

# **Fiqh Al-waqi & its role in the Islamic awakening**

## **Introduction**

One of the social obstacles for appearance the new Islamic civilization in the Islamic countries with the structure based on Sunnite religions jurisprudence, the stand point of theologian and the people to the governor's legitimacy. Over the Islam history many of discussions in the jurisprudence and theology about the qualifications of legitimacy of governor were presented. The Muslim's governors scientifically with help of the theologians try to show the legitimacy of their governments. The most important governor's legitimacy principles from view of scientist of Sunnite and theologians are based on allegiance of elders, substitution, the appointment by the holly prophet (peace be upon him) and conquest and domination. But the conquest and domination has biggest share to legitimize the government from first century AH until contemporary time. Based on this principle any one can conquer other by force he is qualified to role on people and people have to obey him.

This traditional and famous view of Sunni's theologians in present time was confronted with an intellectual struggle of reformists who believe in using Ijtihad<sup>1</sup>. And so lead them to a new viewpoint from jurisprudence named "Fiqh Al-waqi".<sup>2</sup> Fiqh Al-waqi is a deep understanding of human life needs and facts that face them or is exposed. This kind of jurisprudence gradually become a public demand by theologians and this attitude create some standpoints in front of Fiqh Al-waqi among the theologians. Finally these demands lead in many of theologians make the Ijtihad in frame of Fiqh Al-waqi and intellectual studies and so discard the "overcoming theory" which were obeying it. These theologians after discussion and consultation about the features of Islamic governor did not qualified some of the governor since the lack of commitment to Islamic regulations and know uprising against them allowed.

## **Research question**

What is the Fiqh Al-waqi's effects on the Islamic awaking?

## **Background**

About the effect of Fiqh Al-waqi on appearance of Islamic awaking was not found any independent article or study. But about the essence of Fiqh Al-waqi, its necessity, principles and rules of usage there are articles and thesis in the Arabian universities and press that are as following:

Saeed Bihi (2002) PHD thesis titled "Altasil Al-sharei lemafهوم Fiqh Al-waqi" (the canonical foundation of Fiqh Al-waqi concept) that reviewed the canonical roots of Fiqh Al-waqi.

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<sup>1</sup> - in Islam means extraction the Islamic regulation from the Islamic resources by a qualified person

<sup>2</sup> Given that fact, Fiqh al-waqi is a new expression, and different definitions of those offered, so that till define the word, its translation will decline.

Hasva (2009) has write a book titled “Fiqh Al-waqi wa asarahoo fi Al-ijtehad” (Fiqh Al-waqi and its effect on ijtehad) and has explained the role of Fiqh Al-waqi in ijtehad.

Al-Umar (2003) the writer is an extremist Muftis of Takfiri and he is from the first writers of Fiqh Al-waqi who express his ideas in an article titled “Fiqh Al-waqi”.

Naser Din Al Albani (2001) the writer is one of the prominent Salafi thinkers who writes an article titled “Soal wa jawab hawl Fiqh Al-waqi” (questions and answers about Fiqh Al-waqi) in the critique of this theory.

Bovoad (2006) an article titled “Fiqh Al-waqi Osool wa zwabit” (Fiqh Al-waqi the principles and regulations) is about the rules of citation to the Fiqh Al-waqi.

## **Findings**

### **1. Political legitimacy in Sunni jurisprudence**

The legitimacy and the sovereignty are most important topics in the philosophy of law, sociology and political science. The theorists of this sciences based on their idea and worldview explain about the base and source of the legitimacy of governor. The importance of responding to this question is not just for express the opinions or presentation of philosophy issues and the legitimacy and seeking legitimacy in in all the times has been important. So that usurper and illegitimate governments always try to support their governments with type of fake legitimacy. Thus, Xenophon a historian and scientist of ancient Greece believed that even in the tyranny governments that was constituted on compulsion and force, the force is not only tools to handle the government. And as Rousseau says: the most powerful king is not able to role forever unless can convert the force to the right. (Huntington, 2011, 14)

So all the governments have to identify the legitimacy principles of their political system in order strengthen the governmental foundation, thus with the support of these principles be able to dedicate the sovereignty to themselves and as possible as reduce the utilization of force. And in order to prevent any legitimacy crises try to enhance and expansion of their legitimacy in the society.

The necessity of discussion about governor’s legitimacy and explain the legality resource of government is not neglected by the Islamic scientist’s stand view and the Islamic governors. Thus over the Islamic history a lot of topics have been presented theoretically about the quality of legitimacy of the governor, and practically the Muslim’s governor with help of the Islamic scholars have done a wide efforts in order to legitimate their governments. The historical study shows the Islamic governors get into power with different methods; some of them with voting and people’s survey, some of them with the appointment by former governor, some of them with using the force, some of them with approving by council’s decision, some of them with Muslim’s consensus and etc. this situation confused the Islamic scholars in explain the legitimacy of the governors, thus they justify the current situation and stabilization of usurper governors and giving legitimacy to the illegitimated government instead of expression the fact.

In the conclusion we can summarize the legitimacy principles of governors from the theologians and Sunni scholars' standpoint in following items:

### **1-1. The principle of appointment by the prophet (peace be upon him)**

One of the agreed principles by Shiite and Sunni is the appointment of the governor by the prophet (peace be upon him) and his approval of a person's leadership on the Muslims. The difference between Sunni and Shiite is about accomplishment of this issue over the Islamic history. The Sunnis believe this appointment does not happen and the prophet refers this issue to the people. Al-Mawardi in the "Laws of Islamic governance" (Al-Mawardi, 1985, 9), Ghazi Abu Yala (Abu Ya'la, 1985, 23), Abd Al-Rahman Al-Jaziri (Al-Jaziri, 1985, v 5, p 417), Ghazi Ezedin Eiji (Eiji, 2010, v 3, p265) and many of Sunni scholars emphasize on this principle. Abo Al-Hasan Al-Ashari says: "it is permissible that the leadership approved by the prophet, but did not introduce anyone to take this responsibility and it refers to the people". (Shahrestani, 1990, v 1, p 117) in front of this belief, the Shiites besides the emphasis on the legitimacy of Imam and the appointed governor by prophet (peace be upon him) also believed this method was implemented practically and the prophet appointed clearly in several times and places Imam Ali as his substitute and Imam and governor after him. They write hundreds of books to prove their claim.<sup>3</sup>

### **1-2. the principle of substitution**

Another principle of legitimacy of government is substitution or appointment of governor by Imam and former governor. Reasoning of Sunnis for rectitude of this method is citation to Abu-Bakr's action who appointed Omar as the governor of Muslims unlike their belief that the prophet did not appoint anyone instead of himself. Al-Mawardi knows this method as a trustworthy way and prefers it then choosing by people and consensus. Because he thinks the governor realizes the qualified person better than everyone and his decision is trustier. Other Islamic scholars like Fazlallah Khunji Iafahani (1981, 80) and Ibn Qudme Hanbali, (1972, v10, 52) also emphasize on validity of this way in their books. They believe the validity of this way is confirmed by Abu-Bakr's action; although after that the most common way to choosing the Khalifah<sup>4</sup> in the Bani Abbas and Bani Ommaya period and other governments became hereditary rule.

The important point about this way is it can't be considered – in majority – as an independent principle for legitimacy to government. Because the appointment of the governor is valid when the former governor has legitimacy. In another word the appointment by a governor is valid when he somehow obtained his validity and relying on his legitimacy he can appoint the next governor. Thus the new governor gains his legitimacy from that way the former has achieved. If the former governor gets into the rule with the elder's approving the new governor's legitimacy actually is based on elder's approving. This principle in many of cases did not count as an independent principle.

Secondly, the legitimacy of a governor has not a permit to appoint next governor. That means if assume a governor has gained the legitimacy for his rule, his legitimacy does not give him

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<sup>3</sup> For more. See: Virtual Imam and Velayat encyclopedia site, (Imamatpedia.com)

<sup>4</sup> -A title for Islamic governor

the right to choose the next governor. Thus the question of the legitimacy quality yet is unanswered and the substitution cannot answer independently.

In the Twelver Shia, the former Imam does not appoint the next Imam and they are divinely ordained and he just introduce the next Imam. There is a lot of Hadith (narrative) in this filed such as the narrative of Amr Ibn Al-Ashath from imam Sadegh who says: “have never seen we advise to specific person. Not at all, but this is a commitment to god and his prophet to transfer from someone to another until is given to its owner”(Al-Kulayni, 1986, v 1, p 278). So the method of appointment of next Imam in Shia is not based on substitution and appointment by former Imam.

### **1-3. the principle of consensus (Bay ah)**

Sunni scholars are believed that one of the governor legitimation ways is choosing and consensus of number of elders. Abo Al-Hasan Mawerdi says one of the ways to become Imam is choosing by elders adding:” but there is difference about the numbers of the elders among those say the Imam should be chosen by this way. He mention to the historical statements in detection the Rashidun caliphs and prophet companion’s deeds, he mentioned in some statements the presence of majority of elders and elites from varied cities is necessary, but he prefer the statements that knows the government will be establish with Bay ah with five or three persons. Because he is believe the Bay ah is some kind of judgment and judgment is effective with one’s rule.(Mawerdi, 1985, 7).

Ghortobi also says: “Imam Abo Al-maali believes someone who his government is confirmed with one Bay ah must be obeyed and his dethronement without any change or vicissitude is not permitted and it is a unanimous issue” (Ghortobi, 1986, v 1, p268).

As it is obvious, this way has no any Koranic and narrative documentary meanwhile is scientifically unconfirmed. Because if we accept the caliph’s appointment must be with elder’s consensus, actually the method of appointment of first and second Rashidun caliph will be questionable. And if is accepted, someone can get into the role with confirmation and Bay ah by several or one we will confront this problem, if a bunch of elders choose a man and other someone else and no one retreat then who has legitimacy for rule? And finally this problem will be solve with overcoming and force. As after the prophet passed put, some people swear allegiance with Abu-Bakr and some people refuse this homage and tended to Ali and even many of people made allegiance with Musaylimah the liar. But who was stabilized his rule with using the force and conquer his rivals was Abu Bakr. (Tabari, No Date, v1, p 838).

Because of this lack of reasonable principle some of writers said: “the main point that always is mentioned in Sunni theories and shod be noted is kudos of dominated policy instead of juridical conclusion and it’s analyze”. And if implemented analyze will be honorific analyze in justification of governor’s actions. Thus the Sunni theories are post events theories and they are composed after implementation. (Kadivar, 1977, 76)

### **1-4. dominance theory principle**

Due to the principle of” the powerful rules “anyone can conquer a region by force, his government has legitimacy and he does not need to general allegiance or confirmation of elders. Judge Abo Ali quote from Ahmad Hanbal, force prove the government, while the governor is dissolute (Abo Ali, 1985, 24). The same meaning is quoted by Ghodame and he said when Abd-o-l Malek Ibn Marvan overcome the Muslims who swear allegiance with him whether they want or not, and so he is Imam an uprising against him is forbidden.(Ibn Qodama, 1972, v 10, p 52).

The Sunni scholars and scientists know the obedience of the governors essential. Based on narration know the obedience of governors although dissolute is necessary. (Refer to: Bihaghi, 1983) some of companion’s deed who obey their contemporary dissolute governors like Abdullah ibn Umar obedience of hajjaj Saqafi. Conqueror in Hore story who said in justification of their action “we are with who conqueror” (Ibn Ghodame, 1979, v 10, p53) Insofar as obedience incumbency from dissolute governor in Sunni political jurisprudence to an undeniable fact. Although this theory is not observed in the primary policy of caliphs apparently, but with thinking in the caliph political behavior after the Prophet (peace be upon him) its roots can be fund. Actually political attitude of primary caliphs left a main effect on function and policy of Bani Omiya and Bani Abbas. Whereas the Sunni account the caliphate as public interests. In order to set the caliphate’s principles follow the historical events of Islam as the criteria and the guide of their action and coordinate the principle and bases with the political and social events. From the last years of three century, become a stooge in hand of dominant governors and caliph’s agents across the empire. In these conditions, the Islamic scholar in order to maintenance the caliph’s reverence and transfer the power to his agents or rebels present some excuses and justifications. Their efforts aim in preserve the essence of caliphate legitimacy. (Enayat, 2006, 145-146)

## **1-5. conclusion**

With an overview of the principles of legitimacy that claimed by Sunni scholars we will find what has the most functional role in legitimatization Islamic governors was the conquering theory. As is mentioned before the principles likes substitution or elder’s Bay ah –if is acceptable- is implemented in few cases and the principle of appointing by the prophet in Sunni’s beliefs has never done. Thus the principle that has efficiency everywhere from old time and was justification of Islamic governor’s legitimacy is conquer principle.

Interestingly, this view has been discussed in ancient Greece as well as. Some philosophers who believe Social Darwinism saying: the general law that governs at least on living organism, the law of survival is dominated. The legitimacy of violence and overcome theory clearly can be found in the works of thinkers like Machiavelli, Hobbes, Nietzsche and finally Marxism. (Darabklaei, 2011, 32)

With establishing and strengthening the foundations of the theory of hegemony, it became common that everyone under all circumstances can rule the people, in practice, especially the caliphate system that was considered in the early periods was overshadowed and went to the sidelines. Although this theory was confronted with some opposition at first, but gradually consistence that some contemporary theorists caliphate confronted challenges.

## **2. The political legitimacy from Fiqh al-waqi**

Traditional look and Sunni jurists, in contemporary intellectual conflicts with innovators who believe to discussion about the issue of ijtihad. Those who saw the result of all the foundations of the legitimacy of the Islamic governor only in hegemony theory and consequently face with the reverence of opposition to the legitimate rulers –that lead in the necessity of obedience to the oppressive ruler–Such theories counted at odds with democracy and tension of political tyranny. The modern scholars and religious intellectual's Sunni tend to a new vision of jurisprudence welcomed by youth and innovators of these countries. They called the new approach "Fiqh Al-waqi".

### **2-1. what is Fiqh Al-waqi?**

The most important and most difficult task of jurist is matching new events with the principles and provisions constant. To apply general juridical and coincidence with the numerous and infinitesimal events needs to understanding and mastering of jurisprudence and at the same time needs to be familiar with the todays facts and subject ology; and the jurist wise can do it just. Therefore in the famous hadith people have been referred to these jurists:" in the occurred accidents to you refer to the narrators of our Hadith" (Saduq, 1975, v 2, p 485).

Although the term "occurred accident," using the blessed Hadith is known by the elders and also the public of Shite, but Sunni who shut the ijtihad on themselves for centuries. In the last decade, according to a term that first time is observed in the works of Ibn Qayyim Al-Jawziyya (1330) who was close students of Ibn Taymiyyah (Ibn Qayyem Al-Jawziyya, 1993, v 1, p 69).And due to public demand jurists and muftis turned to "Fiqh Al-waqi" that sometimes is also called "jurisprudence of accidents. But before expression these social demands that expand by the Islamic missionaries and its effects on Islamic awaking define the Fiqh Al-waqi.

Dr. Qarzawi who is from first exegetes of Fiqh Al-waqi says in its definition: "Fiqh Al-waqi is based on study and review of life's facts. An accurate study that include all the topic aspects and is feed by most correct and exact reports and statistics" (Qarzawi, 1990, 30)

Naser Din Albani from famous and contemporary jurists also said:" the Fiqh Al-waqiis aware of Muslim's important affaires and the deceits of their enemies in order to avoid and mutate them. But this mutation is not only theoretical but it is real and practical. It is not infected by enemy' idea or affected by their analyses or thoughts."(Naser Din Albani, 2001, 29).

Abid Hasane another professor in this field says: "Fiqh Al-waqiis opposite theoretical jurisprudence and it is the understanding the external facts that are gained by pay attention to reals and facts of people's life and diagnosis of problems and abilities are faced. And its results is reconcile the texts with new events and the coordination between text and reality, actuallyit is a part of jurisprudence of events (obaid Hasana, 1998, 32).

In a concise and comprehensive definition can be said: "Fiqh Al-waqiis deep understanding of the needs of human life and affairs that have been confronted with and have been exposed."(bu'uod, 2006, 88)

As was noted in the above definitions, in all of them, "Fiqh"(jurisprudence) is meant literally "deep understanding" while jurisprudence common term meaning is "understanding of religion particularly religious orders" or "religious law". So Fiqh Al-waqiis "jurisprudence of reality" and understanding of today life facts of Muslims or human, its results use for deep understanding of religion and discovery and understanding religious orders in coordinate with time and place. Although jurisprudence of reality is not some sort of common jurisprudence such as the jurisprudence of fast or jurisprudence of deals, but it's also not out of recognition in religion; it is a tool in the hands of the jurist to issue efficient and tailored rulings according to the needs of the time.

Hence, some writers and researchers that translated the concept of jurisprudence of reality like realism or prevarication and just a realism procedure (Khosroshahi, 2011, 408) or mean that "required present time jurisprudence" (Royvaran, 2015) they did not presented so accurate definitions.

## **2-2. Importance of Fiqh al-waqi**

Before reviewing various opinions about the scope of Fiqh Al-waqi, In order to better understand it, we consider the necessity and importance of this theory from the standpoint of its believers. One of the common issues in jurisprudence is the clarification of the circumstances of the Mujtahid, which is Often in the classical jurist's view, it is exclusive to the understanding of sentences. As long as the Mujtahid lives as one of the people of the community, Along with the daily life and current issues in society; This discretion would be consistent with the realities of society. While since the fourth century AH, ijti had was blocked in Sunni domain; Muslims due to this viewpoint of the jurists, they had receded from the principles of sharia & the realities of the Muslim community & also were limited only within the sentences that were not so relevant to the community needs.(Bu'uod, 2006: p.16)

Accordingly, Obaid Hassaneh says: One of the most important conditions of the jurisprudence of ijti had, knowing & understanding the Quran and narrations, this is the basis and criteria & amount of ijti had; But there is another important issues in ijti had which is the place and the homeland descend of these sentences. in the other words, along with understanding of the sentences, knowing the truth and the fact that it has been legislated for it and seeks to achieve its goal, it has great importance.(Obaid Hasana, 1998: p.30)

The famous scholar of Sudan, Hassan al-Turabi, Regarding the necessity of Fiqh Al-waqi, he says: Ijti had is not possible without the knowledge of natural sciences, As it is not possible without understanding the sharia. Because the natural sciences, familiarize the mujtahid with the reality of society, And when the mujtahid received the method of healing and pain medication from the sharia, he will be able to provide the most appropriate religious treatment for social illness. Thus, understanding and recognition the social and economic realities of the communities, Provides the possibility of offering a complete religion that meets human needs by the Mujtahid.(Al-Turabi, 1993: p.176)

Therefore, the importance of research in Fiqh Al-waqi can be summarized as follows:

- 1- The emphasis on the efficacy of sharia for any time & places
- 2- Understanding the needs of community members and respecting their interests
- 3- Find sentences through emerging new issues and events
- 4- Adopting the sentences of religious missionaries to the public
- 5- Creating social development in Muslim societies.(Hayam Ahmad, 2011: p.55)

### **2-3. Different views on the modification of the jurisprudence by the realities of time**

However, at the first sight, the implementation of the jurisprudence according the realities of the time seem undeniable, but in practice the implementation face difficulties and disagreements. The questions such as how much should be care the reality, how much the jurisprudence can coordinate itself with realities? How much should be the change the realities based on jurisprudence and insist on the jurisprudence orders? The questions that different answers create different ideas and views.

From one hand, the Sunni traditional jurists accuse the Islamic missionaries to overstep the religious frame and from other hand, the Islamic missionaries attribute the solidity and lack of familiarity with the existent realities to their jurists.

In expression of some of writers in this field, most Islamic scholars of our time are two-group: some jurists and Islamic missionaries who have appropriate understanding of the real, but their understanding is not established on the juridical principles, and because of incorrect understanding of juridical principles. They will not access to fulfill Islamic orders. Other group is fully aware of Islamic law, but do not know the facts and issues of the day. And hence their invitation style would be passive and negative way (Al-Omar, 2003, 21).

Perhaps those who believe in jurisprudence of reality could be divided based on the differences of their opinion into three groups:

A.) some Sunni scholars and writers who are educated in the Western universities - such as Senhowry and Tofiq Shawi- that despite their commitment to religious rules but they do not have prejudice to maintenance of the frameworks and look with greater flexibility to Islamic law. They try to reconcile between religion and western doctrines. For example Senhowri in the book "jurisprudence of caliphate" rejected the traditional foundations of the ruler legitimacy meanwhile he emphasize on allegiance to the law and the separation of powers referring to the teachings of the council and allegiance. (Sanhury, 1993, 99-140)

Also Tawfiq Shawi beside presentation of "General Theory of council" in the works like "jurisprudence of council and consultation", "jurisprudence of Islamic rule" and "Council the highest levels of democracy" has provided suggestions for allegiance to the Caliph and the mechanism of his election and while he can remains in the power.(Tawfiq al-Shawi, 1993, 45).

They know the Sunni's traditional judicial and theological texts that the caliph under any circumstances even in the event of debauchery is not allowed to be deposed, they consider it as a

barrier to their theories; therefore they know the juridical texts insufficient and try to interpret and justify the related Hadiths.

B) The other group are those who their movements based on political activities and make jurisprudence of reality as a means to legitimize the political activities and attract young people to their political parties. One of the most prominent members of this group is Nasser al-Omar General Secretary of the Foundation Muslims in Saudi Arabia and the Takfiri Wahhabi extremists. He is from the first those work on jurisprudence of reality and perhaps could said he is the innovator of jurisprudence term in the contemporary period. In his opinion acquaintance with the jurisprudence of reality is obtained through newspapers, magazines, news and information on various networks and other media. In his opinion, the jurisprudence of reality is an independent science that its learning is necessary for every jurist and those seeking knowledge. It is established on two pillars: first, the extent of information in most sciences such as doctrine and jurisprudence and social science and knowledge and political information. Any amount of defect in the personal knowledge cause defect and weakness in the jurisprudence of reality. Second, continuity and being up to date knowledge that is obtained of following up the current events and news. (Al-Omar, 2003, 16)

Naser Al-Omar believes that the jurists should not aware of traditional jurisprudence but also informed of the news, but should be said who knowledgeable of the current news and events is jurist. The contemporary knowledge and the correct understanding of events and news are useful and traditional jurisprudence is not today's needs and problems solution.

His definition of jurisprudence of reality is challenged by many of Salafi-Wahhabi elders such as Muhammad Ibn Al Uthaymeen, Naser Din Al Albani, and Yusuf al-Qaradawi. They accused him to deception and incitement youth's emotions to illiteracy. They know his jurisprudence make the Youth away from recognition in religion and busy them with reading the newspapers and magazines. (Alrays, 2010)

C) The third group is the known scholars and jurists such as Naser Din Al Albani and Qaradawi and their followers who know jurisprudence a new term for old and constant way in the Sunni jurisprudence. They argue that many scholars have made it clear anyone who wants to find answer people's problems, it is necessary to recognize the realities of their lives and this is indeed the same jurisprudence of reality. (Naser Din Albani, 2001, 29)

This group believes the jurisprudence should not be overdid or neglected .Could not expected that al the scholars aware of jurisprudence of reality. From other hand it is incorrect anyone know jurisprudence of reality he necessarily informed of jurisprudence of Quran and Sunni. So as in the different techniques scientists help each other out to produce the product or doctors with different specialties together in order to treatment a patients with various diseases. It is necessary to treatment of society diseases the owners of varied Science and Technology contribute with jurist to find appropriate response for the problems. (Naser Din Albani, 2001, 23)

Thus some of the writers to prevention of superfluity and wastage set some regulations in the reference and usage of the reality and correct way to life realities:

## **2-4. basic principles of jurisprudence of reality**

The most important influence of Islamic preachers and missionary's words who have stressed the importance of jurisprudence of reality in Islamic territories was increasing the public people expectations had of Sunni scholars. These preachers who most of them was students of Al-Ikhwan Al-Moslemin (Muslim **Brotherhood**) school caused in creating this belief among the Muslim youth that jurist and scholar is dominate on jurisprudence of reality and be aware of current events. The mentioned scientists saw the rejection of jurisprudence of reality is useless and cannot bear the created wave in Youth Islamic movement which expected scholar awareness of jurisprudents of reality. In order to create balance in emerged public opinion of youth who affected by the words of preachers who graduated school of the Muslim **Brotherhood**, they set the following regulations:

### **2.4.1. Attention to jurisprudence of Quran and Sunni**

This condition is sponsor of the population particularly their elders from perversion and confusion. The main criterion is law and reality should be measured with this scale. Whatever the law approved its invalidity its reality is also invalid. And whatever recognized right thought this scale will be right. Should not change the place of right and wrong influenced by the propaganda or be neglected.

### **2.4.2. Precision in the information accuracy**

Since the jurisprudence of reality is based on obtained information, the sources should be trusted and valid to avoid from errors in the analysis.

### **2.4.3. Council with experts**

As no one can learn all sciences, so it is necessary to be benefited of field research, survey research centers and specialized agencies.

### **2.4.4. Commitment to moderation in fact reading**

Jurisprudence of reality should be based on realistic reading and away from extremism and wastage. We must know that things do not go always for our benefit. Issues sometimes are for the benefit of Muslims and sometimes are for the profit of the enemies. Knowing this is a barrier to proud of the successes and disappointments of failure.

## **3. Impact of jurisprudence of reality on Islamic Awakening**

In the short time that jurisprudence of reality spread in the Sunni societies confront a great luck in which is discussed gradually as a public demand of youth and scholars and scientific centers. The popularity and public demand forced Al-Azhar University in Egypt as the most important Sunni jurisprudence center to hold a conference entitled "Jurisprudence of reality in Islamic speech" in 2015. In this conference invited speakers and professors stress on importance of jurisprudence of reality in Islamic nation's life and asked from Islamic scholars and preachers pay attention to jurisprudence of reality in their Islamic invitation and propagation and religious researches. (fiqh.islammessage.com)

although most of Sunni scholars even Salafi and Wahhabi scholars and Muslim Brotherhood thinker regard to juridical principles of governor legitimacy –as mentioned before-are from the follower of obedience of cruel governor theory. They believe the people should be bear in front such governor. Some of those excused Ibn taymiyyah' fatwa that firstly sentence to disbelief of Mongol rulers who seized the Islamic countries and issued the necessity of jihad with them (Ibn taymiyyah, 1987, vol. 3, p. 535). So they believed in the necessity of jihad with the rulers who don't obey the Islamic rulers. (Saiied Qutb, 1973, p. 69)

Muslim Brotherhood in the aspect of obedience of ruler until a few ago were not different from the Wahhabis, but due to intellectual developments that occurred in the wave of Islamic Awakening they allowed uprisings against ruler without the terms of the leadership of the Muslim community. Most of the leaders and cadres of the Muslim **Brotherhood** arrested and sent to prison by Gamal Abdel Nasser from 1954. In 1970. Nasser died in 1970 and his successor Anwar Sadat announced general amnesty and their leaders were released from prison. Umar al-Tilmisani leader of Muslim **Brotherhood** asked the members of the Brotherhood gaudiness Council to go to the presidential palace and pledged allegiance President Sadat. In 1981 that Khalid Istanbuli from takfiri group of Jihad of Egypt killed Anwar Sadat. Muslim Brotherhood guide Council went to the presidential palace pledged allegiance with Hosni Mubarak. But this behavior in the uprising of 2011 has changed in the context of Islamic awakening. In the uprising came the youth to Tahrir Square and face all political groups with a situation. If Muslim Brotherhood joined to the uprising the former allegiance with Hosni Mubarak was broken and one of traditional beliefs was neglected and if they keep silent this movement has not a political acceptable justification for its behavior. These pressures force Muslim Brotherhood to open to accept the context of Ijtihad in frame of jurisprudence of reality and intellectual and religious studies put "dominance theory" aside. The theory that they commit to it since then. Leaders of Brotherhood after discussion about the characteristics of Islamic ruler, do not recognize Hosni Mubarak match with Islamic ruler because he did not adhere to Islamic law. After extensive studies, the Brotherhood Guidance Council rejected the legitimacy of Mubarak and stated that society should seek a competent governor who led the society to the evolution not decay. In a short time on the basis of jurisprudence of reality, the issue of civil government with the Islamic intellectual authority is the most important framework that involved Muslim Brotherhood intellectual theorizing about the ideal system. After these fundamental changes, Brotherhood entered the process of overthrow Mubarak with all its force and with their advent the convert to of mass rally demonstration.

In the face of this wave that was derived from by fundamental changes and at the time Brotherhood Muslim based on jurisprudence of reality turned to the reject of the theory of conquest. the Wahhabi scholars stressed on the necessity of to maintain and comply with Muslim rulers and at the same time a summit under the title "Islamic Governors and the necessity to comply with them" was held at the University of Muhammad ibn Saud of Saudi Arabia,. But intellectual innovation of Brotherhood expand areas of influence of the Muslim Brotherhood thought in more than forty Islamic countries. As far as planning and cost spending of Saudi government in promoting the Wahhabi thinking, because of uncompromising intellectual, has no place among the modern youth.(Royvaran, siasi.aja.ir)

**The result:**

1. The Sunni jurists know the dominance theory, the most important and widely principle to legitimize the Islamic rulers.
2. Achievement to new Islamic civilization depends on renewed awakening of the Muslims. One of the Awakening obstacles is in the kind of Sunni jurists view to legitimizing the ruler. This view is inference by uncompromising way of inference in Sunni traditional jurisprudence.
3. Jurisprudence of reality is one of the demands of today's young innovators and revolutionary youth from Islamic jurists. It is an important step toward openness gate of ijtihad in Sunni jurisprudence and to adopt wisely jurisprudential inferences to the realities of time and place.
4. The jurisprudence of reality is on of reasons that led to the jurists revise in principle of dominance theory and reject the legitimacy of dissolute and corrupt ruler and issue the verdict of the uprising against his rule and consequently the emergence of Islamic awakening.

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