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THE LEGITIMATION OF THE CLERGY'S RIGHT TO RULE IN THE IRANIAN CONSTITUTION OF 1979

Said Saffari*

In the course of recreating a new constitution for the Islamic Republic of Iran, there were a number of crucial debates concerning legitimacy, representation, concepts of democracy, and the relations between temporal and religious power. During the discussions in the Assembly of Experts and among opposing factions in Iranian society, Ayatollah Ruhollah Khomeini's disciples managed to establish their leader's doctrine of rule by the clergy. The outcome was a virtual *coup d'état*, whereby opposition factions were fatally weakened by the Islamic Republican Party (IRP), which served as a vehicle for its members to obtain power and to implement Ayatollah Khomeini's ideology. This paper describes the institutionalization of *velāyat-e faqīh* (Guardianship of the Jurisconsult), between the establishment of the Islamic republic in February 1979 through the period when the concept became the law of the land in December 1979. The reasons for the *faqīh*'s ascendancy to the position of absolute leadership are explained by considering a number of essential points: Khomeini's charismatic leadership and support for *velāyat-e faqīh*; his loyalists' overpowering domination during the debates, with their manipulation of the elections and their subsequent domination of the assembly debates; the serious apprehensions and miscalculations on the part of opposition groups who failed to organize and present a united front;¹ and finally, the political shrewdness of the clergy, who in neutralizing the left by including some of their demands in the constitution, helped institutionalize the *faqīh* doctrine and assure clerical dominance even after Khomeini's death. Scholars have already examined the concept of *velāyat-e faqīh*, its history in Shi'ite Islam and the related works of Ayatollah Khomeini.² However, little research has been carried out on the actual 1979 constitutional debates in the *Majles-e Khebrgān* (Assembly of Experts) which institutionalized the concept of the *faqīh*'s rule. Therefore, this paper will only summarize Khomeini's concept of *velāyat-e faqīh*, and instead focus on events in the Assembly of Experts, and the outside opposition to the seven relevant articles in the constitution.³

* I should like to express my deepest appreciation for the advice and support from Professors Ervand Abrahamian, Said Amir Arjomand, Shaul Bakhash, H.C. Chehabi, Cemal Kafadar, Zachary Lockman, Roy P. Mottahedeh, Peter Sluglett and Eve St. Martin Wallenstein.

¹ The opposition groups mainly consisted of the secularists, the communists, the nationalists, the lay-religious, many of the ethnic groups, some of the Islamic guerrilla groups, and a faction of the '*ulamā*'.

² Imam Khomeini, *Velāyat-e Faqīh: (Hokūmat-e Eslāmī)* (no publisher, 1970). See also: Said Amir Arjomand, *The Shadow of God and the Hidden Imam*, (Chicago, 1984) and Hamid Enayat, 'Iran: Khomeini's Concept of the Guardianship of the Jurisconsult', in James Piscatori, ed., *Islam in the Political Process* (Cambridge, 1983.)

³ The official name for the Assembly of Experts was *Majles-e Barrasī-ye Nahā'ī-ye Qānūn-e Asāsī-ye Jomhūrī-ye Eslāmī-ye Irān* (The Assembly for the Final Debates on the Constitution of the Islamic Republic of Iran).

Events preceding the Constitutional Debates

Khomeini's doctrine of *velāyat-e faqīh* contended that as deputies of the Hidden Imam (the twelfth Imam who went into occultation in A.D. 873), the boundaries of authority of the '*ulamā*' during the Imam's *gheibat* (absence) included absolute rule over the believers. Khomeini argued that various *ḥadīths* had established the jurists as the *valī-ye amr* (guardian of affairs) who possessed the qualifications necessary to serve as deputies during the absence of the Hidden Imam. Ayatollah Khomeini defined the responsibilities of the *fuqahā*' (those learned in jurisprudence) not merely as encompassing judicial and spiritual authority, but also embracing 'absolute authority' over political, economic and social matters. After the revolution, Khomeini's devoted followers who increasingly managed the daily business of the country resolved to institutionalize his doctrine by enshrining it in the new constitution.

Before analysing the constitutional debates on *velāyat-e faqīh*, a brief discussion of the coalition that served as a vehicle for implementing Khomeini's doctrine is appropriate. During the first year of the revolution, a number of influential political parties became closely involved with political decisions in Iran. However, no party was more instrumental in the institutionalization of Khomeini's political doctrine than *Hezb-e Jomhūrī-e Eslāmī* (the Islamic Republican Party, IRP). Without the leadership of the IRP, the Assembly of Experts might have produced a radically different constitution, without any mention of *velāyat-e faqīh*. Soon after it was founded in February 1979, in close association with Ayatollah Khomeini and the 'radical' elements within the '*ulamā*' camp,⁴ the IRP began to wield considerable influence over the affairs of the country. It mainly comprised Ayatollah Khomeini's faithful pupils and ideologically committed followers. The party's chief goal was to represent the radical '*ulamā*' in the post-revolutionary political arena. The original members, led by its chairman Ayatollah Mohammad Hosein Beheshti (later Supreme Court Chief Justice, d. 1981), included Ayatollah Abdol Karim Musavi Ardebili, Hojjatolislam 'Ali Akbar Hashemi Rafsanjani (the current President), 'Ali Khamene'i (Khomeini's replacement as the *faqīh*), and Javad Bahonar (future Prime Minister, d.1981). As the IRP gained momentum, party members included future *Majles* deputies, bureaucrats, and judges. The IRP enjoyed the strong support of many smaller Islamic parties,⁵ as well as the radical '*ulamā*' placed in important government positions by Ayatollah Khomeini during the first months of the revolution. The Assembly of Experts was dominated by the top leaders of the IRP and the clerical élite in control of the powerful *Komūtehs* (Revolutionary Committees), the *Pāsdārān-e Enqelābī* (Revolutionary Guards), *Dādghāhhā-ye Enqelāb* (Revolutionary Courts) the mosques and the judiciary⁶—organizations born of the revolution and

⁴ It is perhaps necessary to explain 'radical' in terms of post-revolutionary clerical political perspective. The radical '*ulamā*' mainly advocate a dominant role for Islam and the clergy in every aspect of societal and political life. They espouse anti-West foreign policies and advocate conservative economic policies.

⁵ *Enqelāb-e Eslāmī*, 15 Mordād 1358 (6 August 1979).

⁶ Shaul Bakhash, *Reign of the Ayatollahs: Iran and the Islamic Revolution* (New York, 1984).

staffed by young militants and middle-ranking mullahs. These intransigent 'followers of the Imam's line' established an autonomous apparatus outside the control of the legal government of Prime Minister Mehdi Bazargan and constantly challenged his authority. By August 1979, using these established organizations and the network of lower-ranking mullahs turned town or district leaders who preached all over the country, the IRP was able to enter its own candidates for the elections to the Assembly of Experts.⁷ More than fifty of these delegates eventually won seats.

Remarkably, the issue of *velāyat-e faqīh* had not been discussed seriously before the establishment of the Islamic Republic. Although Khomeini's writings and proclamations on the subject had been widely distributed, they were mainly analysed and discussed by young seminarians in Qum and Najaf, and by a minority of lay intellectuals. Most secular and politically aware Iranians comprehended Khomeini's doctrine and rule by the *faqīh* only vaguely, if at all. In general, opposition leaders (including the radical clergy) deemed it more important to put forward a united front against the monarchy, leaving the debate on such 'secondary' issues to the post-revolutionary period.⁸ Almost immediately after the installation of the provisional government of Bazargan, a group of lay-religious leaders started work on a new constitution, based on Iran's 1906 constitution and the French Fifth Republic. Among the contributors were Mehdi Bazargan, and his minister of state for revolutionary affairs, Yadollah Sahabi. Khomeini and Bazargan planned to have the provisional government's draft constitution and the many suggestions reviewed by a 350-member Constituent Assembly, representing all the factions involved in the revolution, to be voted on by the people in August 1979.⁹ The Assembly would consider suggestions from all those 'concerned and interested'.¹⁰

In June 1979, the first draft constitution was presented to Khomeini as well as other *marāje'-e taqlīd* (sources of emulation, highest religious leaders) and to the powerful Revolutionary Council. The draft attempted to establish a strong central government with ultimate authority delegated to the president.¹¹ This draft designated Iran as an Islamic Republic; it limited the involvement of the '*ulamā*' in state affairs and paid little attention to Khomeini's political theories. Surprisingly, Ayatollah Khomeini actually approved the government's draft constitution. He even suggested bypassing the Constituent Assembly and placing the draft before the people for an immediate vote. Considering his long-time commitment to an Islamic government and *velāyat-e faqīh*, Khomeini's initial endorsement of the draft is baffling. His consent to the original draft constitution may have indicated that he viewed it as trivial and secondary to his authority. He probably dismissed the necessity of instituting a constitution, as he believed that his legitimacy as the

⁷ Ibid. See also David Menashri, *Iran: A Decade of War and Revolution* (New York, 1990).

⁸ Said Amir Arjomand, *The Turban for the Crown* (New York, 1988), pp.155–156.

⁹ *Āyandegān*, 11 Farvardīn 1358 (3 April 1979).

¹⁰ *Nāmeḥ sar-goshādeh: Jebheh-ye Mellī be-mellat-e Īrān* (Open Letter: National Front to the People of Iran), September 1979/Mehr 1358.

¹¹ *Āyandegān*, 9 Ordībehesht 1358 (30 April 1979).

leader of the revolution and his position as the *faqīh* were accepted by the people. In fact, his authority was already widely regarded as legitimate with or without a constitution that legally established his status as the supreme leader.

Before the election process began for the Constituent Assembly, the radical elements close to Khomeini convinced him to propose a new, smaller forty-member assembly,¹² which would be composed mostly of radical '*ulamā*' committed to pursuing a more direct role in state affairs. This controversial proposal encountered massive protest from all opposition groups.¹³ Even a few of the high-ranking '*ulamā*' criticized the idea. For example, Ayatollah Shari'atmadari considered the proposal for a smaller assembly a 'grave mistake'.¹⁴ Eventually, a compromise was reached for a 73-member *Majles-e Khebrgān* (Assembly of Experts), far short of the planned 350-member Constituent Assembly. The IRP and the radical clergy supported the smaller assembly because, with their comparatively well-organized network of supporters, they could now dominate the elections and thwart the smaller, less established parties. This strategy proved fruitful for the IRP candidates during the elections. The radical '*ulamā*' and the IRP also opposed the draft constitution for its alleged indifference to Islamic law and because insufficient authority was entrusted both to the *faqīh*, and to the clergy in general. The pro-*faqīh* faction may have anticipated that without constitutional assurances and upon Ayatollah Khomeini's death, the political authority of the '*ulamā*' would be in jeopardy. Consequently, the IRP and influential radical circles such as the Congress of Muslim Critics of the Constitution protested against the absence of any specific role for the '*ulamā*' and eventually put forward their own suggestions.¹⁵ Those with hopes of a greater role for the clergy in state affairs probably realized that in any showdown with the opposition, Khomeini would embrace their faction, as they pushed to establish his doctrine.

At the urging of Ayatollah Khomeini, many of the parties involved in the election united into larger coalitions. The IRP managed to incorporate nine other smaller Islamic parties under its umbrella, creating the largest slate of candidates.¹⁶ Meanwhile, the opposition factions remained fragmented and failed to confront the IRP confederation with a coherent agenda. During the elections, IRP candidates prudently utilized the mosques and skilfully publicized their claim to represent Islam, citing endorsements from the '*ulamā*' including Ayatollah Khomeini. Meanwhile, many of the more renowned secular parties and candidates such as Hasan Nazih slowly retired from the race, protesting against the undemocratic and unlawful nature of the campaign process, and referring to the many partisan impediments set by the IRP

¹² *Jomhūrī-ye Eslāmī*, 27-29 Khordād 1358 (17-19 June 1979).

¹³ *Āyandegān*, 20-27 Khordād 1358, (10-17 June 1979). See also *Nāmeḥ Sar-Goshād*, pp.2-7.

¹⁴ *Āyandegān*, 20 Khordād 1358 (10 June 1979).

¹⁵ *Jomhūrī-ye Eslāmī*, 15 Tīr 1358 (6 July 1979).

¹⁶ *Enqelāb-e Eslāmī*, 15 Mordād 1358 (6 August 1979).

and its supporters.¹⁷ Among ethnic minorities such as the Kurds and the Azeris participation was also considerably lower. The final results bore out the general disaffection concerning the election process. Even with the lowering of the minimum age from sixteen to fifteen the turnout was exceptionally low, especially in the provinces.¹⁸ The IRP was clearly victorious. More than two-thirds of the seventy-three member elected Assembly were candidates of the IRP and its coalition, of which fifty-five were clerics.

The provisional government of Mehdi Bazargan was ineffective in its attempt to stem the dominating power of Khomeini, the clergy élite and IRP. Bazargan was attacked by a profusion of factions who simply overshadowed his position as a lay-religious moderate with a strong commitment to compromise and continuity. In the upheavals of post-revolutionary chaos, the Prime Minister's authority was challenged from a myriad of peripheral contingencies: the most significant of these was the challenge posed by the IRP and its newly formed branches which paralysed the Bazargan administration by forming a peripheral government and constantly challenged the official policies. IRP supporters succeeded in leading the purges in the bureaucracy and the military who were replaced with clergy sympathizers. The ideological conflicts between the often inexperienced, zealot IRP appointees and career civil servants eventually led to the resignation of many of Bazargan's moderate ministers.¹⁹

Debates in the Assembly of Experts

On 18 August 1979, the Assembly of Experts finally began work on reviewing the draft submitted by the provisional government. During the first meetings of the Assembly, Ayatollah Montazeri was elected chairman and Beheshti vice-chairman. Considering the 'ulamā's control over the Assembly, the debate on the articles institutionalizing *velāyat-e faqīh* was perhaps a foregone conclusion. Nevertheless, intense debate raged between the radicals and the opposition within and outside the Assembly. Initially, seven committees were formed and assigned sections of the draft constitution and the suggestions to study. After some evaluation in the committees, the articles were presented to the full Assembly for further debate and a final vote. The crucial suggestions of the *Ahdāf-e Qānūn-e Asāsī* (Goals of the Constitution) committee became the centre of controversy. This committee was headed by Beheshti and staffed by his close IRP advisors: Hasan Ayat, considered the IRP ideologue; Jalaloddin Farsi, another high-ranking IRP member; intimate party affiliates such as

¹⁷ *Āyandegān*, 4 and 11 Mordād 1358 (26 July and 2 August 1979). For a more detailed analysis of the elections see Ervand Abrahamian, *Radical Islam: The Iranian Mojahedin*, (London, 1989), and Bakhash, *Reign of the Ayatollahs*.

¹⁸ This was especially evident in Kurdistan. Of the more than one million eligible voters in Kurdistan, only about 82,000 actually voted. See *Āyandegān*, 15 Mordād 1358 (6 August 1979), and *Enqelāb-e Eslāmī*, 13 Mordād 1358 (5 August 1979).

¹⁹ For an in-depth analysis of the post-revolutionary role of Bazargan's administration see: H.E. Chehabi, *Iranian Politics and Religious Modernism: The Liberation Movement of Iran Under the Shah and Khomeini* (Ithaca, 1990), esp. chapter 6, and Bakhash, *Reign of the Ayatollahs*, chapter 3.

Ayatollah Abol Hosein Dastgheib, head of the Shiraz Revolutionary Courts; Ayatollah 'Ali Meshkini, a close associate of Beheshti and the president of the next Assembly of Experts with the responsibility for electing the future *faqih*; Abdorrahim Rabbani Shirazi, a future member of the Guardianship Council, and Mahmud Ruhani from Khorasan province. Other less significant members of the committee were: Sargan Bayt Oshana, representing the Assyrian minority; Hojjatolislam 'Ali Akbar Qarshi, an obscure figure supported by the IRP in the elections from Kurdistan, and Ahmad Sadr Hajj Sayyed Javadi, a former minister in Bazargan's cabinet.²⁰ Virtually all the influential members of this committee were staunch supporters of *velāyat-e faqih* (see below).

One of the first topics discussed and passed by the Assembly was article 5, the first of seven articles related to *velāyat-e faqih*. Article 5 was actually written by Beheshti and introduced to the full house by his committee.²¹ This was a clear indicator of Beheshti's central role and his commitment to the institutionalization of 'ulamā' rule. This article effectively established the *faqih*'s authority over the people by stating that:

[T]he governance and leadership of the nation devolve upon the just and pious *faqih* who is acquainted with the circumstances of his age; courageous, resourceful, and possessed of administrative ability; . . .²²

In less than two weeks, this committee approved and sent this article to the full house for final debate and vote. Even though the committees met in closed session and the minutes of their meetings were never published, the speed with which article 5 was forwarded to the full Assembly indicated the lack of substantive debate and opposition in the Goals of the Constitution committee. As a result, the principal *faqih* article was one of the first topics discussed and passed by the Assembly.

In the transcripts of the debates on the Assembly floor, published more than six years later, the Khomeinists' adamant support of *velāyat-e faqih* is clearly demonstrated.²³ The transcripts reveal a number of crucial facts. Clearly, Beheshti was the primary orchestrator of the Assembly, controlling the issues discussed and length of discussions, even deciding who had permission to speak. Three recognizable factions were involved in the debates on the *faqih* articles. The overwhelming majority of the delegates, the first group, were the 'Khomeinists', who staunchly supported his *faqih* doctrine. Among the leaders of this group were Ayatollahs Beheshti, Mohammad Sad-duqi (Friday prayer leader in Yazd), Rabbani Shirazi (member of the Goals of the Constitution Committee), and many others. The second group was composed of 'moderates', who mostly supported the *faqih* concept, but with considerably restricted powers. They accounted for no more than six of the delegates and were led by Ayatollah Naser Makarem Shirazi, who probably

²⁰ *Enqelāb-e Eslāmī*, 14 Shahrivar 1358 (5 September 1979).

²¹ *Šūrat-e Mashrūh-e Mozākerāt-e Majles-e Barrasī-ye Nehā'ī-ye Qānūn-e Asāsī-ye Iran* (The Complete Collection of Final Debates of the Assembly on the Constitution of Iran), 3 Vols. (Tehran, 1985), Vol.I, p.376.

²² Hamid Algar (tr.), *The Constitution of the Islamic Republic of Iran* (Berkeley, 1980), p. 29.

²³ *Šūrat-e Mashrūh-e Mozākerāt*, Vol.I, p.54.

voted for the first *faqīh* article, but staunchly opposed subsequent articles consolidating the supreme leader's authority over all executive, judicial and legislative matters. The third and final faction consisted of the liberals, who opposed the *faqīh* concept in its entirety. The opponents were led by 'Ezzatollah Sahabi, Hamidollah Mir Moradzei, Rahmatollah Moqaddam Maraghe'i and perhaps four other delegates.

During the preliminary speeches, suggestions regarding the *faqīh* issue were thus forwarded by men such as Sayyed Mohammad Keyavash, a pro-IRP radical from Khuzestan province, who argued that 'we must remove the obstacles set over the last 1400 years [since the rise of Islam] for leadership and guardianship . . . I suggest that the Imam [Khomeini] accept the position of the *faqīh* according to the orders of God, the Prophet and the Imams'. Mahmud Ruhani, another IRP sympathizer and a Goals of the Constitution committee member, argued that 'during the absence of the Hidden Imam, certain '*ulamā*' who can interpret the principles of government in accordance with the Qur'ān should direct and guide the society'.²⁴ Ayatollah Abdol Rahman Heidari, representing Ilam province, called for an article that would give the *faqīh* absolute authority over 'the armed forces, the presidency, the *Majles* leadership and complete veto powers over judicial laws which are judicial *fatwās*'. Hojjatolislam Mohammad Hoseini Khamene'i (not to be confused with 'Ali Khamene'i) from Khorasan countered the charge that the *faqīh*'s position would create an absolutist state. He averred that 'fourteen hundred years of experience in Islam has proven that only when deviations from Islamic principles occur does one face dictatorial regimes'.²⁵ Khomeinists defended the *velāyat-e faqīh* concept, based on the '*ulamā*'s right of deputyship, which was bestowed upon them by the Hidden Imam. Therefore, the concept could not be dictatorial.

Another prominent supporter of article 5 was Ayatollah Rabbani Amlashi (d.1985). He argued that 'the secret of the revolution of the people of Iran in such a short period which shocked the world was because its leader was a *faqīh*, a grand *mojtahed* and a *marja'-e taqlīd* [source of emulation] . . .'²⁶ He concluded that 'we are blessed with this great advantage that Islam has bestowed upon us which we must appreciate'.²⁷ Ayatollah Montazeri was also involved in the debates. In statements published before the Assembly debates, Montazeri had offered his criticism of the government's draft and specifically suggested a list of amendments which also included a central position for the *faqīh* and urged its inclusion in the Constitution.²⁸ During the full debates, he made it clear that the Assembly of Experts' primary goal was to institutionalize the position of the *faqīh*:

²⁴ *Enqelāb-e Eslāmī*, 10 Shahrivar 1358 (1 September 1979).

²⁵ *Šūrat-e Mashrūh-e Mozākerāt*, Vol.I, p.54.

²⁶ *Ibid.*, p. 61.

²⁷ *Ibid.*, p. 62.

²⁸ *Jomhūrī-ye Eslāmī*, 24 Tīr 1358 (15 July 1979) and 11 Mordād 1358 (2 August 1979).

Let the gentlemen be sure that we [the Assembly] will never endorse a constitution that does not include the issue of *velāyat-e faqīh* and laws based on the Book and *sunna*.²⁹

Ayatollah Montazeri was increasingly promoted as Khomeini's heir-apparent as *faqīh*, so he surely had his own future in mind during these debates.³⁰

Despite the obstacles set during the elections, the Assembly did include a few prominent opposition leaders. The most outspoken of the faction that opposed article 5 were Hamidollah Mir Moradzehi, a liberal from the Bakhtiari region, 'Ezzatollah Sahabi, and Rahmatollah Moqaddam Maraghe'i, first governor-general of west Azarbaijan and head of the Radical Movement, who was closely associated with Ayatollah Shari'atmadari. Sahabi was a long-time opponent of the Shah and a close associate of Mehdi Bazargan. In the Assembly, Sahabi even questioned the applicability of discussing the *faqīh* issue in the Assembly:

Velāyat-e faqīh does not mean that the *faqīh* should be involved in day-to-day politics, the dispenser of power and overseer of state affairs. The *faqīh* has certain qualities which are needed, but not enough for a political leader in today's society . . . This constitution has no links with *velāyat-e faqīh*.³¹

Sahabi's comments summed up the views of the opposition, but he failed to capture the attention of the '*ulamā*'. Another liberal member of the Assembly was Abol Hasan Bani Sadr. During the full debates in the assembly he passively asserted that the *faqīh* must not only possess religious expertise, but also 'understand the economic, sociological and cultural needs of the country . . . only then can he rule'.³² Bani Sadr failed to condemn the concept explicitly, perhaps being unwilling to jeopardize his position as a close adviser to Khomeini. Yet his nebulous protest was indicated by his absence during the final vote for article 5 in the full house, supposedly due to illness.

Hojjati Kermani argued against the *faqīh* on the same grounds as Bani Sadr and Sahabi. He contended that today's modern society required a leader with knowledge and understanding of social, economic and legal matters:

It is no longer enough for a *faqīh* to know the details of his province, or even possess enough knowledge about the Iranian revolution. The concerns of Iran are insignificant compared to those of the international community . . . political issues, social, economic, even artistic issues have an organic connection on a global level . . . one must know its history, its

²⁹ *Šūrat-e Mashrūh-e Mozākerāt*, Vol.I, p.107.

³⁰ Ayatollah Montazeri is also the author of a two-volume work on the issue of *velāyat-e faqīh* first published in Arabic, in which he attempts to prove the right of absolute rule by the clergy during occultation through its Shi'ite juristic history. For Persian translation see Mahmud Salavati, *Mabānī-ye Feqhī-ye Hokūmat- e Eslāmī* (Foundation of an Islamic Government), (Tehran, 1988).

³¹ *Enqelāb-e Eslāmī*, 30 Mordād 1358 (21 August 1979).

³² *Enqelāb-e Eslāmī*, 10 Shahrīvar 1358 (1 September 1979).

economic and political ideology. This is the age in which the whole world is considered as one unit . . .³³

These were astonishing comments from a respected cleric, but they were barely acknowledged by the majority. The opposition also argued against the *faqih* article on religious grounds. In one of his speeches Sahabi attacked the authority delegated to the *faqih* on the basis of Ayatollah Na'ini's infallibility arguments. He attempted to support his case by referring to writings of Ayatollah Hosein Na'ini (d.1936) which argued that 'absolute rule belongs only to God and the infallible Imams; human beings cannot be under the absolute rule and subjection of anyone except them'.³⁴ Na'ini, a pro-constitutionalist during the 1906 revolution, not only argued against the political authority of the *faqih*, but also provided the basis for the establishment of a republic compatible with the laws of Islam.³⁵ He contended that no *faqih* would be qualified to rule with the authority of the Imams, because he might, even unintentionally, misdirect the faithful in the name of God. Na'ini's emphasis on the fallibility of the '*ulamā*' is crucial, as it disqualified them from serving as substitutes during the occultation of the Hidden Imam.

Mir Moradzehi went further and attempted to argue against the *faqih* articles by using the writings of Imām 'Alī (the first Imam) to prove that 'the exertion of rule is the concern of the individual and I reject the opinion of divine rule as delegated to a certain individual'.³⁶ Mir Moradzehi further criticized article 5 for the power it granted to the *faqih*, which essentially made the position of the president superfluous and subservient to the supreme leader.

During the last session of the Assembly before the final vote on article 5, delegates presented their arguments for one last time. Maraghe'i and Ayatollah Beheshti represented the opposing sides. During his speech, Maraghe'i invited the Assembly to venerate Islam, but also to contemplate what the country most needed. He argued that 'Islam with the power it dictates requires no constitution'.³⁷ He reminded the Assembly that the original draft constitution was actually written by 'devoted and trustworthy Muslims', and was approved by the provisional government, the Revolutionary Council and the *marāje'-e taqlīd*. Maraghe'i agreed that:

Islam must command but Islam cannot be dominated by one group [the '*ulamā*']. Should that occur, Islam would become but an instrument in the hands of the power-hungry . . . the struggle was started by all the Muslim people, but now after our triumph a few want to dispose of their partners.³⁸

³³ Ibid.

³⁴ *Šūrat-e Mashrūh-e Mozākerāt*, Vol.I, p.89.

³⁵ Mahmud Taleqani, ed., *Tanbīh al-Umma va-Tanzīh al-Milla*, Mohammad Hosein Na'ini, (no publisher, 1955).

³⁶ *Šūrat-e Mashrūh-e Mozākerāt*, Vol.I, p.404.

³⁷ Ibid., Vol.II, p.374.

³⁸ Ibid., Vol I, p. 375.

Moqaddam Maraghe'i's statements failed to influence the Khomeinists, who considered the opposition as merely 'Westoxicated' liberals out of touch with their roots and Islam.

In a long rebuttal to Moqaddam Maraghe'i, Ayatollah Beheshti attempted to justify the *faqih* concept and his support for article 5. Beheshti claimed that a *faqih* is needed if '...we [the people] want an Islamic social order'.³⁹ He argued:

[T]he Islamic government is based on an ideology, different from that of a democratic republic. What Mr Moqaddam Maraghe'i and others have suggested is indeed appropriate for a democratic republic, but it fails to meet the requirements of Islam ... since our nation throughout the revolution and in the plebiscite voted for an Islamic republic, then, under this foundation which they selected, in this article and the others of this constitution we will under the rules and the foundation of Islam delegate the leadership to a knowledgeable *faqih*, a leader acquainted with Islam.⁴⁰

Immediately after his speech opponents of article 5 attempted to respond, but Beheshti declined to relinquish the floor both to those opposed to *velāyat-e faqih* and even to his own supporters, fearing a prolonged debate that could endanger the passage of the article. He stubbornly dismissed demands for further debate on article 5 as superfluous. Beheshti quickly took control of the Assembly which at this point was in bedlam and called for a final vote. Soon afterwards article 5 was voted on: of the 65 present, 53 voted for it, four abstained and eight voted against. The faction that voted against article 5 probably consisted of Maraghe'i, Sahabi, Mir Moradzehi, 'Ali Nurbakhsh, another liberal delegate from the Bakhtiari region, and perhaps some of the religious minorities. Thus the doctrine of *velāyat-e faqih* was finally established as law of the land.

On 9 October 1979, a little less than a month after the passage of article 5, the Assembly began to debate the remaining six articles which defined the election process more precisely and also the role to be played by the *faqih* in post-revolutionary Iran. Article 107 established yet another Assembly of Experts reserved for the clergy. This Assembly would:

[R]eview and consult among themselves concerning all persons qualified to act as *marja'* and leader. If they discern outstanding capacity for leadership in a certain *marja'*, they will present him to the people as their leader; if not, they will appoint either three or five *marja's* ...⁴¹

'Ali Nurbakhsh questioned the degree of power delegated to his colleagues in the Assembly, which he claimed lacked the authority from the people to decide on such personal issues as choosing their *marja'-e taqlid*. When criticized for being oblivious of the issue because he was always absent from the morning meeting, Nurbakhsh replied, in a manner which clearly demonstrated the general frustration of the liberals, that he preferred not to attend

³⁹ Ibid., Vol I, p.378.

⁴⁰ Ibid., Vol.I, pp.380-381.

⁴¹ Algar, *The Iranian Constitution*, p.66.

altogether, but was refused permission.⁴² Hojjatolislam Mohammad Javad Hojjati Kermani, a liberal cleric from Kerman, argued that article 107 was vague and also included inflated words such as ‘leader’, or ‘outstanding capacity’, which could well lead to abuse or exploitation. He furthermore posed the question which became a dilemma after Khomeini’s death: ‘what is the relationship between the *marāje‘-e taqlīd*, who may be more learned and command a greater number of followers than the elected supreme leader who may be opposed by those *marāje‘ . . .*’ In response, Ayatollah Meshkini, a member of the Goals of the Constitution Committee, commented simply that ‘God willing, in the future the title of *marja‘* and the supreme leaders will become one’.⁴³ After stating that he was ‘one of the committed supporters of this article’, Hasan Ayat, another committee member, further dismissed potential problems by simply claiming that an Islamic government contained no anti-theoretical concepts.⁴⁴ When asked by Hojjati Kermani if the supreme leader’s scope of authority was within the government structure, Ayat answered that the *faqīh* was ‘within the government and at the centre of government’.⁴⁵ Shortly thereafter, the article was put to a vote: of the 68 present, 59 voted for it, six abstained and only three voted against.

In article 108, the election, procedures and qualifications of the future Assembly of Experts were delegated to the twelve-member *Showrā-ye Negāhbān* (Guardianship Council), which was also granted the authority to examine all legislation for compliance with the *Sharī‘a* (law of God) and the Constitution. A vocal opponent of this article, Moqaddam Maraghe’i, argued that it was imprudent to invest the Guardianship Council with such crucial responsibilities:

‘is this [article 108] the correct thing to do? God knows it is not . . . delegate this authority to the first elected *majles* which at least maintains the representation of the people . . .’⁴⁶

In a rebuttal, Abol Fazl Musavi Tabrizi explained that the Guardianship Council must decide on the agenda and rules for the election of those who select the *faqīh*, because the *marja‘* (referring to Khomeini) had specified that at least two reputable *mojtaheds* should have this responsibility and the Council contained six who were qualified. He concluded that the Council could prudently direct the future Assembly of Experts. Musavi Tabrizi then launched an attack on the opposition when he quoted from Ayatollah Khomeini: ‘all those who adhere to Islam without *velāyat-e faqīh* indicate that they have not yet analysed and absorbed Islam, and do not understand the meaning of Islam.’ He further claimed that Khomeini had declared, ‘those against the *velāyat-e faqīh* concept are against Islam’.⁴⁷ This was a direct challenge to Moqaddam Maraghe’i and his supporters, known for their opposition to

⁴² *Šūrat-e Mashrūḥ-e Mozākerāt*, Vol.II, pp.1086-87.

⁴³ *Ibid.*, Vol.II, p.1092.

⁴⁴ *Ibid.*, Vol.II, pp.1093-94.

⁴⁵ *Ibid.*, Vol.II, p.1094.

⁴⁶ *Ibid.*, Vol.II, pp.1098-99.

⁴⁷ *Ibid.*, Vol.II, pp.1101-02.

velāyat-e faqīh. A short time later, article 108 was ratified without much more opposition: of the 65 present, 51 voted for it, twelve abstained and three voted against. The result with a large number abstaining indicated that both ‘moderates’ and liberals opposed the article, but dared not voice their opinion with a negative vote.

Article 109 designated a *Showrā-ye Rahbarī* (Leadership Council) to be elected if the future Assembly of Experts failed to agree on a single *faqīh* for leadership. The members of the Leadership Council were required to have the same religious standing and qualifications as the *faqīh*. Atypically, article 109 was quickly ratified with no opposition from the factions.

Article 110 produced as much controversy and fiery debate as article five. It specified the duties of the supreme leader: the *faqīh* was authorized to select and replace the chiefs of the armed forces and of the *Pāsdārān* (the Revolutionary Guards), the judicial officials, and six of the twelve Council of Guardian members. He could disqualify political candidates on the basis of inadequate religious conviction. The *faqīh* could also appoint members of the Supreme Defence Council and declare peace or war, based on the recommendations of this Council. Interestingly, opposition to this article came almost exclusively from the ‘moderate’ faction, which had voted for the initial article establishing the *faqīh*’s role, but now disagreed on the extent of his power. Article 110 proved so controversial and complicated that each part was debated and voted on separately. One of the most troublesome parts was the designation of the *faqīh*’s authority over the armed forces. The concern of the opposition centred on the chaos and confusion this clause could create, since the *faqīh* would thereby take over the power supposedly assigned to the president. The first to speak against the measure was Hojjatolislam Naser Makarem Shirazi, a liberal cleric from Fars province. Considering article 110 and the *faqīh*’s role over the armed forces in particular as the most crucial part of the constitution, Makarem-Shirazi begged for understanding and open minds on this issue, and outlined his reasons for opposition. He admitted that he had voted for article 5 with no reservations, but article 110 went far beyond the necessary powers for the *faqīh*. He argued that it significantly curtailed the powers of the president; he questioned the functions of the president after the passage of this article considering that it would promote dual leadership and even chaos. Makarem Shirazi further elaborated:

Think closely, the enemy, external and within, will accuse us of despotism . . . This is the best tool for the enemy; they will use this [article] as proof that a throng of ‘*ulamā*’ in the Assembly of Experts convened and wrote a constitution establishing the pillars that stabilized their own supremacy. In the name of God do not do this’.⁴⁸

Hojjatolislam Hojjati Kermani then took the floor, arguing the same points as Makarem Shirazi, and warning against ‘clergy dictatorship and ‘*ulamā*’ despotism’. Indeed, many of those who supported article 110 in its entirety genuinely contemplated the possibility of another dictatorship such as

⁴⁸ Ibid., Vol.II, p.1115.

the Shah's, and regarded the *faqih* as a protector against a president with considerable control over the military. To them, the *faqih* was a just and learned arbiter with no ambitions for power and dictatorial domination. This view was best demonstrated by Sheikh 'Ali Tehrani, a delegate from Khorasan, speaking as a supporter of article 110 in answer to Hojjati Kermani and Makarem Shirazi. To assign the leadership of the armed forces to the *faqih*, Tehrani claimed, would serve as a deterrent to dictatorship and would prevent conspiracies. Meanwhile, 'Abbas Sheibani, a close associate of Bazargan, argued that the *faqih* would have no military experience and could not possibly lead a modern-day military expedition because he had spent almost all his life in a seminary.⁴⁹ Bani Sadr criticized the vagueness of this article and urged more clarity on the identity of the person who would take over after Khomeini, during a transition period before the next *faqih* could be elected. In response to Sheibani and Bani Sadr, Jalaloddin Farsi, member of the Goals of the Constitution Committee, supported the article and downplayed the *faqih*'s military inexperience. He claimed that the *faqih* could lead the armed forces using military and civilian advisers, 'just as we use the expertise of foreign advisers'.⁵⁰ Another member of the Goals of the Constitution Committee, Ayatollah Dastgheib, claimed that 'if the leadership of the armed forces is not delegated to the *faqih* then *velāyat-e faqih* is meaningless'.⁵¹

Another point of debate was the *faqih*'s role in the dismissal of the president. One clause of article 110 stated that the extent of the *faqih*'s power included the:

'dismissal of the President of the Republic, with due regard for the interests of the country, after the issue of a judgment by the Supreme Court convicting him of failure to fulfill his legal duties, or a vote of the National Consultative Assembly testifying to his political incompetence; . . .'⁵²

The 'moderates' once again complained about the overwhelming authority conferred on the *faqih* and its potentially grave consequences. Why, Makarem Shirazi asked, was so much power concentrated on one position with no lawful religious basis? In response, Hojjatolislam Mohammad Yazdi, a prominent member of the IRP, reasoned that, like it or not, God had entrusted such cumbersome responsibilities to the *faqih*. At last, each part of the article was finally brought to vote, with only 61 delegates present. The average vote hovered around 52 for and six against.

Article 111 designated the future Assembly of Experts to set the procedures for the dismissal of the *faqih* or any members of the Leadership Council in the case of a determination of their inability to lead as judged by the Guardianship Council. At this point, Golzadeh Ghafuri argued that in Islam, no authority is dispensed without some accountability. Therefore, 'an article regarding the accountability of the *faqih* should be included here'.⁵³ Beheshti

⁴⁹ Ibid., Vol.II, p.1132.

⁵⁰ Ibid., Vol.II, pp.1134–35.

⁵¹ Ibid., Vol.II, p.1158.

⁵² Algar, *The Iranian Constitution*, p.68.

⁵³ Ibid., Vol.II, p.1712.

swiftly answered that the future Assembly of Experts would eventually discuss this issue, so a separate article in the constitution was not needed. This article was passed without further debate. With only 56 delegates present, 51 voted for it, while four abstained and only one voted against. Article 112 stated that 'The Leader or the members of the Leadership Council are equal before the law with all other citizens'.⁵⁴ This too passed without much argument among the delegates, however paradoxical the meaning of this article might be in view of the wide powers already entrusted to the *faqīh*.

The evidence signifies the opposition groups' inability to organize a campaign against the *faqīh* article, mainly because the IRP and radical '*ulamā*' held such an overwhelming majority in the Assembly. Many of those actually against the articles such as Bani Sadr, Golzadeh Ghafuri and others made only cursory attempts to challenge the radicals, and declined to voice their opinions intransigently, because of their fear of the consequences. The opposition soon realized their precarious position in fighting a battle already lost.

Discussions outside the Assembly of Experts

While the Assembly of Experts debated the *faqīh* articles, the issue evoked a strong protest from various groups not represented in the Assembly. A number of high-ranking '*ulamā*' publicly declared their opposition to the *faqīh* articles and viewed them essentially as lacking a proper Islamic basis. Most of the leading *marāje'-e taqlīd* who had the qualification to take over as *faqīh* after Khomeini, such as Ayatollahs Tabataba'i Qomi and Shari'atmadari, were opposed to Khomeini's version of *velāyat-e faqīh*. These *marāje'-e taqlīd* advocated a system of government where the '*ulamā*' played only a minor role, except on legal issues and questions directly related to Islam.

What was revolutionary about the *velāyat-e faqīh* articles was not the establishment of the *faqīh* hegemony over the people, but its attempt to elevate a single *marja'-e taqlīd* to rule over other living *marāje'*. Traditionally, and especially over the past two centuries, the leading Shi'ite *marāje'* guided their followers with little interference from their colleagues, as long as they adhered to the fundamental beliefs of Shi'ite Islam. The faithful Muslim emulated his chosen *marja'-e taqlīd* and consulted him on issues ranging from marriage to business. All Shi'ites were free to choose their religious guides, to whom they took their questions and problems and to whom the faithful paid their tithes. Each *marja'* would, in return, offer counselling, advice and arbitration on a wide range of issues. At times, a single supreme *marja'-e taqlīd* could become the leading and the most respected among all the learned clergy. However, this position lacked much authority over the religious injunctions and advice offered by other *marāje'-e taqlīd* to their followers.

In the new constitution the supreme *marja'*—or an elected three to five-person council of *fuqahā'* in cases where no consensus on a single *faqīh* was reached—was endowed with powers to overrule the religious decrees and authority of other *marāje'*. The specific role and interaction between the *faqīh* and other *marāje'* became an intense subject of controversy among the small

⁵⁴ Algar, *The Iranian Constitution*, p.69.

community of *marāje'-e taqlīd* during this period. Supporters of *velāyat-e faqīh* articles—mostly consisting of junior-ranking clergy—justified the departure from traditional Shi'ite practice as the most logical system of government which would prevent anarchy and confusion.⁵⁵ Khomeinists argued that in a peaceful and stable Islamic society there must exist one cleric, or a small council of clergy, with the authority to rule over the community as well as their colleagues. In essence, a division of authority overseeing the 'private and public' matters was established. The *marāje'-e taqlīd*'s authority (excluding the *faqīh*) was restricted to the 'private and devotional sphere' of their followers. While the *faqīh* enjoyed similar privileges, his authority was further extended to include also overall social, economic and political matters of 'public sphere'. Furthermore, the *faqīh* (or a council of *fuqahā'*) was now endowed with the prerogative to overrule his/their colleagues if the *marāje'*'s rulings hampered the ultimate objectives of the nation as seen fit by the *faqīh*.

To maintain order in society, it is essential that after a leader or a Leadership Council has been accepted, one single view be adhered to within the framework of the Islamic constitution in social, public, and national questions . . . and applied to all members of society: *mojtaheds* and non-*mojtaheds*, *marāje'* are all in the same situation. Those laws that govern public order are the domain of the leader. Nobody can say that on issues such as war and peace, property relations, and traffic regulations [public sphere] he follows such and such a *marja'*, whose views do not coincide with the nation's laws.⁵⁶

One of the *marāje'-e taqlīd* who lashed out against these provisions conscripted into the new constitution by the Assembly was Ayatollah Hasan Tabataba'i Qomi. Rumoured to be under house arrest in the holy city of Mashhad, Qomi attacked the Assembly and its final draft constitution. He claimed that he never backed the Assembly's work, but that his statements were twisted and then publicized to demonstrate his support.⁵⁷ Shortly after the constitution was passed, Qomi questioned the legitimacy of *faqīh*'s rule and his authority over other equally ranked *marāje'*:

A supreme leader may want to act on his own behalf and command all the people to obey his orders which may be against the findings of other *marāje'-e taqlīd* which he [the *faqīh*] would consider invalid. This situation would precipitate two possible results: either his [the *faqīh*'s] rulings are forced on the followers of other *marāje'-e taqlīd*, or they are not. If they are then that is dictatorship, and if not then there is anarchy'.⁵⁸

He claimed that a single *faqīh* was more likely to err than a group of *fuqahā'*. Therefore, a council consisting of all the *marāje'-e taqlīd* should be

⁵⁵ Sayyed Jalaloddin Madani, *Hoqūq-e Asāsī dar Jomhūrī-ye Eslāmī-ye Īrān* (Constitution in the Islamic Republic of Iran), VII Vols., (Tehran, 1985), esp. Vol II. This is the most comprehensive review of the 1979 Constitution by a proponent of the régime. I am indebted to S.A. Arjomand for bringing this work to my attention.

⁵⁶ Ibid., Vol.II, pp.157-158.

⁵⁷ *Ettelā'āt*, 19 Esfand 1358 (11 March 1980).

⁵⁸ Ibid.

instituted to eliminate the concerns of 'dictatorship and anarchy'. Ayatollah Shari'atmadari favoured *velāyat-e fuqaha* (Guardianship by a group of jurisconsults), which provided for a council of appointed 'ulamā' with only limited powers to oversee the judicial system. The support and influence which Shari'atmadari enjoyed derived from the fact that he was the *marja'-e taqlīd* of most Azarbaijanis. He argued that the concept of *velāyat-e faqīh* was relevant only in societies where the permanent Islamic republic was not yet in place, such as the transitional period immediately after the fall of the Pahlavi monarchy. Under such circumstances the *faqīh* could exercise his authority only by appointing a provisional government. However, Shari'atmadari contested the direct, daily involvement of the clergy in politics. His vision of an Islamic Republic restricted the temporal activities of the 'ulamā' to mere advisers, with only limited involvement in judicial matters in which enacted legislation opposed the established Islamic laws.⁵⁹ 'In my opinion, this article should be reviewed further because when we use the term "republic" it signifies the will of the majority and is therefore contrary to *velāyat-e faqīh*, [with] the cleric who can exercise his decision and ignore the nation's aspirations.'⁶⁰ The disagreements between Ayatollah Shari'atmadari and Khomeini reached their climax in December 1979, when Shari'atmadari sternly objected to the inclusion of *velāyat-e faqīh* in the constitution, complaining that the articles would 'open the way for a dictatorship'.⁶¹ His supporters in Azarbaijan demonstrated in large number in support of their *marja'-e taqlīd*. The people of Tabriz were involved in widespread clashes with Khomeini's supporters. At the most critical moment when the Azeris had briefly seized Tabriz, Shari'atmadari withdrew his support for the revolt, probably because he feared the outbreak of a civil war which would have placed the fragile revolution in jeopardy.⁶² The insurgency was quickly quelled by the Revolutionary Guards and two years later, in an unprecedented action, Shari'atmadari was stripped of the rank of *marja'-e taqlīd* after being accused of planning to overthrow the Islamic government.⁶³

Other influential 'ulamā' concerned about clerical domination were Ayatollahs Mahmud Taleqani (d.1979) and Sadeq Ruhani.⁶⁴ Taleqani advocated a less autocratic role for the supreme leader and supported the Leadership

⁵⁹ *Eṭṭelā'āt*, 29 Ordibehesht 1358, (19 May 1979).

⁶⁰ *IranWeek*, October 26 1979.

⁶¹ *IranWeek*, January 18 1980.

⁶² *Eṭṭelā'āt*, 15 Mehr 1358 (7 October 1979).

⁶³ For a synopsis of allegations against Shari'atmadari see Hamid Ruhani, *Shari'atmadarī dar Dadgāh-e Tārīkh* (Shari'atmadari in History's Court) (Tehran, 1983). For further analysis of the disputes between Ayatollahs Khomeini and Shari'atmadari on other issues (including the constitution) during the early years of the revolution see Menashri, David (1980), 'Shi'ite Leadership: In the Shadow of Conflicting Ideologies', *Iranian Studies*, Vol.XIII, Nos.1-4, pp.119-145.

⁶⁴ Akhavi, Shahrogh, 'The Ideology and Praxis of Shi'ism in the Iranian Revolution', *Comparative Studies in Society and History*, Vol 25, No 2 (1983), pp.195-221.

Council proposal.⁶⁵ Taleqani's opposition never materialized since he died shortly before the full Assembly debates on *velāyat-e faqīh*. However, his leadership as a progressive-minded cleric, his ties to the Mojahedin and Bazargan, and his popularity among the young Iranian intellectuals made him a key figure. In his last public address before his death he criticized the IRP and the Islamic government, warning against the latest attempts of the regime to secure its hold on the country.

'Let us put aside our self-righteousness and arrogant behaviour, our partisan beliefs, opportunist acts and—God forbid—despotism behind the curtain of religion, . . .'⁶⁶

The role of the secular opposition parties on the *velāyat-e faqīh* debate was also important. The communist Tudeh Party was conspicuously absent from the debates, as were leftist guerrilla organizations such as the *Mojāhedīn-e Khalq*. The leadership of the Tudeh Party, with its plans to unite the proletariat for an eventual seizure of power, viewed the struggle against Western imperialism as more important than the constitution. The absence of the leftist guerrilla groups from the debates can partly be attributed to their attempts to win over the same population that supported Khomeini. Therefore, they refrained from much criticism of Khomeini's political doctrine. But equally important was the inclusion of the articles relating to the *Showrās* (Provincial Councils) 'to carry forward swiftly social, economic, development, public health, cultural, and educational programs',⁶⁷ which aimed to appease the left and eventually convinced them to support the constitution. Meanwhile, the slowly developing antagonism of the IRP towards the Mojahedin forced the latter to concentrate on a struggle for their existence.

Increasingly, the *faqīh* articles were portrayed by the '*ulamā*' as part of the fundamental laws of Islam which meant that opposition to the concept itself constituted a rejection of Islam. This was one of the many concerns of the lay-religious groups which tacitly opposed the *faqīh* articles. One such opponent was the first prime minister of Iran and the co-founder of *Nehzāt-e Āzādī-ye Īrān* (Liberation Movement of Iran, LMI), Mehdi Bazargan. An Islamist modernist, Bazargan supported Khomeini's leadership during the revolution. However, his idealistic views of a government led by the lay-religious bodies with only limited powers for the '*ulamā*' were quickly shattered. His administration failed to prevent the ratification of the *faqīh* articles since Bazargan was also engaged in a power struggle with the IRP and radical '*ulamā*' factions. In October 1979, an ineffectual attempt was made by Amir Entezam, Bazargan's close adviser, to denounce the Assembly's complete revision of the original draft, claiming that the representatives had exceeded their delegated

⁶⁵ *Bahsī Darbāreh-ye Marja'iyat va-Rūhānīyat* (Discussion Regarding the Marja'iyyat and Clergyhood) (Tehran, 1962), and Ahmad Kazemi-Moussavi, 'The Development of the Doctrine of Vilayat-i Faqīh: The Role of Mulla Ahmad Naraqī (1185/1770-1245/1830)', unpublished Master's thesis, McGill University, 1983, p.150.

⁶⁶ *Khotbehā-ye Namāz Jom'eh* (The Friday Prayer Addresses) (1986), Ministry of Islamic Guidance, p.52. The above quote is from the address given on 16 Shahrivar 1358 (26 August 1979).

⁶⁷ Algar, *The Iranian Constitution*, p.63.

powers. In a letter signed by most cabinet members and agreed to by an apprehensive Bazargan, an appeal was made to Khomeini for the dissolution of the Assembly. But Khomeini apparently rejected the recommendation.⁶⁸ In November, shortly after the takeover of the American Embassy, Bazargan's government collapsed. More than nine years later, Bazargan and his LMI admitted that most opposition groups had paid very little attention to Khomeini's doctrine of clergy rule.⁶⁹ They confirmed that the *velāyat-e faqīh* concept was not seriously discussed before the revolution, not in fact until discussions on the constitution had begun. Also, they correctly argued that Khomeini had originally approved the overall draft without any provisions for the *faqīh* and had offered to place the document directly to vote, which demonstrated that he was not really committed to the concept.⁷⁰ Indeed, the opposition made a grave tactical mistake by insisting on a Constituent Assembly when Khomeini had accepted the original draft constitution. Bazargan's circumspect policy of averting direct confrontation through concessions proved disastrous against the IRP and the radical '*ulamā*'. The Khomeinists shrewdly took advantage of the opportunity presented by Bazargan and eventually dominated.

Conclusion

The Assembly elections, the ensuing debates and the unbalanced voting pattern for the *velāyat-e faqīh* articles clearly illustrated a crucial fact: the Islamic Republic's Constitution of 1979 was a direct reflection of the balance of power and the aspirations of those who dominated post-revolutionary Iran. Khomeini's undisputed leadership and his endorsement of the IRP candidates in the elections for the Assembly of Experts initiated the process of establishing the doctrine of *velāyat-e faqīh*. Furthermore, the opposition groups underestimated the conviction of the IRP and lacked the leadership to compete with the clerical élite. The IRP effectively thwarted Bazargan's original intentions on the issue of the constitution by overwhelming his administration from all sides. Bazargan's power was slowly undermined by a parallel government created and controlled by the IRP. Within the Assembly of Experts, Beheshti and his adherents muffled the opposition. The clergy-dominated Assembly moved swiftly to institutionalize the articles. Many of those opposed to *velāyat-e faqīh*, like Bani Sadr and Ghafuri, either failed to seize the few opportunities offered and decided to back Khomeini, or simply remained silent out of fear of counter-reprisals.

The forces which brought about the Islamic revolution in Iran constituted a myriad of factions with diverging objectives who united briefly to depose the Pahlavi monarchy. After the revolution, the factions split and the Khomeinists worked to create a state ruled by the '*ulamā*'. They succeeded in

⁶⁸ Chehabi, *Iranian Politics and Religious Modernism*, pp.265-66. See also *Ettelā'āt*, 9 Tīr 1389 (30 June 1980). Most of the information on this move by Bazargan's government was revealed by Amir Entezam in his confessions in jail and under suspicious circumstances more than seven months after the Assembly of Experts debates.

⁶⁹ *Nehzat-e Āzādī-ye Īrān, Velāyat-e Motlaqeh-e Faqīh* (The Absolute Guardianship of the Jurisconsult), (Tehran, 1988).

⁷⁰ *Ibid.*, pp.20 and 151.

establishing a theocracy headed by the *faqīh*. Khomeini's doctrine of rule by the jurisconsult is the legal foundation of the Islamic Republic. Today in Iran, everyone from the garbage collector to the president of the country must attest their allegiance to this doctrine before they assume any government position. The concept is judged as the fundamental foundation for those in power. It not only operates as a vehicle of legitimation for the ruling clergy élite in desperate need of 'endorsements' for their political hegemony, but also serves as one of the few issues that virtually all the opposing clergy factions associated with the regime are compelled to agree on, since the rejection of the concept of *velāyat-e faqīh* has come to symbolize the renunciation of everything the Islamic government of Iran epitomizes.