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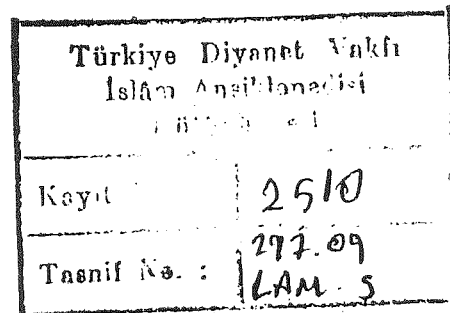
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# STATE AND GOVERNMENT IN MEDIEVAL ISLAM

AN INTRODUCTION TO THE  
STUDY OF ISLAMIC POLITICAL  
THEORY: THE JURISTS

Die igi tarandi

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## XIV

### THE *FUQAHA'* AND THE HOLDERS OF POWER

The Shī'a, so far as co-operation with an unjust government was concerned, were faced with the same problem as the Sunnīs: were they to withhold all co-operation from a government which was, in their view, usurped or were they to collaborate with it because, even though it fell short of the ideal, it was preferable to anarchy? Like the majority of Sunnīs they, too, in general followed the latter course. Many Shī'īs, including '*ulamā'*' and '*fuqahā'*', took office under Sunnī governments. Similarly, when Imāmī Shī'ism became the official religion of Persia under the Safawids, the '*ulamā'*' and '*fuqahā'*' accepted office at their hands, though there were always some who refused out of pious scruple. To permit co-operation with an unjust government while not recognising the validity of its title to rule, the Shī'ī jurists made use of the practice of *taqiyya*, dissimulation of one's belief in the event of danger.<sup>1</sup> Their attitude to the problem of government was essentially different from

<sup>1</sup> The first clear pronouncement by the Shī'īs on *taqiyya* can be traced back to the time of Muḥammad al-Bāqir, the fifth *imām*, and his son Ja'far al-Ṣādiq, the sixth *imām*. Ibn Bābūya states that 'under the rule of oppressors, *taqiyya* is a religious duty (*farīda wājiba*) and he who forsakes it is in the same position as he who forsakes prayer; yet if the practice of *taqiyya* were to result in danger to human life, it should be abandoned' (quoted by Kohlberg, 'Some Imāmī Shī'ī views on *taqiyya*', 400). Al-Mufīd writes, 'I say *taqiyya* is permissible in religion when there is fear for one's life. It may [also] be sometimes permitted when there is danger to one's property or when the well-being [of the community] may be promoted. I say that sometimes it is obligatory and its observance becomes a religious duty, and sometimes it is permissible but not obligatory; at times it is best to practise it and at other times it is best to abandon it; though even when it is best abandoned, he who practises it is excused and pardoned' (*Awā'il al-maqālāt*<sup>2</sup>, 96-7, quoted by Kohlberg, *op. cit.*, 400). See also McDermott, *The theology of al-Shaikh al-Mufīd (d. 413/1022)*, 280-2 and Strothmann, '*Takīya*' in *EI*<sup>1</sup>.

that of the Sunnīs. The latter were concerned to legitimise the authority of the government and to ensure that all subordinate authority was validly delegated in order that just or righteous government might continue. The Shī'a held that all government in the absence of the *imām* was usurped and so were not concerned to legitimise the authority of the government but rather to justify contact between their Shī'a and the government and to allow some degree of participation by them in public affairs.<sup>2</sup>

Muḥammad b. al-Ḥasan al-Ṭūsī's discussion of the duty to enjoin the good and to forbid evil, which was incumbent upon all Muslims who were *mukallaf*, illustrates the limitations placed upon the believer's actions by *taqiyya*.<sup>3</sup> Although nobody might abandon or neglect this two-fold duty its performance was limited by various qualifications. Al-Ṭūsī states,

'It is incumbent to enjoin the good and forbid evil in the heart, by the spoken word and by action (lit. by the hand) whenever the *mukallaf* is able to do this and knows, or considers, that it will not lead to harm to him or to a believer at that time or in the future. If he knows that it will lead to harm to him or to a third party at that time or in the future, or thinks this probable, it is not incumbent upon him in any way — it is only incumbent if he is safe from harm in all cases. The good is to be enjoined by action, in the heart<sup>4</sup> and by the spoken word. By action means by doing good and avoiding evil in such a manner that people will follow (the example of the *mukallaf*); by the spoken word means by summoning the people to the good and promising them praise<sup>5</sup> and reward for doing good, chiding them for failing in this and causing them to fear punishment. But whenever someone is not able to follow either of these two courses because he fears that some harm will come to him or to a third party, he should limit himself to believing in his heart that to enjoin the good is obligatory. More than this is not demanded of him. To enjoin the good by action means to restrain and

<sup>2</sup> But see further Madelung, who holds that 'in the absence of the Imam, however, any ruler or government acting in his name and in accordance with the Imāmī law acquires a derivative, functional legitimacy and can command not only the sincere obedience but also the loyal support of the faithful' ('A treatise of the Sharīf al-Murtaḍā on the legality of working for the government (*mas'ala fī 'l-amal mā'a 'l-sultān*)', *BSOAS*, XLIII, 1 (1980), 30).

<sup>3</sup> See below pp. 310ff. for a discussion of the enjoining of the good and the forbidding of evil according to Sunnī practice.

<sup>4</sup> The Arabic text omits 'in the heart'.

<sup>5</sup> The Persian text omits 'praise and'.

-Fakih  
-Tursun Fakih

**Kuruluş Devri Osmanlı “Fakı” Zümresinin  
Tipik Bir Öncüsü: Tursun Fakı\***  
**A Typical Leader of the Ottoman “Fakı” Group:  
Tursun Fakı**

*Mehmet Gel\*\**

**Özet:**

Bu çalışmada, Osman Gâzi döneminde (1281-1324) yaşadığı rivayet edilen Tursun Fakı'nın menşei ve kimliği kaynak kritiği yöntemiyle ele alınmaktadır. Çalışmanın ana tezi, Tursun Fakı'nın “bilâd-ı Karaman” kökenli olduğuna yönelik rivayetin eleştirilebilir olduğu, onun asıl olarak Osman Gâzi'nin çevresinde bulunan imamlık yapma niteliklerine sahip “fakı”ların önde geleni olduğu ve bu yönüyle de kendisine XV. yüzyıl kroniklerinde Osmanlıların bağımsızlıklarını simgeleyen ilk hutbeleri okuma (hatiplik) ve kadılık yapma rollerinin atfedildiğidir.

**Anahtar Kelimeler:** Tursun Fakı, Kimlik, Şeyh Edebalı, Osman Gâzi, Kuruluş

**Abstract:**

This study will examine the origin and identity of Tursun Fakı, who is said to have lived during the Osman Gazi era (1281-1324), using the source critique method. The main claim of this paper is that the account about Tursun Fakı being of “Karaman Province” origin is debatable and that he was actually the leader of the “Fakı”, possessing the traits of imamate in Osman Gazi's circle. Due to this aspect, the position of preaching the first sermons and being a kadi (Muslim judge), which symbolize the Ottoman independence, have been attributed to him in fifteenth century chronicles (annals).

**Key Words:** Tursun Fakı, Identity, Sheik Edebalı, Osman Gazi, Establishment

\* Bu çalışma, Prof. Dr. Reşat Genç'in danışmanlığında hazırladığımız “Osmanlı Devleti'nin Kuruluş Döneminde Fakihler ve Tursun Fakih” (Gazi Üniversitesi, Sosyal Bilimler Enstitüsü, Yeniçağ Tarihi Bilim Dalı, Ankara 2004) adlı yüksek lisans tezinde yer alan bir bahsin gözden geçirilmiş hâlidir.

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\* - FAKIH  
- MUHADDIS

# الفقهاء والمجاهدين

①

« كان اسمه بين الناس كأنه اسم نبي »  
محمد بن الصلت

العارف بالله  
بشر بن الحارث الحافي

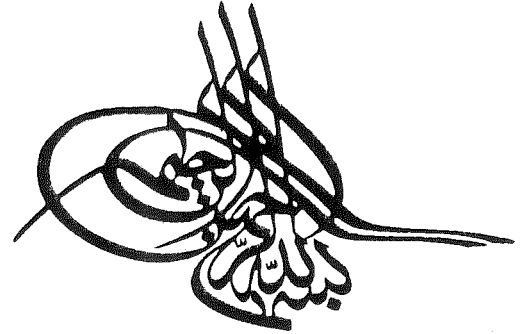
للإمام الأكبر  
الدكتور عبد الحليم محمود  
شيخ الأزهر

الناشرون

دار الكتاب اللبناني  
بيروت

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القاهرة



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185. BERNARDS, Monique ; NAWAS, John. « The Geographic Distribution of Muslim Jurists during the First Four Centuries AH ». *Islamic Law and Society*, 10, 2 (2003), p. 168-181.

Cet article présente les résultats d'une large enquête statistique menée à partir du vaste corpus des *fuqahā*s afin d'évaluer l'importance des différents *madhabs* sunnites pendant les quatre premiers siècles de l'Islam (i.e. jusqu'à la création des *madrasas*). L'échantillon statistique est constitué de 406 *fuqahā*'s, sélectionnés parmi un total de 7.000 entrées dans 80 dictionnaires biographiques compilés du 3<sup>e</sup>/9<sup>e</sup> au 11<sup>e</sup>/17<sup>e</sup> s. Les résultats sont présentés sous forme de tableaux commentés. Ils concernent d'une part la répartition des différents *madhabs* à l'échelle de l'ensemble du monde musulman, d'autre part leur répartition régionales (six grandes régions ont été définies ; l'Iran et la Transoxiane sont regroupés dans un même ensemble). Les auteurs exposent d'abord leurs résultats pour l'ensemble des quatre premiers siècles de l'Islam, puis en distinguant deux périodes (avant et après le milieu du 3<sup>e</sup>/9<sup>e</sup> s.). Dans la dernière partie de l'article, ils proposent une analyse globale de ces résultats. Cette enquête confirme largement ce que l'on savait déjà (la domination des docteurs malikites dans tout le monde arabe, la répartition équilibrée des différents *madhabs* en Iraq). Les principales découvertes auxquels pensent être arrivés Bernards et Nawas concernent la faible proportion des juristes changeant d'école d'une part, l'importance du hanbalisme en Iran d'autre part (notons que l'importance du mouvement hanbalite dans l'histoire de Iran avait déjà été étudiée de façon approfondie par Pourjavady, cf. notamment ses études sur Abū Manṣūr al-Iṣfahānī).

D.D.-G.

Fikih  
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