
VELAYAT-E FAQIH IN CONTEMPORARY IRAN

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Popular uprisings protesting the autocratic nature of the Iranian regime have occurred in recent years. Yet many of the particular grievances voiced by protestors of the uprisings remain largely unheard. At the core of these grievances is the call for greater democratization of the country, but not necessarily to overthrow the central doctrine of the regime—the guardianship of the jurisconsult, *velayat-e faqih*. The doctrine, articulated in its contemporary form by Ayatollah Khomeini and enshrined in the Iranian constitution, allows the clergy to exercise a veto over all branches of government, to screen potential political candidates and to appoint the leader of the feared Revolutionary Guard, among other powers. This essay examines the arguments concerning the *velayat-e faqih* by reviewing two recently published books that address the topic: Kamrava's *Iran's Intellectual Revolution* and Rajae's *Islamism and Modernism: The Changing Discourse in Iran*.¹

This essay begins with a review of Kamrava's book. He describes the current intellectual climate as nothing less than revolutionary, because the ideological incoherence of the regime has allowed for competition among the various politico-theological discourses in Iran. I focus on the arguments of the key reformist and neo-conservative thinkers such as Ayatollah Montazeri and counterbalance their claims by examining the conservative arguments concerning the *velayat-e faqih*. The second section covers Rajae's generational depiction of the changing discourse in Iran. Unlike Kamrava, who divides the intellectual scene into competing camps of thinkers, Rajae sees Iran's thinking class as made up of successive generations, each of which is motivated by a particular stance towards modernity. I again focus on the arguments of some key thinkers such as Mohsen Kadivar regarding the *velayat-e faqih*. To increase the coherence of the essay, the number of thinkers treated in-depth is limited to two: Ayatollah Montazeri and Mohsen Kadivar. The key argument of this essay is that many contemporary thinkers in Iran are attempting to reconcile a religiously-informed vision of government with the modern forms of democracy, rather than simply eschewing the former for the latter.

Three Stances toward Religion and the State

Mehran Kamrava attempts to document what he sees as the three emerging relig-

¹ Mehran Kamrava, *Iran's Intellectual Revolution* (Cambridge: Cambridge University Press, 2008); Farhang Rajae, *Islamism and Modernism: The Changing Discourse in Iran* (Austin, TX: University of Texas Press, 2007).

io-political discourses in the Islamic Republic of Iran, which he categorizes in terms of their relationship with regards to religion. The three discourses include the conservative, the reformist and the secularist. He does not explain why he uses religion as the criterion with which to evaluate the various discourses because the essential role that religion plays in underpinning the Iranian government's claim to legitimacy entails that a thorough discussion and criticism of the state must include a consideration of the uses it makes of religion. This section will consider the main themes of the book with an emphasis on the traditionalist and reformist interpretations of the relationship between religion and the state.

Why is Kamrava writing this book at all? Why now? He claims that Iran is in the midst of a "silent revolution of ideas," which is occurring at a unique juncture in Iran's history.² Iran has, of course, been governed by an avowedly Islamic government for over 30 years. Despite its Islamic character, the exact form of government that the republic should assume is still under construction, at least as far as intellectuals are concerned. Thus, Kamrava wants to say, "[f]or the first time, each of the three discourses find themselves in competition with one another within a theocratic political system that lacks ideological and often institutional cohesion."³ While each of the discourses has a precedent, the contemporary context in which they are occurring is apparently what makes them revolutionary. The ideological and institutional incoherence of the regime allows for the possibility that any one of the discourses could find itself the dominant ideology in the future, and is thus the driving force behind the competition between the discourses. In a sense, the book is really about an intellectual revolution in progress that will culminate when one of the discourses emerges to become the unchallenged intellectual underpinning of the state.

The traditionalist religious discourse currently has the strongest claim on the intellectual underpinning of the state, as it largely serves to provide jurisprudential justifications for the policies of the state.⁴ The key issue that Kamrava uses to identify the traditionalist bloc and to differentiate it from that of the reformists is its understanding of *ijtihad*. *Ijtihad* refers to use of "personal, independent judgment of a jurist to infer precepts from authoritative sources like the Qur'an and the Sunna."⁵ Kamrava distinguishes between two traditions of *ijtihad*: the narrative-centered and the reason-centered tradition. The narrative-centered tradition with which the traditionalists identify relies on the exposition of divinely-inspired documents that contain what is considered to be truth, and consigns reason to explicating and understanding the first principles contained within these documents. The role given to reason is secondary to that of the first principles contained within

2 Mehran Kamrava, *Iran's Intellectual Revolution* (Cambridge: Cambridge University Press, 2008), 7.

3 Ibid., 6.

4 Ibid., 80.

5 Abdulaziz Abdulhusein Sachedina, *The Just Ruler in Shi'ite Islam: The Comprehensive Authority of the Jurist in Imamate Jurisprudence* (Oxford: Oxford University Press, 1988), 35. Quoted in Mehran Kamrava, *Iran's Intellectual Revolution* (Cambridge: Cambridge University Press, 2008).

the narrative, because traditionalists believe in a truth that is beyond the grasp of reason to fully explain. As we will see below, the reformists' understanding of *ijtihad* is a key feature that differentiates them from conservatives.

However, Kamrava is at pains to point out that the traditionalist religious discourse is not hegemonic and that important distinctions exist between various rightist factions. What might be called the "thinking Right" is divided into two groups: the traditionalist clergy and neo-conservative thinkers, such as Ayatollah Montazeri. As Kamrava explains:

Whereas the traditionalist clergy are the primary articulators of the conservative religious discourse as adopted and officially espoused by the state, the neo-conservative figures form the loyal opposition, or at least as much as opposition as the state allows.⁶

Yet, as is shown below, the neo-conservatives are much closer politically to the reformists than they are to the traditionalists.

One such issue that divides the traditionalist clergy from the neo-conservatives is their interpretation of *velayat-e faqih*. In explaining the basis of the legitimacy of the institution, traditionalists are explicit that legitimacy (*mashru'iyat*) is only bestowed on a government by God and that the people can only recognize the functionality of a political system and signal their willingness to accept it (*maqbuliyyat*).⁷ For a government ruled by the *fiqh*, its legitimacy is bestowed by the fact that God is the true sovereign, as the government acts according to His law. The *fiqh*, in turn, must rule in such a manner that the people will signal their acceptance of his rule. While this might seem as a measure of democracy, the traditionalist clergy is not clear whether the responsibility lies with the *fiqh* to secure the *maqbuliyyat*, or whether the people are expected to give their acceptance to a government whose sovereign is God. Furthermore, traditionalists hold that the rule of the *faqih* is absolute (*mutlaq*). No laws are passed by the government without his consent, no appointments are made to governmental positions without his agreement and the government can only act after it receives his permission to do so.⁸ The executive prerogative of the *faqih* allows him to intervene in any of the affairs of society, particularly if he feels that the survival of Islam is at stake.

The neo-conservatives, such as Ayatollah Montazeri, disagree with the traditional clergy's interpretation of the source of the legitimacy and the absolute nature of the ruler. Ayatollah Montazeri does not create a rigid, unbridgeable distinction between *mashru'iyat* and *maqbuliyyat*: "For Montazeri, legitimacy lies with the people."⁹ His acceptance of the need to recognize the will of the people

6 Mehran Kamrava, *Iran's Intellectual Revolution* (Cambridge: Cambridge University Press, 2008), 85.

7 Ibid., 103.

8 Ibid., 105.

9 Ibid., 115-116.

leads him to call for *faqih* to be elected, rather than appointed, to office. He is also critical of the claim that the rule of the jurisconsult is absolute. He argues that, rather than attempting to run an entire government, “the *Velayat-e Faqih* should concentrate on ensuring the Islamic character of the overall political system.”¹⁰ To ensure that the power of the jurisconsult is limited, he advocates for the creation of constitutional provisions that impose term limits on the officeholder and of a supervisory body that reviews his actions.

The position of Ayatollah Montazeri comes very close to the political beliefs of the religious reformists. Like Ayatollah Montazeri, they are critical of the attempt by the conservatives to separate *mashru'iyat* from *maqbuliyyat*. The attempt to separate legitimacy from acceptability is merely “an attempt to justify a twenty-first century version of the theory of divinely ordained kingship.”¹¹ The only way for the people to bestow legitimacy on a ruler is through popular elections. Indeed, reformists argue that Islam and democracy are inherently compatible. Kamrava summarizes the reformists’ argument for a religious democracy as follows:

Islam has not mandated any specific forms of government except those that attend to the material and spiritual needs of the people. The ideal form of government, therefore, is changeable according to the needs and circumstances of the times, which, in the contemporary era, happens to be democracies. Islam, in fact, contains several built-in features and mechanisms that are consistent with and are supportive of democracy. What Muslim societies need, therefore, are Islamic democracies.¹²

The religious reformists are able to articulate an Islamic form of democracy, in part because of how they understand *ijtihad*. In the reformist understanding of *ijtihad*, a greater focus is placed on the incorporation of context and the use of reason in constructing interpretations of the Qu’ran and the law. The modern technological age requires the reinterpretation of Islamic doctrine to make it accord with the complexity and interconnectedness of the contemporary period. The reformists are skeptical of claims that Islam is primarily a timeless, rather than dynamic, religion; in fact, reformists like Mohsen Kadivar distinguish between “historical” and “real” Islam. The former has largely consisted of autocratic governments ruling without the input or participation of the people. The latter, however, has democratic features and mechanisms that are inherent to the faith. For Kadivar, the current system of *velayat-e faqih* may be part of “historical” Islam but is not in the spirit of “real” Islam and is therefore a throwback to a less democratic, more authoritarian age.

10 Ibid., 114.

11 Ibid., 141.

12 Ibid., 135.

However, there is a point of ambiguity with the critique that reformists make regarding the guardianship of the juriconsult. On the one hand, they criticize conservative clergy for overlooking the need to incorporate context and circumstance in their interpretation of the religion's precepts, but at the same time they appeal to an essentialized Islam, which so happens to accord with modern democratic sensibilities. Furthermore, conservative clergy could just as easily turn the argument for context on its head: the secularizing forces of modernity threaten the survival of Islam as a politically relevant force, and require institutionalizing the political role of Islam through rule of the juriconsult.

In any case, Kamrava is most optimistic over the long-term prospects of the religious reformists emerging as the dominant intellectual group in Iran. Of the three discourses he covers, "the emerging discourse of religious reformism is of the most profound historical and theological significance".¹³ Although its future success is far from guaranteed, the lack of substantive popular support for the conservative discourse due to its rhetorical proximity to the unpopular regime in Iran, and the fact that the population does not seem ready to accept a secularized government, make the reformist discourse the logical successor to today's ideological incoherence in Iran.

Generational Discourses

Farhang Rajaei attempts to trace the political and intellectual evolution and aftermath of the Islamic Revolution in Iran. He does so by eschewing what he considers "models applied by outsiders," by which he means Western, social scientific explanations for revolution which are exogenously applied to explain the revolution in Iran. More specifically, Rajaei faults "positivistic" explanations of the revolution for underemphasizing "the enormous cultural and religious underpinnings of the revolution."¹⁴ In turn, Rajaei gives cultural and religious variables a central role in the events leading up to and following the revolution. This review will outline Rajaei's depiction of the intellectual underpinnings of the revolution and the events that have taken place thereafter, with particular regard to the debates surrounding the *velayat-e faqih*.

Broadly speaking, Rajaei sees the revolution as a result of a crisis of confidence among Iranians regarding their civilization. Since at least 1736, when the Safavid dynasty fell, Iran has been in a state of civilizational retreat: 1738 marks the beginning of the Shahs, who originate from India; the Russians defeated Iran in 1828 and appropriated Iranian territory as the spoils of war; the last century saw the Iran occupied by foreign powers, an elected prime minister overthrown and a monarch act with increasing disregard for the populace. The result of these successive humiliations was a "state of anomie" resulting from an "erosion of

13 Ibid., 214.

14 Farhang Rajaei, *Islamism and Modernism: The Changing Discourse in Iran* (Austin, TX: University of Texas Press, 2007), 6.

confidence.”¹⁵

To combat this erosion of confidence, Rajaei argues that Iranian elites drew from two competing sources: modernity and Islam. The early modernizers called for constitutional reform, greater exposure to Western education and technology and the adoption of a more open and dynamic economic system to restore the country to its former glory. The modernizers lost favor with the populace after the project of modernization became associated with the projects of the Pahlavis, who were perceived as hostile to the central role that Islam played in Iranian society. Some Iranians began to look toward their religion as an alternative to modernization. As Rajaei explains, “the Islamic movement, therefore, is a modern phenomenon whose fundamental impetus has been a defensive reaction to the perceived threat of modernism.”¹⁶ As the protagonists of the Islamic movement reconceived the religion as a “form of social protest” and as containing the fundamental necessities for running a modern state, they were eventually able to use Islam as a vehicle to mobilize the masses in overthrowing the Pahlavi regime.¹⁷ Yet there is no single, homogenous Islamic movement; rather, the movement is best understood as composed of successive generations. While Rajaei examines four generations of the Islamic movement, this essay will only cover the reformist generations that emerged after the death of Khomeini.

The most recent generation is represented by a “politics of restoration.” Just as Kamrava points to the election of Khatami in 1997 as the catalyst for forming the group of religious reformists, Rajaei chooses Khatami’s term as president as the period of time that defines this generation. The members of this generation are restorative in relation to modernity, both in how they relate to other civilizations and in how they conceive of Iranian society. Khatami advocated for a “dialogue of civilizations” to increase the levels of mutual understanding and tolerance among the major civilizations identified by Huntington.¹⁸ Members of this generation also spoke of the need to develop and appreciate an Iranian civil society, one in which not all interests are subsumed to religion, but one that fosters greater diversity and associational life. Some members go so far as to call for a secular republic, but as we are concerned with debates concerning *velayat-e faqih*, we will focus on an individual who is calling for the democratization of the *faqih*: Mohsen Kadivar.

15 Ibid., 8.

16 Ibid., 11. Note that Rajaei distinguishes between modernity and modernism: the latter denotes an ideology, “a seeming certitude that claims to possess all the answers” and which “requires only mechanical implementation” in order to be realized. In essence, modernism is modernity at its worst: while the latter seeks to spread responsibility and freedom, the former seeks only to consolidate power; the cultural basis for modernity is reason, but modernism has utilitarian rationality as its basis. Rajaei makes a similar distinction between Islam and Islamism, in which the latter contains all of the negative implications of the former, which results when the goals of Islam are pursued in a single-minded, inflexible manner. So the difference between the concept and the -ism seems to stem from how the former is implemented, and not due to analytical or essential differences.

17 Ibid., 12-13.

18 Samuel Huntington, *Clash of Civilizations and the Remaking of World Order* (New York: Simon & Schuster, 1996).

Kadivar's views on the *velayat-e faqih* are informed by what he sees as the historical development of the office. He sees the history of the office as made up of nine different conceptions, four of which he categorizes in terms of their divine legitimacy and five which he categorizes because of their mixture of divine and popular legitimacy. He categorizes Khomeini's conception of the *velayat-e faqih* under the purely theocratic category. According to Rajaei, Kadivar sees two conclusions in his analysis of the different conceptions of the *faqih*: "First, discussion about government is an open-ended field in Shi'i political thought; and second, the current jurists are all wanting or inappropriate for the present juncture in Iranian history."

More than simply being an inappropriate institution for Iran at the moment, Kadivar also thinks that the office is not rationally necessary or required by Islam. The only validity it has is due to the affirmation of a consensus of jurisprudential scholars. Yet even for the religious government in which they serve, Kadivar argues, the authority of the *faqih* is limited and unable to suspend religious laws at will. Instead, his conception of religious government places the will of the people at the center of the government's claim to authority, such that even a government that is based on shari'a law is illegitimate if it is not acceptable to the people.¹⁹ Even certain shari'a laws can be revoked if they prove to be ineffective. The rulers need not even be clerics. Kadivar only insists that the democracy "operates within the bounds of contemporary Iranian identity, which is simultaneously religious, native, modern, and progressive."²⁰

One might ask whether such a form of government is best labeled a "religious democracy." Perhaps "Iranian democracy" is a more appropriate name, because in the end, every aspect of Kadivar's conception of democracy is contingent on its acceptance by the Iranian people, and it attempts to accommodate the multifaceted nature of Iranian society. Furthermore, by calling for a democracy that is explicitly Iranian in character, Kadivar's political ideas may serve to restore the confidence of the Iranian people in their civilization and thus to combat the "state of anomie" with which Rajaei believes the country is afflicted.

Conclusion

This essay largely relies on secondary sources. However, to a certain extent that reliance is inevitable for those who do not read Persian, the main language in which Kadivar and Montazeri write, yet nonetheless strive to understand the debates over the *velayat-e faqih*. Future research in this topic would benefit greatly from the translation of the Persian source texts into English. Furthermore, future research on this topic could examine the dialogue between the reformists and secularists. Secularists do not hold broad influence in Iranian society, yet the fact that

19 Ibid., 220.

20 Ibid., 221.

this group is even attempting to debate the Iranian regime shows that they are far from moribund. While the reformists use religious terminology in calling for democratization, future research could examine the extent to which the substance of the reformists' ideas coincides with that of secularists and points of difference between the two groups.

This essay has argued that many contemporary thinkers in Iran are attempting to reconcile their religious convictions with a modern, participatory form of government, instead of simply trying to separate religion and state. These thinkers demonstrate that calls for democratization and modernization do not necessarily entail calls for secularization, or at least the forms of secularization known in the West. The popular uprisings and the repressive response by the Iranian regime show that the arguments made by intellectuals do not simply result in the effecting of the desired changes in policy, but are often brought about through public struggle and protest. Those who struggle for reform in Iran as of this writing have done so peacefully, but how long that will last in the absence of the democratization of the *velayat-e faqih* is unknown.

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