

Article

Ahmad Qābel, Religious Secularity and *Velāyat-e Faqih* in Iran

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Abstract: Religious secularity and Islam have not often been considered in the West as comfortable bedfellows, yet the Islamic revolution in Iran in 1979 questioned assumptions about the appropriateness of separate spheres for religion and politics. However, within a decade of the revolution, theoretical and intellectual shifts were visible in the Iranian seminaries, and alternative views about the doctrine of *velāyat-e faqih* (guardianship of the jurists) which twinned religion and politics together, were being discussed. Such shifts transformed the doctrine from one which had a divine mandate to one that in practice emanated from the people. This article focuses upon the ideas of a mid-ranking reformist seminarian, Ahmad Qābel (d. 2012), whose tight adherence to reason resulted in him ultimately rejecting *velāyat-e faqih*, and calling for a form of religious secularity in which the seminary remained divorced from state structures and institutions. For Qābel, this did not mean the creation of an irreligious society, but the establishment of a more open and pluralist one, in which religious differences could be voiced. Qābel's short essay on *velāyat-e faqih* is utilised herein to outline the main arguments of those who have refuted the doctrine. Qābel's complete rejection of *velāyat-e faqih* is important because it went much further than the view of his spiritual mentor, Ayatollah Montazeri, who sought reform of the idea. As such, it demonstrates that within the seminary there is much difference of opinion, although there are very few (such as Qābel) who have the courage to articulate their opposition to the "official" view. Qābel's essay provides a straightforward entry-point into a complex topic, employing the kinds of rationalist argumentation that he learnt within the seminarian environment of Iran.



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1. Background

The 1978–79 revolution in Iran is widely held to be a landmark event in the Middle East in the respect that it heralded the return of religion as a major player in the social and political affairs of the country. The outpouring of Islamic sentiments was a shock to many Western observers who had believed that "modernisation" would result in the secularisation of thought and social and legal organisation (Benard and Khalilzad 1984, pp. 1–24). However, the pattern of modernisation experienced by Iranians from the 1960s onwards had differed radically from that of Europeans or North Americans. Iranian "forced" modernisation was a harsh, top-down method of decrees in social and political realms, which resulted in religion becoming a focal point of dissent. With the return of Ayatollah Khomeini to Tehran in 1979, Iranian religious leaders commenced the task of rolling back the "secularising" policies of Mohammad Rezā Pahlavi, the last Shāh of Iran. Most notably this included a revision of the political system, and the new constitution of 1979 included provision for the leading cleric to oversee the operation of the political machinery. Traditionally, a leading Shi'a cleric, known as a source of imitation (*marja' taqlid*), had remained aloof from the political world, although he considered it a duty to assert the Qur'ānic imperative to "Command the good and forbid the evil" (Q. 9.112) which had been understood as a duty to advise the monarch. (One reason for the reluctance among some clerics to become ensnared in political machinations was due to the Shi'a belief that political authority belonged solely to the Twelfth Imam, an eschatological figure, descended from

the prophet Mohammad, who disappeared from human eyes in 940 C.E., but who will reappear to establish a period of justice before the end of time). Moreover, the *marja' taqlid* had his own source of finance as he was the recipient of charity bestowed upon him by the faithful, which contributed to his political independence from the state.

As such, religion and politics had been separated for much of Iranian history, but the doctrine espoused by Khomeini, known as *velāyat-e faqih* (guardianship of the jurist) which introduced the *marja' taqlid* into the political framework was enshrined in the new constitution of 1979, and it received overwhelming public endorsement in a referendum of March 1979. Thus, the drift towards political secularisation was reversed, and the state and religion were conjoined. In the wake of the revolution, Iranian society was gradually Islamicised, and this included mandatory head covering for women (or veiling), a reduction in the marriage age, and the imposition of a range of "Islamic" punishments known as *hodud* laws.

Nevertheless, there was considerable concern even among the echelons of the clerics themselves about how to implement the laws of the Qur'ān and which had been formulated in the centuries subsequent to its revelation in the 7th century. It is notable that even a stalwart of the revolution, Hāshemi Rafsanjāni, had asked Khomeini about the possibility of ruling the country according to the interpretation of shariah law that existed at the time (Ghamari-Tabrizi 2014, p. 234). While Rafsanjāni was a loyal supporter of the doctrine of *velāyat-e faqih*, there were other clerics who preferred to separate the religious and political realms, and they endorsed the more traditional role of a *marja' taqlid*. Clerics who actively opposed *velāyat-e faqih* were side-lined and often put under house-arrest, and some were even defrocked, as was the case with Ayatollah Shari'atmadari (Moussavi 1992, p. 106). Such opposition is often thought of as political quietism, although it should be stressed that from around the time of the Constitutional Revolution in the first decade of the twentieth century, it was argued that the seminary should function in a kind of supervisory fashion to the ruler. Indeed, Qābel himself appears to endorse such a perspective in his writings, for although he argued against *velāyat-e faqih*, he consistently expressed his right to "*command the good and forbid the evil*", the aforementioned Qur'ānic inspired ideal that encourages believers to articulate a pious and good way of life, particularly before those in authority (Cook 2001).

The difficulty of finding a suitable Islamic leader for Iranian society who enjoyed political acumen and also religious charisma was recognised in the later 1980s, at a time when Khomeini's health was failing. Accordingly, the revised constitution of 1989 did not mention that a *marja' taqlid* was a condition for political leadership, which permitted 'Ali Khāmenei, a mid-ranking cleric, to assume the reins of power on Khomeini's death in June 1989. Although this seemed to have loosened the ties of politics and religion, in practice, the new theory of the Absolute Guardianship of the Jurist (*velāyat-e faqih-e motlaq*) did not diminish any of the authority enjoyed under the 1979 constitution. Indeed, Khāmenei was a "Principlist" (*osulgarā'i*), or, as outsiders frequently observe, a "hardliner", who envisaged a central place for religion in politics and society. According to Khāmenei's opponents, the political decision-making process was streamlined to a chosen few (who were supportive of the Leader, or else chosen by the Leader himself), whereas the political choices of the citizens of Iran were restricted. Indeed, Khāmenei's attempt to promote himself to the rank of *marja' taqlid* in the 1990s is indicative of the de facto marriage of religion and politics (such as certain "religious" conditions for appointments to political and judicial posts).

2. Ahmad Qābel as a New Religious Thinker

Ahmad Qābel's entrance onto the Iranian politico-religious stage coincided with the first Presidency of Mohammad Khātami (1997–2001), known as a reformist cleric whose policies frequently seemed at odds with the world view of 'Ali Khāmenei. In the wake of Khātami's electoral victory, Grand Ayatollah Montazeri sent him a letter of congratulations in which he advised the President to take a firm stand to ensure the rule of law (von Schwerin 2015, p. 180). Montazeri had become known as sympathetic to religious

reform, and in particular, to a version of *velāyat-e faqih* that included some form of public election. Ironically, he had been instrumental in inserting the doctrine into the 1979 constitution, but his revised thinking on the subject and combined with his concern about the executions that were taking place in Iranian prisons in the mid-1980s resulted in his dismissal as Khomeini's deputy in 1989 (Abrahamian 1999, pp. 219–20; von Schwerin 2015, pp. 118–31). It was copies of Montazeri's letter of advice, or congratulations to Khātami that his student, Ahmad Qābel, was distributing in North-East Iran in the summer of 1997, and which resulted in his arrest and short detention. Between this first arrest and his death in 2012, Qābel spent several periods in jail, which were a result of his championing Montazeri's criticisms of Khāmenei and his autocratic tendencies, and also for crossing the redlines on various social and political issues.

Qābel had a very deep religious background. His father was a mid-ranking cleric, and the family's attachment to Islam became evident when the young Qābel enrolled into a Mashhad seminary in 1971 and then in Qom in 1978 (Qābel 2012b, p. 61; 2012c, p. 127). He supported the overthrow of the Pahlavi monarchy and the establishment of the Islamic Republic in Iran, and he was to spend several periods defending the revolution at the war front during the Iran-Iraq war (1980–1988). Qābel said very little about this period of his life, however, he earned a degree of notoriety in the seminary even before his first arrest because in 1991 he refused to wear the distinctive clerical gown and turban as he wished to be viewed as an ordinary person (Qābel 2007b, pp. 95–96). Although this sartorial choice is not without precedent in the seminary, it is indeed rare, and is an early indication of Qābel's independence of mind. Subsequent photographs of Qābel show him sporting an open-necked shirt and trousers, even when he visited his mentor Ayatollah Montazeri (Alchetron 2018).

From the late 1990s until his death, Qābel began propagating a reformed version of Islam which has been termed "Rational Shariah" (*shari'at-e 'aqlāni*) (Ridgeon 2019; Jahanbakhsh 2020). The emphasis on reason is a defining element of a movement in Iran known as "New Religious Thinking" (*andishān-e naw-e dini*) that emerged in Iran after Khomeini's death. This movement includes "dissident" clerics including Mohsen Kadivar (2021) and Hasan Yousefi Eshkevari (Mir-Hosseini and Tapper 2006). New Religious Thinking is associated with the view that Islam is compatible with rationality and modern human rights by re-interpreting sacred texts. This means that scripture such as the Qur'ān, hadith and narrations from the Imams reflect a particular worldview and historical context which obviously no longer pertains. Therefore, such scripture is re-evaluated in light of contemporary standards of reason and justice, which are considered as two of the major themes of scripture.

Qābel is viewed as taking this position to an extreme (Eshkevari 2012, p. 322): indeed, he viewed reason a tool, God-given to all humans, but one that was independent of sacred scripture and the shariah. In fact, Qābel believed that if humans saw a contradiction between reason and scripture then scripture needed to be re-interpreted so that it conformed to reason. (Qābel 2012c, p. 68). He did not see any contradiction between the universal reason of humanity and justice, and those elements of scripture which appear today "out of date", since the latter simply reflect the reason existent at the time of revelation. Therefore, scripture (or the human understanding of it) is not static. This kind of understanding was, and is, a direct challenge to those believers who consider scripture the unchanging word of God, and who demand what they consider a "literal" interpretation and implementation of Qur'ānic verses. For example, whereas Qābel was hesitant to endorse the principle of amputating thieves' limbs (Qābel 2011a, p. 385), others, such as the Principlist Ayatollah Mesbah Yazdi argued in favour of the punishment (Mesbāh-Yazdi 2002, p. 217). Another example of Qābel's Rational Shariah is his famous fatwa of 2004 in which he declared that it is not necessary for women to wear the hejab (Qābel 2007a; Ridgeon 2021, pp. 179–201), which was a direct challenge to the laws of Iran which deems non-observance of the hejab a crime that can lead to a prison sentence and a fine.

3. Ahmad Qābel and Religious Secularity

In theory, the constitutional reforms of 1989 can be understood as a step towards secularising the Islamic Republic, in that the Leader (*rahbar*) did not need to be a very senior seminarian, or a *marja' taqlid*. Yet, the process of appointing a new leader ensured that the position remained securely within the religious classes. Accordingly, an elected body known as the Assembly of Experts (*majles-e khobregān-e rahbari*) selects an appropriate Leader, although all candidates for this Assembly are scrutinised and checked for “Islamic” credentials by the Council of Guardians (*shūrā-ye negahbān*). Half the members of Council of Guardians are appointed directly by the Leader and the other half are elected by the Parliament (having been nominated by the Chief Justice (who is selected by the Leader). Thus the “secularisation” of the constitution may be regarded as superficial. Ahmad Qābel pointed out that the Assembly of Experts have the potential to be an effective body in limiting the excesses of the leader’s power:

representatives of the people are elected as the Assembly of Experts (*majles-e khobragān*) and they [in turn] elect the *vali-ye faqih*. They can dismiss, supervise, and advise him. They can make him go back on some policies that have been assessed as mistaken, and they can constrain him if [their] policy is good and is in the interest of society until he acts on implementing that policy. (Qābel 2009b, p. 230)

Given the overwhelming influence that the Leader exercises over the Assembly of Experts in terms of its composition, it is not surprising that it has not been an effective bulwark against any excesses of the *vali-ye faqih*. Due to the context of reform under Khātami’s Iran (and the immediate aftermath of his two Presidencies), it is unsurprising that Qābel asserted that even the Absolute variety of *velāyat-e faqih* did not mean the Leader should abuse power. He stated that there were some members of the Assembly of Experts (mentioned in the quote below) who considered legitimate the unbridled power of the Leader. He said:

A small number of jurists, like Ayatollah Khomeini and Ayatollah Montazeri are people who accept the absolute jurisdiction of the *faqih*, meaning that it is not conditioned by the three constraining limits on his power [i.e., the executive, legislative and the judiciary], and like other governments they have the right to pass laws and judge and carry out executive functions but within the framework of the law. In this way the absolute jurisdiction of the *faqih* is interpreted according to the Constitution, certainly the term ‘absolute’ does not mean despotic or outside legal parameters. Unfortunately, the understanding that exists now and is propounded by the likes of Mr Mesbāh Yazdi and Mohammad Yazdi who see the term meaning an unbridled faqih who does not respect the law and whose word is the law. (Qābel 2009b, p. 229)

The above quote appears to exonerate the leading figures of the Islamic Revolution (Khomeini and Montazeri) from criticism. Indeed, Qābel’s censure of Iran’s leadership rests squarely upon the shoulders of Ayatollah ‘Ali Khāmenei. In particular, he condemned Khāmenei for a host of misguided policies (not just abuse of the *velāyat-e faqih* (Ridgeon 2019, pp. 3–5)). Aside from social and political reasons which have already been investigated, Qābel was concerned about the independence of the seminary (*hawza*). A free and autonomous seminary arguably promoted the idea of “religious secularity” (Ghobadzadeh 2015) which simply implied separate areas of jurisdiction between the political sphere and the religious sphere; it did not necessarily entail the diminishing of religious faith in society. During Khāmenei’s leadership an attempt has been made to centralise many aspects of the seminary, such as the correct ways of thinking (defrocking dissenters), propagating the “right” manner of performing religious rituals, and providing funds for religious students (Ghobadzadeh and Akbarzadeh 2020). Qābel was explicit in condemning such changes during his interrogation after being arrested in 2010:

We talked about the seminaries. I pointed to the non-governmental background of the Shi'a seminaries and the schematic observance of this in the time of Ayatollah Khomeini. I stated clearly, 'Unfortunately, from the time of Mr Khāmenei's leadership, the balance of governmental interference has suddenly removed all Shi'a pride in the seminaries' academic independence from governments. The allocation of the state budget, the prejudice of the security apparatus and the Special Clerical Court, creating fear among the *marja'* and *'olemā* (who have inquiring minds on academic and social issues), demonstrating and shouting slogans against them, repeated assaults upon their houses, plundering their wealth, closing their bank accounts etc, have completely violated the esteem of the Shi'a seminaries'. (Qābel 2010c, p. 163)

Qābel's reference to the Special Clerical Courts above assumes significance in light of Khāmenei's influence to persuade such institutions to "defrock" leading theologians, including Ahmad Qābel's own brother, Hādi, in 2008, and most controversially, the reformist seminarian Ayatollah Sāne'i, was "demoted" in 2010 by the Qom Theological Lecturers Association (*jāme'-e modarressin*).

Khāmenei has defended this "interference" and stated:

The independence of the hawza does not mean the regime's lack of support for the hawza, or the hawza's lack of support for the regime. A group of [people] desire this; in the name of independence some want to sever the hawza's connection to the regime. This is impossible . . . However, the question of the seminaries is not limited to the livelihood [of students]. In the seminaries there is expenditure that would not be possible to meet without help from the treasury and governmental assistance . . . the hawza accepts various forms of support from the regime with respect and magnanimity . . . this support is not just financial. Today, praise be to God, the most important and most common national platforms are at the disposal of the scholars of the hawza and the great marja . . . This is the support of the regime . . . so the question of interference or independence should not be confused with the realities that exist on this matter. (Khāmenei 2010)

Just as Qābel desired the hawzas to remain autonomous from the state, he was a champion of what might be termed "Islam-lite", or minimalist-Islam. To this end he cited the view of Ayatollah Khomeini (from a work penned in 1954) which advocated just the main principles of Islam that he regarded as sufficient for someone to be a Muslim:

The reality of reliable Islam, which is acceptable to all Muslims, is nothing more than three or four principles, which are: 1. The existence of God: 2. His unity: 3. Prophecy and messengership: 4. Probably belief in the afterlife and the day of recompense. (Qābel 1999, p. 91)

Such a role for religion in this version of religious secularity meant that Qābel was at pains with the Islamic Republic on many issues, and he frequently stepped across the state's redlines, and so exasperated was he at the state's appropriation of religion that he advocated for Iranian youths to flee from it, or to apostatise:

I believe that life-conditions in this world, and in particular in Iran, have turned out in such a way that one has to apostatise (*dīn-gorizi*). That is, right now I believe that a religion has been constructed in Iran from which one must flee. If the youth and people of this country do not decide to apostatise, [then] I have my doubts about their [faculties of] reason (*'aql*). In other words, whoever possesses reason must apostatise from this religion that has been, and is, given [to them]. When they give you a religion which omits rationality, you can do nothing except apostatise. Some [people] say we should wage war with [that religion]. However, we are not warmongers, and we do not encourage violence in society. The very least thing that we can do in a wise manner is to engage in battle with it in a logical way. We flee from it, and we say to the youth 'don't have anything to do with this religion'. (Qābel 2012a, pp. 414–15)

In his “Islam-lite” variety, Qābel rejected the state-driven Islamification of society. This included the segregation of the sexes in universities (Qābel 2011a, p. 338) which he argued was tantamount to replacing one potentially flawed system with another. His commitment to root out inequality, based on what he perceived as anachronistic readings of Islam went so far as to argue for the same rights between men and women, rather than the traditional complementarity (2007–8). Indicative of this was his argument that women could lead prayers, a statement that he made days after the African American female theologian, Amina Wadud, led a mixed-congregation gathering in New York in March 2005.

4. Ahmad Qābel and *Velāyet-e Faqih*

Of all the redlines crossed by Qābel it was perhaps his rejection of *velāyet-e faqih* that was most problematic for the Principlists. However, in truth, long before Qābel uttered his reservations about the system, leading seminarians in Iran had already voiced their disquiet. This included Ayatollah Shari’atmadāri’s refusal to participate in the referendum of 1979. In addition, an alternative and “democratic” version of *velāyat-e faqih* was advocated by Ayatollah Sālehi Najafābādi in the mid-1980s (Moussavi 1992). Likewise, a reformed version was advanced by Ayatollah Montazeri in a four-volume collection in 1988 called in Arabic *Dirāsāt fi Wilāyat al-faqih wa fiqh al-dawlah al-Islāmiya* [Studies in *Velāyat-e faqih* and the jurisprudence of an Islamic state] (Akhavi 2008). Mention should also be made of Mohsen Kadivar’s meticulous investigation of the Shi’a conceptions of government which were published as *Nazariyeh-hā-ye dawlat dar feqh-e Shi’a* [Theories of Government in Shi’a Jurisprudence] (Kadivar 1998b) and *Hokumat-e Velā’i* [Government by Mandate] (Kadivar 1998a). The Principlists have exerted pressure, some may say intimidation, on these reformist thinkers who have faced imprisonment, and house arrest. Nevertheless, Qābel added his voice to the list of those advocating the amelioration of the system.

Despite exonerating Khomeini and Montazeri from criticism, Qābel admitted that he had never wholeheartedly supported the doctrine of *velāyat-e faqih*:

From the time when Ayatollah Montazeri propounded this doctrine [of *velāyat-e faqih*] until today, notwithstanding all of the proofs that he and Ayatollah Khomeini, his teacher had set out, I have not been satisfied that God has given a special right to the jurists. (Qābel 2010b, p. 274)

By the mid-2000s, Qābel decided to “come clean” and reveal his views about *velāyat-e faqih*. He did not produce multi-volumed and detailed analysis (such as that proposed by Montazeri and Kadivar), instead he published sparingly, in the form of articles placed on his website, or he gave his opinions in articles. The imposition of a ban, imposed by the state, on Qābel publishing books or writing articles for journals may have contributed to the relative brevity of his articles, but it certainly did not intimidate him, typified by his open letter of criticisms against ‘Ali Khāmenei in 2005. This eventually culminated in Qābel’s observation that the forecast of many experts, religious and jurisprudential authorities, and even some contemporary *marja’-taqlids* is that *velāyat-e faqih* will end with Mr Khāmenei, and in reality there will be no *velāyat-e faqih* after him (Qābel 2009a, p. 225).

By 2009 when Qābel made the statement above (couched in non-personal terms) he had crossed so many redlines, and Iran was reeling in the aftermath of the “rigged” 2009 Presidential elections, and which witnessed the emergence of the Green Movement (*jonbesh-e sabz*) which protested amongst other things against the “victory” of Mohsen Ahmadinejad, which was eventually endorsed by Khāmenei. Therefore, Qābel’s statements about *velāyat-e faqih* most likely reflect the context of increasing political conflict. His writing on *velāyat-e faqih* summarised his main ideas of the topic, and as such it served as a highly effective means by which his essential arguments could be conveyed to a greater audience.

Qābel’s most extensive treatment of *velāyat-faqih* is in article called simply *Velāyat-faqih* which he composed in Mashhad, Iran, in April 2006. It is twenty-two pages in Farsi and consists of nine points which refute the necessity of the doctrine. Currently, the article appears in the ebook edited by Mohsen Kadivar, called *Feqh, Kār kard-hā va Qābeliyat-hā* [Jurisprudence, Products and Potentialities] (Qābel 2013).

(i). Qābel's first point contrasts the words *velāyat* (guardianship) with *vekālat* (deputyship/representation). By comparing these nearly synonymous terms, Qābel referred to the views of his master, Ayatollah Montazeri, who considered *velāyat* as a broader form of *vekālet*. These two terms are considered in relation to the idea of sovereignty, which all rational humans possess, and is a God-given right. Qābel claimed that because it is an inherent right "no-one has the right to control, exercise judgement or interfere in the restricted area of human property and life." (Qābel 2013, p. 76).

(ii). This first point is a broad sweep about the meaning of *velāyet*, but it allows Qābel to introduce his second point which is to investigate government and *velāyat* as it pertains to control in the public realm, in particular, where there are shared interests and properties in public wealth. In the endeavour to maximise the interests of individuals in society it is inevitable that government is necessary. Interestingly Qābel observed that "the different forms and methods accounting for the rise and fall of governments is a sign of the various steps taken by humans to acquire the necessary experience to reach the best kind of government and the best possible path for attaining these aims of a suitable social life." In other words, and reading between the lines, Qābel considered political fluctuations natural and healthy, and it was periods of dictatorship and autocracy that were unnatural. His other writings are replete with references to the autocratic leadership of Ayatollah Khāmeini, and he uses terms such as "dictatorship and tyranny" to describe the Islamic Republic (Qābel 2008, p. 41). Qābel associated *velāyat-e faqih* with the Shi'a response to rule and control the public domain, and he implicitly questioned the conditions that supporters of the theory place upon the leader. He stated:

Their conditions include maturity, reason, justice [being a] Muslim and a believer, being male, being of legitimate birth, being knowledgeable in the commands of the shariah, being strong and able in completing governmental duties, and not possessing greed. (Qābel 2013, p. 79)

He made no comment on this long list of required character traits, which is, perhaps, suggestive of his reservation that any one person could attain to such standards.

(iii). It is at this point that Qābel turned to the etymology of *velāyat* in his third point, and he noted that it is derived from the Arabic trilateral root v.l.i, meaning "help". He noted that in the Qur'ān one of its main uses bore the meaning of *kefālat*, which is a special form of help (*nosrat*). For those who supported the doctrine of *velāyat-e faqih*, the idea of care and help is associated with the jurists (the *foqāhā*) who are best qualified to offer care and help to the people, for example, by using and distributing religious taxes (Khomeini 1985, p. 45). Khomeini indicated that the *foqāhā* were able to give an opinion about Islamic law because of their specialised training which ordinary people did not have (Khomeini 1985, p. 95). Qābel's discussion of *nosrat*, however turned it on its head so that instead of the *foqāhā* exercising help (via God, the prophet and the Imams), it is the general populace who enjoy the power of dispensing *nosrat*: rather than being a top-down Divine blessing, it becomes a bottom-up phenomenon.

A government subject to the inspection and confirmation of the shariah is established and continues [its existence] when there is continual amity, support, and satisfaction from the citizens for the rulers. Whenever this amity turns to hostility, and satisfaction turns to dis-satisfaction, and help turns to [unhealthy] competition, the religious legality (*mashru'iyat*) of the government is questionable (*mawred-e so'al*). (Qābel 2013, p. 80)

(iv). From this juncture, Qābel commenced the fourth point which was an examination of sacred texts that had been used to legitimise *velāyat-e faqih*. This fourth point is the longest in Qābel's essay, and its analyses of sacred scripture shows the skills that he had learnt, in training as a seminarian. Indeed, Qābel preferred to be known more than anything as a seminarian—despite casting off clerical clothes—and he refuted the charge of being primarily influenced by secular thought (Qābel 2011b, p. 320).

Qābel did not cite these texts verbatim, but simply mentioned them by the name by which they have been popularly known; he did not need to repeat the wording of the text, because they are known in Iran. Qābel's discussion of these texts suggests that a literal reading of them does not prove the necessity for the *foqahā* to implement *velāyat* in the form of government. In particular, he cited the report from Omar Ebn Hanzala, a companion of the sixth Imam:

Omar Ebn Hanzala said, I asked Imam al-Sādeq whether it is permissible for two Shi'a, who had a disagreement concerning a debt or a legacy, to seek the verdict of the ruler or a judge. He replied: Anyone who has recourse to the ruler or judge, whether his case is just or unjust, has in reality had recourse to *tāghut* [oppressive government]. Omar Ibn Hanzala then asked: What should these two Shi'a then do under such circumstances? Imam Sādeq answered: They must seek out one of you who narrate our traditions; who is versed in what is permissible and what is forbidden; who is well acquainted with our laws and ordinances and accept him as judge and arbiter, for I appoint him as a judge over you. (Ghobadzadeh 2015, p. 159, n16)

The importance of this narration should not be overlooked, indeed, it was cited and discussed by Khomeini in his celebrated and seminal lectures on *velāyat-e faqih* in 1970 (Khomeini 1985, pp. 93–98). Qābel refuted the politicised interpretation of this narration and declared: "... its contents confirm *velāyat* in [the realm] of judgement, nothing more" (Qābel 2013, p. 80).

The other seminal narration that Qābel mentioned is the tradition of Abu Khadija, who was a companion of Imam Sādeq and who reported that the Imam had said that when disputes arise, "Designate as judge and arbiter someone among you who is acquainted with our injunctions ... for I appoint such a man as judge over you. Let none of you take your complaint against another of you to the tyrannical ruling power" (Khomeini 1985, p. 96). Qābel remained unconvinced of applying this kind of tradition to the realm of politics, whereas Khomeini had asserted "The judicial and governmental functions assigned by the Imams to the *fuqaha* of Islam are retained permanently" (Khomeini 1985, p. 98).

Unfortunately, Qābel did not discuss the temporal nature of these designations, but his rational and literal readings suggest that he viewed them as limited to the lifetime of the Imam in question. He did question the titles that have often been applied to the *foqahā*, which for some appears to legitimise their political claims, such as "trustworthy of the prophet," "legacy of the prophets" "fortress of Islam", whereas Qābel argued that there needed to be a proof compatible with the claim. This point is not elaborated any further, perhaps because the point was widely known in Iran. Thus, for example, whilst Khomeini cited that the scholars are the heirs of the prophets, taking the word scholars (*olemā*) as a synonym of the *foqahā*, it is just as possible to understand the scholars as learned people outside of the jurisprudential tradition. Moreover, the narration in question speaks of the prophets' bequeathing knowledge, which taken literally does not provide a proof for the necessity to take the reins of political power.

Qābel subsequently attempted to further diminish the political role given to the *foqahā* by claiming that even the Islamic prophets were restricted in this respect, and he cited approvingly an example of a narration included in *al-Khisāl*, the authoritative work of Ebn Babawayh (d. 991), which states, "God did not give any prophet rulership except for four among them: David, Solomon, Joseph and Dhu al-Qarnayn" (Qābel 2013, p. 81). Additionally, he added (without reference) that Imam Sādeq demonstrated that 99% of the prophets did not receive a commission to govern from God. Qābel made this point explicit by stating, "Is this not proof to invalidate the claim of designation and commission for divine government by the jurists, under the rubric of the legacy of all the prophets?" (Qābel 2013, p. 81).

At this juncture, the reader may be surprised about the omission of the Prophet Mohammad from the discussion about government, especially because he is often regarded as having been a statesman who ruled over his community, especially during the Medinan

period. However, Qābel's retort to such a perspective is that the Qur'ān does not address Muhammad as a politician, rather it states, "You are not one to manage their affairs" [Q. 82.22], and "You are not a guardian (wakil) over them" [Q. 6.107], and "You are only a warner" [Q. 13.7]. He ignored Qur'ānic verses such as 4.59 which states, "Obey God and obey the Messenger and the holders of authority from among you," or 33.6, "The prophet has higher claims on the believers than their own selves," which some have taken to be explicit recognition of political power (Khomeini 1985, p. 103). Qābel's rather selective reading of the Qur'ān allowed him to observe, "These verses [82.22, 6.107 and 4.49] are indicative of the prophet's lack of rulership and absence of guardianship over the right to determine human fate" (Qābel 2013, p. 82).

The theme of the prophetic lack of divine leadership is continued by Qābel in his discussion of Saul (Tālūt), who appears in the Qur'ān as a normal individual appointed by God as a king (Q. 2.247)—but importantly he is not a prophet. (Indeed, Saul has no roots in either the tribe designated for prophecy or for kingship, for in the Islamic tradition God selected one of the twelve tribes of the Bāni Isrā'īl for government, and another tribe for prophecy). In other words, there was a separation of powers, an early form of religious secularity. (It is significant that Qābel seems to have been the only seminarian to make the connection between Saul and the separation of religion and politics).¹ Moreover, Qābel pointed to narrations about those who are not the most learned or aware of the requirements of the task and yet take office. Although he did not identify any perpetrators in the text, Qābel probably had the "political" seminarians in mind. He mentioned various occupations with specialised knowledge, such as medical doctors, economists, astrologists and artists, and by extension he argued that in the realm of politics there was a need for those who are wise in political science, sociology and management. He even ring-fenced judicial affairs from the seminary, claiming that precedence should be allotted to those who understand law (*hoquqdān-ān*), which field is more general than *feqh* (religious or Islamic law) (Qābel 2013, p. 85).

Although the constitutional reforms of 1989 included a provision that eliminated the necessity of *marja'iyat* as a necessary condition for the post of *vali-ye faqih*, thus seemingly promoting the idea of religious secularity, still the holder of the top political position possessed much power,² and many of the state institutions required correct seminarian credentials. It is this that Qābel criticised:

If a faqih—lacking knowledge in management, politics, international law, or having less knowledge than others, is put in a post that has the greatest need for awareness in these areas . . . isn't this clear evidence of putting in charge an unworthy person, or preferring and putting in charge someone one who is not the most learned?

For tasks such as commanding the armed forces, or establishing the general policies of a regime based on its fundamental law, what special need is there for being the most learned in *feqh* or possessing *ejtehād* (juristic reasoning) for authorising a vote for the leadership of a republic of a nation, or for the election of people having the right credentials for some executive and judicial posts?". (Qābel 2013, pp. 85–86)

The above may also be seen as a veiled criticism of Khāmenei, who had already been severely chastised by Qābel in his open letter of 2005 (Ridgeon 2019, pp. 3–5).

Qābel also rejected the possibility of the need to choose a faqih who possessed all the right conditions for leadership based on the "unconvincing and unproven belief" that he had been appointed by God to lead the government over the people. Such a view of divine mandate was held by the likes of Ayatollah Javādi-Āmoli, who claimed that the *vali-ye faqih* had the right and duty to rule irrespective of the people's wishes (Mavani 2013, p. 170). In his rejection of this kind of unverifiable claim to authority, Qābel sought to substantiate his argument with reference to the views of past senior seminarians, such as Akhund Khorāsāni (d. 1911) and Shaykh Mohammad Hosayn Gharawi Isfahani (d. 1942)

and Ayatollah Arāki (d. 1994). Thus, he was relying on the seminarian tradition itself to legitimise and critique the doctrine of *velāyat-e faqih*.

(v). Having introduced and discussed a number of points related to *velāyat* from the perspective of scripture, Qābel's fifth point is brief, and he began a discussion about two forms of *velāyat*; appointed (*entesābi*)—meaning appointed by God, but in reality, chosen by the seminarians themselves—and elected (*entekhābi*) (Qābel 2013, p. 87). Qābel did not mention the background or origin of this issue, perhaps again because it was well known in the seminary and beyond, but the distinction between *entesābi* and *entekhābi* was one that had been made as far back as 1984 when Ayatollah Sālehi Najafābādi, posited a *velāyat-e enshā'i*—or a “created” *velāyat*, that is, created by the people through the electoral process, and a *velāyat-e khabari*, that is, a *velāyat* based on *khabar*, a report, or scriptural authority (comparable to the appointed variety (Salehi Najafābādi [1378] 1999–2000).

(vi). Point six is very brief and Qābel simply alluded to the various kinds of interpretations of *velāyat-e faqih*.

(vii). In his seventh point, Qābel expands on point six and showed that the elected variety of *velāyat* enjoyed support from an esteemed source—his own religious guide—even going as far as to cite the page number of his source):

Muslims are duty bound to elect the most learned, otherwise they have sinned against God. Other rulers are considered tyrants unless they have permission from a *mojtahed* [a senior seminarian] possessing all the conditions to carry out and take charge [of the functions of government]. But Ayatollah Montazeri, who supported this approach, in [his] book *Dirāsāt fi Wilāyat al-faqih* [Teachings in *Velāyat-e faqih*] . . . expressed serious doubts about . . . the religious illegality of an elected government of a *vali* who is not a jurist and the people being sinners. In conclusion, “There is no warrant to take steps against a just government, ruled by a non-faqih, elected by the majority of the people, and who enjoys the support of the people” (vol. 1, p. 542). (Qābel 2013, p. 88)

Qābel referenced Montazeri once more (vol. 1, p. 547) when the latter claimed it was possible to prefer someone who is not the most learned in jurisprudence but is the most learned in politics, over the most learned in jurisprudence but not in politics. As pointed out earlier, this falls in line with the 1989 constitutional amendments, but it opens the door to a non-seminarian taking up the reins of power, whereas the assumption of the supporters of *velāyat* by divine appointment would hardly admit to such a possibility.

(viii). In the eighth point, Qābel discussed the heart of the problem that he saw with the implementation of *velāyat-e faqih* under Ayatollah Khāmenei. As we have seen, the constitution of 1989 allowed for a non-*marja'* to occupy the position of *vali*, which is a point that Qābel agreed with. However, the problem lay with the manner that the *vali* had oversight of all three branches of government (the executive, legislative and judiciary). Qābel insisted:

It is clear that no-one can have the amount of power so that he alone has responsibility for all executive, judicial and legislative tasks, such as the appointment people through him (directly or indirectly), and supervision of their work, and if necessary, the dismissal of an offending person from office. (Qābel 2013, p. 89)

Although he did not mention Khāmenei in person in this context, in other works Qābel was not so reticent, as has been argued elsewhere. In other words, the malaise in Iran was not about religious secularity, it concerned how religious secularity had been abused to the extent that it had been turned in practice to a dictatorship that encompassed religious and political spheres.

(ix). The absence of political and Western terminology is conspicuous in the essay by its absence, as if Qābel wanted to manifest his attachment to Islam and the seminary. However, in the final point of his essay, he concluded that

The only correct and less-damaging way related to government is one of experience that other, wise people have tried and tested, and have selected from among

the various governmental forms. A government in which people determine their own fate has the possibility to use power with ease according to the wish of the people. It is something which goes by the name of democracy. (Qābel 2013, p. 90)

He even expressed exasperation at the appropriation of *velāyat*, which he clearly felt was the preserve of the Imams:

What extraordinary homogeneity there is . . . between the guiding Imams with a few jurists that they [are able] to reach the level of *velāyat*! The error that has appeared in [their] understanding and discernment of the truths of the shariah . . . is that some of them believe that the divine *velāyat* and government of the Imams is theirs. (Qābel 2013, p. 90)

Qābel ended his essay with a list of recommendations for good government, but what is most interesting about these is the absence of any reference to *velāyat-e faqih*. He called for elected and fixed terms in government, the promotion of political parties (which had been limited by the Islamic Republic), decision-making based upon the wishes of the peoples' representatives and for the establishment of referenda on major issues, the creation of a free non-governmental press where freedom of speech is guaranteed, the provision of equal opportunities (which assumes importance given the history of gender and religious discrimination in Iran), peaceful co-existence on the world stage which is promoted by the non-militarisation of society, the rejection of nepotism, and a degree of federalism where local interests may be observed.

5. Conclusions

Qābel's essay on *velāyat-e faqih* provides an alternative view to that of Ayatollahs Khomeini, Khāmenei, or for that matter Montazeri, because he simply rejected its applicability to modern Iranian politics. His views are important if only because the Iranian Shi'a seminary is so often viewed in a uniform manner that speaks with one voice; however, this debate has demonstrated that such an assumption is far from the truth. Indeed, Qābel's response is not so surprising given the tradition of political quietism among seminarians in Iran (although this quietism must be understood with the condition of "commanding the good"). Of course, it is possible to find discussions and refutations of *velāyat-e faqih* from secular sources, such as in the writings of Abdolkarim Soroush, called "the naughtiest of the children of the revolution . . . [who sought] to dynamite the Father's [Khomeini's] whole edifice by undermining the *religious* authority of the jurists" (Arjomand 2009, p. 88; on Soroush and secularity see also (Ghobadzadeh 2015, pp. 60–67)).

However, even in the seminaries, the conflict between the conflicting goals of a centralised state under the doctrine of *velāyat-e faqih* and a system of religious authority under *marja'iyat* which was not heavily concerned with politics has been a controversy of some substance ever since the early revolutionary days. Qābel alluded to this in his interviews, and he mentioned seven ayatollahs by name who had major differences of opinion with the doctrine.³ However, Qābel views, as mentioned, went a stage further than simply abstaining or seeking modification of the doctrine in that he made public his rejection of *velāyat-e faqih*. His refusal to endorse any form of *velāyat* reflects the thinking of a fully independent *mojtahed*, who by the mid-2000s had emerged from the shadow of his illustrious teacher, Grand Ayatollah Montazeri, and had the confidence to articulate this controversial perspective. The discussions in the text are brief, and much of it is not unique, as there are summaries of discussions made by Sālehi-Najafābādi, Montazeri and Kadivar, but the brevity made the text far more accessible to the non-seminarian. The irony here of course, is that Qābel claimed to be a man of the seminary, and yet he was championed as a hero of the people outside of the seminary. This was particularly the case with the emergence of the Green Movement in 2009, when Qābel was regularly interviewed by the press, and inevitably, he was asked his opinion about *velāyat-e faqih*. In the words of Eshkevari,

In recent years, Qābel has also been among the well-known opposition leaders of the Green Movement. On this topic too, he was successful and dignified. In

following Ayatollah Montazeri (his master and leader in jurisprudence, politics, piety and morality) with his particular form of bravery, he clearly and firmly criticised and battled the political power and tyranny of the ruler in relation to religion and the shariah from basically a jurisprudential and religious perspective. (Eshkevari 2012, p. 324)

In addition to informing readers about the state of the Iranian seminaries, and their many voices, Qābel's essay provides an excellent entry-point to examine the forces of religious secularity in modern Iran. Whilst the reformed 1989 version divorced the condition of *marja'iyat* from the doctrine, and thus in theory it might promote religious secularity, Qābel believed that the autocratic method of rule by Ayatollah Khāmenei had simply reinforced the state's use of religious structures and institutions to maintain political control.

Nevertheless, post 2006, Qābel was one of the few seminarians in Iran who was sufficiently brave to openly challenge the desirability of the doctrine of *velāyat-e faqih*, whether in its 1989 incarnation or in its original form in 1979. He even pointed out that during the discussions before the acceptance of the 1979 constitution, a version had been distributed in which there was absolutely no mention of the doctrine, and which had initially been accepted by those drafting the document. It was this draft constitution that Qābel supported, and he claimed in 2009:

If the people's claims are over and above those [in the Draft Constitution] I will not agree and support [them]. I will even oppose them. [But] my reference will be to the Draft Constitution which the founders of the Islamic Republic and the gentlemen of the Revolutionary Council had signed, like Shahid Beheshti, Mr Hāshemi Rafsanjāni and Mr Khāmenei, and Ayatollah Tāleqāni . . . It is clear that in the perspective of these gentlemen, the Islamic Republic even conforms to the model of the Draft Constitution. Of course, the name of the regime does not differ so much [but] *velāyat-e faqih* must be omitted, and we return to the draft. (Qābel 2009b, p. 235)

For Qābel, religious secularity was not just about reforming the political structure of *velāyat-e faqih*. He should not be regarded as a "traditional" quietist seminarian, for although he desired to divorce religion from political structures, this did not necessarily equate with stepping away from giving his opinion on the way that Iran was ruled. His insistence on his right to "command the good and forbid the evil" is indicative of this.

This article has primarily focused upon Qābel's view of *velāyat-e faqih* and its relationship with religious secularity, but fruitful areas of future research might concentrate on his idea of a religious society that is based on reason which is neither defined nor determined by religious definitions or scriptural reference. For Qābel, the faculty of reason is something independent (but bestowed by God) and is possessed by the vast majority of humans who have a duty to create a just and open society. This necessitates a review of scripture (the Qur'ān, *hadith* and narrations of the Imams) which should conform to collective human reason. Consequently, Qābel endorsed the rights of individuals as enshrined in the Universal Declaration of Human Rights. In so doing, he crossed many of the redlines that the Principlists in Iran had enshrined; he rejected the necessity to wear the hejab, opposed the separation of the sexes in educational institutes, advised Iranian youths not to accept state Islam but to "apostatise", and advocated gender equality (not just complementarity).

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Notes

- ¹ In a private email dated 3 April 2022, Mohsen Kadivar has asserted that to the best of his knowledge, no other seminarian has made this kind of argumentation.
- ² The Leader has the authority to supervise the three branches of power; He appoints the head of the judiciary, selects half of the Council of Guardians. He endorses the election of the President, can convene an Assembly to review the constitution, is

Commander on Chief of the Armed Forces, has the power to appoint and dismiss the heads of the radio and television. (Arjomand 2009, pp. 38–41).

- ³ These seven were Ayatollahs Shari'atmadari, Shabir-Khāqāni, Kho'i, Qommi, Sayyed Mohhammad Ruhāni, Sayyed Mohammad Shirāzi and Sādeq Ruhāni (Qābel 2010a, p. 253). He adds that there were many more such individuals.

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