

The Existential Philosophy of the Assembly of Experts and Its Role in the Selection and Appointment of the Supreme Leader

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Abstract

The Assembly of Experts, in connection with the position and role of leadership in the Islamic Republic of Iran, holds significant importance. This assembly has three critical responsibilities: the selection, supervision, and potential dismissal of the Supreme Leader. Given its crucial duties related to leadership, it plays a decisive role in determining the destiny of the country. In this research, after examining the concept of leadership and its position within Iran's legal system, as well as theories regarding the selection of leadership, the study explores the Assembly of Experts and its functions concerning the institution of leadership. Subsequently, the existential philosophy and significance of this body in the selection and appointment of the Supreme Leader are thoroughly analyzed. The research methodology is descriptive-analytical, with data collection conducted through library-based methods. The aim of this study is to elucidate the issues related to the office of the Supreme Leader and the Assembly of Experts as outlined in the Iranian Constitution, based on various theories of appointment and selection. Additionally, it seeks to critically examine the actual mechanisms of the Assembly of Experts, its existential philosophy, and its role in the selection and appointment of the Supreme Leader.

Keywords: Leadership, Selection Theory, Appointment, Assembly of Experts.

1Introduction

Government is one of the most fundamental needs of humanity, the necessity of which is evident to all. Not only is individual life impossible for humans, but due to their intense needs, which require cooperation and collaboration with others, human beings are inherently social creatures with an innate inclination toward communal living [5]. Based on Islamic teachings and Quranic evidence, Islam establishes a system of

governance, and the existence of a government is essential for the implementation of Islamic laws [7]. This Islamic government is equally necessary during the presence of the Imams as well as during their occultation [6]. The formation of an Islamic government is impossible without the participation of the people. The role of the populace in establishing governance is equally critical during both the presence and occultation of the Prophet and the Imams [8]. In the Islamic government, and consequently in the Constitution, the position of the Supreme Leader holds two exalted statuses. On one hand, it is rooted in the jurisprudential approach of Shiite governance, occupying the position of "Wilayat al-Amr" (Guardianship of the Jurist) and the Imamate of the nation. On the other hand, according to the Constitution, it represents the highest official authority in the country [9]. The existential philosophy of the leadership institution in the Islamic Republic lies in entrusting the management of affairs to a qualified jurist who, through meticulous oversight of governmental actions and institutions, ensures the guidance of the system toward its core Islamic objectives [4]. The Assembly of Experts is an institution established after the founding of the Islamic Republic of Iran, as stipulated in the Constitution, to institutionalize the selection of a fully qualified jurist for leadership. Alongside electing the leader of the system, this body also maintains ongoing oversight [3]. The lofty status of this institution not only instills confidence in supporters of the Islamic Republic regarding its continuity but also causes despair among its adversaries [10]. Given the importance of the subject, this research first examines the position of the Supreme Leader within the Islamic Republic of Iran, followed by an exploration of the theories of appointment and selection in this context. Subsequently, the study analyzes and explains the role of the Assembly of Experts in law and its responsibilities concerning the leadership institution [2].

2The Supreme Leader in the Islamic Republic of Iran

The Supreme Leader holds the highest political and spiritual position in the Islamic Republic of Iran and bears numerous responsibilities [10]. He is the coordinator of the various national powers and the determinant of the general policies of the system [11]. Leadership in an Islamic society entails guiding the spiritual lives of the people and managing the state while ensuring that governmental institutions adhere to the correct implementation of Islamic laws [12]. For this reason, leadership in an Islamic government is entrusted to the "Guardian Jurist" (Wilayat al-Faqih), who is an expert and knowledgeable authority on Islamic matters [5]. The existential philosophy of the leadership institution in the Islamic Republic is to place the management of affairs in the hands of a qualified jurist who, through vigilant oversight of governmental actions and institutions, guarantees the system's adherence to its fundamental Islamic duties

[4]. Accordingly, based on Article 5 of the Constitution, during the occultation of His Eminence, the Awaited Imam (may Allah hasten his reappearance), the guardianship of the nation is entrusted to a just, pious, aware, courageous, capable, and prudent jurist. According to Article 107, this responsibility is assigned to such a jurist [9]. Thus, the legitimacy of governance in Islam and Iran originates from the Guardian Jurist (Nourouzi & Bagheri, 2012).

Principles Related to Leadership in the Constitution of the Islamic Republic of Iran :

- Article 2: The Islamic Republic
- Article 5: The Just and Pious Jurist's Guardianship
- Article 57: The Governing Powers in the Islamic Republic
- Article 60: The Executive Power
- Article 91: The Guardian Council
- Article 107: The Appointment of the Leader by the Assembly of Experts
- Article 109: Qualifications and Attributes of the Leader
- Article 110: Duties and Authorities of the Leader
- Article 111: Death, Resignation, or Dismissal of the Leader
- Article 113: The President of the Republic
- Article 131: Death, Resignation, or Dismissal of the President
- Article 142: The Assets of the Leader, President, and Officials
- Article 157: The Head of the Judiciary
- Article 175: Islamic Republic of Iran Broadcasting (IRIB)
- Article 176: The Supreme National Security Council
- Article 177: Constitutional Amendments [9]

.2.1 Duties and Authorities of the Supreme Leader
The topic of the Supreme Leader's authorities has been one of the most debated issues in recent years. However, the debate is not about whether the Supreme Leader should have authority; rather, the focus is on the scope of these authorities. From a jurisprudential perspective, three types of authority are attributed to the Supreme Leader. These jurisprudential perspectives on the Leader's authorities are outlined below.[5]

Guardianship in Issuing Fatwas :

This refers to the authority or obligation of a qualified jurist (faqih) to derive and extract Islamic rulings and address issues relevant to the people from religious sources. The jurist then articulates his jurisprudential interpretation in the form of a fatwa, which the followers (muqallids) adopt as a guideline for their actions.

Guardianship in Judiciary :

This means that a fully qualified jurist is recognized as a competent authority for resolving disputes and addressing conflicts. He can preside over judicial matters, adjudicate claims, and settle legal disagreements.

Guardianship in Governance :

Guardianship in an Islamic government entails the comprehensive leadership and management of society, general guidance of the public, and the implementation of divine laws. The legitimacy of governance stems from the principle of Wilayat al-Faqih (Guardianship of the Jurist). Key aspects of this guardianship include: the assumption of all systemic responsibilities by the Guardian Jurist, the determination of the system's interests, the issuance of secondary rulings in accordance with those interests, the supremacy and oversight of leadership over other branches of power, and the possession of extensive executive and judicial authorities, among other legal and jurisprudential implications.[5]

Article 110 of the Constitution of the Islamic Republic of Iran outlines the duties and authorities of the Supreme Leader as follows :

.1 Determining the general policies of the Islamic Republic of Iran after consultation with the Expediency Discernment Council .

.2 Supervising the proper implementation of the general policies of the system .

.3 Issuing orders for referendums .

.4 Commanding the entire armed forces .

.5 Declaring war and peace and mobilizing forces .

.6 Appointing, dismissing, and accepting the resignation of :

a. Members of the Guardian Council .

b. The head of the judiciary .

c. The president of the Islamic Republic of Iran Broadcasting (IRIB) .

d. The chief of the Joint Staff of the Armed Forces .

e. The commander-in-chief of the Islamic Revolutionary Guard Corps (IRGC) .

f. The senior commanders of the military and law enforcement forces .

.7 Resolving disputes and coordinating the relations among the three branches of government .

.8 Addressing critical challenges facing the system that cannot be resolved through ordinary means, via the Expediency Discernment Council .

.9 Signing the presidential decree following the election by the people. The eligibility of presidential candidates must be confirmed by the Guardian Council prior to the elections, and during the first term, it must also be approved by the Supreme Leader .

.10 Removing the president if, in consideration of national interests, the Supreme Leader deems it

necessary, following a ruling by the Supreme Court regarding the president's violation of legal duties or a vote of no confidence by the Islamic Consultative Assembly (Majlis) based on Article 89

.11Granting amnesty or reducing sentences of convicts within the framework of Islamic principles, upon the recommendation of the head of the judiciary .

The Supreme Leader may delegate some of his duties and authorities to others.[9]

.2-2Qualifications and Characteristics of the Supreme Leader

Undoubtedly, certain qualifications are required to assume responsibility. The greater the responsibility, the more significant these qualifications become. It is evident that the leadership of the Islamic community must be entrusted to an exceptional individual who serves as a role model in terms of knowledge of Islam, commitment to duties, and adherence to obligations—whether individual, political, familial, or social. The late Martyr Beheshti summarized the qualifications for leadership as expertise in jurisprudence (fiqh), justice, management, awareness, and understanding of contemporary issues. The criterion for leadership in Islam includes belief in Islam as both a faith and a way of life, a comprehensive worldview, and a historical ideology. It also encompasses responsibility, accountability, social insight, awareness of current affairs, power, prudence, management skills, and adherence to divine, ethical, and social responsibilities. Martyr Beheshti believed that there is no significant difference between Shia and Sunni views on the qualifications for leadership, except in the matter of jurisprudential expertise .[8]

According to Article 109of the Constitution, the qualifications and characteristics of the Supreme Leader are as follows :

.1The necessary scholarly competence to issue fatwas in various fields of jurisprudence .

.2Justice and piety required for leading the Islamic community .

.3Correct political and social insight, prudence, courage, management skills, and sufficient power for leadership .

In cases where multiple individuals meet the above criteria, preference is given to the person with stronger jurisprudential and political insight .[9]

.3Theories Regarding the Appointment of the Supreme Leader

To examine the basis of the Assembly of Experts' function, it is first necessary to clarify the source of the Supreme Leader's legitimacy. Does his legitimacy stem from above—as a form of appointment? In other words, just as God Almighty appointed Prophet Muhammad (peace be upon him and his family), and the Prophet, by divine command, appointed the

infallible Imams (peace be upon them), have the infallible Imams also appointed jurists in general during the period of occultation? Or does legitimacy come from below, as a form of selection? In response to this question, two theories—appointment and election—have been proposed, which will be examined in detail below .[12]

.1-3The Theory of Appointment

The theory of appointment, sometimes referred to as the theory of direct divine legitimacy, posits that the sole determinant of legitimacy for guardianship is God Almighty, who intervenes through the appointment of the Prophet (peace be upon him), the infallible Imams (peace be upon them), and jurists during the occultation, either through the statements of the infallibles or otherwise. In this framework, there is no role for public participation, even if delegated by divine authority [12]. According to this theory, God, as the owner of the world and humanity and the one who holds guardianship over all, has granted legitimacy and authority to His prophets, then to the infallible Imams (peace be upon them), and subsequently, during the occultation, to just jurists. Thus, during the occultation, learned and pious jurists have been appointed by the Imams to assume the responsibilities of guardianship and governance. This appointment is divine, and the people play no role in its legitimacy, just as they had no role in legitimizing the guardianship of Prophet Muhammad (peace be upon him) or the infallible Imams (peace be upon them) .

In this theory, appointment means that based on textual and rational evidence, in the era of occultation, a qualified jurist is appointed by the divine legislator to three roles: issuing fatwas, adjudicating disputes, and exercising political guardianship. Just as people do not elect a jurist to act as their representative in deriving fatwas or interpreting judicial rulings, similarly, in the context of political guardianship, the jurist is not chosen by the people as their representative. Therefore, according to this theory, the jurist is the deputy of the infallible Imam and thus possesses authority in issuing fatwas, adjudicating disputes, and political leadership within society .[5]

This theory asserts that the appointment of a fully qualified jurist is a general appointment. Since conflicts may arise among jurists in exercising guardianship under such a general appointment, it is established that if one jurist assumes leadership and governance, others are not permitted to interfere. Hence, it is stated that if a competent individual possessing both jurisprudential knowledge and justice arises and establishes a government, he holds the same guardianship that Prophet Muhammad (peace be upon him) exercised in managing society, and it is incumbent upon all people to obey him .[2]

Under the theory of appointment, the role of the Assembly of Experts is essentially to testify and introduce the leader. That is, it is assumed that at any given time, a jurist best suited to lead the Islamic

society has been appointed by the Imam of the Age (peace be upon him), but the people are unaware of his identity. To identify the jurist-guardian, reliance on expert testimony becomes necessary, based on religious evidence and rational considerations. Rational judgment forms the foundation of social life in all aspects of human existence because no individual is knowledgeable in all areas of life and must necessarily rely on others in some domains .[2] Support for the theory of appointment can be drawn from the Constitution. For instance :

-In the preamble of the Constitution, regarding the Guardianship of the Jurist, it states that based on the principle of continuous guardianship and leadership, the Constitution facilitates the realization of the leadership of a fully qualified jurist who is "recognized" by the people as their leader. The use of the term "recognized" instead of "elected" reflects the acceptance of the appointment framework. Other phrases, such as preparing the groundwork for the realization of leadership and continuous guardianship, are also more compatible with the theory of appointment.

-Paragraph Five of Article Two of the Constitution refers to "continuous Imamate and leadership and its role in the continuity of the Islamic Revolution." The juxtaposition of the terms "continuous leadership" and "Imamate" reflects an acceptance of the basis of appointment .

-The use of the term "Imamate" in Article Fifty-Seven also indicates appointment, as the concept of Imamate in Shi'i tradition has historically been associated with divine appointment .

-The use of the term "guardianship" (Wilayat) instead of "agency" (Wakalat) in principles such as the Fifth and Fifty-Seventh Articles demonstrates that the type of governance is one of guardianship rather than agency or election .

-In Article Six, the election of the President, members of the Parliament, and city council members is mentioned, but there is no reference to the election of the Supreme Leader. Therefore, the implication of this principle aligns with the theory of appointment; otherwise, it would have been explicitly stated, especially given that the position and rank of the Supreme Leader are higher than that of the President .

-The content of Article One Hundred and Eleven, which assigns the responsibility of determining the Leader's inability to perform duties or lack of qualifications to the Assembly of Experts, supports the theory of appointment .[6]

.2-3The Theory of Election

This theory, primarily expressed after the establishment of the Islamic Republic of Iran, is the most significant theory opposing the theory of appointment. It posits that during the presence of the infallible Imams (peace be upon them), they

themselves held authority and leadership, and any government by others was considered illegitimate and tantamount to tyranny. However, the key point is that during the occultation, the infallible Imams (peace be upon them) did not appoint jurists to the position of guardianship. Instead, they outlined the qualifications and characteristics required for assuming societal leadership. It is the people who, based on these criteria—such as sufficient intellect, adherence to Islam and faith, justice, awareness of Islamic principles (referred to as jurisprudential expertise), capability, sound management skills, masculinity, noble lineage, and freedom from undesirable traits like stinginess, greed, avarice, and hypocrisy—elect their leader and confer legitimacy upon him. In essence, under this theory, legitimacy acquires a dual character, or what might be termed a divine-popular dimension .[14]

The Main Feature of the Election Theory

The main feature of the election theory is that no delegation of authority has occurred at the level of principle. What exists is the designation of fully qualified jurists as candidates for guardianship by the infallible Imam (peace be upon him), followed by the selection of the guardian by the people. The authority of the ruler and the Guardian Jurist is delegated by the people. The logical consequence of this delegation is twofold: first, the scope of authority can be expanded or restricted during the delegation process; second, the temporary nature of the leadership period becomes possible, with the duration being determined by the people [6]. In other words, the Guardian Jurist is not appointed by the divine legislator but rather, the legislator has obligated the people to elect a just and capable jurist as their leader. After being elected by the people, he gains guardianship and is authorized to manage societal affairs and assume leadership [15]. Thus, according to this theory, the candidates eligible for the position of the Guardian Jurist, possessing the general qualifications, are designated by the divine legislator, but it is the people who choose one as their representative through their own selection .[2]

Below are examples that can serve as legal support for the basis of election (laws supporting the theory of election in determining the leader):

.1Preamble of the Constitution (The Method of Governance in Islam)

The Constitution guarantees the rejection of all forms of intellectual and social despotism and economic monopoly, striving to break away from authoritarian systems and entrust the fate of the people into their own hands... Since the goal of governance is to foster human growth toward a divine system, this can only be achieved through active and widespread participation of all societal elements in the transformation of society. In light of this direction, the Constitution provides the groundwork for such participation in all stages of political decision-making and in decisions that shape the destiny of society for

all individuals. The following two interpretations in the above statement imply the concept of election :
-Entrusting the fate of the people to themselves .
-Active and widespread participation of all societal elements in all stages of political decision-making .[6]

.2Article 56of the Constitution (The People's Right to Sovereignty)

"Sovereignty over the world and humanity belongs to God, and He has made humanity sovereign over its own social destiny. No one can deprive humanity of this divine right or subordinate it to the interests of individuals or specific groups. The nation exercises this divine-given right through the mechanisms outlined in subsequent principles ".

According to this principle, which is the clearest among all constitutional principles regarding the basis of election, the legitimacy of sovereignty and governance originates from God. However, God has entrusted humanity with sovereignty over its own destiny, and the nation exercises this divine right through the mechanisms outlined in other principles of the Constitution. Thus, the Guardian Jurist also receives his authority from God through the mediation of the people, making him accountable to them .[9]

.3Article 107of the Constitution

"After the grand source of emulation and leader of the global Islamic revolution ... the selection of the Leader is entrusted to the Experts elected by the people. The Assembly of Experts reviews and consults on all jurists who meet the qualifications outlined in Articles Five and One Hundred and Nine. If they determine one of them to be more knowledgeable in jurisprudence and legal issues as well as political matters ... they elect him as the Leader. Otherwise, they select and introduce one of them as the Leader. The Leader selected by the Experts will assume the responsibility of guardianship over affairs ".

The revised Article 107clearly leans toward the basis of election compared to the previous version. In the original article, the term "election" was not used even once, whereas after the revision, phrases like "election of the Leader" and "elected Leader" are explicitly mentioned. This shift, considering that the differences between terms like "designation," "identification," "election," and "acceptance" were carefully considered during the constitutional review sessions, further underscores the inclination toward the concept of election .[4]

.4Article 177of the Constitution

This article, which pertains to the revision of the Constitution, states: "The resolutions of the Council must, after approval and endorsement by the Supreme Leader, be submitted to a public referendum and gain the approval of an absolute majority of participants." Although this principle does not pertain to the selection of the Leader, it aligns more closely with the concept of election because it makes the legitimacy of

constitutional amendments contingent upon the approval of the majority of the people after being endorsed by the Leader. In other words, the final legitimacy of constitutional revisions is entrusted to the people rather than the Guardian Jurist .[9]

Ultimately, it can be said that although the members of the Assembly of Experts at the time of drafting the Constitution were more influenced by the theory of appointment and considered it more accurate and comprehensive than the theory of election, giving it preference and priority, factors such as greater efficiency, higher feasibility, and better alignment with republican systems led them to draft the principles related to the designation of the Guardian Jurist in a way that aligns more closely with the theory of election rather than appointment. Therefore, it must be acknowledged that the Constitution aligns with both theories of appointment and election but appears to correspond more with the theory of election .[2]

.4The Assembly of Experts

The Assembly of Experts is one of the fundamental and sensitive institutions of the Islamic Republic of Iran, entrusted with critical responsibilities under the Constitution. The Assembly, which identifies and selects the Leader, is itself elected by the people. In essence, the people indirectly elect the Leader through the intermediary of the Assembly of Experts and maintain oversight and awareness of their performance [1]. Given that this body is called the "Assembly of Experts," there is a need for a proper understanding of the meaning of "expert." Qavami explains :

"Expert" in linguistic terms means gaining knowledge of something through experience and delving deeply into its essence and reality. The term "al-Khabir" (the expert), the plural of which is "Khobara," refers to those who possess expertise, experience, and mastery in a particular subject. Based on this, "Majlis al-Khobara" means the Council of Experts and Specialists. Therefore, the Assembly of Experts refers to the council of knowledgeable individuals and experts with experience and specialization in the matter of leadership. The term "Majlis al-Khubara" is more accurate in Arabic terminology. The Council of Experts signifies specialists and experienced individuals in the field of leadership. In jurisprudence, the concept of "experts" (specialists) is also discussed as one of the methods for establishing proofs in various fields of jurisprudence, such as ijtihad (jurisprudential reasoning), taqlid (emulation), purity, prayer, fasting, pilgrimage, trade, marriage, retribution, and blood money .[11]

Muharrami describes the Assembly of Experts as a product of the Islamic Revolution :

"With the success of the Islamic Revolution in 1979 and the establishment of the Islamic Republic system, two assemblies of experts were formed. One was the 'Assembly of Experts for the Drafting of the Constitution,' which encompassed the overall

structure, ideals, beliefs, and convictions of the newly established government. The second assembly, known as the 'Assembly of Experts for Leadership,' is responsible for selecting the Leader and overseeing matters related to leadership. The institution of the Assembly of Experts, like the Islamic Consultative Assembly, the Guardian Council, and others, is an independent and fundamental body whose responsibilities are defined in the principles related to leadership ".[13]

Based on this, the Assembly of Experts has a dual role. On one hand, it is connected to the people, and on the other, it is linked to the Leader.

.5The Responsibilities of the Assembly of Experts in Relation to Leadership

The Assembly of Experts is an institution that, according to the Constitution, has three critical responsibilities regarding the leadership of the system: "selection," "removal," and "oversight".

.1-5Selection of the Leader

In the presence of the infallible Imams, leadership is determined based on "divine designation" (nas). This designation identifies the qualified individual for guardianship, and thereafter, the people are obligated to pledge allegiance to him and facilitate the establishment of his governance. However, in the era of occultation, where no explicit divine designation exists for leadership, the leader is chosen through "popular election." Allameh Tabatabai writes in this regard: After the Prophet Muhammad, the Muslim community viewed the appointment of a successor as being determined by the "election of Muslims," while Shiites believed that the successor was explicitly designated by God and the Prophet, with the Twelve Imams being appointed. Nevertheless, there is no doubt that in the era of the Imam's occultation and in the present age, the responsibility for Islamic governance lies with "Muslims," who must designate the leader of society based on the Quran and the example (sirah) of the Prophet. Based on the theory of the Guardianship of the Jurist (Wilayat al-Faqih), since the appointment of jurists for guardianship is "general" and does not specify any particular individual, the most qualified person for leadership must be selected through a process of popular election .[7]

After this selection and the determination of the "elected guardian," other jurists bear no responsibility in governing the state, and this duty is removed from them. Since their interference in the realm of leadership would conflict with the authority of the ruler, such interference cannot be legitimate .[7]

The selection of the leader in Iran, like in many countries, occurs in two stages: In the first stage, the people vote for trusted experts, and in the second stage, the representatives of the people select the most qualified jurist for leadership. Many scholars consider the two-stage electoral process for selecting the leader to be more appropriate, as they argue that not only do

representatives deliberate and make decisions in an environment free from emotionalism and propaganda, but historical experience also shows that when someone ascends to power through direct majority voting, they are more prone to misuse their authority and steer the country toward dictatorship .[9]

This method represents the most reasonable approach for selecting a leader. In many election-based systems, individuals who meet basic criteria such as "age," "citizenship," and "residency" can run for the highest executive office, and these qualifications are easily verifiable by election authorities. However, in the Islamic system, the leader must possess high scholarly qualifications, moral integrity, and managerial competence. Just as one cannot rely solely on a public vote to select a skilled engineer or doctor and must consult experts in those fields, similarly, in selecting a "just and pious jurist, aware of the times, courageous, capable, and prudent," it is necessary to identify the most qualified candidate among eligible individuals through consultation with experts. Even in cases where direct public elections could suffice for this selection, a specialized group is still needed to make decisions regarding the "resignation" or "oversight" of the leader. The Experts, as elected representatives of the people, play a crucial role: their "vote" fulfills the function of "public allegiance," and while allegiance is not the "origin of guardianship" stemming from divine delegation, the "administration of Muslim affairs" depends on it. Without the majority's support, power cannot be assumed: A fully qualified jurist possesses guardianship in all its forms, but the administration of Muslim affairs and the formation of government depend on the "votes of the Muslim majority," as mentioned in the Constitution and historically referred to as the "pledge of allegiance" to the leader of Muslims .[9]

In this analysis, the election of the Experts plays a fundamental role in both "selecting the leader" and "accepting the leader." The first aspect involves the "expert opinion" of a knowledgeable group, which has an "informative" nature in identifying the qualified individual for leadership. The second aspect constitutes a "commitment and covenant" between the representatives of the people and the leader, akin to an oath of allegiance, which has a "declarative" nature .

The Constitution assigns the task of determining the leader to the Assembly of Experts. Article 107 states : "After the supreme source of emulation and the great leader of the global Islamic revolution, the founder of the Islamic Republic of Iran, His Eminence Ayatollah Khomeini (may his noble soul be blessed), who was recognized and accepted by an overwhelming majority of the people as the Marja' (source of emulation) and leader, the selection of the leader is entrusted to the Experts elected by the people".

Additionally, the criteria for selecting the leader by the Assembly of Experts are outlined in Article :107

"The Assembly of Experts reviews and consults on all qualified jurists mentioned in Articles Five and One Hundred and Nine. If they determine one of them to be more knowledgeable in jurisprudence and legal issues, political and social matters, or possessing general acceptance or excelling in one of the attributes mentioned in Article One Hundred and Nine, they elect him as the leader. Otherwise, they select and introduce one of them as the leader. The elected leader of the Experts will assume the guardianship of affairs and all associated responsibilities [4]."

To implement this principle and identify the conditions outlined in Articles Five and One Hundred and Nine of the Constitution, a commission consisting of eleven principal members and five alternate members is formed within the Assembly of Experts. The primary responsibility of this commission is to investigate all matters related to the qualifications of potential leaders, the subjects covered in the aforementioned articles, and to present the findings to the presiding board for review by the Assembly of Experts [10]. According to Article 109 of the Constitution, "if there are multiple individuals qualified for leadership, the one with stronger jurisprudential and political insight takes precedence." Therefore, in its second term during the years 1990 and 1992, the Assembly of Experts approved provisions to define and implement this constitutional principle. Based on these resolutions,

"social insight" refers to understanding Islamic society and other relevant societies in terms of customs, traditions, characteristics, prevailing policies, crises, and other ongoing matters that influence decision-making in managing societal affairs. "Political insight" refers to knowledge and awareness of the root causes of events and the ability to formulate appropriate policies in each case and context. The condition of jurisprudential expertise has been interpreted as the necessary scholarly competence to issue fatwas in various fields of jurisprudence. Additionally, the Experts have defined the condition of "capability" as the mental and physical ability to manage an Islamic society, believing that the two other conditions—courage and management—are independent concepts [10].

If one jurist is more knowledgeable in governmental jurisprudence (jurisprudential rulings related to politics and governance) and another is more

knowledgeable in other areas of jurisprudence, the former takes precedence. The Experts' justification for this resolution is rooted in Article 107 of the Constitution, which states that if a jurist excels in one of the attributes mentioned in Article 109, he shall be selected as the leader. However, if one jurist is more knowledgeable in jurisprudential matters (governmental jurisprudence or all jurisprudential matters) and the other has greater political insight, the latter takes precedence. This prioritization appears to be based on Article 109 of the Constitution, which states that in cases of multiple qualified candidates, the jurist with stronger jurisprudential and political insight takes precedence [10]. If one jurist has superior political or jurisprudential insight and the other demonstrates greater courage, capability, or management, the jurist with stronger political or jurisprudential insight takes precedence. According to these resolutions, in cases of multiple qualified jurists, precedence is given to the one with stronger political insight or greater expertise in governmental jurisprudence. A jurist who is more knowledgeable in all areas of

ROW	First Jurist	Second Jurist	Precedence	Resolutions of the Experts Assembly
1	More politically astute or stronger jurist	Greater courage, management skills, and capability	First Jurist	Article 6, Resolution 1371/11/11
2	More knowledgeable in governmental jurisprudence	More knowledgeable in other fields of jurisprudence	First Jurist	Article 6, Resolution 1371/11/11
3	More knowledgeable in jurisprudence (governmental or all areas of jurisprudence)	Greater political insight	Second Jurist	Article 6, Resolution 1371/11/11
4	More knowledgeable in governmental jurisprudence	Greater political insight	Second Jurist	Article 6, Resolution 1371/11/11
5	More knowledgeable in both governmental and non-governmental jurisprudence	Braver	Second Jurist	Article 6, Resolution 1371/11/11
6	More knowledgeable in non-governmental jurisprudence	Braver	Second Jurist	Article 6, Resolution 1371/11/11
7	More knowledgeable in all fields of jurisprudence (including governance only)	Greater capability	Second Jurist	Article 6, Resolution 1371/11/11
8	More knowledgeable in non-governmental jurisprudence	Greater capability	Second Jurist	Article 14, Resolution 1371/11/11
9	More knowledgeable in governmental jurisprudence	Greater capability or management skills	First Jurist	Resolution 18-18, 1371/11/11
10	More knowledgeable in all fields of jurisprudence	Better management skills	First Jurist	Article 14, Resolution 1371/11/11
11	More knowledgeable in all fields of jurisprudence	More pious	First Jurist	Article 14, Resolution 1371/11/11
12	More pious in the position of managing Islamic society	More pious in other aspects of Islamic society	First Jurist	Article 14, Resolution 1371/11/11
13	More knowledgeable in governmental jurisprudence	Greater social insight	Second Jurist	Article 14, Resolution 1371/11/11
14	More knowledgeable in non-governmental jurisprudence	Braver	Second Jurist	Article 14, Resolution 1371/11/11
15	More knowledgeable in non-governmental jurisprudence	Greater capability	Second Jurist	Article 14, Resolution 1371/11/12

jurisprudence or governmental jurisprudence or has stronger political insight takes precedence over one with greater courage, management skills, or capability. However, if one jurist is solely more knowledgeable in non-governmental jurisprudence and the other is braver or possesses greater capability and management skills, the latter takes precedence. Similarly, a jurist who is more pious in managing society takes precedence over one who is pious in other respects.[10]

Table 1: Cases of Multiple Qualified Jurists for Leadership[10]

.2-5Removal of the Leader

The "continuity of leadership" under the guardianship of the ruler depends on the "continued competence and qualification" of the leader. If any of the necessary conditions for leadership are lost, its legitimacy ceases to exist. Some Islamic sects believe that these conditions are only required at the outset, and after the establishment of guardianship, no factor such as corruption or injustice can undermine the legitimacy of the ruler, nor can it be used to dissolve the contract of caliphate or imamate and remove the ruler from power. However, the Shiite perspective insists that even the slightest deviation results in the loss of the leadership position, necessitating the removal of the leader: "If a jurist tells a single lie or takes a single step contrary to justice, he has no guardianship [7]." Any intellectual or practical deviation automatically disqualifies the individual, and before the people vote on his incompetence, he is already considered removed. Of course, the people must also take back authority from him .[7]

The Constitution anticipates the removal of the leader in three scenarios :

- 1 .Inability to perform the duties of leadership ;
- 2 .Loss of one of the qualifications for leadership ;
- 3 .Discovery that the leader lacked one of the qualifications from the beginning .

In each of these cases, the Constitution assigns the responsibility of determining and deciding on the matter to the Assembly of Experts. Article 111 states : "If the leader becomes unable to perform his legal duties, or if he loses one of the qualifications mentioned in Articles Five and One Hundred and Nine, or if it becomes known that he lacked some of these qualifications from the outset, he will be removed from his position. The determination of this matter rests with the Experts mentioned in Article One Hundred and Eight ".

To implement this principle, the Assembly of Experts has a commission consisting of eleven principal members and five alternate members. Close relatives by blood or marriage of the leader cannot serve as members of this commission. This commission is responsible for gathering the necessary information regarding this principle and examining the validity of the reports received. If two-thirds of the members of the commission and the presiding board vote to convene an extraordinary session of the Assembly of Experts to address and act upon Article 111, the session will be convened at the earliest opportunity, followed by the necessary investigations and voting .[4]

Some of the responsibilities of this commission include :

- Drafting internal regulations for the commission .

-Collecting all necessary information related to Article 111 within the framework of laws and religious standards. Additionally, the secretariat and other members of the Assembly of Experts will provide relevant reports and information to the commission .

-Investigating and verifying the accuracy of the received reports .

-Meeting with the leadership regarding the aforementioned matters (if necessary) .

-Announcing readiness to consult with the Supreme Leader on issues related to leadership .

-Assisting in preventing the infiltration of unwanted elements into the leadership structure in coordination with the Supreme Leader .

-Requesting an extraordinary session if, after reviewing and investigating the reports, the commission deems the issues sufficient, or if it does not find them sufficient .

-Submitting a report to the presiding board and sharing the matter with the member or members of the Assembly of Experts who provided the information to the commission. If they are satisfied, the matter will be left unresolved; otherwise, the presiding board will convene a session upon the request of a majority of the representatives .[10]

.3-5Oversight of the Leader

In an Islamic society, there are two types of oversight over the leader: general oversight by the public, which serves the role of "advising the Muslim leader" and "enjoining good and forbidding evil." The second type is institutionalized oversight conducted by a specific body with legal backing. In this oversight, evaluations are not limited to observable events and public stances but include the authority to investigate and demand answers from the responsible authority .[3]

In the Islamic system, leadership carries two responsibilities: "judicial" and "political." From a judicial perspective, there are no special protocols for prosecuting the leader in court. Article 107 of the Constitution explicitly states, "The leader is equal to other citizens of the country before the law." Thus, addressing his violations is similar to that of other citizens. Furthermore, in the Islamic Republic, the Assembly of Experts is responsible for overseeing the leader, as derived from Article 111 of the Constitution: "The determination of the leader's inability to perform his legal duties or the loss of one of the qualifications lies with the Assembly of Experts." Since the Experts are tasked with the responsibility of "removing the leader" (as stated in Article 111), it follows that their duty includes monitoring the leader's ability and the continuation of the required qualifications. This oversight does not conflict with absolute guardianship .[5]

To fulfill this responsibility, the Assembly of Experts has an investigative commission that examines the

validity of received reports and pays attention to the administrative structure of the leadership. It assists the leadership in preventing the infiltration of undesirable elements into the institution. Any action directly contributing to achieving the goals of the Assembly of Experts is considered its primary responsibility, while actions without a direct impact are regarded as secondary responsibilities. Clearly, the ultimate outcome of these secondary tasks is to ensure the proper execution of the primary responsibilities. Among the secondary responsibilities of the Assembly of Experts are drafting laws related to the assembly and reviewing its annual budget [4].

6. Summary and Conclusion

The Islamic Republic of Iran is a system whose legal foundations are rooted in Islamic jurisprudence and religious texts. Therefore, the origins of all fundamental and constitutional laws of the country must be traced to the theories and insights of religious scholars and thinkers. The Assembly of Experts is one of the fundamental institutions of the country. While its role in micro-level processes may not be immediately apparent, it holds a crucial and vital position in the macro-management, continuity, and effectiveness of the Islamic system. Based on the points discussed, the necessity, purpose, and importance of this assembly for our country are summarized as follows [10].

Philosophical Foundations of the Assembly of Experts

1. The Necessity of the Jurist's Governance

Based on Islamic teachings and authoritative religious sources, qualified jurists have been generally appointed by the infallible Imams (peace be upon them) to lead and manage the Islamic society during the era of occultation, and they all possess guardianship. They are obligated to take action in governing society and forming a government. Accordingly, Article Five of the Constitution states: "During the occultation of His Eminence, the Awaited Imam (may Allah hasten his reappearance), in the Islamic Republic of Iran, the guardianship of affairs and leadership of the nation rests with a just and pious jurist who is aware of the times, courageous, capable, and prudent." Similarly, Article Fifty-Seven states: "The governing powers in the Islamic Republic of Iran consist of the legislative, executive, and judicial branches, which operate under the absolute guardianship of the leader and the leadership of the nation in accordance with the principles outlined in this Constitution." Based on these religious and legal principles, the governance of a fully qualified jurist during the occultation is absolutely essential [5].

2. Unity in Leadership

Although all qualified jurists have been appointed to govern the Islamic society during the occultation of the infallible Imam (peace be upon him), it is important to note that leadership and guardianship over a unified nation and country cannot be

fragmented or divided. The idea of multiple leaderships or parallel guardianships within a single government would lead to chaos, anarchy, and the collapse of social order and national cohesion, making it unacceptable and irrational. It is not the multiplicity of guardianships that causes problems, but rather the overlap in execution and the exercise of guardianship that leads to disorder. In other words, if there is competition or potential conflict among qualified jurists, it is not permissible for all of them to exercise guardianship simultaneously; only one must assume this role [12].

3. The Superior Guardianship of the Jurist

According to the theory of appointment and even some interpretations of the theory of election, during the occultation, the jurist is selected by the people, and through their vote, allegiance, and acceptance, his governance gains legitimacy. Guardianship belongs to the most competent individual, the superior jurist, and in his presence, others do not qualify. Therefore, one must select the jurist who possesses the criteria for preference and superiority, such as being the most knowledgeable, excelling in moral virtues, having greater acceptance, stability, stronger management skills, sounder decision-making, and so on [8].

4. The Specialized Nature of Identifying Leadership and the Need for Experts

Identifying a fully qualified jurist as the leader of a society with diverse dimensions—such as politics, culture, economics, war and peace, and regional and global crises based on Islamic teachings—is a highly specialized and complex task. Determining a leader with the desired qualifications derived from Islam is extremely challenging, especially when there are multiple candidates, as identifying the most suitable individual becomes even more complex. Consulting experts and specialists is a rational, intuitive, and common practice among people. Regardless of religion, race, or nationality, humans naturally seek the expertise of specialists in areas where they lack knowledge. Identifying a fully qualified jurist is entirely a specialized matter, and given the importance and sensitivity of the position, considering the extensive influence and functions of leadership in an Islamic society, it is imperative to rely on experts and specialists to identify the most qualified jurist among others [2].

5. Strengthening Leadership

Just as the presence of experts is necessary in the identification and selection of a leader, it is equally essential in maintaining the conditions of leadership. A group of experts must closely monitor this matter and prepare solutions for removing an unqualified individual and selecting a new, fully qualified jurist if needed. In fact, the Assembly of Experts is both aware of the justice, jurisprudential expertise, courage, and prudence of the current leader and vigilantly considers future leadership. Such a function plays a critical role in ensuring the health, strengthening, and increasing the effectiveness of the institution of the Guardian Jurist, which is the most important pillar of the Islamic system [3].

6. Bridging Islamism and Republicanism

The Assembly of Experts serves as the connector, manifestation, and symbol of the integration of republicanism and Islamism in the Islamic Republic of Iran. Since leadership is a cornerstone of the Islamic Republic's government and represents the pinnacle of power, reinforcing its democratic aspects strengthens the people-oriented nature of the system, which the Constitution emphasizes. In this regard, the Assembly of Experts plays a vital role in enhancing and creating opportunities for broader public participation in the realm of power. It acts as a bridge between the leader and the people, embodying the conscious presence and loyalty of the people to the leadership of the system and serving as a mechanism for identifying and introducing the most qualified individual for leadership. Given that establishing an Islamic government without these two conditions—general acceptance and identifying the most qualified individual for leadership—is practically and logically impossible, it can be said that the Assembly of Experts plays a key role in forming and sustaining an Islamic government [10].

Philosophical Justification and Necessity of the Assembly of Experts

The philosophical basis and necessity of the Assembly of Experts and its role in the country derive meaning and are analyzable through its jurisprudential and legal foundations and topics such as: the Islamic nature of the political system and the necessity of the jurist's governance; the need for unity in leadership and the authority of the superior jurist; the specialized nature of identifying leadership and the necessity of consulting experts; and the sensitive functions of this assembly in precisely overseeing leadership, removing an unqualified leader, promptly and accurately selecting a new leader, preventing succession crises, strengthening leadership, ensuring the continuity of the Islamic system, bridging Islamism and republicanism, and safeguarding the security, independence, and freedom of the country.

In human affairs, there is always room for improvement, and thus this assembly can become more effective and impactful in fulfilling its duties. Below are suggestions for enhancing the effectiveness of the Assembly of Experts:

1. Developing a Detailed Framework for the Assembly's Responsibilities: Articles 107, 108, and 111 of the Constitution outline the general responsibilities of the Assembly of Experts. However, like other constitutional principles, these require ordinary laws for elaboration, implementation methods, and procedural approval. This has been partially addressed in scattered resolutions of the Assembly, but a comprehensive framework that clearly and unambiguously defines its responsibilities, including their implementation, is still needed.

2. Increased Focus on Applied Research: Institutions like the Assembly of Experts, positioned at the apex of power, require diverse information and research to

better fulfill their responsibilities. Fortunately, the Secretariat of the Assembly has produced valuable contributions in theoretical fields related to the ideological and jurisprudential foundations of the Assembly, benefiting domestic and international academic and cultural communities. However, there seems to be a gap in the establishment of a research institute capable of providing the necessary preparations for the Assembly's two main tasks: selecting a leader and continuously monitoring the continuation of leadership conditions. For example, given the leader's role in determining and communicating the system's macro-policies and overseeing their proper implementation, the Assembly could monitor the foundations, impacts, and diverse consequences of these policies through its research institute to make informed decisions regarding the continuation or discontinuation of leadership conditions. Such research would adopt an inclusive approach, focusing on objective and social realities rather than abstract discussions. This principle applies to other duties and authorities of the leader outlined in Article 110 of the Constitution, such as appointments and dismissals.

3. Reviewing the Election Law of the Assembly of Experts: According to Article 108 of the Constitution, the law regarding the number, qualifications, and electoral procedures of the Experts, as well as the internal regulations of their sessions, was prepared by the jurists of the Guardian Council and ultimately approved by the Supreme Leader. However, the same article grants the Experts the authority to revise and amend this law and its regulations. Fortunately, the internal regulations of the Assembly were comprehensively reviewed and approved during its third term, and positive outcomes were observed in the fourth term. Nevertheless, the election law of the Experts, originally drafted by the Guardian Council jurists for the first term and finally approved by the Supreme Leader on June 28, 1982, requires a thorough and fundamental review. Although it has undergone revisions in 1996, 1997, 1999, 2005, and 2006 and now consists of 11 articles, further updates are necessary.

4. Establishing an Appropriate Mechanism for Public-Expert Interaction: According to existing regulations, the Research Commission is tasked with gathering any necessary information regarding Article 111 within the framework of laws and religious standards. However, fulfilling this important duty, especially while adhering to legal and religious standards, requires a mechanism that reassures the public and facilitates access to such reports for the Assembly of Experts while also verifying their accuracy. Such a mechanism can be defined under current conditions and communicated to the public if necessary.

5. Expanding the Assembly's International Relations: Informing the public about the Constitution, particularly the role of religion in political and social matters, and showcasing the remarkable achievements of the principle of the Guardian Jurist in demonstrating the effectiveness of religion across various domains

are essential. Additionally, benefiting from the experiences of similar assemblies in other countries and producing and promoting the necessary literature in the international arena require an active and innovative effort by the Assembly in the international sphere. Mutual engagement and dialogue between the Experts and scholars from other Islamic countries can serve as a model for the role of religion and jurisprudence as a response to the global community's thirst for exemplary governance.

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