

# Shiite “Political” Jurisprudence

From Jurist’s Abstinance of Power, to Seizing it





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From Jurist’s Abstinence of Power, to Seizing it

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# A Cross Section of a History The Shia Community in Lebanon

## تواریخُ مُتْقَاطَعَة حِصَّة الشیعة منها فی لبنان

UMAM Documentation and Research (UMAM D&R) is undertaking a history project in Lebanon entitled A Cross Section of a History. This project will create a space to explore and deepen understanding of the socio-political histories of specific communities within Lebanon - including the Shia, among others - to trace and explore their historical dynamics until today. Micro-level histories of individuals, families, and towns in Lebanon will be addressed, out of the belief that examination of these various histories will show the mosaic of personal and collective experiences of communities in Lebanon over history.

The title of the project "a cross section of a history" embodies this mission: by focusing on specific elements of Lebanon's collective, cacophonous history, we aim to illuminate unique and collective dynamics, identities, and transformations that help to explain the Lebanon we are seeing today. This project aims to directly engage with community members around Lebanon and in the diaspora, as well as academics and experts. The outputs of the project will be a research report and collections of archival material.



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## Introduction

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The Major Occultation, of the Twelfth Imam (Mohammad ibn al-hasan al-Mahdī, or al-Mahdi) in the 10th century AD left a significant void among the Twelver Shiites. The Major Occultation, which has persisted to this day according to Twelver Shiite belief, differs from the first occultation, the Minor Occultation, of Imam al-Mahdi which lasted 69 years and during which the Imam had specific deputies through whom the general Shiite population maintained communication with him.

In the Major Occultation, which began with the death of the Fourth Special Deputy, the Shiite community no longer had direct communication with their Imam nor through specific deputies. Instead, their affairs fell into the hands of the jurists who took on the responsibility of organizing their affairs: these jurists later became known as the general deputies.

For Twelver Shiites, the infallible Imam holds the guardianship in both religious and worldly matters, succeeding Prophet Muhammad by his appointment. His Imamate represents the project of the religious state with its organizational purposes. Consequently, the prolonged absence of the Twelfth Imam without specific deputies as intermediaries, opened the door for jurists to grapple with the dilemma of dealing with

an alternative authority that they considered "usurped since departing from its legitimate custodians (the Imams of the Ahl al-Bayt: members of the family of the Prophet Muhammad). This absence sparked a significant debate on this matter, particularly regarding the prerogatives of the absent Imam. Over time, this has led to a qualitative evolution in Shiite political jurisprudence theory based on textual sources, interpretations, and changing realities. As a result, various theories and perspectives emerged among these jurists, ranging from abstaining from positions of power to accommodating them. Lebanese Shiite jurists have played a significant role in this development and diversity at different stages; some produced unique theories in this field, while others reflected upon theories introduced by others.

The mentioned evolution of the juristic-theological character, the role of Lebanese jurists in it, the interconnection between jurisprudence and politics, and the repercussions of all this on Shiite societies in general and specifically on Lebanese society, all presented a problematic nature to this research. As for its temporal framework, this research encompasses the period from the beginning of the Greater Occultation of Imam Mahdi, the Twelfth Imam in Shiite belief, until the end of the twentieth century. Regarding its spatial framework, it primarily includes jurists within the geographical boundaries of Lebanon. Any discussion about jurists located outside Lebanon is related to the impact of their jurisprudential and political contributions on the Lebanese jurists during a period when the latter's jurisprudential production declined. This aspect is explored in Chapter Two, which focuses on two theories produced outside this geographical context and their jurisprudential influence on Shiite jurists in Lebanon.

This research aims to present to the widest possible readership, yet it encounters various inherent and incidental difficulties. The inherent challenges relate



to the research's specialization and its inclusion of concepts and specialized expressive language. To address this, it attempted to provide a concluding explanatory summary in simple language, along with accompanying footnotes and explanations within the research . As for the methodology employed in this study, it takes a historical approach that involves examining the subject, tracking its evolution, and studying its effects across different temporal stages. This approach relies on primary sources and later references composed in various fields, including jurisprudence, its principles, theology, biographies of individuals, political history, political jurisprudence, al-hadith, linguistic dictionaries, and others.

The research is divided into an introduction, a prelude, three chapters, and a conclusion. After linguistic and terminological definitions related to the title of political jurisprudence, the first chapter covers the development of Shiite political jurisprudence until the beginning of the nineteenth century. This development varied from legitimizing engagement with authority to the participation of the jurist within the authority. This is explored through three Lebanese figures who reflect different and evolving milestones in this field: Abu al-Fateh al-Karajki al-Tarabulsi, Muhammad bin Maki al-Jizzini, known as the First Martyr, and Ali bin al-Hussein bin Abdul Ali, known as Al-Muhaqiq al-Karaki.

The second chapter covers the developments of this jurisprudence from the beginning of the nineteenth century to the beginning of the twentieth century. It focuses on two new theories produced during this period by non-Lebanese jurists: Wilayat Al-Faqih (the absolute guardianship of the jurist) and the Mashrutiyyat theory (Constitutional Revolution of Iran). This chapter also examines the impact of the produced jurisprudential theories on the political jurisprudential reality among Lebanese Shiite jurists until the end of this period.

The third chapter covers the developments of this jurisprudence in the twentieth century, and elaborates on the theories and perspectives produced by Lebanese jurists. In addition, it delves into the concept of the guardianship of the jurist that was produced beyond Lebanese borders, considering its significant impact on the general Shiite reality, the effects of which are still evident to this day.

It is worth mentioning that this research pertains to the history and evolution of political jurisprudence in the sense of religious rulings derived from its legal evidence, linked to the management of societal affairs and the relationship with authority. It does not encompass the history and evolution of Shiite political thought in its broader sense, which may include a wide spectrum of non-jurisprudential theories.

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## Conclusion

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In conclusion, this research has examined the history of political jurisprudence and its various theories, starting from the beginning of the major occultation of Imam Mahdi according to Twelver Shiite belief, up until the end of the twentieth century. The study has also encompassed the roles of Shiite Lebanese jurists in this field and their impact on the Shiite reality in general, with a specific focus on the Lebanese Shiite context.

Regarding the first phase presented in the first chapter, al-Karajki reflected the image of the initial political jurisprudence in dealing with authority. This jurisprudence had matured under the guidance of his Iraqi mentors (Al-Mufid, Al-Sharif Al-Murtada, and Al-Tusi). This initial political jurisprudence corresponded to the stagnant approach in this matter, awaiting the appearance of the absent Imam. Al-Karajki adopted the stance of his mentors on the necessity of having authority, which he considered illegitimate and usurping the rights of the absent Imam. He believed in the need to engage with this authority to manage the people's interests, viewing it as a pragmatic approach to prevent harm and bring benefits without granting it legal legitimacy as authority.

As for the First Martyr, Muhammad Bin Makki al-Jizzini, who was distant from the seat of power, he expanded

the scope of the general jurisprudential representation of the absent Imam during his occultation. This was manifested through his representation of the Imam in the Friday prayer and by managing his share of the Khums (Muslims pay the Imam one-fifth of their acquired wealth from certain sources toward specified causes). These actions reflected the First Martyr's adoption of a political guardianship linked to the absent Imam. As for the investigator al-Karaki, he officially assumed this general guardianship for the jurist, becoming a partner in authority, managing its religious aspect alongside the temporal ruler. This gave a certain level of legitimacy to this authority, unlike the situation with al-Karajki.

The second chapter, covering the period from the beginning of the nineteenth century to the beginning of the twentieth century, presented two new theories produced during that era by non-Lebanese jurists in political jurisprudence: the Absolute Guardianship of the Jurist and the Conditional Guardianship. The Absolute Guardianship of the Jurist expanded the scope of the general guardianship of the jurist during the era of occultation to the extent that it granted the jurist guardianship in everything established for the infallible, except what was excluded by consensus, explicit text, or similar evidence. As for the Conditional Guardianship, it sought political partnership with the temporal ruler by having jurists in legislative authority and by separating powers. This chapter also discussed the reflections of these various theories in Shiite political jurisprudence among Lebanese jurists, including the theory of Conditional Guardianship. However, it does not delve into the theory of Absolute Guardianship, as it was not widely known even in its stronghold at that time.

As for the third chapter, it covered the chronological period throughout the entire twentieth century. It presented various theories produced during this time, with a focus and elaboration on the theories and perspectives generated by Lebanese jurists such as

Mohammad Mehdi Shamseddine, Mohammad Jawad Maghniyeh, and Mohammad Hussein Fadlallah. Additionally, it explored the theory of the Guardianship of the Jurist in its new Khomeinist formulation, considering its impact and reflections on the Lebanese Shiite reality. Wilayat Al-Faqīh (The Guardianship of the Jurist), which established an Islamic state outside Lebanon, succeeded in seizing power, representing the ultimate outcome of the politicization of the Shiite jurist. Indeed, the approaches of Shamseddine and Maghniyeh both represent a single theory: the elected Islamic government or the guardianship of the nation over itself, stemming from the authenticity of the nation. As for Fadlallah's approach, based on the authenticity of preserving the system and the nation's choice, it did not specify a particular form of governance. Rather, he believed that the crucial aspect was to embody the spiritual essence of Islam and work towards preserving the system.

The various theories in Shia political jurisprudence lead to a focus on the significant role of the changing temporal and spatial realities and their impact on the jurist's mindset. This includes their interpretations of texts, analyses, and conclusions in this regard. Consequently, the field remains open for the emergence of new theories over time. The roles played by Shiite Lebanese jurists in the development of this political jurisprudence indicate the significant potential within the Lebanese Shiite community in this regard. This reflects a natural position and its potential within the broader Shiite space.

In conclusion, this research hopes to have been able to contribute a drop to the ocean of human knowledge in general and Shiite political jurisprudence in particular, serving as a starting point for future research endeavors.