



## Research Paper

### Comparative Approach to Theory of Mantiqat al-Firāq of Martyr al-Sadr and Mantiqat al-‘Afw of Sheikh al-Qardāwī

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#### Abstract

The occultation of the Infallible Imam (as) and the emergence of new events increased the Muslims' need to know the legal (sharī) ruling regarding the newly-emerged cases. It made some Islamic scholars struggle to consider the Islamic worldview and to believe in an area free of legal ruling. In Imāmī jurisprudence, the contemporary jurist Martyr Sayed Mohammad Bāqir al-Sadr called it "Mantiqat al-Firāq" (Belt of Lacuna) and in Sunni jurisprudence, the Egyptian jurist Yusuf al-Qardāwī called it "Mantiqat al-‘Afw" (Belt of Permission). Based on the descriptive-analytical method, this research aims to compare the two theories to investigate and analyze their feature and ambiguities. These two theories have many differences and similarities with each other that can be examined. Examining these two theories, it may be concluded that both areas, which have been proposed with the aim of social justice and respect for the general interests of the society, and in its design, the universality and immortality of the Islamic Shari'a have been taken into consideration, are empty of legal required rulings. In order to fill this area, it is necessary to bring up specific criteria and standards to match them with the general principles and rules of Islam. In addition, both theories have shortcomings that must be amended and completed by their proponents or even critics in order to be applicable.

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## Extended Abstract

### 1- Introduction

As the last and most comprehensive divine religion, Islam answers all human needs. Islam has issued rules for many issues, and for many others that are beyond a specific time and place, it has established general rules that can be applied to specific issues. By the time going on and the increasing progress of science, new religious questions have emerged. Since Islam is a transcendental and spatial religion, it must have answers for the new conditions of life. This feeling of need made some Islamic scholars to think about the worldview of Islam and believe in a free zone in legal rulings. In Imāmī jurisprudence, the contemporary jurist Sayed Mohammad Baqir al-Sadr named this area "*Mantiqat al-Firāq*" (*belt of lacuna*), and in Sunni jurisprudence, the Egyptian jurist Yusuf Al-Qardāwī called it "*Mantiqat al-'Afw*" (*free/forgiven zone*). The convergence of schools has been one of the most important concerns of the majority of jurists of Islamic denominations since the past, as through reflecting on the jurisprudential texts of Imāmīyyah and Ahl al-Sunna, many commonalities and common concerns are observed. In addition, matching opinions can help to solve emerging issues. This research, through examining the views of Sheikh Qardāwī and Martyr Sadr, aims to complete and eliminate the shortcomings of their theories and approximate them together so that they will be used more precisely in response to new issues.

### 2- Method

The research was carried out using a descriptive-analytical method. The method of collecting information is document-library. In this research, by referring to well-argued sources of books and articles, the necessary data has been collected. It

aims to compare two theories of "*Mantiqat al-Firāq*" and "*Mantiqat al-'Afw*", examining and analyzing the features and bright and ambiguous points of them and presenting the desired result.

### 3- Result

In cases where there is no mandatory ruling (in the form of sanction or obligation) from the Shari'a, the legislative body is responsible for approving what it deems appropriate laws. The scope of these laws is called "*Mantiqat al-Firāq*" (*belt of lacuna*). "*Mantiqat al-'Afw*" is also an area where texts have been deliberately left to the ijtihad of rulers and experts of the Ummah in order to realize the public interest and fulfill the Shari'ah purposes, without any limitation, prohibition, or deny from the legislator in this field. In other words, "*Mantiqat al-Firāq*" and "*Mantiqat al-'Afw*" refer to the areas where the legislator due to the change in their issues, refuse to issue a fixed ruling in them and leave the issuance of that ruling to the Islamic State. Therefore, the rulings related to these two areas are subject to the interests and requirements of the time.

### 4- Conclusion

According to the theories of *Mantiqat al-Firāq* and *Mantiqat al-'Afw*, in cases which the Shari'a text is not about necessity or prohibition, the ruler of the Islamic community or the jurist can issue a mandatory ruling based on the general rules and principles of the Shari'a. Regarding to the goals that have been put forward for the establishment of these two regions, it is necessary to determine criteria so that while realizing social justice, public interest and responding to emerging issues, the established decrees would not be in conflict and contradiction with the purposes, principles and general



rules of Shari'a. According to the opinions of Martyr Sadr and Sheikh Qardāwī, due to the importance of issuing fatwa and legislation in *Mantiqat al-Firāq* and *Mantiqat al-'Afw*, it is necessary for the ruler of the Islamic State, the mujtahids of the Ummah and the people of solving and converging (*'ahl hall wal-'aqd*) to be responsible for the issuance of rulings in order not to cause confusion and multiplicity of legislation.

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#### **6- Authors' contribution**

The authors' contributions to this article are as follows:

Mahmood Akbari: presenting the idea, collecting the material, editing the article.

Meysam Khazae: Reviewing, guiding and supervising writing the article, scientific editing of the article.

Mohammad Edki: Participation in writing, reviewing, correcting and editing the article.

In addition, the authors have read and confirmed the final version and accept the responsibility for the research.

#### **7- Conflict of Interest**

All authors declare that there is no conflict of interest.