

# Being a Jurist as a Condition for the Islamic Ruler in the Sunni Political Jurisprudence

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## Abstract

The government and guardianship (Wilaya) have long been one of the most fundamental human societies issues. Prosperity, failure, dignity, and degradation of any society are directly affected by the power presiding over it. Therefore, universities and educational centers have long put the research, clarification, and the teaching of governing theories, principles, and sub-principles in their academic perspective. Both Shias and Sunnis accept guardianship and governance as a principle to a functioning society while disagreeing on the Islamic ruler's qualifying conditions. When theorizing the jurist's control (Wilaya of Faqih), Shia scholars solely assume their take on Islam for granted, almost irrespective of the Sunni perspective. Therefore, people may rightfully ask: 'what are the Sunnis scholarly and jurisprudential stance on the Islamic jurist's guardianship?' 'Is this specific to the Shia world and limited to Shia Jurisprudential (Fiqh) theorizations or Sunnis supporting it?' 'What are the privative and affirmative Sunni views for jurisprudence (Fiqaha) as a qualifying condition for the Islamic ruler?' and 'what are these views based?' 'What traits and requirements are necessary for the Islamic ruler from the Sunni scholarly perspective and whether or not it is possible to deduce the Islamic jurist's guardianship, as an exigent Islamic issue, from the Sunni-recognized Hadiths?' These are questions to which this article will seek to provide answers from the viewpoint of political jurisprudence.

**Keywords:** Islamic Ruler, Guardianship of the Islamic Jurist, Political Jurisprudence, Imamate, Sunni

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### Introduction

A Significant portion of the teachings of all monotheistic religions and schools of thought is dedicated to explaining state and government issues in human society. As the last monotheistic religion, Islam provides vast proportions of Islamic governing theories and related topics derived from the Holy Quran and prophetic traditions. Hadiths and narrations from the Prophet and the twelve imams are found in abundance.

The pursuit of common patterns in the field of political thought in the Islamic world, which creates ground for unity and convergence in the Muslim world, requires more fundamental and applied research; however, the significant presence of Islamic jurisprudence (Fiqh) and Islamic political thought in Muslims' social life.

The governance and Imamate of Islamic society and emerging socio-political issues are fully addressed in the Islamic teachings. According to Islamic society's need for new political thought views corresponding to time and place, extracting and presenting these views seem very important. This study aims to investigate the rule of jurist from the Sunni perspective.

There are different jurisprudential views among Islamic scholars about what Islamically legitimizes a state and what Islamically-based competencies the governor must-have. The qualification of being a jurist for the Islamic ruler is one on which most scholars agree; one which is mostly referred to as "Wilayat Al-faqih" or literally "The Guardianship of the Jurist."

Sunni scholars agreeing on the issue of the Guardianship of the Islamic Jurist include Ibn-Khaldun (Maliki), al-Mavard (Shafi'i), Abu-Yaala Hanbali, Mir Sayyed Sharif al-Jorjani (Shafi'i), Adhd-al-Din al-Eeji (Shafi'i), Ibn-Quddama (Hanbali), Abd-Al-Malik al-Juwayni (Shafi'i), al-Ghazzali (Ash'ari Shafi'i), Ibn Taymiyyah and Ibn Hazm (both Hanbali). They all believe that Wilāyat al-faqih is an exigent religious issue. Noticeably one generally, and rightly, presumes that theorizations of governance and similar judicial topics exceptionally fall within Shia Fiqh and thus ignored are Sunni views and opinions in this regard. As a result, questions to tackle in this research paper include: 'Is the theory and model of a ruling jurist particular to Shiism, or do Sunnis support it?' 'What is the respective Sunni jurisprudential and scientific position, and how, and on what basis, do they view it?' These are the questions we will be tackling in this paper.

## 1. Concept Definition

### 1.1. Fiqh (Jurisprudence) and Faqih (Jurist)

The word "Fiqh," literally meaning splitting and opening, has come to gain new and fresh senses while also being used in a broadway. Hence we have the word "Faqih," meaning a scholar, someone who splits and cleaves knowledge (Ibn Faris, n.d: 446).

The word "Fiqh" is used, meaning either of the two following senses:

- 1) Knowledge and understanding of religion in its entirety;
- 2) Knowledge of applied religious rules and regulations.

The first sense connotes a complete insight into the whole religion and everything sent from God as guidance for all humankind, including beliefs, ethics, and ordinances (in Individual, Social, and Political level).

The Holy Quran calls on Muslims to become jurists:

“Only a party from each group should march forth, leaving the rest to gain religious knowledge (and be jurists in religion) then enlighten their people when they return to them, so that they too may beware of evil”<sup>1</sup> (Al-Touba, 122).

In this verse, "Fiqh" is used in the same literal sense of deep and profound understanding, and "Be Jurists" collocates with religion. Thus the entirety of religious sciences, comprising of principles, sub-principles, and ethics, are referred to as "Tafaquh" and "Fiqaha." (Tabatabaei, 1970: 348).

As stated by the first sense of Fiqh, "Faqih" is someone having a deep insight into religious practices.

The second sense of "Fiqh" refers to the knowledge of applied Sharia laws inferred from the evidence. Accordingly, Muslims commonly practiced Fiqh, showing what rules they should follow and how they can assume the applied regulations (Ameli, 2000: 32).

The narrower and more specialized use of this word (in the first sense) dates back to the first half of the second century AH, i.e., during the lifetime of Imam Al-Baqir and Imam Al-Sadiq (a.s.). At the time, people most specialized in Sharia's applied rules were called "Faqih" (Koleini, 2008: 37).

We actually mean by "Fiqh" is the first sense, which is the knowledge possessed by anyone who has a comprehensive, profound awareness of the religion. Given that the Islamic society leader is supposed to govern according to Islamic laws, he must also be a Faqih in the second sense: deduce the social, political, and economic rules from the texts. In

1. «فَلَوْلَا نَفَرْنَا مِنْكُمْ كُلَّ فِرْقَةٍ مِنْهُمْ طَائِفَةٌ لِيَتَّقَهُوا فِي الدِّينِ وَيُنذِرُوا قَوْمَهُمْ إِذَا رَجَعُوا إِلَيْهِمْ لَعَلَّهُمْ يَحْذَرُونَ».

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addition to Fiqh and deductive abilities, the leader could also demonstrate a high level of prowess in all aspects of religion.

Contrary to the word "Mujtahid," "Faqih" (jurist) has come to gain several connotations through the history of deduction. It is an oft-used word in fatwa and rules deduction (Javadi Amuli, 2004: 136). Hence, in addition to adequate awareness of jurisprudence and the ability to make religious judgments, Islamic society's leader has a high-level knowledge of overall religious sciences. Imam Khomeini believed:

"In the eyes of a true jurist, the government is the practice of the entire Islamic jurisprudence in human life. The government represents the practical dimension, which is supposed to tackle all social, political, military, and cultural problems. Jurisprudence is a real and complete policy theory for the administration of people and society from the cradle to the grave" (Khomeini, 1993: 289).

### 2. Imamate and Leadership From the Sunni Perspective

Most Islamic denominations essentialize leadership in the administration of society, but many others never overtly reject it. After citing Ash'arites, Mu'tazilites and the followers of Ahlul Bait on why and how Imam should be appointed, Taftazani writes: "Najdats, a group of Kharijites and companions of Najdeh bin Al-Awr, did not believe the appointment of the Imam to be obligatory. "In a society where justice is already served, the appointment of Imam is redundant." We need it only when an oppressive and unjust power overcomes", says Abu Bakr Al-Asim, a Mu'tazilite theologian. Contrary to the way Abu Bakr Al-Asim viewed Imamate, the Mu'tazilite theologian, Hisham Al-Qutti, believed that the appointment of an Imam is obligatory only when a just power overcomes (Taftazani, 1989: 236).

Quoting "Najdat," Ibn Hazam Al-Andalusi says that there are no followers left of this cult (Ibn Hazm, 1988: 87).

The Mu'tazilite Ibn Abi Al-Hadid also states: All theologians consider the Imamate to be incumbent except what's narrated from Abu Bakr Al-Asim when he said to the companions: 'If justice and fairness rule over the people and no one violates the rights of others, then Imamate is not religiously incumbent. But later companions, justifying his words, argued that since it is impossible to manage a society without someone in charge, Imamate is incumbent, unless Al-Asim claims otherwise, which is far from likely (Ibn Abi al-Hadid, 1965: 308).

Most Sunni scholars do not believe the Imamate is a fundamental principle in Islam but considers secondary importance and only relevant

to individual Muslims' religious practices. Of course, there are Sunnis and followers of Ahlul Bait who believe that the Imamate is a principle in Islam so much so that Muhammad Reza Mozaffar writes: "There are opposition groups with whom we agree that the Imamate is a religious principle, including Qaadi Baydawi - in the Akhbar part of his book – as well as some commentators of his books, according to Sayyed Saeed Qadi" (Mozaffar, 1997: 4).

Aiming to bridge the Shia-Sunni gap on the principle of Imamah, the Mu'tazilite Ibn Abi Al-Hadīd quotes Imam Ali (a.s.) in Nahjul Balagha: "Incumbent upon you is to follow anyone whom, you will not be excused if you don't" (Nahj al-Balaghah, wisdom 156).<sup>2</sup>

He then writes: "The Imam is talking about himself, and both Shia and Sunni agree with his statement. On the one hand, we [Sunnis] believe he was a rightful Imam because he had been elected as the Imam by the people, rendering disobedience of him prohibited. Therefore, obligated Sunni individuals cannot make excuses that they were not aware. On the other hand, Shias believe that it is religiously incumbent to obey the Imam. Thus no one from both parties is justified in their ignorance of Ali's Imamah. [Shias] believe one's prayer and fasting are acceptable only when one has a good perception of the Imam whose position is as important as that of Muhammad (PBUH) and the All-Knowing Allah. There is no difference between our beliefs and theirs: anyone disbelieving in, and ignorant of, Ali's (a.s.) rightful position will, in the eyes of the companions, remain eternally in hell, without his prayers and fastings benefiting him. That's because it is a general principle that constitutes the foundation of Islam. However, the difference is that we [the Sunnis] don't call Imamah-deniers Kuffar (disbelievers), instead, we consider them dissolute, and rogue people Shi'a name them Kuffar. In other words, Shia and Sunni call Imamah-deniers different names while intending the same meaning" (Ibn Abi al-Hadid, 1965: 373).

In the contemporary Sunni-written book "Al-Khilafah Wa Al-Imamah" (Caliphate and Imamah), the writer brings up and criticizes Imamah as a religious principle. He says: "The Twelver Shias believe the Imamah to be a principle to Islam and the belief in it obligatory; one on which all Muslim's religious practices are based". They believe faith never occurs without Imamah being considered and committed to praying, fasting, paying zakat, and attending Hajj (Rayshahri, 1997: 126).

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٢. «عَلَيْكُمْ بِطَاعَةِ مَنْ لَا تُعْذَرُونَ بِجَهَالَتِهِ».

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The Sunni scholar, Al- Ghushchi, defines Imamate as such: Imamate is a doctrine that asserts general guardianship and presidency on religious and secular affairs for an Imam as the Prophet's successor<sup>3</sup> (Ghushchi, n.d:147). Sunnis popularly do not believe Imamate to be a spiritual principle rather a commandment to be practiced by obligated Muslims and a social and popular position, not a divine one. They believe that the Prophet never appointed a successor but left it to the Ummah to elect a leader to head a government for the people and by the people, executing Islamic laws.

The Sunni writer of "Ibtalu Nahjul Haqq," Fazl ibn Roozbehan Al-Khonji, citing from "Ihqaqul Haq," states:

“The Ash'arites and Mu'tazilites classify the Imamate as a non-obligatory, secondary belief, but only relevant in the applied rules of Islam”<sup>4</sup> (Shushtari, n.d: 294). That is to say, Imamate, in their view, is not a divinely-designated office, hence a non-principle, but preferably one which is decided by the people. In other words, the Ash'arites and Mu'tazilites do not believe that the Prophet was divinely-obligated to appoint an Imam; instead, he saw the Imamate as a collective duty for Muslim individuals, which can be deduced in Fiqh, not in Kalam (discourse). This Fiqhi approach to the Imamate stems from the fact that they break Imamate's issue into two parts of appointment and the office. The Asharites and Mu'tazilites view the Imamate as a social, regular, and nondivine office, one decided by the people or a council of elites.

Reporting on the idea given above, Ibn Khaldun briefly states: “Imamate is a public issue, left to the public to decide. Anyone they elect, will be the leader” (Ibn Khaldun, 1999: 196).

Thus, for most Ahlu Sunna Waljama'a, the Imamate is an entirely social and non-principle office whose religious *raison d'etre* as the head of the Muslim community is to implement divine laws govern the society. This ruling of the Ahlu Sunna somehow envisages an excellent place for people to choose the Imam, giving credit to every historical method used to appoint Muslim rulers, which has left no room for a comprehensive, definite, and guaranteed process establishing the Islamic leader.

History suggests that Ahlus Sunnah Wal Jamaah always found it religiously obligatory to concede to anyone taking power, no matter who

٣. «الامامة رئاسة عامة في امور الدين و الدنيا خلافة عن النبي (صلى الله عليه و آله وسلم)».

٤. «ان مبحث الامامة عند الاشاعرة ليس من اصول الديانات والعقائد بل هي عند الاشاعرة من الفروع المتعلقة بافعال المكلفين».

and how. Historically, caliphs taking over the Muslim community, however they did, have been given legitimacy by Sunnis. There are, of course, ways of choosing an Imam and ruler described in the works of renowned Sunni scholars:

- The texts directly quoting the Prophet;
- A group of people making an oath of allegiance to a particular person, e.g., the first Caliph;
- Appointment of the Caliph by the previous one, e.g., the second Caliph;
- Choosing the leader by a council of elites, e.g., the third Caliph;
- Establishing caliphate through violence and conquest. All the Umayyad, Marwanite, Abbasid, and the ottoman caliphs seized power in this way. They are all called "Caliphs of the Prophet" by Sunnis;
- If some person claims Imamate and takes control (Yazdi Motlagh, 2002: 64).

### **3. Traits and Conditions of the Islamic Ruler From the Perspective of Sunni Scholars**

This article could not allow enough room for all scholars' opinions from every Islamic sect regarding the Islamic ruler's traits and conditions. Therefore, to avoid leaving out any theory and view and avoid rhetoric, we will cite a distinguished Sunni scholar or jurist for each approach and perspective.

#### **3.1. Al-Maawardi**

The traits and conditions Al-Mawardi specify for the Islamic ruler is as follows. But someone who has the capacity and merits to lead must meet the following seven requirements:

- 1) Justice in all respects;
- 2) Enough knowledge of Sharia to deduce rulings from the word of God, e.g., the Holy Quran;
- 3) Health of the senses of vision, hearing, and tongue, through which he can communicate directly with people;
- 4) Health of the organs which enable him to move quickly and effectively;
- 5) Good judgment and power of decision-making to be able to govern the masses and resolve policy issues;
- 6) Courage and audacity enabling him to counter threats to the state sovereignty and fight the enemies;
- 7) Discordance from the clan of Quraysh. Textual evidence and the scholarly consensus is supporting this condition (Mawardi, 2002: 6).

#### **3.2. Al-Taftazani**

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On the qualifications of the Imam Al-Muslimin (leader of the Muslims), Mas'ud bin Omar Saad al-Din Al-Taftazani says:

“The Imam must be mature, Muslim, just, free, male, Mujtahid, brave, capable and competent in hearing, seeing, talking, and also to be Qurayshian”<sup>5</sup> (Taftazani, 1989: 271).

### 3.3. Fazlullah Ibn Roozbahan Al-Khonji

Clearing up the traits and conditions for the Imam, Amin Al-Din Abu al-Khair Fazlullah ibn Roozbahan Al-Khonji writes in his book titled Solukh Al-Muluk: Twelve are the conditions for the Imam: first, he has to be Qureyshian as the Prophet clearly said: “An Imam from Quraysh Second, he has to be Mujtahid so he can infer the Shari'a” (Khonji, 1988: 77).

### 3.4. Ibn Hazm al-Andalusi

Abu Mohammad Ali ibn Ahmad ibn Sa'id ibn Hazm Al-Qortabi Al-Andalusi, also known as Ibn Hazm, enumerates the traits and conditions of the Islamic ruler:

It is not permissible to hand the Imamate to people not meeting the following requirements:

Qureshi, [being Sayyid or descendants of the Prophet as interpretations suggest]; 2. Mature with the ability to distinguish between good and evil; 3. Male; 4. Muslim; 5. Resolute; 6. Mujtahid; 7. Pious; 8. Avoiding public sins (Ibn Hazm, 1988: 159).

He then continues: "In conclusion, any Islamic authority lacking even one of the listed conditions, loses legitimacy, must not be obeyed and does not deserve to lead."

He also offers four more recommended conditions for the leader:

- Able to figure out his own religious and political duties;
- Able to correctly perform all his religious duties;
- Avoid all significant sins;
- Not publicly commit minor sins (Ibn Hazm, 1988: 166).

And in the end, he says: “Summarizing all the traits into one sentence: the leader must implement the provisions of the Holy Qur'an and the traditions of the Prophet (PBUH), and this is worth all of the virtues” (ibid).

He also does not decree the leader to meet the ultimate limit of perfection as it is not required in the Quran and tradition (Ibn Hazm, 1988: 362).

### 3.5. Al-Qaadi Abu Ya'la

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٥. «و يشترط ان يكون (الامام) مكلفاً مسلماً عدلاً حراً ذكراً مجتهداً شجاعاً ذارياً و كفايه سمعياً بصيراً ناطقاً قرشياً».



In his book "Al-Ahkaam Al-Sultaniyya," Abu Ya'la writes: "But four conditions one must meet to qualify as an Imam:"

- Be Qureyshian;
- Possess virtues and values of a judge, including liberty, maturity, intellectuality, knowledgeability, justice, etc.;
- Independence in decision-making on war, politics and capable of serving justice without impunity;
- Be the best of people in knowledge and piety (Abu Yala, 1993: 20).

### 3.6. Abu Hamid Al-Ghazali

After touching on the conditions of Ijtihad in religious principles and sup-principles as well as justice and Qureyshian as mandatory conditions for the Imam, Abu Hamid Mohammed Al-Ghazali, the scholar, jurist and philosopher of the fifth century AH, says:

“Not only should a Muslim leader be an authority on the ancillaries of the religion, but he also needs expertise equivalent to a Mujtahid, as well as impartiality as he is supposed to safeguard and defend Islam. Descending from the Quraysh clan is also a condition” (Quraishi, 1995: 224).

### 3.7. Abdulmalik Al-Jowaini

In his book on Kalam and Osul (principles) of Islam titled "Al-Irshad," Abdulmalik bin Abdullah Al-Jowainī, the Shafi'i jurist, describes the traits of the Imam and the ruler of Islam as seven:

The conditions an Imam include:

- Commanding enough Ijtihad to be able to independently issue rulings on developments as they come up (It is famously a point of consensus among all scholars);
- Power to govern and maintain the public interests;
- Ability to arm the military and protect the borders;
- Compassion for the Ummah;
- Courage and ability to take action;
- We, the Shafi'I see descending from the clan of Quraysh as imperative, and clearly, he has to be free and Muslim. All religious scholars unanimously consent to the Imam's masculinity, though they generally differ on women acting as judges in circumstances where their testimony holds (Ibid. 226).

### 3.8. Ibn Taymiyyah

After clarifying that choosing the best candidate is the number one priority, the Hanbali jurist lays out in his book "Assiasiatu A-Shar'ia Fi Islah Al-Raa'ee wa A-Ra'eeyya" the conditions of strength, courage, trustworthiness (justice), and knowledgeability for the Islamic ruler.

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He then places more value on Mujtahid after recognizing Mujtahid and Muqallid (non-Mujtahid) for the Imam. He also prefers a cruel and robust government over a weak but meritorious one (Ibn Taymiyyah, 1960: 10).

#### 3.9. Azd Al-Din Al-Eiji and Mir Sayyid Sharif Al- Jurjani

In his book, "Al-Mawaqif fi elm al-kalam," Qaadi Azd al-Din Al-Eiji, the Shafei scholar of the eighth century AH (After Hijra) expresses his view on how and on what merits must choose the Islamic ruler. A generation after him, the Shafi'I scholar, Mir Sayyed Sharif Al-Jorjani, authored a book titled Sharhul Mawaqif, (A commentary on Mawaqif). We will be merging some excerpts of the two books into a single text, distinguishing Jurjani's words by parentheses:

In the second step, we will be discussing the merits of a [Islamic] leader. An overwhelming majority of jurists agree that the Imam (who deserves the Imamate's office) must be a jurist in principles and sub-principles as will task him to establish Islam's requirements (And Settle doubts through reasoning. He also needs to independently issue fatwas based on explicit statements in the texts or deduction. His most important duty is to safeguard and resolve conflicts and animosities, which would be impossible without Ijtihad). The Imam must rely on expertise to make war and peace, organize the military, and protect the borders. He must expertly deal with domestic affairs (with bravery and strength of heart). However, some scholars never held Imam to such standards since they believed no leader could possess all three traits (Of being Mujtahid, expert, and brave) because they cannot find such attributes (In one), ruler. The leader must demonstrate fairness in action, be wise and mature, male, and free (Eiji & Sharif al-Jorjani, n.d: 349).

#### 3.10. Ibn Khaldun

As a historian, jurist and a tremendous eighth century (AH) Muslim sociologist of the Maliki school, Abdul Rahman ibn Muhammad ibn Abi Bakr ibn Khaldun al-Hadrami Al- Andalus (920 - 1331 of AH) describes the merits of the Islamic ruler in his book "Al-Muqaddama."

"This office [of Imamate] requires four conditions: knowledge, justice, competence (merit), and the health of all senses and organs employed in judgments and religious practices. Scholars differ on the fifth condition of descendants from the clan of Quraysh. Knowledge is needed since the enforcement of divine laws requires the Caliph to be aware of the rules, and if he wasn't, it would be wrong to appoint him. And if he is not knowledgeable enough to be a Mujtahid, he has to be a

Muqallid. Taqleed (Being a Muqallid) is a deficiency which hinders the perfection in all merits” (Ibn Khaldun, 1999: 223).

The condition of Fiqaha (Being a Jurist) and Ijtihad (The Ability to Issue Fatwa) is also relevant in contemporary scholars' circles.

### **3.11. Al-Sheikh Mohammad Abu al-Zohra**

Abu al-Zohra writes: The ruler must be a Mujtahid and consult other Mujtahids (Abu al-Zohra, 1401: 182). Mohammad al-Mubarak writes: The head of state or the Imam of Muslims is the authority to adjust political developments and various changing social relations with general Islamic rules while allowing advice from other advisory board members. Therefore, the head of the Islamic government must have excelled in Islamic jurisprudence and its principles and the ability to apply them to developments and circumstances. In this time and age, all theology- and school-based governments choose leaders from their most well-informed religious intellectuals whose better and more profound perception of their theological schools helps them direct the government's domestic and foreign policies as accepted by their religious beliefs to realize their religious ideals (Mubarak, 1981:70).

### **3.12. Dr. Wahba Al-Zahili**

In his book "Al-Fiqh Al-Islami wa Adillatuhu," Dr. Wahba Al-Zahili states that an Islamic ruler must have: “The justice and wisdom that leads to Ijtihad (meaning the Caliph must meet the conditions of Ijtihad), be in good health of the senses and the limbs, have good judgment and prudence, courage and greatness, and finally, be from the clan of Quraysh” (Mutawalli, 1978: 212).

In response to why today's Ulama (scholars) legitimize non-mujtahid caliphs since jurisprudence and Ijtihad are conditions for a caliph, Wahba writes. Due to the challenges of finding a person meeting all the requirements, non-mujtahid caliphs are also authorized to lead. However, once the time comes for issuing a ruling and inferring from the Quran, Sunna, and analogy, they must go to the mujtahids (ibid).

### **3.13. Al-Sheikh Mahmood al-Shaloot**

Alshaloot writes: The people of knowledge, good judgment, and expertise choose Caliph (Shaloot, 1424: 568).

Of course, it is noteworthy that some Sunni writers have allowed for entirely different conditions for the Caliph, not having even mentioned Ijtihad and jurisprudence (Abu al-Zohra, 1401: 230). Nevertheless, some scholars accept the conditions of jurisprudence and Ijtihad for the ruler and the Imam of Muslims. Imam Al-Haramayn believes this condition to

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be a point of consensus among most of the Muslim scholars (Juwayni, 1432: 274).

### 3.14. Abdul Rahman Al-Jaziri

In his book on the Sunni schools of Hanafi, Shafi, Hanbali, and Maliki titled "Al-Fiqh ala al-Madhahib al-Arba'a," Abdul Rahman Al-Jaziri writes:

[All the Fuqaha (jurists) of the four legal schools] agree that the leader needs to be: Muslim; mature; free; male; Qurashi (Sayyid); scholar (Aalim); Mujtahid; brave; expert [a condition from which we can conclude that Aql (intellectuality) is also meant]; the health of sight, hearing, and speech (Al-Jaziri, 1998: 5, 416).

What we discussed to this point were the areas where on the Sunni Ulama (Scholars) widely agree. Yet among them, there are conditions they either disagree on or consider unnecessary: wisdom, physical strength, mindfulness, intelligence, eloquence, philomathy, unwillingness to physical pleasure, Qurashian (Being Sayyid), competence, compassion for the Islamic Ummah and health of the body organs, etc.

### 3.15. Abu Bakr Al-Baqelani

One condition for the Imam, Abu Bakr Al-Baqelani writes, is knowledgeability. Imam has to be competent enough to judge the Islamic society (Baqelani, 1993: 471).

### 3.16. Ibn Khaldun

According to Ibn Khaldun "An Imam needs to command a fair amount of knowledge as he would be unable to execute Islamic laws otherwise, hence wrong to appoint him. Having Ijtihad is also of paramount importance and lack of it, an imperfection on the part of the Imam" (Ibn Khaldun, 1999: 342).

### 3.17. Ibn Hazm

As stated by Ibn Hazm Al-Andulusi, Ijtihad and political skills are Mustahab (Recommended) qualifications for the Imam. Yet, he sees an Imam devoid of knowledge and other Imamate traits as Makruh (An Unrecommended Act) to appoint (Ibn Hazm, 1988: 116).

According to Qaadi Abdul Jabbar Al-Mu'tazili, "The Imamate has requirements that Imam needs to meet and accomplish or at least know the religious rulings of" (Abd al-Jabbar, 1965: 510).

### 3.18. Rashid al-Reza

Quoting A-Mawardi, Rashid al-Reza states in the first pages of his book "Succession," the right conditions for the Imam: the ability to judge in complete fairness; command sciences conducive to ijihad and judges need the ability to make fair judgments and command necessary

sciences," Rashid al-Reza" states, so a fortiori the Imam does too (Rashid Reza, 1996: 27).

### 3.19. Sayyed Qutb

Based on Sayyid Qutb's statements about caliphs, one can only conclude that the Caliph's job is to enforce the Islamic laws, which is impossible without him meeting the conditions of a ruler. That's why a caliph needs to be physically and mentally capable and have sufficient knowledge and the ability to make fair judgments. He is expected to lead people in the right path besides enforcing the Islamic laws, which cannot be done without knowledge piety. The head of an Islamic state, Qutb says, is obligated to recall people to Islam and guide them out of ignorance by revitalizing the principles and the real meaning of Islam for them (Qutb, 1991: 6).

As we explained in detail, most Sunni scholars consider the condition of Ijtihad and jurisprudence necessary for the Islamic ruler, with some of them even claiming it to be a matter of Ijma (consensus) scholars. Therefore, the Islamic Jurist theory's guardianship is not exclusive to Shiism but agreed upon by both Shias and Sunnis.

## Conclusion

According to the Sunni jurisprudence, Islamic rulers must meet a set of qualifications and conditions; being a Mujtahid, being fully versed in necessary sciences, and capable of making the right decisions. But some scholars believe that conditions such as justice and Ijtihad, are perfection terms (more than enough) and not necessary for the Imam. Others like Al-Mawardi think that the Imam had to descend from Quraish's clan is a point of consensus. However, Ibn Khaldun is said to have had second thoughts about it.

Noteworthy is that certain conditions, such as justice, are considered necessary for a ruler before an appointment. Otherwise, we might be dealing with a government remaining legit despite acting unjustly. We might even see people seizing power by force and still enjoying Islamically-mandated obedience, despite clear violations of justice and other Islamic laws.

The "Caliphate System" is the ideal form of the Sunni political system. The Sunni school of thought Legitimaizes all states after the Prophet Mohammad (PBUH), and defines the caliphate as the succession of the Prophet (PBUH) to protect the religion and govern the world, just as God appointed the Prophet (PBUH) to promote Islam and lead the

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Ummah. Therefore, the Caliph, as the Prophet's successor (PBUH), is responsible for carrying out the Prophet's religious and worldly duties. That is why the separation of religion and politics is never an option for the Sunnis; they regard them inextricably linked and a requirement to uphold the Sharia. However, despite the apparent correlation between religion and politics in Islam, Sunnis considered the Imamate and leadership a sub-principle and a secondary issue principle to Islam, not a guide.

Except for the Kharijites and a few others, such as Abu Bakr Al-Asam, most Sunni scholars agree that government and political system is religiously necessary. They argue that the people's religious and secular education is impossible without it, making oppression, chaos, and disruption of people's religious and social life challenging to prevent. Despite conceding the need for leadership and government as a spiritual necessity, many other Sunni scholars never consider Imamate rationally justified. They see human beings as incapable of making any decision on this issue. Instead, they believe that only Shari'a has the authority to determine who deserves people's delegation.

Sunnis treat Islamic ruler as imperative to a functioning Islamic society, but they see it jurisprudentially periphery and limited to the private space of obligated individuals.

Almost every cited qualification for the Islamic ruler is disputed among Sunni scholars. Such disagreements have at some points led scholars to ignore the ruler's deficiencies, enabling them to oust or depose an unjust caliph unanimously.

For the Ahlu Sunna, the Islamic ruler's office is a reasonable institution and something entirely worldly. That's why they have always failed to achieve unanimity. However, the Sunni Ulama as a whole would concede to any power, no matter whether or not they meet the conditions, while even treating the obedience of their authority as a "Fard" (Mandate) and dying without pledging allegiance to them, as "Moutul Jahillia" (A Death in Ignorance).

Ijtihad and justice are two qualifications that Sunni scholars do not judicially agree upon, yet all decide that both are rationally needed. Yet they never allowed for the necessary conditions when electing a leader while accepting a ruler's domination lacking justice.

There are justifications for these differences of opinion among Sunnis scholars. On the one hand, some Sunni interpreters and scholars believe that a leader already in power is 'the owner of the state' and a legitimate ruler, regardless of whether or not he meets an Islamic ruler's conditions.

On the other hand, a plurality of Sunni scholars (As Well as All Shia Scholars) believe that 'the owner of the state' is the one meeting all the conditions, despite not being in power. The latter Ulama even consider the obedience of a person lacking these conditions as going against the will of Allah and his Prophet, hence a sin. So we can conclude that the only cause of differences of opinion among Sunni scholars is the different interpretations they have of the Holy Quran and Hadith on the conditions of a legitimate ruler.

Many Sunni scholars do not think that superiority in science and morality is a condition for the Caliph. That's because they strictly see the Caliph's duties limited to enforcing laws, instating public order, and addressing people's needs. The condition of superiority in science and morality gets further out of sight as the scholars imagine that putting the Ulama in charge of interpreting the texts and inferring laws in cases of mistake and confusion on the ruler's part will solve the problem.

During past centuries, caliphs seized power by force without meeting a single condition for the Islamic ruler. Sunni scholars of the time all gave them legitimacy. They argued that overemphasis on those conditions could invalidate the installed leadership, and as a result, the Muslim society will collapse into disorder and chaos. However, if we ignore the constraints of knowledgeability, justice, and committing to the Sharia, even a publicly corrupt and ignorant caliph will be legitimate. Traditional Sunni theories always prioritized power over Wilaya (Authority of God), passing over the necessary conditions when it meant to question incumbency. As a result, the Muslims have historically been subject to authoritarianism and self-centered governance.

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