

The Authority of the Islamic Government in Citizens' Private Sphere Based on the Opinions of Jurists and Jurisprudential Principles and Rules

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The scope of the private and public domains in citizens' lives depends on various cultural, political, and economic factors, and changes in these factors lead to alterations in the boundaries of these two domains. One of the most significant influencing factors in this regard is religion and, consequently, a religious government. The present study aims to examine the permissibility or impermissibility of the Islamic government's interference in the private sphere of citizens. Specifically, the study focuses on an Islamic government led by a qualified jurist (faqih) as its head. An analysis of the opinions and views of those who oppose governmental interference in the private sphere indicates that individuals' private lives fall outside the jurisdiction of the government. On the other hand, proponents of governmental intervention define the jurisdiction of the Islamic ruler (wali al-faqih) as broad and comprehensive, encompassing both the public and private spheres and covering both social and personal interests.

Keywords: private sphere, citizen, Islamic government, guardianship of the jurist (wilayat al-faqih), authority of the Islamic government

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1. Introduction

The sacred religion of Islam has placed special emphasis on the private sphere of individuals and its protection. However, we are all aware that there are increasingly complex issues concerning privacy. For instance, in our contemporary society, in order to determine eligibility for government subsidy payments, it has become necessary to examine individuals' personal assets, which is inherently a private matter. Similarly, the government's imposition of a cap on dowries to reduce the number of individuals imprisoned

for non-payment and to prevent excessive and unrealistic dowries, the enforcement of dress code regulations, population control policies, and efforts to encourage population growth are all examples of private matters that have become intertwined with the responsibilities of the Islamic government.

Thus, the question arises: in the realm of private life—such as choosing an occupation, housing, marriage, leisure activities, and the education and upbringing of children—is the Islamic government permitted to intervene? If so, what are the limits of such intervention,



and what dimensions should governmental jurisprudence consider? Would intervention in private matters contradict divine laws? This is particularly significant because interference in personal affairs is contrary to the principle of non-guardianship (original absence of authority), and in Islamic teachings, only the Prophet and the infallible Imams have been granted authority over individuals' lives and wealth.

This article aims to examine the authority of the Islamic government under the framework of *Wilayat al-Faqih* (the Guardianship of the Jurist) and its jurisdiction over the people. It should be noted that *governance* (*hakimiyyah*) and *guardianship* (*wilayah*) are two distinct positions, with governance being a broader concept encompassing both just and unjust rulers, whether they are jurists or non-jurists. In contrast, *wilayah* is exclusive to qualified just jurists (*faqih jami' al-shara'it*), each of whom has specific duties and responsibilities. The roles of rulers in different political systems are defined based on the type of government, the characteristics of the people, religious affiliations, and other factors. Examples of governmental responsibilities include ensuring justice, defending national borders, and maintaining societal order. Likewise, within Islamic jurisprudence, the *wali* (guardian) has prescribed duties and conditions, such as enforcing legal penalties (*hudud*), according to those who permit their implementation during the occultation period (*ghaybah*).

When governance is entrusted to jurists, these duties and responsibilities become centralized in a *faqih jami' al-shara'it*. The scope of the *faqih's* authority is determined by the foundational principles of *Wilayat al-Faqih*. Since these foundations vary, the extent of the *faqih's* jurisdiction is also debated. For example, those who justify *wilayah* based on social necessities limit its scope accordingly, whereas those who cite the unrestricted reference to "governor" (*hakim*) in the narration of Umar ibn Hanzala argue for comprehensive jurisdiction, extending to all governmental matters, even non-essential ones.

2. Conceptual Definitions

2.1. Private Sphere

The term *harim* (sanctuary) is derived from the Arabic root *h-r-m*, meaning prohibition and prevention (Ibn

Faris, 1983, under *h-r-m*). In Arabic, *harim* can be used in compound forms, sometimes associated with property and sometimes with individuals. When it pertains to property, it refers to its surrounding area, such as the *harim* of a well, meaning the land around it. When associated with individuals, it signifies something that must be defended, even fought for (Ibn Manzur, 1995, under *h-r-m*). In this sense, *harim* includes a person's life, property, honor, and family. In Islamic jurisprudence, *harim* also denotes prohibition, meaning that unauthorized access to it is forbidden (Majlisi, 1987).

The term *private* in linguistic terms means "exclusive" or "reserved." For example, a "private meeting" refers to a gathering where only designated members are present, as opposed to a public meeting (Dehkhoda, 1997). In Arabic, the term *al-khassah* is used to describe something private or exclusive (under *khususiyah*).

Despite its frequent use in legal, social, and political discussions, the term "private sphere" lacks a universally agreed-upon definition and is not explicitly defined in any lexicon. Some scholars argue that defining privacy satisfactorily is highly challenging (Ansari, 2014). Various definitions have been proposed by experts, but discussing them in detail is beyond the scope of this article. However, synthesizing these definitions, a more contextually relevant definition of privacy could be:

"The private sphere is an aspect of an individual's life that varies depending on time and place. Any decision-making regarding it, as well as access and oversight, is exclusively within the individual's control, and any external intervention or access without consent is impermissible."

2.2. Islamic Government

The term *government* (*hukumat*) shares the same root as *hukm* (judgment). In linguistic terms, *hukm* denotes firmness, precision, and impermeability. Accordingly, the iron bit used for controlling a horse is called *hikmah*, as it tames the animal and prevents it from becoming unruly (Al-Hurr al-Amili, 1995). Other meanings of *hukm* found in lexicons include "judging with justice," "knowledge and jurisprudence," and "patience in governance" (Ibn Manzur et al., 1995). In Dehkhoda's lexicon, *hukumat* is defined as judgment, adjudication, ruling, governance, administration, and sovereignty.

A *religious government* (*hukumat dini*) is one that aligns with religious teachings and is fundamentally based on religion. At the very least, it must not contradict religious

doctrines in any aspect. An Islamic government is a type of religious government established in Muslim societies where the ruling party or leaders uphold the supremacy of Islam and seek to implement laws based on Islamic principles and teachings.

2.3. *Wilayat al-Faqih (Guardianship of the Jurist)*

Wilayat al-Faqih is a term referring to the system of Islamic governance after the era of the infallible Imams. In this context, *wilayah* means governance and leadership over society. *Wilayat al-Faqih* signifies the governance of an Islamic society by a jurist who has reached the level of *ijtihad* (independent legal reasoning) and meets the qualifications required for leading the Muslim community.

2.4. *Citizen*

In Islamic culture, several terms, such as *ra'iyah* (subjects), *ummah* (nation), *millah* (community), *nas* (people), and *abna'* (children of the nation), closely relate to the modern concept of "citizen." Among these, *ra'iyah* is the most politically and legally comparable to the contemporary notion of citizenship, as it implies a ruler's responsibility towards the people.

A citizen can be defined as:

"An individual who recognizes and defends both their individual and collective rights, understands and abides by the law, demands rights through legal means, possesses specific entitlements, acknowledges the presence of others, and recognizes that defending others' rights is equivalent to defending their own. A citizen is also an active participant in the affairs of the city or state." (Goudarzi, 2015, p. 63).

3. Opponents of the Islamic Government's Intervention in Citizens' Private Sphere

A study of the opinions of those who oppose governmental intervention in citizens' private lives, as well as their views on the concepts of governance, sovereignty, and guardianship, indicates that personal matters such as choosing an occupation, housing, marriage, leisure activities, and the education and upbringing of children fall outside the jurisdiction of the government. According to the primary principle regarding government interference in the private sphere, the state has no right to intervene in this domain

and cannot compel individuals to make specific choices or engage in particular actions. Thus, every individual is free to act within their private life as they wish, even against rational and prudent considerations, as long as they comply with Islamic laws and regulations.

In this section, we examine the views of several distinguished jurists who have expressed opinions on this matter:

3.1. *Akhund Khorasani*

Akhund Khorasani writes:

"The Imam has authority in significant societal matters and general affairs related to governance and politics, which fall within the responsibilities of the leader of the community. However, when it comes to private matters concerning individuals, such as selling a house or other personal and financial matters, the establishment of his authority is subject to doubt and debate. This is because, according to the principle that no one has the right to dispose of another person's property without their consent, and given the legal maxim that the wealth of a person is not permissible for another except with their voluntary satisfaction, no one has the right to interfere in another person's property without permission. The practice (sunnah) of the Prophet also confirms this, as he treated the wealth of people just as they did themselves. Therefore, the scope of government and guardianship does not extend to the private sphere of life" (Akhund Khorasani, 1986, p. 93).

He further asserts:

"It is evident that whatever does not fall under the authority of the Imam cannot be considered within the jurisdiction of the jurist during the occultation period. However, whether the powers of the Imam extend to the jurist is itself a subject of contention and debate."

3.2. *Sheikh Morteza Ansari*

This prominent jurist outlines three roles of the jurist: *fatwa* (judicial decree), *judicial authority*, and *guardianship*, stating:

"A qualified jurist has three positions: first, issuing fatwas (iftā') on matters that the laity requires for their actions—this is undisputed and universally accepted; second, governance (ḥukūmah), meaning that the jurist has the right to adjudicate cases and issue rulings based on what he deems just—this is also well-established by both legal

texts and juristic consensus; third, guardianship (*wilayah*), which involves authority over people's property and lives, which is the main focus of discussion here" (Ansari, 1999).

He elaborates on the third position, stating:

"The general guardianship, which entails authority over wealth and lives, was established for the infallibles (*ma'sumin*), as indicated in the verse: 'The Prophet has greater authority over the believers than they have over themselves' (*Qur'an*, 33:6). The discussion here is whether, in the absence of the infallibles, the same authority applies to a qualified jurist or not. The principle in this matter is that no one has authority over another person unless a definitive proof establishes an exception to this rule" (Ansari, 1999).

Ansari acknowledges that the infallible Imams had absolute sovereignty over people, as established through the *Qur'an*, *Sunnah*, intellect, and consensus, stating:

"From a comprehensive review of the four sources of jurisprudence, it is evident that the Imam has absolute sovereignty (*sultanah mutlaqah*) over the people by divine decree, and his rulings are binding in all matters" (Ansari, 1999).

However, he explicitly denies such authority for jurists, asserting:

"Establishing that obedience to a jurist is obligatory in the same manner as it is for the Imam is more difficult than grasping a thorny plant with bare hands" (Ansari, 1999).

3.3. Sayyid Muhammad al-Bahr al-Ulum

Sayyid Muhammad al-Bahr al-Ulum recognizes *Wilayat al-Faqih* as political and social leadership but firmly denies the jurist's authority over people's wealth and lives. He writes:

"There is no doubt that the available evidence falls short of establishing the jurist's superiority over the people in matters of their own selves, as is affirmed for all the Imams based on the declaration at *Ghadir Khumm*. Rather, what is proven for the jurist is only the second type of guardianship, which is his influence in others' transactions but not independent authority over them".

According to this perspective, the jurist's authority is *non-independent*, meaning he does not have the same level of guardianship as the Prophet and Imams, who had *independent* authority over people's lives and wealth. Consequently, since the jurist lacks this independent authority, he does not have the right to interfere in the private sphere of citizens.

3.4. Mirza Naini

According to Sheikh Mousa Najafi Khansari, Mirza Naini divides legislative guardianship (*Wilayah Tashri'iyah*) into three levels. He reserves the highest level, which includes authority over people's lives and property, exclusively for the Prophet and the infallible Imams. However, he considers the other two levels—political authority concerning societal order and governance, and judicial authority over legal rulings and arbitration—as delegable to others (Naini & Khwansari).

For Mirza Naini, the primary subject of debate in *Wilayat al-Faqih* is *general guardianship* (*wilayah 'ammah*), whose most evident functions include maintaining law and order and protecting borders. He argues that proving the jurist's authority is limited to the same scope granted to figures like Malik Ashtar and Muhammad ibn Abi Bakr, who served as governors under Imam Ali (Naini & Khwansari).

3.5. Ayatollah Khomeini

Ayatollah Khomeini distinguishes between *absolute guardianship* (*Wilayat Mutlaqah*), which includes full authority over people's lives and wealth, and *non-absolute guardianship* (*Wilayat Ghair Mutlaqah*), which is limited to necessary public affairs (*umūr hisbiya*). He asserts that only the infallible Imams possessed absolute guardianship, while jurists may exercise limited authority only in cases of necessity. He concludes:

"It follows that a jurist does not have guardianship in either an independent or non-independent manner over people's wealth and lives... Yes, in some cases, he may exercise limited guardianship, but this is not established through textual evidence; rather, it is inferred based on practical necessity" (Khomeini, 1997).

From the above discussions, it is evident that Ayatollah Khomeini believes that a jurist does not have authority over individuals' lives and property but only holds jurisdiction over necessary public affairs (*umūr hisbiya*). Consequently, this perspective implies that the government has no right to interfere in the private lives of citizens.

4. Jurisprudential Principles and Rules Indicating the Impermissibility of Governmental Intervention

4.1. *The Rule of Sovereignty*

A person has sovereignty over their own affairs and has the right to make decisions regarding their personal matters. Since an individual's private sphere pertains solely to them and is unrelated to others, they are free within this domain, and this part of their life is protected from external observation and supervision. No one has the right to oversee it.

The sovereignty of individuals over their own affairs is an accepted principle among jurists and is articulated as: "People have authority over themselves" (*al-nās musalltūn 'alā anfusihim*) (Ansari, 2014; Khomeini, 2005).

The principle of *al-nās musalltūn 'alā anfusihim* serves as the most fundamental support for the right to privacy, from which various aspects of this right can be derived. This principle, on one hand, prevents many unwarranted interferences by others and, on the other, acknowledges individuals' right to determine how they live. However, this does not imply that individuals have the right, under the pretext of this sovereignty, to alter or manipulate religious rulings. That is, a person's sovereignty over themselves is limited by Islamic legal constraints, and actions that are religiously prohibited cannot be justified under this principle (Ansari, 1999).

4.2. *Critique and Analysis of the Sovereignty Rule's Indication of Impermissibility*

A person's sovereignty over their affairs is valid only to the extent that it does not cause harm to themselves or others, as the principle of *no harm (lā ḍarar)* takes precedence over the rule of sovereignty. For instance, in cases such as drug addiction, where an individual's actions harm both themselves and their family and surroundings, it cannot be argued—by invoking the rule of sovereignty and claiming that the person's body, wealth, and family fall within their private sphere—that the Islamic government is not allowed to intervene. Any rational mind would agree that non-intervention in such cases would lead to the destruction of the individual, their family, and, on a broader scale, societal corruption and decay.

Thus, reliance on the rule of sovereignty alone cannot substantiate the claim that the Islamic government is not permitted to intervene in citizens' private spheres. While individuals have sovereignty over their own affairs, if this sovereignty results in harm to themselves or others,

or causes societal corruption, the Islamic government is permitted to intervene in the private sphere of the transgressing citizen.

4.3. *The Rule of No Hardship (lā ḥaraj)*

Islamic jurisprudence recognizes the principle of *lā ḥaraj*, meaning "no hardship." Linguistically, *ḥaraj* signifies difficulty, constraint, affliction, sin, or prohibition. It has been stated that *ḥaraj* originally means a gathering or accumulation of things in a way that causes a perception of restriction and hardship (Raghib Isfahani & Dawoodi, 1993). In the Qur'an, the term *ḥaraj* is used to denote distress, constraint, difficulty, and sin, as in: "Allah does not wish to place you in difficulty, but He wishes to purify you..." (Qur'an, 5:6). The essence of this principle is that religious rulings that impose undue hardship and difficulty upon individuals should be lifted. That is, if a legal obligation, prohibition, or permission results in undue burden, it is annulled since hardship (*ḥaraj*) is not inherent in Islamic rulings. In the matter of privacy, it is argued that permitting people to intrude into each other's private lives would make life intolerable for everyone. If private matters were accessible to all and anyone could learn about them without restriction, life would become unbearable.

4.4. *Critique and Analysis of the No Hardship Rule's Indication of Impermissibility*

The rule of *lā ḥaraj* alone cannot be used to establish the impermissibility of government intervention in citizens' private spheres. First, the principle of maintaining the Islamic system (*ḥifẓ al-nizām*) supersedes all jurisprudential rules. For instance, if an individual or group engages in activities within their private sphere that threaten the government's stability or cause harm to other citizens, it is not only permissible but obligatory for the Islamic government to prevent such actions, even if this intervention results in hardship (*ḥaraj*) for those individuals.

Second, the scope of the *lā ḥaraj* principle extends only to individual actions and lifestyles to the extent that they do not create hardship for others. For example, if a man refuses to pay his legally mandated family expenses (*nafaqah*), claiming that such an obligation imposes undue hardship (*'usr wa ḥaraj*) on him, the consequence would be an unbearable situation for his dependents. In

such a case, the Islamic government is permitted to intervene in his private sphere to enforce the obligation.

4.5. *The Principle of No Guardianship (aṣl 'adam al-wilāyah)*

One of the fundamental principles frequently cited in jurisprudential texts is the principle of *no guardianship* (*aṣl 'adam al-wilāyah*). Shi'a jurists argue that, based on this principle, guardianship over others is contrary to the fundamental rule, and authority over others' lives and property is only valid where there is explicit evidence to justify it.

For example, *Narāqī* (d. 1830) states that the *default* position in discussions on governmental authority is the absence of guardianship unless there is specific evidence establishing it, such as in the cases of the Prophet and the infallible Imams (*Narāqī, 1990, 1996*). Similarly, *Darbendi* asserts: "Know that the fundamental principle is that no one should have dominion over another's wealth or body, and that only God has absolute authority over His creation" (*Dashti, 2000*).

4.6. *Critique and Analysis of the No Guardianship Rule's Indication of Impermissibility*

The authority of the Islamic ruler (*wali al-faqih*) is generally divided into three domains:

1. Matters related to legally incapacitated individuals (*al-mahjūrīn*).
2. Public affairs (*umūr 'āmmah*).
3. Personal affairs of individuals (*shu'ūn khāṣṣah*).

In all three areas, the *aṣl 'adam al-wilāyah* principle is applicable, meaning that any assertion of governmental authority must be supported by clear evidence. The first two categories—matters involving incapacitated individuals and public affairs—fall under *Ḥisbah* (public interest), where government intervention is deemed necessary and unquestioned. However, the third category, which involves authority over people's private lives and property, lacks definitive evidence to justify government intervention.

That being said, the *aṣl 'adam al-wilāyah* principle does not serve as a categorical argument against all governmental authority. Jurists employ this principle to limit the scope of governmental jurisdiction and minimize unnecessary interventions. Thus, based on this principle, governmental intrusion into citizens' private spheres is generally prohibited. However, if necessity

(*darūrah*) or the imperative of preserving the Islamic system demands it, such interventions may become permissible or even obligatory under secondary rulings (*ḥukm thanawī*).

4.7. *The Principle of Precaution (aṣālat al-iḥtiyāt)*

In jurisprudential methodology, scholars argue that legal rulings have varying degrees of significance. Some are so crucial that the *Sharī'ah* (Islamic law) never permits their violation, while others are of lesser importance. In cases of doubt, scholars apply precaution (*iḥtiyāt*) when dealing with critical matters.

For instance, *Khoei* states that whenever there is uncertainty about whether an action endangers life or dignity (*furu' wa dima'*), precaution is mandatory (*Khoei*). According to *Akhund Khorasani*, "Reason dictates that in cases of particular importance, such as dignity and life, precaution is obligatory" (*Akhund Khurasani*).

4.8. *Critique and Analysis of the Precaution Principle's Indication of Impermissibility*

The principle of precaution is *narrower than the claim* being made, as it only applies to cases involving life (*ḥayāh*) and honor (*'ird*), not all aspects of privacy, such as intellectual privacy, financial privacy, or personal assets. Therefore, arguments based on this principle are only valid where government intervention violates bodily or reputational privacy. If, for example, government actions infringe on intellectual privacy, this principle does not necessarily apply.

5. Proponents of the Islamic Government's Intervention in Citizens' Private Sphere

The views of these jurists present the scope of *Wilayat al-Faqih* (Guardianship of the Jurist) in the Islamic government as broad and comprehensive, encompassing both public and private life, as well as both social and personal interests. These opinions reflect a general and absolute authority that other jurists have not necessarily endorsed.

5.1. *Muhammad al-Ardabili (al-Muhaqqiq al-Ardabili)*

Al-Muhaqqiq al-Ardabili considers the jurist to be an *absolute ruler* (*ḥākim 'alā al-iṭlāq*) during the occultation period, acting as the representative and deputy of the

infallible Imam in all matters (Muhaqqiq Karaki, 1990). His reasoning for granting the jurist the same authority as the infallible Imam is based on the *general deputyship* (*niyābah 'āmmah*) concept, which he derives from *Maqbūlat 'Umar ibn Ḥaṇṣala* and other evidences.

He is among the jurists who have broadened the scope of *Wilayat al-Faqih*, arguing that, through the concept of inheritance and general deputyship, the jurist succeeds the Prophet (PBUH) and the Imams (AS) in all areas where they held authority. He states:

"The jurist has the same authority as the Imam, who has greater authority over people than they have over themselves".

From his perspective, just as the Prophet (PBUH) and the infallible Imams (AS) had the right to intervene in individuals' private lives when necessary, the Islamic ruler (*wali al-faqih*) also possesses similar authority.

5.2. Ali ibn Husayn al-Karaki (al-Muhaqqiq al-Karaki)

Al-Muhaqqiq al-Karaki advocates for *general deputyship* (*istinābah 'alā wajh al-kullī*), meaning that the jurist's guardianship extends to all matters in which representation is applicable. He asserts that this doctrine is unanimously accepted among Shi'a scholars, stating: *"Shi'a jurists unanimously agree that a just and qualified jurist (faqih 'ādil jāmi' al-sharā'it), referred to as a mujtahid, is the deputy of the infallible Imams (AS) in all matters where representation applies".*

Regarding judicial and financial matters, he writes:

"Some scholars have excluded qiṣāṣ (retribution) and ḥudūd (prescribed punishments) without qualification. Thus, seeking judgment from the jurist and obeying his rulings is obligatory. In cases of necessity, he may sell the property of those who refuse to fulfill their obligations. He also has guardianship (wilāyah) over the assets of the absent, minors, the mentally incapacitated, and the bankrupt, as well as all matters delegated to an Imam-appointed ruler".

Al-Karaki considers the jurist's authority to implement legal punishments and adjudicate cases as evidence of his *general deputyship* (*niyābah 'āmmah*) in all religious offices. He further argues that if this general deputyship is not accepted in all religious affairs, then even judicial rulings and enforcement of penalties by the jurist would not be valid.

In cases where a father fails to act in his daughter's best interest in matters of marriage, al-Karaki asserts that the

Islamic ruler has the right to prevent the father from exercising his guardianship. This intervention is not merely advisory but an implementation of divine rulings, requiring authority and enforcement power.

5.3. Muhammad Hasan al-Najafi (Sahib al-Jawahir)

Sahib al-Jawahir upholds the doctrine of *general guardianship* (*wilāyah 'āmmah*) for the jurist. Regarding the scope of the jurist's authority, he writes:

"Due to the explicit statement of the Imam (AS) that 'I have made them [the jurists] rulers over you,' it is evident that they possess general guardianship. Moreover, for the people of that time, there was no doubt that this statement conferred general authority over all matters appointed to them. Furthermore, the Imam's statement that 'they are my proof (ḥujjah) over you, and I am God's proof over them' strengthens this position, indicating that they serve as the ḥujjah over the people just as the Imams (AS) do. Beyond this, some narrations explicitly state that they are khalīfah (successors) over the people, further supporting their succession to the Imams" (Najafi, 1985).

He further emphasizes:

"If jurists did not possess general authority, then (during the occultation) many affairs of the Shi'a community would remain unfulfilled" (Najafi, 1985).

5.4. Mulla Ahmad al-Naraqī

According to this esteemed jurist, jurists have authority (*wilāyah*) over all matters where the Prophet (PBUH) and the infallible Imams (AS) had authority—except in cases where specific evidence excludes them. He states:

"The areas in which a just jurist holds authority can be summarized in two points:

1. In all matters where the Prophet (PBUH) and the Imams (AS), as leaders and protectors of Islam, exercised authority, the jurist also has authority—unless specific evidence, such as consensus or explicit textual proof, excludes a particular matter.
2. In all areas essential to the organization of society, where involvement is necessary according to reason or religious law, the *wali al-faqih* bears responsibility"* (Naraqī, 1990, 1996).

As previously discussed, Mulla Ahmad Naraqi, like many preceding jurists, affirms that the scope of the jurist's authority in governance is equivalent to that of the Prophet (PBUH) and the infallible Imams (AS).

6. Foundations for the Permissibility of Governmental Intervention in the Private Sphere

6.1. Preserving the Islamic System

The preservation of the Islamic system and government is one of the most critical topics in political jurisprudence and among the most significant religious obligations.

Sahib al-Jawahir asserts:

"Preserving the system and establishing order among the Muslim community, which is among the most important obligations, necessitates that qualified jurists assume this critical responsibility. If Wilayat al-Faqih is not broad and comprehensive, many affairs related to the Shi'a community would come to a halt" (Najafi, 1985).

If the Islamic ruler faces a conflict between preserving the Islamic system and respecting citizens' privacy—such as when it becomes evident that certain individuals are conspiring against the Islamic government within their private residences—the ruler must, under all circumstances, fulfill his critical duty of safeguarding the system, even if it necessitates intervening in their private sphere.

6.2. Establishing Justice

Imam Ali (AS) defines justice as:

"Justice places everything in its rightful place," ensuring balance and fairness in all aspects (Dashti, 2000).

The implementation of justice is a hallmark of a righteous government, as Imam al-Sadiq (AS) states:

"Recognize God through God, the Prophet through his prophethood, and the ruler through his command of good, justice, and benevolence" (Kulayni, 1946, Vol. 1, p. 85).

Similarly, Imam Ali (AS) considers justice one of the pillars of faith:

"Faith is based on four foundations: patience, certainty, justice, and struggle" (Kulayni, 1986).

Justice is fundamental for the survival of a government. The Islamic ruler must design and implement policies in a manner that ultimately ensures justice in society. However, some individuals, driven by boundless desires, seek only personal gain without regard for others' rights. These individuals often become obstacles to justice and

may use the notion of privacy as a shield to evade government oversight. If the Islamic ruler observes that such individuals endanger justice, he is obliged to confront them—even if this entails intervening in their private sphere.

6.3. Maintaining Public Order

One of the primary justifications for the necessity of government in any society is the preservation of public order. Without order, social life cannot persist, and it is evident that without government, lasting societal order cannot be achieved.

Humans are inherently social beings. *Shahid Mutahhari* states:

"Humans are naturally social, meaning that their capabilities and potentialities can only be realized within social life. In other words, the perfections that exist in humans in potential form can only manifest in a communal setting" (Motahhari, 2001).

However, humans are also inherently self-interested, possessing limitless desires while natural resources remain finite and insufficient to satisfy all wants. Consequently, conflicts arise as individuals compete for resources, threatening societal stability. To prevent this, societies require laws that define each person's rights and boundaries. However, laws alone are ineffective without enforcement, necessitating a governing authority.

Both reason and religious teachings affirm that societal order is a fundamental human need, and the acceptance of governance is a means to achieve it. However, if certain individuals exploit privacy to disrupt public order, it becomes the duty of the Islamic ruler to prevent them—even if such intervention entails breaching their private domain. Otherwise, the government would contradict its own *raison d'être*.

6.4. Safeguarding Public Interests

One of the primary objectives of any government is to uphold public interests, which encompass the collective welfare of society. Public interests ensure the protection of rights, values, and the goals of a political system, requiring rulers to make decisions based on varying circumstances.

The principle of governance inherently demands the consideration of public welfare. In Islamic thought, the

legitimacy of governance is contingent upon serving the interests of those under its rule (Montazeri, 1989, Vol. 6, p. 469). Consequently, the foundation of governance and decision-making by public authorities must be the protection of Islamic and Muslim community interests (Khomeini, 2000). The exercise of governance influences various aspects of individuals' lives, necessitating that public interest remains central to all decisions and actions (Tahrani, 2001).

Imam Khomeini (2000, Vol. 2, p. 619) asserts that "*the primary principle in all governance is its commitment to the public good.*" Therefore, Islamic rulers must always consider societal welfare in exercising authority.

Public interests are categorized into individual and communal welfare. While an Islamic government should facilitate both, its foremost duty is ensuring collective well-being. In cases where individual and public interests conflict—such as hoarding essential goods to inflate prices for personal gain—the government has the right to intervene. In such instances, the government can compel hoarders to release their stock for public sale. Thus, protecting public interests is a fundamental basis for the Islamic government's authority to intervene in private matters.

6.5. Ensuring Security

Security is one of humanity's fundamental needs, and its provision is among the primary duties of any government. Security is an indispensable aspect of social life, enabling human prosperity and development. This is why the infallible leaders of Islam have frequently emphasized its importance.

The Prophet Muhammad (PBUH) stated:

"There is no good in speech without action, in seeing without learning, in life without health, and in a homeland without security and happiness" (Shaykh Saduq & Ghaffari, 1995).

Imam Ali (AS) declared:

"The worst homeland is one where its inhabitants do not feel secure" (Tamimi Amadi, 1987).

Imam al-Sadiq (AS) emphasized three essential needs for society:

"Three things are necessary for people: security, justice, and prosperity" (Ibn Shabab Harani, 1985).

Security is, therefore, a fundamental necessity of human life, and governments are responsible for ensuring it. A

government that fails to uphold security undermines one of its core justifications for existence.

If certain individuals exploit the concept of privacy to endanger public security, the Islamic government has the right to monitor them, intercept their communications, inspect their correspondence, and, in general, intervene in their private affairs. The government is obligated to take action regardless of the nature of the threat—whether it pertains to physical safety, financial security, morality, or ideological stability. In all such cases, the Islamic ruler is responsible for intervening to prevent threats to public security.

7. Jurisprudential Rules Indicating the Permissibility of Governmental Intervention in the Private Sphere

7.1. The Rule of Greater and Lesser Importance (*Aham wa Muhim*)

This rule is a rational principle with numerous applications, including sacrificing individual interests for the greater benefit of society (Motahhari, 2001). The present discussion can be considered one of its applications.

In this context, violating an individual's privacy is considered "less important" (*muhim*), while preserving the welfare and security of an entire city or nation is "more important" (*aham*). When circumstances arise in which achieving the greater good (*aham*) requires disregarding the lesser (*muhim*), reason dictates that the action must be taken.

7.2. The Rule of Public Interest (*Maslahah*)

Another rule that justifies the violation of privacy is the principle of public interest (*maslahah*). In Shi'a jurisprudence, *maslahah* is not an independent basis for divine rulings; therefore, jurists have not extensively explored its nature. Instead, it is discussed in specific contexts such as *conflicts of obligation (tazāḥum)*, prioritizing greater interests (*maslahah ahamm*), governance (*aḥkām ḥukūmiyyah*), and matters related to *wilāyah* (guardianship). The determination of *maslahah* is left to common sense and rational judgment, unlike Sunni jurisprudence, where *maslahah* serves as a fundamental source of legislation.

Most *usuliyyun* (principles-based jurists) in Imamiyyah jurisprudence, accepting the rational concepts of goodness and evil (*ḥusn wa quḥḥ*), acknowledge that

divine rulings are based on real benefits and harms (Al-Hurr al-Amili, 1995). Na'ini states:

"There is no way to deny that divine rulings are based on real benefits and harms, as actions inherently contain such considerations, and these serve as the rationale ('illah*) and basis (*manāt*) of rulings"* (Naini & Khwansari).

In Shi'a jurisprudence, *maslahah* primarily functions as a criterion for governmental rulings. Wherever *wilāyah* (governance) is discussed in jurisprudence, *maslahah* is also considered. The key criterion in this context is the collective interest of society, not personal benefits. When individual and collective interests conflict, the latter takes precedence. *Sheikh Tusi* emphasizes that the highest priority must always be the preservation of Islam itself.

Accordingly, Islamic leaders must always prioritize the well-being of Islam and Muslims in all affairs and, when two rulings conflict, choose the one that serves the greater public good.

7.3. The Rule of Preventing Potential Harm (*Daf' Ḍarar Muḥtamal*)

This principle is a rational rule stating that reason necessitates the prevention of probable or suspected harm. If there is a possibility of harm, whether in this world or the hereafter, reason dictates that it must be prevented.

This rule applies when there is a *possibility* of harm, whether in worldly matters (e.g., physical or financial harm) or in religious matters (e.g., punishment in the hereafter). Reason deems it inappropriate to engage in an action that carries a probable risk of harm and considers preventing that risk obligatory. Since this is a rational obligation, it is not subject to exceptions.

This rule is applicable in all aspects of life, including our discussion on government intervention in the private sphere. Like all governments, the Islamic state faces enemies seeking to overthrow it or cause disruption. These threats may be directed against the government as a whole or specific citizens. Additionally, some citizens may pose risks to others within the society.

In all these scenarios, individuals suspected of such activities often utilize privacy-protected spaces such as residences, telephones, bank accounts, digital platforms, email, and personal identification details. These elements are undisputedly part of an individual's private

sphere, which, under normal circumstances, should not be violated.

However, if there is a probable risk that such individuals' plans could result in harm to people or the government, reason dictates that preventive measures must be taken—even if it requires breaching their privacy. Nevertheless, it is crucial to note that violating privacy should always be the last resort and should be conducted in a limited, proportionate, and exceptional manner, only after all other alternatives have been exhausted.

8. Conclusion

The scope of the private domain of citizens depends on various cultural, political, and economic factors, and as these factors change, the boundaries of this domain also undergo transformations. One of the most significant influencing factors in this regard is religion, and consequently, a religious government. An Islamic government is one in which not only are all laws and regulations derived from Islamic rulings, but its rulers are also directly appointed by God, either through specific or general authorization from the infallible Imams. For this reason, Islam refers to governance as *Wilayah* (guardianship) and designates the person leading the government as *Wali* (guardian), *Mawla* (master), or *Wali al-Amr* (guardian of affairs). *Wilayah* operates within a hierarchical structure: God is the absolute guardian, who exercises His authority through an appointed guardian (*wali mansūs*). During the period of occultation, *Wilayat al-Faqih* serves as the guiding framework for governance.

Jurists hold differing views regarding the extent of the Islamic ruler's authority over citizens' private spheres. This divergence arises primarily from their perspectives on *Wilayat al-Faqih*. In general, there are two main views regarding the authority of the jurist. One perspective is *restricted guardianship* (*Wilayat Muqayyadah*), which limits the jurist's authority to matters of public necessity (*umūr ḥisbiya*), implying that the Islamic ruler does not have jurisdiction over citizens' private lives. The other perspective is *general guardianship* (*Wilayat 'Ammah*), which extends the jurist's authority beyond *umūr ḥisbiya* to include governance itself. Within this framework, two subcategories exist. One interpretation confines the jurist's authority within the framework of Islamic secondary rulings (*aḥkām far'īyyah*). The other, *absolute guardianship* (*Wilayat Mutlaqah*) of the jurist, asserts

that the jurist possesses the same authority as the infallible Imams in governance and societal matters, except in cases explicitly reserved for the Imams.

Accordingly, those who subscribe to the first perspective and the first category of the second perspective argue that the Islamic government does not have the right to intervene in citizens' private spheres. Conversely, proponents of *Wilayat Mutlaqah* maintain that such intervention is permissible and, in some cases, obligatory. Under this view, the extent of governmental intervention can be broad, reaching as far as the individual and societal interest (*maslahah*) demands. That is, when the well-being of an individual or society necessitates government intervention in private affairs, such intervention is not only permitted but, in some instances, mandatory.

Several jurisprudential principles support the **impermissibility** of governmental intervention in the private sphere, including the principle of no guardianship (*Aṣl 'Adam al-Wilāyah*), the principle of precaution (*Aṣālat al-Iḥtiyāṭ*), the rule of sovereignty (*Qā'idat al-Sulṭānah*), and the rule of no hardship (*Qā'idat Lā Ḥaraj*). Conversely, some jurisprudential rules support the **permissibility** of such intervention, including the rule of greater and lesser importance (*Qā'idat al-Aham wa al-Muhim*), the rule of public interest (*Qā'idat al-Maṣlaḥah*), and the rule of preventing potential harm (*Qā'idat Daḥ' al-Ḍarar al-Muḥtamal*). Additionally, the fundamental principles and philosophy of governance—such as preserving the Islamic system, establishing security, ensuring justice, and maintaining public order—justify the Islamic government's authority to intervene in the private sphere of its citizens.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

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