within the Shariʿa, ensuring that every decision is traceably justified by a *fiqhi* rationale rather than personal whim (*hawā*). Policymakers must recognize that the system possesses internal "red lines" defined by jurisprudence and institutional competition, not merely by monolithic power politics. This study is limited by its focus on normative doctrine. It reconstructs the "ideal-type" of the juristic state, which may diverge significantly from the empirical realities of political expediency. Specifically, while the constitutional architecture of Article 111 provides the mechanism for "Conditional Tenure," its historical non-invocation highlights a profound dialectical tension between the "Guardian" as a legal subject and the "Guardian" as a political actor. Acknowledging this gap is essential to avoid a purely apologetic reading of the institution. Future research should investigate the friction between this normative architecture and the sociological reality of the post-revolutionary state.

REFERENCES

- Akhavi, S. (1996). Contending Discourses in Shiʿi Law on the Doctrine Of Wilāyat Al-Faqīh. *Iranian Studies*, 29(3–4), 229–268. <https://doi.org/10.1080/00210869608701850>
- al-Nāʾinī, M. Ḥusayn G. (2012). *Tanbīh al-Ummah wa-Tanzīh al-Millah: The Awakening of the Islamic Nation and the Purification of the Islamic Creed* (ʿAbd al-Karīm Āl Najaf & al-S. T. R.-Ā. N. al-ʿIqālī ʿAbd al-Muḥsin (eds.)). Maktabat al-Iskandarīyah.
- Al-rikabi, J. (2012). Baqir Al-Sadr and the Islamic State: A Theory for "Islamic Democracy." *Journal of Shiʿa Islamic Studies*, 5(3), 249–275. <https://doi.org/10.1353/isl.2012.0041>
- Anṣārī, M. (1995). *Kitāb al-Makāsib wa al-bayʿ wa al-khiyārāt*. Kungira-yi Sheikh Aʿẓam Anṣārī.
- Browsers, M. (2012). Fadlallah and the Passing of Lebanon's Last Najafi Generation. *Journal of Shiʿa Islamic Studies*, 5(1), 25–46. <https://doi.org/10.1353/isl.2012.0022>
- Constitution of the Islamic Republic of Iran (1979, amended 1989). (1989). In *Constitute Project*. —. https://www.constituteproject.org/constitution/Iran_1989
- Hakim, S. A. (2018). Islam and Government: An Analytical Review on Khomeini's Kashf Al-Asrār and Wilāyat Al-Faqīh. *Indonesian Journal of Islam and Muslim Societies*, 8(1), 147. <https://doi.org/10.18326/ijims.v8i1.147-171>
- Kadivar, M. (2020). Introduction. In H. Mavani (Ed.), *Blasphemy and Apostasy in Islam: Debates on Shiʿa Jurisprudence*. Edinburgh University Press. <https://doi.org/10.3366/edinburgh/9781474457576.003.0001>
- Kara, S., & Bahmanpour, M. (2020). *The Legal Authority of the Jurist and Its Scope in Modern Iran*. 1, 1–27. <https://doi.org/10.37264/jcsi.v1i1.3>
- Karakī, ʿAlī ibn al-Ḥusayn al-ʿĀmilī. (1988). *Jāmiʿ al-Maqāṣid fī Sharḥ al-Qawāʿid* (1 (ed.)). Muʾassasat Āl al-Bayt li-Iḥyāʾ al-Turāth.

- Kausar, R. (2020). Max Webber's Legitimacy and Iranian Political System after Islamic Revolution 1979. *Pakistan Social Sciences Review*. [https://doi.org/10.35484/pssr.2020\(4-i\)49](https://doi.org/10.35484/pssr.2020(4-i)49)
- Kawtharani, F. (2019). Against the Absolutist Government: Shams al-Din's Critique of Khomeini's Thesis Wilāyat al-Faqīh. *Political Thought in Contemporary Shi'a Islam*. https://doi.org/10.1007/978-3-030-28057-4_4
- Khomeinī, R. A. (1994). *Wilāyat-i Faqīh*. Mu'assisa-yi Tanzīm wa Nashr-i Āthār-i Imām Khomeinī.
- Lottholz, P., & Lemay-Hébert, N. (2016). Re-reading Weber, re-conceptualizing state-building: from neo-Weberian to post-Weberian approaches to state, legitimacy and state-building. *Cambridge Review of International Affairs*, 29, 1467–1485. <https://doi.org/10.1080/09557571.2016.1230588>
- Makki al-Jizzīnī al-Āmilī, M. ibn. (1989). *al-Lum'a al-Dimashqiyya fī Fiqh al-Imāmiyya* (Vol. 2). Dār al-Turāth ; al-Dār al-Islāmiyya.
- Mauriello, R. (2019). La Wilāyat Al-Faqīh Después De La Revolución. El Vali-Ye Faqih en La Constitución Y El Nezām De La República Islámica De Irán. *Araucaria*, 41, 495–513. <https://doi.org/10.12795/araucaria.2019.i41.23>
- Mavani, H. (2013). Khomeini's Concept of Governance of the Jurisconsult (Wilayat al-Faqih) Revisited: The Aftermath of Iran's 2009 Presidential Election. *Middle East Journal*, 67(2), 207–228. <http://www.jstor.org/stable/43698046>
- Milani, M. M. (1994). *The Making of Iran's Islamic Revolution: From Monarchy to Islamic Republic*. Westview Press.
- Monnier, A. (2024). Le Hezbollah Et La Doctrine De Wilāyat Al-Faqīh. *Politique Étrangère*, N° 243(3), 151–161. <https://doi.org/10.3917/pe.243.0151>
- Muḥaqqiq al-Ḥillī, J. ibn al-Ḥasan, & Tabrīzī, M. K. ibn 'Abd al-'Alī. (1868). *Hādhā Kitāb al-Sharā'i*. Chāp Dār al-Saltāna.
- Mustopa, M., & Bisri, H. (2024). The Struggle of Law and Power: How Does Imam Khomeini's Idea of Wilayat Al-Faqih Reconcile Religion and State? *Jurnal Hukum Islam*, 22(2), 343–372. <https://doi.org/10.28918/jhi.v22i2.04>
- Nachman, A. (2017). Maṣlaḥa as Sovereignty: Fadlallah and Khomeini Compared. *Middle East Law and Governance*, 9(1), 89–112. <https://doi.org/10.1163/18763375-00901001>
- Narāqī, A. ibn M. M. (2000). *Kitāb 'Awā'id al-ayyām fī bayān qawā'id istinbāt al-aḥkām* (1 (ed.)). Dār al-Hādī.
- Saouli, A. (2014). Intellectuals and Political Power in Social Movements: The Parallel Paths of Fadlallah and Hizbullah. *British Journal of Middle Eastern Studies*, 41(1), 97–116. <https://doi.org/10.1080/13530194.2014.878509>
- Scharbrodt, O. (2019). A minority within a minority?: the complexity and multilocality of transnational Twelver Shia networks in Britain. *Contemporary Islam*, 13(3), 287–305. <https://doi.org/10.1007/s11562-018-0431-0>

- Scharbrodt, O. (2020). Khomeini and Muḥammad al-Shīrāzī: Revisiting the Origins of the “Guardianship of the Jurisconsult” (wilāyat al-faqīh). *Die Welt Des Islams*, 1, 1–30. <https://doi.org/10.1163/15700607-00600a08>
- Toroghi, A. R., & Shahrudi, S. M. H. (2020). Mullā Ṣadrā’s Political Legacy: Ṣadrā’s Theory of Justice and the Religio-Political Authority in Post-Revolutionary Iran. *Information Systems*, 11, 253–294. <https://doi.org/10.12730/13091719.2020.112.210>
- Weber, M. (1968). *On Charisma and Institution Building: Selected Writings* (M. Janowitz (ed.)). University of Chicago Press.