



Ali Velayi

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About the Researcher

Ali Velayi was born in Tehran in April 1995. In 2014, he entered the University of Tehran with the national top rank in Humanities. After completing his Bachelor's in Law, he pursued his Master's and Doctorate in Public Law at Shahid Beheshti University. He was accepted into the doctorate program as an Exceptional Talent student and defended his doctoral dissertation titled "Possibility or Impossibility of a Virtue-Based Neutral State" with the highest honors. His scientific activities include publishing 9 scientific articles in reputable domestic and international journals and participating in international scientific conferences. He is also a recipient of the National Youth Book of the Year Award (Western Philosophy section). He is currently also engaged in informal studies in seminary courses and Islamic studies.



ABSTRACT

Public Law in Iran, in its challenging relationship with Shiite jurisprudence (fiqh), has consistently faced epistemological problems, the solution to which must be sought in analyzing the issue of rule-making. This book seeks to provide an epistemological analysis of the authority to enact binding rules in the public domain, based on the thought of Sheikh Murtada Ansari; a politically averse jurist and founder of an Usuli school influential on jurists from the Constitutional period to the present. By transitioning to epistemology and categorizing principles according to the psychological and epistemological states of certainty, conjecture, and doubt, and by proposing Shiite expediency (maslahat sulukiyya) or ratification (taswib), he prepared the ground for theorizing human rule-making as a cognitive agent. By strengthening minor closure (insidad saghir), while inclined towards major closure (insidad kabir) and the absolute authority of conjectures (hujjiyyat mutlaq al-zunun) which was strengthened since the time of Wahid Behbahani, he provided a basis for theorizing about the formation of a customary legal system. On the other hand, from Ansari's perspective, the principle of non-authoritativeness (adam hujjiyyah) as the primary epistemological principle, alongside the principle of non-authority (adam wilayah), can form the basis for establishing a state with minimal intervention in rights and freedoms, according to which any imposition of obligation requires justification. By adhering to the principle of non-authority, Sheikh Ansari does not permit the independent authority (tasalluf istiqlali) of the jurist but deems the permission of the jurist essential and contrary to this principle. This very approach became the basis for theorists of the Constitutional era and was reflected in the Constitutional Law, and later led to the Guardianship of the Jurist (Wilayat al-Faqih) with independent authority in the Constitution of the Islamic Republic; whereas representation in the public domain always seems more compatible with self-governance (sultan 'ala al-nafs) and the absence of external authority (adam wilayah ghayr).