



## A New Perspective at Comprehensiveness of Islamic Education Theory with Regard to Concept of Silence in Jurisprudential and Legal Sources

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ARTICLE INFO	ABSTRACT
<p>Received: 24 June 2020            Revised: 04 September 2020            Accepted: 06 September 2020            Online: 27 February 2021</p>	<p>The changes of the last half century in the world, influenced by new technologies, have posed new issues and challenges to religious and educational systems. In this situation, in Iran "educational jurisprudence" emphasizes the theory of "comprehensiveness of Islamic education" through extending the theory of "comprehensiveness of Islam" to the field of education. The purpose of this study is to critique the "comprehensiveness of Islamic education theory" with regard to the concept of silence in jurisprudential and legal sources. While the method of study is comparative, library method and conceptual-religious method were used to collect and analyze data respectively. The research findings showed that although there are differences between jurists regarding the theory of the Shari'a silence in jurisprudence, but the proposition of "accepting the silence of Shari'a relatively" by some jurists - which is an intermediate view - can indicate the rejection of comprehensiveness of Islamic education theory. Also, the findings indicate that the main discussion of the jurists is about possibility of stabilizing or changing the decrees that already existed, and there has been less discussion about new issues of contemporary world - for which there is no previous Islamic rules. In a general conclusion, it can be said that acceptance of comprehensiveness of Islam does not necessarily mean the comprehensiveness of "Islamic education" and denying this comprehensiveness can reduce the heavy responsibility of those who believe in this theory.</p>
<p><b>KEYWORDS</b></p> <p>Comprehensiveness of Islam            Islamic Education            Educational Jurisprudence            Shari'a silence</p>	

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## **1. Introduction**

This introduction begins with a few basic points. The first point is that technological and scientific changes and developments during the last half century have changed human life in a way that cannot be found in history. Some of these developments and innovations have led to changes in social relations and emergence of new issues and challenges that are also new to intellectual, cultural and religious systems (Allee & Taug, 2006; Alkenburg, & Peter, 2007; Bianchi, 2014; Khvorostianov, Elias, & Nimrod, 2012). For example, changes in social relations between men and women, child rights, inheritance, environmental issues, citizenship rights, human rights, cyberspace, communication methods, methods of education, and so on.

The second point is that many intellectual, cultural and religious systems do not anticipate the issues, challenges and problems of the contemporary world and therefore do not have a predetermined and definite answer to solve them (Baker, 2012; Cohen, 2006; Hartwick, 1990). It is natural that due to the nature and complexity of contemporary developments, one should not expect this prediction from these systems. However, the thinkers and supporters of these systems try to provide their answers, reactions, and solutions according to the main frameworks and foundations of each system as well as the existing realities. It is obvious that some answers and solutions are not easily realized and their acceptance often requires changes in beliefs, presuppositions and theories that people consider obvious and applicable at all times and places.

Third, in the past it was easy to generalize an intellectual, cultural, or religious presupposition to all aspects of life, but today the power of these generalizations has diminished. For this reason, and for example, it is no longer possible to simply generalize an intellectual, cultural, or religious assumption or theory to other areas, such as economics, politics, education, and so on. In today's changing world, the truth of a theory in one epistemological field does not necessarily mean its generalizability to other epistemological fields (Creswell, 2009; Fahrenberg, 2003; Shumway, & Stoffer, 2006).

In view of the above, it can now be said that Iran and its social systems have faced all three points over the last four decades. On the one hand, Iran, like many other countries, has been strongly influenced by new developments in the contemporary world due to its young population composition, changes that have affected the religious, family, educational and social relations of the people. On the other hand, Iran is the only Muslim country in the world that has a political system of

the Islamic Republic with Shiite rule (Cook & Roshandel, 2009). This combination has caused that in addition to the political system, other social systems - especially the two legal and educational systems - are strongly influenced by the religious system - with the dominance of the Shiite jurisprudential system - (Arjmand, 2013; Banakar, 2016; Banakar & Ziaei, 2018). For example, in recent decades, Iranian academic societies have witnessed the generalization of Islamic theories through religious sciences such as jurisprudence to the field of education. The result of this influence is a shift in emphasis on academic methods of education to "Islamic education." Accordingly, during the last few decades, hundreds of books, articles, meetings, conferences and training courses have been dedicated to examining the dimensions, characteristics, principles, methods and theories of Islamic education.

One of the ideas that have been emphasized by the supporters of Islamic education during these years is its superiority and comprehensiveness over other educational schools such as Western education. The main basis of this educational idea is taken from one of the basic principles of jurisprudence called "comprehensiveness of Islam". Let me explain this a little more:

Usually one influence of the religious systems' followers is the generalization of its principles and rules to all areas of life and attempt to explain it from a scientific perspective. For example, since the establishment of the Islamic Republic in the late 1970s, there has been a common belief and theory that Islam is the most complete religion and has its own instructions, principles and methods for all aspects of life. In fact, it should be said that the theory of "comprehensiveness of Islam" is a theory fully accepted in the Iranian scientific scene (Ahmadi, 2008; Bagheri, 2001; Ghobadzadeh, 2016; Hassan Khani, 2020; Motahari, 1999). Thus, this general acceptance has caused the comprehensiveness of Islam as a jurisprudential principle to be extended to other scientific fields such as education. In fact, many educational specialists have tried to generalize the comprehensiveness of Islam to the field of education by presenting "Islamic education" as opposed to "non-Islamic education" and support it (Bagheri, 2012, Kankler, 2019; Niazaf & Mamun, 2011, Nili Ahmadabadi, 2013). While its acceptance faces three main problems: First, Islamic education cannot answer all the issues and challenges of the contemporary world or does not have a definite and pre-prepared answer for all contemporary challenges. Secondly, the followers and believers of religious education have spent most of their time only to prove the existence and characteristics of Islamic education, while they have reduced the concept of this education to ethics (Baghcoli & Ghanavi, 2019).

Thirdly, the theory of comprehensiveness of Islamic education is in conflict with the subject of "Shari'a silence" in jurisprudence, which is approved by some jurists. In this regard, Al-Hosseini, Sajjadi, Sadeghzadeh & Mehr Mohammadi (2015) in their critique of educational theories in Iran emphasize that some of Iranian educationists in recent decades have tried to play their role in realizing the model of "Islamic education" by substituting the word "Islamic" for the word "Western". In reality, however, they failed to achieve this goal due to their extreme tendency towards theoretical issues and their inability to bridge the gap between theory and practice. In line with this extremist tendency towards theoretical issues, some religious scholars have also tried to introduce the theory of comprehensiveness of Islamic education in the form of a new branch of knowledge called "educational jurisprudence" by giving an unreal role to jurisprudence in the field of education (A'rafi, 2011, 2015; Mousavi & A'rafi, 2011). The purpose of this article is to critique the theory of comprehensiveness of Islamic education proposed in educational jurisprudence - considering the concept of silence in jurisprudential and legal sources. Based on this goal, the sub-objectives of the research are:

- Definition of educational jurisprudence and its intellectual foundations
- Explain the concept of Shari'a silence in jurisprudence
- Identify and compare the views of those who agree and those who oppose Shari'a silence
- Explaining the conflict between theory of comprehensiveness of Islamic education and theory of Shari'a silence

## **2. Research Method**

According to its aims and characteristics, this research can be considered as a qualitative comparative in terms of method and conceptual-religious analysis with an educational approach in terms of data analysis. Conceptual-religious analysis means exploring the meaning of a concept in the text of revelation by analyzing it in detail. By adopting an educational approach, the result of the analysis will be an educational explanation (Al-Hosseini, Sajjadi, Sadeghzadeh & Mehr Mohammadi, 2013). Researchers also sought to explore the relationship between different concepts and recognize relationships and conceptual networks. To collect data, the library method was used and primary and secondary sources were identified.

## **3. Results**

In this section, first a definition of educational jurisprudence and its relationship with the theories of comprehensiveness of Islam and comprehensiveness of Islamic education is presented. In the next stage, the concept of the Shari'a silence and its various dimensions are explained. In the third

stage, different perspectives of the jurists regarding the silence of the Shari'a will be presented and compared with each other. The final part of this section is dedicated to the relationship between principle of religious silence and the theory of comprehensiveness of Islamic education.

### **1) Educational Jurisprudence**

Jurisprudence is often referred to as man's understanding of Islamic Shari'a or divine law, which has been revealed in the Qur'an and Sunnah. Literally, jurisprudence means deep understanding. This deep understanding of the surah of the Qur'an and the behavior of the Prophet and the Ahl al-Bayt and its interpretation is done to determine the do's and don'ts of Muslim life and to pass laws (Vogel, 2000). According to this definition, there are two maximum and minimum interpretations of jurisprudence and its scope. In the maximum sense, jurisprudence is the knowledge that assigns tasks to all aspects of human life. In a minimal sense, jurisprudence does not have such a broad task. The minimalist view of jurisprudence is based on the argument that none of the religious teachings alone can identify the whole religion. Therefore, we are forced to divide religious knowledge thematically, so that according to it, different field of knowledge is only responsible for studying, recognizing and explaining a part of religion (Abbasi, 2004). But what has been common in Iran over the last few decades is based on the acceptance of maximum jurisprudence. In fact, the basis of the dominant jurisprudence thought is the theory of "comprehensiveness of Islam". According to this theory, the religion of Islam, as the most complete religion for all aspects of life - including education- has an order, plan and solution and jurisprudence is a science that can be active in all aspects of life to determine the do's and don'ts of behavior.

Naturally, in this direction, education has a special place in terms of jurisprudence, and therefore, we can mention the existence of a science called "educational jurisprudence". Accordingly, educational jurisprudence is a science that examines the voluntary behaviors of educators and trainers in the position of education in terms of their attribution to one of the five rules (obligatory, recommended, disliked, permissible, and forbidden) and for each behavior deduces a verdict from its arguments (Ziaeifar, 2008). In fact, in jurisprudence, the behaviors of individuals are divided into 5 general groups: obligatory, recommended, disliked, permissible, and forbidden, and the educational system must adjust its goals, principles, and methods based on this division. Therefore, from the perspective of jurisprudence, all the "should and should not" of educational sciences must be approved by the Shari'a (Arafi, 2016). In this regard, and according to

those who believe in educational jurisprudence, the presence of jurisprudence in three levels of education should be considered: First, the discovery and presentation of new educational methods; Second, modification and refinement of existing methods, and Third, approval or rejection of common methods (ibid, 127).

Here are two important questions. The first question is what role and mission can be defined for educational sciences if the role of jurisprudence is so wide. In fact, if educational jurists can discover and propose new educational methods, what is the need for specialists, departments and faculties of educational sciences? The second question is how the jurists want to use jurisprudence to discover new educational methods, to modify the existing methods and to approve or reject them. It is obvious to the specialists of educational sciences that in the two levels of discovery and modification of educational methods, educational jurisprudence cannot be very effective in practice. In fact, education of human being is so complex that no science alone can claim to discover and suggest all new methods of education or to modify and refine them. For this reason, we are talking about educational sciences, not educational science (Mialaret, 2006). Therefore, it seems that the existential philosophy of educational jurisprudence in religious societies - such as Iran - is at its third level only. That means approval or rejection of educational issues through educational jurisprudence is somewhat acceptable. In other words, educational jurisprudence can only state its position on all aspects of human education, without claiming to determine them. In other words, educational jurisprudence can only clarify its opinion on all aspects of human education, without claiming to determine them. However, accepting the relative role of educational jurisprudence, even at this level, does not mean that educational jurists have appropriate answers to all educational issues, challenges and questions.

In a brief conclusion, it can be said that educational jurisprudence cannot claim the "comprehensiveness of the Islamic education system." To prove that educational jurisprudence is not able to solve all the educational challenges of contemporary life and of course it is not possible to reach the comprehensiveness of Islamic education by resorting to the comprehensiveness of Islam, we use the science of jurisprudence and the theory of "Shari'a silence ". In a brief conclusion, it can be said that educational jurisprudence cannot claim the "comprehensiveness of the Islamic education theory". To demonstrate that educational jurisprudence is not able to solve all educational challenges of contemporary life and cannot reach the "comprehensiveness of Islamic

education" by resorting to the theory of "comprehensiveness of Islam", we use the subject of Shari'a silence.

## ***2) Concept of Religious Silence***

Silence in jurisprudence is one of the issues that have been considered by jurists from the past to the present and there has been no consensus and unity of opinions about its existence or non-existence. Interestingly, this difference of opinion can be seen in both Sunni and Shiite jurisprudence. The basic premise of the concept of silence goes back to the main question of whether Islam has ruled on all events and issues. The answer to this question is important in the sense that according to the verses of the Qur'an and religious narrations, Islam is the most complete religion and therefore all the rules in Islamic jurisprudence have been stated and as a result the answer to the question is "yes". But expressing a positive answer does not necessarily mean that it is accepted by all jurists, especially when new issues and challenges are raised for individuals and societies.

## ***3) Opinions of Proponents and Opponents of Shari'a silence***

What can be obtained by analyzing the research data is that in Islamic jurisprudence, there is no fixed and clear view on the vacuum of law and ruling, and there are different opinions in this field, which can be divided into three general categories:

### *Opinions of Proponents of Shari'a silence*

Some jurists have accepted the silence and emptiness of Shari'a and law, which means that there are cases and subjects in which Islam has no ruling. This lack of law may be due to the emergence of a phenomenon that did not exist at the time of the Prophet of Islam; such as organ transplantation for human progress in medicine (Shamsuddin, 1998). This group also believes that the existing religious texts cannot cover all issues, so the Mujtahid must somehow obtain a religious ruling. They believe that what God has declared lawful in the Qur'an is lawful and what He has forbidden is unlawful, and that what He has kept silent about includes "forgiveness," meaning ignoring. In places where the jurist tries and obtains the verdict of non-specific issues in the Shari'a through analogy

and Ijtihad, there is in fact no specific verdict. Because verdict is a speech that has been heard through narration, or there is a definite reason for it (Ghazali, 2003). The silence of the law among Sunni scholars is also called the amnesty zone (Bahraminia, 2007). Many Sunni scholars divide the rulings into two categories: prescribed and non-prescribed, and the second group includes cases of emptiness and silence of the law (Mazinani, 1997).

### *Opinions of Opponents of Shari'a silence*

Contrary to the first perspectives, some jurists believe that whatever the Islamic Ummah needs from personal and social life and worldly and spiritual affairs, its ruling has already been stated (Makarem Shirazi, 1995a). Citing verses from the Qur'an and Sunnah, this group states that the rulings that human beings need - until the Day of Judgment - are foreseen in Islamic law and nothing is left unsaid. Of course, some of these rules are specifically stated in the Qur'an or the Sunnah of the Prophet (PBUH) and the Imams (AS), and some can be seen in the general rules and principles. Therefore, the duty of jurists is only to apply the general rules to its examples (Makarem Shirazi, 1995b). Among the Sunnis, there is also a group who believes that no one has the right to make God's lawful unlawful and His unlawful lawful, and even legislating the government within the limits of "permissible" is not permissible (Alusi, 1994). Opponents of Shari'a silence cite two types of "arguments for the comprehensiveness of Shari'a" and "arguments for legislative impropriety" in support of their views. According to the evidence of the comprehensiveness of Shari'a, the Qur'an states the perfection of religion, and if we believe that no ruling has been expressed in some matters, this issue will be in conflict with the verses of the Qur'an (Mousavi Bojnourdi, 2000; Astarabadi, 2005). Evidence of legislative impropriety also means that in the case of permissibility, we do not have the right to change the status of the sentence, although they are permissible (Hor Ameli, 1988).

### *The View of Accepting the Silence of Shari'a in a Relative Way*

The existence of evolution and change in man's relationship with nature and emergence of new issues have paved the way for the acceptance of this theory among a group of jurists. One of the most important theorists of this view was Seyyed Mohammad Baqir Sadr (1895-1978), an Iraqi Shiite jurist, theorist and politician who proposed his theory under the title of "Al-Faragh Zone"

(Haeri, 1996). Al-Faragh area is a place where the holy shari'ah has ruled that those cases are "changeable", not that there is no ruling (Mohaghegh Damad, 1995). In other words, this area is free of any mandatory sentence, not empty of any sentence. Because there is no subject to which one of the religious rules does not belong (Sadr, 2014). Therefore, this area can show the dynamics of jurisprudence in responding to all problems - at all times and places - (Sadr, 2014). Sadr also believes that "every act is legally permissible. Therefore, any activity and action that the text does not indicate the sanctity or necessity of law, the government can prohibit or order it to do by giving a secondary attribute" (Ibid: 689). Therefore, this area includes permissible, recommended and disliked matters. However, no new ruling can be issued on what the Shari'a has imposed a ruling on sanctity or obligation.

But from another point of view, it seems that Imam Khomeini, the previous leader of the Islamic Revolution of Iran, does not think that things are lawful and unlawful. In his view, the Islamic government can change the rulings according to its expediency. In a way, "the government, which is a branch of the absolute guardianship of the Messenger of God, is one of the basic rules of Islam and precedes all sub-rules, even prayer, fasting and Hajj. The ruler can destroy a mosque or a house on the street, and The ruler can close the mosques when necessary ..... The government can close the Shari'a contracts - which it has made with the people - when that contract is against the interests of the country and Islam. Unilaterally cancel. The Islamic government can prevent any act, whether religious or non-religious, that is against the interests of Islam - as long as it is so. The government can temporarily prevent Hajj - which is one of the important divine duties - when it deems it against the interests of the Islamic country (Imam Khomeini, 1999: 170). Thus, it can be inferred from his view that according to the new requirements and conditions of society, the Islamic government can rule in all aspects of society - including education - based on the interests of Islam, whether there is a rule before or not ( Rai & Hosseini Qalandari, 2012). Also, the Islamic government can again change the final rulings - in any of the five forms.

#### ***4) Explanation of Conflict between Theory of Comprehensiveness of Islamic Education and Silence of Shari'a Theory***

Before explaining the relationship between these two theories, it is necessary to make some points about theory of Shari'a silence according to the previous three views. The first point to note is that there is similarity among jurists views regarding acceptance of comprehensiveness of Islam. The

second point is that there is agreement among the jurists on division of rulings into five states: halal, haram, offensive, permissible and haram. The third point is that there is agreement between all three views on the certainty of some verdicts - regardless of time and place. The fourth point is that there may be differences in the interpretation of the jurists regarding the primary and secondary rulings. Fifth point, the silence of Shari'a in any of the three views does not mean the lack of religion. The sixth point is that the proposition of the third view by some jurists means the implicit acceptance of the fact that there are new issues whose judgment is not stated in Islam. The seventh point is that theorists of the view of "relative silence of the Shari'a" not only do not consider this silence as a sign of shortcomings of Islam, but also consider it as cause of dynamics of religious jurisprudence (Motahari, 1995; Sadr, 2014; Tabatabai, 2015).

Another point is that in the biography of the Infallibles (PBUH) there are cases that changed the rulings issued by the Prophet (PBUH) in different circumstances. For example, regarding the keeping of sacrificial meat in semen - which the Prophet of Islam forbade to keep for more than three days -, Imam Sadegh (AS) allowed this to keep for more days and said that today's situation has changed (Hor Ameli, 1988, Al-Kulayni, 1986). Therefore, the silence of Shari'a does not mean that events are empty of any ruling, nor is it a defect of Islamic Shari'a, because the Shari'a has fixed rules for the fixed needs of human beings and unstable rules for the changing and unstable needs. In other words, there is a difference between the immortality of Islam and immortality of each of its rules and regulations. The immortality of Islamic law does not mean that all its commands are stable and eternal and unchangeable (Mazinani, 1997). In view of what has been said in the two paragraphs above, the following can be inferred:

- Islam, as the most complete religion, has definite guidelines and instructions regardless of the time and place for educating human beings and achieving prosperity.
- All human behaviors can be examined and analyzed in the general framework of Islamic law, but this does not necessarily mean the issuance of a verdict for every behavior.
- The immortality of Islam does not necessarily mean the immortality of all its precepts in various areas of life such as education.
- The relative acceptance of the silence of the Shari'a by some jurists constitutes an implicit acceptance of the fact that Islam, due to the dynamic nature of Ijtihad, has given jurists and religious scholars the opportunity to reconsider their rulings.

- Accepting the comprehensiveness of Islam does not mean the ability of "Islamic education theory" and educational jurists to discover and propose new educational methods or improve these methods.

#### **4. Conclusion**

The purpose of this article was to use a jurisprudential issue to critique an educational perspective. The present researchers first tried to show that during the last four decades in Iran, a group of educational researchers have tended to extend the theory of comprehensiveness of Islam from the field of jurisprudence to the field of education, to create comprehensiveness and power of generalization for "Islamic education". While the realities of social life in the 21st century have created new topics, challenges and issues in the educational life of Iranians that cannot be found in the past. Also, the present researchers showed that the main discussion of the jurists is mainly about the possibility of stabilizing or changing the rulings that already existed and therefore there is less discussion among the jurists about new issues for which there is no previous verdict.

In addition, the present researchers tried to show that the comprehensiveness of Islamic education and its natural consequence, namely the rule of educational jurisprudence, cannot be accepted for three reasons. The first reason is that the comprehensiveness of Islam does not mean the comprehensiveness of its rules in all fields; Second, the plan of Shari'a silence can implicitly mean religious silence in some educational issues, and third, accepting the comprehensiveness of Islamic education, if it means accepting the dominance of educational jurisprudence, is a negation of the existential philosophy of educational sciences. Therefore, in a general conclusion, it can be said that Islamic education, like other educational schools, can be subject to some limitations.

Another finding based on the subject of the Shari'a silence in Islam concluded that silence in jurisprudence does not mean that the ruling of the issue is not in the Shari'a, but it means that God has stated the ruling of many events and issues in general or in part. He has also handed over the ruling of some of them to the Islamic ruler or wisdom due to change or other motives. Thus, when it comes to the Islamic ruler or wisdom, Islamic education is outside the exclusive circle of educational jurists and the space is open for politicians and education specialists.

Considering what has been said, some specific conclusions and suggestions can be made. The first conclusion is that the denial of comprehensiveness of Islamic education is more in favor of this theory than to its detriment, because it eliminates its responsibility to provide solutions to all the complex educational problems and challenges of the world today. The second conclusion is that the rejection of this theory provides a space for the presence of specialists in other sciences to solve

educational problems without worry about compatibility of each solution with religious rulings. The third consequence is that the silence of the Shari'a simultaneously increases the Ijtihad power of the jurists and specialists in education.

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