

Home > On the Shore of Contemplation, Volume 1 > Addendum: Governance of a Jurist and Jurisprudence > Question: What is the relationship between ‘Governance of a Jurist’ (Wilayat al-Faqih) and authority in Jurisprudence (Marjaiyyat)? > Detailed Answer

Addendum: Governance of a Jurist and Jurisprudence

Addendum1: Governance of a Jurist and Jurisprudence

Question: What is the relationship between ‘Governance of a Jurist’ (Wilayat al-Faqih) and authority in Jurisprudence (Marjaiyyat)?

Brief Answer

Wilayat is a part of marjaiyyat in the culture of the Shia. The great maraji not only guide people with respect to the divine Law, but they also lead people in the particular problems of society – even judging between people in particular matters and domestic disputes. But if we separate the two matters and associate the former with marjaiyyat then a number of questions arise:

1. Is it permissible to separate marjaiyyat and wilayat?
2. If we suppose that it is permissible, then is it possible to have multiple maraji and leaders?
3. If it is possible to separate the marji and the leader, is it possible to follow other than the leader in rules relating to society and the individual?

The answers to the aforementioned questions are as follows: The reason that the jurisprudent is an authority in matters of the law is because of his specialization in jurisprudence and his power to derive the rules of Allah (SWT) from their sources while the reason that a leader is what he is, is because aside from the above mentioned qualities, he has the ability to manage society according to the principles and values of Islam. It is because of this fact that it becomes possible for a person to be chosen as a leader due not so much to his aptitude in jurisprudence as much as to his better management skills.

In lieu of this reality, the separation of the offices of the marji and the leader becomes a reasonable, and in some instances, a necessary expedient.

In principle, leadership is confined to a single person, whereas the marjaiyyat is applicable to numerous individuals. But the possibility for the reverse situation also holds; just as does the possibility that the two offices should be combined in a single individual. Since following the orders of the leader is obligatory upon all people – including other jurisprudents – and it is forbidden to disobey his orders, hence it is not possible for people to follow other than the leader in matters related to the social order and the running of society.

What was said above regarding the authority of the jurisprudent was in reference to the individual order and to matters of a personal nature; it is in these matters that people can follow other than the leader.

Detailed Answer

The Noble Prophet (SAWW) of Islam had three mandates:

1. To propagate Allah's (SWT) message; teaching the laws of religion and guiding the people;
2. To judge between people when they differed;
3. To lead and manage society.

All of these qualities and functions exist for the jurisprudents in the time of the occultation of the Imam (AS). They too have three functions:

1. Acting as judges and resolving disputes that arise between people;
2. Giving edicts in law and expounding the general rules of the Divine law for the people. This can be considered a type of guidance of the people;
3. Leadership.

Wilayat is a part of marjaiyyat in the culture of the Shia. The great maraji not only guide people with respect to the divine Law, but they also lead people in the particular problems of society – even judging between people in particular matters and domestic disputes. But if we separate the two matters and associate the former with marjaiyyat then a number of questions arise:

1. Is it permissible to separate marjaiyyat and wilayat? In other words is it possible that one individual is the one people refer to in the general matters of the law while another person is the leader of the Islamic nation?
2. If we suppose that it is permissible, then is it possible to have multiple maraji and leaders? Is there a difference between them in this regard?

3. If it be possible to separate the marji and the leader, is it possible to follow other than the leader in rules relating to society and the individual?

Before we answer the aforementioned questions it is necessary for us to give a brief explanation of the “edict” that the leader issues.

When the jurisprudential refers to the religious sources in order to obtain the general rule of Allah (SWT) regarding a certain problem and uses the special techniques that exist for obtaining the rules of the Law, it is called giving an edict or ‘fatwa’. When the leader pays attention to the general rules of Allah (SWT), the various systems in Islam, and the conditions of the time, and according to these delineates a person’s or a specific group’s responsibility with regards to a certain matter, this is called giving an order or a ‘hukm’. In doing this, he not only pays attention to the general rules of Islam and the lofty aspirations of the religion, but also to the specific conditions that exist in that time.

As long as those conditions exist, the order issued by him or his representative is binding. Of course from the point of view of the law, the rules of Allah (SWT) and the edicts of the jurisprudential who has all the necessary qualifications are also binding, just like the rulings of the leader, but with this difference that the jurist’s rulings are binding on him and his followers only, while everyone must follow the orders of the leader.

With this in mind we will now answer the first question, in other words the separation of the marjaiyyat and the leader. According to the logic of the ‘leadership of the jurisprudential’ and its proofs, the jurisprudential takes upon himself the management of society and in accordance with the values of Islam, he takes on the responsibility of leadership. But marjaiyyat means simply to issue an edict and is a completely different matter.

In order to understand marjaiyyat it is necessary to explain taqlid first.

In the Persian language, taqlid means to follow someone without a proof. Taqlid in the parlance of jurisprudence means that someone follows a specialist in a specific matter that is in line with his specialty. The first meaning is considered bad in the eyes of all sane people, but the second is totally sound and accepted by them. The most important proof as to the permissibility of taqlid lies in the fact that the person who is not a specialist in a particular field must refer to the specialist of that field. All of the proofs that are contained in the traditions and verses of the Qur`an regarding taqlid point to this very fact. Like for example the verse that says:

وَمَا أَرْسَلْنَا مِنْ قَبْلِكَ إِلَّا رِجَالًا نُوحِي إِلَيْهِمْ فَاسْأَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لَا تَعْلَمُونَ

“We did not send [any apostles] before you except as men to whom We revealed—ask the People of the Reminder if you do not know.”²

With this explanation it becomes clear that the reason that the jurist is an authority in matters of the law is because of his specialization in jurisprudence and his power to derive the rules of Allah (SWT) from their sources while the reason that a leader is what he is, is because aside from the aforementioned qualities, he has the ability to manage society according to the principles and values of Islam.

It is because of this that it becomes possible for a person to be chosen as a leader due not so much to his aptitude in jurisprudence as much as to his better management skills.

In lieu of this reality, the separation of the offices of the *marji* and the leader becomes a reasonable, and in some instances, necessary expedient.

With regards to the second question (i.e. whether the leadership and the *marjaiyyat* is confined to one person or is open to more than one person) and assuming that a separation of the two is possible, we must remember that when someone refers to the *marji* he does so because the *marji* is a specialist in the field of law and the one who refers, is not. This being the case, it is possible that there be numerous specialists in society. Moreover, this is something that is to be sought after so that everyone can refer to them with ease and obtain their rulings.

But the leadership of society, because it is tied up with the order of society and because the multiplicity of centres of decision making would cause a disturbance—since it is necessary for everyone to follow the leader in his rulings—dictate that the leader be one. This is especially true because according to Islam there is only one nation of Islam. Of course it is possible that specific conditions dictate that specific areas have their own leaders, but all of these leaders should cooperate with one another. But it is not necessary that various jurists issue one edict in order that society not be disturbed. Rather, every jurist issues his edict according to his judgment and the general rules of deriving the laws from their sources.

In principle, leadership is confined to a single person, whereas the *marjaiyyat* is applicable to numerous individuals. But the possibility for the reverse situation also holds true.

As to the third question (i.e. the possibility of following someone other than the leader in all matters) we must not lose sight of the fact that when the leader issues an order or a ruling he looks at all aspects of the situation from the perspective of the various systems and realms within Islam, and after such an appraisal and due to his position it is his opinion which has the final say.

If it were permissible for people to follow other than the leader in all matters, while the orders of the leader remain binding upon them, then in certain cases this would lead to a serious problem. In other words, it is possible that in a specific matter of social order the leader could issue an edict and say that if my ruling was other than this I would have said so, while on the other hand the *marji* of the people could issue a ruling other than his. In this situation how can we expect the people to follow the edict of the ruler?

It is with regards to this problem that it seems necessary that people do not follow other than the leader in social and state matters, since to disobey his order is forbidden according to all the jurists. Therefore what was said above regarding the authority of the jurist and marji was in reference to the individual order and to matters of a personal nature; it is in these matters that people can follow other than the leader.

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1. This final section has been extracted from the book, Faith and Reason, published by the Islamic Education Board of the World Federation of KSIMC. This work can be read in its entirety and also purchased from www.world-federation.org/ieb [1] or ieb.world-federation.org.
 2. Surat al-Nahl, (16), verse 43

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