

Religious Authority
in Shi'ite Islam



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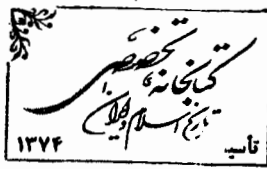
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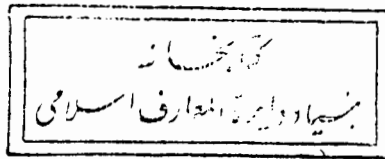




RELIGIOUS AUTHORITY IN SHI'ITE ISLAM

FROM THE OFFICE OF MUFTI TO
THE INSTITUTION OF MARJA'

Ahmad Kazemi Moussavi



کتابخانه دفتر اسناد
بازار دارالافتاء



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To the memory of my father

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Notes on Transliteration and Dates

The system of transliteration used for the Persian and Arabic works is that of the Library of Congress, with certain modifications. Words which are anglicized, such as Imam and Sufi, appear without diacritical marks unless they are used in a Persian or Arabic phrase. The English equivalents of foreign words are mentioned in brackets or explained within the context. Words which are common to Persian and Arabic are rendered according to the context in which they have been used; therefore, for the most part they are transcribed according to their Arabic pronunciations.

Names of the classical and medieval authors are, in the first usage, rendered with full titles and according to the Arabic context in which they appeared, such as Shaykh al-Tā'ifa Muḥammad b. al-Ḥasan al-Ṭūsī and Shaykh Yūsuf b. Aḥmad al-Baḥrānī. For all subsequent usages they appear in short form and without the definite article "al", e.g., Shaykh Ṭūsī, Baḥrānī. The anglicized form "Shi'ite" has been chosen to mean Ithnā'asharī Shī'ī. However, "Shī'a", Shī'ī, "Imāmī" are also used to convey the same meaning. Words such as Traditions and Companions appear with capital "T" and "C" in reference to their connection with the Prophet, whereas the traditions and companions of the Shi'ite Imams are not capitalized. The word 'Imam' (with capital "I") denotes the Shi'ite Imam, versus 'imām', the regular leader of the community or congregational prayer.

Dates have generally been cited according to the lunar Islamic date followed by the Christian date. Nevertheless, for the contemporary period dates have been recorded in the text according to the solar Islamic calendar and marked "sh".

بسم الله الرحمن الرحيم
الحمد لله رب العالمين
الصلاة والسلام على اشرف الأنبياء والمرسلين

INTRODUCTION

The juridical basis for the institutionalization of positions affording the 'ulamā' full-fledged legitimacy for their role within the Shi'ite community, the subject of the present study, has heretofore received but scant attention, partly because the very nature of Shi'ite learned institutions, informal as it is, has obscured the rise of the clerical hierarchy. As with Sunnī Islam, the first Shi'ī learned position to emerge was that of the *'ālim* (pl. 'ulamā'), originally a scholar well versed in the traditions of both the Prophet and the Shi'ite Imams, one who traditionally played an important role in the oral transmission of these traditions. Soon, however, there emerged the position of *faqīh*, one who not only knows the Qur'ān and the traditions but infers legal rules from them as well, and that of mufti, one who pronounces his opinions and delivers *fatwās* (juridical opinions). Later there appeared the offices of *qāḍī* (one who administers justice by legal rulings), *naqīb* (supervisor of the descendants of the Prophet's family), and *nā'ib* (deputy of the Imam).²

The title of *mujtahid*, which in Shi'ism designates a jurist who deduces legal rules from the sources, appears to have originated in the 7th/13th century, at which time a new round of Shi'ī-Sunnī interactions drove the Imāmī 'ulamā' to formally acknowledge the holder of the position of *mujtahid* as the one empowered with the authority of *ijtihād*³ (the attempt to deduce legal rulings from the sources). However, as an authoritative office, the office of *mujtahid*

¹ For the definition and development of the above offices, see below, and chapters two, three and five.

² See below, chapter two.

³ See below, chapter three.

arose after the Safavid triumph in Iran (907/1501). During the reign of the Safavids, as evidenced in their official charters, there emerged a tendency to regard at least one Shi'ite scholar, if not two or more, as *mujtahid al-zamān* (scholar of the time). Furthermore, in an attempt to establish an official hierarchy, the Safavid government assigned the 'ulamā' (including the *mujtahids*) to offices such as *mullā bāshī* (chief jurist) and *shaykh al-Islām* (chief leader of the Friday congregational prayer in a given city).⁴ The office of *mujtahid* remained an important part of the hierarchy after the collapse of the Safavids, but the latter two offices gradually came to disappear.

It was during the Qajar period in the 13th/19th century that the concept of the supreme *mujtahid* came to be institutionalized in the position of the sole *marja'*, the single jurisprudent, who, aside from his legal pronouncements, was a model for his followers in the community. This occurred in the Shi'ite shrine cities of 'Atabāt (in Iraq), where the charismatic authority of the vicegerency of the Imam (the divine guide) reinforced the principle of the superiority of the most learned jurisprudent. Through the process of institutionalization, the 'ulamā' gradually centralized their authority into a financially strong and independent hierarchy whereby they could virtually control the educational system throughout the community. Through the publication of a kind of legal manual termed *risāla 'amaliyya* and the issuance of additional *fatwās* as needs arose, a *marja'* would attempt to standardize the religious practices of his community.

The financial network of the 'ulamā' gained strength as a result of both juridical rulings as well as the growing ties between the 'ulamā' and the Shi'ite professional classes (*aṣṇāf*). Numerous works of jurisprudence indicate that the

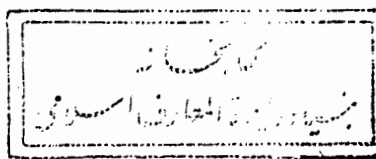
⁴ Ibid.

Shi'ite authors progressively developed the laws governing the collection of *zakāt* tax, *khums* alms and taxes on given illegal transactions, all of which constituted a source of income for the 'ulamā'. This economic source became particularly important with the strengthening of the "bazaar-mosque" connection through the widespread observation of the Muḥarram processions (the commemoration of the third Shi'ite Imam Ḥusayn d. 61/680) and the regular visitation of holy shrines in post-Safavid Iran. Before the prevalence of the above rituals, the bazaar merchants and craftsmen were under the spiritual influence of the Sufis by virtue of the *futuwwa* organization, a society based on virtues and generosity. The suppression of all Sufi orders by the Safavid government was concurrent with the reemergence of Shi'ite popular religion, as reflected by the resurgence of the visitation of tombs and shrines and the commemoration of sermons by Muḥammad Bāqir Majlisī (d. 1111/1699) focusing on the martyrdom of the Imams.⁵ For the most part, the 'ulamā', ever since Majlisī, have continued to practice popular religion in accordance with his writing, all the while continuing to perpetuate the precedent he set of being hostile towards Sufis.

The support that the 'ulamā' drew from lay Shi'is enabled them to put forth the problem of *taqlid* (following a *mujtahid* without questioning) as the most important topic of the juridical manual. Shaykh Murtaḍā Anṣārī (d. 1281/1864), the most distinguished jurist of the Shi'ite world in the nineteenth century, argued for the necessity of following the opinion of a *mujtahid* in matters of law.⁶ It was Ayatollah Yazdī (d. 1337/1919), however, who brought forward *taqlid* as an initial subject in his juridical

⁵ See below, chapter seven.

⁶ Murtaḍā Anṣārī, *Ṣiṙat al-Najāt* (Tehran: Lithograph, 1290/1873), p. 1.



manual, wherein he stated that *taqlid* was an obligation for all Muslims and that failure to observe it voided for the individual concerned the validity of the performance of such Islamic duties as prayer and fasting.⁷

By the end of the nineteenth century the ground was prepared for the direct involvement of the 'ulamā' in the political currents of Iran and Iraq. Ample source evidence shows that the high-ranking 'ulamā' did not initiate a direct role for themselves in politics. Rather, it was the power of public opinion of Iranians under the influence of the Shi'ite intelligentsia and other dissatisfied groups that created such a role for the 'ulamā', especially for the office of *marja'i taqlid* of the time. This fact was clearly demonstrated in the Tobacco Crisis of 1308/1891, in which the celebrated *fatwa* on the authority of the *marja'* of the time was in effect even before it was signed.⁸ Except for Ayatollah Khomeini (d. 1989) in the last thirty five years of his life, all high-ranking Shi'ite 'ulamā' have adopted what is now called "a dual structure of authority"⁹ in which the 'ulamā' as "the general deputies of the Imam" on the one hand, and the government under the pretext of "the temporal protector of the faith" on the other hand, enjoy two distinct but interconnected legitimacies.¹⁰ This structure has offered an inde-

⁷ Muḥammad Kāẓim Yazdī, *al-'Urwa'l-Wuthqā* (Tehran: Dār al-Kutub al-Islāmiyya, n.d.), p. 3.

⁸ Nāẓim al-Islām Kirmānī, *Tārīkh Bidāri-yi Irānīyān* (Tehran: Amīr Kabīr, 1992), p. 12. Also see below, chapter eight.

⁹ Said Amir Arjomand, *Authority and Political Culture in Shi'ism* (State University of New York, 1988), p. 7.

¹⁰ It seems that from the time when the Shi'ite Buyid dynasty dominated the Abbasid government, Imami 'ulamā' adopted the dual structure of legitimacy for rulership. See the treatment of this topic by Sharif al-Murtaḍā, "Mas'ala fi 'Amal ma'a 'l-Sulṭān", trans. by W. Madelung, "Treatise...", BSOAS XLIII (1980), pp. 18-31, as compared to that in his *al-Dhakhira fi 'Ilm*

pendent character to the high-ranking 'ulamā' and earned them a kind of intermediary role in which they could function in the system of checks and balances (see chapter eight).

Chapters one to six of this study are devoted to reviewing the offices held by the religious classes in the Shi'ite world, whereas the two last chapters are concerned with the basis of the financial and political strength of the 'ulamā'. As we will see, the Shi'ite jurisprudents (i.e., the 'ulamā')

al-Kalām, ed. by Sayyid Aḥmad al-Ḥusaynī (Qum: Mu'assasat al-Nashr al-Islāmī, 1411/1990-91), pp. 309-29; 'Allāma Ḥasan b. al-Muṭahhar al-Hillī, *Nahj al-Ḥaqq wa Kashf al-Ṣidq*, annotated by 'Aynullāh Ḥasanī Urmawī (Qum: Dār al-Hijra, 1407/1987), p. 38, compared to that in his *Tadhkirat al-Fuqahā* (Tehran: Lithograph, Maktaba-yi Murtaḍawī, 1388/1968), pp. 452-53; Shakh 'Alī Karakī, "Qāṭi'at al-Lijāj fi Taḥqīq Ḥall al-Kharāj" in *Kharājīyyāt* (Mu'assasat al-Nashr al-Islāmī, 1413/1993), p. 38 contrasted with his account on p. 86. Shaykh Ja'far Najafī, *Ḥaqq al-Mubīn* appended with Khātimat al-Qawā'id (Tehran: Lithograph, 1898), p. 146, compared to that in his *Kashf al-Ghiṭā* (Tehran: Lithograph, 1317/1899), p. 394; Mullā Aḥmad Narāqī, *Awā'id al-Ayyām* (Qum: Litho-reprint by Maktaba-yi Baṣīratī, 1903), pp. 185-205 compared to that in his *Mi'rāj al-Sa'āda* (Qum: Intishārāt-i Hijrat, 1992), pp. 9-12; Sayyid Muḥammad 'Alī Baḥr al-'Ulūm (d. 1326/, *Bulghat al-Faqīh*, 4 vols. (Tehran: Maktabat al-Ṣādiq, 1984), vol. 3, pp. 221-229 compared to his account in pp. 230-234; Muḥammad Kāzīm Khurāsānī, *Hāshiyat al-Makāsib*, edited by Mahdī Shams al-Dīn (Tehran: Vizārat-i Irshād-i Islāmī, 1406/1986), pp. 92-98; Muḥammad Ḥusayn Nā'inī, *Tanbīh al-Umma wa Tanzīh al-Milla*, edited by Sayyid Maḥmūd Ṭāliqānī (Tehran: 1335sh/1956), pp. 47-50, 56-59 and 101; Rūḥullāh Mūsavī Khomeinī, *Kashf al-Asrār* (Qum: Intishārāt-i Iran, n.d.), pp. 185-6 compared to that in his *al-Rasā'il Tashtamil 'alā Mabāḥith...*, 2 vols., annotated by Muṭtabā Tīhrānī (Qum: Maṭba'a-yi Qalamīyya, 1384/1964), pp. 100-107.

employed the charismatic authority of the Imam to gradually raise their position from that of transmitters of the *ḥadīth* (the traditions of the Prophet and the Imams) first to that of *faqīh*, later to *mujtahid*, and finally to *marja'*. However, this charisma could not (directly) be translated into authority unless it was implanted in the minds of the folk Shī'is through the practices of popular religion. The crystallization of the offices of *mujtahid* and *marja'* in the post-Safavid era can only be fully understood with a full understanding of the popularity of *taqlīd* and the devotional attachment to the symbols of the Imam in the persons of his vicegerents. These last two chapters attempt to investigate the effects of folk Shi'ism on the emergence or re-orientation of these positions.

By reviewing the history of Shi'ite positions, I attempt to investigate the sources of legitimacy of the 'ulamā'. The theoretical basis of their legitimacy does not merely rest on the authority of knowledge of jurisprudence; rather, it depends on the charismatic authority of the vicegerency of the Imam. This study examines how the 'ulamā' instrumented a mass following of lay Shī'is which in turn came to lay the way for a translation of their authority into juristic mandate.

The Development of Shi'ite Jurisprudence and its Periodic Changes

Shi'ite law appeared at the outset of the second century A.H., and developed into a distinctive legal system throughout the periods after the 4th/10th century. The periodic changes in the evolution of Shi'ite law have been closely tied to the socio-religious currents that have characterized the various stages of the long history of the Ithnā'asharī community. These changes occurred in relation to the development of juristic authoritative positions in Shi'ism. In this chapter, I try to identify elements and circumstances which shaped Shi'ite *fiqh* and its periodic changes from the 2nd/8th century up to the present time.

Like its Sunnī counterpart, Shi'ite law consists of the legal, ritual and moral norms based on the Qur'ān and the Tradition of the Prophet. However, in Shi'ite law, the expounders of the Sharī'a enjoyed some kind of charismatic authority in the position of Imam or his deputy (*nā'ib al-Imām*, i.e., the 'ulamā' in its common sense) which gave a unique character to the Shi'ite learned body quite unknown in Sunnī Islam. This authority, although never superseding the authority of the Sharī'a, enabled Shi'ite scholars to give a sectarian orientation to Imāmī law, and to refashion it as circumstances allowed. However, the inception of Shi'ite *fiqh* is marked by two prominent members of the Prophet's house, i.e., Muḥammad al-Bāqir (d. 117/735) and Ja'far al-Šādiq (d. 148/765) who successfully adapted the political character of the Shi'ite movement to juridical argumentation. These two Imams pioneered the teaching nucleus known later as the Imāmī school of law. Before them the Shi'ite movement possessed only a political orientation sharing the common characteristics of early Islam. But Imam

Bāqir and Imam Ṣādiq's quiescent attitude altered the political character of the movement into doctrinal sectarianism.

The era of Imam Bāqir is especially important for the evolution of Islamic law by the agency of two generations of the Successors (*al-Tābi'ūn*) who applied the legacy of the Prophet and his Companions to new situations without having experienced the source or circumstances surrounding the Revelation. They were the first generation who felt the necessity of inquiring into normative rules from the Qur'ān and the Tradition by their own understanding. Although the legacy of the Qur'ān and the Tradition by itself was not confined to moral or legal norms, these Successors approached the Revelation as a comprehensive legal resource that had bearing upon the categorization of human acts¹, the knowledge of which can only be developed in the form of *fiqh*, the juridical conception of religion. The embodiment of religious life in its legal context appeared as a natural process for the early Muslims as they interpreted the Qur'ān and the Sunna.² For them, the bulk of the teachings of the Prophet and his Companions appeared as having legal and ritual character despite the later discovery of mystical and theological sides in the Qur'ān and the Sunna by Sufis and Mu'tazilis.³

¹ See Bernard Weiss' definition of Shari'a, *The Search for God's Law: The Islamic Jurisprudence in the Writings of Sayf al-Dīn Āmidī* (Salt Lake City: University of Utah Press, 1992), p. 2.

² Amongst contemporary Muslim scholars Professor Muhammad Naquib al-Attas has extensively dealt with the legal and moral concepts of religion. He states "...the concept of *dīn* in its most basic form indeed reflects in true testimony the natural tendency of man to form societies and obey laws and seek just government." See Syed Muhammad Naquib al-Attas, *Islām and Secularism* (Kuala Lumpur: ISTAC, 1993), p. 54.

³ Modern scholars such as Joseph Schacht laid a great emphasis on the administrative needs of the Muslim Empire under the

The characterization of religion in its legal-juridical contexts was further inspired by the manner of conducts of two prominent figures amongst the Companions of the Prophet, i.e., 'Alī b. Abī Tālib and 'Umar b. al-Khaṭṭāb, who in different ways appeared as the source of inspiration for legal and moral developments amongst their successors. 'Umar was instrumental in establishing the practice of *ijmā'* (general consensus) and some kind of *qiyās* (reasoning by analogy) in order to solve the immediate problems facing Muslims after the demise of the Prophet. At the same time, 'Umar played an essential part in developing the sense of legality amongst the Bedouin Arabs who at the time could hardly consider revelation as the source of law.⁴ 'Alī, on the other hand, voiced for the restriction of the current practices of the Companions including those of the *Shaykhayn* (Abū Bakr and 'Umar). It is understood from our sources that 'Alī, after all, did not envisage a different jurisprudence, as he abstained from causing a schism amongst the Muslims.

Half a century after the demise of 'Alī, time was ripe for more extensive juridical argument as Muslim scholars began to apply a wider interpretation of the Qur'ān and the

Umayyads to the effect that "...law as such fell outside the sphere of religion, and as far as there were no religious or moral objections to specific transactions or modes of behavior, the technical aspects of law were a matter of indifference to the Muslims." See his *An Introduction to Islamic Law* (Oxford University Press, 1964), p. 19, and chapter 5, pp. 23-27. Evidently this way of separating the religious life from that of the legal one unknown to Muslims of this period.

⁴ 'Umar b. al-Khaṭṭāb was serious in rendering judgment according to revealed law (*al-ḥukm bimā anzala Allāh*), and he used to stress this command when he appointed a new judge for the cities. See his letters to Abū Mūsā al-Ash'arī in 'Amr b. Baḥr al-Jāḥiẓ, *al-Bayān wa'l-Tabayān*, ed. A. al-Salām M. Hārūn (Cairo: Maktabat al-Khānjī, 1985), vol. 2, pp. 48-49.48-49.

Sunna. This was the time when Imam Bāqir began to furnish Shi'ism with juridical argumentation. According to a report of Abū 'Amr al-Kashshī on the authority of Abū 'l-Yasa' al-Sariyy, Imam Ṣādiq, speaking on the designations of the legitimate Imams from 'Alī up to al-Bāqir, introduced his father as the one who pioneered the Shi'ite school of law:

Before him (his father), the Shi'is did not know what should be considered as lawful or unlawful, except what they had learned from the common people until Abū Ja'far (Imam Bāqir) began to explain to them and taught them. Thereafter, they began to teach others what they had already learnt from the Imam. That is the way it is. The earth will not be in order without an Imam.⁵

⁵ Abū 'Amr Muḥammad b. 'Umar b. 'Abd al-'Azīz al-Kashshī, *Ma'rifat al-Nāqilīn*, quoted by Muḥammad b. al-Ḥasan al-Ṭūsī in *Ikhtiyār Ma'rifat al-Rijāl* (Mashhad: Dānishkada Ilāhiyyāt, 1970), pp. 424–26. Henceforth referred to as Kashshī, *Rijāl*. Also see Husain M. Jafri, *Origins and Early Development of Shi'a Islam* (New York: Longman, 1979), p. 253.

It is important to note that, amongst four extant biographical sources on the period of the Shi'ite Imams, Kashshī's *Rijāl* stands out as the first and foremost source on Imāmī transmitters of tradition-reports, particularly that of the companions of Imam Ṣādiq. Kashshī was a contemporary of al-Kulaynī (d. 329/940), and had direct access to the companions of the three last Shi'ite Imams. Unfortunately, Kashshī's original *Rijāl* book did not reach us; but its part on Shi'ite transmitters of *ḥadīth* survived in Ṭūsī's selection of *rijāl*. Three other original biographical sources of the period of the Imams are *al-Rijāl* and *al-Fihrist* by the same Ṭūsī and *al-Fihrist* by Abū 'l-'Abbās Aḥmad b. al-Ḥusayn al-Najāshī (d. 450/1058). These two books, however, are mainly concerned with the names of

It is understood from the above context that, by Imam, al-Šādiq meant a jurist Imam (*imām al-faqīh*) who should administer justice amongst people. In another report on the authority of Jamīl b. Darrāj, Imam Šādiq said: "Some groups of people said that my father trusted them on their knowledge of *ḥalāl* (lawful) and *ḥarām* (unlawful)".⁶ Evidently, Imam Šādiq considered the companions of his father (including himself) as the first nucleus to mold Shi'ite school of law. But what factors made the teachings of these two Imams sound different from the current Muslim law? Our sources are not concerned much with the constituent elements of the proto Imāmī jurisprudence. But what little authentic evidence is available shows us that the rejection of legality in the practice of the Companions (especially that of the *Shaykhayn*) was the point of departure for Imam Bāqir to construct his different channel of confirming the authority of the Shari'a. It is apparent that the ongoing controversy on the legality of the opinions and the practices of the Companions bore fruit during the time of al-Bāqir.

Imam Bāqir explicitly discredited the practices of the Companions, particularly that of 'Umar b. al-Khaṭṭāb, who played a considerable part in forming the most important general consensus after the demise of the Prophet.⁷ Imam

the Imams' companions and the titles of their works and do not have the information included in Kashshī's *Rijāl*. Other Shi'ite sources, in one way or another, have taken their data on the Imams companions from the aforementioned books. Therefore, concerning the above period, I base myself essentially on Kashshī. However, I will refer to other sources only when they can supplement Kashshī.

⁶ Ibid., p. 125.

⁷ Kashshī, *Rijāl*, pp. 179–182 (Kumayt b. Ziyād); Jafri, *Origins*, p. 252. Muḥsin al-Amīn, *A'yān al-Shi'a*, vol. 1, p. 653. Also this tradition is reported by Abū Baṣīr Layth al-Murādi; see Kashshī, *Rijāl*, p. 170; Muḥammad b. Ismā'il al-Ḥā'iri, *Muntaḥa 'l-Maqāl*,

Ṣādiq, too, ordered his followers to act in accordance with the Qur'ān and the Sunna, and to oppose the practice of commoners (*al-ʿamma*, i.e., the Sunnīs).⁸ The Shi'ite sources record this report in such a manner that Imam Ṣādiq went so far as to declare that "...the right path is found in those traditions which contradict the commoners."⁹ In this manner, Imam Bāqir and Imam Ṣādiq departed from the mainstream traditionist jurisprudence (*aṣḥāb al-sunna*) to whose connections with 'Umar b. al-Khaṭṭāb, we now turn.

The problem of how to apply or refashion Islamic rules was the first problem with which the Muslim community was faced after the demise of the Prophet. In order to meet the immediate needs of the community, the Companions developed two normative practices which were later formulated into the principles of *ijmā'* and *qiyās*.¹⁰ *Qiyās* was a method of expanding the application of rules by analogical reasoning which could be used by any learned individual, whereas *ijmā'* appeared as the formality of an *ad hoc* process whose scope and authority was always questionable. The second caliph 'Umar, who was obstinately opinionated, helped the most in the development of these two practices amongst the Muslims. The precedents set by 'Umar were sustained by two generations of the traditionists (such as his son 'Abdullāh and the distinguished jurist Sa'id b. Musayyib),

manuscript by Muḥammad Ḥusayn Ḥusaynī (Qum:1267/1850), p. 249.

⁸ Muḥammad b. Ya'qūb al-Kulaynī, *al-Uṣūl min al-Kāfi*, 2 vols., edited by 'Alī Akbar Ghaffārī (Tehran: Dār al-Kutub al-Islāmiyya, 1984), vol. 1, pp. 67-68.

⁹ *Ibid.*, p. 67.

¹⁰ Both concepts of *ijmā'* and *qiyās* have roots in the Qur'ān and the Sunnā. See Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Kuala Lumpur: Pelanduk Publishers, 1989), pp. 220-28 & 274-76.

particularly in Madina.¹¹ Although 'Umar was a pioneering figure of opinionative jurisprudence,¹² the Successors who transmitted his precedents were regarded as traditionists (*aṣḥāb al-ḥadīth*). Imam Bāqir and Imam Ṣādiq, too, were considered *aṣḥāb al-ḥadīth*, notwithstanding the fact that they refused to incorporate the practice of the Companions into law as they assigned the house of the Prophet (the line of 'Alī) with a superior authority. Thus, the rejection of the legality of the practice of the Companions—in other words the rejection of the authority of their general consensus—was the doctrinal point from where the Shī'is began to depart from mainstream Islam, i.e., from the *Ahl al-Sunna wa 'l-Jamā'a*. As we will see now, Imam Bāqir, in the last decade of his life, formed a new Shiite *aṣḥāb al-ijmā'* from among his own companions.

Recognition of the legality of rules in an Islamic sense takes various forms, more than what is covered in the concept of *ijmā'*. But *ijmā'* provided a formal channel by which to supplement the Shari'a with what is considered "the natural evolution and acceptance of ideas in the life of the com-

¹¹ The following generations such as 'Abd al-Rahmān Rabi'at al-Ra'y and his student Mālik b. Anas substantiated the authority of *ijmā'* and the practices of the Companions as part of the Tradition called *āthār* (traces of the practice of the Companions) which was fully established in the Mālikī school of law. See Mālik b. Anas, *al-Muwatta'*, edited by M. F. 'Abd al-Bāqī (Beirut: al-Maktabat al-Thiqāfiyya, 1988), pp. 1005–8. The epilogue was written by Muḥibb al-Dīn al-Khaṭīb. Also see Shaykh Muḥammad Abū Zahra, *Fī Tārīkh al-Madhāhib al-Fiqhiyya*, 2 vols. (Cairo: Maṭbā'at al-Madanī, n.d.), vol. 2, pp. 31–41 & 230–240.

¹² Some authors considered 'Umar as the founder of opinionative jurisprudence (*fiqh al-ra'y*). See Aḥmad al-Ḥisrī, *Tārīkh al-Fiqh al-Islāmī* (Beirut: Dār al-Jayl, 1991), p. 164.

munity."¹³ In the first four decades after *Hijra*, religious authority was recognized by an active and learned group of the Companions who could represent the opinions of the majority.¹⁴ Their practices set patterns for their learned successors on how to constitute normative practices. No group of Successors had public or formal *ijmā'* as did the Companions. However, the Successors' method of replacing the consensus of the Companions on a par with the Sunna of the Prophet gave way to a new kind of *ijma'ic* precedent¹⁵ which is called *āthār*. Since the practices of the Companions are not formally recognized by the Shī'ī Imams, the Ithnā'asharī jurists acknowledged another kind of *ijma'ic* precedent (i.e., *ijmā' al-manqūl*) based on the commonly maintained opinions of the companions of the Imams. For this reason *ijma'ic* reports often overlapped with fame (*al-shuhra*) and widespread view (*al-qawl al-mashhūr*) in Shi'ism. The number of learned bodies having authority to indicate religious rules had been increased during the first half of the second century *Hijrī* when Imam Bāqir established his learned circle. Several schools of law emerged in Madina,

¹³ Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, p. 215.

¹⁴ Joseph Schacht regarded them as representing the opinion of the majority (*An Introduction*, p. 30), but Muslim scholars usually applied terms such as *al-najda* or *al-shawka* to describe the prevalence of an opinion or *ijmā'* in a community. For example, see Imām al-Iḥaramayn al-Juwaynī, *Ghiyāth al-Umam fī Illiyāth al-Zulam*, edited by 'Abdul 'Azīz al-Dīb (Dawha: University of Qatar, 1980), pp. 71–72, 240–44.

¹⁵ *Ijmā'* is translated as 'general consensus' by modern scholars, (e.g., Mohammad Hashim Kamali, "Characteristics of the Islamic State" in *Islamic Studies*, vol. 32 (Spring 1993), p. 32. However, Bernard Weiss sees no English term better than "*ijma'ic* decision" to point to the particular character of the Muslim consensus (*The Search for God's Law*, p. 182).

Mecca, Kufa and elsewhere in Arabia and Iraq in order to apply an appropriate interpretation of the Qur'ān and the Traditions according to geographical and tribal differences. Thus, it was time for Imam Bāqir to form a school of law that could constitute a new ijma'ic body able to pronounce the restrictions of religious authority upon the Alids.

In Shi'ite sources there are frequent references to the consensus of *al-ʿiṣāba*. The term *ʿiṣāba* points to that band of the Imam's companions that was invested with the authority of giving *fatwā*.¹⁶ *ʿIṣāba* (the body of the religiously learned), by practicing the binding authority of *ijmā'*, determined the course and character of Shi'ite sectarianism. The consensus of this *ʿiṣāba* whose doctrinal justification rested on the presence of the Imam, has played an important role in coining the orthodox views in Shi'ite school. The identification of six Shi'ite Imams after Imam Ṣādiq was determined by the *ʿiṣāba*.¹⁷ Moreover, the tradition reported by this body formed the bulk of materials which constituted Shi'ite law.

As we mentioned earlier, the development of Shi'ite law began with the rejection of the current practices of the Companions of the Prophet. This rejection opened the gate for the reconfirmation of almost the same materials but with an additional authority, i.e., the authority of the Imams by virtue of the reported consensus of their companions. We should stress that the consensus of Shi'ite jurists of the 2nd and 3rd centuries *Hijrī* is mainly concerned with how and

¹⁶ Kashshī, *Rijāl*, pp. 238 & 375 (the edition of Karbalā, pp. 217–19, and Mir Dāmād edition, 1984, pp. 507 & 673). Ḥasan b. Mūsā al-Nawbakhtī, *Firaq al-Shī'a* (Beirut: Dār al-Aḍwā', 1984), pp. 78–79. Muḥammad b. Ismā'il Ḥā'irī, *Muntaha'l-Maqāl*, under the name of 'Abdullāh b. Mas'ūd; Mirzā Ḥusayn al-Nūrī al-Ṭabarī, *Mustadrak al-Wasā'il wa Mustanbat al-Masā'il*, 18 vols. (Beirut: Mu'assa Āl al-Bayt, 1987), vol. 1, p. 60.

¹⁷ Nawbakhtī, *Firaq al-Shī'a* (Beirut: Dār al-Aḍwā', 1984), pp. 78–79. Also see below, chapter two.

what traditions of the Imams should be reported or adopted in Shi'ite law. The ultimate authority remains the words of the Imams according to what a jurist indicates. Thus, the authority of the Imams, which can be held as a kind of "preservation of Muhamadan authority",¹⁸ made Shi'ism sound different from the mainstream Sunnī thought. After the concealment of the 12th Imam, a new band of qualified jurists tried to preserve the charismatic authority of the Imam through the office of special-agency (later general-agency).¹⁹ Nevertheless, the consensus of *ʿiṣāba* dissipated as Shī'i traditionism lost color after the prevalence of Uṣūlī rationalism in Shi'ite jurisprudence (see below, chapter three).

At the turn of the 5th century *Hijrī*, the notion of *'amal al-ṭā'ifa* (the practice of the righteous sect)²⁰ appeared as a maxim substituting the authority of *ijma' al-ʿiṣāba* throughout the works of a new generation of Imāmi jurists. As we will see now, this central maxim around which Shi'ite *fiqh* rotates has been changed six times, each change forming a new hallmark in the history of the Ithnā'asharī community.

Before dealing with these six periods, it should be mentioned that there are various kinds of periodization of Shi'ite law. The traditional authors generally did not concern themselves with the historical examination of these changes, although they appear well aware of them.²¹ The sig-

¹⁸ Hamid Dabashi, *Authority in Islam* (London: Transaction Publishers, 1989), pp. 59, 97, 104.

¹⁹ Montgomery Watt held that "...up to 750 the proto-Shi'i idea of charisma was in an extremely fluid state." See his "Early Stages of Imami..." in *Shi'ism, Religion and Politics in Iran: Shi'ism from Quietism to Revolution*, edited by Nikki Keddie (New Haven: Yale University Press, 1983), p. 23.

²⁰ Ṭusi, *Uddat al-Uṣul*, pp. 336-39.

²¹ The *Rijāl* and *Tabaqāt* works are essentially involved in the clas-

nificance of the new periodization of Shi'ite law in understanding the development of Imāmī legal thought was first brought to light in the early 1930s by the late Professor Maḥmūd Shihābī. He produced a new up to date outline of the *fiqh* and took the initiative in examining juridical concepts according to the history of their development.²² After Shihābī a few Imāmī scholars have reclassified the development of Shi'ite law from different perspectives. Among

sification of persons who played a part in the development of Shi'ite jurisprudence. These works include the list of names, writings and some description of the companions of the Imams by the Shi'ite 'ulamā' of the third, fourth and fifth century A.H. Four extant *rijāl* books of these precursor 'ulamā' are called *Uṣūl al-Arba'a al-Rijāliyya*. Two of them are written by Ṭūsī, i.e., *Rijāl al-Ṭūsī* and *Fihrist*, one by Kashshī but reproduced by Ṭūsī, and the last one by Najāshī. After these four prime works, we have *Fihrist Asmā' 'Ulamā' al-Shī'a wa Muṣannafihim* (Qum: Majma' al-Dhakhā'ir al-Islāmiyya, 1983) by Muntajab al-Dīn b. Bābūya al-Rāzī (died approx. 585/1189) and *Manāqib al-'Ulamā'* (Najaf: Ḥaydariyya, 1961) by Muḥammad b. 'Alī Ibn Shahr Āshūb (d. 588/1192) who added the names of their contemporary 'ulamā' to the list. Thereafter, the Shī'i authors of each century wrote several *rijāl* works whose names can be found in Shaykh Āqā Buzurg Tihrānī, *al-Dharī'a*, vol. 10, pp. 80–87, and vol. 15, pp. 145–151. Also see 'Ināyatullāh 'Alī al-Quhpāyī, *Majma' al-Rijāl*, 3 vols. (Qum: Ismā'īlian, n.d.), vol. 1, pp. 2–13. Quhpāyī added Ibn al-Ghaḍā'irī to the prime authors of *rijāl*, and his *al-Uṣūl al-Rijāliyya* includes five books.

²² Maḥmūd Shihābī, *Advār-i Fiqh*, 3 vols. (Tehran: Dānishgāh, 1950–62), vol. 1, pp. 282–88. Also see his *Taqrīrāt-i Uṣūl-i Fiqh* (Tehran: Farbud, 1965), pp. 38–65. In the former work, Prof. Shihābī appears somewhat influenced by Muḥammad al-Khuḍribak's book on the history of Islamic law. See Khuḍribak, *Tārīkh al-Tashrī' al-Islāmī* (Cairo: al-Maktabat al-Tajariyya 'l-Kubrā, 1970), pp. 5–6; also see Hashim Ma'rūf al-Hasanī, *Tārīkh-i Fiqh-i Ja'fari* (Tehran: 1982), p. 7.

them, the periodization made by Modarresi Tabataba'i and Ayatollah Jannāti are most prominent and beneficial to the present study.²³

A thoroughly historical treatment of the periodic changes in Shi'ite *fiqh* is beyond our present scope; however, in offering a relevant periodization of Imāmī law in relation to the overall context of Shi'ite legal thought, we propose the following outline:

1. The Period of the Traditionists and Collection of *Hadith*: The Schools of Madina, Kūfa, Qum and Ray (approx. 100/723 to 408/1017);
2. The Rise of Usulism and the Codification of Shi'ite Law: The Schools of Baghdad and Najaf (408/1017 to 656/1258);
3. The Application of *Ijtihād* on a New Uṣūlī Basis and the Rise of the Office of *Mujtahid*: The Schools of Ḥilla and Jabal 'Āmil (656/1258 to 1018/1609);
4. The Reemergence of the Akhbārī Traditionists: The Schools of Iṣfahān, Karbalā and Bahrain (1018/1609 to 1186/1772);
5. The Establishment of the Uṣūlī Position: The School of 'Atabāt (1186/1772 to 1318/1900);
6. The Reorientation of *Fiqh* and the Development of the

²³ Hossein Modarresi Tabataba'i, *An Introduction to Shi'ite Law* (London: Ithaca, 1984), pp. 23–58. Muḥammad Ibrahīm Jannāti, "Sayrī dar Adwār-i Fiqh", pp. 9–12; & 3 (Dec. 1985 & Jan. 1986), pp. 8–18. In addition to these works, one should consult Muḥammad Bāqir al-Ṣadr, *al-Ma'ālīm al-Jadīda li 'l-Uṣūl*, (Najaf: Nu'mānī, 1965); Dr. Abū 'I-Qāsim Gurgī, *Nigah bi Tahavvulāt-i 'Ilm-i Uṣūl* (Tehran: Dānishgāh, 1973); Shaykh Muḥammad Abū Zahra, *Muḥāḍarāt fi Uṣūl al-Fiqh al-Ja'fari* (Cairo: Dirāsāt al-'Arabiyya, 1956); 'Alī Kāshif al-Ghiṭā', *Adwār 'Ilm al-Uṣūl wa Aṭwāruhu* (Beirut: Dār al-Zahra, 1979); Hāshim Ma'rūf al-Ḥasanī, *Tārīkh-i Fiqh-i Ja'fari* (Tehran: 1982).

Socio-political Role of the *Faqīh*: The Schools of Najaf and Qum(1318/1900 to 1400/1979).

Let us now study the brief description of the above periods. I will refer to the relevant chapters where a fuller treatment of the subject may be found.

1. The Period of the Traditionists and Collection of *Ḥadīth*: The School of Madīna, Kūfa, Qum and Ray (approx. 100/723 to 408/1017)

From the time when Shi'ism found its doctrinal expression (approx. 100/723; see above) until the emergence of the Shi'ite Uṣūlī school of Baghdad under Shaykh al-Mufid (d. 413/1022), the reliance upon oral tradition and its subsequent collection remain the most salient feature of this period, despite the interference of several theological, rational and mystical currents in Shi'ite thought which were introduced by the Mu'tazilī theologians and Sufis. As I mentioned above, by rejecting the legitimacy of the current practices of the people of Madīna (*aṣḥāb al-ḥadīth*), Imam Bāqir introduced a new binding authority, i.e. the authority of the Imam, to indicate the divine law. The corroboration of this authority by Imam Ṣādiq marks the beginning of Shi'ite literary traditionism which shared similar characteristics with proto-Sunnīs (*aṣḥāb al-ḥadīth*) except for their different channel of authority. The scope of this difference was not so clear at the beginning. The authority of the Imams appeared limited to transmitting and interpreting the Tradition of the Prophet and the practice of 'Alī b. Abī Ṭālib according to the selection of the traditions made by some of Imam Ṣādiq's companions, such as Ismā'il b. Ziyād al-Sukūnī and Ḥusayn b. Yazīd al-Nawfili.²⁴ However, the later works of

²⁴ See Kulaynī, *al-Uṣūl*, ed. Ghaffārī (1984), vol. 1, pp. 46 & 69;

Shi'is leave no doubt that the "tradition" in Shi'ism includes all the utterances and deeds of the Prophet and the Imams regardless of the latter's dependence on revelation.²⁵

Shi'ite literary tradition began in the form of the recording of what was heard directly from the Imams by their companions. These records are called "four hundred original sources" (*al-uṣūl al-arba'umi'a*) because of the number of their authors who had heard from the Imams or their companions.²⁶ However, none of these writings exist now except about a dozen which have come down to us by virtue of the works of the 4th/10 century Shi'i authors. Besides these writings, there exist a number of speeches, prayers and commentaries attributed respectively to Imam 'Alī, Imam Zayn al-'Ābidīn and Imam Ṣādiq which had little bearing on the course of Shi'ite traditionism. Historically, Shi'ite traditionism, at this stage, was amalgamated with extremism and heterodox tendencies. Shi'ite extremism had its origin in the political character of Shi'ism which was contradicted by the juridical conduct of Imam Bāqir and Imam Ṣādiq. There exist ample reports in which Imam Ṣādiq cursed those exaggerators who exalted the position of the Imam beyond the limits recognized by the Shari'a.²⁷ However, the main body

Ṭūsī, *Rijāl* ed. Sayyid Muḥammad 'Alī Baḥr al-'Ulūm (Qum: Dār al-Ḍhakhā'ir, 1991), p. 147, no. 92; Muḥammad Ḥasan Aḥmadī Faqih, "Favā'id-i Rijālī dar Āthār-i Imām Khomeini", *Kayhān-i Andīsha* 29 (April 1980), p. 65.

²⁵ Shi'ite sources of the 4th/10th century and henceforth tend to introduce this authority as *'ulūm al-ma'ṣūmīn* (the knowledge of infallibles). See Kulaynī, *al-Kāfī*, vol. 2, pp. 1-4. Muḥammad Bāqir Majlisī, *Mir'āt al-'Uqūl*, ed. Sayyid Hāshim Rasūlī (Tehran: 1984), vol. 4, pp. 1-30.

²⁶ Mufīd, *Irshād*, p. 3; Etan Kohlberg, "al-Uṣūl al-Arba'umi'a", *Jerusalem Studies in Arabia and Islam* 10 (1987), p. 129.

²⁷ E.g., see Kashshī, *Rijāl*, p. 299.

of Shi'ite *fiqh*, at this stage, consisted of these traditionist's reports which were collected and readopted in the 4th/10 century.

It is remarkable that the first extant collection of Imāmī *ḥadīth*-reports were produced by the isolated traditionist centers of Ray and Qum. These two cities were represented by Ibn al-Furūkh al-Ṣaffar al-Qummī (d. 290/902), who wrote the first extant Shi'ite tradition work the *Baṣā'ir al-Darajāt*, Muḥammad b. Ya'qūb al-Kulaynī (d. 329/940) the celebrated author of *al-Kāfi*, and Ibn Bābūya al-Ṣadūq (d. 381/991) the moderate traditionist who wrote the famous *Man lā Yaḥḍuruḥu al-Faqīh*. At this time, Iraq, dominated by rational trends, was the birth place of Shi'ite theological and Uṣūlī figures such as Abū Sahl Ismā'il al-Nawbakhtī (d. 311/ 923) who was instrumental in purifying the Imāmī doctrines from extremist (*ghālī*) allegations (see below, chapter two). The family of Nawbakhtī fostered the seeds of Uṣūlism, as depicted in the works of Ibn Abī 'Aqīl al-'Umānī (of the first half of the 4th/10th century) and Ibn al-Junayd al-Iskāfī (of the middle of the same century), and also in that of Shaykh al-Mufīd, the indirect student of Abū Sahl (see below, chapter three). Nevertheless, it was the traditionist's collection and arrangement of *ḥadīth* which embodied Shi'ite legal and ritual rules in their ultimate religious conception .

Ṣaffār's book does not deal with Shi'ite law. It is rather concerned with Imamology imbued with the extremist approach. *Al-Kāfi* consists of three parts: i) *al-Uṣūl*, comprising Imamology plus some chapters on theology and ethics as a secondary topic; ii) *al-Furū'*, dealing with details of positive law; and iii) *al-Rawḍa min al-Kāfi*, including the miscellaneous topics of *fiqh*. In his *al-Faqīh*, Ṣadūq was concerned with law more than Imamology. As the very title of his work implies, he appears as a *faqīh* rather than a mere traditionist in *Man lā Yaḥḍuruḥu al-Faqīh*. This illustrates the pressing need felt by jurists like Ṣadūq for finding solutions to the details of the new cases of their positive law. Kulaynī's gen-

eral conceptualization of Shi'ite *fiqh* and his method of arranging the tradition-reports echo contemporary traditionist currents. Kulaynī's *al-Kāfi* includes several sections, the chapter on the Imamate (*Kitāb al-Ḥujja*) echoing the views of the Ghālīs. Ibn Bābūya Ṣadūq, like Kulaynī, belongs to the Shi'ī legal traditionist schools of Qum and Ray. Although Ibn Bābūya's theological works are at variance with those of Kulaynī, the arrangement and chain of transmission of *ḥadīth* resemble Kulaynī's traditionist approach. As the name of his major work, *Man lā Yaḥḍuruhu al-Ḥaqīq* suggests, Ibn Babuya diminished the need for the jurisprudent (*faqīh*) due to the presence of the tradition-reports. Thanks to his reliable method of transmission of *ḥadīth* and his moderate position between Mu'tazilite Uṣūlists and the literalist traditionists, Ṣadūq is one of the most frequently quoted Shi'ī authors concerning the problems of Imamate and Occultation.²⁸

²⁸ The period covered in the above time span is divided into four quarters by Maḥmūd Shihābī: i) The era of two Imams (Imam Bāqir and Imam Ṣādiq; ii) The post-Ṣādiqayn Imams; iii) the era of the special deputies; iv) the era of the precursors, beginning with the Great Occultation and ending with the rise of the great jurisprudent al-Ṭūsī (Shihābī, *Advār*, vol. 1, p. 382). Modarresi Tabataba'i distinguishes the same period by the following hallmarks: i) The period of the presence of the Imams characterized by the prevalence of *Kalām* reasoning and *ijtihād*, which was then mainly based on *qiyās* (analogy) and *ra'y* (personal opinion); ii) The first century of occultation highlighted by the three following schools: A—The school of traditionists which was "a continuation of the conservative legal tendency of the period of the presence of the Imam." B—Qadimayn (two forerunners of the Uṣūlī schools, i.e., Ibn Abī 'Aqīl (of the first half of the 4th/10th century) and Ibn al-Junayd). C—The intermediate school of the Shi'a center of Qum headed by Ibn Bābūya (Modarresi, *Introduction*, p. 32–43). Ayatollah Jannāṭī described the same era as the period

2. The Rise of Uṣūlism and the Codification of Shi'ite Law: The Schools of Baghdad and Najaf (408/1017 to 656/1258)²⁹

The exposition of Shi'ite law entered a new phase when Shaykh al-Mufid (d. 413/1020) applied the rational Uṣūlī arguments in rewriting *fiqh* in his *al-Muqni'a*. Before Mufid, the Shi'ite community had been acquainted with the Science of Principles (*ʿIlm al-Uṣūl*) as it was recorded in the practice of Ibn Abī 'Aqil and Ibn al-Junayd. However, it did not constitute a doctrinal basis for the Imāmīs as it did for Mufid in his *al-Muqni'a*. This book seems to be the first Shi'ite book which is based on the author's own opinions acquired from the traditional sources, rather than being a reproduction of the very text of the tradition-reports. In *al-Muqni'a*, Mufid did not explain why he adopted this new method of articulation of *fiqh*,³⁰ but in his treatise of *al-Sārawiyya*, he brought up the necessity of a wider argument in *fiqh*:

Traditionists transmit both the lean and fat, without restricting themselves to what is known. They are not people of reason and investigation, nor are they in the habit of thinking out and discussing what they

of collection and explanation of *ḥadīth*. (Jannāti, "Kayfiyyat-i Bayān-i Fiqh", *Kayhān-i Andīsha*, vol. 3, 1986, pp. 8-18).

²⁹ The year, 408/1017 is the date when Shaykh Tūsi joined the teaching circle of Shaykh Mufid. We hold this year as the hall-mark of the prevalence of the Uṣūlī school in Ithnā'asharī jurisprudence.

³⁰ The only explanation which Mufid gives in the introduction of *al-Muqni'a* states that he wrote the book on the request of Amīr (Bahā' al-Dawla) in order to summarize Shi'ite legal matters. See *al-Muqni'a* (Qum: al-Nashr al-Islāmī, 1990), p. 27.

relate...It is the task of the discriminating, intelligent person to accept what is agreed upon, as the Imam Ṣādiq has commanded and to hesitate about that wherein they differ, so long as he does not know of any decisive argument for either side.³¹

In his other book *al-Fuṣūl*, Mufīd proposed the judgment of the intellect (*'aql*) where "there is no revealed judgment that applies exactly to the present case."³² The way Mufīd laid emphasis on the notion of reason and judgment of the intellect contributed to the two new developments in Shi'ite law: i) *aql*, to be considered as the fourth source of Sharī'a in place of *qiyās* (after the Qur'ān, Tradition and *Ijmā'*), and ii) the Uṣūlī rational argument, to be adopted and applied in Shi'ite jurisprudence. In fact, Mufīd wrote the first extant work on Shi'ite *uṣūl al-fiqh*³³ which shaped the Shi'ite conception of legal theory.

The era of Mufīd witnessed the domination of the Shi'ite Buyid dynasty in Baghdad (334/945–447/1055). Buyid Shi'ism, regardless of their Zaydī or Ithnā'asharī origin, demanded a broader range of flexibility (and rationality) which was not expected from somewhat rigid traditionists of the time. Mufīd's Uṣūlī rational approach was *inter alia* a response to this need. It contributed practically to the Shi'i-Sunnī rapprochement as depicted by Ibn al-Nadīm's treatment of Shi'is³⁴, although Mufīd does not seem to have

³¹ Martin McDermott, *The Theology of Al-Shaykh al-Mufīd* (Beirut: Dār el-Machreq, 1986), pp. 306–307.

³² Ibid., p. 295.

³³ This book is named *al-Tadhkira bi Uṣūl al-Fiqh* whose summary was preserved by Abū 'l-Faṭḥ al-Karajakī in his *Kanz al-Fawā'id*, 2 vols., edited by 'Abdallāh Ni'ma (Qum: Dār al-Dhakhā'ir, 1990), vol. 2, pp. 15–30. Also see Modarresi, *Introduction*, p. 7. Gurjī, *Nigāhī*, p. 29.

³⁴ Ibn al-Nadīm, *The Fihrist*, trans. Bayard Dodge, 2 vols.

aimed at any unconditional concord with Sunnīs. Moreover, it was a time of widespread Mu'tazilī and Uṣūlī analysis in Baghdad where Shī'īs could not avoid their influences.

After Mufīd, his pupil al-Sharīf al-Murtaḍā (d. 436/1044) retained Mufīd's rational school and developed his work in theology and jurisprudence. In his celebrated Uṣūlī book *al-Dharī'a*, al-Murtaḍā attempted to separate the Uṣūlī (principles of jurisprudence) from the intertwined *Kalāmī* (theological) trends.³⁵ Nevertheless, this book still contains logical and theological elements which were to be omitted by later authors. With al-Murtaḍā to be officially appointed *qāḍī* and *naqīb* to the Alid descendants (see below, chapter two), and his treatise on the legality of working for the government,³⁶ Shī'ī-Sunnī rapprochement reached a new peak barely surpassed in Shī'ite history.

The works of al-Shaykh al-Mufīd and al-Sharīf al-Murtaḍā could not have definitive bearing upon the Shī'ite law unless they were corroborated and articulated by Shaykh al-Ṭā'ifa al-Ṭūsī (d. 460/1067). Shaykh Ṭūsī not only advanced the works of Mufīd and Murtaḍā in theory and positive law, but chose a middle way between Uṣūlism and Traditionism in which both Uṣūlī principles and the tradition-reports were fairly incorporated. Ṭūsī gave a new scope to Shī'ite opinionative jurisprudence by virtue of the application of Uṣūlī rational argument to the tradition texts. This is evident in his celebrated books *al-Nihāya* and *al-Mabsūṭ* in which Ṭūsī expanded Mufīd's method of articulating *fiqh*, i.e., from one's own perception of the sources. At the same

(Columbia University Press, 1970), vol. 1, p. 443.

³⁵ Abu 'l-Qasim 'Alī b. al-Ḥusayn al-Sharīf al-Murtaḍā, *al-Dharī'a*, edited by Abū 'l-Qāsim Gurjī, 2 vols. (Tehran: Dānishgāh, 1967), vol. 1, p. 2.

³⁶ See W. Madelung, "A Treatise of al-Sharīf al-Murtaḍā on the Legality of Working for the Government", *BSOAS*, XLIII, 1(1980), pp. 18–31.

time, Ṭūsī reasserted the importance of Imāmī tradition-reports by producing a new series of *ḥadīth* collections, namely *Tahdhīb al-Aḥkām* and *al-Istibṣār*.³⁷ *Al-Mabsūṭ* was written in Najaf where Ṭūsī had been forced to establish his teaching circle after the deterioration of the Shī'a center of learning in Baghdad by the collapse of the Buyid dynasty in 447/1055. The impact of the Sunnī revival during the Saljūq period is reflected in the two later works of Ṭūsī i.e. *al-Khilāf* and *al-Mabsūṭ*. He incorporated some of the Sunnī (especially Shafi'ite) views in these books although he refrained from employing the method of *qiyās*.

In addition to rearranging legal subjects, Ṭūsī wrote a new book on the principles of jurisprudence, namely '*Uddat al-Uṣūl*' in which the validity of isolated traditions (*al-akhbār al-āḥād*) is theoretically established. In doing so, Ṭūsī built upon the ground already laid by his masters Muḥid and Murtaḍā. Moreover, he based his argument on the precedent of the Shī'ite dignitaries, namely the practice of righteous sect ('*amal al-ṭā'ifa*'), a notion which never before had been employed for this purpose. Ṭūsī admitted that most traditions were based on the isolated reports, but argued that they were practiced by Shī'is of the past generations, particularly by the contemporaries of the Imams.³⁸ In this

³⁷ Abū Ja'far Muḥammad b. al-Ḥasan Ṭūsī, *Tahdhīb al-Aḥkām*, 10 vols. (Najaf: Dār al-Kutub al-Islāmiyya, 1959). Idem, *al-Istibṣār*, 2 vols. (Najaf: Dār al-Kutub, 1956). It should be noted that these two tradition-collections plus *al-Kāfi* by Kulaynī and *Man lā Yaḥḍuruhu al-Faqīh* by Ṣadūq constitute the four most important source books of the early periods of Ithnā'asharism. Also see below, chapter three.

³⁸ Ṭūsī, '*Uddat al-Uṣūl*', ed. Muḥammad Mahdī Najaf (Qum: Āl al-Bayt, 1983), pp. 236 & 350. Ṭūsī employed '*amal or ijmā' al-firqa*' in his *al-Khilāf* against the Sunnīs' different views. See his *al-Khilāf*, 3 vols. (Qum: Nashr al-Islāmī, 1987), vol. 1, p. 514. Also see below, chapter three.

manner, in the absence of a consensus of *al-ʿiṣāba*, Ṭūsī filled the vacuum with the normative practices of *ʿamal al-tāʾifa*, equipping Imāmī jurists with more practical devices.

Ṭūsī's juridical method and opinions prevailed in the Shi'ite community over a century and a half.³⁹ By the end of the 6th/12th century, a new generation of Imāmī jurists began to reevaluate the legal patterns set by Ṭūsī. Ibn Idrīs al-Ḥillī's (d. 598/1202) critical revision of *fiqh*⁴⁰ and that of Ibn Zuhra al-Ḥalabī (d. 585/1189–90)⁴¹ on *uṣūl* terminated the period dominated by Ṭūsī's methodology.⁴² Ibn Idrīs expanded the scope of Imāmī law by his meticulous investigation. He forcefully argued for an independent authority for *ʿaql* (reason in its juridical sense) as a source of Shī'i law,⁴³ and his method of juridical analysis contributed to the rise of a strong Uṣūlī school in Ḥilla.

3. The Application of *Ijtihād* on a New Uṣūlī Basis:

The Schools of Ḥilla and Jabal ʿĀmil (656/1258 to 1018/1609)

³⁹ The position of Ṭūsī in Shi'ite jurisprudence is so important that most authors of the history of Shi'ite jurisprudence held Ṭūsī as the hallmark of a new stage in Imāmī *fiqh*. Maḥmūd Shihābī dedicated a special era to Shaykh Ṭūsī (*Advār-i Fiqh*, vol. 1, p. 382). Ayatollah Jannāti describes the era of Ṭūsī as "the stage of classification and refinement" ("Kayfiyyat-i Bayān-i Fiqh", *Kayhān-i Andīsha* 2 (Mihr & Ābān 1364sh/1985)), p. 20). Modarresi Tabataba'i has credited him as the one who "combined the method of the rationalists with that of traditionists" (*Introduction*, p. 44).

⁴⁰ Muḥammad b. Maṣṣūr b. Aḥmad b. Idrīs al-Ḥillī, *al-Sarāʾir*, 3 vols. (Qum: Mu'assasat al-Nashr al-Islāmī, 1990).

⁴¹ Ḥamza b. ʿAlī b. Zuhra, "Ghunyat al-Zūʿ" in *al-Jawāmiʿ al-Fiqhiyya* (Qum: Manshūrāt-i Maktaba Marʾashī, 1984), pp. 461–86.

⁴² Jannāti, "Sayrī dar Advār-i Fiqh", pp. 22–24.

⁴³ Ibn Idrīs, *al-Sarāʾir*, vol. 1, pp. 18–21.

Ḥilla, a small city in Mesopotamia, escaped the Mongol attacks which destroyed most eastern Muslim cities in the 7th/13th and 8th/14th centuries. This city, with a predominantly Shi'ite population (at least since the 5th/11th century),⁴⁴ was also the beneficiary of generous financial endowments from an Imāmī vizier, namely Naṣīr al-Dīn al-Ṭūsī, who paid special attention to the school of Ḥilla after his first visit in 656/1258.⁴⁵ Ṭūsī reconstructed Islamic *Kalām* on a philosophical basis which had a direct impact on the Shi'ite theological school of Ḥilla.⁴⁶ Ḥilla also enjoyed the intellectual support of Bahraini theologians such as 'Alī b. Sulaymān al-Baḥrānī and his student Maytham b. 'Alī al-Baḥrānī (d. after 681/1282) whose presence in Ḥilla contributed to the new rational theological school of Ḥilla.⁴⁷ As

⁴⁴ See 'Abd al-Jalīl Qazvīnī Rāzī, *Kitāb al-Naqḍ* (Tehran: Anjuman-i Āthār-i Milli, 1980), pp. 471, 480. We learn from *Kitāb al-Naqḍ*, written around 560 A.H., that the population of Ḥilla was composed of people with mainly traditionist and extremist orientation.

⁴⁵ Muḥammad Mudarrīsī Zanjānī, *Sarguzasht va 'Aqā'id-i Falsafī-yi Khaja Naṣīr Ṭūsī* (Tehran: Dānishgāh, 1956), pp. 44–46, 59. I consider the date of this visit as the beginning of the rise of the school of Ḥilla.

⁴⁶ Murtaḍā Muṭahharī, *Āshnā'ī bā 'Ulūm-i Islāmī* (Tehran: Intishārāt-i Ṣadrā, 1979), part 3, "Kalām", p. 57; see also Wilfred Madelung, *Religious Schools and Sects in Medieval Islam* (London: Variorum Reprints, 1985), vol. 2, p. 27.

⁴⁷ See Naṣīr al-Dīn Ṭūsī, *Sharḥ Mas'alat al-'Ilm*, ed. 'Abdullāh Nūrānī (Mashhad: Dānishgāh, 1966), pp. 3–9. Also see 'Alī al-'Oraibi: "Shī'ī Renaissance: A Case Study of the Theological School of Bahrain", unpublished Ph.D. dissertation, McGill University, 1993. Al-'Oraibi holds that "...the school of Ḥilla witnessed a renaissance which left permanent impacts in the formulation of Shī'ī thought." (p. 2); "...it is reported that Ḥillī scholars impressed upon an eminent theologian to migrate to Ḥilla and partake in the education process there. He was none

a result of these special conditions, the Hilla school produced a range of prominent scholars who set a new pattern for both Shi'ite thought and its legal theory.

Al-Muḥaqqiq al-Hillī (d. 676/1277) was the first Shi'i scholar to adopt *ijtihād* on a doctrinal basis. He defined the principle of *ijtihād* in such a way that by making a distinction between the speculative component (*ẓann*) on the one hand and *qiyās* and unrestricted reasoning (*ra'y*) on the other, *ijtihād* was legitimized on the basis of valid *ẓann*.⁴⁸ Muḥaqqiq's adoption of *ijtihād* seems to originate from his conviction that most legal norms are "based on theoretical considerations not deduced from the literal meaning of the tradition's text."⁴⁹ For this reason, in the absence of an Imam and his *aṣḥāb al-ijmā'*, a creative scholar like Muḥaqqiq could not contend himself with the shaky formula of '*amal al-tā'ifa* (the practice of the righteous sect) as had been suggested by Ṭūsī. Muḥaqqiq, therefore, made his radical move and legitimized *ijtihād* doctrinally as well as practically. As we will see below (chapter three), he employed his knowledge of Sunnī law to justify *ijtihād* and parts of *qiyās*.⁵⁰ Another point of emphasis laid by Muḥaqqiq is that he linked the authority of the 'ulamā' directly to that of the Imam by making them his

other than Maytham al-Baḥrānī...who shared the same interest as Naṣīr al-Dīn al-Ṭūsī in the theological methodology and actively participated in systematically philosophizing Shi'i theology", p. 3.

⁴⁸ Āl-Muḥaqqiq al-Hillī, *Ma'ārij al-Uṣūl* (Qum: Āl al-Bayt, 1403/1983), pp. 179–194.

⁴⁹ Ibid., p. 179: "*Liannah [tabtanī] 'alā i'tibārāt nazariyya laysat mustafād min zawāhir al-naṣūṣ fi'l-athar*." Also see W. Madelung, "Authority in Twelver Shi'ism", *La notion d'autorité au Moyen Age* (Paris: Presses Universitaires de France, 1982), p. 168;

⁵⁰ See Muḥaqqiq's chapters on *ijtihād* and *qiyās* in his *Ma'ārij al-Uṣūl* (Qum: Maṭba'a-yi Sayyid al-Shuhadā', 1983), pp. 179–194.

deputies (in a specific sense) during the Occultation.⁵¹ While the Imam appears to be present in the language of the previous Imāmī authors (such as Mufīd and Ṭūsī), the creation of this link may be considered a major step in the development of juristic authority.

Muḥaqqiq's nephew al-'Allāma al-Ḥillī (d. 726/1327) advanced the work of his uncle in all directions. 'Allāma employed his vast knowledge of logic and theology in order to incorporate new rational elements into Shi'ite thought, especially with regard to *'Ilm al-Uṣūl*. Moreover, by writing *Tadhkirat al-Fuqahā*, 'Allāma tried to highlight the great potentiality of Shi'ite *fiqh* in comparison with that of the Sunnis.⁵² Despite his total devotion to the legitimate Imams, he did not neglect the Sunni logical and practical achievements in the development of law. In fact, 'Allāma's treatment of *fiqh* represented a new peak of Shi'i-Sunni interaction which simultaneously produced an opposition.

The new Uṣūlī method of the school of Ḥilla influenced the Shi'ite traditionist center of Jabal 'Āmil. This place had Shi'i orientation at least since the 5th/11th century.⁵³ During the last quarter of the 9th century A.H., Ibn

⁵¹ Idem, *Sharāyi' al-Islām*, pp. 129 (on *Zakāt*), 136 (on *Khums*) and 258 (on *Amr bi'l-Ma'rūf*).

⁵² 'Allāma, *Tadhkirat al-Fuqahā*, 2 vols. (Tehran: Litho, al-Maktaba 'I-Murtaḍawiyya, 1968). This book is originally a comparative Islamic work on jurisprudence which includes the legal opinions of most Sunni schools.

⁵³ See Nāṣir Khusraw Ghubādiyānī, *Safar Nāma* (Tehran: Kitābhā-yi Jibī, 1991), pp. 17–23. Nāṣir Khusraw, who visited Lebanon in 438/1046, recorded two cities, Trablus and Ṭabariyya, as Shi'ite-populated. Some Shi'i authors claimed that Jabal 'Āmil had a Shi'ite orientation since the exile of Abū Dhar al-Ghaffarī. See Muḥammad b. al-Ḥasan al-Hurr al-'Āmilī, *Amal al-Āmil fī 'Ulamā' al-Jabal 'Āmil*, 2 vols. (Baghdād: Maktabat al-Andalus, 1385/1965), pp. 13–15.

al-Makkī (Shahīd I, d. 786/1384), an indirect student of 'Allāma, turned this Shi'ite center into an Uṣūlī school. Like Muḥaqqiq and 'Allāma, he applied *ijtihād* according to the new Uṣūlī conception.⁵⁴ In doing so, he did not content himself with making use of the semantic principles of *uṣūl*, but rather made a wider use of some of the well-established customary norms of jurisprudence. This inclination led Shahīd I to write the first Shi'ite text of juridical rules (*qawā'id al-fiqh*) which includes rational maxims beyond the semantics of *uṣūl al-fiqh*.⁵⁵ However, in his treatment of *fiqh*, Shahīd I seems to have refrained from including Sunnī views in Shi'ite law,⁵⁶ and this can be reckoned as marking the beginning of opposition towards the Uṣūlī school of Ḥilla.

The destruction of the school of Ḥilla by the extremist Shi'ite dynasty of Musha'sha's in 853/1449, and the rise of the Safavids to power in Iran in 908/1502 increased the prominence of the school of Jabal 'Āmil. During a period of three centuries, scholars like Shaykh 'Alī al-Karakī (d. 940/1533) and Zayn al-Dīn al-'Āmilī (Shahīd II, d. 966/1559) continued to develop juridical opinions according to the methods set by 'Allāma and Shahīd I.

The two schools of Ḥilla and Jabal 'Āmil witnessed the abolition of the caliphate in Baghdad, the rise of the Safavids and also the flourishing of Sufi trends and orders throughout the Muslim territories. Most of these Sufi orders were presided over by an authoritative guide who claimed a kind of representation of the charismatic authority. Under

⁵⁴ Shams al-Dīn Muḥammad b. al-Makkī Shahīd I, *al-Lum'at al-Dimashqiyya fi Fiqh al-Imāmiyya* (Tehran: Markaz. Buḥūth al-Ḥajj, 1986).

⁵⁵ Idem, *al-Qawā'id wa'l-Fawā'id*, 2 vols., edited by 'Abd al-Hādī Ḥakīm (Qum: al-Mufid, 1979). This book was annotated by the celebrated Uṣūlī jurist of the Safavid time Shaykh Bahā' al-Dīn al-'Āmilī; idem (Tehran: Lithograph, 1308/1890).

⁵⁶ Modarresi, *Introduction*, p. 49.

these circumstances, Shahīd II put forth the notion of the 'ulamā' s general vicegerency (*al-niyāba'l-'āmma*) from the Imam in order to give the 'ulamā' the authority to solve the immediate problem facing Shī'īs.⁵⁷ Preceding the formation of 'general vicegerency' was the new position of *mujtahid* as one who is invested with authority (*man lahu 'l-hukm*), discussed in the writings of Muḥaqqiq⁵⁸ and 'Allāma.⁵⁹ These two ranks should be considered as juridical alternatives regarding the question of legitimacy during the absence of the just Imam. Nonetheless, it seems that Shahīd II used a more forceful tone when he endowed the jurists with the authority of the Imam in dealing with problems of declaring *jihād* and taking alms tax.⁶⁰

4. The Emergence of Neo-Akhhbārī Traditionism:

The Schools of Karbalā, Iṣfahān and Bahrain (1018/1609 to 1186/1772)⁶¹

The tendency to rely on the exclusive authority of the traditions of the Prophet and the Imams acquired renewed

⁵⁷ Zayn al-Dīn al-'Āmilī Shahīd II, *al-Rawḍa'l-Bahiyya fi Sharḥ al-Lum'a'l-Dimashqiyya*, 2 vols. (Tehran: 'Ilmayya Islāmiyya, 1929), vol. 2, pp. 255, 264–65.

⁵⁸ Muḥaqqiq, *Sharāyi' al-Islām*, p. 53.

⁵⁹ 'Allāma, *Tadhkirat al-Fuqahā*, vol. 1, pp. 452–3 and idem, *Tahrīr al-Aḥkām* (Tehran: Lithograph, 1314/1895–96), p. 163.

⁶⁰ The above phase of Shī'ite jurisprudence is represcribed by authors like Shihābī, Jannāṭī and Gurgī as an independent stage of Shī'ite jurisprudence. Only Modarresi considered this phase as a continuation of Ṭūsī's period, although critical of some of his works. He separated the school of Shahīd I from that of Ḥilla because of the former's reaction to the Sunni influences which led to the independent identity of Shī'ite jurisprudence. See Modarresi, *Introduction*, p. 49.

⁶¹ 1018/1689 is the year when Astarābādī, by writing *al-Fawā'id al-Madaniyya*, launched his Neo-Akhhbārī drive.

momentum at the beginning of the 10th/16th century. This resurgence was a reaction to the advanced Sunnī-Uṣūlī interaction in the school of Ḥilla. Moreover, it was highly influenced by the rise of the Safavids whose basis of legitimacy rested mainly on the Shi'ite devotional attachment to the Imams. It is understood from history that the Sufi origin of the Safavids, combined with the extremist (*ghālī*) character of the Shi'ite tribes in Anatolia and Azarbayejan accelerated the tendency towards a deeper dependence on the traditions of the Imams at the juristic level. This trend crystallized in the revolt of Muḥammad Amīn al-Astarābādī (d. 1036/1626) who launched an unprecedented attack on Uṣūlī *mujtahids*, and refuted them for the practice of *ẓann* and *ijtihād*, claiming that their original concepts were borrowed from the Sunnīs.⁶²

By upholding the authority of the tradition-reports, Astarābādī tried to impose a new uniformity on Imāmī law which would be suitable to the popular religious currents of the time. Astarābādī re-introduced two old formulas borrowed from the Zāhirī school, i.e., *al-yaqīn al-'ādī* (ordinary certainty) and *al-'aql al-ḥissī* (sensitive reasoning [common sense]) which, instead of *ẓann* and *ijtihād*, would help Shī'īs to interpret the tradition-texts directly.⁶³ The influence of Zāhirī thought is evident in the Neo-Akhhārī school⁶⁴ although it was not a cause for Akhhārī resurgence in the Shi'ite community. In the final analysis, what the above formulas purports is not much different from the same specu-

⁶² Muḥammad Amīn al-Astarābādī, *al-Fawā'id al-Madaniyya* (Bahrain: Litho-reprint, 1903), especially the chapter on the refutation of *ẓann*, pp. 90–127; and Ni'matullāh al-Jazā'irī, *al-Anwar al-Ni'māniyya*, 4 vols. (Tabriz: Maṭba'a-yi Shirkat-i Chāp, 1962), vol. 3, p. 129.

⁶³ *Al-Fawā'id al-Madaniyya*, pp. 19, 20, 129, 130.

⁶⁴ Muḥammad Ja'far Ja'farī Langarūdī, *Maktabhā-yi Huquqī dar Islām* (Tehran: Ganji Dānish, 1990), p. 193.

lations that Uṣūlīs referred to as *ẓann*.⁶⁵ Astarābādī's traditionalist ideas were well received by the Shi'ite milieus of Karbalā and Bahrain. This posed a temporary setback for the Uṣūlī *mujtahids* who nevertheless kept much of their influence in Najaf and Iṣfahān. The best representatives of Uṣūlī trend during this time were Shaykh Bahā'ī (d. 1030/1631) and Shaykh Ḥasan al-'Āmilī (d. 1011/1602), who wrote new Uṣūlī books on the analysis of the "tradition"⁶⁶ and *uṣūl*.⁶⁷ However, the latter's work bears the influence of Akhbārī traditionism. As a result of this Akhbārī prevalence, another series of *ḥadīth* collections was produced during this period by Akhbārī-inclined jurists such as Muḥammad Bāqir Majlisī (see below, chapter three).

Another feature of Shi'ite thought in this phase was the emergence of a group of theologians who successfully combined Islamic mystical theory with Peripatetic philosophy. The school of Mullā Ṣadrā al-Shīrāzī (d. 1050/1640) and his celebrated disciple al-Fayḍ al-Kāshānī (d. 1091/1680) tried to provide a newer interpretation of the Shi'ite traditions.⁶⁸ Nevertheless, the gap between folk Sufi-Shi'ism and theosophy (*al-ḥikmat al-muta'āliya*) widened and the pragmatic 'ulamā' took advantage of the predicament in later periods. Although the Akhbārīs, too, had a strong link with the Shi'ite populace, the Uṣūlīs appeared to have ben-

⁶⁵ Ibid.

⁶⁶ Muḥammad b. 'Abd al-Ṣamad al-Bahā'ī, *al-Wajīza fi'l-Dirāya* included in *Khulāṣat al-Aqwāl* by Ibn al-Muṭahhar al-Iḥlī (Tehran: Lithograph, n.d.).

⁶⁷ Ḥasan b. Zayn al-Dīn al-'Āmilī, *Ma'ālim al-Dīn wa Milādh al-Mujtahidīn*, ed. Mahdi Mohaghegh (Tehran: Institute of Islamic Studies, 1983).

⁶⁸ Ṣadr al-Dīn Muḥammad b. Ibrāhīm al-Shīrāzī, *Sharḥ al-Uṣūl al-Kāfi* (Litho-reprint, n.d.); Muḥammad Muḥsin al-Fayḍ al-Kāshānī, *al-Wāfi*, 3 vols. (Qum: Litho-reprint, Maktaba Mar'ashī, 1984).

efited most from the subsequent clashes between high and folk Sufis in the Shi'ite community.⁶⁹

5. The Establishment of the Uṣūlī Position:

The School of 'Atabāt (1186/1772 to 1318/1900)⁷⁰

By the late twelfth century A.H., the Neo-Akhbārī traditionist school lost much of its appeal among the Shi'ite schools of the 'Atabāt (the shrine cities of Iraq, i.e., Najaf, Karbalā and Kāẓimayn), and gave way not only to a predominance of the Uṣūlī school but rather to the establishment of a strong centralized position for the supreme *mujtahid*, known as *marja' al-taqlīd* (Persian *marja'-i taqlīd*). This change, whose effects went beyond its juridical scope involving the socio-religious scenes of Iran and Iraq, has been studied from different points of view. However, the juridical elements were essential in preparing the ground for the new round of Uṣūlī supremacy and the emergence of the new authoritative positions. No doubt, the Akhbārīs have contributed to the development of the tradition-texts for Shi'ite *fiqh*, but they fell short of providing enough answers to the day to day needs of the community. The need for a change in juridical approach was reflected in the work and attitude of chief

⁶⁹ The reemergence of Akhbārī traditionism and their dominance over the Shi'ite centers of 'Atabāt and Bahrain did not receive much attention from Shi'i historians as most of them did not dedicate a special place to the Akhbārī school during the Safavid period. Authors such as Shihābī and Jannātī included the period of Akhbārī resurgence as a sequel to that of the school of Hilla. Modarresi covered this phase under the title of "The Law of the Safavid Period", *Introduction*, pp. 50-55. Also see below, chapter three.

⁷⁰ The date of Shaykh Yūsuf al-Baḥrānī's death (1186/1772) is of great importance for the triumph of the Uṣūlīs. In this year, Biḥbihānī, according to the will of Baḥrānī, led the prayer at his burial.

Akhbārī scholar Shaykh Yūsuf al-Baḥrānī (d. 1186/1772) and his yielding the ground to the Uṣūlī rival Muḥammad Bāqir al-Bihbihānī (d. 1205/1791).

The Akhbārīs reproduced Imāmī tradition-reports,⁷¹ and they also tried to expand the scope of Shi'ite ethics and *religionswissenschaft* ('ilm al-adyān),⁷² but they did not produce a comprehensive analytic work on law as the Uṣūlīs did. The only exception to this generalization is the work of Shaykh Yūsuf al-Baḥrānī who re-employed *ijtihād* in writing his *al-Ḥadā'iq al-Nāḍira*. Baḥrānī not only adopted *ijtihād*, but also cherished his Uṣūlī opponent Bihbihānī by giving him the chance to teach in his place. The pragmatic Bihbihānī benefited from this yielding of Baḥrānī, and revived Uṣūlism by giving *mujtahids* a new authority with which they could establish juridical rules in the absence of explicit tradition-texts (see below, chapter three). Bihbihānī's school also expanded the financial sources of the *mujtahids*, enhancing their position to become a totally independent institution. The sources of this financial strength go back to the same *fiqh*. With each reconstruction of *fiqh*, the *mujtahids* smoothly expanded the law of alms tax (*khums*) and illegal transactions (*al-makāsib al-muḥarrama*) for the benefit of the 'ulamā' as the Imam's deputy.

Another achievement of the *mujtahids* in this period was the formulation of *al-a'lamīyya* (Persian *a'lamīyyat*) which was laid down in a new form by a student of Bihbihānī,

⁷¹ See Muḥammad Bāqir Majlisī, *Biḥār al-Anwār*, 110 vols. (Beirut: Mu'assasat al-Wafā, 1983); Muḥammad b. al-Ḥasan al-Ḥurr al-Āmili, *Wasā'il al-Shī'a*, 22 vols. (Qum: Āl al-Bayt, 1992); Al-Fayḍ al-Kāshānī, *al-Wāfi*, 12 vols. (Isfahan: Maktaba Amir al-Mu'minin, 1985).

⁷² E.g., Al-Fayḍ al-Kāshānī, *Maḥajjat al-Bayḍā*, 8 vols. in 4 (Qum: Daftar-i Intishārāt-i Islāmī, 1963); Ni'matullāh al-Jazā'irī, *al-Anwār al-Nu'māniyya*, 4 vols. (Tabriz: Maṭba'a-yi Shirkat-i Chāp, 1962).

namely Shaykh Ja'far Kāshif al-Ghiṭā' (d. 1228/ 1813).⁷³ *A'lamīyya* required that the supreme jurist, who sets binding patterns for Shi'is, be the most learned *mujtahid*. Parallel to this was the doctrine formulated by another student of Bihbihānī, Mullā Aḥmad Narāqī (d. 1245/1830), i.e., that jurists could assume the Imam's authority in its full sense.⁷⁴ These two doctrines provided the most necessary basis for a semi-formal hierarchy of the Shi'ite leadership which was followed by the institutionalization of the *marja' al-taqlid* in the middle of the nineteenth century (see chapter seven). This institution appeared to be a crucial step in the centralization of the Shi'ite learned hierarchy and it eventually played a significant role in Shi'ite socio-political life.

The contribution of the Uṣūlī jurists of this period to the development of Shi'i law did not go much beyond the articulation of what had been laid down by the schools of Hilla and Jabal 'Āmil until the appearance of Shaykh Murtaḍā Anṣārī (d. 1281/1864). The legal-minded Anṣārī gave a new scope to the application of legal theory, particularly that of *al-uṣūl al-'amaliyya* ⁷⁵(practical principles; see chapter six). He also provided new legal analysis of the rules governing transactions.⁷⁶

Aside from the legal section of *fiqh*, the theological and ritual parts were worked out by other trends in Shi'ism, such as Shaykhism which grew out of Akhbārī and mystical tendencies. Shaykhīs gave a new dimension to the hermeneutic interpretation of the Imams and that of resur-

⁷³ Jannāti, "Sayr-i Tāikhī-yi Taqlid az A'lam", *Kayhān-i Andīsha* 6 (1986), p. 18.

⁷⁴ Aḥmad Narāqī, *'Awā'id al-Ayyām* (Qum: Maktaba Baṣīratī, 1903), pp. 188–195.

⁷⁵ Murtaḍā Anṣārī, *Farā'id al-Uṣūl*, ed. A. Nūrānī (Qum: Mu'assasat al-Nashr al-Islāmī, 1987).

⁷⁶ Idem, *al-Makāsib* (Tabriz: Maṭba'a Ittīlā'āt, 1955).

rection.⁷⁷ The line of theosophers represented by two followers of the School of Mullā Ṣadrā, namely Mullā ‘Alī Nūrī (d. 1245/1830) and his student, Mullā Hādī Sabzavārī (1295/1878) in this period continued on their course regardless of the Shaykhī incorporation of some of their ideas, as did folk mysticism and the Sufi orders. Because of the moderation of the above two features, Shi‘ite theosophy escaped the eventual clash between the Uṣūlīs and Shaykhīs on the one hand, and the Uṣūlīs and Sufis on the other.⁷⁸

6. The Reorientation of *Fiqh* and the Development of the Socio-political Role of *Faqīh*: The Schools of Najaf and Qum (1318/1900 to 1400/ 1979)

The encounter of modernity with the Muslim world produced a range of reactions, each of which affected the course of juridical expression. With regard to Shi‘ite law, a process of refining and summarizing *fiqh* began in the early 13th/late 19th century as the composition of juridical manuals (*al-risāla*’-*‘amaliyya*) was facilitated by the introduction of printing facilities into the Shi‘ite world. Historically, *Jāmi‘-i ‘Abbāsī*, written by Shaykh Bahā’ī, is considered to be the first Persian practical treatise on Shi‘ite law. Nevertheless, the treatise of *Najāt al-‘Ibād* by Shaykh Muḥammad Ḥasan Najafī Iṣfahānī (1266/1849) was the most well-received and mass-produced Shi‘ite manual and was annotated and completed by scholars such as Anṣārī and Shīrāzī.⁷⁹

⁷⁷ See chapter four.

⁷⁸ The above period of Ithnā‘asharī jurisprudence is characterized by most Shi‘ite authors as the school of Waḥīd al-Bihbihānī. Nevertheless, Modarresi and Jannātī distinguished another stage within this time span as the school of Shaykh al-Anṣārī. See Modarresi, *Introduction*, p. 57, and Jannātī, “Sayrī dar Advār-i Fiqh”, p. 27.

⁷⁹ Idem, *Kayhān-i Andīsha* 3 (Dec. 1985), pp. 14–18. Also see

At the onset of the 20th century a leading jurisprudent and *marja'* of Najaf, namely Ṭabāṭabā'i Yazdī (d. 1337/1919) wrote *al-'Urwa'l-Wuthqā*, in which he summarized *fiqh* according to a new arrangement in content. This work soon turned into a model book for both analytic and opinionative commentaries.⁸⁰ Besides providing a brief and simple explanation of *fiqh*, the opening chapter of this manual is dedicated to the problem of *taqlīd*, in which the necessity of following the opinion of a *mujtahid* by the community is envisaged.⁸¹ This notion was set forth by Shaykh Anṣārī as an introductory remark for his followers.⁸² Before Anṣārī, we do not find such a prerequisite for Shi'ite worshippers.⁸³ However, Yazdī turned Anṣārī's remark into an initial subject of law. It eventually became a commonly held view that the performance of Islamic duties (such as prayer and fasting) are void without following the directions of a *mujtahid*.⁸⁴ This has indeed contributed to the authority of the 'ulamā' not only in the juridical but also in the political sense.

Tihirānī, *al-Dharī'a*, vol. 6, p. 100. *Najāt al-'Ibād* was translated into Persian during the author's lifetime. Ibid.

⁸⁰ Such as *Mustamsik al-'Urwa* by Sayyid Muḥsin al-Ḥakīm, 14 vols. (Najaf: Maṭba'at al-Ādāb, 1971), and *Wasīlat al-Najāt* by Sayyid Abū 'l-Ḥasan al-Mūsawī al-Iṣfahānī (Tehran: Islāmiyya, n.d.).

⁸¹ Muḥammad Kāzīm Ṭabāṭabā'i Yazdī, *al-'Urwa'l-Wuthqā* (Tehran: Dār al-Kutub al-Islāmiyya, n.d.), p. 3. In his annotation on *al-'Urwa*, Ayatollah Khomeini proposed to widen the scope of obligatory following (*taqlīd*) stating that all activities of an ordinary Shi'i are subject to *taqlīd*. See Ṭabāṭabā'i Yazdī, *al-'Urwa'l-Wuthqā* (Qum: Maktabat al-Wajdānī, n.d.), p. 2.

⁸² Murtaḍā Anṣārī, *Ṣirāt al-Najāt* (Tehran: Lithograph, 1290/1873), p. 1.

⁸³ Compare with Muḥammad Ḥasan Najafī, *Najāt al-'Ibād* (Bombay: Maṭba'a Aḥmadī, 1318/1900), *Jāmi'i 'Abbāsī* (Tehran: Lithograph, 1298/1880) and Muḥaqiq al-Ḥillī, *Mukhtaṣar al-Sharā'i* (Tehran: Lithograph, 1323/1905).

⁸⁴ See the commentaries made by a number of the contemporary

The political role of the 'ulamā' had already sparked the quarrel between the supreme *marja'* of the time, Mīrzā Ḥasan Shīrāzī, and the Qajar king Nāṣir al-Dīn Shah over the Tobacco Concession (1308/1891). In this case, the *fatwā* (juridical edict) issued by Shīrāzī on the illegality of the use of tobacco overruled the government's decision to maintain the concession given to a foreign company. However, sixteen years later, in the Constitutional Movement of 1324/1906, this cause acquired another justification, i.e., "the cause of justice". In this movement, the 'ulamā', especially the *marja'* of the time (Ākhūnd Mullā Muḥammad Kāẓim Khurāsānī, d. 1329/1911), played a leading role in mobilizing people against what they considered as state tyranny.

These events were followed by a series of religio-political theories to justify the means and ultimate goals of the 'ulamā's political role. Ayatollah Nā'inī (d. 1355/1936), a disciple of Khurāsānī, legitimized an elected assembly (the parliament) as a deterrent and preventive power which may perform the task of *īṣma* during the absence of the Imam from the community. However, this assembly had to be supervised by mujtahids who assumed the position of vicegerents of the Imam.⁸⁵ The celebrated adversary of Nā'inī Ayatollah Nūrī (d. 1328/1909), on the other hand, attempted to bring all public affairs into the domain of *mujtahids*, totally disregarding the role of the people's representation.⁸⁶ The failure of the 'ulamā' in the elected assembly, which was part of the overall failure of the parliamentary system in Shi'ite Iran, led Ayatollah Khomeini, the new juristic theorist, to stipulate an absolute mandate for the jurispru-

'ulamā' on Yazdī's *al-'Urwa*, pp. 3-4.

⁸⁵ Muḥammad Ḥusayn Nā'inī, *Tanbīh al-Umma wa Tanzīh al-Milla*, ed. Maḥmūd Ṭāliqānī (Tehran: Shirkat-i Intishārāt-i Kitāb, 1955), pp. 56-59.

⁸⁶ Shaykh Faḍlullāh Nūrī, *Majmū'a-yi Rasā'il, Maktūbāt wa Ruznamah*, 3 vols. (Tehran: Rasa, 1983), vol. 1, p. 59.

dent as directly appointed vicegerent of the hidden Imam. Ayatollah Khomeini expressed this doctrine within an Uṣūlī framework in the early 1950s,⁸⁷ although he had already implied such absolute authority in a mystical context.⁸⁸ The scope of this doctrine, at that time, did not appear more than that of introducing the 'ulamā' as the source of legitimacy for state affairs.⁸⁹ During the last years of the 1960s in Najaf, Ayatollah Khomeini reoriented this doctrine as a practical program.⁹⁰ By the time of the success of the Islamic Revolution of Iran in 1979, both the development of *fiqh* and the role of the jurisprudent entered a new era whose nature remains to be determined.

Another characteristic of this period is the appearance of a new kind of defensive theology that either focused on upholding Islamic tenets against the incursion of the Western value system and modern sciences, or finding a compromise between these two. This feature is especially reflected in the writings of Ayatollah Muḥammad Ḥusayn Ṭabāṭabā'i (d. 1361sh/1982), his famous disciple Murtaḍā Muṭahharī (d. 1358sh/1979) and the Najaf-based scholar

⁸⁷ Ruḥullāh Musavī Khomeini, *al-Rasā'il Tashtamil 'alā Mabāḥith 'alā lā Ḍarar wa'l-Istishāb wa'l-Ta'ādul wa'l-Tarjīh wa'l-Ijtihād wa'l-Taqlīd wa'l-Taḥiyya*, annotated by Muḥtabā Tihri, 2 vols. (Qum: Maṭba'a Qalamiyya /1385/1965), vol. 2, pp. 100–107.

⁸⁸ Idem, *Ta'līqāt 'alā Sharḥ Fuṣūṣ al-Ḥikam* (Tehran: Pāsdār-i Islām, 1986), pp. 39–41; *Miṣbāḥ al-Hidāya ilā'l-Khilāfa wa'l-Wilāya*, trans. by Sayyid Aḥmad Fahri (Tehran: Payām-i Āzādī, 1360sh/1981), pp. 191–96.

⁸⁹ Idem, *Kashf al-Asrār* (Qum: Intishārāt-i Iran, n.d.), pp. 185–6.

⁹⁰ The analytic expression of this doctrine first appeared in *Kitāb al-Bay'* which had been written in the late 1960s. See his *Kitāb al-Bay'*, 4 vols. (Qum: n.d., n.p.), vol. 2, pp. 459–520. However, the Persian translation of this part, with additional explanation by Ayatollah Khomeini, made this doctrine popularly known amongst Iranians. Idem, *Vilāyat-i Faqīh yā Ḥukūmat-i*

Muḥammad Bāqir al-Ṣadr (d. 1399/1979). The writings of these scholars had little bearing on the traditional course of law. To some extent, however, they made way for a newer interpretation of Shari'a sources, particularly the Qur'ān.⁹¹ Unlike *fiqh*, works on *uṣūl al-fiqh*, during this period, leaned towards a kind of philosophical intricacy, as Uṣūlī authors such as Khurāsānī and Nā'inī incorporated parts of *kalām* and philosophy into *uṣūl*.⁹²

Shi'ite tradition-codification, too, was reoriented twice during this period. The first comprehensive work in this field was presented by Mīrzā Ḥusayn Nūrī (d. 1320/1902). Nūrī wrote a supplementary collection of *ḥadīth* based on al-Ḥurr al-'Āmilī's *Wasā'il al-Shi'a*, and rearranged it with additional titles.⁹³ Fifty years after Nūrī, Ayatollah Burūjirdī (d. 1340sh/1961) produced a different version for Imāmī tradition-reports. This version takes into consideration the proto-Sunni circumstances surrounding the utterances of the Imams. As a result, Ayatollah Burūjirdī made a new comparative rendering of the Shi'ite tradition-reports.⁹⁴ His reconstruction of Imāmī traditions may not have changed the content of materials used in Shi'ite law, but it contributed to the supra-sectarian spirit among Shi'is which led to the Sunni-

Islami (first published in 1970).

⁹¹ E.g., see Muḥammad Ḥusayn Ṭabāṭabā'i, *Tafsīr al-Mīzan*, 21 vols. (Beirut: Mu'assasat al-A'lāmī, 1985); Murtaḍā Muṭahharī, *Āshanā'ī bā 'Ulūm-i Islāmī* (Tehran: Intishārāt Ṣadrā, 1979).

⁹² Tihrānī, *al-Iḥṣārī'a*, vol. 6, p. 186. Tihrānī held *Kifāyat al-Uṣūl* of M. K. Khurāsānī and the *Taqīrāt* of M. Ḥ. Nā'inī as examples of this complexity.

⁹³ Mīrzā Ḥusayn Nūrī Ṭabarī, *Mustadrak al-Wasā'il wa Mustanbat al-Masā'il*, 18 vols. (Beirut: Mu'assasa Āl al-Bayt, 1987), vol. 1, pp. 60-64.

⁹⁴ Ḥājj Āqā Ḥusayn Ṭabāṭabā'i Burūjirdī, *Jāmi' Aḥādīth al-Shi'a*, edited by Ismā'il Mu'izzī Malā'irī, 17 vols. (Qum: Maṭba'a 'Ilmiyya, 1989-90). Also see Riḍā Ustādī, "Āthār va Ta'lifāt-i

Shī'ī rapprochement during his religious leadership in Qum.⁹⁵

Ayatollah Burūjirdī", *Hawza* 43-44 (March-July, 1991), pp. 287-304.

- ⁹⁵ The period covered in this part was considered the continuation of the Uṣūlī school of Shaykh Anṣārī by most authors on the history of Shi'ite jurisprudence such as Shihābī and Modarressi. Ayatollah Jannātī, nevertheless, distinguished this phase as the period of summarization of jurisprudence.

The Rise of a Shi'ite Learned Body: the Offices of Mufti, *Faqīh* and *Qāḍī*

The development of the institution of 'ulamā' (sg. 'ālim) in the Muslim community begins by the assignation of an authoritative status to the citation of the Traditions of the Prophet. That is to say that the transmitters of Prophetic Traditions acquire religious authority as the repository of one of the most needed lores of the times. In the same manner, the Shi'ite learned body emerged at the beginning of the 2nd century A.H. when more emphasis was laid upon the utterances of certain members of the House of the Prophet. As with Sunnism, the Shi'ite learned body consisted of first an 'ālim, followed by a mufti, *faqīh* and *qāḍī*. The development of these offices will be dealt with in this chapter. We will also have occasion to refer to designations such as *nā'ib* (deputy [for the Imams]), *bāb* (gate[of the Imams]), *naqīb* (head of the Alids) and *rāwī* (the transmitter of the tradition) who played a part in the evolution of the institution of 'ulamā' in Shi'ism.¹

The learned body with a Shi'ite orientation made its first appearance from among the disciples of Imam Muḥammad al-Bāqir (d. 117/735) and Imam Ja'far al-Šādiq (d. 148/765) who were also often considered by contemporaries as learned ('ālim). The very adjectives *bāqir al-'ulūm* (the splitter of knowledge, i.e., scrutinizer) for the Fifth Imam, and *al-Šādiq* (the truthful) for the Sixth Imam indicate their theological status in the Islamic community.

¹ The emergence of *mujtahid* and *marja'* took a different course in Shi'ism and will be discussed in chapters three and six.

Ya'qūbī, the well-known historian of the 3rd/9th century, wrote: 'He [Imam Ṣādiq] was the best of his time and the most learned in the religion of God.² 'It was customary for scholars who relate anything from Imam Ṣādiq to say: "The Learned One informed us."³

Broadly speaking, the time of these Imams was the period of the Successors of the Companions of the Prophet (*al-tābi'ūn*) with whom the positions of Muslim jurists in the capacity of mufti, *faqīh* and *qāḍī* were established. Prior to the time of the Successors, there was less need to inquire about the normative tradition (*al-sunna*) since the Islamic community headed by the Companions of the Prophet had been practicing their direct understanding of the prophetic instructions without feeling much need to analyze them. It was among the Successors and under the reign of the Umayyads that the position of the learned in the Traditions (*'ālim bi'l-ḥadīth*) found its definitive shape and *'ilm* came to be regarded as knowledge of *ḥadīth*. The seven jurists, who are considered as transmitters of *'ilm* and pioneers of *fiqh*, all belonged to the first generation of the Successors. The Companions of the Prophet had not been specifically addressed as *faqīh*, but rather, as the bearers of knowledge (*ḥamalat al-'ulūm*) which is, for example, how Ya'qūbī addressed them.⁴ Moreover, the religious attitude of

² Aḥmad b. Abī Ya'qūbī, *Tārīkh al-Ya'qūbī*, 2 vols. (Beirut: Dār Ṣādir, n.d.), vol. 2, pp. 381; concerning the meaning of *bāqir al-'ulūm*, see p. 320.

³ Husain M. Jafri, *Origins and Early Development of Shī'a Islam* (London: Longman, 1979), p. 260.

⁴ Ya'qūbī, *Tārīkh*, vol. 2, p. 213. Ya'qūbī applied the title of *faqīh* for the learned jurists of the late Umayyad period, *ibid.*, pp. 240, 282, 329, 348, 381 and 390. The seven jurists who are considered as pioneers of Sunni jurisprudence are: Sa'id b. al-Musayyab, Qāsim b. Muḥammad b. Abī Bakr, 'Urwa b. Zubayr b. 'Awwām, Sulaymān b. Yāsār, 'Ubaydullāh b. 'Utba, Abū Bakr

the Umayyad rulers had neglected the concomitance between rulership and religious knowledge. Contrary to the four great Caliphs, most Umayyad kings disassociated themselves from religious knowledge and therefore had to rely on the learned regarding the traditions (and jurisprudence), and they subsequently came to be considered as a distinct class of 'ulamā'.

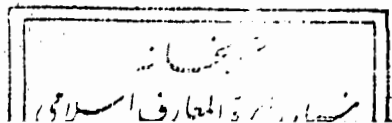
Imam Muḥammad al-Bāqir inherited his position from his father 'Alī b. Ḥusayn (d. 95/713), but he also had good contacts with his father-in-law Qāsim b. Muḥammad b. Abī Bakr (d. 108/728) one of the above-mentioned seven jurists who were instrumental in shaping Sunnī law. Imam Ja'far al-Šādiq, too, had family association with his maternal grandfather al-Qāsim. Nevertheless, their position as Imam overshadowed their status of being learned and traditionist (*al-muḥaddith*).

The scholars who centered around the Fifth and the Sixth Imams formed the first learned body with Shī'ī tendency. Some prominent members of this body such as Abān b. Taghlib (d. 150/767) were authorized by Imam Šādiq to give *fatwā* and to provide answers to legal questions.⁵ This authorization led to the legitimization of the practice of *iftā'* (giving legal opinion) and *ijtihād* (legal judgment) exercised by the qualified 'ulamā' (even in the presence of the Imams). The office of Shī'ite mufti can then be traced to the time of Imam Bāqir whereas that of *mujtahid* appears in a much later period (see chapter three). This, however, does not mean that Shī'ite law had a well defined character at this time since the bulk of Shī'ī works or reported discussions actually consisted of polemics about the legitimate right of the Imams to succeed the Prophet rather than law.⁶

b. 'Abd al-Raḥmān, and Khārija b. Zayd b. Thābit.

⁵ Abū 'l-'Abbās Aḥmad b. 'Alī al-Najāshī, *Rijāl* (Qum: Nashr-i Islāmī, 1987), p. 10.

⁶ E.g., see Kulaynī, "Kitāb al-Ḥujja", *al-Uṣūl min al-Kāfi*, ed. by



The general teachings of Imam Ṣādiq, at this stage, did not seem to highlight the juridical differences with the mainstream of the community. Shi'ite juristic positions did not appear to be very much distinct from the dominant Sunnī institutions, as Imam Ṣādiq sounded orthodox to both his Shi'i followers as well as to his Sunnī sympathizers. At this stage, Imāmī scholars were mainly involved with theology, particularly the very doctrine of the Imamate. Most of the debates between Shi'is and Sunnīs at this time had a polemical character.⁷ The titles of works attributed to Hishām b. al-Ḥakam, the most prominent disciple of al-Ṣādiq, reveals the focal points of the Shi'ite learned body.⁸

In spite of the fact that the learned disciples of Imam Ṣādiq issued *fatwās*, they were not acknowledged as mufti by the dominant Sunnī milieu. They were primarily regarded as *al-ruwāt* (the transmitters of the Imams' *ḥadīth*). The oral tradition was still strong enough among Muslims to dispense with the need for documentations. Nevertheless, in the post-Ṣādiq era, we come across Shi'i authors who have recorded their reports (*al-rawāyāt*).⁹

The actual relationship of the Imam and his disciples did not involve any strict hierarchy despite the Imam's superior positions. Imam Ṣādiq considered his old companions as his brothers. Zurāra b. A'yūn (d. 150/767) who had served under the Fifth Imam, was addressed as "brother" by Imam Ṣādiq.¹⁰ The friendly relationship of Zurāra with

'Alī Akbar Ghaffārī, 2 vols. (Tehran: Dār al-Kutub al-Islāmiyya, 1984), vol. 1, pp. 168–554.

⁷ E.g., see Muḥammad Bāqir Majlisi, *Biḥār al-Anwār*, 110 vols. (Beirut: al-Wafā', 1983), vol. 47, pp. 396–413.

⁸ Ibn al-Nadīm, *The Fihrist of al-Nadīm*, ed. & trans. by Bayard Dodge, 2 vols. (Columbia University Press, 1970), pp. 437–38.

⁹ *Ibid.*, pp. 535–44.

¹⁰ Abū 'Amr Muḥammad b. 'Umar Kashshī, *Ikhtiyār Ma'rifa al-Rijāl*, known as *Rijāl*, edited by Ḥasan Muṣṭafāvi (Mashhad:

Imam Ṣādiq, as reported in Kashshī's *Rijāl*, serves as an example of how the Imams conducted their affairs with the companions despite their differences. Zurāra, we are told, defended the current philosophy of free will (*al-tafwīd*) while the Imam opted for the middle-ground between determinism (*al-jabr*) and free will.¹¹ Zurāra went as far as accusing the Imam of deviating from his father's pronouncements.¹² Imam Ṣādiq, on five occasions, cursed Zurāra because of his distortions.¹³ The Shī'ī commentator, Mīr Dāmād, considered this disagreement natural and a result of Zurāra's close friendship and special status with the Imam.¹⁴ In Kashshī's account, there had been occasions when the Imam's favorite companions treated him as a normal associate although they, especially Zurāra, had never ceased to consider the Imam as the ultimate authority in problems facing the Muslims. The same Kashshī quoted another tradition in which the Imam's complex relationship with Zurāra was justified as a matter of *taqiyya* (protection by dissimulation).¹⁵

The same Imam Ṣādiq, however, admired his learned pupils as trustworthy and knowledgeable and assigned them the role of mufti, *qāḍī* and *ḥākim* (ruling judge). There are at least 47 traditions which appoint "the tradition reporters" as mufti, *qāḍī* and proof (*ḥujja*).¹⁶ The two following tradi-

Dānishgāh, 1970), p. 161. Also *ibid.*, annotated by Muḥammad Bāqir Astarābādī (Mīr Dāmād), 2 vols. (Qum: Āl al-Bayt, 1404/1984), vol. 1, p. 382.

¹¹ *Ibid.*, p. 360. According to Mīr Dāmād, the Imam's view was based on *al-amr bayn al-amrayn*.

¹² *Ibid.*, p. 377.

¹³ *Ibid.*, pp. 362, 367, 380 and 381.

¹⁴ *Ibid.*, p. 381.

¹⁵ Husayn M. Jafri, *The Origin and Early Development of Shī'a Islam*, p. 306.

¹⁶ These 47 traditions were selected by al-Hurr al-'Āmilī and generally considered reliable by the later 'ulamā'. See Muḥammad

tions are held to be the most assertive in giving authoritative positions to the Shī'ī 'ulamā': i) the *maqbulā* (acceptable) tradition of Ibn Ḥanzala: "I assigned those who report our traditions as ruling judge (*al-ḥākim*) among you. They know our traditions concerning what is permitted or prohibited; thus people should comply with their rulings"; ii) the tradition of Abū Khadija in which the Imam addressed his community: "Designate as judge someone among you who is acquainted with our injunctions concerning what is permitted and prohibited for I appoint such a man as judge over you."¹⁷

In contrast to the above traditions, there are a few traditions in which the Imam warned the community about wrong reports of his intimate companions and their possible distortion in reporting *ḥadīth*.¹⁸ Although these traditions do not relegate the transmitters of the traditions from their high positions, but they can provide the community with a means for guarding and checking the traditions' accuracy. In practice, the informal agreement (in the absence of the formal consensus) of the learned body ('ulamā' *al-tā'ifa*) determine the authority of the next mufti or the leading jurisprudent. Except in the case of *qāḍīs* who usually were appointed by the ruling government, other unofficial religious dignitaries were practically selected by the influential body of the 'ulamā'. Even the power of some Imams was decided in this manner despite their being divinely designated. According to Nawbakhtī, the Shī'ite community became divided into six groups after the demise of Imam Ṣādiq. One group considered his grandson Muḥammad b.

b. al-Ḥusayn al-Ḥurr al-ʿĀmilī, *Wasā'il al-Shī'a*, 20 vols. (Tehran: Islāmiyya, 1967), vol. 18, pp. 98–111.

¹⁷ Ibid., pp. 99 & 100.

¹⁸ Kashshī in Mir Dāmād, *Ikhtiyār Ma'rifat al-Rijāl*, vol. 1, pp. 357 and 367.

Ismā'il as the new Imam. The second group considered 'Abdullāh, the Imam's eldest son (after Ismā'il who died before his father) as his successor, whereas the three other groups believed in the return of Imam Ṣādiq, Ismā'il and 'Abdullāh (who also died 40 days after the demise of his father). Finally, Nawbakhtī tells us, a body of the Imam's companions, including the son of the above-mentioned Zurāra, established the Imamate for Imam Mūsā b. Ja'far (d. 179/795), the third son of al-Ṣādiq. Nawbakhtī calls this body "Shi'ite dignitaries" from among the people of knowledge, speculative and legal thought.¹⁹ This designation must apply the same group which Kashshī named them as *al-ʿiṣāba* (see chapter one). This is one of the earliest references to the operative role of the Shi'ite 'ulamā'. In this manner, the learned body built by Imam Ṣādiq resolved the problem of the Imamate for the successor of the same Imam (according to the Twelver Shi'i point of view).

Another characteristic of the Shi'i 'ulamā', which developed more fully during the time of Imam Ṣādiq, was writing treatises on theology, polemics and law. Writing was not a customary procedure among Arabs in spite of the fact that learning and knowledge were strongly advised by the Qur'ān and the Tradition. A special rationale was needed for writing ideas; otherwise, it could mean *bid'a* or innovation (as the very terms 'composition' and 'authorship' imply). It seems that the collection of *ḥadīth* which had begun by the turn of the first century *Hijrī* paved the ground for documenting the life of the Prophet (*sīra*), his raids

¹⁹ Ḥasan b. Musa al-Nawbakhtī, *Fīraq al-Shi'a* (Beirut: Dār al-Aḍwā, 1984), pp. 78–79. The phrase that Nawbakhtī used to describe this learned body is *wujūh al-Shi'a wa ahl al-'ulūm min-hum wa'l-nazar wa'l-fiqh*, and they included Hishām b. Sālim, 'Abdullāh b. Abī Ya'fūr, 'Umar b. Zayd, Muḥammad b. Nu'mān al-Aḥwal, Hishām b. al-Ḥakam, Abān b. Taghlab, Jamīl b. Darrāj, and 'Abdullāh b. Zurāra.

(*maghāzī*), ethics (*adab*) and, indeed, law (*fiqh*). These writings were considered the collecting (*ta'liḥ*) of reports or traditions, or their classification (*taṣnīf*). During the Imamate of Ja'far al-Šādiq, the number of Shī'ī tradition writers increased. Their method was either to record the text-traditions or to classify them according to the chapters of *fiqh*. The writers of text-traditions were called *aṣḥāb al-uṣūl*, and those who classified them were addressed as *al-muṣannifūn*. The importance of their work is reflected in the early biographical books (*al-rījāl*). Aḥmad b. Ḥasan al-Ghaddā'irī (who lived in the first half of the 3rd century *Hijrī*) wrote two books concerning lists of the text-traditions (*al-uṣūl*) and the classified traditions (*al-muṣannaṣāl*) on which Shaykh Ṭūsī based his *al-Fihrist*.²⁰ Ṭūsī's master, Shaykh Muḥid, is quoted as reckoning the number of these *uṣūl* as reaching 400.²¹

The designation of *faqīh* (jurisprudent; pl. *fuqahā'*) was for the first time also applied to Shī'ī authors during the time of Imam Šādiq. Nowhere but in the case of Imam Šādiq's companions does Nawbakhtī apply the title of *faqīh*. He identified these companions as "people of *fiqh*", and at the end of his book referred to them again as *fuqahā'*.²² Before Imam Šādiq's era, the Muslim community had made use of the term *faqīh* parallel to that of *ʿālim* in order to supplement the latter with knowledge of Sharī'a and the ability to give *fatwā*, i.e., to apply the rules of the Qur'ān and the Sunna to particular cases.²³

The seven Successors mentioned earlier were called the *faqīh* by their contemporaries due to their mastery of Islamic law. The Imam Zayn al-'Abidin 'Alī b. al-Ḥusayn (d.

²⁰ 'Abbās Iqbāl Ashtiyānī, *Khāndān-i Nawbakhtī* (Tehran: Ṭahūrī, 1978), p. 71.

²¹ Ibid., Kohlberg, "al-Uṣūl al-Arba'umī'a", p. 129.

²² Nawbakhtī, *Fīraq al-Shī'a*, pp. 79 & 112.

²³ See Ali Hasan Abdul-Qader, *Nazra 'Amma fi Tārīkh al-Fiqh al-Islāmī* (Cairo: Maktabat al-Qāhira 'l-Ḥadītha, 1956), p. 166.

94/712) is reported to have praised the famous Sa'īd b. al-Musayyab (d. 91/709) as the most learned *faqīh* of his time.²⁴ We know that all the prominent jurists of Madina used to treat this Imam with high esteem. The close ties of the Imam with another prominent jurist al-Qāsim led to the marriage of al-Bāqir with al-Qāsim's daughter. This kind of mutual respect indicates that the formation of Islamic schools of law had little to do, at this stage, with the religious position of the Imam in the community and Shi'ite movements. Nevertheless, it was Imam Bāqir who, in reaction to his half-brother Zayd's attitude of accepting the legitimacy and practices of the first two Caliphs (Abū Bakr and 'Umar), began to question the validity of the Second Caliph's innovative decisions while the direct and proper line to the authentic source of knowledge, i.e., the House of the Prophet, was still available.²⁵ The generalization of this objection to the legal authority of all non-House companions of the Prophet, subsequently, became the major source of disparity between Shi'ite and Sunnite law.

Imam Ja'far al-Šādiq himself was addressed by his contemporaries as *faqīh*. The Arab poet of his time, al-Sayyid al-Ĥimyarī, praised Imam Šādiq as the most erudite jurisprudent (*al-Faqīh*).²⁶ Kashshī quotes the report in which the Imam described his uncle Zayd b. 'Alī as a learned (*ālīm*) and knower (*ārif*) but not as a *faqīh*.²⁷ The Imam raised doubt about Zayd's qualification: "Had he seized power, how would he know how to put things straight?"²⁸ In addition to

²⁴ "Afaqahahum fi zamānihī", M. Shihābī, *Advar-i Fiqh*, vol. 3, p. 335.

²⁵ Authors such as 'Abd al-Qāhir al-Baghdādī give the impression that the rise of Imamiyya (not Shi'a) was in opposition to Zaydiyya. See his *al-Farq bayn al-Fīraq* (Beirut: Dār al-Kutub al-'Ilmiyya, 1985), p. 36.

²⁶ Kashshī in *Mīr Dāmād, Ikhtiyār Ma'rifat al-Rijāl*, vol. 2, p. 574.

²⁷ *Ibid.*, p. 570.

²⁸ *Ibid.*, p. 570. Jafri, *The Origins*, p. 293.

the senior learned companions of al-Ṣādiq, Kashshī introduces the names of six other jurists as *faqīh* according to the agreement of 'the [Shi'ite] body' (*al-iṣābā*).²⁹ Kashshī loosely calls this agreement *ijmā'* (consensus). He subsequently characterizes it as a certification and acknowledgment. Here, we see the important role of the acknowledgment of the learned corps in determining the rank of the companions of the Imams.

The Shi'ite learned body established by Imam Ṣādiq continued to operate after his demise. During the Imamate of his son Mūsā al-Kāẓim, the juridical and the theological attitude of Shi'īs exhibited a sectarian character from which the Abbasid Caliph Hārūn al-Rashīd sensed danger, and imprisoned the Imam for about 13 years. However, the generally good ties of al-Rashīd's successor al-Ma'mūn with the Eighth Imam 'Alī b. Mūsā al-Riḍā indicates that Shi'ite dignitaries could have easily integrated into the mainstream of Sunnī Islam without changing their doctrinal or juridical positions.

The expansion of the Shi'ī school under Imam Ja'far imbued the Imāmī theology with Mu'tazilī doctrine which brought about another designation for the Shi'ite learned, i.e., *al-mutakallim* (scholastic theologian). Al-Baghdādī mentioned five companions of Imam Ṣādiq including the above-mentioned Zurāra and Hishām b. al-Ḥakam in connection with their theological doctrines.³⁰ Ibn al-Nadīm, too, dedicated a chapter to Imāmī theologians, which includes the names of Abū Sahl Ismā'il al-Nawbakhtū (d. 311/923) and his nephew Ḥasan b. Mūsā in addition to Hishām and Zurāra. Abū Sahl was not a simple theologian. According to the late Iqbāl Āshṭiyānī, he was a pioneering figure in rationalizing the doctrine of the Imamate. Iqbāl characterized

²⁹ Kashshī in Mīr Dāmād, *Ikhtiyār Ma'rifat al-Rijāl*, vol. 2, p. 673.

³⁰ Baghdādī, *al-Farq*, pp. 43-49.

Nawbakhtī's contribution from two directions: i) he purified Imāmism from the ideas of anthropomorphism such as vision of God and His incarnation; ii) along with contemporary theologians such as Ḥasan b. Mūsā, he employed a rational language that established the doctrine of Imamate, and applied the traditions only to support their arguments.³¹ Iqbāl's account of the role played by Nawbakhtīs affected the modern scholarship in which Nawbakhtī's role is regarded as the turning point for the victory of moderate Shī'ism over the *ghuluww* (views and movements based on exaggeration). Moojan Momen elaborates the views implied by Iqbāl in the following manner:

The Mu'tazili-based school was undoubtedly the group centered on the Nawbakhtī family in Baghdad. It was among this group that the new ideas were formulated and developed...The change of doctrine that occurred among the Imāmī Shī'a involved an almost complete volte-face on most issues. From believing in anthropomorphism with respect to God, the Imāmīyya came to accept the Mu'tazili view that all those verses in the Qur'ān which seem to imply that God has a physical body should be interpreted figuratively.³²

Abū Sahl Nawbakhtī maintained a high governmental position under the Caliph al-Muqtadir (295–330). He was as

³¹ Iqbāl, *Khāndān-i Nawbakhtī*, p. 102. Iqbāl built his argument mainly on *al-Shāfi* written by al-Murtaḍā. See also Davānī, *Mafākhir*, vol. 2, p. 254.

³² Momen, *An Introduction to Shī'i Islam*, p. 77.

influential as the man next to vizier, and developed wide connections within the ruling power. After Imam Riḍā, who accepted the position of heir from al-Ma'mūn, Abū Sahl Nawbakhtī was the second Shi'ite dignitary to hold such a high government position (not to include pro-Shi'ite figures such as 'Alī b. Muḥammad al-Furāt, the vizier of al-Muqtadir). This indeed helped Abū Sahl to defend his rational position against exaggerate *ghālīs* who were barely able to rely on any doctrine but the Imam's utterances.

Another position in which a member of the Nawbakhtī family, i.e., Ḥusayn b. Rūḥ (d. 226/850) played an important role during this period was the office of deputy to the Imam (*wakīl* or *nā'ib*). This office does not necessarily constitute a learned position but it was often occupied by jurists and theologians particularly after the 8th/14th century when this office was enhanced with the doctrine of general agency (*al-niyāba*'-*'āmma*). The earliest reference to the office of *wakīl* (agent) can be traced to the time of Imam Ṣādiq. Shaykh Ṭūsī dedicated a chapter in his *Kitāb al-Ghayba* to the celebrated representatives of each Imam, and to the men of the inner circle to whom the Imams entrusted his authority. Ṭūsī recorded Naṣr b. Qābūs al-Lakhmī as an agent of the Sixth Imam for a period of 20 years. Ṭūsī also mentioned 'Abd al-Raḥmān b. al-Iḥjāj who lived up to the time of Imam Riḍā.³³ The *wakīl* of the Seventh Imam was 'Abdullāh b. Jandab al-Bujli, a pious transmitter of *ḥadīth*. These three agents have no record of written works in the Shi'ite sources. The nature of this agency, therefore, seems to have been essentially based on administrative and financial requirements in spite of the fact that the *niyāba* was imbued with the charismatic authority of the Imam in the later periods.

The high position held by Imam Riḍā as heir to al-

³³ Ṭūsī, *Kitāb al-Ghayba* (Qum: Mu'assasat al-Ma'ārif al-Islāmiya, 1991), p. 347.

Ma'mūn necessitated a wider network of agents and representatives. Najāshī mentioned Yūnus b. 'Abd al-Raḥmān as a learned agent and special deputy of Imam Ridā who authorized him to instruct his followers when the Imam was not accessible.³⁴ Yūnus was certainly a scholar and a prolific author. The nature of this authorization was more of deputation (*niyāba*) rather than agency as it was loosely called. According to Kashshī, 'Alī b. Mahziyār al-Ahwāzī (d. approx. 254/868) was a deputy of the Ninth, Tenth and Eleventh Imams. He received a signed decree (*al-tawqī'*) from these Imams to represent them in the Persian-speaking territories. Although we are told that he had 30 books,³⁵ the nature of his agency seems to be administrative. Kulaynī recorded a report in which Ibn Mahziyār said: "I transferred a quarter of my property to Imam Ḥasan al-'Askarī in order to perform the Ḥajj pilgrimage on my behalf."³⁶ This report indicates the financial nature of this agency.

The Eleventh Imam, according to Shaykh Ṭūsī, had numerous deputies, most of whom were mere agents and *rāwīs* (transmitters of the Imam's words) with no record of writings. Among these agents, the following four persons became distinguished as special deputies (*al-nuwwāb al-khāṣṣa*) of the Twelfth Imam. Because of the disappearance of this Imam, the communication of the Imam with his community was almost exclusively based on the signed decrees delivered by these four deputies. This kind of communication, which lasted 69 years (from 260/873–329/940), elevated the status of *nā'ib* from a simple financial agent to that of the representative of the charismatic authority of the Imam. However, as we will see, it was gradually incorporated into

³⁴ Najāshī, *Rijāl*, p. 447.

³⁵ Ṭūsī, *Ghayba*, p. 349; Davānī, *Mafākhīr*, 4 vols. (Qum: Mu'assasat al-Nashr al-Islāmī, 1407/1987), vol. 1, pp. 107 & 126.

³⁶ Davānī, *Mafākhīr*, vol. 1, p. 116.

the practice of the 'ulamā' of the time.

The first special deputy of the Twelfth Imam was Abū 'Amr 'Uthmān b. Sa'īd (d. about 265/878) who had worked as an agent for the Tenth and Eleventh Imams. The name of 'Uthmān b. Sa'īd was sometimes followed by the title of al-Sammān (cooking oil merchant) that apparently indicates his occupation. But Shaykh Ṭūsī explained that this title was used to cover up his real task as the special deputy to the Imam.³⁷ However, he was not reckoned as an 'ālim in the Shi'ite sources; rather, he enjoyed the support of the 'ulamā of the Twelver circle who trusted him as the true liaison between the Imam and his community. The very adjective 'praiseworthy' (*al-mamdūh*) used by the contemporary 'ulamā demonstrates that his status was confirmed by them.³⁸

'Uthmān was succeeded by his son Muḥammad who was also designated by the Eleventh Imam as co-agent with his father. Muḥammad has a record of studying *fiqh* and writing one or two books.³⁹ Although he could have hardly been considered a scholar or jurist, he expanded the scope of his job and, as a result, the business shop of 'Uthmān turned into an office of deputyship (*dār al-niyāba*). The enhanced prestige of deputyship was due to an increased number of signed decrees and to Muḥammad's juridical and administrative ability, as the contents of the *tawqī'āt* indicate. Muḥammad b. 'Uthmān delivered the Imam's decrees more than all other special deputies during his almost 40 years of being the single deputy of the Imam. It does not, however, mean that he (or any other special deputies) enjoyed a unique position as 'the principle bearers of charisma'⁴⁰

³⁷ Ṭūsī, *Ghayba*, p. 354.

³⁸ Ibid., p. 353.

³⁹ Davānī, *Mafākhīr*, vol. 2, p. 190.

⁴⁰ See D. M. Maceoin, "Charismatic Authority in Qajar Shi'ism",

higher than the contemporary 'ulamā'. Tūsi is explicit in telling us that the authority of Muḥammad's successor (see below) was confirmed in the presence of a Shi'ite learned body.⁴¹

The most famous signed decree delivered by Muḥammad b. 'Uthmān is the one addressed to Ishāq b. Ya'qūb, an unknown Shi'i who raised several questions including the problem of who is the authority during the absence of the Imam from his community. The Imam answered: "In the case of new events, you should turn for guidance to those who relate our traditions, because they are my proof to you, as I am God's proof to them." Three important Shi'ite offices have derived their legitimacy from this tradition: the position of transmitter of the traditions (*rāwī*), the authority of proof (*ḥujja*) and the concept of reference (*irja'ū*: to turn to) which led up to the institution of *marja'iyya* in the following periods. The position of deputy (*nā'ib*) was not specified in this tradition because it was included in the office of 'the transmitters of our traditions.' This confirms the fact that the Imam's agents and even his special deputies were not necessarily among the best transmitters of their traditions.⁴²

The third special deputy of the Imam was Ḥusayn b. Rūḥ al-Nawbakhtī (d. 324 /935) who already functioned as an agent for the Eleventh Imam and two previous

Qajar Iran, edited by E. Bosworth (Costa Mesa: Mazda Pub., 1983), p. 154.

⁴¹ Tūsi, *Ghayba*, p. 371.

⁴² The contemporary Ayatollah 'Alī Davānī sets forth the question of why the special deputies of the Imams had been chosen from among people who were not superior and well-known scholars. He implies that they may have had more requisite qualities other than the knowledge of jurisprudence. See *Mafākhir*, vol. 1, p. 303.

deputies.⁴³ The choice of Ḥusayn (in 305/932) to represent the hidden Imam surprised the close friends of Muḥammad b. 'Uthmān, because he had never been considered as an intimate friend of Muḥammad. However, Ḥusayn's deputyship was announced in the presence of a body of Shi'ite 'ulamā' (*wujūh al-Shī'a*) who apparently endorsed the fitness of the new *nā'ib* for the job.⁴⁴ Ḥusayn b. Rūḥ is praised in the Shi'ite sources because of his capability rather than knowledge. He is reported to have written a book *al-Ta'dīb* and been sent to Qum to be examined by the 'ulamā' of the city. The 'ulamā' checked the book with minor corrections.⁴⁵ Evidently, having access to the Imam did not dispense the *nā'ib* with the need for the 'ulamā' to assist in the deliverance of legal cases. Shaykh Ṭūsī quoted a report in which Abū Sahl Nawbakhtī was asked why he had not been appointed as *nā'ib* to the Imam. "I don't have the patience and tolerance of Ḥusayn", said Abū Sahl, "to keep the Imam's secrets concealed, especially when I am engaged in disputes with enemies."⁴⁶ Obviously the status of the deputy of the Imam did not entail any hierarchical implication since Abū Sahl was then considered as the head of the Shi'ite community in Baghdad.

The assignment of the fourth special deputy to the Imam, i.e., 'Alī b. Muḥammad al-Samurī was declared by Ḥusayn shortly before his death in 326. Samurī, is not credited with intellectual works in *fiqh*. His term of deputyship was only three years. The most important signed decree he delivered was the one which declares the end of the special deputyship and the beginning of the second (and complete)

⁴³ Ibn Shahr Āshūb, *Manāqib*, p. 458; quoted by Iqbāl, *Khāndān*, p. 214.

⁴⁴ Ṭūsī, *Ghayba*, p. 371.

⁴⁵ Ibid., p. 390.

⁴⁶ Ibid., p. 391.

occultation of the Imam from the community. In this signed decree, the Imam warned the community about the false characters who may claim agency from him.⁴⁷ Our information on the last special deputy of the Imam is scant. The first three deputies had the privilege of being the agent of the 11th Imam before being assigned as special deputy; but Samurī lacked such experience. An overview of the characters of the above-mentioned four special deputies suggests that unlike the designation of mufti and *qāḍī*, the appointment of deputies had not been structured in accordance with their prominence in learning; rather, it appears to have been based on religious expediencies. The importance of the office of deputyship lies in its effects upon the office of general agency claimed by the 'ulamā' in the later periods (see chapters three and five). Parallel to the above-mentioned principle juristic position, a number of supplementary offices such as *bāb*, *rāwī* and *naqīb* were occupied by Shi'ī 'ulamā' in the course of time to which we now turn.

Bāb, which literally means 'gate', was used in Shi'ite literature as an adjective for the Prophet and Imams. But in some Shi'ite biographical works, it was applied to some of the Imam's special confidants such as Jābir b. Yazīd Ju'fī and Mufaḍḍal b. 'Umar who belonged to the learned community of Imam Bāqir and Imam Ṣādiq.⁴⁸ It seems that the task of *bāb* overlapped with *nā'ib* and *wakīl* during the expanded term of Imam Ridā and thereafter. A number of *nā'ibs* including the above-mentioned special deputies, were called *bāb*.⁴⁹ Shaykh Mufid maintained that *bābs* possess the ability

⁴⁷ Ibid., p. 395. Ibn Bābūya Ṣadūq, *Kamāl al-Dīn wa Tamām al-Ni'ma* (Qum: Mu'assasat al-Nashr al-Islāmī, 1390/1970), p. 516.

⁴⁸ See Abū'l-Qāsim Mūsawī Khu'ī, *Mu'jam al-Rijāl*, 23 vols. (Qum: Markaz-i Nashr-i Āthār-i Shī'a, 1990), vol. 4, pp. 17-26, and vol. 18, pp. 290-91.

⁴⁹ See "Bāb" in *Dānishnāma-yi Jahān-i Islām* (The Persian

of miracles because of their special connection with the Imams.⁵⁰ Afterwards, because of the increase in the number of self-proclaimed *bābs* such as al-Ḥallāj, al-Numayrī and al-Shalmaghānī, and their scandalous controversy over the position of the gate (during the term of the third special deputy of the Imam), this title ceased to signify any authority for the position of 'ulamā'. It was even used with a negative connotation by Shaykh Ṭūsī.⁵¹

Another supplementary office held by the 'ulamā' is the position of *naqīb* (pl. *nuqabā'*). *Naqīb*, in a broad sense, means 'head' or 'chief', as is used in the Qur'ān (*al-Mā'idā*, 5:12). At the onset of the Abbasids, the office of *naqīb al-ashrāf* was founded for the supervision of the descendants of the Prophet and his family.⁵² The work of this office required knowledge of Shari'a, which gave a clerical character to *naqībs*. This office was charged with checking the originality of the claimants to the Prophet's family (in both Alid and Abbasid lines), and also with supervising their juridical problems. According to Māwardī, this office was formed to secure the superiority of the Alids and Abbasids. It was divided into two categories, general and specific *niqāba*. The latter concerned verifying the correctness of the genealogy of a person whereas the former included all juridical problems developed by the members of the Alawid or Abbasid

Encyclopaedia of Islam), ed. by Ahmad Taheri Araqi, B-fascicle 1, Tehran: 1990, p. 14, based on Ibn al-Athīr, *al-Kāmil fī'l-Tārīkh*, vol. 8, p. 290.

⁵⁰ Mufid, *Awā'il al-Maḳālāt*, ed. by Mahdi Mohaghegh (Tehran: Dānishgāh, 1993), p. 22.

⁵¹ Ṭūsī, *Ghayba*, pp. 397–417. Ṭūsī termed the wrong representatives of the Imam as *al-Abwāb al-Madhmūmīn* as opposed to *al-Sufarā' al-Mamdūhīn*.

⁵² Māwardī, *al-Aḥkām al-Sulṭāniyya* (Beirut: Dār al-Kitāb al-'Ilmiyya, 1985), p. 121.

house.⁵³ Obviously, the general *niqāba*, which required the knowledge of jurisprudence, paved the way for Imāmī jurists to assume the position of *qāḍī*, at least for 'Alawīs.

The earliest reference to *naqīb* in this sense is in 163/779 during the Caliphate of al-Mahdī.⁵⁴ The first known jurist among the Shī'īs who held the office of *naqīb* for the Alids was Abū Aḥmad Ḥusayn b. Mūsā (d. 400/1009), the father of the famous Sharīf al-Murtaḍā. According to Tha'ālibī, Abū Aḥmad was in charge of two other related offices: the supervision of the special tribune (*dīwān al-maḥālim*), and custody of pilgrims to the Ka'ba.⁵⁵ After the demise of Abū Aḥmad, the office of *naqīb* was alternately occupied by his two sons Sharīf al-Raḍī and Sharīf al-Murtaḍā. In 403/1012, the ruling king of Baghdad, Bahā' al-Dawla Daylamī, assigned al-Raḍī as the chief *naqīb*, a move which had no precedent in Shī'ite history.⁵⁶ After the death of al-Raḍī in 406/1015, al-Murtaḍā took over his position as *naqīb* of Baghdad although he had never, like his brother, been in charge of the affairs of the 'Alawīs in all the Islamic territories.⁵⁷ Al-Murtaḍā, we are told by our sources, allocated part of his house to a college (*dār al-'ilm*) equipped with a public library of 80,000 books, and supported by monthly stipends and free paper.⁵⁸ After al-Murtaḍā and the beginning of the Sunnī revival (446/1054), the position of *naqīb* survived under Sunnī supervision until the fall of the Abbasids. The last *naqīb* of the Alids was Sharaf al-Dīn

⁵³ Ibid., p. 123.

⁵⁴ See 'Alī Aṣghar Faqīhī, *Tārīkh-i Āl-i Būya* (Tehran: Intishārāt-i Ṣabā, 1986), p. 37.

⁵⁵ 'Abd al-Malik al-Tha'ālibī, *Yatīmat al-Dahr*, quoted by 'Alī Davānī, *Mafākhīr*, vol. 3, p. 268.

⁵⁶ Muḥammad Ḥusayn Sākit, *Nahād-i Dādrasī dar Islam* (Mashhad: Astān-i Quds, 1986), p. 453.

⁵⁷ Ibid., p. 455.

⁵⁸ Davānī, *Mafākhīr*, vol. 3, p. 285.

Muḥammad b. Ṭāwūs, who was killed by the Mongols in 656/1258.⁵⁹ During the Ilkhanid period, the office was again occupied by Shī'is due to the favorable treatment they received from the Ilkhanid rulers.⁶⁰ In Sunnī Islam, however, the position of *naqīb* ceased to flourish after the 7th/13th century, and was gradually incorporated into the office of *qāḍī*. During the Safavid period, we know that the Alids and *sayyids* received special attention from the Shi'ite government, but there is no trace of enlivening the position of *naqīb* by the Safavid kings. Rather, the title of *naqīb al-ashrāf* was used for the employees in charge of levying taxes within each guild.⁶¹ In the late nineteenth century, Nāṣir al-Dīn Shah of Qajar Iran tried to reinstitute this office by assigning a new *naqīb al-ashrāf* as an official in charge of supervision of *sayyids*.⁶² This position, however, did not flourish in this period.

The office of *qāḍī*, charged with the administration of justice, emerged interlinkedly with those of mufti and *faqīh*. In examining the offices of mufti and *faqīh*, we pointed out that Shī'is had been instructed by Imam Ṣādiq to turn away from the official judiciary apparatus (*hukūma*) and to find a learned Imāmī for settling their disputes. We shall now see how these two advisory positions were integrated into the executive post of *qāḍī* in the Shī'i milieu. Shi'ite law developed in a calm atmosphere. Its spokesmen, at the onset,

⁵⁹ Kāmil Muṣṭafā al-Shaybī, *al-Fikr al-Shī'i wa'l-Naza'ūt al-Sūfiyya* (Baghdad: Maktabat al-Nahḍa, 1966), p. 111.

⁶⁰ Shīrīn Bayānī, *Dīn wa Dawlat dar Iran-i 'Ahd-i Mughul*, 2 vols. (Tehran: Nashr-i Dānishgāhī, 1992), vol. 2, p. 493.

⁶¹ See Mīrzā Rafī'ā, "Dastūr al-Mulūk", *Majalla Dānishkada-yi Adabiyyāt-i Tehran*, 69 & 70 (Murdād 1348/August 1969), p. 549.

⁶² Muḥammad Ḥasan Khān I'timād al-Saltāna, *al-Ma'āthir wa'l-Āthār*, 2 vols., ed. by Īraj Afshar (Tehran: Asāṭir, 1984), vol. 1, p. 158.

emerged in the form of the muftis who only expressed legal opinions; i.e., what is lawful or unlawful. Those muftis who tried to formulate their opinions in a methodical manner were addressed as *faqīh*—learned in jurisprudence. This body had a semi-sectarian character and was largely imbued with the tendency toward speculation and writing.

Because of the indistinctness of Sunnī and Shī'ī law during the 2nd/8th and 3rd/9th centuries, no Shī'ī figure was officially considered as *qāḍī*, but Imāmī jurists had informally been administering justice among Shī'īs according to the instructions received from Imam Bāqir and Imam Ṣādiq. Practically speaking, the position of the Shī'ite *qāḍī* became operational from the time of Imam Riḍā, when the spread of Shī'ism was wide enough to cause the petitioning of its cases to Imāmī jurists. The rising numbers of agents to the last five Imams indicates an increase in the number of juridical cases in which the Imam and his learned companions were considered as focal points for reference and judgment. Nevertheless, no Shī'ī jurist was distinguished as mere *qāḍī* at this stage (2nd/8th & 3rd/9th centuries). Despite Sunnī law in which the works of jurists were combined with the practice of *qāḍīs*, Shī'ite law was essentially developed through juridical speculation. Even the tradition-reports of the Imams, who were considered prime *qāḍīs*,⁶³ give only a few examples of qadiship and rule implementation by the Imams (except Imam 'Alī). Amir Arjomand holds the sectarian character of Shī'ism responsible for the shortcomings in its practical implementation:

However, because of sectarian conditions of Shī'ism, the formulation of rules envi-

⁶³ Kulaynī, *al-Furū' min al-Kāfī*, ed. by 'Alī Akbar Ghaffarī (Tehran: Dār al-Kutub al-Islāmiyya 1362sh/1983), vol. 7, p. 406. (*inna'l-hukūma innamā hiya li'l-Imām*).

sioning the institutional implementation of sacred law made little headway. What the Shaykh al-Ṭūsī termed *sharī'at al-islām*—the sacred law of faith (i.e., of the Shi'ite sect)—became impressively elaborated but with few provisions for its routine execution.⁶⁴

More than with routine execution, however, Shi'is were engaged during this period with establishing the doctrine of the Imamate and with the collection of their traditions (the 2nd and 3rd century *Hijrī*), but they were lacking in its practical expansion through the use of the Uṣūlī method of interpretation.

The terms *qāḍī* and *ḥākim* were, in this period, applied interchangeably in Shi'ite tradition-report, including the above-mentioned tradition of Ibn Ḥanzala and Abū Khadija. In the collections of tradition, they appear as parallel concepts, but later, in the Uṣūlī manner of source interpretation, *ḥākim* acquires a broader scope equal to the guardian of the community.⁶⁵ The status of *ḥākim*, therefore, does not fit into the category of an independent position in Shi'ism since it was always infused with other offices such as *qāḍī*, *mujtahid*, and *marja'*.

In spite of the fact that we know that Shi'ī 'ulamā' were involved in the administration of justice and qadiship as much as in collecting *khums* and *zakāt* taxes, we do not come across the name of many Shi'ī *qāḍīs* as a class of Imāmi

⁶⁴ Amir Arjomand, *The Shadow of God and the Hidden Imam* (London & Chicago: University of Chicago Press, 1984), p. 51–52.

⁶⁵ E.g., see al-Shaykh al-Mufīd, *al-Muqni'u* (Qum: Mu'assasat al-Nashr al-Islāmī, 1410/1989–1990), pp. 810–11; Al-Muḥaqqiq al-Ḥillī, *Sharāyi' al-Islām* (Tehran: Dānishgāh, 1963), pp. 304–358. 'Allāma, *Tadhkira*, pp. 452–3.

religious professionals. Nevertheless, we know that al-Murtaḍā and his brother al-Raḍī, and two of his disciples were *qāḍīs*.⁶⁶ Abū 'l-Faṭḥ al-Karājikī and Ibn al-Barrāj. Al-Murtaḍā and his brother al-Raḍī became *qāḍīs* through the office of *naqīb*. The jurisdiction of al-Raḍī was wider than that of al-Murtaḍā, but al-Murtaḍā's drive to legitimize the work for the government signifies his deeper commitment to the office of *qāḍī* even under the non-Shi'ite Abbasid government. Al-Karājikī, who was entitled al-Qāḍī⁶⁷, had lived his last years of life in Tarablus. The biographer 'Alī Davānī suggests that al-Karājikī was *qāḍī* in Tarablus and Ibn Barrāj took his place after 449/1057.⁶⁸ This corroborates the idea that al-Murtaḍā was instrumental in substantiating the process of working for the government and his example of assuming official responsibility impressed his students. However, this occurred in an atmosphere marked by the favorable attitude of the Buyids towards Shi'is.

During the Buyid period, the rapprochement between Shi'is and Sunnis reached a new record. Some Sunni *qāḍīs* such as Muḥammad b. 'Abdullāh, known as Ibn al-Bay', were inclined to Shi'ism.⁶⁹ In contrast, Ibn al-Barrāj and al-Karājikī were considered as being inclined toward Sunnism ('*ammī al-madhhab*'; see below). After the Buyids, we find the names of a number of Shi'is who were *qāḍīs* in cities like Kāshān and Qum, but none of them are distinguished for

⁶⁶ Muḥammad 'Alī Mudarris Khiyābānī, *Rayḥānat al-Adab*, 8 vols. (Tehran: Khayyām, 1967), vol. 5, p. 39; Muntajab al-Dīn 'Alī b. 'Ubaydullāh b. Bābūya al-Rāzī, *Fihrist* (Beirut: Dār al-Aḍwā, 1986), p. 107; Davānī, *Mafākhīr*, vol. 3, p. 34.

⁶⁷ Ibn Shahr Ashub, *Manāqib al-'Ulamā'*, p. 118; Ḥabībullah Sharīf Kāshānī, *Lubāb al-Alqāb* (Tehran: Būdhārjumihri, 1378/1958), p. 7; Afandī, *Rayaḍ al-'Ulamā'*, vol. 3, p. 135.

⁶⁸ Davānī, *Mafākhīr*, vol. 3, p. 340.

⁶⁹ Shaykh 'Abbās Qummī, *al-Kunā wa'l-Alqāb* (Najaf: Ḥaydariyya, 1956), p. 155.

juridical contribution.⁷⁰ After the Safavid triumph in Iran, the number of formal *qāḍīs* increased, and the position of *qāḍī* in the capital cities integrated into the status of *shaykh al-Islām*.⁷¹

Apart from the above-mentioned *qāḍīs*, Ibn Shahr Āshūb (the 6th/12th century jurist and biographer) recorded the names of three more Shī'ī jurists as *qāḍī*. These are Ibn Salāma al-Ghaḍā'irī, Abū'l-Muḥāsīn al-Rūyānī and Abū 'l-Qāsim al-Bustī. This latter is introduced as Zaydī Shī'ī by Ibn Shahr Āshūb who also identified Ghaḍā'irī and Rūyānī as "*āmmī'l-madhhab*", suggesting that they were inclined to pass judgement according to the standard of the more common rite, i.e., Sunnī Islam.⁷² It is not surprising that al-Karājikī, too, is considered by the late Shī'īs as the one who included much of Sunnī traditions in his *Kanz al-Fawā'id*.⁷³ All this evidence indicates that those Shī'ī jurists who had been prepared to work with the Sunnī government (and had been officially called *qāḍī*) were regarded as either inclined or ready to compromise with Sunnism. Categorizing some well-known Imāmī jurists as *āmmī al-madhhab* by Ibn Shahr Āshūb reveals another schism within the rank of moderate Shī'īs, i.e., the Uṣūlīs. Jurists who worked with the ruling Sunnī government or included Sunnī traditions without the proper qualification in their books were marked as Sunnī sympathizers by Shī'īs who distanced themselves from the so-called orthodoxy. Besides the above-mentioned *qāḍīs*, the Ḥillī jurists such as Muḥaqqiq and 'Allāma (see chapter three) may fall in this category. This dichotomy indeed is dif-

⁷⁰ See 'Abdul-Jalīl Qazvīnī, *Kitāb al-Naqd*, p. 187. Also see Muntajab al-Dīn al-Rāzī, *Fihrist*, pp. 16, 40, 82, 107, 119, 123, 132.

⁷¹ *Tadhkirat al-Mulūk*, ed. by Muḥammad Dabīr Siyāqī (Tehran: Amir Kabīr, 1989), p. 3; Mirzā Rafī'ā, "Dustūr al-Mulūk", p. 69.

⁷² Ibn Shahr Āshūb, *Manāqib*, p. 141.

⁷³ Davānī, *Mafakhir*, vol. 3, p. 329.

ferent from that of the Akhbārīs and Ghulāt with Uṣūlīs. In contrast with Sunnī sympathizer Shī'īs, there existed Shī'ī sympathizer Sunnīs such as the historian and geographer Ya'qūbī and the biographer Ibn al-Nadīm, whose categories are different from the above four classes of Shī'īs.

Nevertheless, the rest of the Imāmī *qāḍīs* administered justice informally, and without any attachment to Sunnī government. The cause of this informality, besides Sunnī reluctance to acknowledge the Shi'ite school, lies in the fact that being paid by the government for judiciary tasks was reprehensible according to the tradition set by the 6th Imam.⁷⁴ The Shi'ite jurists were permitted to take *khums* and *zakāt* taxes but not wages (*ajr*) and rewards (*jā'iza*) from the Sunnī government. The principle traditions which ban the Shī'ī scholars from engaging in non-Imāmī judiciary systems are as follows:

Avoid the administration of justice (*ḥukūma*) because it belongs to the Imam who is knowledgeable in matters of qadiship and who is righteous (*ādil*) among the Muslims like the Prophet or the heir to the Prophet.⁷⁵

It is forbidden for a *qāḍī* to live on the government's pay for qadiship.⁷⁶

Unlike the Traditionists, the Uṣūlī 'ulamā' spoke of the practicability of qadiship and how justice should be administered during the absence of the Imam where the community is under the rule of Sunnī government. Shaykh al-Mufīd, in his *al-Muqni'a*, set forth the question of qadiship in connection with the problem of legitimate government.

⁷⁴ Ibn Bābūya, *Man lā Yaḥḍuruhu 'l-Faḡīh*, vol. 3, p. 12.

⁷⁵ Ibid., p. 4.; Kulaynī, *al-Furū' min al-Kāfi*, vol. 7, p. 406.

⁷⁶ Kulaynī, *al-Furū'*, vol. 7, p. 408.

In the opening of his chapter on qadiship, Mufid states:

The administration of justice among people is of high significance for which qualified persons are difficult to find, and only those who have confidence in themselves should venture this responsibility. No one can rely on himself unless he is mature, wise and learned in the Qur'ān and its abrogated verses; as well as its general and specific verses...⁷⁷

In the chapter entitled 'The Proper Behaviour for the Judge', Mufid leaves no doubt that he speaks based on his own understanding and experience in the administration of justice although he had never officially been considered *qāḍī*. Later on, in the chapter on the implementation of Islamic written penalties (*iqāmat al-ḥudūd*), *al-Muqni'a* reads thus:

The implementation of *ḥudūd* falls upon the Islamic government which is appointed by God the most high; that is to say that the government belongs to the Imams from the House of Muḥammad (peace be upon them), and the governors (*al-umarā'*) and judges (*al-ḥukkām*) are appointed by the Imams. The Imams have invested the Shi'ī jurists with the right of supervision in qadiship as much as it is possible.⁷⁸

In keeping with his Uṣūlī method of interpreting traditions, Mufid reasserts the right of Shi'ite scholars to the

⁷⁷ Mufid, *al-Muqni'a*, p. 721.

⁷⁸ Ibid., p. 810.

office of *qāḍī* with a more vigorous tone:

They (the Shī'ī *fuqahā'*) should carry on whatever involves the administration of justice in Islam; because the Imams entrusted it to them whenever the *fuqahā'* are able to run the office according to what is established for them by the proper traditions.⁷⁹

This appears to be the earliest statement on the right of the 'ulamā' to run the important office of *qāḍī* on behalf of the Imam. This is in line with what Mufid stated in the chapter on *zakāt* and *khums* (see chapter six).

Shaykh al-Mufid's student al-Murtaḍā paid special attention to the problem of working for the Sunnī government in which the administration of justice by Shī'ite jurists is included. He wrote a special treatise which has been translated into English by Professor Madelung on the legality of working for the government. Al-Murtaḍā legitimized the acceptance of office even from a usurper (*al-mutaghallib*) government if one's life or property were to be endangered by a refusal. Basing himself on the precedents of Nawbakhtī and 'Alī b. Yaḳīn,⁸⁰ al-Murtaḍā states:

Pious men and scholars have always at various times accepted offices on behalf of the unjust rulers for some of the reasons which I have mentioned. The tenure of office on behalf of an unjust ruler is, when there is something of the aforementioned in it that makes it good, and only in

⁷⁹ Ibid., p. 811.

⁸⁰ 'Alī b. Yaḳīn was a financial agent for Imam Mūsā 'l-Kāzim. Moreover, he was a highly trusted official of the caliphs al-Ma'mūn, al-Rashīd and al-Hādī. Ibid., p. 18.

appearance on behalf of the true Imams—peace be upon them—because they have given permission for the tenure of office under the conditions which we have mentioned...Sound tradition has been transmitted that it is permissible for anyone in this situation to administer the legal punishments, cut the hands of thieves, and do whatever the law requires in these matters.⁸¹

Al-Murtaḍā did not quote those sound traditions which allow Shi'is to take charge of the administration of justice under such situations. It is evident from the above quotation that the basis of his argument rests on the Uṣūlī method of applying religious law to the existing situation. At the end of this treatise, nevertheless, al-Murtaḍā acknowledged a tradition in which Imam Ṣādiq set atonement (*al-kaffāra*) for working for the government. Al-Murtaḍā interpreted this tradition as "taking care of the needs of Muslim brothers would remove the reprehensible character of working for the government."⁸²

Al-Murtaḍā's attempt to compromise between a Shi'ite pious withdrawal and the practical demands of time had limited success, as we saw in the office of *qāḍī* of some of his students such as al-Karājikī and Ibn al-Barrāj. Another student of al-Murtaḍā, i.e., Abū Ṣalāḥ al-Ḥalabī (d. 447/1055) reacted more cautiously towards the question of taking the responsibility of being a *qāḍī*, which is reminiscent of Shaykh al-Mufīd's approach to the office of *qāḍī* during the absence of the Imam:

⁸¹ W. Madelung, "A Treatise of the Sharīf al-Murtaḍā on the Legality of Working for the Government", *BSOAS*, XLIII, I (1980), p. 25.

⁸² *Ibid.*

Putting the religious verdicts in force and ruling according to what devoutness (*al-ta'abbud*) requires are the responsibility of the Imams (peace be upon them), who are the sole qualified persons for this job. If the Imams themselves or people whom they authorized were not able to perform this job, however, non Shī'is or people who did not qualify to be a deputy of the Imam are not permitted to interfere either in the form of qadiship or in other kinds of administration of justice nor also in the implementation of rules.⁸³

This kind of argument, historically, counterbalanced the assimilating trends initiated by al-Murtaḍā. In this manner, Shi'ite particularism succeeded to designate the position of *qāḍī* exclusively for Imāmī jurists. The office of *qāḍī*, and the other positions mentioned above retained their basic characteristics during later periods, although some of them, such as *muḥaddith* (traditionist) and *mutakallim* (theologian) lost color in time, and some others such as *nā'ib* were incorporated into the position of supreme jurisprudent, as we will see in the next chapter.

⁸³ Abū Ṣalāḥ Taqīy al-Dīn b. Najm al-Dīn al-Ḥalabī, "Faṣl fī Tanfidh al-Aḥkām", excerpt from *al-Kāfi fī'l-Fiqh* in *al-Yanābī' al-Fiqhiyya*, ed. 'Alī Aṣghar Murvārīd (Tehran: Markaz Buḥūth al-Ḥajj wa'l-'Umra, 1986), p. 53.

The Emergence of the Position of *Mujtahid* and the Akhbārī Challenge

The office of *mujtahid*—one who can form his own judgment—is an outgrowth of the application of *uṣūl al-fiqh* in Shi'ism. *Uṣūl al-fiqh* consists of the principles of interpreting the Shari'a, which were developed in an articulate form by al-Shāfi'i at the end of the 2nd century *Hijrī*. These principles affected the Shi'ite juristic milieu with mixed reactions. Most of the Shi'i 'ulamā' of the early periods, being strictly attached to the traditions of the Imams, opposed the application of *uṣūl al-fiqh* in jurisprudence. These traditionists, who later came to be called Akhbārīs, put these principles on a par with *qiyās* (juristic analogy) and its concomitant *ijtihād* (independent reasoning), both condemned in the early periods of Shi'ism. Nevertheless, the rational segment of Imāmī jurists (later called Uṣūlis), who favored the incorporation of the semantic-exegetical methodology in law, succeeded both in developing Shi'ite *uṣūl al-fiqh* and in legitimizing *ijtihād* and a limited *qiyās*. Thus, the emergence of the office of *mujtahid* is tied with the development of Uṣūlī methodology in the 7th/13th century in spite of the fact that, in practice, it existed since the rise of Shi'ism (see below). In this chapter, I will try to take a new look at the history of the office of *mujtahid* along with the development of *uṣūl al-fiqh* and its corollary the Akhbārī-Uṣūlī controversy which led up to the rise and success of the office of *mujtahid*. I will also deal with the semi official positions of *shaykh al-Islām* and *mullā bāshī* which were often occupied by *mujtahids*.

Generally speaking, in Islam, the practice of *ijtihād* as an intellectual activity, began with the implementation of the Shari'a during the life of the Prophet. But the practi-

tioners of Shari'a were not called *mujtahids* until the time of the second generation of the Successors, who often employed *qiyās* in order to apply Islamic rules to new cases. Thus, *mujtahid* was not distinguished from *mufti* and *faqih* before the development of analogical practices in Islam. At the end of the second century, Muḥammad b. Idris al-Shāfi'i (d. 204/819) laid down a series of principles for application of the Qur'ān and the *Sunna* to jurisprudence to the effect that it led to the formation of a new branch of juridical lore in Islam, i.e., the science of legal theory, especially after the 4th/10th century. Shāfi'i wrote *Risāla* essentially "as an apologia for the supremacy of the traditions."¹ A century later, this work became the point of departure for the development of a juristic methodology by Shafi'ite authors such as Ibn Surayj (d. 306/918).²

In the beginning of the 4th century *Hijrī* the Uṣūlī methodology affected the Imāmī juridical circle of Baghdad headed by the Nawbakhtīs. Ibn al-Nadīm recorded two treatises (under the name of Abū Sahl Ismā'il al-Nawbakhtī) whose titles suggest some kind of Uṣūlī argumentation. The first title is a refutation of Shāfi'i's *Risāla*³ which does not necessarily mean a refutation of the rational methodology. Rather, it reveals the beginning of Shi'ite argument on this methodology which might not have agreed with Shāfi'i's conclusions, but which could have offered an alternative rational (Uṣūlī) argumentation. This assumption can be confirmed by Nawbakhtī's second treatise which was apparently concerned with the interpretation of general or specific rules of Shari'a and the application of the (sound) names

¹ Majid Khadduri, *Islamic Jurisprudence: Shāfi'i's Risāla* (Baltimore: The Johns Hopkins Press, 1961), p. 7.

² Hallaq, "Was al-Shāfi'i a Master Architect of Islamic Jurisprudence?", *International Journal of the Middle East Studies*, vol. 25, no. 4 (November 1993), p. 593.

³ Ibn al-Nadīm, *The Fihrist*, vol. 1, p. 440.

and verdicts.⁴ According to Najāshī, Abū Sahl's nephew Ḥasan b. Mūsā also wrote two treatises on the specific and general rules, and isolated tradition and (the legality of) its practice,⁵ both of which appear to be concerned with an Uṣūlī sort of argument. These works are in conformity with the moderate theological position of the Nawbakhtīs who, as we already mentioned, were responsible for stabilizing Imāmī (Twelver) positions in theology and jurisprudence. This led to a curtailing of the extremist tendencies inherent in Shi'ism, i.e., extremists (*al-ghulāl*), anthropomorphists (*al-mushabbihā*) and especially traditionists (Akhhbārīs). It is remarkable that al-Shahrastānī (d. 548/1162) alluded to the hostility between two Imāmī groups, namely Akhhbārīs and *kalāmiyya*.⁶ It is evident that *kalāmiyya* applies to the Shī'ī theologians who had Uṣūlī tendency but had not been thus oriented until the middle of the 6th century *Hijrī* when the *Kitāb al-Naqḍ* was written. In this polemical book, 'Abd al-Jalīl Qazvīnī spoke of Uṣūlīs *vis-à-vis* Akhhbārīs (see below). Let us deal with Shi'ite traditionists first.

The Shi'ite traditionist movement grew out of the broader Islamic context, i.e., *ḥadīth* movement that assigned legal authority exclusively to the Qur'ān and the utterances of the Prophet and the Imams which constitute the infallible body of the religion. Like its Sunnī counterpart, this trend became stronger in reaction to the dominant Mu'tazilī thought during the 3rd/9th century. Although there existed Mu'tazilite elements among Shi'ites since the time of Imam Ṣādiq, it appears that the traditionists and extremists attract-

⁴ Ibid., *al-Khuṣūs wa'l-'Umūm wa'l-Asmā' wa'l-Aḥkām*; Iqbāl, *Khāndān*, p. 123.

⁵ Najāshī, *Rijāl* (Qum: Mu'assasa-yi Nashr-i Islāmī, 1987), p. 63; Iqbāl, *Khāndān*, pp. 131, 133; *al-khuṣūs wa'l-'umūm* and *khābar al-wāḥid wa'l-'amal bihi*.

⁶ 'Abd al-Karīm al-Shahrastānī, *al-Milal wa'l-Niḥal*, ed. M. S. Kilānī (Beirut: Dār al-ma'rafā, 1961), p. 172.

ed larger followings before the advent of the Nawbakhtīs in Baghdad. The bulk of the Shi'ite traditions, according to Ṭūsī, are reported by Akhbārī traditionists.⁷ At this stage, the traditionists were called *al-muqallida* (the imitators), *ahl al-akhbār* and *aṣḥāb al-jaml* (the generalists, i.e., people who do not engage in reasoning) by Ṭūsī. A group of them were called *aṣḥāb al-'adad* by Sharīf al-Murtaḍā.⁸ The term *aṣḥāb al-'adad* refers to those traditionists who calculated the number of days in the month of Ramaḍān according to the traditions rather than their own sighting of the crescent.⁹ Shaykh al-Mufīd referred to them as Shi'ite traditionists who rely only on what they have heard.¹⁰

The traces of the traditionist dominance during the first period of Shi'ite jurisprudence can be seen in the writings of al-Ṣaffār al-Qummī, al-Kulaynī and Ibn Bābūya al-Ṣadūq, all belonging to the Shi'ite center of Qum and Ray. This demonstrates the climax of the traditionist's intellectual activities which produced the three collections of tradition-reports (see chapter one). This occurred almost a century after the Shi'ite rational drive in Baghdad under the Nawbakhtīs. However, after Ṣadūq, the only known method of structuring jurisprudence was to adopt the principles of *ilm al-uṣūl*, and this was realized in the hands of one of Ṣadūq's students called al-Shaykh al-Mufīd.

⁷ Ṭūsī, *Uddat al-Uṣūl*, ed. Muḥammad Mahdī Najaf (Najaf: Āl al-Bayt, 1983), vol. 1, p. 346. *Fihrist*, p. 3; Kohlberg, "al-Uṣūl al-Arba'umī'a", p. 140.

⁸ Hossein Modarressi, *An Introduction to Shi'i Law* (London: Ithaca, 1984), p. 33.

⁹ See Tihrānī, *al-Dharī'a*, vol. 10, p. 185. See also Ṭūsī, *Uddat al-Uṣūl*, p. 355, footnote no. 1.

¹⁰ Mufīd, *Awā'il al-Maqālāt, fi'l-Madhāhib wa'l-Mukhtārāt*, ed. by Mahdī Mohaghegh (Tehran: Institute of Islamic Studies, 1993), pp. 23, 75: "*aṣḥāb al-naql* or *aṣḥāb al-ḥadīth min al-Imāmiyya*".

Al-Shaykh al-Mufīd studied under two students of Abū Sahl Nawbakhtī besides Ṣadūq.¹¹ He was, therefore, in a good position to combine the knowledge of the traditions with theology and the so-called principles of jurisprudence (*uṣūl al-fiqh*). The process of Uṣūlism (i.e., the application of semantics in jurisprudence) in Shi'ism practically begins with Mufīd although we know that there had been limited practice of *uṣūl* by the earlier jurists such as Ibn Abī 'Aqīl and Ibn al-Junayd, not to mention the Nawbakhtīs. In his exposition of the rules of Sharī'a, Mufīd did not content himself merely with a classification of the traditions. Rather, he extracted rules from the overall contents of the traditions according to his rational (Uṣūlī) arguments. This work has been embodied in *al-Muqni'a*, the first extant Shī'ī book of this kind. *Al-Muqni'a* paved the way for the expansion of Shi'ite jurisprudence based on juristic conceptions which in turn helped in the rise of the office of *mujtahid* in the later periods.

Furthermore, Mufīd wrote the first extant book concerning the principles of jurisprudence known as "Tadhkira bi uṣūl al-fiqh", which is included in *Kanz al-Fawā'id* by his student al-Karājikī.¹² In order to synthesize various (and sometimes contradicting) elements inherent in Shi'ism, Mufīd had to criticize the traditionists as a narrow-minded group on the one hand, and denounce the practice of *qiyās* and *ijtihād* on the other.¹³ Nevertheless, it should be noted that Mufīd did not categorically reject the isolated traditions (*khabar al-āḥād*). Rather, he accepted them when they could be confirmed by other means, e.g., by conjecture (*qarā'in*).¹⁴

¹¹ I.e., 'Alī b. 'Abdullāh b. Waṣīf al-Nāshī' Asghar (d. 365) and Abū'l-Jaysh Muẓaffar b. Muḥammad al-Balkhī (d. 367/977-78). See Iqbāl, *Khāndān*, p. 105.

¹² al-Karājikī, *Kanz al-Fawā'id*, vol. 2, pp. 15-30.

¹³ Mufīd, *Awā'il al-Maqālāt*, pp. 27 & 69.

¹⁴ Ibid., p. 57.

At the same time, he worked hard to develop Shī'ī jurisprudence on the basis of new arguments whose legitimacy was based on *ijtihād*. Mufīd can be considered as the first Shī'ite practitioner of *ijtihād* whose works still exist. Nevertheless, Mufīd and his students were not regarded as *mujtahids* by the Shī'ī milieu of this period, nor was their method of applying rules to each case known as Uṣūlī. Rather, they were named according to their theological stand of Mu'tazila or *kalāmiyya*.¹⁵

Mufīd's method of rational (Uṣūlī) interpretation of the Shī'ite tradition's sources was followed by his numerous students, among whom al-Sharīf al-Murtaḍā and al-Shaykh al-Ṭūsī are distinguished. We already dealt with the role played by Murtaḍā in legitimizing the office of *qāḍī* under a Sunnī government (see above, chapter two). His contribution to the advancement of the process of *ijtihād* lies in his work on Shī'ite legal theory in which he tried to consider the principles of jurisprudence as an independent discipline.¹⁶ Murtaḍā criticized the traditionists as deviant Shī'īs who confined themselves to the texts of tradition-reports. His reservation about the traditionists led him to denounce the authority of *khabar al-wāḥid* more forcefully than any other contemporary jurist. It appears that he aimed at specific traditionist groups such as *al-wāqifa* (Shī'īs who stopped at the 7th Imam) and anthropomorphists as he enumerated them in his discourse called "Refutation of the practices rendered according to traditions transmitted by single reporters".¹⁷

Shaykh al-Ṭā'ifa al-Ṭūsī is responsible for introducing

¹⁵ Shahrastānī, *al-Milal wa 'l-Niḥal*, pp. 165 & 172.

¹⁶ Murtaḍā, *al-Dharī'a*, vol. 1, p. 2.

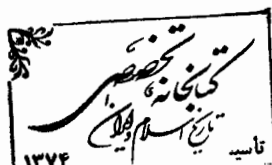
¹⁷ Murtaḍā, "Ibtāl al-'amal bi akhbār al-āḥād", xerox copy from the manuscript by Aqā Shāzī Namāzī dated 1327/1909, pp. 2-3. See also his *Rasā'il*, 4 vols. (Qum: Nashr-i Dār al-Qur'ān, 1405/1985), vol. 1, pp. 21-29.

a new conformity between traditionism and Uṣūlī reasoning. He first wrote *Tahdhīb al-Aḥkām* commenting on *al-Muqni'a*, providing references (based on the tradition-reports) for Mufid's juristic verdicts.¹⁸ He then composed an independent collection of traditions named *al-Istibṣār* in order to supplement the first book with new cases with which Mufid had not dealt.¹⁹ Ṭūsī later adopted Mufid's method of applying Uṣūlī principles to jurisprudence leaving aside the collection of traditions. Ṭūsī's shift of emphasis indicates that the Akhbārī trend had lost its impetus by the end of extensive circulation of *ḥadīth* in the 4th/10th century. After Ṭūsī, we do not come across any serious Akhbārī work until the Safavid time. Ṭūsī wrote the '*Uddat al-Uṣūl* dealing with the methodology of acquiring certainty or a degree of authority in religious knowledge, in order to explore a suitable framework for Shi'ite legal theory based upon somewhat diverse sources of authority. The problem of the validity of the reports of the so-called deviant Shi'i groups was discussed by Ṭūsī in this book. He first dealt with those traditionists whom he alternatively called *al-muqallida* (the imitators) or *aṣḥāb al-jaml* (people who do not engage in reasoning or explaining the details of argument). Ṭūsī accepted the tradition transmitted by these groups on the basis of the following assumption:

It is not impossible that this group were just generalists (*aṣḥāb al-jaml*) who acquired religious knowledge; but had difficulty in establishing this knowledge on the basis of reasoning. Therefore, they substituted the case with what seemed easy to them. It was not necessary for them to know that [reliance on the tradition] was

¹⁸ Ṭūsī, *Tahdhīb al-Aḥkām*, vol. 1, p. 4.

¹⁹ Idem, *al-Istibṣār*, 2 vols. (Najaf: Dār al-Kutub, 1956), vol. 1, p. 2.



not proof unless it was preceded by knowledge[of the religion] of God. However, what was obligatory here was that they must be well informed, and in general they were as we mentioned. This shortcoming does not require their denunciation nor their being considered as going astray.²⁰

In this manner, Ṭūsī legalized the isolated traditions transmitted by Akhbārī reporters, because he considered them reliable in transmitting traditions, although deviant in beliefs.²¹ However, Ṭūsī did not content himself with the above argument. His efforts for the legalization of *khbar al-wāhid* led him to adopt a number of new notions in the Shi'ite *uṣūl al-fiqh*. The most striking feature of Ṭūsī's argument is his reliance on the precedents which he called the practice or consensus of the true sect (*ijmā' al-firqa'l-muhiqqā*). This *ijmā'* according to Ṭūsī included the words of the infallible Imams.²² Nevertheless, there seems to be a striking parallel between Ṭūsī's way of taking into consideration the practice of the (Imāmī) community (*'amal al-tā'ifa*) for the validation of the *ḥadīth* and that of Shāfi'i,²³ with the difference that Shāfi'i aimed at establishing the authority of the tradition through the consensus of the Muslim (Sunnī) community whereas Ṭūsī aimed at the practicability of the contents of the traditions (in the presence of the Imam) regardless of their wording.²⁴ It should be noted that what Ṭūsī called *ijmā'* was regarded as mere *shuhra* (circulated

²⁰ Ṭūsī, *Uddat*, p. 349.

²¹ Ibid., p. 350.

²² Ibid., pp. 336–39.

²³ Compare Shāfi'i's *Risāla*, edited by Aḥmad Shākīr (Beirut: al-Maktaba 'l-Ilmiyya, 1939), p. 545, with *ibid.*, p. 236.

²⁴ Ṭūsī, *Uddat*, p. 345.

words) by the later jurists.²⁵

Ṭūsī's remarkable work on jurisprudence is *al-Nihāya*, a book which explains juridical cases according to new classification and Uṣūlī reasoning. This was considered by the Shi'ite 'ulamā' as the standard Uṣūlī jurisprudence for centuries. By Uṣūlī jurisprudence they meant the use of *ijtihād* in order to deduce verdicts from the tradition sources. Ṭūsī, therefore, was considered to be the one to come up with a high level of sound *ijtihād* without being called *mujtahid*.²⁶ Ṭūsī, however, did not content himself with *al-Nihāya*; rather, considering the current development of Sunnī law, he embarked upon writing a more detailed book called *al-Mabsūṭ*. In the introduction to this book, Ṭūsī pointed out that his method of elucidating *fiqh* was based on Uṣūlī reasoning. He added that this method was different from those Imāmīs (Akhhbārīs) who had not been prepared to acknowledge that a religious question could be stated in a form other than that of direct citation of tradition-reports.²⁷ This feature remained the most outstanding character of Akhhbārī-Uṣūlī controversy although in response to later developments, there was a change of emphasis to other matters such as the collection and distribution of *khums* alms, the implementation of legal bound of Shari'a (*al-ḥudūd*), leading the congregational prayer, and the like.²⁸ Ṭūsī's last contribution to Imāmī jurisprudence is *al-Khilāf*, a book on Islamic comparative law. Before Ṭūsī, Murtaḍā had written

²⁵ N. Calder, "Doubt and Prerogative: The Emergence of an Imami Shi'i Theology", *Studia Islamica*, LXX (1989), p. 63.

²⁶ Jannāti, "Ijtihād dar Jāmi'a-yi Islāmī", *Kayhān-i Andisha* 10 (1986), p. 17.

²⁷ Ṭūsī, *al-Mabsūṭ fi'l-Fiqh al-Imāmiyya*, 8 vols., ed. Muḥammad Taqī al-Kashfī (Tehran: Maktaba Murtaḍawī, 1387/1967), vol. 1, p. 2.

²⁸ See Andrew Newman, "The Development," part 1, pp. 2-3.

al-Intiṣār, comparing Shi'ite jurisprudence with that of Sunnī schools in order to reduce Shi'ite-Sunnī differences. Ṭūsī, however, intended to examine the various opinions concerning each juridical problem, and to find out the proper answer to them.²⁹

Two centuries after the demise of Shaykh Ṭūsī, the position of *mujtahid* emerged as a legal office in the writings of the scholars from the Shi'ite center of Ḥilla. Muḥaqqiq and 'Allāma not only legitimized *ijtihād*, but distinguished the status of *mujtahid* as a necessary office for Shi'īs. From the vantage point of the knowledge of jurisprudence, they divided the community into two groups: *mujtahids* and their followers,³⁰ which was considered by later Akhbārīs as a departure from the path of early Imāmis. The division between mufti and *mustafī* (one who asks for *fatwā* from the jurist) has its roots in both Shi'i and Sunnī laws of the early periods. But the way in which 'Allāma made a contrast between the *ijtihād* of *mujtahids* and that of ordinary believers leaves no doubt that 'Allāma considered *mujtahids* as holding a special status far higher than that of the conventional mufti. 'Allāma did not appreciate the latter's *ijtihād* and evaluated that of the former as a striving which leads to speculation (*ẓann*) although not to knowledge (*ʿilm*).³¹ In a sense, 'Allāma was the first Shi'ite jurist who manipulated *ijtihād* into becoming a prerogative of the 'ulamā'.

In this manner, 'Allāma enhanced the position of the Shi'ite 'ulamā'; but it is important to consider this change in the light of the overall conceptual evolution of Muslim thought. Shi'ite jurists, on many points, especially those con-

²⁹ Ṭūsī, *al-Khilāf*, 3 vols. (Qum: Nashr al-Islāmī, 1407/1986–87), vol. I, p. 45.

³⁰ Muḥaqqiq al-Iḥillī, *Ma'ārij al-Uṣūl*, pp. 197–201; 'Allāma al-Iḥillī, *Mabādi al-Wuṣūl* (Tehran: Lithograph, 1892), p. 53.

³¹ 'Allāma, *al-Alfayn* (Najaf: Ḥaydariyya, 1969), pp. 9, 40, 82, 285 & 290.

cerning *ijtihād* and its corollary *taqlīd*, adopted new notions rather than depending on their predecessors. Their introduction of new concepts or new definitions, therefore, cannot be isolated from the dominant Sunnī environment.³² One can draw parallel between 'Allāma and Ghazzālī's methods of putting emphasis on the idea of the incumbency of *taqlīd*, and the division of the community into the 'ulamā' and common men.³³ The latter's division was endorsed in Rāzī's chapter of *al-Muflī wa'l-Mustaftī*³⁴ and developed further in Ṣayf al-Dīn al-Āmidī's chapter on *taqlīd*³⁵ (see chapter five below).

The process of vesting the 'ulamā with the authority of the Imam by way of their newly-devised formula of *ijtihād* bore its fruits during the Safavid period wherein the office of *mujtahid* was embodied with the authority proposed to it by the schools of Ḥilla and Jabil 'Āmil. It was during this period that the 'ulamā' of Jabil 'Āmil were invited to move to Iran, and to teach people recently converted into Shi'ism. Here, the rather novel notion of the Imāmī *mujtahid* emerged in the form of an office, although it was imbued with the informality inherent in Shi'ism. The leading figure who incorporated this process in his person was Shaykh 'Alī al-Karakī (d. 940/1534), an Uṣūlī jurist from Jabil 'Āmil. Under the reign of Shah Ismā'il, the founder of the Safavid dynasty, Karakī came to Iran to help in the conversion of

³² It is noteworthy that Astarābādī, in his sarcastic criticism of Muḥaqqiq and 'Allāma, has barely isolated them from their Sunnī environment, as he names al-'Aḡudī, Ibn al-Ḥājib, al-Āmidī, al-Taftāzānī and al-Rāzī as the ones who set patterns for the two Ḥillis. See Astarābādī, *al-Fawā'id al-Madanīya*, especially p. 277.

³³ Ghazzālī, *al-Mustasfā*, vol. 2, pp. 289–90.

³⁴ Rāzī, *al-Maḥṣūl*, vol. 2, p. 3, p. 93.

³⁵ Ṣayf al-Dīn 'Alī b. Abī 'Alī al-Āmidī, *al-Iḥkām fī Uṣūl al-Aḥkām*, 4 vols. (Cairo: Dār al-Ḥadīth, n.d.), vol. 4, pp. 297–319.

Iranians, especially the religious class into Shi'ism by rational argument. But it soon turned out that he had begun to personify several clerical offices, to the effect that he was assigned as juristic *ḥākim* of Iran by the king Ṭahmāsp.³⁶

The position of *muḥtaḥid* appeared with this twofold significance since the Safavid period. The Shi'ite learned jurisprudent was not considered a simple mufti or *qādī*, but a vicegerent of the Imam. This is evident in the position held by Shaykh 'Alī Karakī who added to it the title of *nā'ib al-Imām*. Despite the Akhbārī opposition to the principle of *ijtihād*, the doctrinal evolution of Uṣūlīs continued to invest the *muḥtaḥids* with more authority. Shaykh 'Alī Karakī ruled out the permissibility of following a dead *muḥtaḥid*.³⁷ This *fatwā*, although having its roots in Sunnī jurisprudence,³⁸ served to invigorate the position of new emerging *muḥtaḥids* in the community.

In 939/1532–3, Shah Ṭahmāsp, apparently for the second time, issued an edict (*farmān*) recognizing for Karakī several juristic positions with a semi-official status. This includes "the exemplar of the people" (*muḥtaḥad al-anām*), "the *muḥtaḥid* of the Age" (*shaykh al-Islām*), and the vicegerent of the Imam (*nā'ib al-Imām*).³⁹ All these offices were integrated into the institution of *marja'īyya* in the 13th/19th century (see chapter six). However, the use of these titles in an

³⁶ See Mirzā 'Abdullāh Afandī Iṣfahānī, *Riyāḍ al-'Ulama'*, 5 vols. (Qum: Khayyām, 1401/1980–81), vol. 3, p. 450.

³⁷ Said Amir Arjomand, *The Shadow of God*, p. 140.

³⁸ Ghazzālī, *al-Mustaṣfā*, vol. 2, pp. 384–87.

³⁹ Ibid., pp. 455–460. For the English version of this *farmān*, see Said Amir Arjomand, *Authority and Political Culture in Shi'ism* (Albany: State University of New York Press, 1988), pp. 250–56. It is noteworthy that two similar titles, *khātām al-muḥtaḥidīn*, and *muḥtaḥad ahl al-īmān*, were applied to the Sunnī chief *qāḍīs* during the Ilkhanid period. See Shīrīn Bayānī, *Dīn va Dawlat*, vol. 2, p. 541.

official document denotes that, had the 'ulamā' enjoyed the same solidarity that they achieved in the 13th/19th century, the ground was prepared, at least nominally, for the formation of such positions in the 10th/16th century.

The foremost and central title in this *farmān* is "the exemplar of the people" who should, the Shah orders, be religiously followed by others including the new class of the Shi'ite 'ulamā'. The title of *muqtadā* was used originally for the leader of the congregational prayers. But in this *farmān*, it involves a semi-official position whose purpose is to set examples in the newly-expanded Shi'ite community. After "the exemplar", the titles of "the *mujtahid* of the Age", *shaykh al-Islām* and the vicegerent of the Imam had a particular bearing in the context of this *farmān*. Both the terms *mujtahid* and *shaykh al-Islām* were already used for the Shi'i 'ulamā' with an honorific meaning. But the way they are employed in this *farmān* indicates that the Shah wanted to bestow upon Karakī two offices of *shaykh al-Islām* and the *mujtahid* of the Age, which would mean something substantial rather than an addition of two mere honorific titles. The Shah evidently tried to secure the supremacy of one *mujtahid* over all other 'ulamā' in return for his support for the government. This *mujtahid* would lead the institution of the Shi'ite 'ulamā' in legitimizing the government's undertakings.

Shaykh al-Islām as an honorific title was applied to the 'ulamā' and Sufi saints since the 4th/10th century. In the second half of the 10th/16th century, the great mufti of Istanbul attained an additional ceremonial function institutionalized in the office of *shaykh al-Islām*. This *shaykh al-Islām* was regarded as the Abū Ḥanīfa of his time and next in rank to the Grand Vizier in the Ottoman court.⁴⁰ During the

⁴⁰ J. H. Kramers, "Shaikh al-Islām", *Encyclopaedia of Islam*, old edition, vol. 7, p. 277. Also see C. Repp, *The Mufti of Istanbul* (London: Ithaca Press, 1986), pp. 27-72.

Ilkhanid period, the contemporaneous author Aṭā Mālik Juwaynī considered the status of *shaykh al-Islām* as being equal to the chief *qāḍī* and second in rank next only to the Imam.⁴¹ The ceremonial function of *shaykh al-Islām*, which was the constituent part of this office, conflicted with the charismatic status of *muḥtashid* as the vicegerent of the Imam in Shi'ism. However, before the Safavid period, *shaykh al-Islām* was no more than an honorific title. It was fully institutionalized in Iran during the reign of Shah 'Abbās as most major cities in Iran were assigned with a *shaykh al-Islām*. Besides the performing of the congregational prayer, the *shaykh al-Islām* acted as *qāḍī* in the administration of justice in each city.⁴² The office of *shaykh al-Islām* clashed with the pre-Safavid institution of *ṣadr* which was also appointed by the Shah to administer the incomes gained by religious endowments.⁴³ The office of *ṣadr* had little role in Shi'ite jurisprudence and was often occupied by the 'ulamā' of a lower rank. Unlike the office of *shaykh al-Islām*, the status of the *muḥtashid* of the Age was not institutionalized during the Safavid period. The cause of this shortcoming lies in the informal structure of the Shi'ite religious offices which was depicted even in an official *farmān* of the Shah.

The ambivalent language of this *farmān* seems to correspond with its complex contents. The literary style of secretarial Persian during the Safavid period appears to be impressed by the intricate religio-political culture of Shi'ite Iranians.⁴⁴ The mysterious authority of the Lord of the Time

⁴¹ Shirīn Bayānī, *Dīn va Dawlat*, vol. 2, p. 566.

⁴² *Tadhkirat al-Mulūk*, edited by Muḥammad Dabīr Siyāqī (Tehran: Amīr Kabīr, 1989), p. 3. See also Mīrzā Rafī'ā Anṣārī, "Dastūr al-Mulūk-i Mīrzā Rafī'ā", *Majalla-yi Dānishkada-yi Adabīyyāt-i Tehran*, 16: 1 & 2 (Āzar 1347sh/Dec. 1968), p. 69.

⁴³ *Tadhkirat al-Mulūk*, p. 2; "Dastūr al-Mulūk", p. 64.

⁴⁴ That is what Amīr Arjomand calls ambivalent political culture. See his *Authority*, p. 10.

(*Sāhib al-Amr*) is finally found in the path of following the 'ulamā' who possessed sacred sciences.⁴⁵ Here, the king assigned Karakī with the office of *mujtahid* of the Age and *shaykh al-Islām*, but these titles did not seem to bear any official status because of the esoteric (and informal) side inherent in Shi'ite culture as is implied in the same *farmān*. The *farmān* recognizes highly important offices for Karakī on the one hand, but it secures his absence from the formal scene on the other. The problem of institutionalizing an office for a supreme *mujtahid* of the time, who in the capacity of *shaykh al-Islām* should function closely with the government, is evident from the very text of this *farmān* which is corroborated by historical evidence. One of the characteristics of Shi'ite piety, at this stage, was the absence of *mujtahids* from the official and administrative scene. In this *farmān*, the Shah discharged Karakī from the duty of attendance because he knew that he could not subordinate and bind such charismatic figures to any office. In this *farmān*, the Shah also tried to subordinate the other 'ulamā' and authorities to the status of Karakī. In spite of the fact that Karakī's son 'Abd al-'Ālī, too, was designated *mujtahid* of the Age by the same Shah, this status assumed a nominal existence only, and did not secure a position for the 'ulamā'. However, its corollary, *shaykh al-Islām*, flourished in the following century.

Shaykh Bahā' al-Dīn al-'Āmilī (d. 1020/1631), who combined Uṣūlism with Sufi leanings, was appointed by Shah 'Abbās as the *shaykh al-Islām* of Isfahān⁴⁶. He wrote the first Persian *risāla 'amaliyya* (see chapter seven) that might be held as a model for official jurisprudence. He was also regarded as *ra'īs* (chief) by contemporaries. This title could not bear any juristic significance since no doctrinal formula

⁴⁵ Ibid., p. 253.

⁴⁶ See Khwansārī, *Rawḍāt*, vol. 7, pp. 61–62. It is noteworthy that his father Shaykh Ḥusayn al-'Āmilī, although a new convert to Shi'ism, was the *shaykh al-Islām* of Hirat. Ibid., p. 58.

was yet devised to conceptualize it. However, Shaykh Bahā' al-Dīn performed the ceremonial and judiciary functions of *shaykh al-Islām*, from which Karakī had abstained. These functions caused the position of *shaykh al-Islām* to be regarded by a modern observer as the "foremost among the religious offices", and "the most important institutional basis of the emergent Shi'ite hierocracy"⁴⁷, at least during the 11th/17th century. Some Akhbārī jurists like al-Ḥurr al-'Āmilī were also assigned the position of *shaykh al-Islām*. But the latter did not have the prestige of Shaykh Bahā'ī or Muqaddas Ardabīlī.

Muqaddas Aḥmad b. Muḥammad Ardabīlī (d. 993/1585) was a pious Uṣūlī jurist of Najaf who refused to come to Iran, but his prestige was established enough to enable him to address the ruling king as "the founder of the borrowed kingdom (*Bānī-yi mulk-i āriya*)", and to sign himself as "A servant to 'Alī's true kingdom". The king, honoring the *mujtahid*'s demand, signed himself as "the dog of the threshold of 'Alī".⁴⁸ Muqaddas Ardabīlī worked on *uṣūl al-fiqh*⁴⁹ and taught it in a simple manner so that one of his Uṣūlī students Shaykh Ḥasan al-'Āmilī (d. 1011/1602) was able to write the clearest possible book in this field.⁵⁰ Muqaddas wrote that, "*taqlīd* of the *mujtahid* is proper and permissible; indeed it is obligatory once a proof for it has been established."⁵¹ Nevertheless, the incumbency of *taqlīd* did not prevail at this stage since we find that Shaykh Ḥasan 'Āmilī con-

⁴⁷ Said Amir Arjomand, *Authority*, p. 82.

⁴⁸ Khwansārī, *Rawḍāt*, vol. 1, p. 85.

⁴⁹ Ardabīlī, *Zubāt al-Bayān* (Tehran: 1966), pp. 343–47, quoted by Said Amir Arjomand, *Authority*, pp. 263–66.

⁵⁰ See Shaykh Ḥasan al-'Āmilī, *Ma'ālim al-Dīn*, p. 11 (introduction).

⁵¹ Arjomand, *Authority*, p. 264.

sidered *taqlīd* to be permissible only, not obligatory.⁵² Shaykh Ḥasan did not accept any position from the Safavids. Apart from the *mujtahid*'s pious refusal to take formal duties, the resurgence of Akhbārism as a school and movement was effective in complicating the course of institutionalization of juristic authority in Shi'ism.

Reaction to the heightened Sunni-Uṣūlī interaction in the school of Ḥilla became a point of departure for the new Akhbārism at the juridical level. It culminated with the rise of Astarābādī who turned Akhbārism into a juridical school by establishing the legal foundation of Imāmī traditionism. Before Astarābādī's drive, the Akhbārīs had no distinct doctrinal principles, and were considered by Muslim authors as being part of popular religion. In the middle of the 6th/12th century, 'Abd al-Jalīl Qazvīnī referred to the Akhbārīs in a pejorative sense by ranking them with extremist and heretical groups such as the *ghālīs* and *hashwīs*.⁵³ In this manner, the Shi'ite milieu of the Mongol period did not appreciate the contributions of 'the traditionists' in the collection of Shi'ite *ḥadīth* as well as in installing Imāmī jurists in positions of *faqīh*, narrator and deputy, who could then apply and interpret the rules of Shari'a. Nevertheless, it was the Uṣūlī 'ulamā' who, benefitting from these works, appropriated for the jurists a stronger and higher status. However, the revolt of Astarābādī was greatly influenced by the spread of folk Shi'ism among Turkish tribes who eventually brought the Safavids to power in 909/1502. The folk extremist nature of early Safavid Shi'ism combined with their Sufi allegiance provided fertile ground for a broader reliance on the Imams' traditions at the juristic level.

About a century before the emergence of Astarābādī, Ibn Abī Jumhūr (of the late 9th/15th century) began to rec-

⁵² 'Āmilī, *Ma'ālim al-Uṣūl*, vol. 2, p. 273.

⁵³ 'Abd al-Jalīl Qazvīnī Rāzī, *Kitāb al-Naqd* (Tehran: Sipīhr, 1952), pp. 256 & 301.

ollect the relevant traditions employing methods similar to that of the Akhbārīs. As reflected in the introduction to his *ʿAwālī*, Ibn Abī Jumhūr evaluated the *ʿulamā* for their interpretive role by means of using the method of *dirāya* (insightful evaluation of *ḥadīth*)⁵⁴ and *riwāya* (reporting a tradition from the Prophet and the Imams). He also praised God for appointing the *ʿulamā* as successors of the Imams in the interpretation of the Shariʿa. It seems at the first glance that Ibn Abī Jumhūr was trying to make a compromise between the two concepts of *dirāya* and *riwāya*. However, he concludes his introduction by putting more emphasis on revealed knowledge which indicates his Akhbārī tendency.⁵⁵ Nevertheless his way of equating the authority of the *ʿulamā* with that of the Prophet and Imams indicates his hierarchical conception of authority, which is often re-emphasized by the term *dhūʾl-riyāsāt*—‘possessor of many offices’.⁵⁶

In the wake of the above trend in favour of traditionism, Astarābādī managed to give Shiʿite traditionism a new juridical base which led up to the formation of both the school and the movement of the Akhbārīs. Muḥammad Amīn Astarābādī (d. 1036/1626) was an Uṣūlī student in his youth. The change in his juridical stance demonstrates the changing mode of religiosity at the beginning of the 11th/17th century. The significance of Astarābādī’s work is twofold: first, he tried to adapt the nature of jurisprudential authority to the popular religious currents of the time; second, he formulated theoretical bases such as the doctrine of

⁵⁴ This branch of juridical knowledge was developed in Shiʿism by ʿAllāma through the book *Dirāyat al-Rijāl*. See N. Calder, “Doubt and Prerogative: The Emergence of an Imami Shiʿi Theology of *Ijtihād*”, *Studia Islamica*, LXX (1989), p. 67.

⁵⁵ Ibn Abī Jumhūr al-Aḥsāʾī, *ʿAwālī al-laʾālī al-Azīziyya fil-Aḥādīth al-Dīniyya*, ed. Muḥtabā al-ʿIrāqī (Qum: n.p., 1983), vol. 1, pp. 1–3.

⁵⁶ *Ibid.*, p. 2.

customary certainty (*al-yaqīn al-'ādī*)⁵⁷ and sensible reasoning (*al-'aql al-ḥissī*)⁵⁸ for Shī'ī traditionalism. By means of these doctrines, Akhbārism had a new theoretical base which was able to pose a serious threat to Uṣūlism.

By carefully examining *al-Fawā'id al-Madaniyya*, in which Astarābādī illustrated his firm grasp of Uṣūlī-Sunnī interaction as well as his anti-Sunnī sentiments, it seems legitimate to claim that he sincerely tried to create a new uniformity in the Imāmī doctrine of acquiring religious knowledge, although later he was generally accused of inciting division between Imāmīs. According to his methodological approach, outright acceptance of the tradition-reports brings about more uniformity than application of preponderant probability because the latter results in generating various opinions.⁵⁹ In order to impose this uniformity, Astarābādī goes as far as to exclude the Qur'ān from among the direct sources of Shī'ite legal doctrine and practice. "The Qur'ān cannot be understood directly", Astarābādī said, "we should obtain its true meaning from the tradition-reports."⁶⁰ It is apparent from the above account that although Astarābādī expounded a well-grounded juridical argument, he was influenced by folk Shī'ī ideas of the supremacy of the traditions over all other sources of the Shari'a. It is not an accident that he relies primarily on the popular traditions from *al-Kāfi* on this issue.

Astarābādī's vigorous attack on the office of *mujtahid* should not be taken as a denial of any juristic authority for jurists during the absence of the Imam of the Age. In the chapter entitled "To whom should people refer for adminis-

⁵⁷ Astarābādī, *al-Fawā'id al-Madaniyya*, pp. 48, 273.

⁵⁸ Ibid., pp. 19, 20, 129, 130.

⁵⁹ Ibid., pp. 7, 41, 45.

⁶⁰ Ibid., pp. 103-113. For a similar opinion by another Akhbārī author, see al-Ḥurr al-'Āmilī, *Wasā'il al-Shī'a*, vol. 18, p. 129.

tration of justice and issuing *fatwās* (legal opinions)', Astarābādī allowed the 'ulamā' to assume the Imam's duties with a similar Uṣūlī argument.⁶¹ It is noteworthy that the two traditions of Ibn Ḥanẓala and Abū Khadīja are referred to with language similar to that of the Uṣūlīs.

It is evident that the focal point of Astarābādī's disagreement with Uṣūlī *mujtahids* is not the authority of the 'ulamā' *per se* but rather the means of acquiring this authority. Astarābādī consciously discarded the Uṣūlī conception of developing religious knowledge (*ijtihād*) in favor of the tradition-reports which he declared to be the sole criterion through which to standardize Islam. He calls tradition-reports *marja' al-Shī'a* (authoritative reference of the Shī'īs) during the occultation.⁶² One reason for this change of concern lies in the changing mode of the Shī'i-Sunnī interaction after the success of the Safavids. Some contemporary authors suggested that the widespread borrowing from the Sunnī theory regarding *ijtihād* and *ẓann*, as well as the Shi'ite confusion over the definition of *ijtihād*, made Astarābādī choose such an acute trend of traditionalism.⁶³ This kind of reaction can be seen in Muqaddas Ardabīlī's mild Uṣūlī rationalism. He rejected "the opinion of all previous jurists wherever they excluded traditions on the basis of a rational argument."⁶⁴

The effect of Astarābādī's synthesis between contemporary folk Shi'ism and the advanced Uṣūlī reliance on speculation and *ijtihād* was quick and widespread. According to the contemporaneous author Muḥammad Taqī Majlisī (d. 1020/1659), "the majority of the students in the Shi'ite centers of learning (Najaf, Karbalā and Kāẓimayn) adopted

⁶¹ Ibid., pp. 150–51.

⁶² Ibid., p. 2, 272.

⁶³ Jannāti, "Qiyām-i Akhbārīhā 'alayhi Ijtihād", *Kayhān-i Andīsha* 13 (1987), pp. 2–22.

⁶⁴ Modarresi Tabataba'i, *An Introduction*, p. 53.

Astarābādī's traditionism as soon as his book reached these cities. Indeed, most of what Astarābādī said is faithful to the truth although I have chosen a moderate position between two extremes."⁶⁵ By this moderate position, he means to reject analogy (*qiyās*) and unrestricted reasoning (*ra'y*) and to confine *ijtihād* to the effort of harmonizing the apparently contradictory tradition-reports.⁶⁶ This mode of Shi'ī traditionism brought to the fore the circulation of new tradition-reports which were not previously collected. As a result, another series of *ḥadīth* collections was produced. The most important of these collections are the voluminous *Biḥār al-Anwār* by Muḥammad Bāqir Majlisī, *al-Wāfi* by Mullā Muḥsin Fayḍ, and *Wasā'il al-Shi'a* by al-Ḥurr al-'Āmilī, all of which exhibit an Akhbārī approach to Shi'ite jurisprudence.

The Akhbārī refusal to apply the Uṣūlī instruments does not mean that they did not incorporate some of these instruments; they simply based their validity on a different source than the Uṣūlīs. For example, *aṣl al-istiṣḥāb* (the principle of presumption of a past situation when there is no proof to indicate the change of condition), which is the most popular Uṣūlī principle, was practiced by later Akhbārīs based on a new series of traditions collected by Akhbārī authors. By means of these tradition collections, Akhbārī 'ulamā' re-established the validity of some of the Uṣūlī principles with which they could not dispense.⁶⁷ In fact, as Ayatollah Ṣadr suggested, the Akhbārī refusal of Uṣūlī methods contributed to the discovery of a number of new traditions which were later used by the same Uṣūlīs to further their own ends with regard to *ijtihād*.⁶⁸ Considering

⁶⁵ Muḥammad Taqī Majlisī, *Lawāmi'i-ṣṣāhibqarānī al-Mushtahar bi Sharḥ al-Faqīh* (Tehran: 'Ilmī, n.d.), p. 38. Idem, *Rawḍat al-Muttaqīn* (Tehran: Kūshān Pūr, n.d.), pp. 17–20.

⁶⁶ Ibid., *Lawāmi'*, pp. 36–52.

⁶⁷ Abū 'l-Qāsim Gurjī, *Nigāhī bi Tahavvul-i 'Ilm-i Uṣūl va Maqām-i ān dar miyān-i 'Ulūm-i Dīgar* (Tehran: Dānishgāh, 1973), p. 42.

⁶⁸ Ṣadr, *al-Ma'ālīm al-Jadīda*, p. 82.

early Akhbārism as a primitive stage of the juridical process⁶⁹, Ayatollah Ṣadr maintained that the Neo-Akhbārīs supplied Ithnā'asharī jurisprudence with new sources.

The fact that a new generation of traditionists, especially Muḥammad Bāqir Majlisī, legitimized a number of Uṣūlī principles through recollection of *ḥadīth*, confirms our earlier suggestion that the basis of the Akhbārī-Uṣūlī conflict centered on the means of acquiring both religious knowledge and authority.⁷⁰ The socio-religious conditions of the time determined the specific shifts in emphasis of the conflict. Nevertheless, either because of their unexplained rudimentary nature or because of the orthodox Akhbārī approach to it, several Uṣūlī principles could not escape the serious criticism of the Akhbārīs. Among these principles is the Uṣūlī doctrine of *'aql* (intellect).

The concept of *'aql* flourished in Shi'ite thought under the influence of Mu'tazilite intellectual arguments which found a place in the works of both Imāmī traditionists such as Kulaynī and Ṣadūq and *kalām* theologians, such as Mufid, Murtaḍā and Ṭūsī. In the early stages of Imāmī thought, however, this notion of *'aql* was treated in its general sense. *'Aql* as a source of Shi'ite law is employed as a means of deducing religious rulings and was explicitly identified as such only by Ibn Idrīs Hillī (d. 598/1201) in his *al-Sarā'ir*.⁷¹ A century later, Muḥaqqiq Hillī restricted the application of *'aql* to two realms: verbal inferences such as the tone of religious discourse, and independent rational inducements (*al-mustaqillāt al-'aqliya*), such as the human

⁶⁹ Ibid., pp. 80-81.

⁷⁰ See Muḥammad Bāqir Majlisī, *Biḥār al-Anwār*, vol. 2, pp. 219-255. See also A. Gurjī, *Nigāhi bi Tahawwul-i 'Ilm-i Uṣūl*, p. 42.

⁷¹ Muḥammad Riḍā al-Muẓaffar, *Uṣūl al-Fiqh*, 3 vols. (Najaf: Amin, 1962), vol. 3, p. 108.

conception of good and evil.⁷² Henceforth, the scope of the application of 'aql was continuously changed by later *mujtahids*. The Uṣūlī confusion over the definition and limits of the use of 'aql led Astarābādī to discard 'aql in its Uṣūlī sense.⁷³ However, Astarābādī adopted a concept which he termed rational sensation (*hiṣṣ*) which comes close to 'aql.⁷⁴ Etan Kohlberg has a passage which illustrates how this 'aql leads to knowledge:

The knowledge acquired in this way, while insufficient to lead to absolute certainty (*yaqīn wāqī'i*) as to God's intent, does establish with certainty that the religious law conforms to the transmitted utterances of the Imams. It is this 'customary' (*'ādī*) certainty which matters for religious practice, not the preponderant probability (*ẓann*) which, according to the Uṣūlīs, is the closest one can get to knowing the meaning of the tradition.⁷⁵

It is noteworthy that the contemporary scholar, Ayatollah Muẓaffar, after carefully evaluating the various Shī'ī accounts of 'aql, was able to propose his own formula of it as a religious proof. He confined independent rational inducements to the human conception of good and evil, and considered the rest to be logical entailments (*al-mulāzimāt al-'aqliyya*).⁷⁶

⁷² Ibid., vol. 3, p. 109.

⁷³ Astarābādī, *al-Fawā'id al-Madaniyya*, pp. 104–106, 133.

⁷⁴ Ibid., pp. 19–20, 129–130.

⁷⁵ Etan Kohlberg, "Aspects of Akhbari Thought in the Seventeenth and Eighteenth Centuries," in *Eighteenth Century Renewal and Reform in Islam*, edited by Nehemia Levitzion and John Voll (Syracuse: Syracuse University Press, 1987), pp. 133–161.

⁷⁶ Muẓaffar, *Uṣūl al-Fiqh*, pp. 112–115.

One of Astarābādī's followers, Sayyid Ni'matullāh Jazā'irī (d. 1112/1700), also accused the Uṣūlīs of not clearly stating what they meant by 'aql as being a religious proof. Jazā'irī, however, generally rejected logical inference except in cases where the conclusion was self-evident.⁷⁷ Shaykh Yūsuf al-Baḥrānī also rejected the validity of 'aql unless it is confirmed by inherent human rationality (*al-'aql al-fīṭrī*).⁷⁸ Minimizing the authority of the human intellect to self-evident cases was a means by which Akhbārī jurists tried to conform to folk currents with its devotional attachment to the Imams. By upholding the traditions, the jurists managed to both sustain their authority as reporters of traditions and to confront the extreme devotional religiosity of the time. With a different point of view, Amir Arjomand defines the role of "devotionalism" during the Safavid period: "The devotionalism advocated by the proponents of traditionalism made it attractive to ordinary believers, and it grew into a movement of very considerable importance."⁷⁹ Amir Arjomand considers Akhbārī traditionalism as a factor contributing to the devotional attachment to the Imams, while we consider it to be a product of such devotionalism.

Most Akhbārī traditionists of the Safavid period were also inclined towards a gnostic philosophy, which indicates the multifaceted character of Shi'ite thought in this era. The unifying factor of these various inclinations was their anti-Sunnī devotional attachment to the Imams. When this anti-Sunnī tendency lost its momentum in the middle of the Safavid period, especially during the reign of Shah 'Abbās II, the differences emerged clearly. It started with the anti-Sufi reaction of the Uṣūlī 'ulamā' and was followed soon after by

⁷⁷ Jazā'irī, *al-Anwār al-Nu'māniyya*, 4 vols. (Tabriz: Shirkat-i Chāp, 1962), vol. 3, pp. 129–133.

⁷⁸ Baḥrānī, *al-Ḥadā'iq al-Nādira*, 25 vols. (Najaf: Dār al-Kutub, 1957), vol. 1, pp. 125–132.

⁷⁹ Said Amir Arjomand, *The Shadow of God*, p. 147.

the Akhbārī-Uṣūlī controversy.

The jurist who is regarded as the most responsible figure for the culmination of Shi'ite devotionism and the enhancement of the authority of the 'ulamā' was Muḥammad Bāqir Majlisī, the influential *shaykh al-Islām* of Isfahan at the turn of the 12th/18th century. With Majlisī in office (1098/1687–1111/1699), the position of *shaykh al-Islām* reached its zenith. The ceremonial role played by Majlisī in the accession to the throne of Shah Sulṭān Ḥusayn was so important that the common impression then was that Majlisī had crowned the king by his own authority.⁸⁰ From a juridical point of view, Majlisī was an Akhbārī traditionist, but his authoritative attitude made him a pro-*mujtahid* jurist who did his utmost to popularize the devotional basis of juristic authority. Amir Arjomand finds Majlisī responsible for the creation of the office of *mullā-bāshī* in the early eighteenth century:

Majlisī paved the way for the creation, in the early eighteenth century, of the office of *Mullā-bāshī*, an office that embodied the patrimonial solution to the problem of institutionalization of supreme religious authority in the Shi'ite state.⁸¹

According to *Dastūr al-Mulūk*, a book attributed to the Safavid author Mirzā Rafī'ā concerning statecraft,

(The *Mullā-bāshī*) was the head and the president and the most excellent and the most learned of the 'ulamā' and of the entire learned community of the age. As the king inquired about religious prob-

⁸⁰ Riḍā Qulīkhān Hidāyat, *Rawḍat al-Ṣafā-yi Nāṣiri* (Tehran: Khayyām 1339sh/1960), vol. 8, p. 585.

⁸¹ Said Amir Arjomand, *Authority*, p. 84.

lems and scientific subtleties through him, and he would be addressed by the title of *Mullā-bāshī*; and in assemblies and gatherings, he would sit above the 'ulamā' and close to the seat of the king. He was required to be in attendance in the company of the victory-favored [king] in all journeys.⁸²

The question one can raise here is what was the *raison d'être* of *mullā-bāshī* where *shaykh al-Islām* was already designated as the head of the Shi'ite learned body? If Majlisī, as Amir Arjomand suggested, "had carved for himself as the head of a Shi'ite hierarchy of religious professionals",⁸³ why did his status of *shaykh al-Islām* not satisfy this end? The answer might lie in the ceremonial, tutorial features of *mullā-bāshī* with which *shaykh al-Islāms* usually could not get along. Furthermore, *mullā-bāshī* was a single position in the capital and attached to the court, in contrast with *shaykh al-Islāms*, who could easily get away from the government. The increase in the number of the usage of *ra'īs* and *sarkardā* (chieftain) for *mullā-bāshī*⁸⁴ indicates that the Shi'ite formal hierarchy, exhausting its judicial contents, acquired a stronger ceremonial and administrative orientation.

On a few occasions, the title of 'the *mujtahid* of the Age' was applied to *mullā-bāshī*, but it is clear from the context that no specific bearing was meant by this title. In fact, no *mullā-bāshī* was notable for his significant contribution to Shi'ite jurisprudence that he should be entitled to be given the status of 'the *mujtahid* of the Age'. The *mullā-bāshī* of the

⁸² Ibid., p. 86.

⁸³ Ibid., p. 88.

⁸⁴ Said Amir Arjomand, *Authority*, p. 87 & 94, quoting from Khātūnābādī, *Waqāyi' al-Sanīn wa'l-Ayyām*, ed. by M. B. Bihbūdi (Tehran: Islāmiyya, 1973), pp. 559-61.

Afshar period, Mullā 'Alī Akbar, was active in politico-juridical negotiation with the Sunnī 'ulamā' for recognition of Twelver Shi'ism by the Sunnīs.⁸⁵ *Mullā-bāshī* turned into a tutorial body of the court during the Qajar period as "...it became a title for the teachers of the Princes",⁸⁶ and so was removed from the main juristic scene to which the Qajar rulers looked for support and legitimacy.

The rise of the 'ulamā' in the positions of *mujtahid*, *shaykh al-Islām* and *mullā-bāshī* took a new turn when the Akhbārī-Uṣūlī controversy reached its peak at the end of the 12th century *Hijrī*. The juridical scene of this period was occupied by two eminent scholars, i.e., Muḥammad Bāqir al-Bihbihānī, and Shaykh Yusūf al-Baḥrānī, who brought the Akhbārī-Uṣūlī arguments to a new climax. The rise of Bihbihānī was important for the re-establishment of the Uṣūlī position in the Twelver-Shi'ite community; yet a more important issue was the reason why Baḥrānī yielded ground to the Uṣūlīs, leading to their success. Recent examination of Baḥrānī's works indicates that perhaps he considered the Akhbārīs to be guilty of creating division within the ranks of the Imāmīs in the latter part of his life.⁸⁷ One biographer has even suggested that Baḥrānī had later changed his position and approved of the practice of *ijtihād* and the employment of Uṣūlī arguments but hid this change from public view.⁸⁸

Madelung's brief review of *al-Ḥadā'iq al-Nāḍira*, an extensive and popular *fiqh* work, touches the core of Baḥrānī's dilemma. Madelung stated that Baḥrānī later espoused an intermediate position between the two factions.⁸⁹ By comparing *al-Ḥadā'iq al-Nāḍira* with other juridi-

⁸⁵ Ibid., p. 89.

⁸⁶ Ibid., p. 88.

⁸⁷ Kohlberg, "Akhbārīya," *Encyclopaedia Iranica* (London; Boston and Henley: Routledge & Kegan Paul, 1988), p. 718.

⁸⁸ Jannāti, "Qiyām-i Akhbārīhā", op. cit., pp. 13, 14.

⁸⁹ Madelung, "Akhbārīyya," *Encyclopaedia of Islam*, new edition

cal works of the Akhbārīs, we find that Baḥrānī was the first Akhbārī jurist to write a comprehensive book on *fiqh*, and to write a full-fledged work of such nature, he had to use *ijtihād* in the interpretation of the Qur'ān and tradition-reports. Although rejecting the role of *ijmā'* (consensus) and '*aql*' (intellect),⁹⁰ Baḥrānī applied and defended the usefulness of deriving legal rulings in applied law (*furū'*). In the light of the above considerations, one can conclude that Baḥrānī was the founder of a new juridical Akhbārism which had to compromise with some Uṣūlī principles in order to establish its authority for developing a newer system of law. From an Akhbārī point of view, the time was ripe for applying recently collected traditions for the exposition of law in a systematic manner; it was a compromise at the expense of some of the previously held Akhbārī tenets.

In his *al-Ḥadā'iq*, Baḥrānī posed the question of how to derive law when the possibility of acquiring knowledge no longer existed with the occultation of the Imam. He suggested that the community must await the return of the Imam or it must have recourse to *ijtihād*. He, however, preferred the latter.⁹¹ In fact, the manner in which Baḥrānī expounded *fiqh* persisted among Akhbārīs until the present time and even affected Uṣūlī works despite the fact that Akhbārism was defeated at the hands of Bihbihānī.

Unlike Baḥrānī, Bihbihānī did not spend his time writing *fiqh*; on the contrary, his primary concern was Uṣūlī polemics. In his most celebrated work *Risālat al-Ijtihād wa'l-Akhbār*, Bihbihānī set forth the argument that the speculation (*ẓann*) of the *mujtahids* was the only valid avenue for acquiring knowledge during the occultation of the Imam from the community.⁹² He argues that if the Akhbārīs mean

(Leiden: E. J. Brill, 1980) supplement, fol. 1-2, pp. 56-57.

⁹⁰ Baḥrānī, *al-Ḥadā'iq*, vol. 1, pp. 35-40.

⁹¹ Ibid., vol. 6, p. 301.

⁹² Muḥammad Bāqir Bihbihānī, *Risālat al-Ijtihād wa'l-Akhbār*

self-conviction (*sukūn al-nafs*) by their formula of customary knowledge (*al-'ilm al-'ādī*), it is the speculation of qualified *mujtahids* which leads to such conviction.⁹³ Bihbihānī's belief in the *mujtahid*'s ability to establish proof led him to consider the *mujtahid* as the vicegerent of the Prophet, although he did not elaborate on this theme. Baḥrānī, too, considered the jurists to be vicegerents of the Imams, possessing their high offices such as qadiship, performing congregational prayer and collecting and distributing of the *khums* alms.⁹⁴ Baḥrānī legitimized the assumption of the Imam's authority on the basis of the principle of general vicegerency which indicates that he was more in line with the school of Jabal 'Āmil, especially that of al-Shahīd al-Thānī, on the problem of juristic authority. Baḥrānī's theoretical efforts to establish Akhbārī law on a more suitable ground seem to have pulled the Akhbārīs into a compromise, i.e., readoption of *ijtihād* to a limited extent, from which the Uṣūlīs benefitted.

The triumph of the Uṣūlīs at the beginning of the 13th/19th century not only enhanced the position of the *mujtahid* in the community but placed the doctrine of *ijtihād* in the center of the Shi'ite juristic structure of authority upon which the subsequent institution of *marja'iyya* had to be built. Henceforth, the position of *mujtahid* survived under the shadow of the office of *marj'i taqlīd* with which we will deal in chapter six. Aside from this central stream, the Akhbārī offices (such as *muḥaddith* and *faqīh*) as well as the semi-official position of *shaykh al-Islām* and *mullā-bāshī*, were either subordinated or diminished in importance.

(Tehran: Lithograph, 1895), p. 16.

⁹³ Ibid., p. 91.

⁹⁴ Baḥrānī, *al-Hadā'iq*, vol. 9, p. 359.

The Challenges of Sufis and Shaykhīs and their Alternative Positions

The authority of the Shi'ite 'ulamā' and their learned hierarchy were time after time challenged by the Akhbārīs, Sufis and Shaykhīs. Unlike the Akhbārī disputes which essentially aimed at simplification of juristic knowledge and the authority stemming from it, the Sufis and Shaykhīs transgressed the normal scope of juridical knowledge and practices. They challenged the authority of the 'ulamā' by proposing several alternative positions whose occupancy required an esoteric initiation which hardly fits into *fiqh*. The Uṣūlī 'ulamā' who recurrently represented the orthodoxy in Shi'ism, could not win this struggle for authority unless they incorporated elements of charismatic status in their offices according to the rational Uṣūlī argument (see chapter five). The Sufi and Shaykhī notorious positions to which the 'ulamā' strongly reacted include the mystical offices of *walī* (saint) and *qulb* (pole) which were superimposed in the post Safavid periods by the offices of *al-'ālim al-rabbānī* (the divine knower) and *al-rukn al-rābi'* (the fourth pillar). Except for the office of *al-rukn al-rābi'*, which found special characteristics in Shaykhī thought, all the above-mentioned (and most other) Sufi positions overlap or are closely tied together. In this chapter, thus, we sketch the development of these positions chronologically as they challenged juristic authority.

Among the notable notions for which Sufism owes its origin to Shi'ism is the concept of *wilāya* in the sense of devotion, and the authority stemming from this devotion.¹

¹ Henry Corbin, *En Islam iranien; aspects spirituels et*

Since the onset of the second century A.H., proto-Imāmīs began to apply the intricate meaning of *wilāya* in a context parallel to that of Shi'a; both implying devotional attachment to the house of 'Alī. This is evident in the utterances of Imam Bāqir and Imam Ṣādiq as quoted by Kashshī, Ṣaffār and Kulaynī in the 4th/10th century.² Kulaynī's emphasis on the idea of devotional attachment to the Imams led Hermann Landolt to regard *wilāya*, not *tawhīd* (the profession of monotheism) as the principle "pillar of Islam" in the classical collection of Shi'i traditions.³ However, it is the notion of *wilāya* on which both the Shi'ite structure of Imamology and the Sufi saintly hierarchy have been based. The Sufi master-disciple relationship appears to have incorporated the position of *walī* since the middle of the 3rd/9th century. This is evident in the words of the early prime Sufi, Bāyazīd Bisṭāmī (d. 262/875).⁴ Nevertheless, it was al-Tirmidhī, another great Sufi of the 3rd/9th century, who formulated a doctrine for the Sufi sainthood in his *Khatm al-Awliyā'*. He was the foremost Sufi thinker to propose the notion of *wilāya*, basing his argument on the authority of truth derived from nearness to God. For Tirmidhī, the "seal of the saints" is a leading authority none of whose actions can be wrong.⁵ This assertion, obviously, resembles the

philosophiques, 4 vols. (Paris: Gallimard, 1971–72), vol. 1, p. 229, vol. 3, p. 279.

² Kashshī, *Rijāl*, pp. 233 & 459; Muḥammad b. al-Ḥasan b. al-Furūkh al-Ṣaffār al-Qummī, *Baṣā'ir al-Darajāt* (Tehran: A'lami, 1984), pp. 94–101; Kulaynī *al-Uṣūl*, pp. 412–439.

³ Hermann Landolt, "Walāyah", *Encyclopaedia of Religion* (New York and London: MacMillan, 1987), vol. 15, p. 320. It should be added that the devotion to the Imams by itself represents devotion to God, as Imam Ṣādiq is quoted as saying "our *wilāya* is the *wilāya* of God". See Ṣaffār, *Baṣā'ir al-Darajāt*, p. 95.

⁴ Ibid., p. 321.

⁵ Muḥammad b. 'Alī al-Tirmidhī, *Khatm al-Awliyā'*, ed. 'Uthmān Ismā'il Yaḥyā (Beirut: Catholique, 1969), pp. 139–41,

Shi'ite conception of imamate and its infallibility which later was documented in books such as *al-Kāfi*. In a sense, the "typical connotation of Sufi *wilāya*", i.e., "insight into the hidden (*al-'ilm bi'l-ghayb*) and control of souls (*taṣarruf*)" ⁶ borders on the Imam's status of *ḥujja*, i.e., "the guarantor or authoritative exponent for religious knowledge and guidance in all spheres" which "operates in a double manner; he is the channel for God's dispensation to the faithful individual, and the usherer into divine intimacy of the faithful". ⁷

In this manner, Sufis began to identify with their saints the charismatic authority which the Shi'is reserved for their Imam. It was the beginning of the period of the Occultation, and the Imam's charismatic authority was not yet expected to be translated to his deputies in any sense. From here, Shi'is and Sufis clashed over the conception of true knowledge and the representation of the Imam's authority in the community during his absence. The earliest encounter which broke into a severe confrontation may be seen in the treatment of Abū Sahl Ismā'il al-Nawbakhtī with Ḥusayn b. Maṣṣūr al-Ḥallāj (d. 309/921). According to Shaykh Ṭūsī, Ḥallāj claimed to represent the hidden Imam as his deputy and gate (*bāb*), and he called upon Nawbakhtī for cooperation; but Nawbakhtī rebuffed Ḥallāj's claims. ⁸ Louis Massignon suggested that:

367; idem, "Iḥāqīqat al-Ādamīya," *Revue de la Faculté des Lettres d'Alexandrie* 3 (1946), p. 77; M. F. al-Geyoushi, "Al-Tirmidhī's Theory of Saint and Sainthood," *Islamic Quarterly* 15 (1971), pp. 17-19.

⁶ Hermann Landolt, "Walāyah," *Encyclopaedia of Religion*, vol. 15, p. 321.

⁷ D. S. Crow, "The Teaching of Ja'far al-Ṣādiq", master's thesis (Montreal: McGill University, 1980), p. 34.

⁸ Ṭūsī, *Kitāb al-Ghayba*, ed. Āqā Buzurq Tihirānī (Najaf: al-Ṣādiq, 1965), pp. 269-72; Iqbāl Āshtiyānī, *Khāndān-i Nawbakhtī*, p. 111.

Abū Sahl sensed the danger of allowing an independent 'mysticism' to develop in the court, a mysticism that was purely Sunnīte, based on Sufi elements, such as that of Ḥallāj; it threatened to destroy the moral authority of the Shi'ite legend, upheld by Imāmīs.⁹

Considering the strong juridical reaction of Muḥīd and Ṣadūq¹⁰ and the way Ṭūsī quoted the incident against Ḥallāj,¹¹ we find that the Shi'ite jurists were especially disturbed by Ḥallāj's alleged claim to the juridically sanctioned authority of the Imam as opposed to his independent mysticism or his Sunnī tendency. As we will see, conflict over the authority of the true teachings of the Imams remained an unfading feature of the Shī'ī and Sufi currents although their reciprocal contacts have continued in several respects especially through theosophical philosophy.

The incident of Ḥallāj turned into the Hallājīan myth in the following century when the Islamic tradition of *futuwwa* began to reintroduce this incident in a populist sense.¹² The ethical code of *futuwwa* is a semi-religious phenomenon which obtained a para-Sharī'a character for the artisan Muslim class. From the 3rd/9th century, *futuwwa* played an important role in implementing both Sharī'a and Sufi principles in a popular sense. Nevertheless, *futuwwa* was on the point of clashing with the Shi'ite juridical position as

⁹ Louis Massignon, *The Passion of al-Ḥallāj: Mystic and Martyr of Islam*, trans. by Herbert Mason, 4 vols. (Princeton: Princeton University Press, 1982), vol. I, p. 329.

¹⁰ Muḥammad Bāqir Khwānsārī, *Rawḍāt al-Jannāt*, trans. into Persian by Sā'idī Khurāsānī, vol. 3, p. 449; also see Tihirānī, *al-Dharī'a*, vol. 10, p. 185.

¹¹ Ṭūsī, *Kitāb al-Ghayba*, pp. 269–72.

¹² Massignon, *The Passion of al-Ḥallāj*, vol. 2, p. 95.

reflected in the sources of the 4th/10th century. Ibn Bābūya Ṣadūq recorded a tradition in which Imam Ṣādiq questioned the validity of *futuwwa* conduct. "Do you think *futuwwa* comes with wrongdoing and debauchery?" The answer not only defines *futuwwa* as generosity and enjoining good, but evidently also criticizes certain groups as *fityān* (youths) because of their slyness and wrongdoing.¹³ It seems that *futuwwa* principles were regarded as a matter of customary law (*urf*) by later Imāmī jurists who, unlike Ṣadūq, did not devote a chapter to *futuwwa*. Although they had their own professional hierarchy, namely a craft guild (*ṣinf*) and urban militia (*ʿayyārān*) association, the members of the *futuwwa* organization were instrumental in promoting the course of devotional attachment to a Sufi saint's *walī* or *qutb*.¹⁴

Unlike the *walī*, the title of *qutb* as the spiritual pole of time does not owe its origin to the Shiʿite sources. Kulaynī, who was apt to record any available tradition-reports concerning the titles of the Imams, did not include *qutb* as a position for the Imams although his designation of *rukn* (pillar) or *asās* (essential) proposes a status close to that of *qutb*.¹⁵ The status of *qutb* as head of the saintly hierarchy was sketched by al-Hujwīrī (who lived in the 5th/11th century) who also found it in the teaching of al-Tirmidhī.¹⁶ Hujwīrī proposed a class of saints (*awliyāʾ*) who revolve around a *qutb* as the pivot of the universe.

But of those who have power to loose and

¹³ Ibn Bābūya, *Maʿānī al-Akhhār*, p. 119, 257.

¹⁴ E.g., Husayn Waʿīz Kashifī Sabzawārī, *Futuwwat Nama-yi Sullārī* (Tehran: Bunyād-i Farhang-i Iran, 1971), pp. 61–99; Muḥammad b. ʿAlī Abī'l-Makārīm al-Ma'rūf ʿAlī Ibn al-Mi'mār, *Kitāb al-Futuwwa* (Baghdad: Maktabat al-Muthannā, 1958), pp. 206–209.

¹⁵ Kulaynī, *al-Uṣūl*, vol. 1, pp. 196–200.

¹⁶ F. De Jong, "Qutb", *Encyclopaedia of Islam*, new edition, vol. 5, p. 543.

to bind and are the officers of the Divine court there are three hundred, called *Akhyār* [excellents], and forty, called *Abdāl* [substitutes], and seven, called *Abrār* [reverents], and four called *Awlād* [poles], and three, called *Nuqabā'*, and one, called *Qutb* or *Ghawth* [resort]. All these know one another and cannot act save by mutual consent.¹⁷

In another place, Hujwīrī implies that Abū'l-Qāsim al-Junayd (d. 297/910) was the pivot of universe of his time¹⁸. This can be proven by Junayd's personality that attracted Sufis and travellers from distant territories to Baghdad.¹⁹ Hujwīrī's assertion, however, signifies that the development of the master-disciple relationship in Khurāsān reached the point of proposing a distinctive Sufi hierarchy.

The structure of saintly hierarchy finds a philosophical orientation in the 6th/12th century when Shihāb al-Dīn Yaḥyā al-Suhrawardī (d. 587/1191) identified the *qutb* with a divinely assisted *imām*. Hermann Landolt discusses Suhrawardī's thought as expounded in his *Hikmat al-Ishrāq* in the following excerpt:

He there establishes an ideal hierarchy of 'Leadership' (*khilāfat Allāh, ri'āsa*) consisting of seven classes of 'sages' (*ḥakīm*) plus three types of 'students' (*ṭālib*)... Suhrawardī adds cryptically: 'By this leadership, I do not mean (political) domination. On the contrary: it may happen that

¹⁷ 'Alī b. 'Uthmān al-Hujwīrī, *Kashf al-Mahjūb*, trans. by R. Nicholson (New Delhi: Taj Printer, 1982), p. 214.

¹⁸ Ibid., p. 147; *qutb al-madār*.

¹⁹ See Ali Hassan Abdel-Kader, *The Life, Personality and Writings of al-Junayd* (London: Luzac, 1962), pp. 48-52.

the one who is imām through theosis (*al-imām al-muta'allih*) is manifestly and openly in authority, and it may happen that he is hidden, in which case he is the one whom the 'generality' (*al-kāffa*, i.e., the Sufis) call the 'pole' (*al-qutb*). The leadership is his even if he is in extreme obscurity. But if public administration (*al-siyāsa*) is in his hand, then the time is luminous, and if the time is devoid of divine management (*tadbīr ilāhī*), then the power of darkness takes over.²⁰

This passage typifies the philosophical approach of Suhrawardī's mysticism in which the status of *qutb* can be equated with an *imām* or *khalīfat Allāh* who rules with divine management. Suhrawardī postulated not only "the superiority of mystical vision other than "knowledge" ",²¹ but also the continuity of revealed knowledge as he adopted the title of "Abū'l-Futūḥ" for himself.²² Suhrawardī's novel ideas combined with his polemical attitude irritated the Sunnī 'ulamā' of Aleppo who eventually accused him of Shi'ite (Ismā'ilī) leaning and killed him in 587/1191.

The Sufi metaphysical hierarchy received further enhancement through the ontological works of Ibn 'Arabī (d. 638/1240) as he identified vicegerent of God with the perfect man (*al-insān al-kāmil*) and *qutb*. Ibn 'Arabī's conception of "perfect man" seems to have essentially resulted from his doctrine of *wilāya* which entails an application wider than *nabuwwa* (prophecy in a specific sense) as he said that prophecy was the law-giving phase of *wilāya*.²³ Through

²⁰ Landolt, "Suhrawardī's Tales of Initiation", *Journal of the American Oriental Society* 107 (1987), p. 482.

²¹ Ibid., p. 485.

²² Ibid., p. 481.

²³ Ibn 'Arabī, *Futūḥāt al-Makkiyya*, 12 vols. (Cairo: al-Hay'at al-

this doctrine, Ibn 'Arabī in a sense identified man with God's attributes on the basis of the famous tradition "God created man in His image" and the Image of God is the same as His Presence.²⁴ Ibn 'Arabī's list of perfect men includes all prophets from Adam to Muḥammad who can be followed by their spiritual heirs. Ibn 'Arabī's mysticism had something in common with Shi'ism especially with regard to the notions of Muḥammadan reality, Mahdism, infallibility of the Prophet's family, interior Imamate,²⁵ vicegerency of God and the perfect man which was applied interchangeably with the Imam or *walī*, although Ibn 'Arabī's own concept of *wilāya* should be distinguished from Shi'ism. Congruent with his mystical approach, Ibn 'Arabī discusses the person of 'Alī b. Abī Ṭālib in a way which seems to attempt a compromise between both Sunnī and Shī'ī views. Ibn 'Arabī introduced Imam 'Alī as a pole of Islam and the closest to the Prophet Muḥammad in contrast to his Shi'ite follower Ḥaydar Āmulī (who died in the last decade of the 8th century A.H.) and who considered 'Alī as the pole of universe.²⁶

The notion of the perfect man in connection with the Mahdī is also incorporated in the later socio-religious developments. While the ideal of the perfect man remained in its doctrinal sphere, the concept of Mahdī was used in a number of millenarian movements of Mongol and post-Mongol periods. Another student of Ibn 'Arabī's thought was 'Azīz Nasafī (died in the last decade of the 7th/13th century) who expounded the notion of the perfect man as the pole of the

Mişriyya, 1985), vol. 2, p. 363; Ḥaydar Āmulī, *Jāmi' al-Asrār*, ed. by Henry Corbin and Osman Yahyā (Tehran: L'Institut Franco Iranien, 1990), p. 394.

²⁴ Ibn 'Arabī, *Fuṣūṣ al-Ḥikam*, ed. Abū al-'Alā 'Afīfī (Beirut: Dar al-Kitāb, 1946), vol. 1, pp. 48–58.

²⁵ Al-Shaybī, *al-Şila*, pp. 376–79.

²⁶ Michel Chodkiewicz, *Le Sceau des saints: prophétie et sainteté dans*

universe around which angels, skies and stars gravitate.²⁷ Sayyid Ḥaydar Āmulī, being a student of the Shi'ite school of Hilla, tried to identify Sufism with the Shi'ite doctrine in his *Jāmi' al-Asrār*.²⁸ Āmulī and 'Abd al-Razzāq Kāshānī (735/1334), another follower of Ibn 'Arabī, introduced 'Alī b. Abī Tālib as the seal of absolute *wilāya*, and al-Mahdī—the Twelfth Imam—as the seal of restricted *wilāya*.²⁹ Āmulī corroborated Ibn 'Arabī's assertion that in the presence of this *wilāya* the *mujtahid* would be discharged from their necessary *ijtihād*.³⁰ Āmulī set forth the problem of superiority in knowledge (*a'lamiyya*) of the seal of *wilāya* which is necessitated by his position as being the pole of the universe.³¹

The idea of the temporal pole (*quṭb al-zamān*), which was proposed by Sufis such as Tirmidhī, Hujwīrī, Suhrawardī and developed in Ibn 'Arabī's thought, was further elaborated according to the Shi'ite doctrine by 'Abd al-Razzāq Kāshānī and Ḥaydar Āmulī. Āmulī argues that the position of *quṭb* belongs to 'Alī since he was superior to Jesus Christ.³²

In fact, Āmulī and Kāshānī had been echoing the dominant current of the time when most Sufi *ṭarīqa* organizations, especially in Iran and Anatolia, were headed by the figure of a *quṭb* who tended to adopt an 'Alawī orientation. Given this, Marshall Hodgson preferred to call this new Shi'ism "*ṭarīqa* Shi'ism".³³ It is reasonable to assume that the

la doctrine d'Ibn 'Arabī (Paris: Gallimard, 1986), pp. 173–4, and the review of Chodkiewicz by Hermann Landolt in *Bulletin Critique des Annales Islamologiques* 4 (1987), pp. 83–85.

²⁷ 'Abd. al-'Aziz b. Muḥammad Nasafī, *al-Insān al-Kāmil*, ed. M. Molé (Tehran: L'Institut Franco-Iranien, 1962), p. 251.

²⁸ Āmulī, *Jāmi' al-Asrār*, p. 40.

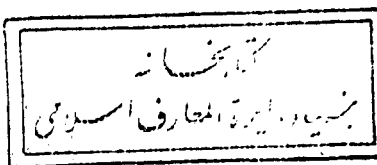
²⁹ Ibid., p. 22.

³⁰ Ibid., p. 396.

³¹ Ibid., pp. 402–3.

³² Āmulī, *Jāmi' al-Asrār*, p. 402.

³³ Hodgson, *The Venture*, vol. 2, p. 494.



elimination of Ismā'īlī Shi'ism in these territories and the abrogation of the Sunnī caliphate in Baghdad, both at the hand of the Mongols, left a vacuum from which the moderate Twelver Shi'is benefitted. This Shi'i-oriented Sufism had another feature, i.e., to borrow Hodgson's word, "it looked for the *qutb* to come down out of the skies and be installed as universal monarch on earth."³⁴ Here, we see that the position of *qutb* coupled with the role of the savior Imam worked to transform a doctrine into movement. The Mahdistic tenet functioned as a way to adjust Sufi intellectual claims with messianic mass aspiration.

More than the Sufi claims of sainthood, their Mahdi requisition alarmed both the Uṣūlī 'ulamā' and ruling establishments. The 'ulamā' seem to have been most agitated by the Sufi's abrasive claim to the absolute authority of the Imam Mahdī because in the eyes of the 'ulamā' the Sufis did not deserve this privilege. One of the striking examples of the Sufi-Uṣūlī clashes was the revolt of Sayyid Muḥammad Nūrbakhsh (d. 869/1463) who studied in the Shi'ite school of Hilla. Nūrbakhsh drew his particular Sufi *ṭarīqa* from the Kubrawī order, but he claimed mahdihood in a mystical sense as well as in a juridical sense by proclaiming the right to the deputyship to the Imam of the Age. Because of his somewhat balanced interpretation of Sufism and Sharī'a, he was not considered to be an infidel by the standard Shi'ite juristic point of view.³⁵ Nevertheless, Nūrbakhsh clashed seriously with both religious and state authorities, and hence he was ordered to confine his teaching to official discourses and not to apply other disciplines to the religious sciences.³⁶

³⁴ Ibid.

³⁵ Khwānsārī, *Rawḍāt al-Jannāt*, trans. into Persian by Sā'idī Khurāsānī, vol. 6, p. 498.

³⁶ Shushtarī, *Majālis al-Mu'minīn* (Tehran: Islāmiyya, 1955), p. 146.

The 11/17th century biographer Qāḍī Nūrullāh Shushtarī quoted Nūrbakhsh's juridical views on *jihād*, temporary marriage (*mut'a*) and inheritance, which appear to be orthodox except in the section on *jihād*, where he stipulated that the *imām* must be a *walī*, a saint perfect in the seven stages of *wilāya* which correspond to the seven spheres of "heart".³⁷

The Safavid's triumph in Iran changed the structure of the Sufi-'ulamā' relationship by changing the character of their own movement at different stages. This movement was born in the milieu of extremism imbued with exaggerated Sufi-Shī'i devotion. The Sufi element of the Safavids developed mainly in the midst of the dervish environment of the Turkman tribes³⁸ which, although originally linked to the Khurasanian tradition of Sufi orders,³⁹ remained strongly attached to its tribal basis. Nor did the Shī'a conversion of Safavid Shaykhs involve any doctrinal significance. I could not find evidence of any important contact with the Shī'ite 'ulamā' in the case of both Khwāja 'Alī, the fifth shaykh of the *khānqāh* of Ardabīl, who adopted a moderate Shī'ite character for the *khānqāh*, and his grandson Shaykh Junayd, who drastically changed this into an extremist and quarrelsome Shī'ite movement.⁴⁰

³⁷ Ibid., p. 147-48; also cited by Amir Arjomand, *The Shadow of God and the Hidden Imam* (London and Chicago: University of Chicago Press, 1984), p. 75. Professor Amir Arjomand mistakenly attributes this passage to Aḥmad b. Fahd due to the confusing style of *Majālis al-Mu'minīn*. The *Risālat al-'Aqida*, however, belongs to Sayyid Muḥammad Nūrbakhsh. See Tihirānī, *al-Dharī'a*, vol. 15, p. 306. See also D. S. Margoliouth, "Nūrbakhsīyya," in *Encyclopaedia of Islam*, III: 961.

³⁸ Ilia Pavlovich Petrushevski, *Islam dar Iran*, trans. by Karīm Kishāvarz (Tehran: 1971), p. 384.

³⁹ Trimmingham, *The Sufi Orders of Islam*, p. 100.

⁴⁰ See Ghiyāth al-Dīn Khwāndamīr, *Tārīkh-i Ḥabīb al-Siyar*, 4 vols. (Tehran: Khayyām, 1954), vol. 4, pp. 420-29 and Tavakkul b.

The extremist character of the Safavid movement diminished when the movement began to institutionalize its domination. Here, the extremist components of the movement including Sufism came to be considered anti-establishment, while the Ithnā'asharī 'ulamā' joined the movement as stabilizing elements. This change actually started with Shah Ismā'il's change of policy towards the Takkalu tribes (917/1511) and continued to expand during the reign of Shah Tahmāsh. As a result of this change, post-Safavid Sufism entered a new phase in which three distinct mystical currents were at work: i) folk Sufism imbued with Mahdistic claims; ii) *ṭarīqa* Sufism with a Shi'ite orientation, and iii) the high Sufism of the theosophers who flourished in the Shi'ite school of Isfahan. Each of the above currents developed their own methods of acquiring authority which challenged the prerogative of the 'ulamā' and their relations with the established powers. I will briefly review these conflicts during the Safavid and Qajar periods where the Sufis' alternative positions affected the course of the consolidation of the 'ulamā's authority in the form of *marja'i taqlīd* (see chapter five).

i) The Mahdistic claims of folk Sufism continued to pose the most dangerous threat to the authority of both the 'ulamā' and the established powers. Shah Ismā'il and his son Shah Tahmāsh, who brought Shaykh 'Alī Karakī from Jabal 'Āmil to Iran in order to standardize the legal and ritual aspects of Shi'ism, considered Sufis heretical. In 962/1554, Tahmāsh "put down the heresy of a group of Sufis who proclaimed him the Mahdī."⁴¹ This happened when "later copies of Shah Ismā'il's *poetrice* omit verses where he pro-

Ismā'il b. Bazzaz, *Ṣafawat al-Ṣafā* (Bombay: Maṭba'a Muẓaffarī, 1328 A.H.); Claude Cahen, "Le Problème du shī'isme dans l'Asie Mineure turque préottomane", *Le Shī'isme Imāmīte*, ed. by Toufic Fahd (Paris: Presses Universitaires de France, 1970), pp. 115-29.

⁴¹ Jean Aubin, "La politique religieuse des Safavides," trans. by

claimed himself to be the Mahdī or his precursor."⁴² Shāh 'Abbās, who never trusted the blind loyalty of the folk Sufis, deprived them of their customary privileges as members of the imperial guard,⁴³ and even severely punished Sufis of Qarajadāgh who, despite their old adherence to the Safavid *khānqāh*, cooperated with the Ottomans during their temporary occupation of Tabriz in 1024/1615.⁴⁴ Because of its extremist and undisciplined nature, folk Sufism could not help becoming embroiled in the political upheavals which eventually required state interference to restore order. In an effort to counter the heresy of the Nuṣṭawī movement which peaked during the reign of 'Abbās I, the government acted more severely than the orthodox 'ulamā'.⁴⁵

ii) The organized *ṭarīqa* Sufism suffered less suppression because some of these orders escaped the state clashes. In the confrontation with the *ṭarīqa* orders, the government encountered a twofold problem. The first was the original Sunnī character of the orders and the second resulted from the popular practice of treating the *qulb* of the order as an exalted being and bestowing upon him the title of "Shah" during this period. The Naqshbandiyya order was crushed by Shah Ismā'il not only because of their Sunnī character but also because they traced the chain of documentation (*isnād*) of the order to Abū Bakr. The Khalwatiyya had to move its center from Tabriz to Cairo and Istanbul after Ismā'il's conquest of Azarbayjan. The Nūrbakhshiyya, originally a branch of the Kubrawiyya, survived the Safavid's

Arjomand, *The Shadow of God*, p. 110.

⁴² Ibid.

⁴³ Naṣrullāh Falsafī, *Zindagānī-yi Shāh 'Abbās-i Avval*, 4 vols. (Tehran: Dānishgāh, 1974), vol. 1, p. 185-86.

⁴⁴ Iskandar Bayk Turkamān, *Tārīkh-i 'Ālamārā-yi 'Abbāsī*, 2 vols. (Tehran: Amīr Kabīr, 1957), edited by Īraj Afshār, vol. 2, p. 882.

⁴⁵ Falsafī, *Zindagānī*, vol. 3, p. 47.

purge due to its Shī'ī orientation but was later liquidated by Tahmāsb because its *qutb* behaved "in the manner of exalted kings."⁴⁶ Nevertheless, the Nūrbakhshiyya reappeared informally during the reign of 'Abbās II and even the names of two eminent scholars, Bahā' al-Dīn al-'Āmilī (d. 1030/1621) and Mullā Muḥsin Fayḍ Kāshānī (d. 1091/1680) are mentioned in the chain of their genealogy.⁴⁷ The Dhahabiyya, another branch of the Kubrawiyya, survived the Safavid-Qajar period and still exists today. The Dhahabiyya was able to attract a few legal-minded 'ulamā' such as Muḥammād Taqī Majlisī.⁴⁸ The Ni'mātullahiyya converted to Shi'ism after the advent of Ismā'il and resisted several confrontations with both the government and the orthodox 'ulamā'.⁴⁹ Unlike folk Sufism, which derived its power primarily from the rural areas, *ṭarīqa* Sufism was essentially an urban phenomenon and had its roots in sedentary craftsmen. The association of craftsmen with the Sufi organizations can be seen in a series of ethico-professional manuals (*Futuvvat Nāmas*) in which the connection of *khānqāhs* and workshops is reflected.⁵⁰ The suppression of *ṭarīqa* Sufism by the

⁴⁶ Arjomand, *The Shadow of God*, p. 115, quoting Rūmlū's *Aḥsan al-Tawārīkh*, p. 279-80.

⁴⁷ Andrew Newman, "Towards a Reconsideration of the 'Isfahan School of Philosophy': Shaykh Bahā'ī and the Safawid Ulama," *Studia Iranica*, 15 (1986), pp. 189, 195, 197.

⁴⁸ Valī Qulī Shāmlū, *Qīṣaṣ al-Khāqānī*, cited by Arjomand, *The Shadow of God*, p. 114.

⁴⁹ Spencer Trimingham, *The Sufi Orders of Islam* (Oxford University Press, 1971), pp. 101-102.

⁵⁰ See Ḥusayn Wā'iḥ Kāshifī Sabzavārī, *Futuvvat Nāma-yi Sulṭānī*, especially chapters 5 & 6, pp. 205-344. Also Kaykāvūs b. Vushmgir, *Qābūs Nāma*, ed. S. Nafīsī (Tehran: Furūghī, 1963), pp. 178-83. Murtazā Ṣarrāf, *Rasā'il-i Javānmardān*, (Tehran: L'Institut Franco-Iranien, 1973), particularly pp. 226-39. See also Sayyid Kāzīm Rūḥānī, "Aṣnāf va Pishavarān dar Tārīkh-i Irān", *Kayhan-i Andisha*, 11 (1987), pp. 70-83.

Safavids created a void in the *khānqāh*-artisan connection which was never really filled by the Sufis in the post-Safavid period.

iii) In the first half of the eleventh/seventeenth century, the Shi'ite center of Isfahan espoused a mystico-philosophical approach which led to the proposition of a new synthesis for Shi'ite theology and a new learned status (i.e. *al-'ālim al-rabbānī*). This theology is based primarily upon gnostic cosmology in which human substantial evolution plays a central role. Although established by Muḥammad Bāqir Astarābādī, known as Mīr Dāmād (d. 1040/1631), the school of Isfahan flourished under the direction of his pupil Mullā Ṣadrā Shīrāzī (d. 1050/1640) who brought the school to its maturity. Drawing upon the synthesizing efforts of Ibn Sīnā, Suhrawardī and Ibn 'Arabī, Mullā Ṣadrā put forward a new cosmology which was based on both rational thinking and visionary experience. Although challenged by the legal-minded jurists, his school of philosophy still represents the Shi'ite approaches to God, the universe and human beings.⁵¹

In his commentary on the two sections of *al-Kāfi*, Mullā Ṣadrā has given an interesting account in which the notions of *imamate*, *'ilm* and the perfect man are interpreted according to his own conception. In the chapter entitled "The Earth cannot be Devoid of a Proof," Mullā Ṣadrā puts forth the following interpretation:

The earth cannot be devoid of a person upon whom the proof of God rests, either in the form of a prophet—messenger or

⁵¹ Sayyed Jalāl Āshṭiyānī, *Sharḥ-i Ḥāl va Ārā'-i Falsafī-yi Mullā Ṣadrā* (Tehran: Nihzat Zanān Musalmān, 1981), p. 1. See also Fazlur Rahman, *The Philosophy of Mullā Ṣadrā* (Albany: State University of New York, 1975), p. 7. Also, J. W. Morris, *The Wisdom of the Throne*, p. 1.

imām legatee. That is the way in which the divine tradition has proceeded since Adam and Noah...until the time of our Prophet Muhammad with whom prophecy came to an end. I mean the prophecy of lawgiving; however, the imamate which is the substance of prophecy will continue until the day of resurrection. Thus, in each time, there must be a *walī* who worships God by his personal experience and possesses the knowledge of the divine book as well as what the 'ulamā' and *mujtahids* have learned. He has absolute supervision and leadership in both religious and temporal affairs regardless of the fact that people follow him or rebel against him.⁵²

It is clear from the above account that Mullā Ṣadrā places the *walī* in the same position as the Imam. By including *walī* amongst the proofs of God, Mullā Ṣadrā overlooks the Uṣūlī juristic terminology which usually does not apply the title of *ḥujjatullāh* (proof of God) to anyone but the Imams. Ṣadrā further explains the position of the *walī* as follows:

The tradition-report of Kumayl b. Ziyād indicates that: i) the true learned (*'ālim*) and enlightened knower (*'arīf*) is one who has *wilāya* in both religious and temporal spheres, and major leadership, ii) the chain of divine gnosis and absolute *wilāya* never ends, iii) the well-being of the earthly world and the continuation of the species depends on the existence of a

⁵² Mullā Ṣadrā Shīrāzī, *Sharḥ Uṣūl al-Kāfi*, p. 25.

divinely enlightened knower.⁵³

The concept of knowledge, *'ilm*, on which Mullā Ṣadrā based the authority of his saint, appears to be of great significance. He calls it cognition of God (*al-'irfān bi Allāh*) and defines it as follows:

By *'ālim*, they mean the divinely learned, (*al-'ālim al-rabbānī*), who acquires his knowledge from Allah intuitively. It would not be true knowledge if it is restricted to tradition-reports or hearing from the masses since they are exposed to possible eradication when personal experience and heartfelt doubt occur. But the one whose knowledge derives from complete enlightened demonstration and is inspired fully by God, never loses his learning.⁵⁴

The way in which Mullā Ṣadrā approaches the notions of *'ilm* and *'ālim* leaves no doubt that he does not allow the *'ulamā'* and *muṣṭahids* to enjoy the same authority to which the theosophers are entitled. *'Ilm*, according to the orthodox juridical point of view, is knowledge of the divine ordinances (*'ilm bi aḥkām Allāh*) which must be acquired exclusively through the study of the Qur'ān and Traditions according to their rational interpretations; while Mullā Ṣadrā declares that tradition-reporting yields doubt and should not be equated with cognitive experience. Aware of his different conception of *'ilm*, Ṣadrā, in one of his treatises, tries to support his view by quoting Shahīd II's division of *'ilm* into cognition of God and knowledge of the divine ordinances, both of which are acknowledged separately.⁵⁵

⁵³ Ibid.

⁵⁴ Ibid., p. 26.

⁵⁵ Shīrāzī, *Risāla-yi Si Aṣḥ*, ed. S. H. Nasr (Tehran: Dānishgāh,

In his main work *al-Asfār al-Arba'a*, Mullā Ṣadrā mentions neither *mujtahid* nor *faqīh*. Only perfect knowers (*al-'urafā' al-kāmilīn*) are capable of understanding his ontological system.⁵⁶ Nevertheless, in his other book, with a compromising tone, Ṣadrā mentions *mujtahids* whose legal opinion should be followed besides *imāms* and saints.⁵⁷ There is another reference to a similar status of *imāms* and *mujtahids* at the end of his *'Arshiyya*,⁵⁸ but the words seem to be used in a much broader sense than their technical meaning. Finally, it is the notion of the perfect man which Ṣadrā emphasizes, introducing him as God's caliph, bearer of the divine secrets.⁵⁹ This is the final stage of man's intellectual evolution as he enters the Divine realm. Here, the perfect man secures for himself the status of *imāma* and rulership of the earthly universe.⁶⁰

If the 'ulamā' are placed in a relatively median position in Ṣadrā's intellectual approach because they possess the power of *ijtihād*, folk Sufis and traditionists are downgraded as infidels. Mullā Ṣadrā does not mention the Akhbāris, but attacks Zāhiris, Hashwīs⁶¹ and tradition-reporters⁶² as well as popular Sufis.⁶³ It is clear from the above discussion that Ṣadrā differentiated between high tra-

1961), p. 120; *'ilm bi Allāh wa 'ilm bi amr Allāh*.

⁵⁶ Shīrāzī, *al-Hikma'l-Muta'aliya fi'l-Asfār al-'Aqliyya 'l-Arba'a*, 4 vols (Tehran: Dār al-Ma'ārif al-Islāmiyya, 1958), vol. 1:3, p. 312.

⁵⁷ Shīrāzī, *al-Shawāhid al-Rubūbiyya*, ed. S. J. Āshtiyānī (Mashhad: Dānishgāh, 1967), p. 377.

⁵⁸ Shīrāzī, *al-Hikma'l-'Arshiyya*, ed & trans. by G. Āhanī (Isfahan: Shahriyār, 1962), p. 285.

⁵⁹ Shīrāzī, *al-Asfār*, vol. 4:1, p. 140.

⁶⁰ Shīrāzī, *Sharḥ Uṣūl al-Kāfi*, p. 25, and idem, *al-'Arshiyya*, p. 285; *sultān al-'ālam al-ardī*.

⁶¹ Shīrāzī, *Si Aṣḥ*, p. 67.

⁶² Ibid., p. 87.

⁶³ Ibid., p. 17 and idem, *Kasr Aṣnām al-Jāhiliyya*, pp. 21–33.

ditionists, such as Kulaynī and intellectual Sufis such as Ibn ‘Arabī, on the one hand, and the folk Sufis and lay tradition-orators on the other. Dr. Morris’ assumption that “the Akhbārī position offered a much more open arena for a universalist philosophic apprehension of the meaning of scripture”⁶⁴ can only fit Ṣadrā’s thought within the frame of a certain interpretation.

Unlike Mullā Ṣadrā, who was not actually concerned with the Akhbārī-Uṣūlī problem, Fayḍ Kāshānī, a pronounced Akhbārī, applied elements of Ṣadrā’s thought in his ethico-juridical works. For Fayḍ, the perfect man is either a prophet or saint, both of whom have the titles God’s Caliph and pole of the universe, and are the intermediaries between God and man.⁶⁵ In his *Kalimāt-i Maknūna*, Fayḍ applies the above titles to the Prophet and the Imams generally. The qualified ‘ulamā’ may represent such positions only in the form of general vicegerency of the Imam. However, in his *al-Wāfi*, Fayḍ introduces the ‘ulamā’ as perfect men and intermediaries between heaven and earth.⁶⁶ Indeed, in the next chapter, he excludes *mujtahids* as adherents of innovative and speculative methods of interpretation of the legal and ritual norms of Sharī‘a.⁶⁷

In contrast with Ṣadrā’s growing sense of self-importance and majesty, Fayḍ addressed his relatively moderate reflection to a common religious milieu in simple language. In the same manner, Majlisī the Elder expressed his conception of Sufism which appears to be juridical rather than

⁶⁴ J. W. Morris, *The Wisdom of the Throne* (Princeton: Princeton University Press, 1981), p. 47.

⁶⁵ Mullā Muḥsin Fayḍ Kashānī, *Kalimāt-i Maknūna* (Tehran: Farāhānī, 1963) pp. 186–192, 217–222; *wāsītāt al-fayḍ*.

⁶⁶ Mullā Muḥsin Fayḍ Kashānī, *al-Wāfi*, p. 41; *wasā’iṭ bayn ahl al-samā’ wa ahl al-ard*.

⁶⁷ *Ibid.*, p. 56 (*Bāb al-bad’ wa’l-ra’y wa’l-maqā’is*).

gnostic.⁶⁸ This association of the Akhbārī-inclined theosophers with Sufism alarmed the Uṣūlī 'ulamā' who were not completely satisfied with the anti-Sufi policy of Ismā'īl and Tahmāsb. In fact, the rise of Shī'ite mystical thought coincided with the decline of the influence of the official 'ulamā' during the reign of Shah 'Abbās' successors: Shah Ṣafī and Shah 'Abbās II. The latter appointed an adherent of Gnostic Sufism, i.e., Sayyid Ḥusayn b. Mīrzā Rafī'ā, known as Sulṭān al-'Ulamā' (d. 1064/1654) as his grand vizier. The 'ulamā' reacted against this current by denouncing the theosophers as Greek infidels and the folk Sufis as unbelievers. Numerous refutations written during this period indicate the degree of the 'ulamā's resentment of this mode of Sufism.⁶⁹

It seems that the possibility of accord between high and popular Sufis was of great concern to the orthodox 'ulamā'. A contemporary jurist, in his challenge to Majlisī the Elder, refuted Sufis as follows:

I saw a number of Shī'is and friends of 'Alī b. Abī Ṭālib who, being ignorant of and alien to genuine 'ulamā', were misled by some religious oriented ghouls. They think that vociferation, jumps and love games with men mean worship and servitude to God.⁷⁰

A similar reaction can be seen in a treatise by al-Ḥurr al-'Āmilī (d. 1102/1690), *shaykh al-Islām* of Mashhad since he devoted many chapters to a refutation of Sufi dance and their way of rejoicing.⁷¹ It appears that the 'ulamā' felt their

⁶⁸ See Muḥammad Taqī Majlisī, *Lawāmi'-i Ṣāhibqarānī*.

⁶⁹ See Tihrānī, *al-Dharī'a*, vol. 10, pp. 204–209.

⁷⁰ Mullā Muḥammad Ṭāhir Shirāzī (d. 1098/1686); *ibid.*, p. 207.

⁷¹ *Al-Radd 'alā'l-Ṣūfiyya*; *ibid.*, p. 209.

control over the religious sermons to be threatened by both Sufi rituals and *futuwwa* traditions. The increase of juridical sermons, especially by the 'ulamā' of the next generation, such as Majlisī the Younger, indicates the renewed concern of the 'ulamā' regarding rituals.

Although the 'ulamā' had never failed to protest the rise of Sufi-oriented figures such as Sultān al-'Ulamā', their decisive attack on Sufism started with the reign of Shāh Sulaymān (1666–94) who favored the Uṣūlī rational 'ulamā' rather than the gnostic-oriented Sufis. At this juncture, the important role played by Majlisī the Younger appears to have determined the fate of the conflicting trends. Majlisī the Younger was not only considered to be the one who caused a break in the course of Sufism (especially popular Sufism) in Iran, but he is also responsible for the institutional consolidation of the juridical hierarchy. Majlisī, who was appointed the *shaykh al-Islām* of Isfahan in 1098/1687, explicitly proposed the idea of chief *mujtahid* (*ra'īs*) in his work *Jawāhir al-'Uqūl*.⁷² The office of *mullā-bāshī*, which appeared in 1124/1712, according to Amir Arjomand, "seems to have been the logical title for the position that Majlisī had in fact created for himself as the *Shaykh al-Islām* of Isfahan."⁷³ As depicted in Majlisī's *Jawāhir al-'Uqūl*, the conflict with the Sufis revolved around questions of true knowledge (*ilm*), of who was a true exponent of this knowledge, and who should represent the Imam's authority in the community.⁷⁴ For this reason, it seems that the persecution of Sufis, which came under clerical jurisdiction by the efforts of Majlisī, served as a point of departure for the institutionalization of juristic authority.

Majlisī's writings, especially his *Bihār al-Anwār* and

⁷² Ibid., p. 69.

⁷³ Arjomand, *The Shadow of God*, p. 155.

⁷⁴ Majlisī, *Jawāhir al-'Uqūl*, p. 29, 30.

Mir'āt al-'Uqūl, suggest that he was essentially a traditionalist whose main concern was the collection and evaluation of *ḥadīth*. In fact, he sanctioned much of the popular religion such as the visitation of shrines (*ziyāra*) through his newly-collected traditions. Although a proponent of Uṣūlī rationalism and *mujtahids*, Majlisī the Younger does not appear to have been an Uṣūlī-minded jurist in the technical sense. Even in the purely jurisprudential part of his *Bihār al-Anwār*, he rarely applied practical principles (*al-uṣūl al-'amaliyya*) which were the rational means set to find rational solutions to juridical problems. A comparison between the juridical part of *Bihār al-Anwār* and 'Allāma's *Tadhkira* leaves no doubt that Majlisī the Younger represented a different kind of Uṣūlī oriented Shi'ism in which rituals and sermons played a greater role than Uṣūlī-techniques. Nevertheless, Majlisī's attitude towards Sufism seemed to be based on his growing hatred of Sufis. In *Zād al-Ma'ād*, he did not appear anti-Sufi, as he praised Sufi clamoring (*khurūsh*),⁷⁵ while in *'Ayn al-Hayāt* he accused them of heresy,⁷⁶ and in *Jawāhir al-'Uqūl*, he legitimized the killing of Sufis as a rewardable act (*ḥasana*).⁷⁷ Nevertheless, Majlisī reproduced some of the thought of Sufi-oriented Ghazzālī, although he rarely mentioned the latter's name.⁷⁸

⁷⁵ Muḥammad Bāqir Majlisī, *Zād al-Ma'ād* (Tehran: Lithoprint, 1306/1888), p. 2.

⁷⁶ Muḥammad Bāqir Majlisī, *'Ayn al-Hayāt* (Tehran: Shirkat-i Kitāb, 1952), pp. 269–74, 644–51.

⁷⁷ Muḥammad Bāqir Majlisī, *Jawāhir al-'Uqūl* (Tehran: Lithograph, 1885), p. 9. This is a fabulous work in which Majlisī, employing the "cat and mouse" pattern of 'Ubayd Zākānī, pronounced his juridical views.

⁷⁸ Compare M. B. Majlisī, *Bihār al-Anwār*, vol. 69, pp. 266–71, and vol. 70, pp. 25–36 with Ghazzālī, *Iḥyā' 'Ulūm al-Dīn*, 14 vols in 6 (Cairo: Nashr al-Thaqāfiyya'l-Islāmiyya, 1956), vol. 6, pp. 185–204, and vol. 10, pp. 116–123.

Sufism survived in both doctrine and practice through the turbulent decades of the late Safavids despite state oppression which was now coupled with the 'ulamā's direct persecution. However, Sufism lost much of its institutional formation and its affinity to the *futuwwa* and guild organizations in Iran since the beginning of the combined official and clerical hostility toward Sufism. On a popular level, the Ni'matullāhī order was revived in the thirteenth/nineteenth century by Ma'sūm 'Alī Shāh Dakanī (who died around 1915/1800), a wandering Sufi travelling between Iran and India. He challenged the authority of the 'ulamā not by questioning their knowledge but with the argument that Islam is perfect and does not need the interpretation of the 'ulamā'.⁷⁹ It is remarkable that some Sufis were accused of being infidels by Mullā 'Alī Nūrī, the great exponent of Ṣadrā's thought in Isfahan during the 13th/19th century.⁸⁰ This highlights the total separation of mystical philosophy from popular Sufism. Mullā 'Alī Nūrī is the one who encouraged the teaching of Ṣadrā's philosophy side by side with that of *fiqh*.⁸¹

The direct role played by some of the 'ulamā in persecuting Sufis during the Qajar period marks the beginning of an era in which the gap between the pious 'ulamā and some power-hungry jurists widened. There is ample evidence that some authoritative *mujtahids* employed executioners to carry out their judgments. Āqā Muḥammad 'Alī (1217/1802), a son of Muḥammad Bāqir Biḥbihānī, is reported to have established a semi-official body of executioners to carry out his orders.⁸² A number of Sufis such as

⁷⁹ Algar, *Religion and State in Iran*, p. 37-38.

⁸⁰ Tunakābunī, *Qīṣas*, p. 200. Also see Mudarris Khiyābānī, *Rayḥāna*, v. 6, p. 256.

⁸¹ Sayyed Jalāl Āshtiyānī, *Sharḥ-i Ḥāl va Ārā'-i Falsafī-yi Mullā Ṣadrā* (Tehran: Nizat-i Zanān-i Musalmān, 1981), p. 179.

⁸² Tunakābunī, *Qīṣas*, p. 119.

Ma'sūm 'Alī Shāh and Muẓaffar 'Alī Shāh are recorded among his victims.⁸³ A late Qajar historian recorded that many *mullās* and *mujtahids* had a band of ruffians and trouble-makers surrounding them who served as their executive arm.⁸⁴ It seems that this trend reached its peak with Ḥujjat al-Islām Shaftī who set a wider scope for clerical domination over the social life of the city of Isfahan. Shaftī, as the grand *mujtahid* of Isfahan, organized a militia group from among the *lūṭīs* (ruffians) who had taken sanctuary at his residence. The category of *lūṭīs* who worked in this capacity for Shaftī is characterized by the same behavior as the bandits who had been called 'ayyārān in the pre-Qajar periods.⁸⁵ Although these *lūṭīs* do not appear to be connected with a guild organization as the 'ayyārān did, their ties with the grand *mujtahid* of Isfahan demonstrates the fact that the 'ulamā' took over the ground lost by the inter-related Sufi-*futuwwa* organizations. The nature of the *mujtahid* and *lūṭī* relationship seems to be similar to the Sufi master-disciple one, both of which were based upon strong financial bonds. From the juridical point of view, Shaftī was not as much a theorizing *mujtahid* as he was a practicing judge. Shaftī is in the same category in which we place Majlisī the Younger. According to Khwānsārī, a contemporary of Shaftī, the latter's discourses lacked Uṣūlī logical techniques and were primarily based on *fiqh* and tradition-reports.⁸⁶

⁸³ S. Nafīsī, *Tārīkh-i Ijtimā'ī*, 2 vols. (Tehran: Intishārāt-i Bunyād, 1965), vol. 2, pp. 43–48.

⁸⁴ Yahyā Dawlatābādī, *Ḥayāt-i Yahyā*, 4 vols. (Tehran: Ibn Sīnā, 1950–57), vol. 1, pp. 50–56.

⁸⁵ Willem M. Floor, "The Lūtīs—A Social Phenomenon in Qajar Persia," *Die Welt des Islam* 13 (1971), pp. 103–20 and idem, "The Political Role of the *Lūṭīs* in Iran," in *Modern Islam: The Dialectics of Continuity and Change*, ed. M. E. Bonne (Albany: State University of New York Press, 1981), pp. 83–95.

⁸⁶ Khwānsārī, *Rawḍāt al-Jannāt*, trans. by M. B. Sā'idī Khurāsānī,

Congruent with the growth of popular Shi'ism in the 13th/19th century, Shaykhism arised as a new synthesis and bridge between this current and Shi'ite Imamology. Shaykhism was the last Shi'ite movement within the sphere of Islam to propose a strong alternative to the Uṣūlī clerical authority in the pre-modern age. Shaykhī doctrine began with the devotional attachment to the role of the Imams in the community and soon developed a fixed and exclusive hierarchy of those bearing the knowledge of the Imams. This hierarchy, which was headed by saintly positions such as *al-rukn al-rābi'* (the fourth pillar) allowed little room for the *mujtahids*. The challenge of Shaykhīs contributed to the process which would soon produce the *marja'iyya* institution, the centralizing agent for the juristic structure. There is ample evidence indicating that the consolidation of the 'ulamā's positions was urged by the situation that followed the Shaykhī and its sequel Bābī challenges in the mid 13th/19th century.

The Shaykhī school was founded by Shaykh Aḥmad al-Aḥsā'ī, who was born in the Bedouin periphery of Arab nomads in al-Aḥsā' (Bahrain) in 1166/1753. He studied under the Uṣūlī 'ulamā' of Karbala from whom he attained permission for *ijtihād* in 1209/1794. However, the main source of Aḥsā'ī's knowledge, as claimed in his autobiography and *Sharḥ al-Fawā'id*, was his visionary experiences in which the Imams taught him the truth of religion.⁸⁷ Aḥsā'ī tried to give an ontological interpretation to the devotional attachment to the Imams. He praised the Imams as the pillars, resorts and protectors of the earth because they represent God's attributes and mediate between the people of

vol. 2, p. 294.

⁸⁷ Husayn 'Alī Maḥfūz, *Sīrat al-Shaykh Aḥmad al-Aḥsā'ī* (Baghdad: al-Ma'ārif, 1957), pp. 14–24., Shaykh Aḥmad b. Zayn al-Dīn al-Aḥsā'ī, *Sharḥ al-Fawā'id* (Tehran: Lithoprint, 1274/1857), p. 4.

God.⁸⁸ He compared the Hidden Imam to the sun, whose light may be covered behind the clouds but from which the people and the 'ulamā' can still benefit.⁸⁹ For Aḥsā'ī, the category to which the regular 'ulamā' belonged, in general, was completely different from that of the Imams. He considered the 'ulamā' as mediators between the people and the governors. These 'ulamā', according to Aḥsā'ī, were not concerned with the real meaning of God's ordinances; rather, their understanding was confined to speculation about the tradition-reports.⁹⁰

In contrast to the theosophical tradition of Mullā Ṣadrā,⁹¹ Aḥsā'ī seems to be against the idea that it is possible for man to have personal experience of God. In his celebrated work, *Sharḥ al-Ziyāra al-Jāmi'a al-Kabīra*, Aḥsā'ī attacked Fayḍ Kāshānī who, as Aḥsā'ī understood, equated mankind with God by declaring in his *al-Wāfi* that they are all God's emanations.⁹² A similar attack was made against Ibn 'Arabī who, according to Aḥsā'ī, spoke of God as identical to His creatures.⁹³ Aḥsā'ī referred to people and their relationship to God in terms of man's servile status *vis-à-vis* God as follows: "No Muslim can change his relationship since he is nobody but a slave servant who possesses nothing but the Divine command."⁹⁴ The exaltation of the Necessary Being over the Possible Being constitutes a principle doc-

⁸⁸ Shaykh Aḥmad b. Zayn al-Dīn al-Aḥsā'ī, *Jawāmi' al-Kalīm* (Tabriz: Litho, 1273/ 1856), p. 37; idem, *Sharḥ al-Ziyārat al-Jāmi'a*, 4 vols. (Kirman: Sa'adat, 1976), vol. 1, pp. 22-27; Vahid Rafati, "The Development of Shaykhī Thought in Shī'ī Islam", Ph.D. dissertation (University of California, 1979), p. 94.

⁸⁹ *Jawāmi' al-Kalīm*, p. 38.

⁹⁰ Ibid., p. 37.

⁹¹ Mullā Ṣadrā Shirāzī, *Sharḥ Uṣūl al-Kāfi*, p. 25.

⁹² Aḥsā'ī, *Sharḥ al-Ziyāra*, vol. 1, p. 70.

⁹³ Ibid., p. 71.

⁹⁴ Ibid., p. 70.

trine of Aḥsā'ī's thought which involves the epistemological problem of the method of acquiring knowledge. Aḥsā'ī accused the regular 'ulamā' of making use of logical and Uṣūlī principles such as *burhān* (demonstration) and *qiyās* (analogy) in order to comprehend God, but God is beyond their reasoning.⁹⁵ What is comprehended by Possible Being is nothing but Possible Being because "one cannot comprehend things beyond his own genre."⁹⁶ Aḥsā'ī did not explain how the above-mentioned logic differed from that of the ordinary 'ulamā', as it claims a new approach to God.

For Aḥsā'ī, the acquisition of religious knowledge is only by means of access to the Imams. In the commentary on those who are entitled to command (*ulū'l-amr*) found in *Sharḥ al-Ziyāra*, Aḥsā'ī raised the question of what constitutes the command. The reply of the Imam had revealed that it was "what angels descend there in the Night of Destiny. This includes the occult lore and miracles which only God and His saints and ambassadors deserve to know."⁹⁷ Aḥsā'ī did not elaborate on the structure of the relations between the Imams and persons who bear their secrets. Generally speaking, Aḥsā'ī's hierarchical scheme includes the universe and spiritual realms and barely mentions any personified position.⁹⁸ In a number of his writings, Aḥsā'ī claimed to have

⁹⁵ Shaykh Aḥmad b. Zayn al-Dīn al-Aḥsā'ī, *Sharḥ al-Fawā'id* (Tehran: Lithoprint, 1274/1857), p. 5.

⁹⁶ Ibid., p. 26. See also idem, *Thamānī 'Ashra Risāla* (Iran: Lithoprint, 1298/1880), p. 174.

⁹⁷ Aḥsā'ī, *Sharḥ al-Ziyāra*, vol. 1, p. 262.

⁹⁸ For a discussion of this scheme see Rafati, "Shaykhī Thought", pp. 111–113; Aḥsā'ī, *Sharḥ al-Ziyāra*, vol. 1, pp. 22–27; Henry Corbin, *En Islam iranien: Aspects spirituels et philosophiques*, 4 vols. (Paris: Gallimard, 1971–72), vol. 1., pp. 189–198; Todd Lawson, "The Qur'an Commentary of Sayyid 'Alī Muḥammad the Bāb," Ph.D. diss. (Montreal: McGill University, 1987) p. 117.

heard things directly from the Imams, e.g., Imam Ṣādiq,⁹⁹ but the hierarchical structure devised by him does not mention such a position.

Despite his rejection of theological doctrines held by the school of Isfahan, Aḥsā'i adopted certain elements of their eschatological thought. This is particularly evident in his commentary on Mullā Ṣadrā's *al-'Arshīya*. Here, Aḥsā'i first appears to rectify Ṣadrā's thought according to the traditions of "the people of the house" (*ahl al-bayt*); but ultimately, he embraces most of Ṣadrā's eschatological elements. Unlike his theological straight-forwardness, Aḥsā'i's reproduction of the eschatological notions appears complex. In the ontological part of *Sharḥ al-'Arshīya*, Aḥsā'i denounces Ṣadrā's theology and accuses him of hypocrisy: i.e., of speaking in the language of *ahl al-bayt* but what is really meant is in line with Fārābī, Ibn Sīnā and Ibn 'Arabī.¹⁰⁰ Nevertheless, Aḥsā'i applied Ṣadrā's notion of spiritual survival of the human soul with a new interpretation. Aḥsā'i, basing himself on the tradition of Imam Ṣādiq recorded in *al-Kāfi* that only the substance (*ḥina*) of the human body remains after death, says:

In reality, this human body does not belong to this material world; rather it belongs to the subtle world (*hawarqalyā*) i.e. the world which encompasses hell and paradise of this world. The spirit would retire to this world either because of its faith or hypocrisy. That is called *barzakh*, the interval between death and resurrec-

⁹⁹ See Murtaḍā Mudarrisī Chārdihī, *Tārīkh-i Falāsafa-yi Islām* (Tehran: 'Ilmi, 1957), p. 104. Also Aḥsā'i, *Sharḥ al-Fawā'id*, p. 4.

¹⁰⁰ Aḥsā'i, *Sharḥ al-'Arshīya* (Litho: Kārkhāna-yi Mīrzā 'Alī Khushnavī's Tabrizī, 1278/1861), p. 118.

tion. That is the substance which remains circular (*mustadīr*) in its grave, and is called the second corpse.¹⁰¹

Aḥsā'ī, who had established his popularity through his piety, knowledge and personal devotion to the Imams, was finally caught by the Uṣūlī 'ulamā' because of his unorthodox ideas on the rejection of the physical resurrection. The argument broke out between Mullā Muḥammad Taqī Baraghānī (d. 1264/1847), a typical Uṣūlī jurist of Qazvin, and Aḥsā'ī over the similarity of the latter's view with that of Mullā Ṣadrā on the problem of physical resurrection. Relying on his popularity and the royal patronage which he enjoyed, Aḥsā'ī did not dissemble his views enough in order to adapt to the prevailing religious mood. Unsatisfied with Aḥsā'ī's reply and attitude, Baraghānī declared him an infidel in 1240/1824. The clash would not have affected the course of Shaykhī doctrine and practice if it had been a solitary incident. The attack of Baraghānī seems to be the beginning of the inevitable Uṣūlī reaction to the new theological trend which was struggling for authority. After the incident in Qazvin, the people of each city through which Aḥsā'ī had passed took sides either in support of or against him.¹⁰² Even some of the prominent 'ulamā' of Isfahan and 'Atabāt, with whom Aḥsā'ī had developed a good relationship, voiced their objections to his views.¹⁰³

¹⁰¹ Ibid., p. 220. For etymological information on *hawarqalyā*, see 'Alī Akbar Dihkhudā, *Lughatnāma*, 28 vols. (Tehran: Majlis, 1946), vol. 27, p. 334.

¹⁰² Mudarrisī Chārdihī, *Shaykhīgarī va Bābīgarī* (Tehran: Furūghī, 1966), p. 24.

¹⁰³ See Sayyid Kāzīm Rashtī, *Dalīl al-Mutahayyirīn* cited in the introduction of Aḥsā'ī's *Ḥayāt al-Nafs* (Tabriz: Riḍā'ī, 1958), pp. 28–49; see also Chārdihī, *Shaykhīgarī*, p. 30, and Tunakābunī, *Qīṣaṣ*, pp. 44, 56.

In addition to the problem of physical resurrection, another focal point was Aḥsā'i's theory on the means of acquiring knowledge and evaluating the tradition-reports. In his *Sharḥ al-Ziyāra* and *Sharḥ al-Fawā'id*, Aḥsā'i based his argument on his direct hearing of Imam Ṣādiq, the sixth Shī'i Imam.¹⁰⁴ Moreover, he absolved himself of the need to document *ḥadīth*, claiming that he could validate the content of a tradition if its meaning was in accordance with the totality of the Imam's teachings.¹⁰⁵ Aḥsā'i, indeed, was not the first Shī'ite jurist to claim such direct access to the true traditions. Shaykh Ṣadūq, too, had dispensed with all that was transmitted by others. Instead, he said he intended to cite what he considered to be "formal legal opinion" and what he judged to be correct and believed was proof.¹⁰⁶ However, Aḥsā'i's claim of intuitive knowledge and his premonitive evaluation of the tradition-texts were considered a threat to the position of the Uṣūlī 'ulamā' who had developed a special methodology (*ilm al-dirāya*) to evaluate the tradition-sources.

Another incident which demonstrates the process of consolidating the authority of the Uṣūlī 'ulamā', especially against Shaykhī insurgence, is Aḥsā'i's encounter with Muḥammad Ja'far Astarābādī, a *mujtahid* of Karbala. According to the account written by his son, Astarābādī was performing the pilgrimage to Mecca when Aḥsā'i was repudiated by the chief 'Atabāt jurisprudent Sayyid Muḥammad Ṭabāṭabā'i (d. 1242 /1826) in Karbala. Upon Astarābādī's return, Ṭabāṭabā'i sent him Aḥsā'i's book to study and

¹⁰⁴ Chārdihī, *Tārīkh-i Falāsafa-yi Islām*, op. cit., p. 104.

¹⁰⁵ Mangol Bayat, *Mysticism and Dissent: Socioreligious Thought in Qajar Iran* (Syracuse: Syracuse University Press, 1982), p. 55, citing Abū'l Qāsim b. Zayn al-'Ābidin Ibrāhīmī, *Fihrist* (Kirman: Sa'adat, n.d.), pp. 242-252. See also Tunakābunī, *Qīṣaṣ*, p. 54.

¹⁰⁶ See Newman, "The Development," p. 153.

judge. After examining the books, Astarābādī replied that these writings were ambiguous and open to controversy. However, he said that he would comply with the *fatwā* already issued by Ṭabāṭabā'ī on the basis of Imam Ṣādiq's tradition, known as Maqbūla Ibn Ḥanẓala. This famous tradition orders Shi'īs to take up their cases with the tradition-reporters (the 'ulamā') during the absence of the Imam. The contemporary Uṣūlī 'ulamā' considered this tradition to be the most convincing proof for the doctrine of vicegerency of the Imam. For the reconfirmation of the *fatwā*, Astarābādī said, "I have to speak with Aḥsā'ī personally." He happened to meet Aḥsā'ī in a public bath soon after. Aḥsā'ī thanked him for not having denounced him upon his arrival. Nevertheless, Aḥsā'ī's explanation of his writings did not satisfy Astarābādī, who ultimately denounced Aḥsā'ī as a heretic.¹⁰⁷

The above incident not only exhibits the growing sense of solidarity among the 'ulamā' but the development of a new formula i.e., *mutāba'a*, that is the compliance with the *fatwā* of a *mujtahid* by other *mujtahids* in the specific cases where his commandment should overrule the opinion of others. The elaboration of this formula will be dealt with in chapter six. In 1241/1825, Aḥsā'ī decided to leave the now hostile Shi'ite world. He left for Madina where he died at the age of 75.

After the death of Aḥsā'ī, his faithful disciple and closest companion Sayyid Kāẓim Rashtī (d. 1259/1843) emerged as his successor in Karbala. Sayyid Kāẓim, born in 1212/1798 in Rasht in the province of Gīlān, north of Iran, was the son of a silk merchant and had no *ijāza* (permission of *ijtihād*) from any known juristic figure other than Aḥsā'ī. As depicted in his *Dalāl al-Mutaḥayyirīn*, Rashtī had been

¹⁰⁷ Mudarrisī Chārdihī, *Simā-yi Buzurgān* (Tehran: Amīr Kabīr, 1956), p. 30.

encouraged by the Uṣūlī 'ulamā' to discontinue the path of Aḥsā'i and to join "the orthodoxy".¹⁰⁸ Rashtī not only continued to further Aḥsā'i's thought but also gave a new character to the Shaykhī controversy as he laid more emphasis on the hierarchical relation of the people with the source of knowledge (the Imam respectively). Most sources tend to agree that the refutation of Shaykhīs (except in the case of Baraghānī who, from the very beginning, treated Shaykhīs as infidels) did not amount to excommunication or their exclusion from the community during Aḥsā'i's lifetime. They were considered just deviant Shī'is. Rashtī's elaboration on Aḥsā'i's interpretation of the traditions and his propaganda activities propelled the Shaykhī-Uṣūlī encounter into a more intense level of conflict.

However, Rashtī shifted the emphasis of Shaykhī thought from theology to a structured hierarchy within which people are ranked according to their true knowledge and piety. Rashtī, in a letter addressed to Muḥammad Karīm Khān Kirmānī, described his conception of the hierarchical structure of authority. Rashtī first acknowledged the fact that people now do not content themselves with words; they want someone personified and connected with the great resort (*ghawth-i a'zam*). Rashtī immediately added "may God sacrifice me for him and his fathers", apparently referring to the Twelfth Imam. Rashtī, basing himself on the Qur'ānic verse "We placed between them and the communities that We blessed other cases, and We secured the journey between them: travel therein days and nights in complete security" (34:18), states that there are two kinds of hierarchies: blessed stages which belong to the very infallible Imams, and manifest stages¹⁰⁹ which belong to people, and they include

¹⁰⁸ Rashtī, *Dalīl al-Mutaḥayyirīn*, trans. by Zayn al-'Ābidīn Ibrāhīmī (Kirman: Sa'ādat, n.d.), pp. 87, 99–106.

¹⁰⁹ Aḥsā'i had already used this expression (*al-qurā'l-mubāraka wa 'l-qurā'l-zāhira*) concerning the positions of the 'ulamā'. See his

the following:

1. Partisans of the official religion, whose concern is superficial argumentation.
2. Nobles (*nujabā'*) in the inferior sense, who are the lowest in rank among the bearers of the Imam's secrets.
3. Chiefs (*nuqabā'*) in the inferior sense, who are those who symbolize God's names and actions (Rashtī adds that there are 28 names for God upon which human existence is based.)
4. Nobles in the superior sense, who are those same universal chiefs upon the emergence of the great, great name.
5. Special (*khāṣṣa*) superior nobles who are those in whom the superior rosary (*dhikr-i a'lā a'lā a'lā*) has become manifest.
6. Pillars of the universe (*arkān*). The relationship of these pillars to the rest of the hierarchy is that of the spirit to the body.

Here Rashtī, addressing Kirmānī, says, "this position is evident to you." After completion of these stages, Rashtī adds, "The connection with the 'great resort' will be possible."¹¹⁰ At this stage, Rashtī identified the position of the pillar of the universe with the 'great resort' leaving the regular 'ulamā' at the first stage.

There is a tendency among some modern authors to consider Rashtī as a supporter of "progressive revelation".

Jawāmi' al-Kalim, op. cit., p. 37.

¹¹⁰ Raḍawī Sharīf, Ni'matullāh, *Tadhkirat al-Awliyā' fi Sharh Aḥwāl...al-Ḥajj Muḥammad Karīm Khan al-Kirmānī* (Bombay: Maṭba'a Naṣīrī, 1313), pp. 34-35. The root of some of the above-mentioned ranks can be traced back to the tradition of the fourth Shi'ite Imam, 'Alī b. Ḥusayn Zayn al-'Ābidīn; see Henry Corbin, *En Islam Iranien*, p. 122, and Lawson, "The Qur'an Commentary," p. 116.

According to A. L. M. Nicolas, Rashtī “explicitly stated that the divine truth is preached first by prophets, then Imams, and finally by those who possess true knowledge.”¹¹¹ Abbas Amanat upholds that there is a messianic content in Rashtī’s teachings which was downplayed by his rivals. Rashtī “openly publicized the eminence of the next *zuhūr*” (emergence).¹¹²

Rashtī managed to attract a number of followers among the Arab population of ‘Atabāt as well as certain Qajar princes then living in Iraq. He developed a vast communication network with the Shaykhī sympathizers in Iran. By translating and elaborating Aḥsā’ī’s works, he made Shaykhī ideas accessible to a wide range of the Shi‘ite classes. Rashtī’s propaganda activities incurred the wrath of the ‘ulamā’ who once more felt threatened by an innovative current aimed at destroying the roots of their authority. He was summoned to a trial conducted by the leading jurisprudent of ‘Atabāt, Sayyid Mahdī (d. 1260/1844). This Ṭabāṭabā’ī was the younger brother of Sayyid Muḥammad and a grandson of Bihbihānī, whose family played a crucial role in establishing the Uṣūlī network in Iran. Most sources agree that he was a pious and prudent *mujtahid* who normally abstained from issuing a *fatwā*.¹¹³ But the expectation of the juridical milieu of ‘Atabāt made him interfere and give a judgment as the spiritual leader of the Shi‘ite community in Iraq. The trial, open to the public, took place in 1246/1830, in the presence of Sharīf al-‘Ulamā’ and the above-mentioned Astarābādī, two important juristic figures of Karbala. According to the Shaykhī sources, the debate lasted three days,¹¹⁴ at the end of which Sayyid Kāẓim had to admit that

¹¹¹ Ibid., p. 52.

¹¹² Amanat, *Resurrection*, p. 60.

¹¹³ Muḥsin al-Amīn, *A’yan al-Shu‘a*, 10 vols. (Beirut: Dar al-Fa‘aruf, 1986), vol. 10, p. 155.

¹¹⁴ Mullā Muḥammad Hamza Sharī‘atmadār Kabīr Māzandarānī,

some parts of Aḥsā'ī's *Sharḥ al-Ziyāra* were ambiguous, controversial and if not commented upon, appeared to be heretical.¹¹⁵ Upon this confession, which was witnessed by Sharīf al-'Ulamā' and Astarābādī, Sayyid Mahdī Ṭabāṭabā'ī issued his celebrated *fatwā* denouncing Shaykhīs as infidels. The *fatwā* against Sayyid Kāzīm Rashtī was well-received by other prominent figures of 'Atabāt such as Shaykh Muḥammad Ḥasan Najafī, the supreme *marja'* in Najaf.¹¹⁶ They pronounced their support for the *fatwā* out of a sense of solidarity against the Shaykhī threat. Nevertheless, the grand *mujtahid* of Iṣfahān, Ḥujjat al-Islām Shafī, did not react to show his sympathy although his position on Shaykhism was clear by his legal-minded attitude and by the fact that he, according to Tunakābunī, had no respect for Aḥsā'ī.¹¹⁷ The competition between 'Atabāt and Iṣfahān, as manifested in Shafī's lack of cooperation with Sayyid Mahdī Ṭabāṭabā'ī's bid to bring the Jewish minority of Tehran in compliance with Islamic rules,¹¹⁸ can be considered a cause for this silence. Presumably, another element was Shafī's prudent policy of not giving the Shaykhī problem too much importance by adding his *fatwā* to the list of condemners. The same policy can be seen in Shafī's attitude towards Sufis.¹¹⁹

Rashtī's reaction to the excommunication of Shaykhī

Asrār al-Shahāda, p. 93, quoted by Chārdihī, *Shaykhīgari*, p. 112.

¹¹⁵ Chārdihī, *Sīmā-yi Buzurgān*, pp. 54–56.

¹¹⁶ Bayat, *Mysticism and Dissent*, p. 41.

¹¹⁷ Tunakābunī, *Qīṣaṣ*, p. 35.

¹¹⁸ Ibid., p. 124; Khwānsārī, *Rawḍāt al-Jannāt*, v. 10, p. 125.

¹¹⁹ See Tunakābunī, *Qīṣaṣ*, p. 151. Here, Tunakābunī related a story about the excommunication of a Sufi by Mullā 'Alī Nūrī who, as an expert in gnostic theology, found a Sufi guilty of disbelief in Islam, and sent him to the court of Ḥujjat al-Islām Shafī for punishment. Despite Nūrī's persistence, Shafī ignored the case.

thought by the 'ulamā' is found in his *Dalīl al-Mutahayyirīn*, which was written in 1258/1842, a year before Rashtī's death. In this treatise, Rashtī, using bifurcated language, tries to introduce Shaykhism in full conformity with Twelver-Shi'ite thought and yet tries to reject the customary practice of the 'ulamā'. He introduces Aḥsā'i as a denouncer of theological innovations¹²⁰ while defending the priority of philosophical studies over *fiqh*.¹²¹ Rashtī occasionally praises the orthodox 'ulamā' as the referral (*marja'*) and trustful custodians (*ḥuffāz*) of the religion who should administer justice among the people.¹²² At the same time, Rashtī denounces the 'ulamā's method of thoughtless repetition of legal rules and neglecting basic theological principles.¹²³ Rashtī, however, does not appear to be successful in pleasing the contemporary 'ulamā' since a number of the *mujtahids*, according to Tunakābunī, found Rashtī's treatise abusive.¹²⁴

Rashtī's sudden death in 1259/1843 followed by the crisis of his succession resulted in the split of Shaykhī leadership. In 'Atabāt, Mullā Ḥasan Qarachadāghī (Gawhar), a pro-Uṣūlī student of Rashtī, developed a moderate branch called Gawhariyya. Two minor branches developed in Azarbayjan led by Mīrzā Shafi' Tabrīzī and the second by Ḥujjat al-Islām Mamaqānī, respectively. Mīrzā Shafi', who studied under both Sayyid Kāzīm Rashtī and Shaykh Muḥammad Ḥasan Najafī, advised his followers to seek a *mujtahid* for questions regarding their daily affairs.¹²⁵ In fact, by confining Shaykhism to its theological principles, Mīrzā Shafi' demonstrated his leaning toward Shi'ite orthodoxy.

Another student of Rashtī, Sayyid 'Alī Muḥammad

¹²⁰ Rashtī, *Dalīl al-Mutahayyirīn*, p. 15.

¹²¹ Ibid., pp. 88–91.

¹²² Ibid., pp. 46–47 and 56.

¹²³ Ibid., pp. 96–98.

¹²⁴ Tunakābunī, *Qīṣaṣ*, p. 56.

¹²⁵ Ibid., p. 137.

Shirāzī, called The Bāb (1235/1819–1266/1850) became the locus of the messianic expectancy of the Shaykhī milieu which eventually shaped the Bābī movement in Iran. An important theme of the Bāb's concern was his "claiming at the least to be the bearer of the esoteric knowledge of the Imams" and "to be the Imams' representative in the world."¹²⁶ This claim was combined with strong rejection of rational argument and literary activity, as we read in Bāb's *Bayān*:

It is prohibited to compose what is worthless and futile such as *uṣūl* [*al-fiqh*], logic, rules of *fiqh* and *Ḥikma* and the science of obscure words and such like. As for what comes under grammar and syntax, it is only sufficient for learners to understand the subject and the object and other similar matters and beyond this God shall not forgive those who engage themselves in it.¹²⁷

In spite of the fact that the reaction of the Uṣūlī 'ulamā' to such writings was predictable, Mullā 'Alī Bastāmī, a new convert from the Shaykhī camp, presented the Bāb's message to Shaykh Muḥammad Ḥasan Najafī and warned him of the emergence of the proof. Shakh Muḥammad Ḥasan, then *marja'* at Najaf, denounced Mullā 'Alī Bastāmī as a heretic and expelled him from the assembly.¹²⁸

It is worth noting that Aḥsā'ī's thought, although it fits into the category of Akhbārī traditionalism, does not necessarily reject *ijtihād* or Uṣūlī principles. Aḥsā'ī and Rashū wrote several treatises on the principles of jurisprudence

¹²⁶ Peter Smith, *The Babi and Baha'i Religions* (London: Cambridge University Press, 1987), p. 14.

¹²⁷ *Bayān* IV/10130, cited by Amanat, *Resurrection*, p. 143.

¹²⁸ *Ibid.*, p. 218.

and the validity of consensus and reason.¹²⁹ However, none of them restricted the method of acquiring knowledge to *ijtihād* as Uṣūlīs did. Rather, as reflected in Rashtī's hierarchy of knowledge, they considered *ijtihād* the very beginning of the search for the divine secrets. In his *Dalīl al-Mutahayyirīn*, Rashtī stated that his commentary on *Talanjīya* (a sermon delivered by 'Alī b. Abī Ṭālib) "contains divine secrets that only a pure-hearted and enlightened person could bear to understand."¹³⁰ Rashtī sometimes called this kind of understanding "perfect *ijtihād*".

Mangol Bayat, who had access to Rashtī's *Risāla-yi Fiqhiyya*, describes the qualified *mujtahid* as one 'able of "perfect *ijtihād*"; as 'one endowed with a special "intellect," a "saintly power" that distinguishes him from ordinary beings.' Moreover, he is the "Imam's deputy," "God's representative on earth," "the successor" of the Prophets and the Imams. The source of his knowledge is, in reality, divine, and not based on *taqlīd*"¹³¹ Here, Rashtī aimed at the root of the 'ulamā's authority, i.e., their way of adhering to true knowledge and faith. By introducing the divine as the source of knowledge for his true *mujtahid*, Rashtī not only seems to depart from Aḥsā'ī's position, but to adopt the notion of the evolution of the soul via an individual endeavour called perfect *ijtihād*.

The Shaykhī contribution to Shī'ī legal theory and positive law seems to be minimal since, as already mentioned, the main concern of Shaykhism is the theological sphere of Shī'ite thought, i.e., cognizance of God, the Prophet and the Imams and their speakers. Because of their minimal interest in the legal aspects of Islam, Shaykhīs, like theosophers of the school of Mullā Ṣadrā (the line devel-

¹²⁹ See Ibrāhīmī, *Fihrist*, p. 226.

¹³⁰ Rafati, "Shaykhī Thought," p. 133.

¹³¹ Bayat, *Mysticism and Dissent*, p. 50.

oped by Mullā 'Alī Nūrī), had to instruct their followers to seek out the regular jurists in order to settle their daily problems. This indicates that the role of positive law in the development of jurisprudential authority was ignored by the later Sufis and Shaykhīs. The early Sufis, as we have already seen, had developed the ethical code of *futuwwa* which was in conformity with the Shari'a.¹³²

The main branch of Shaykhī thought flourished in Kirman thanks to the work of Ḥajjī Muḥammad Karīm Khān Kirmānī (d. 1288/1871), a Qajar prince who studied under Rashtī for a period of fifteen months. Kirmānī, indeed, was not the first prince to study religious disciplines (Āqā Muḥammad Shāh and Fath 'Alī Shāh had also learned some rudimentary elements of *fiqh*), but Kirmānī was the first member of the ruling dynasty to represent a particular stream of theology which led up to his religious leadership. Kirmānī's doctrine and practice are characterized as the socialization of dissent in Shi'ite thought by Mangol Bayat, who contrasted him with Aḥsā'i and Rashtī, the radicalizing agents of the traditional dissent among Shi'is.¹³³ Bayat elaborates further on what she means by Kirmānī's socialization:

[T]o socialize the mystical idea of a hierarchical structure of 'more or less' perfect humans. In fact, the concept of the Perfect Man, or Perfect Shi'a, or Fourth Pillar, terms which Karīm Khān more often than not used interchangeably, plays a central role in this socio-religious system. All his discussions of God, the Prophet, the Imams, divine revelations and of cos-

¹³² We will have occasion to elaborate on the role of positive law in the development of Uṣūlī juristic authority in the second part of this study.

¹³³ Bayat, *Mysticism and Dissent*, pp. 37-87.

mology, served one purpose: to define and identify the sole legitimate leader of the community of faithful.¹³⁴

Here, we see a complete shift of emphasis from God to the human being and his potential evolution. Kirmānī seems to have kept the theological framework of Aḥsā'ī's thought, but it is evident that his problem was not the distance between God and Imams and their servants. Rather, the issue at hand appears to be the progress and stagnation of the intellect (*aql*)¹³⁵ as well as the categories of nobles, chiefs and the fourth pillar who, like the Imams, must be acknowledged by Shī'īs.¹³⁶ All of these categories are connected to the progress of '*aql* and its counterpart '*ilm*. Like Rashtī, Kirmānī divided his structural hierarchy according to their levels of knowledge. At the bottom, he placed the category of *nujabā*' (nobles) who fulfill the duty of leading people to the right path through preaching. However, their authority derives from the superior category of *nuqabā*' (chiefs) who are the bearers of the Imam's knowledge. Each of the above categories is divided into two subgroups, as we saw in Rashtī's sketch of the religious hierarchy. At the top, Kirmānī placed the fourth pillar (*al-rukn al-rābi*') which also represents the whole hierarchy in general.¹³⁷ The fourth pillar, according to Kirmānī, bears the Imam's secrets.

Kirmānī did not allow any room for the *mujtahid* in his hierarchical sketch. He categorically disqualified the regular '*ulamā*' from any holy task. This exemplifies the tense competitive religious mood of the mid-thirteenth/nineteenth century, where each current struggled to legitimize its doc-

¹³⁴ Ibid., p. 72.

¹³⁵ Muḥammad Karīm Khān Kirmānī, *Irshād al-'Awāmm*, 4 vols. 4th ed. (Kirman: Sa'ādat, n.d.) vol. 3, p. 379.

¹³⁶ Ibid., vol. 4, p. 359.

¹³⁷ Ibid., vol. 4.

trine to the total exclusion of other doctrines.

Congruent with the development of Kirmānī's doctrine, the newly-founded institution of *marja'yya* gained extra prestige thanks to the Uṣūlī method of Shaykh Murtaḍa Anṣārī (d. 1281/1864). It is hardly an accident that Anṣārī, too, focused on the concept and levels of knowledge in his major work *Farā'id al-Uṣūl*. He proposed three categories of knowledge acquired by *ijtihād*: certainty (*qaṭ'*), probability (*ẓann*), and doubt (*shakk*).¹³⁸ These categories sound modest in comparison with the claims of the Shaykhīs. Given this, the threat of the Shaykhīs provided ground for the Uṣūlī 'ulamā' to reassert and to consolidate its authority in both practice and doctrine. However, they left no room for the visionary or authoritative conceptions of the Shaykhīs. The consolidation of juristic authority, in this way, went hand in hand with the reassertion of the Uṣūlī method of approaching religious knowledge.

¹³⁸. See Murtaḍa Anṣārī, *Farā'id al-Uṣūl*, vols. 1 & 2.

The Office of Vicegerency Empowered with Juristic Mandate and *Ijtihād*

The concept that the 'ulamā' should assume the authority of the Twelfth Imam has existed for centuries and been imbued with a variable and sometimes ambivalent scope of application. This notion originated from the office of vicegerent of the Imam in the 4th/10th century, and developed into a doctrine by the middle of the 13th/19th century, adding to the same vicegerency a full-fledged juristic mandate (*wilāyat al-faqīh*). This doctrine combined the office of vicegerent with the positions of *mujtahid* and *marja'* by means of the two principles of *ijtihād* and *a'lamīyya* (superiority in knowledge, see below). In this chapter, therefore, I will focus on the development of the doctrine of vicegerency, *ijtihād*, and *a'lamīyya* which constituted the theoretical basis of the Shi'ite learned hierarchy.

The concept of juristic mandate and its constituent principles, i.e., *niyāba*, *ijtihād* and *a'lamīyya*, were expressed in juridical writings where theoretical changes often occurred in the form of rewriting jurisprudence. Rearranging the chapters of *fiqh* with new components, as we have briefly seen in chapter one, was a tacit method of adopting changes which suited the quietist phases of Shi'ism. This is part of the reason for the absence of clear formulations for institutions in Shi'ism while the roots of such changes are traceable in juridical works. However, the informal appearance of the new institutions helped at-least to disguise them from appearing to be innovations. All of these principles—some of which evolved as a doctrine in the later periods—are, in one way or another, concerned with a peculiar conception of *ilm* (traditional knowledge), the possessors of which should represent the charismatic authority of the Imam in Shi'ism.

A. The Vicegerency of the Imam

The Shi'ite learned hierarchy would not be complete if it was not supported by the prestige which the 'ulamā' drew from their doctrine of vicegerency of the Imam. This doctrine performed the charismatic requirement of the religious leadership which had remained unfulfilled since the suppression of the intuitive interpretation of Islam in Safavid Iran. Compared to other theoretical components of the juristic mandate, i.e., *ijtihād* and *a'lamīyya*, the doctrine and practice of vicegerency of the Imam appears to be the most effective factor of the 'ulamā's public prestige since the Safavid period. It is partially due to its charismatic fascination that most of the conflicting currents such as Sufism, Shaykhism and Babism based their claims upon the esoteric representation of the Imam's authority.¹

The doctrine of vicegerency has evolved over the offices of *wakīl* and *nā'ib* (see chapter two) buttressed by the claim that the learned and pious jurists should represent the authority of the Imam. Here, the doctrine of vicegerency (*niyāba*) is closely linked to the principle of delegation of charismatic authority of the Imam, namely *wilāya*. This process began within an Uṣūlī context of Shi'ite jurisprudence in the 4th/10th century and was corroborated in subsequent periods. Prior to this century, there was no room for such argument not only because of the presence of "special deputies",² but rather owing to the prevalence of the traditionist mode of *fiqh*. In due course, after the 7th/13th century, both *niyaba* and *wilāya* were divided into

¹ See above, chapter four.

² The position of "special deputies" (*al-nuwwāb al-khāṣṣa*) should not be imbued with the charismatic authority of the Imam; rather, this office was essentially a continuation of the office of *wikāla* in addition to the responsibility of deliverance of the Imam's signed decrees which did not constitute a learned body, as we saw in chapter two.

general and specific categories, each of which had different applications. By revising the historical evolution of these doctrines, we will try to illustrate their scope by treating them chronologically.

The notion of representing the Imam's authority was developed by the Uṣūlī 'ulamā' who more than others felt the necessity of fulfilling the Imam's duties in the community's daily affairs. The idea of performing the Imam's duties first appeared in Shaykh Muḥid's *al-Muqni'a*. Regarding the responsibilities of *khums* collection and of the administration of justice, Muḥid cautiously ruled that the 'ulamā' could interfere if this would not jeopardize their lives.³ The term used for the role of the 'ulamā', here, is *tafwīḍ al-naẓar* (giving the right of supervision) and its scope could be limited to the 'ulamā's own family and those under their guardianship.⁴

Unlike Muḥid, al-Murtaḍā did not rule for intervention of learned jurists except in the context of enjoining good and forbidding evil.⁵ Al-Murtaḍā does not generally seem much concerned about the upright representation of the Imam's authority by a *faqīh*. In his *al-Intiṣār*, al-Murtaḍā set forth judicial problems such as *zakāt* and *khums*, on a comparative basis, but did not address the question of who should be referred to during the absence of the Imam.⁶ In his *Rasā'il*, al-Murtaḍā appears to have taken an opposite approach towards the succession of the Twelfth

³ Muḥid, *al-Muqni'a*, pp. 252, 810–811.

⁴ Ibid.

⁵ Shaykh al-Ṭā'ifa Muḥammad b. Ḥasan al-Ṭūsī, *al-Iqtisād al-Hādī ilā Ṭarīq al-Rashād* (Tehran: Maktaba-yi Chihil Sutūn, 1980), p. 150; Abdulaziz Sachedina, *The Just Ruler (al-Sultān al-'Adil) in Shi'ite Islam* (New York and Oxford: Oxford University Press, 1988), p. 145; Newman, "The Development," vol. 1, p. 233.

⁶ Al-Murtaḍā, *al-Intiṣār* (Najaf: Maṭba'at al-Ḥaydariyya, 1971), pp. 75–89.

Imam during his absence. He introduced *amīr* and *ḥākim* as successors for the Imam.⁷ It is evident that al-Murtaḍā was referring to ordinary (non-jurist) *amīr* or *ḥākim*. Compared to his "Treatise on the Legality of Working for the Government", and given the fact that he held official positions such as *qāḍī* and *naqīb* under the Abbasid government (see chapter two), it suited al-Murtaḍā to consider the ordinary *amīr* and *ḥākim* as successors to the Imam.

The parameter established by Mufīd was expanded by Shaykh al-Ṭūsī. He categorized this juridical intervention as recommendable (*mustaḥabb*) and extended it to include the administration of justice, enjoining good and forbidding evil, the distribution of *khums* and charitable donations among people who deserved to receive them and the leading of the congregational prayer.⁸ It is noteworthy that, in three chapters (i.e., *jihād*, administration of justice and working for the government), Ṭūsī treated the problem of performing the task with which the Imam is invested. It was within the treatment of the administration of justice and working for the government that Ṭūsī gave a clear indication of the role of the 'ulamā' in the presence of a despotic government. In the chapter on *jihād*, Ṭūsī reserved any intervention until after the reappearance of the Imam, but in the chapter on the administration of justice, he entrusted the learned jurist with the right to interfere and to recite sermons in the congregational prayer.⁹ In his later work, *al-Mabsūṭ*, Ṭūsī did not repeat the above notions as discussed in *al-Nihāya*. It is clear that the overall tone of the language

⁷ Idem, *Rasā'il al-Sharīf al-Murtaḍā* (Qum: Dār al-Qur'ān, 1985), p. 382 (*al-Imām wa khulafā'ihī min amīr wa ghayrihī*).

⁸ Shaykh al-Ṭā'ifa Muḥammad b. al-Ḥasan al-Ṭūsī, *al-Nihāya fī Mujarrad al-Fiqh wa'l-Fatāwī*, ed. and trans. M. T. Dānīshpazhūh (Tehran: Dānīshgāh, 1963), pp. 304-358.

⁹ Ibid., pp. 292, 340; Newman, "The Development," pp. 243-61; Sachedina, *The Just Ruler*, p. 145.

used by Mufid, Murtaḍā and Ṭūsī indicates that they had a more immediate sense of the presence of the Imam and described him as the ruling Imam whose power has not yet been extended (*mabsūṭ al-yad*). Compared to later jurists who were distanced from the Imam,¹⁰ the approach of the above-mentioned authors appears to be a tentative treatment of the problem.

Two centuries later, the scholars from Ḥilla, Muḥaqqiq and 'Allāma, postulated juridical authority in cases of qadiship, *jihād*, *khums*, *zakāt*, *iftā'* (giving legal opinions) and congregational prayer as special cases of juristic mandate (*wilāya*). The terms used for this mandate are *man lahu'l-wilāya* or *man ilayhi'l-ḥukm* (the one who is invested with authority). The term *niyāba* which is a channel for authority (*wilāya*) does not appear here. Evidently, the scholars from Ḥillā elaborated the role of the learned jurist within the context of *wilāya* rather than vicegerency (*niyāba*).¹¹ During the following century, the Shi'ite scholars of Jabal 'Āmil molded juristic authority concerning the same specific cases (e.g., qadiship, *jihād*, *khums*, etc.) within the context of general vicegerency of the Imam.¹² By general vicegerency they meant a kind of collective vicegerency within which the 'ulamā' occupied the first rank of those who assume the Imam's authority. This ranking was due to their special knowledge and qualifications. In the absence of the 'ulamā', any just believer (*al-'udūl al-mu'minīn*) can fulfill the above duties as in cases of unattended guardianship. This includes cases wherein there is no specific legitimate custodian but the duty of supervision is fulfilled by Muslims as collective vicegerents of the just ruler (the government of the Imam). Placing juristic authority in the context of collective

¹⁰ E.g., Narāqī, *'Awā'id*, pp. 188–90.

¹¹ Muḥaqqiq al-Hillī, *Sharāyi' al-Islām*, p. 53; 'Allāmat al-Hillī, *Tadhkira*, pp. 452–3; idem, *Tahrīr*, p. 163.

¹² Shahīd al-Thānī, *al-Rawḍa'l-Bahīyya*, vol. 1, pp. 255, 264–65.

vicegerency provided the 'ulamā' with a mental justification for considering their position as the delegated authorities of the Imam. They were his general vicegerents *vis-à-vis* the four special deputies of the Imams during their lives and the Lesser Occultation.

The doctrine of the vicegerency of the Imam was further sustained by the Safavid Uṣūlī 'ulamā' Shaykh 'Alī Karakī, who was officially called the vicegerent of the Imam, who extended the scope of the above doctrine to include the Friday prayer and sermon. He also declared that "the upright Shī'ī *faqīh* should replace the Imam in all affairs where the substitution was possible."¹³ The very notion of "possible" not only delimits the application of this substitution but rather exhibits a juridical attitude toward the ruling power which should be considered as flexible if not dubious. The theoretical evolution of the doctrine of vicegerency reached its peak during the pre-Modern Age of the Qajar dynasty. The beginning of Qajar rule coincided with the re-establishment of the Uṣūlī position in 'Atabāt. Qajar kings followed the Safavid religious policy without making a strong claim that they were descended from the Prophet's family. Although the Persian tradition of kingship has normally provided a strong pretext for any emerging or ruling power, the second Qajar monarch Fath 'Alī Shāh felt it necessary to draw the support of the religious classes so that he could be considered the one who, by his own qualifications or by virtue of being appointed by a qualified *mujtahid*, acted on behalf of the Imam of the Age.¹⁴ Nevertheless, the Shāh's

¹³ Modarresi Tabataba'i, *Kharāj*, p. 157.

¹⁴ In addition to developing a wide-ranging affinity with a number of eminent 'ulamā', Fath 'Alī Shāh tried to assume the title of *mujtahid* during the *jihād* against the Russians. See Abdul-Hadi Hairi, *Nakhushtīn Rūyārū'ihā*, pp. 351-56. It should be added that Fath 'Alī Shāh's religious attitude was somewhat exceptional in Iranian history and remained peculiar to the

desire to combine religious charisma with his political office was not restricted to the Uṣūlī trend. He developed a similar relation with the Akhbārī and Shaykhī figures such as Mirzā Muḥammad Akhbārī and Shaykh Aḥmad Aḥsā'ī (see chapters four and six).

Under the competitive circumstances mentioned above, two high-ranking *mujtahids* of the Qajar period, Shaykh Ja'far Kāshif al-Ghiṭā' and Mullā Aḥmad Narāqī, brought the problem of vicegerency of the Imam to the forefront of juridical discussion. Kāshif al-Ghiṭā' divided the vicegerency into three spheres: i) that which is the prerogative of the Prophet and Imams, such as proclaiming *jihād*, etc.; ii) that which is the sole prerogative of the *mujtahids* after the Imams, such as the administration of justice and cases of *ḥisba* (non-litigious affairs), and iii) that which is the prerogative of the *mujtahid* after the Imams but not in any exclusive sense since any just Muslim can assume this responsibility. The latter involves issues such as minor cases of *ḥisba*.¹⁵

The jurist who is notable for reformulating the doctrine of juristic mandate by adding to the office of vicegerency the full-fledged authority of the Imam is Mullā Aḥmad Narāqī. In order to define the juristic mandate, Narāqī devoted an unprecedented chapter to *wilāyat al-faqīh* in which he vested the jurisprudent not only with the position of vicegerency but also with the all-embracing authority (*al-wilāya'l-'amma*) of the Imam.¹⁶ If the idea of a full-fledged

period of his reign.

¹⁵ Shaykh Ja'far Kāshif al-Ghiṭā' al-Najafī, *Khātimat al-Qawwā'id*, appended to *al-Ijaqq al-Mubīn* (Tehran: Litho, 1898), p. 146.

¹⁶ Narāqī, *Awā'id*, p. 188. There is evidence that Narāqī was, among other things, reacting to Kāshif al-Ghiṭā's sketch of the doctrine of *niyāba*. In the introduction to his chapter, Narāqī said: "I have found authors charging and authorizing the *ḥākim* with numerous affairs (duties) during the absence of the

mandate of the jurispudent was implied in the writings of the previous *mujtahids* such as Shaykh 'Alī Karakī and Kāshif al-Ghiṭā', Narāqī, by contrasting the above mandate with that of specific cases, gave a new and lucid form to this notion. In order to establish such a mandate for the Imāmī jurispudent, Narāqī brought up nineteen tradition-reports in addition to the evidence of rational proof and the claim of *ijmā'*:

Concerning the full and all-embracing mandate (*al-wilāya l-āmma*) of the qualified jurispudent, we—by divine grace—say that this mandate lies in two matters. First, every *wilāya* possessed by the Prophet and the Imams is bestowed upon the jurisprudents as well, except what is excluded by juridical proof such as *ijmā'* (consensus) or *naṣṣ* (text-proof).

For everyone whose mandate (concerning non-litigious affairs) is permitted, the jurispudent will join him in *wilāya* but the opposite cannot be proven. Because the jurispudent is the best creature of God after the prophets and the Imams, superior, trustee, caliph and *marja'*, etc., his mandate is certain but that of others is dubious.¹⁷

Given the above, Narāqī leaves no doubt that he believed that the qualified jurispudent should have full-

Imam, but they have not mentioned any reason for doing that. I have seen some of them presenting incomplete reasons for their acts. Nevertheless, this is an important issue which has remained disorganized and neglected in some of its aspects."

Ibid., p. 185.

¹⁷ Ibid., pp. 187–9.

fledged mandate over Muslims because of the qualities which made him the best creature of God after the Prophets and Imams. Nevertheless, we know that both Narāqī and Kāshif al-Ghiṭā' not only acknowledged the authority of the existing power, i.e., Fath 'Ali Shah, but also formally sanctioned his reign in their other books.¹⁸ Thus, what did they really mean by their doctrine of *wilāyat al-faqīh*? This is the question that a number of scholars such as the late Abdul-Hadi Hairi raised, and few answers were proposed.¹⁹ What my readings on the history of this period suggest is that both Narāqī and Kāshif al-Ghiṭā' wrote those chapters on *wilāyat al-faqīh* in reaction to the current Shaykhī and Sufi claims for the charismatic authority of the Imam. They did not aim at furthering the legitimacy of jurists at the expense of weakening the ruling government's power. On the contrary, they most needed the the government's support in their fight against the Akhbārī, Sufi and particularly Shaykhī trends.

For several reasons the first half of the 13th/19th century was the time of struggle for charismatic authority by competing intellectual forces in Iran and Iraq. The Uṣūlī 'ulamā' who had just experienced the challenge of the Akhbārīs combined with the rise of popular Sufism at the beginning of the Qajar period, sensed the possible eruption of newer challenges when Shaykhīs began to claim having direct access to the knowledge of the Imam. The Uṣūlī 'ulamā', therefore, enhanced their doctrine of vicegerency to exclude unqualified claimants to the authority of the Imam. Both Narāqī and Kāshif al-Ghiṭā' expressed this doctrine in their particular treatises on the rules of jurisprudence (*qawā'id al-fiqh*) which were not addressed to the king.

¹⁸ Mullā Aḥmad Narāqī, *Mi'rāj al-Sa'āda* (Qum: Intishārāt-i Hijrat, 1992), pp. 9–12; Shaykh Ja'far Kāshif al-Ghiṭā', *Kashf al-Ghiṭā'* (Tehran: Lithograph, 1317/1899), p. 394.

¹⁹ Hairi, *Nakhustīn*, pp. 323–350.

This doctrine is not so clearly expressed in their other books such as *Kashf al-Ghiṭā'* and *Manāḥij al-Aḥkām*, which are addressed to the king.²⁰

Should the above suggestion be accepted, we may conclude that the formulation of the doctrine of juristic mandate throughout the office of vicegerency was an attempt to theoretically routinize the charismatic authority of the Hidden Imam in the office of the superior jurisprudent, as implied by some modern scholars.²¹ The previous efforts of the 'ulamā' such as their formulas of "special deputies" or general agency (developed in the schools of Ḥilla and Jabal 'Āmil) were not strong enough to routinize the authority of the Imam during the Qajar period when several conflicting religious trends looked at the charismatic status of the Hidden Imam as the source of their legitimacy. By combining two notions of *niyāba* and *wilāya* the above 'ulamā', particularly Narāqī, managed to set an outstanding precedent for routinizing the authority of the *faqīh*. Since what he had in mind was aimed at his competing religious currents, Narāqī did not address any practical or 'urfī establishment. It is possible that Narāqī considered a *shar'ī* (religious) government parallel to that of 'urfī (temporal).²²

²⁰ Narāqī implies a kind of comprehensive authority for the *mujtahid* in his *Manāḥij al-Aḥkām* and *Mustanad al-Shī'a*, but they do not indicate more than what the previous 'ulamā' such as al-Karakī and Shahīd II had stated; see his *Manāḥij al-Aḥkām* (Tehran: Lithograph, 1852), p. 277. In *Kashf al-Ghiṭā'*, the author set forth the legitimacy of the qualified jurisprudent, but he also endorsed the reign of the ruling king (p. 394).

²¹ D. M. Maceoin, "Charismatic Authority in Qajar Shi'ism", *Qajar Iran*, ed. E. Bosworth (Casta Mesa, Mazda Pub., 1983), pp. 148-76.

²² Ahmad Kazemi Moussavi, "The Establishment of the Position of *Marja'-i Taqlid* in the Twelver-Shi'i Community", *Iranian Studies*, XVIII, no. 1 (winter 1985), p. 44. Amir Arjomand,

With less emphasis, Shaykh Muḥammad Ḥasan Najafī upheld the doctrine of vesting the upright jurist with the authority of the Imam concerning the *zakāt* tax. Najafī's argument at this point is based on the generality of vicegerency and the tradition-texts.²³ Amir Arjomand finds Shaykh Muḥammad Ḥasan's discussion of this concept to be the most influential:

Shaykh Muḥammad Ḥasan adduces the traditions of Ibn Ḥanzala and Abū Khadija and the ordinance handed down by the Hidden Imam to affirm and establish the general or collective authority (*vilāyat-i 'āmma*) of the Shi'ite jurists on behalf of the Hidden Imam by virtue of their commandments of the sacred law and the methods of deriving them. The authority of the hierocracy is said to extend to every field except where the Imams know of its inability to exercise authority, such as in *jihād* for the propagation of faith, which would require a commander and armies, and like matters that would necessitate the appearance of the rightful reign (of the Imam; *dawlat al-ḥaqq*).²⁴

The above method of defining the scope of juridical authority as the vicegerent of the Imam was criticized by the pious Uṣūlī 'ulamā', represented by the most famous *marja'* of the pre-Modern Age, Shaykh Murtaḍā Anṣārī. Anṣārī dismissed

Authority, p. 7; Mangol Bayat, *Iran's First Revolution: Shi'ism and the Constitutional Revolution of 1905-1909* (Oxford, New York: Oxford University Press, 1991), p. 5.

²³ Shaykh Muḥammad Ḥasan Najafī, *Jawāhir al-Kalām*, vol. 15, p. 421-22.

²⁴ Amir Arjomand, *The Shadow of God*, p. 232.

the formula of the all-embracing mandate of the jurist on the basis of the well-known Uṣūlī principle of *aṣālat al-'adam* denoting that any ruling is null and void unless its proof is legally established. Anṣārī found the tradition-reports concerning the rank of the 'ulamā' irrelevant to the case, and he argued that the alleged consensus could be negated by a contradictory consensus:

But to be fair, after considering the wording of these traditions from beginning to end, we firmly say that these traditions exhibit the *faqīh's* duties only in respect to religious ordinances (*al-aḥkām al-shar'īya*), and not to being like the Prophet and the Imams, may God praise them. If the *faqīh* asks a Muslim to pay his religious taxes (*zakāt* and *khums*), there is no proof for his obligation to pay them to the *faqīh*...²⁵

The way in which Anṣārī approached the concept of vicegerency demonstrates that he was essentially concerned with the problem of implementing the mandate vested in the jurist. Instead of "general mandate", Anṣārī used the more precise term of "the right of disposal over people and their properties (*wilāyat al-taṣarruf fī'l-anfus wa'l-amwāl*)". According to Anṣārī, only the Imam has the prerogative of such a right. Nevertheless, by virtue of his knowledge, the *faqīh* can interfere in the specific cases of *wilāya* such as *ḥisba* (non-litigious affairs) by giving permission to others. In fact, it is the knowledge of the *faqīh* which authorizes him, making him independent of the Imam (or his special deputies) in pertinent cases.²⁶ In his Persian discourse, Anṣārī rules for the necessity of following the instructions of

²⁵ Murtaḍā Anṣārī, *al-Makāsib*, p. 153.

²⁶ Ibid.

a *mujtahid* in all religious affairs.²⁷ By allowing *taqlīd* (following without question), Anṣārī puts the 'ulamā' in an intermediary position between God and the Muslims, and this contributed to the juristic authority via a different channel.

Given the above statement, Anṣārī highlighted not only the possibility of the *faqīh*'s interference but also the necessity of his following in daily affairs of Muslims. Anṣārī's approach to clerical vicegerency was followed by his successors although in practice they exceeded the limits provisioned by Anṣārī. The confrontation between Anṣārī's successor Mīrzā Ḥasan Shīrāzī and Nāṣir al-Dīn Shāh regarding the Tobacco Concession was, in fact, the first lucid conflict between the status of the vicegerent and the king. The charismatic status of vicegerency was heightened by numerous saintly deeds and the reports of secret contact with the Hidden Imam which were attributed to the 'ulamā' (especially to Anṣārī) during the Qajar period. At this juncture, the 'ulamā' found a common cause with the Sufis and Shaykhīs even though the difference in emphasis seems effective enough to separate them.

The Constitutional Movement of Iran and the Independence Struggle of Iraq provided ground for the Uṣūlī 'ulamā' to demonstrate their charismatic influence in the office of vicegerency. At the same time, the ambiguity inherent in the doctrine of juristic mandate was a matter of strife within the body of the 'ulamā' concerning the limit of their interference in public life. A number of leading *mujtahids* such as Khurāsānī and Nā'īnī were content with the supervisory role of *mujtahids* and with legitimizing the new institutions such as modern school and army service;²⁸

²⁷ Murtaḍā Anṣārī, *Ṣirāṭ al-Najāt* (Tehran: Lithograph, 1290/1873), p. 1.

²⁸ Concerning Khurāsānī's perception of *wilāyat al-faqīh*, see his *Hāshiyat al-Makāsib*, edited by Sayyid Mahdī Shams al-Dīn

whereas Ayatollah Yazdī and Shaykh Faḍlullāh Nūrī maintained that either full juristic mandate must be applied or the 'ulamā' should refrain from legitimizing new changes.²⁹ Practically speaking, none of these two groups of the 'ulamā' aimed at a full-fledged authority for the 'ulamā' in the position of the vicegerent of the Imam. This uncertainty is reflected in the writings of contemporary authors.³⁰ It was Ayatollah Khomeini who delineated an all-embracing context for juristic mandate and necessitated its implementation via the same jurisprudent.

Ayatollah Khomeini, who had examined the notion of authoritative *wilāya* in its mystical sense,³¹ envisaged the prospect of the current struggle for representing the authority of the Imam in the Shi'ite community, and shifted his orientation from Sufism to Uṣūlism. Ayatollah Khomeini reconstructed the doctrine of juristic mandate within an Uṣūlī framework and discussed it in the early 1950s.³² He rearranged this doctrine in the late 1960s as a platform for a socio-religious movement.³³ The point of emphasis in this

(Tehran: Vizārat-i Irshād, 1986), pp. 92–95. On his legitimizing role, see A. M. Kafā'i, *Margi dar Nūr* (Tehran: Zuvvār, 1980), p. 183. Concerning Nā'ini's conception of *wilāyat al-faqīh*, see his *Tanbih al-Umma*, pp. 46 and 101–102.

²⁹ On Yazdī's opinion about the juristic mandate, see his *al-Urwa*, pp. 3–10. Regarding Nūrī's views, see Shaykh Faḍlullāh Nūrī, *Majmū'a-yi Rasā'il, Ilāmiyyahā, Maktūbāt va Rūznāmahā*, 3 vols., ed. by M. Turkamān (Tehran: Rasā, 1983).

³⁰ E.g., see Sayyid Muḥammad Baḥr al-'Ulūm, *Bulghat al-Faqīh*, 6 vols. (Tehran: Maktabat al-Šādiq, 1984), vol. 1, pp. 249–57; Muḥammad Kāzīm Khurāsānī, *Ḥāshiyat al-Makāsib*, pp. 92–95. Nā'ini, *Tanbih*, pp. 101–102.

³¹ Khomeini, *Ta'tiqāt 'alā Sharḥ Fuṣūṣ al-Ḥikam*, pp. 39–41; Miṣbāḥ *al-Hidāya ilā'l-Khilāfa wa'l-Wilāya*, pp. 191–96.

³² Idem, *al-Rasā'il Tashtamil 'alā Mabāḥith*, vol. 2, pp. 100–107.

³³ Idem, *Kitāb al-Bay'*, vol. 2, pp. 459–520.

version is that, according to the new interpretation of the tradition-texts, the qualified *faqīh* was appointed by the Imams as their vicegerent, trustee and successor. They should, therefore, assume and perform all authority invested to the Prophet and the Imams. The social prestige derived from the charismatic status of the Imams thus falls exclusively into the domain of the 'ulamā'.

B. *Ijtihād*

The development of the practice and principles of *ijtihād* in Shi'ism contributed to the evolution of juristic authority in two ways: i) it provided a large ground for the 'ulamā' to go beyond the tradition-texts, and to elaborate the legal and ritual norms of *fiqh* in accordance with the semantic-exegetical principles of jurisprudence; ii) it formed the high office of *mujtahid* from which the 'ulamā' could link their knowledge to authority. The latter was discussed in chapter three. Here, we concern ourselves with the theoretical evolution of *ijtihād* and its corollary *taqlīd* in relation to juristic mandate. *Ijtihād* may be both the channel or source of knowledge: a channel to interpret the revealed knowledge, i.e., the Shari'a; or a source to supplement the Shari'a with probable knowledge, i.e., *ẓann*. *Ijtihād*, like other legal notions, passed through an evolutionary process during which the meaning and the scope of its application changed. We therefore study the development of the principles of *ijtihād* according to its historical context.

The earliest Shi'ite approach to the notion of *ijtihād* is marked by a strong reaction to the formative period of Islamic *fiqh* during which the role and utterances of the Shi'ite Imams were neglected by the dominant Sunnī currents. During the first centuries of Islam, *ijtihād* was applied to individual reasoning (*ra'y*) and thereafter to reasoning by analogy (*qiyās*). Both of them were practiced in the form of giving legal opinion rather than a disciplined form of juristic argument. Only after the adumbration of the rudiments

of the legal methodology by Shāfi'ī, and more importantly his conceptualization of the legality of the sources of *fiqh*, did the practice of *ijtihād* become based on the legal proofs of Sharī'a in a systematic manner. However, the position of *mujtahid* and its qualification found its first complete exposition in *al-Mu'tamad* by Abū al-Ḥusayn al-Baṣrī (d. 436/1044).³⁴ Progressively the status of *mujtahid* was distinguished from that of the mufti whose legal opinion, unlike the legal opinion of the *mujtahid*, was valid only in specified cases.³⁵

The close link between *ijtihād* and *qiyās* which was explicitly rejected by Imam Ja'far al-Ṣādiq, and the obscurity involved in its applications made Shī'ī jurists such as Kulaynī, Ṣadūq, Mufīd, Murtaḍā and Ṭūsī denounce all of these methods of reasoning as innovations.³⁶ The contexts in which they denied these notions are of paramount importance since most Imāmī authors of the early periods had often reacted either to the arbitrary content of *ijtihād* or to a certain conflicting Sunnī and Shī'ī current. However, Mufīd and Ṭūsī, in practice, substituted *ijtihād* with the "use of reason (*ʿaql*)" to avoid the correspondence between *ijtihād* and *qiyās*.³⁷

If the denial of *ijtihād* was due to its arbitrary content and its similarity to the principle of *qiyās*, the rejection of

³⁴ Wael Hallaq, "Was the Gate of Ijtihād Closed?", *International Journal of Middle East Studies*, vol. 16 (1984), p. 5.

³⁵ For a brief account of the difference between *iftā'* and *ijtihād*, see Muḥammad Mahdī Khalkhālī, *Ḥākimiyyat dar Islām* (Tehran: Āfaq, 1984), pp. 282-295.

³⁶ For example, See Kulaynī, *al-Uṣūl*, ed. by Ghaffārī, vol. 1, pp. 54-62; Mufīd, *Awā'il al-Maqālāt*, p. 69; Ṭūsī, *Uddat al-Uṣūl*, p. 373; idem, *al-Mabsūṭ*, 8 vols. (Tehran: Mutazavī, 1967), vol. 1, p. 2.

³⁷ Martin McDermott, *The Theology of al-Mufīd* (Beirut: Dār al-Machriq, 1978), p. 296.

taqlīd by Shaykh Mufīd³⁸ and Shaykh Tūsī was addressed to those traditionists who were then called Muqallida (unthinking adherents). According to Tūsī's description of them, this group was not prepared to take anything but the very text of traditions into consideration.³⁹ Also Kulaynī dedicated a portion of the theological part of his work to the problem of *taqlīd* in which he quotes two tradition-reports: one rejecting *taqlīd*, the other in support of following the True Imams.⁴⁰ According to the commentary made by Mullā Ṣadrā Shīrāzī⁴¹ and Mullā Muḥsin Fayḍ Kāshānī,⁴² the second tradition of this chapter is concerned with the failure of the Shī'is with respect to their *taqlīd* of the Imam as compared to the Sunnite sect of Murji'a who Imam Ṣādiq regarded as being firm in their following of tyrannical caliphs.

The principle of *taqlīd*, as practiced by the Muqallida, is also rejected by Mufīd⁴³ who is the first known Shī'ite jurist to authorize the 'ulamā' to fulfill some of the Imam's tasks during his absence. Although Mufīd practiced *ijtihād* in order to deduce the ruling for the role of the 'ulamā', we know that he negated the doctrine of *ijtihād* as an innovation.⁴⁴ A similar attitude can be observed in the writings of

³⁸ Ibid., p. 243.

³⁹ See chapter three.

⁴⁰ Kulaynī, *al-Uṣūl min al-Kāfi*, ed. by Ghaffarī, vol. 1, p. 53.

⁴¹ Mullā Ṣadrā Shīrāzī, *Sharḥ al-Uṣūl al-Kāfi*, p. 188.

⁴² Mullā Muḥsin Fayḍ Kāshānī, *al-Wāfi*, vol. 1, pp. 55–56. It should be added that Fayḍ interpreted the first tradition as an obvious proof against following the *mujtahid*.

⁴³ McDermott, *The Theology*, pp. 247–53.

⁴⁴ Shaykh Mufīd rejected *ijtihād* in his *Awā'il al-Maqālāt* arguing that the selection of an Imam could not be on the basis of *ijtihād*. See McDermott, *The Theology*, p. 132; *Awā'il al-Maqālāt*, p. 69. This indicates that the rejection of *ijtihād* by Shī'is was motivated by sociopolitical considerations, as the very notion of *ijtihād* had its basis in such considerations.

Murtaḍā and Ṭūsī. Murtaḍā, as Amir Arjomand pointed out, was cautious in justifying *taqlīd* because he was afraid to include the fundamentals of faith (*uṣūl al-dīn*) in such a way. This indicates that, at this point, the principle of *taqlīd* was not conceived and discussed as an inevitable imitation as defined by the later scholars, especially since the flourishing of the Shi'ite center of Ḥilla.

Shaykh Ṭūsī discussed the necessity of seeking a mufti and following his legal opinion while negating *ijtihād* in general and repudiating both Muqallida and the Hashwiyya in particular.⁴⁵ Ṭūsī is considered to be the first Shi'ite jurist to refashion Imāmī *fiqh* in a manner that accommodated the practice of *ijtihād*⁴⁶ although its doctrine was not yet accepted. In two of his later writings, *al-Mabsūṭ* and *al-Khilāf*, Ṭūsī benefitted from the Sunnī heritage to the extent that, according to Modarresi Tabataba'i, these books "were modeled upon Sunnī works."⁴⁷ Norman Calder considers Ṭūsī as the first Shi'ite author who established an area of doubt and consequently choice which "may be interpreted as a desire to incorporate as harmoniously as possible the divergent characters and views which had been gathered into the nascent Shi'i tradition."⁴⁸

After Ṭūsī, Ibn Idrīs al-Hillī (598/1201) played an important part in the development of Imāmī jurisprudence through his use of rational reasoning. He denounced the

⁴⁵ Ṭūsī, *Uddat al-Uṣūl*, vol. 1, p. 333.

⁴⁶ Jannāṭī, "Ijtihād", p. 17.

⁴⁷ Modarresi, *An Introduction*, p. 44. It is interesting to note that Shaykh Ṭūsī and 'Allāma Ḥillī, both of whom reshaped the Shi'ite legal and ritual rules had, in their youth, studied under Sunnī scholars. It seems that this education enabled them to write books on comparative Islamic law, i.e., Ṭūsī's *al-Khilāf* and 'Allāma's *Tadhkirat al-Fuqahā*'.

⁴⁸ Norman Calder, "The Emergence of an Imami Shi'i Theology of *Ijtihād*", *Studia Islamica*, LXX (1989), p. 63.

practice of *qiyās* as well as the validity of the isolated traditions (*al-āḥād*) for two reasons: he rejected the former in order to substitute it with reason ('*aql*'),⁴⁹ and he refuted the latter in order to get away from Ṭūsī's dominance in Shi'ite law. Ibn Idrīs regarded reason as being more valid than *āḥād*, neglecting Shāfi'i's maxim that even an isolated *sunna* constituted an *aṣl* (source-text) without requiring any evidence to support it.⁵⁰ Ibn Idrīs is the first Shi'ite jurist who clearly gave an independent authority to '*aql*' as a category of Shari'a sources in the place of *qiyās*.⁵¹

The works of Mufīd, Murtaḍā, Ṭūsī and Ibn Idrīs prepared the ground for the development of Shi'ite law with a wider scope for positive law (*furū'*) in which the 'ulamā' were able to apply their Uṣūlī inferences to the details of cases. Thus, a new mode of Uṣūlī rational argument flourished in the Shi'ite school of Ḥilla during the Mongol period. The most salient feature of this trend was the practice of *ijtihād* with a new meaning and wider scope. *Ijtihād* as an effort to establish the best probability of truth through the use of Uṣūlī rational instruments found a new component, i.e., *ẓann* or valid speculation, which contrasted with *ra'y* (unrestricted speculation). The latter was rejected in the writings of Mufīd, Murtaḍā and Ṭūsī as an equivalent of *qiyās* (analogy). The way in which they equated *ijtihād* with *qiyās* reveals that they had not been aware of the possibility of a new definition for *ijtihād*. Ṭūsī, in analyzing the isolated traditions, employed terms such as *ẓann* and *ghālib al-ẓann* (the highest probability) indicating a degree of validity which an isolated

⁴⁹ Ibn Idrīs al-Hillī, *al-Sarā'ir*, 3 vols. (Qum: Nashr-i Islāmī, 1410/1989-90), vol. 1, pp. 46-54.

⁵⁰ Shāfi'i, *al-Risāla*, ed. by Aḥmad Muḥammad Shākīr (Cairo: n.p., 1939), pp. 85-105.

⁵¹ Ibn Idrīs, *al-Sarā'ir*, p. 21; compare with Ṭūsī's *al-Khilāf*, vol. 1, p. 45.

tradition can convey,⁵² but he did not incorporate this half proof in his juridical system as the scholars of the Shi'ite center of Hilla did.

Hilli's approach to *ijtihād* should be studied in the light of the evolution of the doctrine of *ijtihād* in the Sunnī world. The doctrine of *ijtihād* went through a gradual change as a result of the development of Islamic legal theory. In the 5th/11th century, a Shāfi'i jurist Abū'l-Ḥusayn al-Baṣrī presented a full account of *ijtihād* in connection with his discussion of *qiyās*⁵³ and *iftā'* as well as that of *taqlīd*.⁵⁴ Although he did not classify the levels of *ijtihād*, nor distinguish between *ijtihād* and *iftā'*, the fact that he allowed commoners to follow the opinion of a regular jurist demonstrates that he was aware of the difference between the *mujtahid* and the mufti.⁵⁵ Following al-Baṣrī, al-Juwaynī highlighted the role of speculation in *ijtihād* but his primary emphasis was on the process of *iftā'* rather than on *ijtihād*.⁵⁶ It was Ghazzālī who redefined *ijtihād* to signify the exertion of mental energy to the maximum extent in order to obtain religious ordinances from their original sources.⁵⁷ This reorientation of *ijtihād*, indeed left little room for giving personal opinion. His conception is much broader than that expounded previously in his chapter on *iftā'*. Ghazzālī set two general qualifications for the *mujtahid*: having knowledge and a just nature.⁵⁸ He supported the idea of divisibility of *ijtihād* and divided it into absolute (*muṭlaq*) and partial (*mutajazzī*). An absolute *mujtahid* who is qualified to practice

⁵² Tūsī, *Uddat*, p. 374.

⁵³ Abū'l-Ḥusayn Muḥammad b. 'Alī al-Baṣrī, *Kitāb al-Mu'tamad*, 2 vols. (Damascus, 1965), vol. 2, pp. 690–865.

⁵⁴ Ibid., pp. 929–88.

⁵⁵ Ibid., p. 934.

⁵⁶ Al-Juwaynī, *al-Burhān*, pp. 132–3, 1330–60.

⁵⁷ Ghazzālī, *al-Mustasfā*, vol. 2, p. 350.

⁵⁸ Ibid.

ijtihād in all areas of substantive law must have mastery of the four Islamic sources of knowledge: the Qur'ān, Sunna, *ijmā'* and *qiyās* as well as mastery of Arabic, the traditions and jurisprudence; while a partial *mujtahid* is required to know only the relevant parts of sources and enough methodology to arrive at a proper judgment.⁵⁹

Ghazzālī, like al-Baṣrī, discussed the problem of *iftā'* in connection with *taqlīd*. Ghazzālī defined *taqlīd* as acceptance of the juridical opinion of others without knowing its reasoning. This *taqlīd* is divided into permissible and prohibited. He attacked the Sunnī sub-sects such as Hashwiyya and the Ta'limiyya by charging them with applying *taqlīd* to the principles of faith. Ghazzālī interpreted Shāfi'i's statement that "nobody but the Prophet should be followed" as being not applicable to *istiftā'* (seeking a legal opinion), *istishhād* (seeking a witness), and acceptance of solitary tradition.⁶⁰ By putting *istiftā'* on a par with *istishhād*,⁶¹ Ghazzālī seems to have considered the concept of *istiftā'*, which necessitates *taqlīd*, to be a matter of seeking knowledge rather than blind following. In this manner, the legality of *taqlīd* has found a more plausible place in Muslim thought. Another significant contribution which Ghazzālī made to the doctrine of *ijtihād* is his elaboration of various logical avenues in which *ijtihād* operates, such as in the inquiry to discover the criterion on which a religious ordinance depends (*taḥqīq mināṭ al-ḥukm*) and the inquiry to refine such a criterion (*tanqīḥ mināṭ al-ḥukm*).⁶² Although most of these avenues lead to different kinds of *qiyās*, the logic behind them found its way into Shi'ite thought.

Ghazzālī's successors in Sunnī thought, such as Fakhr

⁵⁹ Ibid., pp. 351-54.

⁶⁰ Ibid., pp. 387-90.

⁶¹ Ibid., p. 389.

⁶² Ibid., vol. 2, pp. 230-34; see also Abū'l-Qāsim Gurjī, "Ārā'-i Ghazzālī dar 'Ilm-i Uṣūl," *Ma'ārif* 1 (1984-85), p. 144.

Rāzī (d. 606/1209)), Āmidī (d. 632/1234) and Bayḍāwī (d. 685/1286) corroborated the theory of *ijtihād* propounded by Ghazzālī. On the other side, the Shi'ite juridical school which flourished in Hilla came into close contact with the dominant Sunnī school to such an extent that many Hillī scholars such as Muḥaqqiq and 'Allāma had part of their education under Sunnī teachers. 'Allāma wrote a commentary on his teacher Ibn al-Ījīb's *Mukhtaṣar*⁶³ which was described as expository by Ibn Ḥajar al-'Asqalānī (d. 825/1449).⁶⁴ In fact, Hillī scholars, especially 'Allāma, not only adopted the doctrine of *ijtihād* but also *taqlīd* and *qiyās* to a certain extent. 'Allāma legitimized two kinds of *qiyās*: i) *al-manṣūṣ al-illa* in which the rationale is designated in the Qur'ān and Sunna, and ii) *al-hukm fī'l far' aqwā*, wherein the minor case has more applicability to law than its premise.⁶⁵

On the basis of the above, we see a drastic change in approach by Muḥaqqiq and 'Allāma towards *ijtihād* and specifically *qiyās*. The reason for this change seems to lie in the expansion of the concept of *ijtihād* in the Muslim world, especially in the writings of Ghazzālī who made it clearly discernible from that of *ra'y* and *qiyās*, and, as Wilfred Madelung suggested, "the traditional preoccupation of Imāmī thought with the notion of certitude in law".⁶⁶ As to the first reason, I should add that the new identity and scope of *ijtihād* was so evident for Muḥaqqiq and 'Allāma that they

⁶³ A comparison between *al-Mukhtaṣar* and 'Allāma's *al-Tahdhīb* illustrates the parallels on Uṣūlī principles. See Ibn al-Ījīb, *Mukhtaṣar Muntahā'l-Uṣūl* (Cairo: Maṭba'at al-Kubrā al-Amiriyya, 1316/1898-99); 'Allāma, *al-Tahdhīb ilā 'Ilm al-Uṣūl* (Tehran: Lithograph, 1890).

⁶⁴ Ibn Ḥajar al-'Asqalānī, *al-Durar al-Kāmina*, 2 vols., ed. Jād al-Haqq (Cairo: Dār al-Kutub al-Ḥadītha, 1966), vol. 2. pp. 135 & 158.

⁶⁵ 'Allāma Hillī, *Tahdhīb*, chapter on *qiyās*.

⁶⁶ Madelung, "Authority in Twelver Shi'ism", p. 169.

did not bother to explain why they had abandoned the approach of the Imāmī precursors such as Muḥīd and Ṭūsī. For this reason Muḥaqqiq and 'Allāma did not mention any tradition-text to justify this pattern of *ijtihād*.⁶⁷ Concerning the second reason Madelung argues that:

...the traditional preoccupation of Imāmī thought with the notion of certitude in the law led the Imāmī scholars to view *ijtihād* not simply as a meritorious endeavor to discover the intent of the divine Lawgiver that may either succeed or fail, but rather as an effort to reach the highest degree of probability or the closest approximation to the objective truth possible in the absence of the infallible imam. This effort must constantly be renewed in the hope of coming still closer to objective truth and certainty. *Ijtihād* thus must remain an open process until the return of the imam who alone can offer perfect truth and certainty.⁶⁸

⁶⁷ Ayatollah Muṭahharī suggested that the Hillī scholars did not apply a new term to this newly introduced concept of *ijtihād* for the sake of keeping up the uniformity with the other Muslims; *Baḥthī darbāra-yi Marja'īyat* (Tehran: Shirkat-i Intishār, 1962), p. 41.

⁶⁸ Ibid. It should be added that Professor Madelung (with regard to the first reason for the different development of *ijtihād* in Imāmī Shi'ism and Sunnism) maintained that "a consensus of the Shi'ite '*ulamā*', in contrast to the Sunnite situation, is of no legal consequence. No question open to *ijtihād* can thus ever be settled conclusively through a consensus of the Shi'ite '*ulamā*'; nor can it ever be claimed that the door of *ijtihād* itself has been closed by a consensus."

What the Hillī scholars did, especially Muḥaqqiq and ‘Allāma, was to separate *ijtihād* from *ra’y* and *qiyās*, and to adopt a new conception of *ijtihād* similar to that formulated by Sunnī scholars such as Ghazzālī and Fakhr al-Dīn al-Rāzī. There is much evidence that both Muḥaqqiq and ‘Allāma adapted their methodological theory along the lines of the legal theory expounded in *uṣūl* works in the Sunnī community of the 5th/11th and 6th/12th centuries. A comparison of *Ma‘ārij al-Uṣūl*⁶⁹ by Muḥaqqiq and *Tahdhīb al-Wuṣūl*⁷⁰ by ‘Allāma with *al-Mustasfā*⁷¹ and especially *al-Mankhūl*⁷² by Ghazzālī indicates that Ghazzālī’s conceptions of *ẓann* (valid speculation) and *al-i’tibārāt al-naẓariyya* (theoretical considerations) had direct bearing upon the two Hillīs’ approaches in accepting new components for *ijtihād*. Muḥaqqiq and ‘Allāma’s way of conceptualizing topics of *uṣūl al-fiqh* indicates that they did not continue to follow the patterns set by Muḥid, Murtaḍā and Ṭūsī, but rather that they developed their own method under the influence of Sunnī authors such as Ghazzālī and Fakhr al-Dīn Rāzī. Rāzī composed one of the most extensive works on the legal methodology in which the concepts of *ẓann* and *ijtihād* are clearly defined.⁷³ As Wilfred Madelung has pointed out, Muḥaqqiq explicitly admitted that legal norms were “often based on theoretical considerations not deduced from the literal meaning of the traditions-texts.”⁷⁴ Such a statement indicates Muḥaqqiq’s

⁶⁹ Muḥaqqiq al-Hillī, *Ma‘ārij al-Uṣūl* (Qum: Āl al-Bayt, 1403/1983), pp. 179–194.

⁷⁰ ‘Allāma Hillī, *Tahdhīb al-Wuṣūl ilā ‘Ilm al-Uṣūl* (Tehran: Litho, 1890), pp. 98–104.

⁷¹ Ghazzālī, *al-Mustasfā*, vol. 2, p. 350.

⁷² Idem, *al-Mankhūl*, pp. 451–83.

⁷³ Fakhr al-Dīn, Muḥammad b. ‘Umar al-Rāzī, *al-Maḥṣūl*, 2 vols. in 6 facsimiles (Riyāḍ: Ibn Sa‘ūd University, 1979), vol. 1, pt. 1, p. 102; vol. 2, pt. 3, pp. 7, 36, 55, 98.

⁷⁴ Wilfred Madelung, “Authority in Twelver Shi‘ism,” *La notion*

awareness of the recent Muslim achievements concerning legal theory.⁷⁵ Muḥaqqiq also put Imāmī law into a new framework consisting of four essential parts: worship (*al-ʿibādāt*), transactions (*al-ʿuqūd*), unilateral transactions (*al-īqāʿāt*) and legal judgements (*al-aḥkām*).⁷⁶

Although the Shīʿīs adopted *ijtihād* through the work of Ḥillī scholars, the development of the office of *mujtahid* had a particular course in Shiʿism different from that in the Sunnī world. In Sunnism, the office of the learned jurists was to supplement the government with practical verdicts of the Sharīʿa. In contrast, the Shīʿī office of *mujtahid* was reinforced by the ʿulamāʾ's elevated status as vicegerents of the Imam, and hence *mujtahids* were generally considered to voice the opinions of the Imam of the Age.⁷⁷

The evolutionary process of *ijtihād* entered a new era when the leading authority of the Akhbārī camp Shaykh Yūsuf Baḥrānī adopted *ijtihād* in order to develop Akhbārī jurisprudence. Baḥrānī wrote:

If a jurisprudent had no way of acquiring knowledge, should he wait until the time of certainty (the re-emergence of the

d'autorité au Moyen Age (Paris: Presses Universitaires de France, 1982), p. 168. Also see Muḥaqqiq al-Ḥillī, *Maʿārij al-Uṣūl*, p. 179.

⁷⁵ Compare Muḥaqqiq's *Maʿārij al-Uṣūl* (1403/1983), pp. 179–201 with Abū Ḥāmid Ghazzālī, *al-Mustasfā min ʿIlm al-Uṣūl*, 2 vols. (Beirut: Dār al-Kutub, 1983), vol. 2, pp. 363–387, and idem, *al-Mankhūl min Taʿlīqāt al-Uṣūl* (Damascus: n.p., 1979), pp. 451–57.

⁷⁶ Muḥaqqiq al-Ḥillī, *Sharāʾiʿ al-Islām*, ed. S. Ṣ. Shīrāzī (Beirut: Muʾassas al-Wafāʾ, 1983), pp. 5, 259, 575, 729.

⁷⁷ The significant growth of the office of *mujtahid* was visible during the Safavid period when Astarābādī attacked *mujtahids* because of their tendency to divide the community into *mujtahidūn* and *muqallidūn*. See chapter three.

Imam) or is he allowed to use his *ijtihād* and to find a solution for problems? The latter sounds plausible.⁷⁸

It is clear that Baḥrānī, unlike Astarābādī, did not consider the existing tradition-reports sufficient enough to provide answers to the daily questions of the Shī'īs. Elsewhere, he referred to "the closure of the gate of acquiring religious rules during the absence of the Imam." On the basis of this common feeling that the employment of *ijtihād* was necessary, Baḥrānī's Uṣūlī opponent, Muḥammad Bāqir Biḥbihānī, put forth the validity of *mujtahid* speculation and the validity of his general knowledge (*ilm al-ijmālī*) in an unprecedented way.

It is proverbial among the 'ulamā' that the gate of acquiring religious knowledge is closed (upon the absence of the Imam). How? We see a large number of *aḥkām* (legal judgments) which become known after effort. This is true despite the fact that effort leads to speculation (*ẓann*) which is neither proof (*ḥujja*) nor beneficial; despite the fact that Akhbārīs claim that the gate of acquiring knowledge is not closed and it is a matter of controversy; and despite the fact that in many cases we know things without searching, because they are obvious. We say that no speculations are proofs, nor may *ijmā'* (which is reversible by contradictory *ijmā'*) nor even self-evidence (*bidāha*) amount to absolute proof. It is only the *mujtahids*' speculative endeavor (*ijtihād*) that weighs as proof.⁷⁹

⁷⁸ Baḥrānī, *al-Iḥdā'iq*, vol. 6, p. 301.

⁷⁹ Biḥbihānī, *Risālat al-Ijtihād wa'l-Akhbār*, p. 16.

Bihbihānī's success in reestablishing the Uṣūlī school in 'Atabāt was followed by the dominance of a network of his Uṣūlī pupils who eventually considered him restorer (*mujaddid*) of a new era in Shi'ism. The idea of *tajdīd* (restoration) was justified according to a Prophetic tradition that "God sends at the turn of each century a man who renovates the rules of Islamic law" since the fifth/eleventh century.⁸⁰ The Shi'ite 'ulamā' made use of this notion to pay their respects to Shaykh 'Alī Karakī⁸¹ and Bihbihānī who made a new epoch for Uṣūlī dominance. Theoretically, however, Bihbihānī did not contribute much to the method of elaboration of *fiqh* since he did not write a noteworthy work in this field.⁸²

The reassertion of the doctrine of *ijtihād* by Bihbihānī paved the way for a new round of literature on *fiqh* with elaborated details.⁸³ This process reached its peak with Shaykh Muḥammad Ḥasan Najafī who wrote the largest *fiqh* work in the Shi'ite world. The existence of such writings, of course, does not necessarily mean a wider employment of *ijtihād* in its technical sense. Rather, in reality, it comprised a kind of endless juristic speculation whose vicious sequence ceased only with the prudential withdrawal (*tawāqquf*) of the 'ulamā'. The frustration of the 'ulamā' over juridical speculations is reflected in the poetry of Aḥmad Narāqī:

For the sake of being called a scholar,
how long will you build one speculation
upon another speculation?

⁸⁰ Hallaq, "Was the Gate," p. 27.

⁸¹ See Modarresi Tabataba'i, *Kharaj*, p. 49.

⁸² 'Alī Davānī, *Vahīd-i Bihbihānī* (Tehran: Amīr Kabīr, 1983), p. 129.

⁸³ E.g., see Sayyid 'Alī Ṭabāṭabā'i, *Riyād al-Masā'il* (Tehran: Lithograph, 1822); Shaykh Ja'far Najafī, *Kashf al-Ghīṭa'*; Mullā Aḥmad Narāqī, *Mustanad al-Shi'a* (Tehran: Litho, 1273/1856).

Sixty years have passed by you,
 simply repeating, 'what he said', and 'what
 I say',
 which are not worth more than a penny.
Fiqh is good for the purpose of practice,
 not for raising arguments and conflicts.
 It is wrong to weave suppositions and
 then call them knowledge or wisdom.⁸⁴

In the second half of the 13th/19th century, the wag-
 ing of *ijtihād* was increased due to a new generation of Uṣūlī
 jurists among whom Shaykh Murtaḍā Anṣārī stands
 at the forefront. The application of four rational principles⁸⁵
 especially *aṣl al-istiṣhāb* (presuming continuation of the sta-
 tus quo ante) was increased to the effect that it made an
 impression on the course of Shi'ite jurisprudence.⁸⁶
 Juridical argument, henceforth, was not only based on the
 regular Uṣūlī principles, but rather on the proper employ-
 ment of diverse kinds of *istiṣhāb*. Evidently, *fiqh* was expand-
 ed beyond the learning of a regular mufti or traditionist
muḥaddith. This development helped the Uṣūlī 'ulamā' place
mujtahids in a rank higher than that of other 'ulamā', who
 either had Akhbārī or Sufi inclination, or had not mastered
 the use of *istiṣhāb*.

Anṣārī intensified the use of *ijtihād* and rational prin-
 ciples, whereas he was too cautious to expand the applica-
 tion of the tradition-texts to the areas that are not explicitly
 subject to religious ruling. Nevertheless, Anṣārī created such

⁸⁴ See Naraqī's *Mathnawī-yi Taqdīs* (Tehran: Amir Kabir, 1983), p. 25.

⁸⁵ These rational principles, which were better known as *al-uṣūl al-'amaliyya*, include *barā'a*, *takhyir*, *iḥtiyāt* and *istiṣhāb*.

⁸⁶ Ja'farī Langarūdī, *Maktabhā-yi Huquqī*, p. 218. Dr. Langarūdī maintains that since the 19th century, Shi'ite law was over-
 shadowed by *al-uṣūl al-'amaliyya* which was employed by *mujtahids*,
 pp. 48-49.

a scholastic atmosphere that following *mujtahids* became a prerequisite for commoners. Anṣārī set *taqlīd* as a binding principle for all lay Shī'īs who wished their religious duties to be accepted.⁸⁷ The school created by Anṣārī gradually widened the scope of juristic *ijtihād* to include other spheres such as politics and economics. This school theoretically pushed forward the authority of *ijtihād* into two veins. First, it included the problem of juristic mandate as part of the juridical discussion on transaction (as we have seen above).⁸⁸ Second, they set the question of *taqlīd* as the foremost problem facing the Shī'ī layman. In this vein, the contribution of Ayatollah Yazdī was significant. He set up *taqlīd* as a prerequisite for being a true Muslim. Ayatollah Yazdī dedicated the first chapter of his celebrated *al-'Urwa* to the problem of *taqlīd* and *ijtihād* in which he explicitly ruled that the practice of the Shī'ī layman was vain without following a *mujtahid* or in the absence of prudent observation. Most commentators of this book expanded this dictum to include all actions performed by a layman in the Shi'ite community.⁸⁹

The renovation of *ijtihād* in the contemporary era includes new elements indirectly related to juristic authority. The pioneering figure in this field was Ayatollah Sayyid Muḥammad Bāqir al-Ṣadr. Al-Ṣadr drew a new synthesis for Muslim economics by adapting new notions such as banking and insurance to Islamic rules.⁹⁰ He also reconceptualized

⁸⁷ Anṣārī, *Sirāṭ al-Najāt*, p. 1.

⁸⁸ Also see Sayyid Muḥammad Baḥr al-'Ulūm, *Bulghat al-Faqīh*, 4 vols. (Tehran: Maktabat al-Ṣādiq, 1984), vol. 1, pp. 250–57; Khurāsānī, *Hāshiyat al-Makāsib*, p. 92–95.

⁸⁹ Yazdī, *al-'Urwa*, p. 3. This version of *al-'Urwa* was published with commentaries of the five Ayatollahs Gulpāyigānī, Ḥakīm, Shāhrūdī, Sharī'atmadārī, and Khu'ī.

⁹⁰ Muḥammad Bāqir al-Ṣadr, *Iqtisādunā* (Beirut: Dār al-Ma'ārif, 1986)); idem, *Falsafatunā* (Qum: Majma' al-'Ilmi, 1988), espe-

parts of Islamic legal methodology and the notion of *ijtihād* according to a historical approach which had no precedent in Ithnā'asharī writings.⁹¹ Al-Ṣadr's proposals for a new Islamic economy impressed upon the Sunnī juridical milieu, and for the first time made them reciprocate with a Shī'ī proposition.⁹² Al-Ṣadr's historical approach, in this respect, was followed by Ayatollah Jannāṭī, who wrote on the history of *ijtihād* in Islam, particularly in Shi'ism.⁹³ The historical treatment of *fiqh* helped the rise of a new juridical trend in post-revolutionary Iran. This trend, known as dynamic law (*fiqh-i pūyā*) tries to update juristic authority with day to day problems.

To summarize the process of the application of *ijtihād* in Shi'ism, the following distinctions can be made: i) the separation of *ijtihād* from *ra'y* and *qiyās*, and the adoption of *ijtihād* as a process of arriving at valid speculation (*ẓann*); ii) the conjunction of *taqlīd* with the *ijtihād* of an active *mujtahid*; iii) the incumbency of the *taqlīd* of such a *mujtahid* in the daily affairs of the community; iv) the enhancement of the position of the qualified *mujtahid* over that of all other *mujtahids*

cially pp. 295–429. These books are translated into English and were published by the above publisher in 1981.

⁹¹ Idem, *Iqtisādunā*, pp. 415–429; *Durūs fi 'Ilm al-Uṣūl* (Qum: Nashr al-Islāmī, 1990), and *Ma'ālīm al-Jadīda*.

⁹² Before Ayatollah Ṣadr, we have Sayyid Jamāl al-Dīn Afghānī (Asadābādī) and Dr. 'Alī Sharī'atī who impressed upon Muslim milieus, but none of them had Shi'ite or legal orientations. Other than the above cases, we have no record of Sunnī reciprocation with Shi'īs. On the lack of Sunnī reciprocation, see Ja'farī Langerūdī, *Maktabhā-yi Huqūqī dar Islām*, p. 255. On Ayatollah Ṣadr's popularity, see Chibli Mallat, *The Renewal of Islamic Law: Muḥammad Bāqir al-Ṣadr* (London: Cambridge University Press, 1993).

⁹³ Muḥammad Ibrahim Jannāṭī, *Manābi'i Ijtihād az Didgāh-i Madhāhib-i Islāmī* (Tehran: Intishārāt-i Kayhān, 1991).

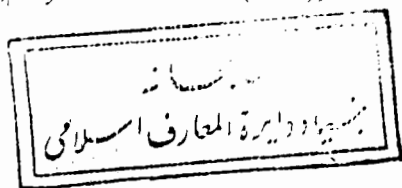
and muftis. Within the above stages, the doctrine of *ijtihād* was incorporated into the Shi'ite learned hierarchy to supplement the office of vicegerency with an up-to-date knowledge of law.

C. *A'lamīyya*

A'lamīyya literally means superiority in learning, and it refers to the principle of the priority of a *mujtahid* who is the most skilled in applying the general rules of the Shari'a to the community's daily affairs.⁹⁴ Although very competitive in nature and in practice very difficult to meet the qualifications, there is no unanimous definition for *a'lamīyya*, nor is there a standard method of establishing the one most superior in learning. The principle of priority (*al-a'lam fa'l-a'lam*) in time was reinforced by the additional formula of the fully qualified (*jāmi' al-sharā'it*) jurisprudent, which implies the capability and righteousness of the *mujtahid*. However, superiority in learning remained the best criterion for selecting among those who claimed religious authority. Although both the nature of superiority and the scope of priority have varied from period to period, the practice of setting priority according to the degree of learning appears to be a natural development.

Whereas the question of *a'lamīyya* was treated within the discussion of the qualification of the *qāḍī* and the mufti in Shi'ite law, it basically involves the problem of the imamate in Sunnī Law. Sunnī jurists set forth the problem of the

⁹⁴ This definition is based on Ayatollah Jannāṭi's exhaustive examination of the various definitions made by the authoritative jurists, such as Shaykh Murtaḍā Anṣārī. It is noteworthy that Ayatollah Jannāṭi's criterion of "less fallibility" seems to indicate nothing but the practicality of *a'lamīyya*. See Jannāṭi, "Sayr-i Tārikhī-yi Taqlīd az A'lam", *Kayhān-i Andīsha* 6 (1986), p. 23.



superiority of the *imām* under the influence of the events concerning the succession of the Prophet in which 'Alī was considered superior (*afḍal*) to the other Guided Caliphs. The subject was eventually extended to include the priority of the 'ulamā' for the office of *qāḍī* and for issuing *fatwās*. Shāfi'ī did not restrict the rightful imamate to the most excellent, while Jāḥiẓ (d. 250/864) supported the idea that the *imām* was the most excellent of the community.⁹⁵ Māwardī (d. 450/1056), comparing the case of the imamate with that of qadiship, ruled out the quality of superiority, claiming it to be an invalid exaggeration. He permitted the choice of a less excellent *imām*.⁹⁶

Imām al-Ḥaramayn al-Juwaynī differentiated between imamate and qadiship, stating that the *imām* must be the most excellent because of public welfare (*maṣlaḥa*), but giving *fatwās* did not have that qualification.⁹⁷ Following his master Juwaynī, Ghazzālī in his early writings necessitates superiority in learning for the *imām* because it is based on public welfare (*maṣlaḥa*); but if the accord of the imamate was concluded for a less excellent *imām* (*al-maṣḍūl*), Ghazzālī adds, it would be considered as valid.⁹⁸

In Shi'ism, where the Imam must be a divinely desig-

⁹⁵ Ann Lambton, *State and Government in Medieval Islam* (Oxford University Press, 1981), p. 65.

⁹⁶ Abū'l Ḥasan 'Alī b. Muḥammad b. Ḥabīb al-Māwardī, *al-Aḥkām al-Sullāniyya* (Beirut: Dār al-Kutub al-'Ilmiyya, 1985), p. 8.

⁹⁷ Imām al-Ḥaramayn, Abū'l Ma'ālī 'Abd al-Malik b. Abī Muḥammad al-Juwaynī, *al-Burhān fī Uṣūl al-Fiqh*, 4 vols., ed. 'Abd al-'Azīm al-Dīb (Cairo: Dar al-Anṣār, 1980), vol. 2, p. 1342. Elsewhere, Juwaynī has given his definition of the *imām*'s superiority which rested on capability rather than learning. In the case of the 'ulamā', he preferred the most superior in learning. See his *Chiyāth al-Umam* (Qatar: University of Qatar, 1980), p. 391.

⁹⁸ Ghazzālī, *al-Mankhūl*, p. 479.

nated individual, superiority in learning finds an esoteric dimension and becomes knowledge *par excellence*.⁹⁹ In the teaching of Imam Ja'far al-Šādiq, the notion of *ilm* appears to be the underlying theme of all characteristics of the Imam.¹⁰⁰ As for the 'ulamā', the question of superiority in their learning made its marked appearance in the writings of al-Murtaḍā, who is virtually the first Imāmī jurist to suggest the obligation of seeking the legal opinion of a jurisprudent who was superior in knowledge.¹⁰¹ Al-Murtaḍā's juridical opinion was, indeed, based on the Shi'ite traditions which allowed for the priority of the most learned jurist. For Shi'is a remarkable evidence is the letter addressed to Mālik Ashtar by the first Shi'ite Imam, 'Alī b. Abī Ṭālib, who wrote: "Choose the most excellent from among your subjects for the position of qadiship."¹⁰²

Of the Ḥillī scholars, Muḥaqqiq put forth the priority of *a'lam* in his chapter on *ijtihād*, declaring that the one claiming *a'lam* must have no equal with respect to knowledge. If there are two candidates equally learned and pious, the learned candidate has precedence since a *fatwā* is derived from learning, not from piety.¹⁰³ 'Allāma Ḥillī sustained Muḥaqqiq's view on the authority of the most learned *mujtahid*. However, in his *Nahj al-Mustarshidīn*, 'Allāma differed from Muḥaqqiq, stating "if there are two equally learned and pious, the seeker for the legal opinion has a

⁹⁹ See Etan Kohlberg, "Imam and Community in the Pre-Ghayba Period", *Authority and Political Culture in Shi'ism*, ed. Said Ar'ir Arjomand (Albany: State University of New York Press, 1988), pp. 25-54.

¹⁰⁰ D. S. Crow, "The Teaching of Ja'far al-Šādiq", p. 33.

¹⁰¹ Al-Murtaḍā, *al-Dharī'a*, vol. 2, p. 801.

¹⁰² Sharīf al-Raḍī, Muḥammad b. al-Ḥusayn al-Mūsawī, *Nahj al-Balāgha*, 3 vols in 1, ed. by al-Shaykh Muḥammad 'Abduh (Beirut: Mu'assasat al-A'lamī, n.d.), p. 94.

¹⁰³ Muḥaqqiq al-Ḥillī, *Ma'ārij al-Uṣūl*, p. 139.

choice."¹⁰⁴

The notion of following the most learned *mujtahid* during the absence of the Imam from the community was corroborated by the Safavid 'ulamā'. Shaykh 'Alī Karakī claimed a consensus on the precedence of *a'lam*.¹⁰⁵ Karakī, whose authority as the superior *mujtahid* and the promoter of Shi'ism was officially supported by the second Safavid King Tahmāsp I, embodied in himself the high position of *mujtahid* of the time with obligatory obedience.¹⁰⁶ This position, in this period, proved to be premature and subordinate to the political institution. Another jurist of the Safavid period, Shaykh Bahā'ī, decreed that it was "incumbent upon all members of the community to follow the best such *mujtahid*",¹⁰⁷ while his contemporary, Shaykh Ḥasan 'Āmili, considered such adherence to be a matter of preference.¹⁰⁸ 'Āmili, whose *Ma'ālīm al-Uṣūl* is still a textbook in the traditional Uṣūlī teaching centers, reiterated the priority of the most learned in the sense of being the most precise in reporting traditions:

The seeker of a legal opinion has a choice in referring to any *mujtahid* whom he regards as having equal knowledge and just judgment. If someone is superior in learning he must be referred to for religious guidance. As far as we know, this opinion was held by our like-minded

¹⁰⁴ John Cooper, "Allāma al-Hillī on the Imamate and Ijtihād," in *Authority and Political Culture in Shi'ism*, p. 246.

¹⁰⁵ Muḥammad Baḥr al-'Ulūm, *al-Ijtihād Uṣūluḥu wa Ahkāmuhu* (Beirut: Dār al-Aḍwā', 1977), p. 242.

¹⁰⁶ Modarresi Tabataba'i, *Kharāj in Islamic Law*, p. 50.

¹⁰⁷ Newman, "Towards a Reconsideration of the Isfahan School of Philosophy", p. 180.

¹⁰⁸ Shaykh Ḥasan b. Zayn al-Dīn al-'Āmili, *Ma'ālīm al-Uṣūl*, p. 281.

Imāmīs. They based their opinions on the fact that reliance on the words of the most learned *mujtahid* is more authentic and closer to reality. At this point, again, some others are quoted as having favored the choice. However, we rely on our fellow Imāmīs.¹⁰⁹

It is remarkable that according to Amir Arjomand, a Persian Sunnī notable Mīr Makhdūm (d. 995/1587), in a polemical treatise *al-Nawāqid li Bunyān al-Rawāfiḍ* "restricts the vicegerency of the Imam" (an imām?) "to the single most learned *a'lam* of the *mujtahids*."¹¹⁰ This highlights the significance of the principle of *a'lamiyya* in defining the legitimate deputy of the Imam.

Of the Akhbārīs, Shaykh Yūsuf Baḥrānī put forth the priority of the learned jurist in the sense that he would appear to be more just in reporting traditions. Baḥrānī, however, by equating the quality of being the most learned with other criteria in the evaluation of tradition-reports,¹¹¹ leaves no doubt that the context of his notion of priority is confined to the Akhbārī concept of reporting traditions.

In contrast with Baḥrānī, Shaykh Ja'far Kāshif al-Ghiṭā' extended the scope of *a'lamiyya* to embrace an essential ele-

¹⁰⁹ Ibid., p. 278.

¹¹⁰ Amir Arjomand, *The Shadow of God*, p. 142. This Mīr Makhdūm appears to be the same Mīr Makhdūm Sharīfī, a grandson of Mīr Sayyid Sharīf Jurjānī, who converted into Shi'ism in the later part of his life. 'Alī Davānī included him among the associates of Shaykh 'Alī Karakī. See Davānī, *Mafākhīr-i Islām*, vol. 4, p. 448. Furthermore, 'Ālamārā-yi 'Abbāsī has an account about Mīrzā Makhdūm Sharīfī who was accused of having a Sunnī inclination and became co-*ṣadr* under Ismā'il II. See Turkaman, *Ālamārā-yi 'Abbāsī*, ed. Iraj Afshār, vol. 1, p. 152.

¹¹¹ E.g., the circularity of the reports, their accordance with the Qur'ān and their opposition to Sunnī views.

ment of the vicegerency of the Imam. In propounding the question of who should issue the *fatwā* in the case of necessary *jihād*, Shaykh Ja'far said:

It is obligatory to give preference to the best (*afḍal*), or to whom he has given permission and it is not permissible for anyone other than them to interfere in this matter.¹¹²

In his magnum opus, *Kashf al-Ghiṭā'*, after enumerating the individuals who might qualify for the position of general vicegerent of the Imam, he says that Shaykh Ja'far, as a superior *mujtahid* who can claim to be the vicegerent of the Imams, gave permission to Faṭḥ 'Alī Shāh to undertake the necessary actions in order to supply the war against the Russians.¹¹³

The principle of *a'lamīyya* appears to have been most effective in paving the way for the assumption of spiritual leadership in the role of *marja'* by Shaykh Muḥammad Ḥasan Najafī and Shaykh Murtaḍā Anṣārī. Neither of these two *mujtahids* enjoyed the strong family connections and royal patronage enjoyed by their immediate predecessors (of the Bibihānī and Tabātabā'ī families). Nor did they have far-reaching financial ties with merchant and artisan classes comparable to those of Shaykh Ja'far Najafī and Ḥujjat al-Islām Shafī. Shaykh Muḥammad Ḥasan established his reputation through his unprecedented work *Jawāhir al-Kalām* and his teaching circle which was attended by more than sixty *mujtahids*.¹¹⁴ The writing of this book, if not the great-

¹¹² Lambton, "A Nineteenth Century View of Jihād", *Studia Islamica* 32 (1970), p. 188, translation from *Kashf al-Ghiṭā'* by Shaykh Ja'far Najafī.

¹¹³ Najafī, *Kashf al-Ghiṭā'* p. 394.

¹¹⁴ Khwānsārī, *Rawḍāt al-Jannāt*, 8 vols. (Qum: Ismā'īlyān, 1980), vol. 2, p. 305.

est event for the Shi'is in the thirteenth/nineteenth century, as the contemporary biographer Khwānsārī remarked,¹¹⁵ was the most comprehensive work ever written in Shi'ite *fiqh*.

Shaykh Muḥammad Ḥasan introduced Shaykh Murtaḍā Anṣārī as his successor. Here also, the principle of *a'lamīyya* set a priority for Anṣārī whose distinctive characteristic, undoubtedly, was his learning and piety. It is interesting that Anṣārī did not assume the position of *marja'īyya* until he was sure that his former competitor, Sa'id al-'Ulamā' Māzandarānī was no longer superior to him.¹¹⁶ Anṣārī's manner of assuming the responsibility of *marja'īyya* is reflected in the fact that he ruled in favor of the obligation to follow the legal opinion of the *a'lam*.¹¹⁷

It is remarkable that with the exception of a few jurisprudents such as Shaykh Ṭūsī, who was silent on the subject of *a'lamīyya*, a growing majority of the Shi'ite 'ulamā' tended to prefer the obligation to follow the most learned, while the increasing tendency among Sunnī jurists was to prefer such a practice only if it was practical for the common Muslims. In this manner, the Shi'ite 'ulamā' substituted for the unrestricted choice of mufti the obligation to follow a more learned *mujtahid*. The principle of *a'lamīyya*, thus, set the most needed criterion for the choice of the supreme jurisprudent, which in turn led to the centralization of the Shi'ite learned hierarchy, to which we turn in the next chapter. An overall glance at the objective which the doctrines of *niyāba*, *ijtihād* and *a'lamīyya* had served demonstrates how delicately the conjunction of these notions worked to embody the position of a jurisprudent who acts on behalf of the Imam with supreme knowledge and with the best *ijtihād*.

¹¹⁵ Khwānsārī, *Rawḍāt al-Jannāt*, trans. by Sā'idī Khurāsānī, vol. 3, p. 83.

¹¹⁶ Murtaḍā Anṣārī, *Zindagānī*, p. 74.

¹¹⁷ Shaykh Murtaḍā Anṣārī, *al-Makāsib*, p. 153.

The Institutionalization of *Marja'ī Taqlīd*

The evolution of the Shi'ite learned institution entered a new phase in the nineteenth century when there appeared a central position, i.e., *marja'ī taqlīd* or supreme exemplar who sets patterns for the whole community. This position, which has no counterpart in Sunnite Islam, played a significant role in the contemporary history of Iran and Iraq. A number of surveys have recently been made to investigate the history and role of this institution.¹ Nevertheless, the informal structure of the Shi'ite learned establishment obscured the birth of both the concept and the institution of *marja'ī taqlīd* for some modern authors, some of whom considered the whole Shi'ite hierarchy and even the very definition of the 'ulamā' to be unstructured and ambiguous.²

The primary purpose of this chapter is to investigate

¹ After the recapitulation of the late Murtaḍā Muṭahhari's collection of essays on *Marja'iyat va Rūhānīyat* by Ann Lambton in "A Reconsideration of the Position of *Marja' al-Taqlīd* and the Religious Institution", *Studia Islamica* 20 (1964), pp. 115-35, the question of Shi'ite learned institutions attracted a number of Islamists who wrote about the role of the 'ulamā' with different historical and juridical perspectives. Jean Calmard's "Mardja'ī Taqlīd" in the new edition of *The Encyclopædia of Islam*, vol. 6, f. 107 (1989), pp. 548-56, provides a fitting reference of works before 1989 on this subject. The recent writings about *marja'īyya* which mainly center around the status of *marja'īyya* after Ayatollah Khomeini, will be discussed in the last part of this study.

² Roy Mottahedeh, *Loyalty and Leadership in an Early Islamic*

the juridical mechanism that moulded the institutionalization of *marja'ī taqlīd* in the mid-nineteenth century. This includes an examination of the tacit agreement of the generality of the 'ulamā' and their concurrence (*mulāba'a*) to the supremacy of a *marja'* (plural: *marajī*) in the first place, and the sequence of single and multiple leadership of the *marajī* in the second. Furthermore, we will reconsider the role of the regular payment of stipends and the application of titles in the institutionalization of *marja'īyya*.

The notion of *marja'* as a source for reference appeared in the Shi'ite traditions collected in the fourth/tenth century where the Imams referred their followers to the Shi'ite tradition-reporters (the 'ulamā') whenever an Imam was not accessible.³ These traditions vested

Society (Princeton: Princeton University Press, 1980), pp. 136-38.

- ³ The following traditions contain the idea of reference in the sense of necessity of reliance on the 'ulamā' during the absence of the Imams: i) The "noble decree" (*al-tawqī' al-Sharīf*) on the authority of the Twelfth Imam: "In the case of new events, you should turn for guidance to those who relate our traditions, because they are my proof to you, as I am God's proof to them." See Muḥammad b. 'Alī b. Mūsā Ibn Bābūya al-Ṣadūq, *Kamāl al-Dīn wa Tamām al-Ni'ma* (Qum: Mu'assasat al-Nashr al-Islāmī, 1970), pp. 484. ii) The acceptable tradition of Ibn Ḥanzala on the authority of the Sixth Imam: "I assigned those who report our tradition as ruling judge (*hakim*) among you. They know our injunctions concerning what is permitted and prohibited; thus people should comply with their rulings." See Muḥammad b. Ya'qūb al-Kulaynī al-Rāzī, *al-Uṣūl min al-Kāfī*, 2 vols., ed. by A. A. Ghaffārī, vol. 1, p. 67. iii) The tradition of Abū Khadija on the authority of the Sixth Imam who addressed his community: "Designate as judge someone among you who is acquainted with our injunctions concerning what is permitted and prohibited; for I appoint such a man as judge over you."

the 'ulamā' with some of the Imam's authority as his vicegerent in the Shi'ite community. Thus, the idea of reference to the 'ulamā' appeared on a par with that of vicegerency of the Imam in Shi'ite traditions. However, it does not mean that the Shi'i jurists were addressed as *marja'* at this stage nor did this notion bear any conceptualized meaning other than the customary reference. The *marja'* as a referential model for his followers is peculiar to the thirteenth/nineteenth century Shi'ite community, as we will see below.

The notion of *taqlīd*, in its rudimentary form, can also be found in the above-mentioned collections.⁴ But in its technical sense, i.e., following the speculative opinion of a *mujtahid* in the absence of a specific legal rule, it appears in the post-Mongol period with the Shi'ite school of Ḥilla providing new definitions for both *ijtihād* and its counterpart *taqlīd*. The juxtaposition of *taqlīd* with *marja'* and the advent of the concept of *marja'iyat-i taqlīd* in Shi'ite juridical thought are developments of the nineteenth century during which the Uṣūlī structure of the religious hierarchy proposed the obligation of following both the legal opinions and rulings of the most learned jurisprudent as a referential model.⁵ It was approximately thirty five years after the time when the idea of necessary reference to the learned was propounded in the juridical writings of the Qajar period, that the office of *marja'īyya* was institutionalized.⁶

The office of *marja'-i taqlīd* appeared as an institution in 1262/1846 when Shaykh Muḥammad Ḥasan Najafī (d. 1266/1850) was singled out by the death of all his competi-

See Shaykh al-Ṭā'ifa Muḥammad b. al-Ḥasan al-Ṭūsī, *Tahdhīb al-Aḥkām*, 10 vols., ed. H. Mūsavi Khursān (Najaf: Dār al-Kutub al-Islāmiya, 1961), vol. 6, p. 303.

⁴ E.g., Kulaynī, *al-Uṣūl*, vol. 1, p. 53.

⁵ See above, chapter three.

⁶ See below.

tors as the sole source for emulation in the Shi'ite community. This year is particularly important not only because of the events concerning the fatal Shaykhī and Bābī clashes over the true representation of the Imam's authority, but because of the fact that the dominant Uṣūlī current happened to be presided over by a single leader. Najafī, indeed, already embodied in himself the quality of being one of the most learned *mujtahids* who had built and financed his own network for teaching and delegating authority⁷ without depending on the bureaucratic patronage of the state.⁸ However, it was his uncontested term of leadership after the almost simultaneous deaths of his immediate rivals Shaykh Ḥasan Kāshif al-Ghiṭā' in Najaf and Sayyid Ibrāhīm Qazvinī in Karbalā during 1846 which qualified him for the title "absolute" (*muṭlaq*) or "full-fledged" (*tāmma*) *marja'*.⁹

This aspect of Shaykh Muḥammad Ḥasan's leadership was expressed in various ways by his biographers and contemporary authors. Nevertheless, the question one may pose here is what was really meant by *tāmma* or complete and general *marja'īyya*. Did it mean the all-inclusive totality of the Shi'ite community? Or did it particularly emphasize the con-

⁷ See Muḥammad Mahdī Kalhūmī's Kashmīrī, *Nujūm al-Samā'* (Qum: Baṣīratī, 1976), p. 76. Also, Abdurrahīm 'Aqīqī Bakhshāyishī, *Fuqahā-yi Nāmdār-i Shī'a* (Qum: Mar'ashī, 1985), p. 312.

⁸ Independence from state patronage is a major characteristic of the *marja'īyya* in question which differentiated it from the Safavid learned institutions.

⁹ According to the contemporary Muḥammad Bāqir Khwānsārī, Sayyid Ibrāhīm Qazvinī passed away in Shawwāl 1262/Oct. 1846 and Shaykh Ḥasan in the following month. These events were immediately preceded by the death of Ḥujjat al-Islām Shafī and Sayyid Mahdī Ṭabāṭabā'ī in 1260/1843. See Muḥammad Bāqir Khwānsārī, *Rawḍāt al-Jannāt*, vol. 2, pp. 304–308. Also see Tunakābunī, *Qīṣaṣ al-'Ulamā'*, p. 10.

currence of other 'ulamā' with the authority of a new supreme model? Since the *marja'īyya* was established on the basis of practical concerns rather than juridical analysis, a brief survey of the major biographical works may give us a better idea about these questions. Khwānsārī applied *tāmma* first to the comprehensive knowledge of Shaykh Muḥammad Ḥasan; later he emphasized his leadership over the Arabs and Iranians.¹⁰ Tunakābunī stated that the leadership of the Shī'is was passed on to him after Ḥujjat al-Islām Shaftī and Sayyid Ibrāhīm Qazvīnī.¹¹ Another contemporary, Kashmīrī, stated that he was not in competition with any Arab or Persian *mujtahid*; on the contrary all accepted his superiority.¹² Khiyābānī and Tihrānī reconfirmed the unique position of Shaykh Muḥammad Ḥasan. Tihrānī added that all contemporary 'ulama' considered him superior and the most advanced in learning.¹³

Tihrānī's last point gives enough indication that the issue of the complete *marja'* was a question relating to the leadership of such a *marja'* over other *mujtahids*. In fact, the concurrence of the same 'ulamā', as we will see, plays a major role in designating a candidate to the position of *marja'*. From the juridical point of view, the superiority of a *marja'* can be realized by the certification of two just and well-informed Muslims. In practice, however, we find no *marja'* who established his position on the basis of merely fulfilling the qualifications of witness testimony. Some

¹⁰ Ibid.

¹¹ Muḥammad Sulaymān Tunakābunī, *Qīṣaṣ al-'Ulamā'* (Tehran: 'Ilmiyya Islāmiyya, n.d.), p. 103.

¹² Muḥammad Mahdī Kashmīrī, *Nujūm al-Sama'* (Qum: Baṣratī, 1976), p. 73.

¹³ Muḥammad 'Alī Mudarris Khiyābānī, *Rayḥānat al-Adab*, 8 vols. (Tehran: Khayyām, 1967), vol. 3, p. 357; Shaykh Āqā Buzurg Tihrānī, *Ṭabaqāt A'lām al-Shī'a*, 2 vols. (Najaf: 'Ilmiyya, 1954), vol. 2, p. 311.

authors have tended to place emphasis on the free choice of *marja'* by a follower to the extent of claiming that the "*marja'* is in effect the willing dependent of the *muqallid*."¹⁴ This should not, however, obscure the fact that this choice must pass through the well-informed and expert members of the community.¹⁵ Consequently, the above statement does not mean that the common followers can directly qualify a *marja'* or choose any *mujtahid* without the latter being acknowledged by the generality of the '*ulamā'* for such a position. This acknowledgment involves a concurrence which is called *mutāba'a* (conscious following) through which the generality (i.e., an informal and unidentified majority of the '*ulamā'*) concurred and followed the general rulings of a senior learned jurist as their *marja'*. This is, in fact, the last step in the refinement of the new *marja'*. We therefore focus on this problem first and then deal with the single or multiple leaderships of *marāji'*.

The Informal Concurrence of the 'Ulamā'

In Shi'ism, the doctrine of consensus (*ijmā'*) was virtually ineffective in establishing a juridical ruling. Nevertheless, one part of this doctrine, i.e., the conscious following (*mutāba'a*) of the prevalent opinion (*al-qawl al-mashhūr*) or the opinion of a superior jurist, was instrumental in consolidating consultative juristic authority in the thirteenth/nine-

¹⁴ Abbas Amanat, "In Between the Madrasa and Marketplace: The Designation of Clerical Leadership in Modern Shi'ism", *Authority and Political Culture in Shi'ism*, ed. Said Amir Arjomand, p. 101.

¹⁵ Muḥammad Kāẓim Ṭabāṭabā'ī Yazdī, *al-'Urwa'l-Wuthqā*, p. 4. Yazdī proposed three methods of recognizing the authority of the most learned *marja'*: i) testimony of two juristic experts; ii) unchallenged evidence, and iii) convincing reputation of the *marja'* in question. The last method, in practice, operates through the concurrence of the body of the '*ulamā'*.

teenth century. There was insufficient support for the principle of consensus to flourish during the Safavid period. Shaykh Ḥasan 'Āmilī, the author of the celebrated *Ma'ālim al-Uṣūl*, not only confined the legality of *ijmā'* to exclusive cases where it includes the word of the Imam,¹⁶ but he also tended to undermine the validity of the practice of following a prevalent view by stating that most of these views were originally presented by Shaykh Ṭūsī and later 'ulamā' assumed them to be prevalent opinions.¹⁷

Mirzā Abū'l-Qāsim Qummī (d. 1231/1815), one of the most Uṣūlī-minded jurists of the nineteenth century, re-established the principle of *mulāba'a* both in doctrine and in practice. He excluded the necessity of the presence of the Imam by holding that the very consensus of a number of 'ulamā' would be demonstrative (*kāshif*) of the implied word and consent of the Imam.¹⁸ Qummī upheld the validity of *shuhra* (fame) and conscious following of the prevalent view, refuting the author of *Ma'ālim al-Uṣūl* for ignoring the fact that Shaykh Ṭūsī had expressed various views in each one of his books. Because of Ṭūsī's tendency to cite conflicting views he cannot be the source of generating the prevalent views in Shī'ī *fiqh* unless they were explicitly maintained by later 'ulamā'.¹⁹

Qummī considered *mulāba'a* as a concomitant component of *ijmā'* and based its validity on the Qur'anic verse, 4:115 "As for the one who opposes the messenger, after the guidance has been pointed out to him, and follows other than the believers' way, we will direct him in the direction he has chosen, and commit him to Hell; what a miserable destiny." Qummī concluded that "believers' way" (*sabīl al-*

¹⁶ Shaykh Ḥasan b. Zayn al-Dīn al-'Āmilī, *Ma'ālim al-Uṣūl*, p. 200.

¹⁷ *Ibid.*, p. 204.

¹⁸ Mirzā Abū'l Qāsim al-Qummī, *Qawānīn al-Uṣūl* (Tehran: Lithograph, 1378/1958), pp. 356, 373.

¹⁹ *Ibid.*, p. 374.

mu'minīn) by itself constitutes a positive practice and whoever discards it deviates from the practice of *mutāba'a*.²⁰ In order to secure the occurrence of such a consensus and *mutāba'a*, Qummī upheld Muḥammad Bāqir Bihbihānī's doctrine that "general knowledge" (see chapter three) is sufficient and reconfirmed it by quoting 'Allāma Ḥillī, "we take the consensus of the community as perceptual knowledge (*al-'ilm al-wijḍānī*)."²¹ According to Qummī, having a full and detailed knowledge of the words of the 'ulamā', and even of the Imam, would nullify the use of the consensus.²²

It is noteworthy that Qummī did not allow a *mujtahid* to prevent referral to another *mujtahid* because of the latter's juridical mistakes. He preferred freedom (*tarkhīṣ*) in the choice of *mujtahid* rather than employing the principle of promoting good and preventing evil.²³ It is evident that one of the things which resulted from the emergence of the above principle of *tarkhīṣ*, and its subsequent application to the choice of *marja'*, was that it facilitated the consolidation of the Shi'ite learned position by preventing internal antagonism among the 'ulamā'. Nevertheless, the alternation of *mujtahids*, in cases wherein a more learned candidate is found, was adopted by the later authors.²⁴

Against this background, we see that the consolidation of the authority of the 'ulamā' entered a new phase with the Uṣūlī *mujtahids* of the early Qajar period. Redefining the principles of consensus and *mutāba'a* in a new form seems to have provided the 'ulamā' with more juristic bases for the necessity of the coordinating efforts. The same Qummī directly applied the principle of *mutāba'a* to the position of *marja'* as the source of emulation. The following passage

²⁰ Ibid., p. 361.

²¹ Ibid., p. 370.

²² Ibid., p. 361.

²³ Ibid., p. 384.

²⁴ Yazdī, *al-'Urwa'l-Wuthqā*, p. 4.

appears to be the oldest juridical analysis of the role of *marja'* and his binding pronouncements as far as we have been able to investigate. This passage was included in a personal letter by Qummī addressed to Mullā 'Alī Nūrī in 1227/1812.

Nūrī, who was considered the best exponent and promoter of the theosophical thought of Mullā Ṣadrā in Iran, took the initiative in choosing a particular *mujtahid* to follow in matters of religion, although he himself was an indisputable *mujtahid* as well as theosopher.²⁵ He chose Qummī²⁶ as the *mujtahid* he would refer to in matters concerning specific legal and ritual observances. In a cordial and friendly letter, Nūrī put forth the problem which he faced regarding his prayers. This letter which was quoted by Tunakābunī may be summarized as follows:

Twenty years ago, when I was studying under Āqā Sayyid Ḥasan in Qazvin, he advised me to recite the tetrad rosary (*tasbīḥāt-i arba'a*) instead of the first sura in

²⁵ Mulla 'Alī Nūrī's attitude to the orthodox 'ulama' on the one hand can be seen as the ultimate relinquishment of the mystical and philosophic currents in favor of the growing supremacy of the *mujtahids*, and on the other hand, it was a delicate compromise which aimed at securing the survival of the transmission of theosophical texts through the curriculum which designated that they were to be taught along with legal and ritual texts of *fiqh*. However, it is apparent from our sources that Nūrī was extremely precautionary in order to avoid any possible excommunication. In fact, Tunakābunī speaks about Nūrī's rumored excommunication by the same Qummī, who rejected the idea of issuing the *fatwā* of excommunication when Nūrī approached Qummī and inquired how he should correct his belief. See Tunakābunī, *Qīṣaṣ*, p. 183.

²⁶ After the death of Qummī in 1231/1815, Nūrī chose his former student, Ḥujjat al-Islām Shafī, as his model in religious matters. See Tunakābunī, *Qīṣaṣ*, p. 150.

my supererogatory prayers. Because of my good faith in him, I rendered my prayers in accord with his opinion. I continued in this fashion even when I had an audience with the Reviver of the tradition of the religious gnostics, Āqā Muḥammad Bīdabādī.²⁷ Bīdabādī, too, advised me to continue prudent practices since we had no better way during the occultation of the Imam from the community. However, recently, I realized that the principle of prudence requires the opposite of what I used to practice. I consulted your book, *Murshid al-'Awāmm*, and I found that you have made it clear that *tasbīḥāt* were not permissible in this manner. Thus, I see no way but to redo all those prayers.²⁸

The response of Qummī contains a technical Uṣūlī discussion within which he demonstrated his pragmatic approach to Sharī'a. He repudiated the principle of prudence by stating that *iḥtiyāt* means nothing but the reapplication of speculative reasoning and he argued that God, the Most High said, "God does not wish to make the religion difficult for you" (5:6), and that this was also emphasized by the Prophet in his statement, "Islam is generous and easy to perform." The principle of prudence, according to Qummī, requires more hardship and is a waste of time.²⁹

²⁷ Muḥammad b. Muḥammad Rafī' Bīdabādī (d. 1198/1783) was essential in transmitting the philosophy of Mullā Ṣadrā to a newer generation. Nūrī, by praising him as *Muḥīy marāsim al-'urafā' al-mutasharri'in* has given Bīdabādī a title to which he was more suited. See Tunakābunī, *Qīṣaṣ*, p. 154.

²⁸ Ibid., pp. 152-54.

²⁹ Ibid., p. 159.

A learned jurist like you cannot spend his time redoing his prayers under the pretext of *iḥtiyāt* since your time is needed, perhaps it is necessary for teaching and administering the judicial affairs of the people.³⁰

The proof of God, after the Imams is the so called *mujtahid* who can infer God's ruling from the proper sources. Thus the obligation lies in seeking a qualified *mujtahid*. If one knew that he should seek a *mujtahid* and failed to do so, he must redo his religious rituals. But if he sought a *mujtahid* and followed his opinion, he would not be considered responsible in my mind...According to the Imāmī principles, it is not allowed to overload a Muslim with various duties which he cannot fulfill.

...To sum up, the choice of *marja'* and resort (*milādh*) during the absence of the Imam is verily a topic of *kalām* theology as is the certainty in the Imam. It is not a problem of *fiqh*. Both revelation and intellect testify that *marja'* is a learned jurist who is able to infer religious ordinances from the sources. If one understands this and still contents oneself with what his parents or school teachers said, he would certainly be responsible.

...In your case, I think you could be excused if you had no idea of having pos-

³⁰ Ibid.

sible access to a superior *mujtahid*; and in your mind, he was pronouncing God's ordinance even though in reality he was wrong or was not qualified enough to give legal opinion at all. Your shortcoming, thus, is not in performance of prayer, rather it is in your choice of *marja'*. If you generalize this case and include the public interest, you would see that the problem rests in finding a true and superior *mujtahid*.³¹

In the above manner, we see that 35 years before the advent of the sole *marja'*, the necessity of choosing a superior *mujtahid*, and the category to which the problem of *marja'iyya* belongs was discussed by a strict Uṣūlī jurist who also defended the legality of the concurrence of the generality of the 'ulamā'. Qummi's account of *marja'iyya* demonstrates that the clerical hierarchy was in pressing need of introducing a supreme religious authority during the absence of the Imam from the community. The *esprit de corps* among the Uṣūlī 'ulamā' can be seen in their increased reference to the two famous traditions of Ibn Ḥanẓala and Abū Khadija which referred the people to the 'ulamā' during the occultation for solving religious issues. Muḥammad Ja'far Astarābādī, a *mujtahid* of Karbala, employed this tradition to comply with juridical ruling of a *mujtahid* by another *mujtahid*. He categorically accepted the denouncement of Shaykh Aḥmad Aḥsā'i (the founder of Shaykhism) by the senior *mujtahid* Sayyid Muḥammad Ṭabāṭabā'i according to the tradition of Ibn Ḥanẓala.³²

³¹ Ibid., p. 162.

³² Murtadā Mudarrisi Chārdihī, *Simā-yi Buzurgān* (Tehran: Amīr Kabīr, 1956), p. 30.

Another incident which demonstrated the obligation of referring to the authority of *marja'* is the answer of the *mujtahid* of Kirman to the Bāb's call for allegiance. This *mujtahid* (Ḥajj Aḥmad Āqā) said to the Bāb's envoy: "I have no full-fledged *marja'iyya* (*tāmma*). There are superior *mujtahids* in 'Atabāt whom I follow. If they justify the Bāb's claim, I would naturally follow them."³³ This indicates the growing tendency towards a more centralized religious authority which was needed to face the new confrontations posed by Shaykhis and Bābīs. The local *mujtahids* began to look to the 'Atabāt for the ultimate authority to pronounce religious rulings which facilitated achieving a concurrence of the generality of the 'ulamā'.

Single or Multiple Leadership

Since the thirteenth/nineteenth century, the learned hierarchy of the Shi'ite 'ulamā' established an informal structure of authority which was alternately presided over by single or multiple leadership of the emerging institution of *marja'-i taqlid*. The presence of Muḥammad Bāqir Bihbihānī, the famous renewer of Uṣūlism, as the sole authority was followed by two generations of multiple leadership found in his direct and indirect pupils during which the concept of *marja'iyya*³⁴ was formulated but had not manifested itself until it was singled out by Shaykh Muḥammad Ḥasan Najafī and later formally established by the designation of Shaykh Murtaḍā Anṣārī.

After the death of Bihbihānī in 1205/1790, the Shi'ite community of Iranian and 'Atabāt cities, for the first time, was spiritually led by a certain number of Uṣūlī 'ulamā' who

³³ Chārdihī, *Shaykhigari, va Bābigarī* (Tehran: Furūghī, 1966), pp. 136, 158; quoting from *Bihjal al-Ṣudūr* by Mirzā 'Alī Iṣfahānī.

³⁴ I.e., in its specific sense, as we have discussed with regard to the writings of Mirzā-yi Qummī.

demonstrated solidarity rather than their traditional dissension. Among the students of Bihbihānī, only Mullā Maḥdī Narāqī (d. 1209/1794), the famous author of *Jāmi' al-Sa'ādāt* had a philosophical orientation rather than a purely Uṣūlī tendency. The rest of Bihbihānī's pupils upheld a unique Uṣūlī approach with little difference in minor cases of jurisprudence. By adopting a strict Uṣūlī approach to religious matters, these 'ulamā' appeared to solidify their positions against any Akhbārī threat that would deprive them of their newly-gained prerogatives. These leading *mujtahids* include Sayyid Maḥdī Baḥr al-'Ulūm (d. 1212/1797) who advanced Uṣūlī curriculum by writing two commentaries on principles of jurisprudence and teaching them in Najaf; Sayyid Maḥdī Shahrastānī (d. 1216/1801), who did the same in Karbala by writing *al-Maṣābiḥ fī'l-Fiqh*; Shaykh Ja'far Kāshif al-Ghiṭā' (d. 1228/1813), the celebrated author of *Kashf al-Ghiṭā'*, who practically gave a new application to the principle of *'alamīyya* (superiority of the most learned jurist) and *niyāba* (the vicegerency from the Imam); Sayyid 'Alī Ṭabāṭabā'ī (d. 1231/1815), a son-in-law of Bihbihānī, who inherited not only the latter's teaching base in Karbala but took his legacy, and finally, Mirzā Abū'l-Qāsim Qummī in Qum.

Except for Baḥr al-'Ulūm, all of the above-mentioned scholars were against the study of theology (*kalām*), philosophy and mysticism and adopted a strict Uṣūlī approach to religious matters. Baḥr al-'Ulūm studied some philosophy and theology while maintaining the Uṣūlī approach in jurisprudence. Nevertheless, the integrity of the 'ulamā' mentioned above, played a decisive role in both the victory of the Uṣūlī school and the establishment of *marja'īyya*. If Bihbihānī was designated as an "epoch maker" (*mujaddid*), the solidarity of the above *mujtahids* should be considered as the first embodiment of the rudiments of the institution of *marja'īyya* in its specific sense. The above-mentioned Kāshif al-Ghiṭā' and Qummī were, in fact, addressed by the titles *nā'ib al-Imām* and *marja'* not only by the contemporary king

Faṭḥ 'Alī Shāh but also by their students.³⁵

By solidarity, we mean the spirit of fellowship and integrity of the above 'ulamā'. This sense was in contrast to the doctrine promoted by the Akhbārīs, Sufīs and Shaykhīs who had an indirect and sometimes direct pretension to the authority of the Imam. Had this not been the case, an efficient leadership would never have been able to function since most of the above *mujtahids* lived in different cities with different numbers of participants in the multiple leadership. In fact, the essential component of this unique juridical policy lies, again, in the same informal concurrence.³⁶

With the decline of the above 'ulamā', a new generation of *mujtahids* emerged at the head of the Shi'ite hierarchy. Most of these jurists were within the same category and primarily descended from the same families. At different times, the following 'ulamā' were considered the supreme *mujtahids*. Sayyid Muḥammad Ṭabāṭabā'i (1241/1825), the grandson of Bihbihānī, became prominent particularly for his role in declaring *jihād* during the second Perso-Russian war (1826–1828) which earned him the title of *mujāhid* although his teaching reputation was also significant.

Mullā Aḥmad Narāqī combined knowledge of *fiqh* with literary and ethical writings; however, his reputation is due to his command of jurisprudence and Uṣūlī analysis. Shaykh Mūsā and Shaykh Ḥasan, being sons of the great Kāshif al-Ghiṭā', were especially popular among Shi'ite Arabs of Iraq. Ḥujjat al-Islām Shafī's efficient handling of the religious affairs of Isfahan not only made him a center of authority for Iranians and some Indians but indicates his great ambition for power which went beyond the scope of *marja'īyya*. Sayyid

³⁵ 'Alī Davānī, *Vaḥīd-i Bihbihānī* (Tehran: Amir Kabīr, 1983), pp. 257–64.

³⁶ Most Shi'ite biographers tend to characterize the position of the above leading 'ulamā' as chiefs (*ra'īs*) rather than *marja'*, or both together.

Mahdī Ṭabāṭabā'ī (1260/1844), another grandson of Bihbihānī, found his leading popularity mainly through his family connections and piety as well as in his role during the second trial of the Shaykhī leader Sayyid Kāzīm Rashtī. Sayyid Ibrāhīm Qazvinī's public recognition is due to his Uṣūlī work *Ḍawābiṭ al-Uṣūl* and his teaching ability.

Next to the above leading *mujtahids*, we should mention another six high-ranking contemporaneous 'ulamā', none of whom, for different reasons, were considered *marja'*: Mullā 'Alī-Nūrī who was a pioneering figure in promoting the idea of selecting a religious model, had theosophical orientation and could not enter the race for *marja'iyya*. Sharīf al-'Ulamā' Māzandarānī, the well-known teacher of Anṣārī was surpassed by Sayyid Mahdī Ṭabāṭabā'ī in Karbala. Muḥammad Ibrāhīm Kalbāsī, the author of *Ishārāt fi'l-Uṣūl* lived under the shadow of Ḥujjat al-Islām Shaftī. Mullā Ḥādī Sabzavārī, the celebrated mystic and theologian having a theosophical orientation, could not fit into the hierarchy of Uṣūlī jurisprudence even if he had wanted to join their ranks. Muḥammad Ja'far Astarabadī, the Imam Jum'a of Tehran, and Muḥammad Taqī Baraghānī did not have a teaching and financial network of their own. Thus these 'ulamā' either did not want to or could not, for one reason or another, assume a prominent part in the collective leadership of the chiefs.

In 1262/1846, Shaykh Muḥammad Ḥasan Najafī singled out all six contemporary chief *mujtahids* and five out of the six second ranking 'ulamā'.³⁷ In all of the shrine cities of 'Atabāt, Qum and Isfahan, he was uncontested by any *mujtahid* who was equal to his prestige, teaching and financing abilities. The immediate effect of Shaykh Muḥammad

³⁷ I.e., second ranking as far as the status of *marja'* is concerned. Otherwise, Mullā Ḥādī Sabzavārī, for example, cannot be considered second ranking compared to any of the above-mentioned jurists.

Ḥasan's exclusive *marja'īyya* was reflected in the new circulation of his legal manual *Najāt al-'Ibād* as the most popular *risāla 'amalīyya*. The *marja'īyya*, henceforth, appeared as an institution rather than a personal office of the chief *mujtahid's* network. The way in which Najafī consolidated the various Shi'ite centers and introduced a capable successor (Anṣārī) to his position indicates that he was aware of the institutional functions which devolved upon the *marja'īyya*.

Shaykh Muḥammad Ḥasan was born in Najaf of an Isfahānī family in 1202 /1787.³⁸ He studied under Shaykh Ja'far and his son Shaykh Mūsā Kāshif al-Ghiṭā'. Also he benefitted from Sayyid Jawād 'Amili and Shaykh Aḥmad Aḥsā'i from whom he obtained the license for quoting traditions and performing *ijtihād*. While studying under Shaykh Ja'far, he began writing his encyclopaedic work, *Jawāhir al-Kalām*, which he finished in 1254/1838.³⁹ This work gained widespread recognition because of its comprehensive and mild Uṣūlī character which was suitable for various expectations. *Jawāhir al-Kalām* combines Akhbārī achievements of the new traditionist interpretation—as depicted in Baḥrānī's *al-Ḥadā'iq*—with the Uṣūlī rational arguments as manifested in Narāqī's *Mustanad al-Shī'a*.

In spite of the fact that Aḥsā'i was his teacher, Najafī did not hesitate to condemn Shaykhīs especially after the death of Aḥsā'i. He not only gave a *fatwā* denouncing Shaykhīs but fought against any dubious interpretation of the religious texts. He even ordered the temporary removal of a special prayer for visitation (*ziyāratnāma*) posted on the gate of the shrine in Najaf. This prayer addresses Imam 'Alī as: "O he who is the station of grace and consolation."⁴⁰ Najafī evidently did not want to leave room for any state-

³⁸ Shaykh Aqā Buzurg Tihrānī, *Ṭabaqāt A'lām al-Shī'a* (2 vols., Najaf: 'Ilmiyya, 1954), vol. 2, p. 311.

³⁹ Ibid.

⁴⁰ Tunakābunī, *Qīṣaṣ*, p. 58.

ment concerning the stages for inspiration. This incident occurred before 1259/1843 when Najafī was not the sole *marja'* of the Shi'is. According to Bābī sources, Najafī played a major role in expelling the Bāb's emissary from Najaf in the summer of 1260/1844.⁴¹

Shaykh Muḥammad Ḥasan Najafī, perhaps because he was the sole authority at the top of the Shi'ite hierarchy, was more conscious than previous leaders of his responsibilities and started to delegate his authority to his students or the local 'ulamā' in a manner which was unprecedented in Shi'ite history. Najafī, however, differentiated between delegating his authority for administration of justice and giving the permission of *ijtihād*. When the contemporary Muḥammad Shah criticized him of turning Najaf into a factory for producing *mujtahids*, Najafī is quoted to have emphasized the necessity of such delegation.⁴² A number of local 'ulamā' had been receiving their shares of alms on the authority of the *marja'* who delegated his authority to them.⁴³ This new process closely tied the interests of the local 'ulamā' with that of the *marja'* because it provided stronger links between the two parties. We have evidence which indicates that Najafī refused to accept alms from cities where he had assigned a deputy. He sent 30,000 Bishlak back to Baghdad where his former student Āl Yāsīn represented him.⁴⁴

⁴¹ Abbas Amanat, *Resurrection and Renewal: The Making of the Babi Movement in Iran: 1844-50* (Ithaca & London: Cornell University Press, 1989), p. 219.

⁴² See Tihrānī, *Ṭabaqāt*, vol. 1, no. 3, p. 1205.

⁴³ See Muḥammad Ibrāhīm Jannā'ī, "Sayr-i Tārikhi-yi Taqlid az A'lam", *Kayhān-i Andīsha* (1986), pp. 25-27. Those local 'ulamā' who did not have a delegated authority also benefitted from the seasonal payments to the *marja'*. We know that it was a policy of all *marajī'* to serve the interest and reputation of the local 'ulamā'.

⁴⁴ 'Abd al-Raḥīm 'Aqīqī Bakhshāyishī, *Fuqahā-yi Nāmdār-i Shi'a*

The presence of a sole *marja'* at the top of the Shi'ite hierarchy continued after Najafī who, on his death-bed, introduced Anṣārī as the next supreme exemplar. The selection of the fifty-two year old Anṣārī, known for his scholarly endeavors, indicates the absence of any other *mujtahid* in the 'Atabāt with a reputation or influence which could compete with that of Anṣārī. This can be confirmed by the fact that Anṣārī, too, did not see any potential competitor for his position in the 'Atabāt and invited Sa'id al-'Ulamā' from northern Iran to come to Najaf and to share the responsibility of *marja' iyya*.⁴⁵

Shaykh Murtaḍā Anṣārī was born in Dizfūl in 1214/1799 and studied under Sharif al-'Ulamā' in Karbalā, Mulla Aḥmad Narāqī in Kāshān, Shaykh Mūsā and Shaykh 'Alī Kāshif al-Ghiṭā' in Najaf. Unlike Najafī, Anṣārī did not engage in issuing *fatwās* on Shaykhī or Bābī questions. His reputation was based on his piety, teaching ability and scholarly writings. By consistent application of the four rational principles (*al-uṣūl al-'amaliyya*), he provided a new scope to the discourse on *fiqh*. These principles as used by Anṣārī was that of an interplay between practical and theoretical constraints. Anṣārī's analytic approach equipped the dominant Uṣūlī trend with a much-needed rationality which attracted the sympathy of some Modernist forces in the following period. Anṣārī's presentation of *fiqh* and *uṣūl* prevailed in the juridical teaching system and became a hidden source of Uṣūlī strength in the lively and on-going struggle against the Shaykhīs, Sufis and now the Bābīs.

In addition to his knowledge and piety, Anṣārī proved to be endowed with a fair and just character which was the third prerequisite for a *marja'*. His aversion to the accumulation of wealth which is demonstrated by his practice of

(Qum: Mar'ashī, 1985), p. 315.

⁴⁵ Murtaḍā Anṣārī, *Zindagāni, va Shakhṣiyat-i Shaykh-i Anṣārī* (Tehran: Ittilāḥ, 1960), p. 74.

immediately distributing bequests to the needy and students of religion is among the other personal features which prompted some of the later authors to include this characteristic among the qualifications for the *marja'*.⁴⁶

Anṣārī's sole leadership of the Shi'ite hierarchy from 1266/1849 to 1281/1864 set a new record of universal recognition and charitable funds flowed to Najaf although he remained completely aloof from political and controversial matters. Despite his refusal to become involved in politics, he maintained a variety of spiritual, juridical and financial connections with the different classes of his Shi'i followers and thereby expanded the system of delegation and finance practiced by Najafī. Anṣārī, perhaps more than Ḥujjat al-Islām Shafī, made funds available to the Shi'ite hierarchy but reportedly "his lifestyle was that of the poor and, at his death, he left only 70 *qarān* (£3.00 approx.)."⁴⁷

Anṣārī did not introduce a successor to his position although he was well aware of the capability of his students. Anṣārī might have preferred the practice of free choice (*tarkhīṣ*) in selecting a *marja'* as we saw in the passage of Qummi. After the death of Anṣārī, no single jurisconsult immediately assumed his position. For a period of at least ten years, the Shi'ite leadership was divided between the more capable Mirzā Ḥasan Shīrāzī and his seniors Mirzā Ḥabībullāh Rashū (d. 1312/1894) the author of *Badāyi' l-Aḥkār* and Sayyid Ḥusayn Kūhkamara'i (d. 1299/1882) who was popular among Turkish speaking Shi'is. Only after the death of Kūhkamara'i and the surrender of Rashū did Shīrāzī emerge as the sole supreme source of emulation for a period of twenty-one years. The contemporary author Yahyā Dawlatābādī gives a revealing account of how Shīrāzī

⁴⁶ Yazdī, *al-'Urwa'l-Wuthqā*, p. 4.

⁴⁷ Moojan Momen, *An Introduction to Shi'ī Islam: The History of Doctrines of Twelver Shi'ism* (New Haven: Yale University Press, 1985), p. 311.

won the "single leadership" by moving to the small and lesser-known town of Sāmarrā, and by founding an independent center of learning for himself.⁴⁸ In 1308/1891, Shīrāzī's celebrated *fatwā* concerning the Tobacco Concession proved that the institution of *marja'īyya* could play a significant part in political matters despite the customary reluctance on the part of the *marja'* to become embroiled in politics.

After the death of Shīrāzī, five *mujtahids* shared the leadership of the Shi'ite hierarchy; but only Muḥammad Kāzīm Khurāsānī (d. 1329/1911) the eminent pro-Constitution jurist, and Muḥammad Kāzīm Ṭabāṭabā'i Yazdī (d. 1337/1918) the author of the famous treatise *al-'Urwa'l-Wuthqā*, were acknowledged as the sole *marja'* for a period of three and nine years respectively.⁴⁹ Following the death of Yazdī, the multiple *marja'īyya* was represented by the following 'ulamā': Muḥammad Taqī Shīrāzī (d. 1339/1920) whose *jihād* declaration is considered one of the most influential factors in Iraq's independence movement in 1920; Faṭḥullāh Sharī'at Iṣfahānī (d. 1339/1920) who briefly monitored the Shi'ite center of Najaf although in the shadow of Shīrāzī II; Muḥammad Iḥṣayn Nā'inī (d. 1315 sh/1936) the famous author of *Tanbīh al-Umma* in which he tried to justify Constitutionalism according to the Shi'ite doctrine of the Imamate; Shaykh 'Abd al-Karīm Ḥā'irī (d. 1315 sh/1936), the founder of the religious center of Qum in the fourteenth/ twentieth century, and finally, Sayyid Abū'l-Ḥasan Iṣfahānī (1325 sh/1947), the only one who was singled out as the sole source for emulation for a period of ten years.⁵⁰

⁴⁸ Yaḥyā Dawlatābādī, *Tārīkh-i Mu'āṣir: Ḥayāt-i Yahyā*, 4 vols. (Tehran: Intishārāt-i 'Atṭār, 1992), vol. 1, p. 215.

⁴⁹ The other *mujtahids* include Mullā Muḥammad, known as Fāḍil Sharabiyānī (d. 1322/1904), Shaykh Muḥammad Ḥasan Mamaqānī (d. 1323/1905), Mīrzā Ḥusayn Tihrānī (d. 1326/1908).

⁵⁰ See, e.g., Mudarris Khiyābānī, *Rayḥāna*; Tihrānī, *Ṭabaqāt*;

In 1325 sh/1947, Ayatollah Burūjirdī appeared as the sole *marja'* and remained uncontested in this position for over fifteen years. Besides his personality and well-balanced handling of the affairs of religious centers, Burūjirdī contributed to Shi'ite *fiqh* by rewriting Imāmī traditional sources on a new comparative basis in which Sunnī traditional sources, too, are taken into consideration.⁵¹ After his death the *marja'iyya* of the Shi'ite community was divided among the eight high-ranking *mujtahids*, none of whom was singled out as the sole *marja'*.⁵² It is remarkable that after the emergence of the institution of *marja'iyya*, except for the years that Shirāzī spent in Samarra, Najaf was the seat of the *marāji'*. In 1299 sh/1920, Ayatollah Ḥā'irī reestablished the teaching center of Qum, a shrine city which had been abandoned since Qummī. Thereafter, Qum became the second seat of the *marāji'* after Najaf.

The Regular Payment of the Stipends

Another element which contributed to the institutionalization of the institution of *marja'iyya* was the regular payment

Bakhshāyishī, *Fuqahā*; Jannāti, "Maṣādiq-i A'lam".

⁵¹ See Ḥusayn Ṭabāṭabā'i Burūjirdī, *Jāmi' al-Aḥādīth al-Shi'ah*, 17 vols. (Qum: 'Ilmiyya, 1978).

⁵² These *marāji'* include Sayyid Muḥsin Ḥakim (d. 1349 sh/1970), the meticulous writer of *Mustamsik al-'Urwa'l-Wuthqā*, an analytic research work on *al-'Urwa*, Sayyid Abū'l Qāsim Khu'ī in Najaf (1371 sh/1992), who continued Burūjirdī's innovative investigation of *ḥadīth* in addition to his own analysis of jurisprudence, Sayyid Aḥmad Khwānsārī (d. 1263 sh/1985) in Tehran, Sayyid Shihāb al-Dīn Mar'ashī (d. 1369 sh/1990), the founder of the biggest library of Shi'ite sources, Sayyid Kāẓim Shari'atmadārī (d. 1364 sh/1985) Ayatollah Khomeini (d. 1368 sh/1989), Sayyid Muḥammad Riḍā Gulpāyigānī in Qum, and Sayyid Hādī Milānī (d. 1355 sh/1976) in Mashhad.

of the stipends for the students. We know that it was a universal principle in Islamic institutions of learning that the master or teacher of such an institution was responsible for, at least, part of the cost of the student's maintenance in the school. In the Sufi tradition, we find many instances wherein the living expenses and spiritual training of the students were left to the master of the *khānaqāh*.⁵³ In Shi'ism, we know that the tradition of salary or regular payments existed since the time of Sayyid Murtaḍā.⁵⁴ Before the Safavid period, the Shi'ite 'ulamā' benefitted from the state grants⁵⁵ and pious endowments made by the Buyids and Ilkhanids to the Shi'ite centers of Baghdad and Hilla. These sources of income, however, did not constitute an independent and stable income for the 'ulamā'.

During the late Safavid period and thereafter, the development of Muḥarram processions and the shrine pilgrimages provided such independent resources for the *mujtahids*, especially those in 'Atabāt. The development of Shi'ite ritual processions attracted the Iranian professional classes (*aṣnāf*) and directed their pious donations to the 'ulamā' who just began to incorporate some parts of popular religion such as elegies and visitation of tombs into juridical works.⁵⁶ The triumphant Uṣūlī *mujtahids* benefitted from

⁵³ Muḥsin Kiyānī, *Tārīkh-i Khānqāh dar Irān* (Tehran: Ṭahūrī, 1990), pp. 271–322, 340.

⁵⁴ It is reported that Shaykh Ṭūsī received the highest stipends among the students of Murtaḍā. See Murtaḍā, *al-Dharī'a*, introduction by A. Gurgī, p. 110.

⁵⁵ Before the Safavid period, the Shi'ite 'ulamā' benefitted from the state grants made by the Buyids and Ilkhanids to the Shi'ite centers of Baghdad and Hilla.

⁵⁶ E.g., Muḥammad Baqir Majlisī, *Biḥār al-Anwār*, 110 vols. (Beirut: al-Wafā, 1983), vols. 97–99 & 45, pp. 242–294. Concerning the role of Majlisī in the expansion of popular religion, see also Said Amir Arjomand, *The Shadow of God*, p.

the growth of these ritual services which attracted *khums* payers to the Shrine cities. The 'Atabāt also enjoyed relative stability following an agreement between the Ottoman and Iranian authorities in 1241/1825 which facilitated the journey to the Shrine cities. This encouraged *khums* payers to regard the 'ulamā' of the 'Atabāt as the most legitimate receivers of the Imam's shares. According to Ayatollah Muṭahharī, the very concentration of the payment of the Imam's shares from the various cities in the 'Atabāt strengthened the clerical organization in Shi'ism.⁵⁷ When the collection of the three shares of the Imam became a customary prerogative of the *mujtahids* of 'Atabāt, the Shi'ite 'ulamā' could overcome at least the geographical diversity of their informal hierarchy. The internal dissension, to borrow Calmard's term,⁵⁸ had never been solved but was compromised and maintained by either the single or multiple leadership until the present time.

Attainment of this financial independence was one of the motives which brought some eminent local jurists such as Bihbihānī and Anṣārī back to 'Atabāt. No doubt, the 'Atabāt 'ulamā' were now in a better position to finance their teaching centers. Nevertheless, we have no evidence of any systematic payment of the stipends from other cities before Najafī. In the mid-nineteenth century, the absence of any high-ranking *mujtahid* in Karbalā put Najafī in the position of taking direct charge of the financial necessities of a large number of students in the three shrine cities of 'Atabāt. This should have contributed to a better consciousness of the authority of the *marja'* as we see in Najafī's urge to introduce a specific successor for this position.

169; "The Mujtahid of the Age and Mulla-bashi" in *Authority and Political Culture in Shi'ism*, p. 84.

⁵⁷ Murtaḍā Muṭahharī, *Baḥthī, darbāra-yi Marja'iyat va Rūḥānīyat*, p. 180.

⁵⁸ Calmard, "Mardja'-i Taḳlīd", p. 550.

Congruent with the evolution of the Shi'ite learned hierarchy, rational treatises (i.e., *risāla 'umaliyya*) summarizing the legal opinions of leading jurists became popular. These treatises were written in simple language and frequently in Persian. The first of these treatises was sponsored by Shāh 'Abbās in an attempt to Persianize Shi'ite law. Shaykh Bahā'i's *Jāmi'-i 'Abbāsī* and Muḥammad Taqī Majlisī's *Aḥkām al-Sharī'a*⁵⁹ have little to do with their own legal opinions although these works reflected their conceptions of religious rulings. However, Majlisī the Younger wrote several treatises for Persian readers⁶⁰ in which his opinions on Shi'ite positive law are included.

After the reestablishment of the Uṣūlī school by Bihbihānī, his students who had written works based on argumentation, now started to write these new treatises which aimed at reasserting the authority of the *mujtahids* in addition to providing explanation of legal opinions. Shaykh Ja'far Kāshif al-Ghiṭā' wrote *Baghyat al-Tālib*, Sayyid 'Alī Ṭabātabā'i and Mullā Aḥmad Narāqī wrote the Persian works, *Zahr al-Riyāḍ* and *Wasīlat al-Najāt*. It is remarkable that the first *marja'* Shaykh Muḥammad Ḥasan Najafī wrote his famous *Najāt al-'Ibād* in Arabic. This book, which is said to be a summary of *Jawāhir al-Kalām*, was translated into Persian during the author's lifetime.⁶¹ Shaykh Anṣārī did not write any treatise expressing his opinion and he referred his followers to Najafī's concise book and his own commentaries on the work. However, Anṣārī's discourses found in *Širāt al-Najāt* and *al-Manāsik* can be considered supplements to the

⁵⁹ This book includes a Persian summary of all chapters of Shi'ite jurisprudence and was annotated by later *marāji'* such as S. M. K. Yazdī. See Jannāti, "Advār-i Kayfiyat-i Bayān-i Fiqh", *Kayhān-i Andisha* 3 (1986), p. 15.

⁶⁰ Ibid., p. 16. These books include *Hudūd va Ta'zīrāt*, *Manāsik-i Hajj*, *Zakāt*, *Khums*, *I'tikāf*, *Ādāb al-Ṣalāt*, and *Zād al-Ma'ād*.

⁶¹ Ibid., p. 17.

above treatise.⁶² Mīrẓā Ḥasan Shīrāzī did not write such a treatise but his legal rulings were published in *Majma' al-Rasā'il* by one of his students.⁶³

Yazdī's *al-'Urwa* put an end to the dominance of Najafī's *Najāṭ* and has become popular as the most current and concise juridical work which expresses the opinions of a *marja'*. *Al-'Urwa* is annotated by twenty-seven contemporary ayatollahs, some of whom were considered *marja'* at the time when the annotation was made. This shift from writing based on argumentation works to the concise summation of one's opinions indicates a shift in the attitude of the 'ulamā' in an attempt to adapt the legal corpus to the new exigencies of their followers. After Yazdī, all *marāji'* and a number of regular *mujtahids* wrote practical treatises, such as Muḥammad Taqī Shīrāzī's *Dhakhīrat al-'Ibād* and Abū'l Ḥasan Iṣfahānī's *Wasīlat al-Najāṭ*, and these found widespread appeal at the time.⁶⁴

The Application of Titles

Another development which closely linked the evolution of the juristic hierarchy with the new designation of the 'ulamā' is the introduction of new titles especially after the establishment of the *marja'īyya*. Shaykh Muḥammad Ḥasan Najafī was addressed by his contemporaries as *shaykh al-fuqahā'* and Shaykh Anṣārī was called *al-shaykh al-a'ẓam*.⁶⁵ However these adjectives did not constitute a fixed designation for them or for the rank of 'ulamā' to which they belonged. Preceding them, Sayyid Muḥammad Bāqir Shafī had carried the title of *ḥujjat al-islām* (the proof of Islam). This is probably the

⁶² Ibid.

⁶³ Ibid., p. 17.

⁶⁴ Ibid., pp. 19–21.

⁶⁵ Tīhrānī, *Ṭabaqāt*, no. 2, p. 311 and Anṣārī, *Zīndagānī*, pp. 75–76.

first use of such a title for a Shi'ite dignitary.⁶⁶ The application of this title was in conformity with the character of Shaf'ti as *qādī* and mufti who wrote a book on the obligation of implementing Islamic law during the occultation of the Imam from the community.⁶⁷ Parallel to the growing application of the term *ḥujja* in Uṣūlī literature was the increased use of this term in Shaykhī writings, particularly those of Rashī.⁶⁸ This demonstrates the often potent struggle to capture the highest spiritual position even in the realm of designations.

The use of *ḥujja* to describe the designation of the Imams has a long history in Shi'ite juridical works from as early as *al-Kāfi*.⁶⁹ The Imams, particularly the Twelfth Imam, has the status of *ḥujja* "as the 'guarantor' or 'authoritative exponent for religious knowledge and guidance in all spheres'."⁷⁰ However, the Imam's full title is *ḥujjatullāh*, which was never used by the 'ulamā' until the Qajar period.⁷¹ The development of the charismatic status of the 'ulamā' entitled them to apply better terms to justify their new position. Qummī employed the term *ḥujjatullāh* to the *mujtahids* in the above-mentioned letter.⁷² Shaykh Aḥmad

⁶⁶ Mudarris Khiyābānī, *Rayḥāna*, vol. 2, pp. 22–29.

⁶⁷ Ibid., p. 27. According to Mudarris Khiyābānī, the title of *ḥujjat* in the language of Muslim traditionists was applied to those who had memorized 300,000 tradition-reports (p. 22).

⁶⁸ E.g., Sayyid Kāzīm Rashī, *Dalīl al-Mutaḥayyirīn* (Kirman: Sa'adat, n.d.).

⁶⁹ Kulaynī, *al-Uṣūl min al-Kāfi*, vol. 1, pp. 168 onwards.

⁷⁰ D. S. Crow, "The Teaching of Ja'far al-Šādiq", p. 34. See also Abdulaziz Sachedina, *Islamic Messianism* (Albany: State University of New York, 1981), pp. 39–78.

⁷¹ With the exception of the mystical context in which the term *ḥujjatallāh* was used by mystics such as Mullā Šadrā Shīrāzī. See his *Sharḥ Uṣūl al-Kāfi*, "Kitāb al-Ḥujjah" (Tehran: Lithograph, n.d.), p. 25.

⁷² Tunakābunī, *Qiṣaṣ*, p. 161.

Aḥsā'ī was addressed as *ḥujjatullāh al-bāligha* by Faṭḥ 'Alī Shāh.⁷³ It seems that this title did not prevail primarily because of the possible opposition of the pious currents whose devotional feeling would not allow such a usage. Two alternatives solved the problem. *Hujja* was coupled with Islam and Allah with *āya* (sign, token) as in "āyatollah" in subsequent decades.

After Shaftī, we find sporadic use of this *ḥujjat al-islām* for high-ranking 'ulamā' such as Mullā Asadullāh Burūjirdī, Sayyid Asadullāh Shaftī (he apparently inherited this title from his father) and Mullā Muḥammad Mahdī (the son of Mullā Aḥmad) Narāqī.⁷⁴ Nevertheless, the leading *marāji'* of Najaf, especially Anṣārī, were reluctant to apply such a title.⁷⁵ Since Mirzā Ḥasan Shīrāzī, the title of *ḥujjat al-islām* was consistently applied to leading *marāji'* of 'Atabāt.⁷⁶ During the Constitutional Movement of Iran, this title was exhausted by its extensive application to any *mujtahid*. At this juncture, the term āyatollah (sign of God) appeared and highlighted the designation of the grand *marāji'* of Najaf (Khurāsānī, Tihirānī and Māzandarānī) as well as the two religious leaders of the Constitutional Movement, Sayyid Muḥammad Ṭabāṭabā'ī and Sayyid 'Abdullāh Bihbihānī.⁷⁷ In Shi'ite lit-

⁷³ See Abdul-Hadi Ḥā'irī, *Nakḥustīn Rūyā-Rū'ihā-yi Andīshagarān-i Īrān* (Tehran: Amīr Kabīr, 1988), p. 362.

⁷⁴ Mudarris Khīyābānī, *Rayḥāna*, vol. 2, pp. 25–26, Muḥammad Mahdī Mūsavī Iṣfahānī, *Aḥsan al-Wadī'a* (Najaf: Ḥaydariya, 1387/1967), p. 66; Jalāl Ma'īnī, "Baḥṭhī dar Bāra-yi Alqāb va 'Anavīn-i 'Ulamā' dar Madhhab-i Shi'a," *Iran Nameh* 4 (1983), p. 575.

⁷⁵ Ma'īnī, "Baḥṭhī," p. 589. Muḥammad Ḥasan Khān I'timād al-Saltāna, *al-Ma'āthir wa'l-Āthār*, 2 vols., edited by Īrāj Afshār (Tehran: Intishārāt-i Ṭayr, 1984), vol. 1, pp. 189, 193.

⁷⁶ Ibid., and Momen, *An Introduction*, p. 205.

⁷⁷ Alī Akbar Dihkhudā, *Lughat Nāma*, 28 vols. (Tehran: Majlis, 1946+), vol. 2, p. 231.

erature, the title of *ayatollah* was first used for 'Allāma Ḥilli by his commentators,⁷⁸ then for Majlisī the Younger and Muḥammad Bāqir Bihbihānī by their students.⁷⁹ However, its application seems to have been limited to the renewers of religion of each Islamic century and it was largely employed during the Constitutional period especially after the renaissance of the shrine city of Qum. Jalāl Matinī suggests that the title of *ayatollah* was intentionally circulated by the jurists of Qum in order to compete with the title of *ẓillullāh* (shadow of God) used often for Qajar kings.⁸⁰ This suggestion was not elaborated. Later with the presence of Burūjirdī at the top of the Shi'ite hierarchy, the application of the term *ayatollah* did not appear sufficient to indicate his high position. It was thus accompanied with *'uzmā* to mean the grand *ayatollah*.

The relationship of *marja'* with other parts of the Shi'ite hierarchy is of importance. The main body of the Shi'ite hierarchy consists of regular *mujtahids* who can be considered absolute or divisible *mujtahids* by virtue of the special permission (*ijāza*) which they received from their teachers. Below the lowest rank of *mujtahids*, there are diverse groups of the religious class who are generally called *mullā* or *rūḥānī*. They are divided according to the function which they perform: *pīshnamāz* (leader of the daily prayers), *wā'iz* (preacher), *mudarris* (regular instructor) and *rawḍakhwān* (reciter of religious tragedies). The preachers and reciters usually bear the title of *thiqat al-islām* (those trustworthy in Islam). The relationship between the above ranks should be considered in light of the tradition of informality in Shi'ism, or, as Amir Arjomand calls it, the Shi'ite "hierarchy of deference":

⁷⁸ Fāḍil Miqdād al-Suyūrī, *al-Bāb al-Ḥādī 'Ashr*, ed. by M. Mohaghegh (Tehran: Dānishgāh, 1986), p. 1.

⁷⁹ Khwānsārī, *Rawḍāt al-Jannāt*, vol. 2, p. 94.

⁸⁰ Matinī, "Baḥṭhī," pp. 586–91.

The relationship between the upper and the lower ranks of the hierarchy was, in short, regulated not by an organizational hierarchy but by an unformulated *hierarchy of deference*.⁸¹

The strongest chain linking the *marja'*-*mullā* relationship seems to be the structure of collecting the Imam's shares. Ayatollah Muṭahharī, in his analysis of the problems facing the juristic organization, said: "The emergence of leadership and super powers (among Shī'īs) was due to the concentration of the collection of the Imam's shares."⁸² This concentration, which began since the time of Najafī, as we saw, consolidated the delegating network with a financial basis. Nevertheless, the local *mullās* were usually paid half of the *khums* which they collected for the representative of the *marja'* from preaching and providing guidance to the local merchants. Representation of the *marja'* either in a financial capacity or for the purpose of religious guidance appears to be a crucial element in safeguarding the relationship of the chief *marja'* with the local *mujtahids* and *mullās* in the contemporary era. It has been the policy of most *marja's* to secure the favor of the local religious dignitaries by the annual distribution of parts of the Imam's shares amongst them via their delegated representatives. Moreover, we know that all agents of the *marja'* have often advised to refrain from any possible conflict with the local 'ulamā' that may jeopardize their reputation or livelihood.⁸³

The transition from multiple to single leadership of the *marāji'* remains essentially a question of inter-clerical relations and the personality of the *marja'* himself. However,

⁸¹ Amir Arjomand, "The Shi'ite Hierarchy and the State," *European Journal of Sociology*, 22 (1981), p. 69.

⁸² Muṭahharī, *Baḥthī*, pp. 180-81.

⁸³ See Jannāti, "Sayr-i Tarikhī", pp. 25-27.

when the occasion arises the seniority of the *marja'* is acknowledged by other 'ulamā' who refer the *khums* payers to their recognized *marja'* and receive back part of the sum as stipends for their students. The following circumstances can give us better insight into the above relations.

Ayatollah Burūjirdī's emergence as *marja'* after Ayatollah Iṣfahānī coincided with the sudden death of Ayatollah Ḥusayn Qummī, which left Najaf without a juridically senior *mujtahid*. Burūjirdī could still be contested by two Ayatollahs, Sayyid Aḥmad Khwānsārī and Sayyid Muḥammad Ḥujjat in Qum, and his authority was jeopardized by the opposition of the influential local Ayatollah Sayyid Naṣrullāh Banī Ṣadr in Hamadan. The 'ulamā' resolved these problems by reaching a concurrence in the following manner. Ayatollah Khwānsārī was convinced to move to Tehran as the chief representative of Ayatollah Burūjirdī in Tehran. Ayatollah Ḥujjat acknowledged the priority of Burūjirdī and remained in Qum as a chief teacher of *fiqh*. The support of the Ayatollah Banī Ṣadr was secured through the missionary work of Ayatollah Khomeini who travelled to Hamadan in 1325 sh/1946.⁸⁴

Fifteen years later, such compromising efforts did not work after the death of Ayatollah Burūjirdī. The first bid to secure the recognition of the generality of the 'ulamā' was taken by the now senior Ayatollah Khwānsārī who sent a sizeable sum of money to Najaf as the stipend for the religious students on behalf of the now deceased Ayatollah Burūjirdī. But these funds were returned to Tehran by the order of the rising Ayatollah Ḥakīm who also could not win a general agreement for his own leadership. For the above reasons, we consider the informal concurrence of the 'ulamā' as being

⁸⁴ Sayyid Ḥamid Rūḥānī, *Nihzat-i Imām Khumaynī* (Tehran: Rāh-i Imām, 1982), p. 99. See also Fāzil Lankarānī, "Muṣāḥiba bā Āyatullah Fāzil Lankarānī", *Ḥawza* 43-44 (Qum: March-July 1991), pp. 139, 157.

the essential element in setting the leadership of *marāji*'.

After the Islamic Revolution of Iran, the above concurrence was entrenched in the assembly of experts according to the constitution of 1358 sh/1979. However, this assembly did not practically guarantee the single position of a *marja*' although it was combined with political power. As we witnessed, the juridical legitimacy of Ayatollah Khu'i, for most of the time, went parallel to the political authority of any elected leader. Following the separation of *marja'iyya* from the political state leadership in the amendment of 1368 sh./1989, the choice of *marja*' seems to have returned to its traditional basis as we are witnessing now in the rise of new *marāji*'. Thus, it suffices for the purpose of this study to conclude that the juridical mechanism within the ranks of the 'ulamā', which was responsible for the advent of the *marja'iyya*, still remains essential for introducing new *marāji*'.

Financial Sources of the Authority Assumed by the 'Ulamā'

The financial strength of the Shi'ite 'ulamā' and their economic independence had an important role in the institutionalization of the juristic offices. Since the nineteenth century, the *mujtahids* and *marāji'* assumed the responsibility of performing the crucial task of collecting and distributing alms taxes on behalf of the Imam. The assumption of this role entitled them to be considered the repository of funds (*marja'-i vujūhāt*) in addition to being the authority of giving legal rulings for emulation (*marja'-i fatwā va taqlid*). Aside from his doctrinal qualifications and his piety, on a practical level, the chief jurisprudent should be able to raise enough funds to finance his teaching and the network represented by him. It was the responsibility of the *marja'* to pay the monthly stipends of religious students in the shrine cities, especially those in 'Atabāt. The payment of these stipends, which was called "bread money" was, in fact, the final step in the confirmation of the position of a new *marja'*.¹ In several instances, there were two, three or even four superior *mujtahids* who competed for the position of *marja'yya* but they only took part in the collective leadership of the Shi'ite centers of 'Atabāt. In these cases, the payment of the student subsidies, especially that of the Najaf center, was a noteworthy way of acknowledging the all-embracing authority of the *marāji'*.

It was in this way that financial strength played a decisive role not only in the foundation of the economic independence of the 'ulamā' but also in the formation of their

¹ The monthly stipend was often called *pūl-i nān-i ṭullāb* (bread money) before the Islamic Revolution of Iran.

hierarchy. The basis of this financial independence lies in two sets of factors which had been worked out by the 'ulamā' over the centuries. First, they progressively developed the laws governing the collection of *zakāt* tax, *khums* alms, *waqf* (pious endowment) and *al-makāsib al-muḥarrama* (illegal transactions) which gave a greater role to the *mujtahids* in their assumption of the prerogatives of the Imam. Secondly, since the late Safavid period, the 'ulamā' had built a working relationship with the merchant and artisan classes which virtually guaranteed the support of the bazaar for the mosque. Both of these developments have their roots in the growth of that part of Shi'ite *fiqh* pertaining to the law of transaction which provided adequate norms to accomodate Imānī positive law. Thus, we will try to revise the historical evolution of the above norms and then we will treat the bazaar and mosque relationships.

A. The Collection of *Zakāt* and *Khums*

The collection of *khums*, especially the Imam's share (*sahm al-Imām*) appears to be the most significant source of income for the 'ulamā' in the post-Safavid period. The concept and practice of collecting *khums* developed in conjunction with the collection of *zakāt* which had also devolved upon the 'ulamā' in theory. In practice, as we will see, the collection of *zakāt* did not constitute an independent source of income for them. The issue of *khums* and *zakāt* collection and its relation to the role which the 'ulamā' were to play in the community during the occultation of the Imam was addressed by the rational Uṣūlī school of Baghdad.

Zakāt as a purification tax was discussed by Mufīd in his *al-Muqni'a*. He appears to be the first jurist to have stated that *zakāt* must be delivered to trustworthy jurisprudents during the absence of the Imam and his caliph or special deputy.² On the question of *khums*, Mufīd does not address

² Mufīd, *al-Muqni'a*, p. 252; Norman Calder, "Zakat in Imami

to the problem of absence of the Imam in his *al-Muqni'a*.³ Nevertheless, he is quoted by Ṭūsī as saying that "when the people could not reach the Imam and did not know his whereabouts they should deliver *khums* to its recipients, i.e., orphans, needy and the descendents of the Prophet."⁴ Mufid clearly states the case of each of the above recipients who acquire one share out of the six shares of *khums*. Only the three remaining shares which belong to the Imam presented difficulty in determining to whom they belong. The pattern set by Mufid concerning *zakāt* was followed by Murtaḍā except that he modified Mufid's view by insisting on preference rather than incumbency. He says, "it is better to disburse *zakāt*...to the Imam or his caliphs representing him; and if that is impossible it is related that it should be disbursed to trustworthy *fuqahā*."⁵

Murtaḍā's view was further corroborated by Ṭūsī, who also preferred the disbursement of *zakāt* through the agency of the 'ulamā'. On the subject of *khums*, Ṭūsī expanded its application to include a variety of items which had no precedent in either Shī'ī or Sunnī law. Ṭūsī's list of items for *khums* was finalized in his *al-Nihāya* and included spoils of war, regular earnings, treasures, minerals and what is acquired from the sea, etc.⁶ It is noteworthy that Ṭūsī included the income earned from dubious and illegal sources among the items subject to *khums*. He argued that taking a fifth of this item would eliminate the corrupt nature of the rest of it and he appears to be the first known Shī'ite jurist

Shī'ī Jurisprudence from the Sixteenth Century A.D.," *Bulletin of the School of Oriental and African Studies* 64 (1981), p. 475; Newman, "The Development," vol. 1, p. 309.

³ Mufid, *al-Muqni'a*, pp. 276-78.

⁴ Newman, *op.cit.*, p. 330.

⁵ Calder, *op.cit.*, p. 475; Newman, *op.cit.*, p. 310.

⁶ Ṭūsī, *al-Nihāya*, vol. 1, pp. 204-206.

to establish this way of eliminating the corrupt nature of these dubious earnings.⁷ With regard to the distribution of *khums*, Ṭūsī first admitted the lack of an explicit legal ruling (*naṣṣ*) and that the manner of disposition of *khums* should be established on the basis of practical concerns. However, he excluded the disbursement of *khums* to an unjust government (*al-sultān al-jā'ir*) during the occultation. Later, Ṭūsī stated that the Imam had permitted the Shi'is the right to dispose of the *khums* in order to cover the expenses of marriages, necessary trades and the construction of buildings for the needy during the occultation. Finally, he concluded that it would be wiser to entrust *khums* to reliable individuals.⁸

Regarding the Imam's three shares, Ṭūsī envisioned that they were either buried in or entrusted to reliable individuals pending the reappearance of the Imam.⁹ If one takes into consideration Ṭūsī's ruling on *zakāt al-fitra* which he confirmed should be delivered to the Shi'ite *fuqahā'* during the occultation,¹⁰ it can be assumed that he had considered the 'ulamā' as reliable individuals. It is noteworthy that Norman Calder's examination of the accounts of the distribution of *zakāt* during the occultation of the Imam presented by Mufīd, Muṭṭadā and Ṭūsī led him to conclude that "they were not themselves, however, referred to as representatives of the Imam but rather as a kind of residual authority which became effective precisely in the absence of repre-

⁷ See section B of this chapter, "Absolution of Wrongdoing" (*Radd-i Mazālim*).

⁸ Ṭūsī, *al-Nihāya*, p. 207; idem, *al-Mabsūt*, vol. 1, p. 264; Newman, "The Development," pp. 341-344; Norman Calder, "Khums in Imami Shi'i Jurisprudence from the Tenth to the Sixteenth Century A.D.," *Bulletin of the School of Oriental and African Studies* 45 (1982), p. 40; Sachedina, *The Just Ruler*, p. 240.

⁹ Ṭūsī, *al-Nihāya*, vol. 1, p. 308 and idem, *al-Mabsūt*, vol. 1, p. 264.

¹⁰ Idem, *al-Nihāya*, vol. 1, p. 199.

sentatives."¹¹ This feature is typical among the Shi'ite 'ulamā' who rarely used affirmative language concerning the scope of their authority. As a case, Ṭūsī does not appear to be firm on the problem of the Imam's share. But reading Ṭūsī's argument in the light of Mufid's writings concerning *zakāt* and administration of justice leaves no doubt that he considered the 'ulamā' as reliable authority during the absence of the Imam from the community.¹²

Approximately two and a half centuries later, Muḥaqqiq Ḥillī, without citing or commenting on the opinion of others, ruled that *zakāt* was to be delivered to the trustworthy jurisprudent in the absence of the Imam because the *faqīh* is more learned in the categories of *zakāt* and its distribution.¹³ On *khums*, Muḥaqqiq only concerned himself with the question of the Imam's shares and, with strong language, ruled that "it is incumbent upon the one who, by virtues of the right of vicegerency of the Imam is authorized to rule, to administer the Imam's shares."¹⁴

'Allāma Ḥillī elaborated the pattern set by his uncle Muḥaqqiq by ruling that the *zakāt* payer himself can distribute *zakāt* but it would be more appropriate to leave this responsibility to the just Imam or to the reliable juriconsult.¹⁵ Regarding the *khums*, 'Allāma ruled that the three shares of the Imam should be distributed among the same categories of the needy who are entitled to the rest of the shares. However, he adds, this distribution must be realized by the 'ulamā' who by virtue of the right of vicegerency of

¹¹ Calder, "Zakāt," p. 476.

¹² Mufid, *al-Muqni'a*, pp. 252, 810-11 (*qad farradū'l-naẓar ilā'l-fuqahā*).

¹³ Muḥaqqiq Ḥillī, *Sharāyi' al-Islām*, p. 49 and Calder, "Zakāt," p. 476.

¹⁴ Ibid., p. 53, and Sachedina, *The Just Ruler*, p. 241.

¹⁵ 'Allāma Ḥillī, *Tahrīr*, p. 67 and idem, *Tadhkira*, vol. 1, p. 246.

the Imam are authorized to rule (*man lahu'l-hukm*).¹⁶ In his *Tadhkira*, 'Allāma confirmed the status of the category of 'ulamā' as the trustworthy jurisconsult who possessed all of the necessary conditions of giving legal opinions.¹⁷ On the whole, 'Allāma characterized the role of the 'ulamā' as commendable (*mustahabb*) with regard to the collection of *zakāt*, and obligatory regarding *khums*. Obviously, the three shares of the Imam account for this incumbency; however, some kinds of *zakāt* such as *zakāt al-fitr*, must also be disbursed to the 'ulamā' because of its ritually sanctioned nature.

On the doctrinal level, the rule of the 'ulamā' reached its peak with Shahīd I's ruling that the payment of both *zakāt* and *khums* to the jurisprudent should be considered obligatory.¹⁸ Norman Calder's comparison of the rulings given by Shahīd I and Mufīd on the issue of *zakāt* illustrates the significance of the due juridical courses for the acceptability of a doctrine:

Shahīd thus produced a ruling whereby *zakāt* could be a compulsory tax, administered not by the government but by the *fuqahā'*. Mufīd, it is true, some three and a half centuries previously, had already stated something rather like this but that statement had proved premature: it had not found general acceptance. Centuries of legal effort and a gradual refinement of the concept of clerical authority had provided a context, a structure and a justification which made Shahīd's assessment

¹⁶ Idem, *Tahrīr*, p. 75; idem, *Tadhkira*, p. 255.

¹⁷ Idem, *Tahrīr*, p. 255.

¹⁸ Shahīd al-Awwal, *al-Ijum'a* and Shahīd al-Thānī, *al-Rawḍa'l-Bahiyya*, vol. 2, pp. 53, 79–80.

seem both appropriate and convincing.¹⁹

Emphasizing the exclusive right of the Imam and the *faqih* over the three shares of *khums*, Shahīd I went so far as to rule that these shares cannot be disbursed during the occultation, rather they should be saved. Shahīd II, however, interpreted this opinion according to the more popular view that those shares can be spent exceptionally for the expenses of marriage, necessary trade and residence.²⁰ Shahīd II reconfirmed the seven categories of incomes which include almost all profitable activities.²¹

The 'ulamā' of the Safavid period not only upheld the position propounded by the school of Ḥilla²² but also began to enjoy the practical benefits of such doctrine. "According to Du Mans, they collected the religious taxes (*zakāt*), and more significantly *khums*."²³ Shaykh Bahā' al-Dīn 'Āmilī ruled on the obligation of paying the Imam's share to the *mujtahid*.²⁴ Majlisī the Younger, the chief jurist of the late Safavid period indicates the importance of *khums* for the living *sayyids* (descendants of the Prophet's family) by his complaint about the shortage of *khums*-payers during his time. He emphasized the role of the 'ulamā' in legitimizing the use of *khums*.²⁵ The connection of religious charity to the *sayyids* and 'ulamā' is also depicted in the two chapters of the contemporaneous historical work *Ālamārā-yi 'Abbāsī* dealing

¹⁹ Calder, "Zakāt," p. 577.

²⁰ Shahīd al-Awwal, *al-Lum'ā* and Shahīd al-Thānī, *al-Rawḍa'l-Bahīyya*, vol. 2, pp. 79–80.

²¹ Shahīd al-Thānī, *al-Rawḍa'l-Bahīyya*, vol. 2, pp. 65–74.

²² E.g., see Bahā' al-Dīn al-'Āmilī, *Jāmi'ī 'Abbāsī* (Bombay: Litho, 1319/1901), p. 102.

²³ Arjomand, *The Shadow of God*, p. 127.

²⁴ 'Āmilī, *Jāmi'ī 'Abbāsī*, p. 102.

²⁵ See the chapter on *khums* in Muḥammad Bāqir Majlisī, *Zād al-Ma'ād*. It is noteworthy that Majlisī included the names of tra-

with the role of the *sayyids* in relation to the state office of *ṣadr*.²⁶ The financial riches of the 'ulamā' during this period can be seen in the letter written by Shaykh Ibrāhīm Qaṭīfī to his well-known adversary Shaykh 'Alī Karakī. Here, the former accused the latter of becoming one of the "*ahl-al-rakhā*" (people of leisure).²⁷

Nevertheless, the increasing role which the 'ulamā' played in the collection of *zakāt* and *khums* was doctrinally challenged by a number of authors, primarily of Akhbārī tendencies. Mullā Muḥsin Fayḍ ruled that the three shares of the Imam are discharged during the occultation.²⁸ Ḥurr 'Āmilī supported the idea of disbursing the three shares for the benefit of the three categories of *sayyid*, orphan and needy.²⁹ Shaykh Yūsuf Baḥrānī reduced the obligation of levying *zakāt* and *khums* by well-qualified 'ulamā' to the category of "commendable" in which the use of *khums* is especially confined to the purpose of marriage, trade and residence.³⁰ Baḥrānī was surprised by Majlisī's apparent one-sided account in the above-mentioned *Zād al-Ma'ād* and rejected Majlisī's simplified way of legitimizing the appropriation of *khums* without separating its components and explaining their legality.³¹

dition-reporters (*muhaddithūn*) among the 'ulamā' entitled to interfere in *khums*. This demonstrates Majlisī's pragmatic position between Usulism and Akhbarism.

²⁶ Turkamān, *Tārīkh-i 'Ālamārā-yi 'Abbāsī*, vol. 1, pp. 143–158.

²⁷ Newman, "The Development", vol. 2, p. 873.

²⁸ See Baḥrānī, *al-Ḥadā'iq*, vol. 12, p. 462. It seems that Muḥammad Bāqir Majlisī's refutation of people who stated that the *khums* and the Imam's shares are discharged during the occultation, was addressed to Fayḍ Kashānī. See Majlisī, *Zād al-Ma'ād*, chapter on *khums*.

²⁹ Ḥurr 'Āmilī, *Wasā'il al-Shi'a*, vol. 6, p. 375.

³⁰ Baḥrānī, *al-Ḥadā'iq*, vol. 12, pp. 222, 319, 437–47.

³¹ *Ibid.*, pp. 466–68.

Despite some opposition from the pious and the prudent as well as the Akhbārī 'ulamā', the increased role of the *mujtahids* in the collection of *khums* and *zakāt* reached a new peak with the emergence of the reestablished Uṣūlī school of 'Atabāt. This new generation of Uṣūlī 'ulamā' not only sustained the notion of the obligation of distributing the *khums* and *zakāt* "but reportedly went so far as to consider anyone who withheld the payment of *khums* as a rebel against the Imam and his vicegerent."³² The development of the doctrine of vicegerency of the Imam during the Qajar period made the collection of the three shares belonging to the Imam an exclusive prerogative of the leading *mujtahid* who could claim such charismatic authority. When the institution of the supreme source for emulation emerged in the mid-thirteenth/nineteenth century, the *marja'* was generally designated as the repository of funds (*marja'-i wujūhāt*) in addition to other ranks he already possessed. The flow of *khums* to Najaf under the leadership of Shaykh Anṣārī reached the point wherein he authorized the use of the Imam's three shares for financing the local institutions of learning instead of sending it directly to Najaf.³³ The idea that *sahm-i Imām* was the cornerstone of the Shi'ite clerical apparatus³⁴ is based on the fact that the distribution of the three shares of the Imam became an indisputable prerogative of the high-ranking 'ulamā'; while the remaining shares

³² Arjomand, *The Shadow of God*, p. 231; Lambton, *State and Government*, p. 287; Mirza Buzurg Qā'im Maqām, *Jihādiyya*, ed. Jahāngīr Qā'im Maqāmī (Tehran: n.p., 1234/1818), pp. 18–47.

³³ Murtaḍā Anṣārī, *Zindagānī*, p. 79; see also Juan Cole, "Imami Jurisprudence and the Role of the Ulama, Morteza Ansari on Emulating the Supreme Exemplar," in *Religion and Politics in Iran*, ed. by Nikki Keddie (New Haven: Yale University Press, 1983), p. 42.

³⁴ Murtaḍā Muṭahharī, *Baḥthi dar Bāra-yi Marja'īyyat va Rūḥāniyyat*, p. 179.

of the *khums* were often claimed to have been paid directly to its recipients. *Zakāt*, too, has usually been said to be paid to the government.

B. Absolution of Wrongdoing (Radd-i Maḏālim)

Another arena in which the 'ulamā' played their juristic role is in the administration of justice. The administration of justice encompasses a wide variety of litigious and non-litigious affairs including qadiship and the broad category of promoting good and forbidding evil.³⁵ What especially concerns us here is the 'ulamā's role in legitimizing the use of money or credit earned from illegal transactions (*al-makāsib al-muḥarrama*) and dubious ownership. This role, which later was called *radd-i maḏālim* (absolution of wrongdoings), emerged during the post-Safavid period and became the second important source of the 'ulamā's income next to *khums*. In fact, it involves the process of taking extensive alms from the illegal transactions and dubious ownerships for which the necessary *khums* had not been paid.

The law concerning the prohibition of illegal transactions appears in Kulaynī's *al-Kāfi* in chapters of *al-Makāsib al-Muḥarrama* and *al-Suht*.³⁶ Both chapters deal with sales of forbidden materials such as wine, pork and any income from fraudulent or usurious transactions. In any case, if some money or goods are mixed with corrupt funds and materials, they cannot be used unless a fifth of it is taken for charitable purposes.³⁷ Shaykh Ṭūsī treated the issue of taking the fifth and forbidden materials in separate chapters.³⁸ 'Allāma

³⁵ A short list of such affairs is given by Shaykh Ja'far Najafī in his *Khātimat al-Qawā'id* (Tehran: Lithograph, 1898) as the tasks which are the sole prerogative of *mujtahids*.

³⁶ Muḥammad b. Ya'qūb al-Kulaynī al-Rāzī, *al-Furū' min al-Kāfi*, 7 vols. (Tehran: Islāmīya, 1378/1958), vol. 5, pp. 124–128.

³⁷ Ibid., p. 125.

³⁸ Ṭūsī, *al-Nihāya*, vol. 1, pp. 204, 264–72.

Hilli differentiated between forbidden sales and reprehensible deeds (*al-makrūh*), both of which required distribution of the fifth in order to render them acceptable. Among the reprehensible deeds, Hilli included working for an unjust government which can be legitimized in the case of having the intention of promoting good in addition to paying the *khums*.³⁹

With regard to illegal transactions, the funds, assets and liabilities of which nobody can claim ownership fall under the supervision of the jurispudent who acts in the position of *hākim* (the ruling *qādī*) in these cases.⁴⁰ The juridical development of the above norms occurred in many legal stages over several centuries and finally became established in *fiqh*. The increased number of references to the role of the *faqīh* in litigious and non-litigious affairs during the Qajar period indicates the peak of this development in doctrine and in practice. For example, most of the doctrinal questions propounded by Shaykh Ja'far Kāshif al-Ghiṭā', in his *al-Haqq al-Mubīn* demonstrate the day-to-day practices of the community which had been the cause of raising such questions.⁴¹ We know that Kāshif al-Ghiṭā' made regular trips to Iran to collect *khums* and absolution payment for oppressive wrongdoings.⁴²

Historically, we see that Kāshif al-Ghiṭā' and Muḥammad Taqī Baraghānī considered the state's collection of custom's duties and donation of fiefs (*tuyūl*) illegal. Shaykh Ja'far reportedly claimed that the money received under the pretext of custom's duty should be considered as of anonymous ownership (*majhūl al-mālik*) and the appro-

³⁹ 'Allāma Hilli, *Tahrir*, pp. 160–163.

⁴⁰ For example, see Bahrānī, *al-Hadā'iq*, vol. 20, pp. 146–78.

⁴¹ Kāshif al-Ghiṭā', *al-Haqq al-Mubīn* together with *Khātimat al-Qawā'id* (Tehran: Litho, 1898).

⁴² Tunakābunī, *Qisas*, pp. 149–193; Arjomand, *The Shadow of God*, p. 231; Lambton, *State and Government*, p. 287.

priation of this money is legally left to the jurisprudent.⁴³ Baraghānī also deemed the governmental fief to be invalid. He sold several state granted villages (*khālīṣa*) as of anonymous ownership which were not usually open for sale.⁴⁴ By virtue of the formula of absolution of wrongdoing some of the Shi'ite 'ulamā' of the Qajar period gave themselves the right to collect the unpaid *khums* retroactively in addition to what was due for the current year. As a result, properties which had not been legally cleared came to be classified as unidentified.

C. The Administration of Waqf

Another traditional source of revenue for the 'ulamā' derived from the administration of religious endowments. For the first time, *waqf* appeared as an appendage to the chapter on charity (*al-ṣadaqa*) in Mufīd's *al-Muqni'a* where he says, "originally it is an irrevocable charity."⁴⁵ It is noteworthy that there is no chapter on *waqf* in Kulaynī's *al-Kāfi* although a fair portion of this book is devoted to charity.⁴⁶ The legal rules of *waqf* occupy a small portion of Ṭūsī's writings where he discusses the role of the jurisprudent in terms of the *ḥākim* who should supervise religious endowments in the absence of an appointed superintendent (*al-nāẓir*).⁴⁷

By the time of 'Allāma Ḥillī, the question of *waqf* was expanded to several chapters, one of which was devoted to the administration of *waqf*. The role of the jurisprudent in the position of *ḥākim* is clear and fully treated in the case when the endowed institution lacks a superintendent or he loses his qualification.⁴⁸ On a practical level, 'Allāma made

⁴³ Tunakābunī, *Qīṣaṣ*, p. 196.

⁴⁴ Ibid., p. 27 and Algar, *Religion and State in Iran*, p. 49.

⁴⁵ Mufīd, *al-Muqni'a*, p. 652.

⁴⁶ Kulaynī, *al-Furū' min al-Kāfi*, vol. 4, pp. 2-62.

⁴⁷ Ṭūsī, *al-Mabsūṭ*, vol. 3, p. 301.

⁴⁸ 'Allāma Ḥillī, *Tadhkira*, p. 441; idem, *Taḥrīr*, p. 286.

it obligatory for the superintendent to be well-qualified when no other condition is stipulated by the endower.⁴⁹ Against this background, the 'ulamā' benefitted from the *waqf* through two channels, that of *ḥākim* and *mutawallī* (custodian) in addition to the supervision of endowed *madrasas*, mosques and shrines.

The concern for the development of endowed institutions was not confined to the 'ulamā'; the state also instituted the office of *ṣadr* to control both religious endowments and institutions of learning. This office, which existed since the Timurids, flourished under the Safavids and was divided into general and sub-*ṣadrs*. According to *Tadhkirat al-Mulūk*, the task of this office is described as follows:

The prerogatives of the charge entrusted (*muṭlaq*) to the *Ṣadr* are briefly as follows: Appointment of Islamic judges (*ḥākim-i shar'*) and managers of the Endowments of the class *tafvidī*, and the leadership...of all the [persons called] sayyid, 'ulamā, *mudarris*, *shaykh al-Islām*, *pīsh namāz*, *qādī*, *mutavallī*, *ḥāfiẓ* and the rest of the servants of sacred tombs, schools, mosques and shrines....Under him are the *vazīrs*, the *mushrif*s and the *mustaufi*s...of the Endowments, with the rest of the lower staff...of that department..., such as scribes, washers of the dead and gravediggers.... Briefly speaking the appointment and dismissal of the managers of the Endowments, if the latter are [of the class] *tafvidī*, belongs to the *Ṣadrs*, *khāṣṣ* and *'amma*; if [however] they are [of the class] *shar'ī*, neither the *Sharī'at* judges, nor the

⁴⁹ Idem, *Tadhkira*, p. 441.

Şadrs have any right of interference with them, but whomever the founder of an endowment has legally...appointed manager (*mutavallī*) and proxy (*ṣaḥīb ikhtiyār*), he will be the manager, and changing him is contrary to the sacred and immaculate...Sharī'at.⁵⁰

It should be added that the above account only reflects the official Safavid conception of the religious hierarchy. The formality concerning the leadership of the (persons called) *sayyid*, 'ulamā', *mudarris*, *shaykh al-Islām*, etc., must be examined in the face of the tradition of informality in Shi'ite Iran. However, it demonstrates the significance of the administration of the pious foundations in connection with the state. A slightly different definition of the office of *ṣadr* can be found in *Ālamārā-yi 'Abbāsī*: "The office of *ṣadr* is in charge of the well-being of the *sayyids* and beneficiaries of *khums*, by administering, registering pious foundations (*awqāf*) and disbursement of funds for religious learning."⁵¹ The office of *ṣadr*, often occupied by the second rank of 'ulamā', among other things, helped to finance a new urban middle class of Shi'is which in turn provided a strong network for the high-ranking *mujtahids*. The new class included preachers, reciters of religious tragedies, low level functionaries and seminarians. Many of these functionaries were the natural choice for administration of endowed properties, such as shrines and mosques. It is noteworthy that since

⁵⁰ *Tadhkirat al-Mulūk*, ed. & trans. Vladimir Minorsky (London: E. J. W. Gibb Memorial Series, n.s, 16, 1943), pp. 42-43.

⁵¹ Turkamān, *Tārīkh-i Ālamārā-yi 'Abbāsī*, ed. Īraj Afshār, vol. 1, ch. 2, p. 144; Roger Savory, "The Safavid Administrative System", *The Cambridge History of Iran*, 7 vols., ed. P. Jackson (London, New York: Cambridge University Press, 1986), vol. 6, p. 369.

the Safavid period, the Shi'ite 'ulamā' have benefitted from the state land grants and various emoluments in addition to the endowed properties. The biographies of the notable 'ulamā' mentioned in *Ālamārā-yi 'Abbāsī* indicate the increased number of Shi'ite 'ulamā' who joined the economic elite during this period.⁵²

After the fall of the Safavids (1135/1727), the intermediary role of the office of *ṣadr* disappeared and a number of the 'ulamā' immigrated to the 'Atabāt where they consolidated their ties with the economic forces of the Shi'ite community regardless of state patronage. The renovation of the tombs in several shrines in the post-Safavid period indicates how successful the 'ulamā' were in raising enough endowments to support the maintenance of the shrines. By mid-thirteenth/nineteenth century, we can read the reports of the vast endowments administered by Ḥujjat al-Islām Shaftī, the grand *mujtahid* of Isfahan, which the government of Muḥammad Shāh had confiscated by force.⁵³ The role played by Shaftī in turning the learned institution into an economic power was enhanced through the newly extended relations with the artisan-merchant classes, to which we now turn.

D. Bazaar and Mosque Ties

The reciprocal relation between the 'ulamā' and the Muslim professional classes (*aṣnāf*), both merchant and artisan, appears to be a permanent feature of Islamic economic history since the rise of the institutions of learning in Islam. However, other intellectual segments of Muslim society, such as the Sufis and philosophers, attempted to compete with

⁵² Ibid., Turkamān, pp. 143–58.

⁵³ Humā Nāṭiq, *Īrān dar Rāhyābi-yi Farhangī* (London: Markaz-i Chāp va Nashr-i Payām, 1988), p. 58; Muḥammad Riḍā Fishāhī, *Vāpasin Junbish* (Tehran: Javidān, 1977), p. 38.

this connection between the 'ulamā' and the professional classes. The Sufis, over the centuries, had possessed the spiritual leadership of the Muslim middle classes of Iran and Anatolia by way of their *Ṭarīqa* orders and also by virtue of the *futuwwa* organizations. These institutions, which Hodgson described as "the most prominent channel for expressing lower-class interest in the towns,"⁵⁴ had an important role in balancing the economic riches of different urban classes. Members of the merchant and artisan associations had their own methods of settling disputes which often complemented the religious and governmental offices of administering justice.

The underlying theme of the Muslim guilds (*aṣṇāf*) was the Sufi spirit of affinity and that is what led Gibb to consider the guild association of the Muslim Middle Ages as "the greatest achievement of Sufism whose order succeeded in creating a religious organization parallel to the units of which Muslim society was composed."⁵⁵ In a sense, the increased number of ethico-professional manuals (*Futuwwat Nāmas*) since the fifth/eleventh century illustrates the scope of such parallel development. It is of some interest that most of these manuals were written either in Persian or Turkish in spite of the fact that the juridical and official language of the time was normally Arabic.⁵⁶

The connection of the Shi'ite 'ulamā' with the professional classes may be seen most clearly in the growing reproduction of the legal parts of *fiqh* concerning the law of trans-

⁵⁴ Hodgson, *The Venture*, vol. 2, p. 282.

⁵⁵ H. A. R. Gibb, *Studies on the Civilization of Islam*, ed. Stanford J. Shaw and Richard Polk (Boston: Beacon Press, 1962), p. 216.

⁵⁶ For example, Abū Ḥaṣṣ 'Umar al-Suhrawardī wrote two *Futuwwat Nāmas* in Persian in spite of the fact that his main work *Awārif al-Ma'ārif* was written in Arabic. See Ṣarrāf, *Rasā'il-i Javānmardān*, pp. 90-165.

actions.⁵⁷ The process of this reproduction found its way into the Persian language during the Safavid period when *Jāmi'ī* 'Abbāsī of Shaykh Bahā'ī and *Lawāmi'ī* *Ṣāhibqarānī* of Majlisī the Elder were written under the sponsorship of Shah 'Abbās I. It is remarkable that both Shaykh Bahā'ī and Majlisī the Elder were Sufi adherents who upheld the idea that there was "no difference between the mosque and the *khānqāh*" and defended the presence of Sufism and mystical experiences next to "formal [religious] knowledge" (*'ilm-i rasmī*), i.e., *fiqh*.⁵⁸ Nevertheless, the Persian writings of Shaykh Bahā'ī and Majlisī the Younger among other things seem to aim at initiating a new kind of communication among Shī'is. That is to vulgarize the formal *fiqh* by incorporating elements from the popular religion. Considering the fabulous work *Jawāhir al-'Uqūl*, one can see how close Majlisī was to the authors of legendary works such as *Abū Muslim Nāmas* and other fictional writings of Muslim middle classes.⁵⁹

The reign of Shāh 'Abbās I witnessed the beginning of a new round of competition of the popular *ṭarīqa* Sufism and

⁵⁷ For example, the chapter on the administration of justice in Shaykh Mufid's *al-Muqni'a* appears to be addressed to a limited audience as he confined its application to the members of a few families because of the fear of jeopardizing the lives of Shī'is. Shaykh Ṭūsī, in contrast, addressed his account to a more general audience, and Shaykh 'Alī Karakī devoted the bulk of his *Jāmi' al-Muqāṣid* to the law of transactions. See Mufid, *al-Muqni'a*, p. 129; Ṭūsī, *al-Nihāya*, vol. 1, pp. 301–306; Karakī, *Jāmi' al-Muqāṣid fī Sharḥ al-Qawā'id*, 15 vols. (Qum: Āl al-Bayt, 1988+), particularly vols. 3–7.

⁵⁸ Arjomand, *The Shadow of God*, p. 149; quoting Muḥammad Taqī Majlisī, *Risāla-yi Tashwīq-i Ṣālikīn*, printed together with *Risāla-yi Su'āl va Jawāb* (Tabriz: Lithoprint, 1953), pp. 12–28.

⁵⁹ See Muḥammad Baqir Majlisī, *Jawāhir al-'Uqūl* (Tehran: Lithograph, 1885).

juridical Shi'ism over securing the support of the government and professional classes. Both folk Shi'ism and popular *ṭarīqa* Sufism had already suffered the suppression of Ismā'il and Ṭahmāsp. It was time to reestablish their positions in society. The appearance of a new series of *Futurvat Nāmas*⁶⁰ and the choice of a Sufi oriented figure Sultān al-'Ulamā' as vizier⁶¹ in this period highlights the renewed ties of the government and professional classes with Sufi and gnostic trends.

The reverse process started with the reign of Shāh 'Abbas' son Sultān Sulaymān (1666–94) and reached its peak under his son Shāh Sultān Husayn who allowed the 'ulamā' to take direct part in the suppression of Sufism. The 'ulamā' did not content themselves with the destruction of *khānqāhs* or converting them into *lakyas*, a place for passion plays; rather they began to expand their ties with the artisans and guilds through popular religion. The Persian works of Majlisī the Younger on ritual sermons, especially on visitation of tombs and shrines (*ziyāra*), prayer (*du'ā*), lamentation (*taḍarru'*), and supplication (*munājāt*) mark a new direction for Shi'ite religiosity in which the 'ulamā' approximated popular religion. Amir Arjomand, comparing the number of pages devoted to *hajj* and *ziyāra* in the writings of Kulaynī and Ṭūsī with that of Majlisī and Ḥurr 'Āmilī, indicates "the shift of emphasis in the relative importance" of the above rituals.⁶²

The writings of Majlisī, in fact, include parts of popular religion, especially elegies (*marāthī*),⁶³ into religious sci-

⁶⁰ E.g., see M Ṣarrāf, *Rasā'il-i Javānmardān*; and Sayyid Kāzīm Rūhānī, "Aṣnāf va Pishavarān dar 'Aṣr-i Ṣafavī", *Kayhān-i Andīsha* 14(1987), pp. 91–96.

⁶¹ See above, part I, chapter three.

⁶² Arjomand, *The Shadow of God*, p. 170.

⁶³ Muḥammad Bāqir Majlisī, *Biḥār al-Anwār*, vol. 45, pp. 242–294.

ences. The popular eulogy of the Imams may go back as early as the writing of "Kitāb al-Ḥujja" in *al-Kāfi* by Kulaynī. However, it seems that the first extant documentation of the recitation of the merits and virtues of the Imams and commemoration of the drama of Karbala (*Ashūrā*) appeared in *Kitāb al-Naqd* by Qazvīnī.⁶⁴

This recitation found its way into a series of popular Islamic epics such as *Abū Muslim Nāma*, a series of literary works connected with the Muslim artisan class.⁶⁵ Thus, it is no surprise that the first known book on the religious tragedies, especially the martyrdom of Imam Ḥusayn, *Rawḍat al-Shuhadā'* (Garden of the Martyrs), was written by Wā'iz Kāshifī, the same author who also wrote the best Persian work of *futuwwa*, i.e., *Futuwwat Nāma-yi Sulṭānī*.⁶⁶ This highlights the nature of the relationships between the sources which nourished the ritual basis of religiosity in Iran. The work of Wā'iz Kāshifī, who was only a Shi'ite sympathizer,⁶⁷ has little to do with Shi'ite clerical authority. But among the things which Majlisī the Younger expanded was the tendency toward reciting religious tragedies aiming at consolidating the links between the 'ulamā' and the professional classes by means of popular religion. By examining *Ayn al-Ḥayāt* in which Majlisī asked the hypothetical Sufi whether, in the Hereafter, he would make Mullā-yi Rūmī or Muḥyi-al-Dīn (Ibn 'Arabī) the intercessor (*shafī*), Amir Arjomand points out what Majlisī may have felt necessary to substitute

⁶⁴ Muḥammad Ja'far Maḥjūb, "The Evolution of Popular Eulogy of the Imams Among the Shi'a," trans. John Perez, in *Authority and Political Culture in Shi'ism*, pp. 55, 69.

⁶⁵ See K. Rūḥānī, "Aṣnāf va Pīshavarān dar 'Aṣr-i Ṣafavī", p. 93.

⁶⁶ See Ḥusayn Wā'iz Kāshifī Sabzavārī, *Futuwwat Nāma-yi Sulṭānī*, ed. Muḥammad Ja'far Maḥjūb (Tehran: Bunyād Farhang, 1971), introduction, p. 96; see also Maḥjūb, "The Evolution," p. 73.

⁶⁷ Kāshifī Sabzavārī, *Futuwwat Nāma-yi Sulṭānī*, introduction, p. 95.

for Sufi notions:

Once eschatology is made the cornerstone of orthodox religiosity, the intercession of the Imams is substituted for that of Sufi saints and the Imams are cast primarily into the role of otherworldly saviors and intercessors with God...⁶⁸

One important point in connection with this passage must be emphasized, the concurrence of the rituals, such as visitation of the tombs and mourning rites (*'azādārī*), with the spiritual needs of Iranians who were now somewhat deprived from their Sufi saints and *khānqāhs*. Mahmoud Ayoub delicately delineates the cordial message of rituals among Shī'is:

No one can deny the far-reaching significance of these three main rituals (*hajj*, *ziyāra* and *ta'ziya*) to the entire Muslim community. But we wish to argue here that the special rituals of the Shī'ī community, that is, the rituals of the *ta'ziya* and *ziyāra* present an intensity of feeling and a total encompassing of time and space unparalleled in the general piety of Sunnī Islam. In this sense, Shī'ī ritual gives Shī'ī piety a unique character in Islamic religiosity at any rate.⁶⁹

Although the psychology of *ziyāra* and *ta'ziya* (passion play) has its roots in the popular Shi'ite piety, its ramifications were significant enough to strengthen the ties between

⁶⁸ Arjomand, *The Shadow of God*, pp. 170, 309.

⁶⁹ Mahmoud Mostafa Ayoub, *Redemptive Suffering in Islam: A Study of the Devotional Aspects of 'Āshūrā' in Twelver Shi'ism* (Paris and New York: The Hague, 1978), p. 277.

the bazaar and mosque so that the professional classes appeared to be the principle director and financier of the popular religion by the late Safavid period.⁷⁰

The increased role of the professional classes in popular religion since the Safavid period can be seen in the following channels:

i) Muḥarram processions developed into a wide range of ceremonies such as *rawḍa khwānī* (recitation of the events of Karbala) and *dasta gardānī* (demonstration of mourning rites) which required a body to organize such activities. This sponsor body, called *ṣāhib-i 'azā* in Arabic and *hay'at-i 'azādārī* in Persian (since the nineteenth century), was in charge of rallying mourning groups, and supplying them with special clothes and equipments. This body raised funds to finance various kinds of equipments used in Muḥarram processions including chains for self-flagellating groups (*zanjīr zanān*), banners and poles for standard bearers (*'alamdārān*) and models of the shrine for couch carriers (*nakhl gardānān va jarīda kashān*).⁷¹ The sponsor body was normally composed of connected craftsmen of a certain profession or of each quarter of the city. In the shrine cities such as Najaf and Karbala, the religious students and the servants of the shrines also participate in this rallying body. Thus, Muḥarram processions, *inter alia*, served to reinforce class, communal, and guild identity.⁷² However, the prime beneficiaries of these Muḥarram rites have been low-ranking *mulās* who, in their positions of *rawḍa khwān* (reciter) and *wā'iz* (preacher), make their best income of the year during this period. Moreover, by publicizing the authority of a chief

⁷⁰ See Rūhānī, "Aṣnāf va Pishavarān dar Tārīkh-i Īrān," p. 93.

⁷¹ Moojan Momen has an interesting account of popular Shi'ism, most of which was practiced since the late Safavid period. See his *An Introduction*, pp. 238–43.

⁷² Yitzhak Nakash, *The Shi'is of Iraq* (Princeton, N.J.: Princeton University Press, 1994), p. 152.

jurisprudent, they have made the *khums* income available to the high-ranking *mujtahids*.

ii) The professional classes both supported and benefited from the ritual of *ziyāra* visitation of the tombs and shrines of the Imams and Imāmzāda (those descended from the Imams) in each of the Shi'a populated cities. This visitation not only helped to finance other groups of adherents to the religious class, i.e., *nawḥa khwān* (mourner) and servants of the shrine, but consolidated the link between the craftsmen and the 'ulamā' who continuously upheld the doctrine of *ziyāra*. Moreover, the livelihood of a large number of shopkeepers in the shrine cities depended on visitation of these cities because of the economic gains from the caravan loads of performing pilgrimage to the shrines, especially those of Najaf and Karbala.

iii) Closing the shops of the bazaar provided another channel for interaction between 'ulamā' and the professional classes since the late Safavid period. Suspension of work for different reasons is a universal phenomenon; nevertheless, closing the shops in the bazaar in modern Shi'ism was closely connected with religious sentiments as determined by the leading 'ulamā'. Since the late Safavid period, during a number of special dates and occasions (including the days commemorating the death of the chief *mujtahids*) sympathy has been expressed by closing of all shops in the bazaar. Historically, the respective governments had assumed the prerogative of determining the dates when businesses would be closed.⁷³ After the late Safavid period, it became a privilege of the 'ulamā' to specify the occasions on which the shops would be closed. It functioned as part of the prerequisite for the Muḥarram ceremonies and was also used for

⁷³ For example, in 352/963 the Buyid ruler Mu'izz al-Dawla closed the market of Baghdad on the day of 'Āshūrā'. See Ayoub, *Redemptive Suffering*, p. 153.

socio-political purposes during the Qajar period.⁷⁴

By virtue of the above-mentioned connections, the 'ulamā' managed to maintain their economic strength during the post-Safavid period when the succeeding governments of Afghan, Afshar and Zand deprived them of the income derived from their endowed and granted properties. In fact, the new ties were more suited to the interests of the Shi'ite 'ulamā' and led to their economic independence. At the beginning of the twelfth/eighteenth century, when a considerable number of Persian 'ulamā' emigrated to 'Atabāt, the visitation and Muḥarram rites were already so entrenched in ritual practice that they supported the livelihood of the new immigrants.

The increased 'ulamā'-*aṣṇāf* ties culminated during the reign of Fath 'Alī Shāh when the state's land grants and cash rewards (*pishkashī*) to the 'ulamā' were resumed,⁷⁵ and we come across the names of merchant-'ulamā' such as Ḥujjat al-Islam Shaftī and Shaykh Muḥammad Taqī Baraghānī who accumulated wealth and were involved in commerce. Unlike Baraghānī who became rich by selling the state's granted land, Shaftī used any possible Shar'ī pretext to accumulate wealth and to control the finances of Isfahan. Shaftī, who believed in the full application of the Sharī'a by *mujtahids* during the occultation, put in practice what others only claimed on a doctrinal level.

The modern author Juan Cole, emphasizing the increased 'ulamā'-merchant ties of this era, went so far as to assume that the success of Bihbihānī in reestablishing the

⁷⁴ As Ann Lambton has observed: "A call from the religious leaders could close the bazaar or lead to a boycott of a certain kind of merchandise, as it did in the case of tobacco in 1891". See her "The Persian 'Ulama and Constitutional Reform", *Le Shi'isme Imamite*, ed. by Toufic Fahd (Paris: Presses Universitaires de France, 1970), p. 251.

⁷⁵ See Algar, *Religion and State*, pp. 45-72.

Uṣūlī school in 'Atabāt was due to these connections.

Aqa Muhammad Baqir had strong merchant contacts through his in-laws in Bihbihan and his half-brothers in Isfahan and Shiraz, important insofar as they might encourage merchant capitalists who came through Karbala to put charitable contributions in his hands and seek his rulings on commercial disputes.⁷⁶

It seems, however, the very increased 'ulamā'-merchant contact owes its popularity to the practice of visitation which has contributed the most to the 'ulamā's prestige since the 12th/18th century. The centrality of Najaf and Karbala as the holiest shrine cities after Mecca have attracted not only Iranian Iraqi pilgrims, but also Shi'is from India, and this provided a new channel of income for *mujtahids* of 'Atabāt.

The appearance of the Shi'ite state of Oudh in North India in 1133/1720 coincided with productive efforts of influential authors such as Majlisī the Younger to vulgarize the notion of *ziyāra*.⁷⁷ Like Majlisī, the 'ulamā' of Oudh were inclined to Akhbarism and popular religion. They regularly visited the 'Atabāt whose 'ulamā' shared the respect and homage from the people who visited the holy shrines. Under their influence, the Indian jurists of Oudh opted to teach Uṣūlī jurisprudence in 1181/1795.⁷⁸

The Indian connection helped expand the economic sources of the authority of the 'ulamā' in several respects.

⁷⁶ Juan Cole, "Shi'i Clerics in Iraq and Iran, 1722-1780: The Akhbari-Usuli Conflict Reconsidered", *Iranian Studies*, XVIII (Nov. 1985), p. 20.

⁷⁷ Majlisī, *Biḥār al-Anwār*, vol. 97, pp. 101-455; also vols. 98, 99.

⁷⁸ Cole, *op.cit.*, pp. 24-25.

According to Yitzhak Nakash:

Between 1780 and 1844, ruler, ministers, and other notables of Oudh remitted more than one million rupees for philanthropic purpose, economic projects, and religious functions in the shrine cities ...Indian contributors also financed the building of the Hindiyya canal, which brought water to Najaf....The ecological changes caused by the construction of the canal led to the attraction of Arab tribes to the area near Najaf, exposing them to Shi'i propaganda.⁷⁹

Since 1267/1850, the 'ulamā' of 'Atabāt began to receive regular Indian money on the pretext of the Oudh Bequest. This bequest was a pious endowment based on a monthly allowance financed according to a contract between the British governor-general of India and the king of Oudh. This payment which lasted over a century (1850-1953) was, indeed, a good source of income for *mujtahids* and even some *marāji*.⁸⁰ However, it did not appear to constitute a form of dependency on foreign funds for the 'ulamā'. Rather, it remained a secondary source as most *marāji* and senior *mujtahids* regarded this fund impious, and refrained from receiving that money.

To sum up, the financial strength of the Shi'ite 'ulamā' rested mainly on the traditional economic resources, i.e., revenues from *khums*, *zakāt*, *radd-i mazālīm*, and *waqf* which were increased by instituting the rituals of *ziyāra* and the processions of Muḥarram. From among the above resources, the *khums*, especially the Imam's share,

⁷⁹ Nakash, *The Shi'is of Iraq*, p. 211.

⁸⁰ Ibid., p. 216.

constituted the major source not only in the economic sense, but also in the spiritual sense as it was imbued with the charismatic representation of the Imam.

Political Roles of the 'Ulamā'

Since the late nineteenth century onward, the Shi'ite 'ulamā', in general, especially the high-ranking *marāji'*, played an important role in the political currents of Iran and Iraq. The 'ulamā' had always had a significant part in the socio-political life of the Shi'ite community, but they had never entered into the political scene as they did in the beginning of the 14th/ late 19th century. From the time when the Shi'ite Buyid dynasty which governed in Baghdad (334/945), Imāmī 'ulamā' have practically adopted a dual structure of authority whereby the true government belongs to the Hidden Imam and his juridically proven vicegerents while the existing government is also justified at most as the temporal protector of faith, or at least is tolerated as an irremovable usurper.¹

With the vicegerency of the Imam, the place that the Uṣūlī 'ulamā' assigned to themselves was theoretically an intermediary position between the Imam and his community without their being committed to the miraculous and saintly performances or directly jeopardizing the material power of the ruling establishments. For this reason, their claim of vicegerency appears essentially based on their knowledge of and ability in juridical argumentation (*ijtihād*) reinforced by the devotional attachment of the lay Shi'is to the figure of the Imams as symbolized in the person of the *marja'*. According to Ayatollah Muṭahharī, the courtesy and

¹ As I pointed out in the introduction of this study, ample evidence can be drawn to support this dual structure of authority. In this chapter, I focus particularly on Shaykh Ja'far Najafī and Mullā Aḥmad Narāqī's conceptions of legitimate government.

devotion performed by the *khums* payers to the person of the *marja'* gave a double value to the implementation of the law regarding the three shares of the Imam.²

In addition to the charisma derived from the vicegerency of the Imam, the 'ulamā', by excommunicating Sufis, emerged as the sole exponents of Shari'a and the legal custodians of the community. Thus, the above intermediary position was sustained by the 'ulamā' through the expansion of Shi'ite positive law. This is manifested in the reformation of *fiqh* by the Uṣūlī scholars of 'Atabāt, such as Najafi and Anṣārī. This expansion not only indicates the daily contact of *marāji'* with common people but demonstrates a reciprocal relationship which carried forward the devotional attachment to the *marja'iyya*.

Nevertheless, the development of Shi'ite *fiqh* in the 13th/19th century does not include the topic of *marja'iyya*. The notion of *marja'iyya* is only implied in the legal norms concerning the qualifications of the *mujtahid* in the chapters of *ijtihad* and *taqlid*. The institutional appearance of *marja'iyya* can only be found in historical and biographical works. The legal nature of *marja'iyya*, which has never been propounded in *fiqh*, can be characterized in anthropological terminology as a case of non-corporate institutions, the chief characteristic of which "involves voluntary face-to-face and one-to-one relationships between individuals in an informal setting."³ In fact, the problem of *marja'iyya* still remains a topic of historical development whose legal rules have not yet been incorporated into positive law.⁴

² Muṭahhari, *Baḥthi*, p. 180.

³ Saeed Pirnazar, "Non-Corporate Groups and Political Development in Developing Areas," Ph.D. diss. (University of Kansas, 1982), p. 183.

⁴ Several attempts, including the 1979 Constitution of the Islamic Republic of Iran, have been made to give a formal shape to the institution of *marja'iyya*, but as we see in the

As the highest stage of the Shi'ite clerical hierarchy, the *marja'yya* was crucial for institutionalizing several public functions of which the authority of a supreme *mujtahid* is relevant. In addition to giving legal opinion in religious matters and administering learning and pious foundations, the *marja'* came to be considered the final authority in declaring *jihād*, determining heterodox and innovative ideas, as well as serving as an intermediary between the people and the government by balancing monarchical absolutism and the defense of Shi'i land. In our discussion of the socio-political roles of the 'ulamā', however, we concentrate first on two characteristics of the independent and intermediary position of the 'ulamā', especially that of *marja'yya*, then we focus on the function of the Shi'ite hierarchy in the system of checks and balances and the defense of Shi'ite land.

A. Independent Character of the Shi'ite 'Ulamā'

Before the Safavid period, the status of the Shi'ite 'ulamā', like their Sunnī counterparts, was chiefly identified with

Amendment of 1989, they failed. It seems that for the institution of *marja'yya*, to borrow Pirnazar's words, "any semblance of formality goes against its very nature and structure." See Pirnazar, "Non-Corporate Groups", p. 60. From a juridical point of view, the question of *marja'yya* was set forth for discussion by the contemporary Ayatollah Sayyid Muḥammad Shīrāzī in his work, *al-Fiqh*. Nevertheless, it appears to be a trivial subject in relation to *taqlīd* and *wilāyat al-faqīh*, since Shīrāzī does not try to conceptualize the institution of *marja'yya*. See Sayyid Muḥammad al-Ḥusaynī al-Shīrāzī, *al-Fiqh*, 108 vols. (Beirut: Dār al-'Ulūm, 1987), vol. 1, pp. 196–226 and vol. 101, pp. 57, 65, 76. In his celebrated work, Ayatollah Muntazirī puts the function of *marja'* into the context of *walī'l-amr*, and combines it with that of religio-political leader of the Islamic Republic. See Ḥusayn 'Alī Muntazirī, *Dirāsāt fi'l-Wilāyat al-Faqīh*, 2 vols. (Qum: al-Markaz al-'Ālimī, 1988), vol. 2, chapters 3–6.

their function as mufti, leader of congregational prayer and *qāḍī*. It was only the office of *qāḍī* which had some governmental affiliations. This is especially evident in the case of Sharīf Murtaḍā, the chief *qāḍī* in Baghdad under the Abbasid Caliph al-Qādir.⁵ When the Safavids made Shi'ism the state religion of Iran, they tried to incorporate all of the above functions into state positions in an attempt to give them higher significance. The mufti became *mujtahid* of the time. In all of the major cities, the *shaykh al-islām* was introduced as a leader of prayers in the central mosque. The office of *qāḍī* was then divided into civil and military spheres, each composed of new ranks.

Moreover, the new position of *mullā-bāshī* was created especially to provide a state channel through which it could control the religious dignitaries by incorporating them into government administration.⁶ The office of *ṣadr*, which originated from the expansion of custodianship of the pious foundations, was divided into special, state (*mamālik*) and deputy (*nā'ib*) *ṣadr* with different jurisdictions to administer pious endowments and bequests.⁷ In the middle of the Safavid period, a strong gnostic trend appeared which, on a practical level, introduced a new genre of religious dignitaries, namely '*ulamā*' *bi-Allāh* among whom a Sufi figure like Sulṭān al-'ulamā' occupied the office of vizier.⁸ However, because of the negative reaction of the '*ulamā*', they had to

⁵ See Mudarris Khiyabānī, *Rayḥanat al-Adab*, vol. 4, p. 184.

⁶ The very definition of this position by the author of *Tadhkirat al-Mulūk* gives enough indication of the function of this position: it is described as "the leader (*sarkarda*) of all mullās...[who] had a special place near the throne, and none of the learned or the sayyids would sit closer than him to the kings." See *Tadhkirat al-Mulūk*, p. 1; Minorsky, p. 41; Amir Arjomand, *Authority*, pp. 19, 87.

⁷ See above, chapter seven; *Tadhkirat al-Mulūk*, p. 2, 3.

⁸ See above, chapter four.

return to their traditional Sufi and mystic status or leave Shi'ite lands.

None of the above religious processes actually form an independent structure for the position of the 'ulamā' under the Safavids. Except for some pious *mujtahids* and ascetic Sufis, all religious institutions were subordinated to government administration while the status of *mujtahid* and *marja'* were completely independent of state domination during the Qajar period. The state-controlled offices of *mullā-bāshī*, *ṣadr* and *shaykh al-Islām* (now *imām jum'ā*) continued to exist, but did not flower, and their roles were subordinated to that of the rising *mujtahids* and vicegerents of the Imam. These *mujtahids* had adopted a different structure of authority since the late Safavid period. The works of Majlisī the Younger on popular religion, Shi'ite tragedies, the pilgrimage to holy shrines, and the necessity of *khums* payment, qualify him as one of the foremost pioneers of the new structure of juristic authority. Majlisī's Persian writings were essentially addressed to the common people in an attempt to reformulate Shi'ite ideology so that it incorporated ritualistic elements and devotional attachment, both of which expanded the function of the jurisprudent as the custodian of the rite.⁹ Amir Arjomand credited Majlisī with creating "a psychological basis for hierocratic domination among the masses":

Through his popularization of Shi'ism Majlisī had secured the religious loyalty of the masses, precluding the influence of the Sufi shaykhs upon them.¹⁰

⁹ The list of Majlisī's writings includes a sizeable number of books on rituals such as *Ādāb al-Ṣalāt* and *Manāsik-i Hajj*. Consult Shaykh Āqā Buzurg Tihirānī, *al-Dharī'a*, vol. 2, on *ādāb*. For a brief survey of the contents of Majlisī's *Bihār al-Anwār*, see vol. 3, pp. 16-26.

¹⁰ Amir Arjomand, "The Shi'ite Hierocracy," p. 47.

In the interim between the fall of the Safavids and the rise of the Qajars, the ritualistic process in the shrine cities was defined as a direct result of the Akhbārī dominance in 'Atabāt and their way of attaching themselves to the Imams through devotional practices and following the traditions of the Imams. When the Uṣūlī *mujtahids* began to concentrate themselves in 'Atabāt instead of Isfahan and eventually dominated the key religious institutions of Iraq, the ceremonial processes had already come into play and the small villages of Najaf, Karbala and Kāẓimayn were turned into economic centers as holy shrine cities. The Uṣūlī *mujtahids* benefitted from the financial resources despite their theoretical problem of legitimizing all new rituals which were introduced, especially those such as the Muḥarram processions.¹¹ However, the stability of the 'ulamā's financial resources in this period was an essential factor in achieving their independence from the Qajar government.

Another factor contributing to the independent character of the 'ulamā' was the attitude of the Qajar kings especially that of Faṭḥ 'Alī Shāh toward the religious institutions. The Qajars inherited the instability and problems of legitimacy which followed the fall of the Safavids. In order to provide enough legitimacy to stabilize the government, the

¹¹ A comparison between the Uṣūlī writings of 'Allāma Ḥillī and Shaykh Anṣārī with that of Majlisī the Younger illustrates the different conception of the Shi'ite religiosity which Majlisī adopted. Most of the Muḥarram rituals have no title in the Uṣūlī works of Anṣārī, Narāqī, Najafī, Shīrāzī, etc. Concerning the 'ulamā's problem of exaggerative or superstitious aspects of some of the Muḥarram processions, see Asadullāh Mūsavī Khāragānī, *Maḥw al-Mawḥūm wa Saḥw al-Ma'lūm*, edited by Sayyid Maḥmūd Ṭālaqānī (Tehran: Nūr Muḥammadi, n.d.), pp. 22, 28, 43, 280. See also Nāṣir Makārim Shīrāzī, "Muṣāḥiba bā Āyatullāh Makārim Shīrāzī", *Iḥawza* 43-44 (March-July 1991), p. 267.

Safavid ruler managed to combine in himself three important roles: he was the pole (*qutb*) of the popular Sufi order to which the dynasty belonged, the Ṣafawiyya order; he claimed descent from the Seventh Imam, and finally he was a king according to the Persian tradition of kingship. After the Safavids, the Afshar and Zand dynasties did not concern themselves with doctrinal justification for their short-lived reigns. They only combined their own military victories with the Persian tradition of kingship. Even their authority to adhere to this tradition was questionable since both Nādir Shāh and Karīm Khān, the founders of the Afshar and Zand dynasties, were often officially designated as deputies of a powerless Safavid prince. This seems to be part of the reason for the difficulty which their successors had in establishing themselves as a sovereign dynasty.

The Qajars anticipated the crisis which they would face if they had not provided a legitimate pretext for the continuation of their rule. Their founder Āqā Muḥammad Shāh, who was born into and trained in a religious family,¹² liked to identify himself as a devoted and pious Shi'ī. He treated the 'ulamā' with deep respect and often accepted their intermediary role.¹³ However, Āqā Muḥammad Shāh's overall attitudes indicate that the tribal basis and even the connection to the Mongol tradition of *khanate* was of more importance in his view than religion. In addition to their good relationship with the religious dignitaries, the early Qajar kings enjoyed the talents of efficient viziers such as Qā'im Maqām (d. 125/1835) and Amīr Kabīr (d. 1268/1851), who, one way or another, guaranteed the safe transition of power to the new Qajar kings.

¹² Āqā Muḥammad Shāh was born in the house of Mullā Sayyid Mufid. See Riḍā Qulī Khān Hidāyat, *Rawḍat al-Ṣafā-yi Nāṣiri* (Tehran: Khayyām, 1960), vol. 9, p. 85.

¹³ Sir John Malcolm, *Tārīkh-i Irān*, 2 vols. (Tehran: Sa'di, n.d.), vol. 2, p. 112. See also Hidāyat, *Rawḍat al-Ṣafā*, vol. 9, p. 821.

Āqā Muḥammad Shāh's successor, Fath 'Alī Shāh, not only continued to identify himself with both the knowledge and piety of a true Shī'ī but also tried to combine religious legitimation with his reign. Such a claim to religious legitimacy could only be sponsored by "religious dignitaries" whether they were Uṣūlī, Akhbārī, or Shaykhī. We have evidence indicating that Fath 'Alī Shāh tried to employ the title *ūlī'l-amr* (those invested with power) after using the pretext of being appointed by a vicegerent of the Imam. A letter written by Mīrzā Abū'l-Qāsim Qummī reveals the fact that he was asked to perform the ritual of such a designation for the Shah. However, he denounced the idea because of the Sunnī implication of *ūlī'l-amr* being applied to anyone other than the Shi'ite Imams.¹⁴ In the same letter, Qummī expressed his concern about the Shah's possible inclination towards Sufism and philosophy, which gives a clue on why the Shah considered Shaykh Aḥmad Aḥsā'ī as the full-fledged proof of God (*ḥujjatullāh al-bāligha*) and the greatest gnostic figure.¹⁵

Fath 'Alī Shāh, however, could not find a better solution to his problem than the Uṣūlī 'ulamā' and their doctrine of vicegerency in order to accomplish his search for twofold legitimacy. Amir Arjomand applies to this the Weberian theorem that "if the legitimacy of the ruler is not clearly identifiable through hereditary charisma, another charismatic power is needed; normally this can only be hierarchy."¹⁶ The conclusion which Amir Arjomand draws in his last analysis is the existence of a dual structure of authority for the Qajar period.¹⁷ This structure was corroborated by the 'ulamā's double standard towards the ruling establishment. However, Fath 'Alī Shāh's religious policy acceler-

¹⁴ Hairī, *Nakhustīn*, p. 327.

¹⁵ Ibid., p. 362.

¹⁶ Arjomand, *Authority and Political Culture*, p. 89.

¹⁷ Ibid., p. 7.

ated the process towards the self-contained and independent character of the clerical institution.

Despite their generally good relationship with the government, the 'ulamā' of this period did not assimilate with the Qajar court as their predecessors had done with the Safavids. They remained distinct and aloof from the state bureaucracy. In the relationship which developed between Fath 'Alī Shāh and the contemporary 'ulamā', we do not find the kind of association which, for example, Shāykh Bahā'i had with Shah 'Abbās.¹⁸ In fact, the former sought to assimilate himself with the 'ulamā' in an effort to increase his claims of legitimacy, while the Safavid founders considered themselves to be the sources of legitimacy and looked to the Shi'ite 'ulamā' for jurisprudential assistance.

The 'ulamā's general impression of the government during the Qajar period was that the temporal rulers were oppressive, although the occultation of the Imam required a *de facto* recognition of their rule as authorized by qualified *mujtahids*.¹⁹ This twofold conception of authority can be seen in the complex attitude of the influential *mujtahid* Mullā Aḥmad Narāqī who expelled two governors of Kashan from the city on the charge of having a tyrannical attitude.²⁰ Narāqī was explicit in reformulating the doctrine of juristic mandate on an all-embracing basis although he admired Fath 'Alī Shāh as a just ruler and maintained a good relationship with him.²¹

In a similar manner, Shaykh Ja'far Kāshif al-Ghiṭā's legitimizing the reign of the Shah and his role in defending

¹⁸ See Naṣrullāh Falsafī, *Zindagānī-y Shah 'Abbās-i Avval*, 4 vols. (Tehran: Dānishgāh, 1974), vol. 3, p. 26.

¹⁹ See also Modarresi Tabataba'i, *Kharāj*, pp. 153-166; Hairī, *Nakhustīn*, pp. 323-373.

²⁰ Tunakābunī, *Qīṣaṣ*, p. 130, Ḥasan Narāqī, *Tārīkh-i Ijtimā'i-yi Kāshān* (Tehran: Anjuman Athar-i Millī, 1969), p. 247.

²¹ Mullā Aḥmad Narāqī, *Mi'rāj al-Sa'āda*, p. 8.

Islam against the Russian threat reveals the fact that he considered the *mujtahids* status totally independent of the ruling establishments. He admired Fath 'Ali Shah as "the one who is protected by the meticulous eyes of God the Benefactor King;"²² nevertheless, he considered himself to be the one who should legitimize the Shah's privilege of levying taxes to finance the war against the Russians.²³ In a special letter to the Shah, Kāshif al-Ghiṭā' went so far as to call him "a servant who confessed his status of being a servant."²⁴ This kind of language cannot be seen in the writing of the previous 'ulamā', even such scholars as Majlisī the Younger who was the most authoritative jurisprudent of the late Safavid period.

It should be added that if we enlarge the scope of the 'ulamā' to include second-ranked clergy such as Shaykh Ja'far Kashfī, we can see that the legitimizing role of the 'ulamā' during the reign of Fath 'Ali Shāh reached the point of either endowing the king with the authority of the Imam of the Age or dividing the function of vicegerency between the 'ulamā' and the rulers.²⁵ Nevertheless, it does not seem to do justice to the overall religious mood as reflected in the juridical works of the above-mentioned *mujtahids* who, except for some conventional praise of the ruling king, adhered to the doctrine, which appears to be compatible with the overall history of Shi'ite law. Kashfī's ideas do not conform with the historical structure of Imāmī legal thought.²⁶

²² Shaykh Ja'far Kāshif al-Ghiṭā', *Kāshif al-Ghiṭā'* (Tehran: Lithograph, 1317/1899), p. 331.

²³ Ibid.

²⁴ Hairī, *Nakhushtīn*, p. 331.

²⁵ Arjomand, "The Shi'ite Hierocracy," pp. 53-54; idem, *The Shadow of God*, pp. 325-29; Hairī, *Nakhushtīn*, p. 342-50.

²⁶ Shaykh Ja'far Kashfī was not enlisted as an Uṣūlī *mujtahid* as the list of his writings does not entitle him to such a position.

One can see a distinct change in the relationship between religious leaders and the state by comparing the attitude of the most respected theorist of early Safavid Shi'ism, Shaykh 'Alī Karakī, towards the state and the relationship of the first categorical *marja'*, Shaykh Muḥammad Ḥasan Najafī, with the Qajar government. The latter, in his discussion of *zakāt* tax, refers to Karakī's passage by questioning what was really meant by the "government's share (*ḥissat al-sultān*) in wheat tax." He rejects Karakī's view that payment to the government would resolve the liability of a tax payer.²⁷ On the one hand, Karakī was discharged from obligatory attendance before the local governors by a special decree of Shah Ṭahmāsh.²⁸ Najafī, on the other hand, did not visit the crown prince, Nāṣir al-Dīn Shāh during his trip to 'Atabāt but contented himself with sending a representative. In fact, we have no record of any superior *marja'* attending the court of the king. This confirms the independent character of the Shi'ite hierarchy and because it was not subordinated to any state office, the 'ulamā' was able to develop a number of important nationwide functions, to which we now turn.

B. The Intermediary Role of the 'Ulamā'

The 'ulamā' used to play the role of intermediary between the rulers and the ruled masses in the absence of any other effective machinery, i.e., any public institution in Muslim society.²⁹ This role was heightened by the Qajars, who in

There is no evidence that he has ever been considered a leading *mujtahid*, not to mention *marja'*. See Tihrami, *Ṭabaqāt*, vol. 2, pt. 1, p. 241, and Mudarris Khayābānī, *Rayḥāna*, vol. 5, p. 60.

²⁷ Najafī, *Jawāhir al-Kalām*, vol. 15, p. 225.

²⁸ See Arjomand, *Authority*, p. 255.

²⁹ Concerning the intermediary role of the 'ulamā' in general, see Mehdi Mozaffari, *Authority in Islam*, pp. 43-46, and Afaf Lutfi al-Sayyid Marsot, "The Political and Economic Functions

practice allowed the 'ulamā' to voice public demands and public opinions. We already saw Āqā Muḥammad Shāh's policy of accepting the 'ulamā' as the sole channel through which the public could reach the ruler. It seems that the bloody tribal conflicts after the fall of the Safavids left no urban dignitary who did not adhere to some partisan cause, except the group of *mujtahids* who were aloof from the power struggle. In fact, the absence of any strong public institution made the conflicting parties look to the 'ulamā' as impartial personalities who could voice popular opinion.

Fath 'Alī Shāh sought not only the 'ulamā's interaction but their legitimizing role. What Fath 'Alī Shāh secured for himself was the title of appointee by the vicegerent of the Imam which historically had little bearing on his authority. But what the 'ulamā' gained was an enhanced hierarchy in which they assumed the authority of legitimizing temporal powers on behalf of the Imam of the Age. This provided an authoritative role for the 'ulamā' as intermediaries between the government and the people who considered the words of the *mujtahids* as the seal of legitimacy for their undertakings.

Because of their religious functions as leader of the prayer, teacher, *qāḍī* and jurisconsult, the 'ulamā' were in close contact with the dissatisfied and dissenting layers of Shi'ite society. They managed to function as a natural channel of expression for social discontent with the ruling class. In fact, the 'ulamā' were in a better position to control the spiritual sentiments of the Shi'ite masses especially during the commemorative gatherings, such as the Muḥarram processions since the late Safavid period. This evidently provided them with a crucial mechanism with which to influence public opinion.

of the 'Ulamā' in the 18th Century," *Journal of the Economic and Social History of the Orient* 16 (1973), pp. 130-154.

In the above context, the position of *marja'* emerged out of the consolidated status of *mujtahid* and the public was prepared to consider the words of the *marja'* as the seal of legitimacy for any situation. Qummī, one of the first to conceive of the notion *marja'iyya* as an institution, wrote a guide book (*Irshād Nāma*) addressed to Āqā Muḥammad Shāh in order to justify the reign of the Qajar monarch. He called this book a "mutual consultation" between two scholars and *marāji'*, religious and temporal, whose tasks and functions complete each other.³⁰ It is evident that the very writing of such a guide book for the reigning king demonstrates the enhanced intermediary role of the *marja'* at the beginning of the Qajar period.

Another remarkable jurist was Shaykh Ja'far Kāshif al-Ghiṭā' who played a mediating role in the attempt to free the war prisoners after the Perso-Ottoman border conflict of 1221/1806 and this entitled him to the designation of "intercessor".³¹ Kāshif al-Ghiṭā' mediated between the public and the state in several respects. The way in which our sources reported his role in appointing the Shāh as his deputy gives the impression that he was essential in formulating the notion of *idhn-i saltanat* (permission to reign) which incorporated the legitimizing role of the *mujtahid* into the very principle of rulership.

The above trend provided the ultimate support for the intermediary role of the local *mujtahids*. This led to an

³⁰ Hairi, *Nakhustīn*, pp. 325–27. By calling it a "mutual consultation", Mīrzā-yi Qummī illustrates the non-judicial nature of *Irshād Nāma*. The same Qummī, in his *Jamī' al-Shaltāt*, corroborated the exclusive authority of the 'ulamā' according to the tradition of Ibn Ḥanzala.

³¹ Ibid. Kāshif al-Ghiṭā's son Shaykh Mūsā, too, mediated between Iran and the Ottoman Empire to facilitate the pilgrimage to the holy shrines of 'Atabāt. See Najafi, *Jawāhir al-Kalām*, vol. 1, introduction by Muḥammad Riḍā Muẓaffar, p. 10.

increasing conflict between the local governors and the *mujtahids*. The *mujtahids* often appeared successful in inciting the townspeople to expel the local governors on the charge of oppression. The 13th/19th century biographer Tunakābunī has recorded an episode concerning the intervention of Shaykh Anṣārī for the return of a *mujtahid* who was banished by Muḥammad Shāh to Najaf. We read the following, as Hamid Algar has translated:

Sayyid Muḥammad Bāqir Qazvīnī Mujtahid, on returning from his studies at the 'atabāt, spent some time with Hājji Sayyid Muḥammad Bāqir Shaftū in Isfahan before taking up residence again in Qazvin. There he encouraged the townspeople to expel an oppressive governor and was banished by Muḥammad Shāh to Najaf for so doing. The intervention of Shaykh Murtaḍā Anṣārī persuaded the Shah to permit his return, but again he insisted on intervening in public affairs. The author of the *Qiṣaṣ ul-'Ulamā'*, Muḥammad b. Sulaymān Tunukābunī, attempted to dissuade him from so doing, but was told: 'When I desired to take my leave of Hujjat ul-Islam Sayyid Muḥammad Bāqir he enjoined me not to be idle in matters concerning the needs of the Muslims, and to exert myself in promoting their affairs.'³²

Another channel in which the 'ulamā' in general and the *marāji'* in particular functioned as intermediaries is in their traditional commitment to serve the cause of justice

³² Algar, *Religion and State*, p. 117.

through the office of *hisbah*. The principle of promoting good and forbidding evil is an essential part of Islamic law, which connects the role of the 'ulamā' to the governing establishment.

The Shi'ite 'ulamā' practice of assuming the duty of enjoining good and prohibiting evil found new momentum during the Qajar period where the influence of the *mujtahids* was welcomed by the reigning monarchs (except for Fath 'Alī Shāh's successor Muḥammad Shāh, d. 1264/1847). The supreme *mujtahids* of the early Qajar period extended the scope of their role by not only writing new books of *fiqh* but also new treatises on the necessity of implementing all Islamic penal and civil law.³³ The one who reached a new peak in the exploitation of this pretext for his personal ambition is Ḥujjat al-Islām Shafī. He began his career as *qāḍī* in Isfahan and promptly turned his house into a sanctuary (*bast*),³⁴ a shelter for the urban brigands (*lūlīs*). Shafī was severe in executing criminals;³⁵ nevertheless, he gave shelter in his house to some *lūlīs* who were only a specific kind of criminal. This indeed exhibits the double standard which Shafī introduced in his implementation of Shi'ite law. What Shafī really hoped to achieve by recruiting urban brigands and accumulating wealth seems to go beyond the scope of mediating between ruler and ruled. Algar assesses the relationship between Shafī and the *lūlīs* in the following

³³ E.g., *al-Ḥaqq al-Mubīn* by Shaykh Ja'far Kāshif al-Ghiṭā' and *al-Risāla fi Iqāmat al-Ḥudūd* by Muḥammad Bāqir Shafī.

³⁴ *Bast* as a litigation process seems to be a result of the development of holy shrine pilgrimage in the late Safavid period. During the Qajar period, this practice was extended to include the house of *mujtahids* when the holy shrine was not accessible. For a brief survey on the *Bast*, see 'Abbās Khālīsī, *Tārīkhcha-yi Bast va Bastnīshīnī* (Tehran: 'Ilmī, 1987).

³⁵ See 'Abbās Iqbāl Āshūyānī, "Ḥujjat al-Islām Shafī," *Yādgar* 10 (1949), p. 41.

manner:

They represented a force that might be pitted against the government; and the sanctuary afforded by mosques and the residences of the 'ulamā' was their ultimate protection against retaliation.³⁶

The first two sole *marāji'* of the 13th/19th century, i.e., Najafī and Anṣārī, did not set the precedent of direct involvement in political affairs; their activities were concentrated in the doctrinal sphere. Nevertheless, their successor Shīrāzī allowed the high status of *marja'* to be engaged in socio-political matters. During the massacre of the Shi'ite tribe of Hazāra by a British *protégé*, called 'Abd al-Rahmān, Shīrāzī could not remain indifferent, and by writing to Nāṣir al-Dīn Shāh and the Queen of England, he mediated for the protection of the Shi'ite minority in Afghanistan.³⁷ The precedent set by Shīrāzī was followed by his successors especially Khurāsānī who did not fail to support the Iranian Constitutional Movement. In an attempt to serve the cause of justice,³⁸ he advanced the roles of the 'ulamā' beyond the point it had reached under Shīrāzī in the Tobacco Episode.

C. The Roles of the 'Ulamā' in the System of Checks and Balances

In connection with their role as intermediaries, some high-ranking 'ulamā' advanced the scope of their function so that by virtue of the system of checks and balances it operated informally without being an organ of the government. This

³⁶ Algar, *Religion and State*, p. 110.

³⁷ 'Aqīqī Bakhshāyishī, *Fuqahā*, p. 374.

³⁸ See Aḥmad Kasravī, *Tārīkh-i Mashrūṭa-yi Īrān*, 2 vols. (Tehran: Amīr Kabīr, 1330/1951), vol. 1, p. 382. Also Nāẓim al-Islām Kirmānī, *Tārīkh-i Bīdārī-yi Īrāniān*, 2 vols. (Tehran: Ibn Sīnā, 1324/1945), pp. 264–69.

function, which is illustrated by Shīrāzī's celebrated ruling in favor of boycotting the use of tobacco, can hardly be paralleled in Sunnī or even Shi'ite history before the thirteenth/nineteenth century. In practice, this function was devolved upon the *marāji'* by the socio-religious mechanism of the time rather than the work of their ambitions or personalities. The very text of the above ruling was spread on the authority of the *marja'* even before Shīrāzī had signed it.³⁹ Shīrāzī had already warned Nāṣir al-Dīn Shāh against the concession of the tobacco monopoly, warning that it was the beginning of foreign economic influence in Iran. Shīrāzī even empowered his representative, Mirzā Ḥasan Āshtiyānī in Tehran "to act on his behalf in combatting the monopoly";⁴⁰ however, it was the harmony between the merchant and religious classes of Tehran, Tabriz, Isfahan, Mashhad and Shiraz that generated such a socio-political situation which was suitable for the application of the *marja'* rulings. Shīrāzī's pronouncement⁴¹ not only overruled the decision of the sovereign king but also demonstrated that the *marja'iyya* could check monarchical absolutism in Iran.

Before the above ruling, we do not come across any juridical declaration which had such an influence on the economic relationship between Iran and other countries. Traditionally, the two kinds of juridical declarations which had socio-political implication usually belonged to the category of *takfīr* (excommunication) and declaring *jihād*. It was

³⁹ See Ibrāhīm Taymūrī, *Tahrīm-i Tanbākū* (Tehran: Jibī, 1979), pp. 82–106, Humā Nāṭiq, "Sarāghāz-i Iqtidār-i Iqtisādī va Siyāsī-yi Mullāyān," *Alifbā*, 2 (1983), p. 53, Algar, *Religion and State*, pp. 210–15.

⁴⁰ Algar, *Religion and State*, p. 211.

⁴¹ Shīrāzī's pronouncement on boycotting tobacco is legally a *ḥukm* (ruling) not a *fatwā* (legal opinion). Nevertheless, it is often acknowledged as a *fatwā*. This difference was discussed at the time of the boycott. See Taymūrī, *Tahrīm*, p. 120.

the latter which had direct impact on the internal and external relationships of the Muslims. In the realm of practice, the declaration of *jihād* is the final step which the *mujtahid* can take to change an unfavorable situation when the procedure of promoting the good and prohibiting evil is ineffective. The ruling on the Tobacco Monopoly is categorically due to the above procedure and its authority can be justified with the tradition concerning the superiority of the Muslim community (*al-Islām ya'lū wa lā yu'lā 'alayh*) and the principle of "no harm nor accepting harm in Islam" (*lā ḍarar wa lā ḍirār fi'l-Islām*). However, its functional effects could be enhanced by the declaration of *jihād*. In the case of the Tobacco Monopoly, the possibility of proclaiming *jihād* by the same Shīrāzī was rumored in Tehran after the spread of the first ruling.⁴²

Dismayed by the growing problem now reinforced by the street demonstrations, the government of Nāṣir al-Dīn Shāh called the 'ulamā' of Tehran for consultation and joint undertaking to alleviate the situation. After two meetings, the government agreed to cancel the contract of the Tobacco Concession in exchange for the 'ulamā's cooperation in stabilizing the situation. It seems that neither the 'ulamā' nor Shīrāzī intended to weaken the central government at this point. Shīrāzī's main concern, as depicted in his letters to the Shah, was that the Shi'ite state should not be subjected to foreign influence.⁴³ At any event, it was after this meeting that Nāṣir al-Dīn Shāh said: "I should renew the tradition of consulting with the 'ulamā'. The 'ulamā' must be consulted on main issues of state affairs."⁴⁴ This promise, indeed, did not produce a formal consultative body of 'ulamā' in the state, but contributed to the practical super-

⁴² Taymūrī, *Taḥrīm*, p. 133.

⁴³ Ibid., pp. 86–97.

⁴⁴ Ibid., p. 196.

vision by the 'ulamā', especially the *marāji'*, of state affairs. For this reason, we may conclude that Shīrāzī as a *marja'* not only overruled the state decision but checked monarchical absolutism in an unprecedented fashion. A letter written by Nāṣir al-Dīn Shāh to Shīrāzī after the Tobacco Episode indicates the change of attitude in his treatment of Shīrāzī.⁴⁵ The famous Iranian prime minister, Dr. Muḥammad Muṣaddiq (d. 1346sh/1968), who was trained under the Qajars, found the practice of consulting with religious dignitaries established enough to mention it as an advantage for the Qajars:

Under the Qajar kings, the foreign states could not sign a contract with Iran without the agreement of several groups of ministers, 'ulamā' and influential dignitaries. This usually required time and money without any guaranteed result.⁴⁶

Another by-product of Shīrāzī's triumphant ruling was a heightened consciousness of the far-reaching authority which the Shi'ite masses could accord to the office of *marja'*. The same Shīrāzī, as we saw in the case of the Shi'ite minority in Afghanistan, exploited this authority again by persuading Nāṣir al-Dīn Shāh to use his diplomatic effort to stop the suppression of Shi'is in Afghanistan.⁴⁷

Shīrāzī's successor, Khurāsānī, benefitted from this consciousness and extended the function of the *marja'iyya* within the system of checks and balances. He not only helped his fellow Iranians to form a parliament in Tehran

⁴⁵ Despite his customary royal tone, the Shah now addressed Shīrāzī as *Hujjat al-Islām* in a respectful manner. See Taymūrī, *Tahrīm*, p. 18.

⁴⁶ Muḥammad Muṣaddiq, *Khāṭirāt va Ta'ammulāt*, ed. Īraj Afshār (Tehran: Intisharat 'Ilmi, 1986), p. 200.

⁴⁷ Aqīqi Bakhshāyishī, *Fuqahā*, p. 198.

but, as we will see below, he took the responsibility for legitimizing part of its legislations which were concerned with modern notions such as banking, military reform, etc. Khurāsānī's point of departure was to serve the cause of justice which eventually extended the restrictions of the power and privileges enjoyed by the Qajar kings.⁴⁸ Khurāsānī, indeed, did not initiate such a structure for his intervention; on the contrary, public opinion in Iran, now aware of the authority placed in the position of *marja'*, desired the deployment of his influence.

Khurāsānī, as the leading *marja'*, along with two other influential *mujtahids* of Najaf, i.e., Mīrzā Ḥusayn Tihrānī (d. 1326/1908) and Shaykh 'Abdullāh Māzandarānī (d. 1333/1914) sent a number of *fatwās*, rulings and guiding outlines to the people and government of Iran which illustrate the supreme role which they assigned to the *marja'* in balancing the power of government and the Majlis (the parliament).⁴⁹ It was Khurāsānī who along with Māzandarānī ruled in favor of the rebellion against the anti-constitutional king Muḥammad 'Alī Shāh (reigned 1907–09) and prohibited the payment of taxes to an oppressive government.⁵⁰ This ruling built the psychological basis for the urban and tribal resurgence against the central government that eventually toppled the Shah in 1327/1909. It is remarkable that Khurāsānī had already given a ten-article guideline⁵¹ to the same Shah at the beginning of his reign. The contents of this guideline, as contrasted with his later ruling of excommunication of the Shah, is a clear demonstration of the restrain-

⁴⁸ Kasravi, *Tārīkh-i Mashrūṭa*, vol. 1, p. 264, Abdul Karīm Lāhijī, "Constitutionalism and Clerical Authority" in Arjomand, *Authority*, p. 133.

⁴⁹ For a concise collection of Khurāsānī's messages, see 'Abdul-Ḥusayn Majīd Kafā'i, *Margī dar Nūr* (Tehran: Zuvvār, 1980).

⁵⁰ *Ibid.*, p. 183.

⁵¹ *Ibid.*, pp. 179–82.

ing role played by Khurāsānī. In contrast with Shirāzī, who seems to have considered the modern notions such as banking as elements of foreign influence in Islamic territory,⁵² Khurāsānī justified such a new phenomenon according to the purposes they would serve. He ruled in favor of the legalization of banking, military service and new colleges since they could serve the cause of justice and prosperity according to Islamic rules.

Khurāsānī's way of legalizing new notions in accordance with Islamic rules was doctrinally expanded by his disciple Muḥammad Ḥusayn Nā'inī who wrote a special treatise to harmonize the parliamentary system and the Shi'ite principles of Imamate. Nā'inī legitimized the elected assembly by declaring that it would be a deterrent and a restraining power which could perform the task of *'isma* (infallibility of the Prophet and Imams) under the supervision of the *mujtahids* during the Occultation. If the division of power and the separation of responsibilities could not replace the absent power of *'isma* these could at least function as a means to serve the cause of justice, equality and freedom.⁵³ Nā'inī leaves no doubt that the legitimate government in the absence of the Imam belongs to the learned vicegerents of the Imam. Since this right was usurped by the ruling powers and the usurpation could not be eliminated, it was preferable that the government's decision be supervised by the Imam's vicegerents.⁵⁴

Among the Uṣūlī 'ulamā' of the Qajar period, we have instances of tyrannical *mujtahids* whose ambitions exceeded the limits of checks and balances provided by the hierarchical system. We have already seen the example of Ḥujjat al-Islām Shaftī who acted as an absolute authority in Isfahan.

⁵² Taymūrī, *Taḥrīm*, p. 88.

⁵³ Nā'inī, *Tanbīh al-Umma*, pp. 56–59.

⁵⁴ *Ibid.*, pp. 47–50, 101.

Almost thirty years after Shafī, Āqa Najafī Isfahānī, a local *mujtahid*, dominated the social life of Isfahan with a similar vigor. This kind of Uṣūlī absolutism reached a new peak with Shaykh Fadlullāh Nūrī (d. 1229/1911) who subjected Iranian constitutionalism to certain conditions which could prevent it from performing its characteristic function—representation of the people in an elected assembly.⁵⁵ This trend was defeated by the unfailing support of Khurāsānī for constitutionalism. However, it signalled the existence of the absolutist elements in the Uṣūlī camp. Amir Arjomand, emphasizing the role of Yazdī, Nūrī and some other *mujtahids*, describes the typical *esprit de corps* of the clerical class as “religious nationalism”:

It seems most appropriate to characterize the supra-personal aspect of the political orientation of the *ulama* as *religious nationalism*, with their attitudes towards the parliamentary government being determined pragmatically—in accordance, that is, with their assessment of its likely effect in the strengthening or, conversely, the weakening of Islam. Venality and personal interests apart, the general consideration which determined the *ulama*’s attitude towards the Constitution was its potential consequences for Islam.⁵⁶

D. Defense of the Shi’ite Land

The political upheaval of the Middle East at the beginning

⁵⁵ See Muḥammad Turkaman, *Maktūbāt I’lāmiyyah*, vol. 2, pp. 268–328.

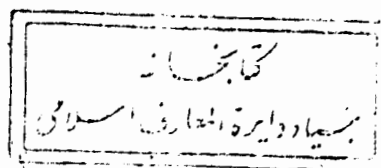
⁵⁶ Said Amir Arjomand, “The Ulama’s Traditionalist Opposition to Parliamentarianism: 1907–1909,” *Middle Eastern Studies* 17 (1981), p. 1985.

of the twentieth century necessitated a new priority in the function of the 'ulamā', i.e., the defense of Shi'ite land, and at the same time it provided a common cause with other Muslim nations which were subjected to colonial invasions. The Shi'ite hierarchy of Najaf strongly reacted to the Anglo-Russian invasion of Iran in 1328/1910. When the Russians prolonged the occupation of Azarbayjan resulting in bloodshed, Khurāsānī asked the Majlis to undertake a proper action and warned the parliament that he would otherwise rule for boycotting the use of the Russian goods in Iran.⁵⁷ A few weeks later, however, Khurāsānī and Māzandarānī had to issue such a ruling which was subsequently followed by the proclamation of *jihād* against the Russian presence in Iran.⁵⁸ Khurāsānī and Māzandarānī did not content themselves with the declaration of *jihād*, but decided to move into Iran to organize the *jihād* movement which Khurāsānī had initiated. He passed away on the morning of their departure.

Between the death of Khurāsānī and the rise of Ayatollah Burūjirdī in 1325sh/1947, the socio-political stand of the 'ulamā', especially the *marja'iyya*, is marked by two different tendencies: i) to secure the status quo by opposing any change which would invite foreign influence, and ii) to adopt changes in accordance with Islamic principles and to actively protect Shi'ite land against imperialistic domination. The first trend was represented by Sayyid Muḥammad Kāzīm Yazdī and Shaykh Sharī'at Iṣfahānī (1339/1920). The second current was led by Māzandarānī, Shīrāzī II and to a limited extent by Nā'inī and Sayyid Abū'l-Ḥasan Iṣfahānī (1365/1946). The shift of emphasis to the political destiny of Shi'ite territory, however, remains an important element in determining the place of the *marja'iyya*. Even conservative *marāji'* such as Yazdī and Sharī'at Iṣfahānī, issued *fatwās* for

⁵⁷ Kafa'i, *Margi dar Nūr*, pp. 240-41.

⁵⁸ Ibid., pp. 264-69.



the defense of Muslim nations⁵⁹ but the tone and the timing of their declarations indicate that active resistance was not their primary concern.

On the other hand, Māzandarānī and particularly Shīrāzī II (d. 1338/1920) proclaimed *jihād* in the most needy times. Shīrāzī II's ruling is recorded as one of the most influential factors in Iraq's resistance movement in 1338/1920 wherein he not only declared *jihād* against the British mandate in Iraq but also ruled that *zakāt* taxes should be spent for financing the armed struggle.⁶⁰ Although Shīrāzī II died four months after his last *fatwā*, the movement that he led managed to witness the creation of Iraq headed by a Muslim government. His political intervention in Sunnī-dominated Iraq highlights the productivity of an almost one century-old independent institution of *marja'iyya* which could demonstrate its traditional strength in a delicate situation.

After the independence of Iraq, the Shi'ite 'ulamā' suffered a temporary political setback. In 1341/1922 in protest against continued British presence in Iraq, Iṣfahānī and Nā'inī, now two leading *marāji'*, and a regular *mujtahid* of Kāzīmāyn Sayyid Mahdī Khālīshī⁶¹ prohibited the constitutional election of the new state of Iraq. When the English authorities deported Ayatollah Khālīshī to the Hijaz, Iṣfahānī, Nā'inī and several other 'ulamā' protested this action by deciding to leave Iraq for Iran. The two above *marāji'*

⁵⁹ 'Alī Davānī, *Nihdat-i Rūhānīyūn-i Īrān*, 10 vols. (Tehran: Bunyād Imām Rizā, 1981), vol. 1, pp. 205–27. See also Abdul-Hadi Hairī, "The Responses of Libyans and Iranians to Imperialism," *Zeitschrift der Deutschen Morgenländischen Gesellschaft* (1980), pp. 372–92; 'Alī al-Wardī, *Lamahāt Ijtima'iya*, vol. 3, p. 188, and 'Aqīqī Bakhshayishī, *Fuqahā*, pp. 385–89.

⁶⁰ Ibid.

⁶¹ Sayyid Mahdī Khālīshī was a prominent *mujtahid* of Kāzīmāyn.

arrived at Qum in order to join Ayatollah Ḥā'irī (d. 1355/1935), the third member of the collective leadership who had also been under pressure by the modernizing movement of the Pahlavi government. Although influential among the people, the above *marāji'* realized that time was on the side of the modernists and the religious leaders could not play a more influential role than that which they had assumed during the Constitutional Movement of Iran and the resistance movement in Iraq.

Iṣfahānī and Nā'inī returned to Najaf six months later, although the institution of 'ulamā' was now checked by the modernizing currents and seemed to withdraw from direct political involvement. Nevertheless, in later decades, *marja'īyya* resumed its socio-political role, first in the anti-republic drives and second, in the Islamic revival movement. The anti-republic drives of the high-ranking 'ulamā' can best be seen in their conservative support for continuation of monarchism. This was witnessed in the Nā'inī, Iṣfahānī and Ḥā'irī opposition to Reza Shah's pro-republic movement in 1303sh/1924.⁶² It is commonly believed that the advice of the above 'ulamā', especially that of Nā'inī, had motivated Reza Shah (reigned 1925–1941) to shift his republican drive to monarchism. Twenty nine years later, the fear of a communist takeover led Ayatollah Burūjirdī to favor Mohammad Reza Shah (reigned 1941–1979) in his power struggle with the prime minister Dr. Muṣaddiq. The Islamic Revolution of 1979, however, changed both the conservative character of the 'ulamā' and the structure of their hierarchy. The traditionally conservative 'ulamā' incorporated the revolutionary principles into the Shi'ite religiosity (see conclusion below). Their political roles eventually turned into embodying the entire government of Shi'ite Iran under the

⁶² See Iraj Afshar, *Khaṭīrat-i Sardar As'ad-i Bakhtiārī* (Tehran: Asāṭir, 1993), p. 113.

rule of a new religio-political position called "the leader" or "the custodian of the affairs [of Muslims] (*walī al-amr*)". In the wake of all these changes, the 'ulamā's traditional hierarchy of *marja'yya* was in Iran subordinated to the office of "the leader", and was politically aloof in 'Atabāt.

Conclusion

The history of religious authority in Shi'ite Islam points to the fact that the positions of the 'ulamā' have mainly developed by the medium of mass following of lay Shi'is rather than the institutional legitimacy of their offices. We saw how the remarkable 'ulamā' of the 7th/13th century (i.e., Muḥaqqiq the First and 'Allāma al-Hillī) formally adopted the long-disputed principle of *ijtihād* not only to justify the legality of jurists' methodological attempts, but rather to distinguish their status from the commoners. The very dichotomy of the community into *mujtahids* and *muqallids* entails the necessary obedience of the latter to the juridical pronouncements of the former. However, the theoretical basis of this dichotomy was the knowledge of legal methodology by which these 'ulamā' gave a more sophisticated form to Shi'ite *fiqh*.

In addition to the authority of knowledge of jurisprudence, the 'ulamā' of the above period employed the charismatic representation of the hidden Imam more forcefully, that is to say that they explicitly assigned to themselves the position of general vicegerents of the Imam. This position did indeed increase the authority of the 'ulamā'. Nevertheless, the authoritative office of *mujtahid* appeared in the late Safavid period when, by eradicating Sufi orders from the popular scene, the 'ulamā' were left alone in the nascent Shi'ite community. It was then that the 'ulamā' replaced the Sufi *khānqāhs* with *ḥusayniyya*, a place for the Muḥarram commemoration procession. The master architect of the new round of Shi'ite folk religion was Muḥammad Bāqir Majlisī who ranks first after the Hillī scholars in setting a new era for Shi'ite religiosity in the sense of mass following. We have seen how the development of popular religion, particularly the pilgrimage to the holy shrines, contributed to the financial independence of the Shi'ite learned institutions in this period. It must be remem-

bered, however, that Majlisī did not contribute to the theoretical basis of the office of *mujtahid* as the Hillī scholars did, but that he revived folk Shi'ite literature which provided the strongest ground for mass devotional attachment to the Imāmī figures.

Between the emergence of the position of *mujtahid* and the popularity of the folk Shi'ism encouraged by Majlisī, there was the challenge of Akhbārī Shi'ism aimed at returning to the original state of traditionism from where the initial office of the 'ulamā' as transmitters of the traditions of the Prophet and the Imams emerged. By shifting emphasis on the offices of *faqih* and *mufti*, the Akhbārīs tried to diminish the office of *mujtahid*. They also criticized the Uṣūlī method of setting jurisprudence, because it prevented Shi'is from following the original instructions of the Imams.¹ The Akhbārīs are the first to accuse the *mujtahids* of deviating from the Imāmī traditional path for the sake of their personal ambitions.² The Akhbārī school, despite their challenges to the Uṣūlī school, contributed to the development of Shi'ī popular religion as depicted in the works of Majlisī and Fayḍ Kāshānī, and the *mujtahids* benefitted from this development.

The position of model for emulation (*marja'-i taqlid*), as the center of Uṣūlī hierarchy, owes its origins fully to the principle of *taqlid* as reflected in its very title. I studied the doctrines of vicegerency, *ijtihad* and juristic mandate (*wilāyat al-faqih*) as the theoretical basis of this position (see chapter five). I should emphasize here that the requisite of *taqlid* necessitated the office of an exemplar who set the pattern for the whole community. Neither the concept of *marja'* nor

¹ See chapter three.

² Astarābādī, *al-Fawā'id al-Madaniyya*, pp. 90–127; Sayyid Ibrāhim Qaṭifi, "al-Sirāj al-Wahhāj", *Kharājīyyāt* (Qum: Mu'assasat al-Nashr al-Islāmī, 1413/1993), pp. 95–96.

the notion of *taqlīd* was new in the Shi'ite milieu. Only the juxtaposition of these two concepts was a novelty in the Shi'ite centers of the 13th/19th century. It was then that the application of *taqlīd* began to involve the very class of the 'ulamā' in the form of *mutāba'a* (concurrence, see chapter six). The formula of concurrence was originally aimed at centralizing the Uṣūlī hierarchy against Akhbārī and Shaykhī threats, but because of the multiplicity and diversity inherent in Shi'ism, the *marja'īyya* was not institutionalized until a leading *mujtahid* of the middle of the nineteenth century, i.e., Shaykh Muḥammad Ḥasan Najafī, happened to be singled out as the sole *marja'* in the holy shrine cities ('Atabāt). Because of his unique position, Shaykh Muḥammad Ḥasan was able to introduce his successor and this action set a precedent for formal succession whenever a distinguished candidate was available.

The institutionalization of *marja'īyya* was followed up by the regular writing of legal manuals in which the emerging *marja'* compiled his verdicts in a simple manner. Before the above period, the juridical treatises used to represent the opinions (*fatwā*) of their authors. But after Shaykh Anṣārī, especially with Ayatollah Yazdī, the situation was changed. This is because of a new importance attached to the topic of *taqlīd* versus that of *ijtihād* by the above generations of 'ulamā'. They declared that all actions of Muslims, including performances of Islamic duties (such prayer and fasting), are void if they are not rendered according to the instructions of a superior *mujtahid*. This prerequisite not only changed the character of juristic *fatwās*, but proposed an intermediary position between God and Muslims unknown in non-Imāmī Muslim tradition. The initiation of this trend is due to the scholarly atmosphere of Shaykh Anṣārī's teachings as depicted in his discourse.³ However, it was Ayatollah

³ Anṣārī, *Ṣirāt al-Najāṭ*, p. 1.

Yazdī who articulated the obligation of *taqlīd* (in the introductory chapter of his treatise) into which the Shi'ite milieu must be initiated.⁴

Introducing *taqlīd* as the initial step for approaching Shi'i religiosity was another turning point in Imāmī law which fits the intricate character of Twelver Shi'ism. This change bore more enduring effects than the political actions taken by Shirāzī and Khurāsānī. It is remarkable that both pioneers of this change were apolitical, and Anṣārī explicitly rejected the doctrine of juristic mandate (*wilāyat al-faqīh*) beyond religious matters (see above, chapter six). At the same time, Anṣārī implies the necessity of a *mujtahid* mandate over the community by putting him in the position of approbation of Muslims actions. In his Islamic conception, indeed, there was no division between political and non-political affairs. Thus, with a different approach, Anṣārī appears to be implying the same mandate that he has rejected in another context. What makes him sound different from his opponents such as Mullā Aḥmad Narāqī lies in the channel he has chosen to justify such authority. Anṣārī does not find enough justification in the reported traditions that Narāqī had accumulated for a full-fledged mandate for the jurisprudent. Whereas in the principles of *ijtihād* and *taqlīd*, he finds enough evidence not only to necessitate the position of *marja'* but rather to set *taqlīd* as a condition for lawful actions. This entails no less authority than formally representing the Twelfth Imam.

Before the rise of Ayatollah Khomeini most Shi'ite 'ulamā' preferred Anṣārī's way of arguing for a *mujtahid* mandate as it is better adapted to the 'ulamā's dual conception of authority. Narāqī's method of justification of the juristic mandate seemed too straight to fit into such a dual structure. Narāqī caused arguments over his bluntly invest-

⁴ Yazdī, *al-'Urwa'l-Wuthqā*, p. 3.

ing the office of the *mujtahids* with the all-inclusive authority of the Imam on the one hand, and legitimizing the ruling establishment of his time on the other.⁵ Whereas Anṣārī and Yazdī imply the same authority by another means, which seems more in tune with the practical side of the Uṣūlī hierarchy. Narāqī's straightforward method of authorizing the 'ulamā' with the Imam's privilege, nevertheless, was revived by Ayatollah Khomeini who revolutionized the basis of the Uṣūlī hierarchy. Ayatollah Khomeini did not content himself with the customary status of *marja'*. He built the religio-political position of custodian of the affairs (of Muslims) as the head of both the government and the Shi'ite hierarchy.

In Ayatollah Khomeini's thought, the legitimacy of the leading *marja'* essentially rests on the pre-fixed traditions. The necessity of *taqlid* is a supplementary factor not to legitimize the office but to operationalize its authority. In this manner, Ayatollah Khomeini reverted the Uṣūlī dual structure of authority by practically replacing the hidden Imam with the superior *mujtahid* of the time. After the establishment of an Islamic government in Iran (1979) and its aftermath, there emerged a trend of returning to the old structure of clerical authority. Not only the conservative 'ulamā', but also some religious intelligentsia began to criticize the present structure of investing the 'ulamā' with too much responsibility that may jeopardize the entire Shi'ite hierarchy. In their view, the principle of *taqlid*, because of its informality and the free choice of *marja'*, could provide legitimacy for the office of the 'ulamā' better than state power. For all this, the legitimacy of the positions of the 'ulamā', who have never contented themselves with the authority of their knowledge of jurisprudence, seems to be headed towards another conventional kind of mass following.

⁵ See Abdul-Hadi Hairi, *Nakhsustin*, pp. 332-42.

والله اعلم بالصواب والحمد لله رب العالمين
والصلاة والسلام على اشرف الأنبياء والمرسلين
وعلى اله وصحبه والتابعين لهم باحسان
الى يوم الدين

References

- Abdul-Qadir, Ali Hasan. *Nazra 'Āmma fī Tārīkh al-Fiqh al-Islāmī*. Cairo: Maktabat al-Qāhira'l-Ḥadītha, 1956.
- Abū Zahra, Muḥammad. *Muḥāḍarāt fī Uṣūl al-Fiqh al-Ja'farī*. Cairo: Dirāsāt al-'Arabiyya, 1956.
- . *Tārīkh al-Madhāhib al-Islāmiyya fī'l-Siyāsa wa'l-'Aqā'id wa Tārīkh al-Madhāhib al-Fiqhiyya*. Cairo: Dār al-Fikr al-'Arabī, n.d.
- Ādamīyat, Fraydūn. *Andīsha-yi Mīrzā Fath 'Alī Ākhūndzāda*. Tehran: Amīr Kabīr, 1970.
- . *Andīsha-yi Taraqqī va Hukūmat-i Qānūn*. Tehran: Khwārazmī, 1977.
- . *Fikr-i Āzādī dar Iran*. Tehran: Amīr Kabīr, 1969.
- . *Ideologi-yi Nihdat-i Mashrūṭiyyat-i Iran*. Tehran: Payām, 1976.
- . *Shūrish dar Imtiyāznāma-yi Regi*. Tehran: Payām, 1981.
- Afandī Isfahānī, Mīrzā 'Abdullāh. *Ri'yād al-'Ulamā'*. 5 vols. Qum: Khayyām, 1401/1980–81.
- Afshār, Īraj. *Khāṭirāt-i Sardār As'ad-i Bakhtiārī*. Tehran: Asāṭir, 1993.
- Aḥsā'ī, Shaykh Aḥmad b. Zayn al-Dīn. *Ḥayāt al-Nafs*. Introduction by Muḥammad b. Mūsā Thiqaṭ al-Islām. Tabriz: Riḍā'ī, 1958.
- . *Jawāmi' al-Kalim*. Tabriz: Lithograph, 1273/1856.
- . *Sharḥ al-'Arshiya*. Lithograph: Kārkhāna-yi Mīrzā 'Alī Khushnavī Tabrizī, 1278/1861.
- . *Sharḥ al-Fawā'id*. Tehran: Lithograph, 1274/1857.
- . *Sharḥ al-Ziyāra'l-Jāmi'a al-Kabīra*. 4 vols. Kirman: Sa'ādat, 1976.

———. *Thamānī 'Ashra Risāla*. Iran: Lithograph, 1298/1880.

✓ Akhavi, Shahrough. *Religion and Politics in Contemporary Iran*. Albany, New York: State University of New York Press, 1980.

✓ Algar, Hamid. "The Oppositional Role of the Ulama in Twentieth-century Iran." *Scholars, Saints and Sufis: Muslim Religious Institutions in the Middle East Since 1500*. Ed. Nikki Keddie. Berkeley, California: University of California Press, 1972, pp. 231–249.

———. *Religion and State in Iran 1785–1906: The Role of the Ulama in the Qajar Period*. Berkeley: University of California Press, 1969.

———. "Shi'ism and Iran in the Eighteenth Century." *Studies in Eighteenth Century Islamic History*. Ed. Thomas Naff and Roger Owen. London and Amsterdam: Southern Illinois University Press, 1977, pp. 288–302.

‘Allāma Ḥillī. *al-Alfayn*. Najaf: Ḥaydariyya, 1969.

———. *Khulāṣat al-Aqwāl*. Tehran: Lithograph, n.d.

———. *Mabādī al-Wuṣūl*. Tehran: Lithograph, 1892.

———. *Nahj al-Ḥaqq wa Kashf al-Ṣidq*. Annotated by ‘Aynullāh Ḥusayni Urmawī. Qum: Dār al-Hijra, 1407/1987.

———. *Tahdhīb al-Wuṣūl ilā ‘Ilm al-Uṣūl*. Tehran: Lithograph, 1890.

———. *Tadhkirat al-Fuqahā’*. 2 vols. Tehran: Litho-reprint, Maktaba Murtaḍawīya, 1388/1968.

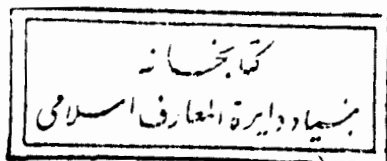
———. *Tahrīr al-Aḥkām*. Tehran: Lithograph, 1311/1895–1896.

✓ Amanat, Abbas. "In Between the Madrasa and Marketplace: The Designation of Clerical Leadership in Modern

- Shi'ism." *Authority and Political Culture in Shi'ism*. Ed. Said Amir Arjomand. Albany: State University of New York Press, 1988, 98–133.
- . *Resurrection and Renewal: The Making of the Babi Movement in Iran: 1844–50*. Ithaca and London: Cornell University Press, 1989.
- Āmidī, Ṣayf al-Dīn 'Alī b. Abī 'Alī. *al-Iḥkām fī Uṣūl al-Aḥkām*. 4 vols. Cairo: Dār al-Ḥadīth, n.d.
- 'Amīdī Zanjānī, 'Abbās 'Alī. *Fiqh-i Sīyāsī*. 3 vols. Tehran: Amīr Kabīr, 1989.
- 'Āmili, Shaykh Bahā' al-Dīn. *Jāmi'-i 'Abbāsī*. Tehran: Lithograph, 1298/1880.
- . *al-Wajīz in Khulāṣat al-Aqwāl* by 'Allāma Ḥillī. Tehran: Lithograph, n.d.
- 'Āmili, Shaykh Ḥasan b. Zayn al-Dīn. *Ma'ālim al-Uṣūl*. Ed. M. Mohaghegh. Tehran: Intishārāt-i 'Ilmī va Farhangī, 1985.
- Amīn, Muḥsin. *A'yān al-Shī'a*. 10 vols. Beirut: Dār al-Ta'aruf, 1986.
- Amīnī, 'Abd al-Ḥusayn Najafī. *al-Ghadīr fī'l-Kitāb wa'l-Sunna wa'l-Adab*. 11 vols. Beirut: Dār al-Kitāb, 1967.
- . *Shuhadā' al-Faḍīla*. Najaf: al-Ghurā, 1936.
- Āmulī, Ḥaydar. *Jāmi' al-Asrār*. Ed. Henry Corbin and Osman Yahyā. Tehran: L'Institut Franco-Iranien, 1969.
- Anṣārī, Shaykh Murtaḍā. *Farā'id al-Uṣūl*. Ed. 'Abdullāh Nūrānī. Qum: Mu'assasat al-Nashr al-Islāmī, 1987.
- . *al-Makāsib*. Tabriz: Maṭba'a-yi Ittilā'āt, 1955.
- . *Ṣirāt al-Najāt*. Tehran: Lithograph, 1290/1873.
- Anṣārī, Murtaḍā. *Zindagānī va Shakhṣīyat-i Shaykh Anṣārī*. Tehran: Ittīhād, 1960.
- 'Aqīqī Bakhshāyishī, 'Abdurrahīm. *Fuqahā-yi Nāmdār-i Shī'a*.

Qum: Mar'ashī, 1405/1985.

- ✓ Arjomand, Said Amir. *Authority and Political Culture in Shi'ism*. Ed. Said Amir Arjomand. Albany: State University of New York Press, 1988.
- . *The Shadow of God and the Hidden Imam*. London and Chicago: University of Chicago Press, 1984.
- . "The Shi'ite Hierocracy and the State." *European Journal of Sociology* 22 (1981), pp. 40–78.
- . "Traditionalism in Twentieth-Century Iran." *From Nationalism to Revolutionary Islam*. Albany: State University of New York, 1984, pp. 195–233.
- . *The Turban for the Crown*. New York and Oxford: Oxford University Press, 1988.
- . "The Ulama's Traditionalist Opposition to Parliamentarianism: 1907–1909." *Middle Eastern Studies* 17 (1981), pp. 174–190.
- Āshūyānī, Sayyid Jalāl. "Dar Rithā'-i Imām-i 'Arifān". *Kayhān-i Andīsha* 24 (1989), pp. 3–7.
- . "Muqaddima". *Uthulūjiyā bā Ta'liqāt-i Qāḍī Sa'īd-i Qummī*. Trans. into Arabic by Ibn Nā'ima al-Ḥimṣī. Tehran: Anjuman Falsafā, 1970, pp. 1–19.
- . *Sharḥ-i Ḥāl va Ārā'-i Falsafī-yi Mullā Ṣadrū*. Tehran: Nihdat-i Zanān-i Musalmān, 1981.
- Astarābādī, Muḥammad Amīn. *al-Fawā'id al-Madanīya*. Bahrain: Litho-reprint, 1903.
- Attas, Syed Muhammad Naquib al-. *Islām and Secularism*. Kuala Lumpur: Abim, 1978.
- ✓ Ayoub, Mahmoud. *Redemptive Suffering in Islam: A Study of the Devotional Aspects of 'Ashūrā' in Twelver Shi'ism*. The Hague, Paris, New York, 1978.
- Āzhand, Ya'qūb. *Qiyām-i Shī'ī-yi Sarbidārān*. Tehran: Nashr



Gustara, 1984.

Baghdādī, 'Abd al-Qāhir. *al-Firq bayn al-Fīraq*. Beirut: Dār al-Kutub al-'Ilmiyya, 1985.

Baḥr al-'Ulūm, Muḥammad. *al-Ijtihād Uṣūluḥu wa Aḥkāmuhu*. Beirut: Dār al-Aḍwā', 1977.

Baḥr al-'Ulūm, Sayyid Muḥammad. *Bulghat al-Faqīh*. 4 vols. Tehran: Makṭabat al-Ṣādiq, 1984.

Baḥrānī, Shaykh Yūsuf b. Aḥmad. *al-Ḥadā'iq al-Nāḍira*. 25 vols. Najaf: Dār al-Kutub, 1957.

Baṣrī, Abū'l-Ḥusayn Muḥammad b. 'Alī. *Kitāb al-Mu'tamad*. 2 vols. Damascus: al-Ma'had al-'Ilmī al-Fransī, 1965.

Bayānī, Shīrīn. *Dīn va Dawlat dar Iran-i 'Ahd-i Mughul*. 2 vols. Tehran: Nashr-i Dānishgāhī, 1992.

✓ Bayat, Mangol. *Iran's First Revolution: Shi'ism and the Constitutional Revolution of 1905-1909*. Oxford, New York: Oxford University Press, 1991.

———. *Mysticism and Dissent: Socioreligious Thought in Qajar Iran*. Syracuse: Syracuse University Press, 1982.

Bihbihānī, Muḥammad Bāqir. *Risālat al-Ijtihād wa'l-Akhbār*. Tehran: Lithoprint, 1895.

✓ Bill, James Alban. *The Politics of Iran: Groups, Classes, and Modernization*. Columbus, Ohio: Merill, 1972.

✓ Binder, Leonard. *The Ideological Revolution in the Middle East*. New York: Wiley, 1964.

———. *Iran, Political Development in Changing Society*. Berkeley and Los Angeles: University of California Press, 1962.

———. "The Proofs of Islam: Religion and Politics in Iran," in *Arabic and Islamic Studies in Honour of Hamilton Gibb*. Ed. George Makdisi. Leiden: E. J. Brill, 1966, pp. 118-140.

- Browne, Edward G. *A Literary History of Persia*. 4 vols. 2nd ed. Cambridge: The University Press, 1928.
- Burūjirdī, Ḥājj Āqā Ḥusayn Ṭabāṭabā'ī. *Jāmi' al-Aḥādīth al-Shī'a*. 17 vols. Qum: Maktaba 'Ilmiyya, 1989–90.
- Cahen, Claude, and F. Taeschner, "Futuwwa." *Encyclopædia of Islam*. New Edition. Leiden: E. J. Brill, 1965, vol. II (C.G.), pp. 961–969.
- Cahen, Claude. "Ayyārī." *Encyclopædia Iranica*. London, Boston and Henley: Routledge & Kegan Paul, 1988, vol. III, fasc. 2, pp. 159–163.
- . "Le problème du shī'isme dans l'Asie Mineure turque preottomane". *Le Shī'isme Imāmīte*. Ed. Toufic Fahd. Paris: Presses Universitaires de France, 1970. pp. 115–129.
- ✓ Calder, Norman. "Accommodation and Revolution in Imāmī Shī'ī Jurisprudence: Khumaynī and the Classical Tradition." *Middle Eastern Studies* 18 (1982), pp. 3–20.
- . "Doubt and Prerogative: The Emergence of an Imami Shī'ī Theology of *Ijtihād*." *Studia Islamica*. LXX (1989), pp. 57–78.
- . "Khums in Imāmī Shī'ī Jurisprudence from the Tenth to the Sixteenth Century A.D." *Bulletin of the School of Oriental and African Studies* 45 (1982), pp. 39–47.
- . "Zakāt in Imāmī Shī'ī Jurisprudence from the Sixteenth Century A.D." *Bulletin of the School of Oriental and African Studies* 64 (1981), pp. 468–480.
- Calmard, Jean. "Mardja'-i Taklīd." *The Encyclopædia of Islam*, New Edition, Leiden: E. J. Brill, 1989+, vol. 6, fasc. 107–108, pp. 548–556.
- Chodkiewicz, Michel. *Le Sceau des saints prophétie et sainteté dans la doctrine d'Ibn Arabī*. Paris: Editions

Gallimard, 1986.

- ✓ Cole, Juan. "Imami Jurisprudence and the Role of the Ulama, Morteza Ansari on Emulating the Supreme Exemplar." *Religion and Politics in Iran*. Ed. Nikki Keddie. New Haven: Yale University Press, 1983, pp. 33–47.
- . "Shi'i Clerics in Iraq and Iran 1727–1780: The Akhbari-Usuli Conflict Reconsidered." *Iranian Studies* XVIII (Winter 1985), pp. 3–34.
- ✓ Cooper, John. "Allāma al-Hillī on the Imamate and Ijtihād." *Authority and Political Culture in Shi'ism*. Ed. Said Amir Arjomand. Albany: State University of New York Press, 1988, pp. 240–50.
- Corbin, Henry. *L'école shaykhie en théologie shi'ite*. Trans. into Persian by Fraydūn Bahmanyār. Tehran: Imprimerie Tabān, 1967.
- . *En Islam iranien; aspects spirituels et philosophiques*. 4 vols. Paris: Gallimard, 1971–1972.
- ✓ Coulson, Noel J. *Conflicts and Tensions in Islamic Jurisprudence*. Chicago: University of Chicago Press, 1969.
- ✓ Crow, Douglas Sloan. "The Teaching of Ja'far al-Ṣādiq." Master's thesis. Montréal: McGill University, 1980.
- ✓ Dabashi, Hamid. *Authority in Islam*. London: Transaction publication, 1989.
- Davānī, 'Alī. *Nihdat-i Rūḥānīyūn-i Īrān*. 10 vols. Tehran: Bunyād Imām Rizā, 1981.
- . *Mafākhīr-i Islām*. 4 vols. Tehran: Amīr Kabīr, 1985.
- . *Vaḥīd-i Bihbihānī*. Tehran: Amīr Kabīr, 1983.
- Dawlatābādī, Yaḥyā. *Tārīkh-i Mu'āṣir: Ḥayāt-i Yaḥyā*. 4 vols. Tehran: Intishārāt-i 'Aṭṭār, 1992.
- De Jong, F. "Kuṭb." *Encyclopaedia of Islam*. New Edition, vol. 5,

pp. 542-46.

Dihkhudā, 'Alī Akbar. *Lughat Nāma*, 50 vols. Tehran: Dānishgāh, Sāzimān-i Lughatnāma, 1947-1968.

✓ Donaldson, Dwight Martin. *The Shi'ite Religion: A History of Islam in Persia and Irak*. London: Luzac, 1933.

Dunbulī, 'Abdul-Razzāq, *Ma'āthir-i Sullāniya*. Tehran: Ibn Sinā, 1972.

✓ Eliash, Joseph. "The Ithnā 'Ashari Juristic Theory of Political and Legal Authority." *Studia Islamica* 29 (1969), pp. 17-29.

———. "Misconceptions Regarding the Juridical Status of the Iranian 'Ulamā'". *International Journal of Middle East Studies* 10 (1979), pp. 9-25.

✓ Enayat, Hamid. *Modern Islamic Political Thought*. Austin: University of Texas Press, 1982.

———. "Khumayni's Conception of the Guardianship of the Jurisconsult." *Islam in the Political Process*. Ed. J. Piscatori. Cambridge: Cambridge University Press, 1984.

Falsafi, Naṣrullāh. *Zindagāni-yi Shāh 'Abbās-i Avval*. 4 vols. Tehran: Dānishgāh, 1974.

Faqihī, 'Alī Aṣghar. *Tārīkh-i Āli Būya*. Tehran: Intishārāt-i Šabā, 1987.

Fayḍ al-Kašani, Muḥammad Muḥsin b. Murtaḍa. *Ḥaqa'iq*. Trans. Muḥammad Bāqir Sā'idī Khurasani. Tehran: Shams, 1961.

———. *Kalimāt-i Maknūna*. Tehran: Kitābfurūshī-yi Farāhānī, 1963.

———. *al-Wāfi*. 12 vols. Isfahan: Maktaba-yi Amir al-Mu'minīn, 1985.

———. *al-Maḥajjat al-Bayḍā'*. 8 vols. in 4 books. Qum: Daftar-i Intishārāt, 1963.

Fischer, Michael J. *Iran: From Religious Dispute to Revolution*. Cambridge: Harvard University Press, 1980. ✓

Fishāhī, Muḥammad Rizā. *Vāpasīn Junbish*. Tehran: Jāvidān, 1356/1977.

✓ Floor, Willem M. "Changes and Development in the Juridical System of Qajar Iran (1800–1925)." *Qajar Iran*. Ed. E. Bosworth and C. Hillenbrand, pp. 113–147.

———. "The Lūtis—A Social Phenomenon in Qajar Persia." *Die Welt des Islam* 13 (1971), pp. 103–20.

———. "The Political Role of the *lūtīs* in Iran". *Modern Islam: The Dialectics of Continuity and Change*. Ed. M. E. Bonne. Albany: State University of New York Press, 1981, pp. 83–95.

———. "The Revolutionary Character of the Iranian Ulama: Wishful Thinking or Reality?". *International Journal of Middle East Studies* 12 (1980), pp. 501–524.

Geyoushi, Muḥammad Ibrāhīm. "Al-Tirmidhī's Theory of Saint and Sainthood." *Islamic Quarterly* 15 (1971), pp. 17–61.

Ghazzālī, Abū Ḥamid Muḥammad b. Muḥammad. *Iḥyā' 'Ulūm al-Dīn*. 14 vols in 6. Cairo: Nashr al-Thaqāfa 'l-Islāmiyya, 1956.

———. *al-Munqidh min al-Dalāl*. Cairo: Maktabat al-Anjalu, 1952.

———. *al-Mankhūl min Ta'liqāt al-Uṣūl*. Ed. M. H. Hitū. Damascus: n.d., n.p.

———. *al-Mustasfā min 'Ilm al-Uṣūl*. 2 vols. Beirut: Dār al-Kutub al-'Ilmiyya, 1983.

Gibb, H. A. R., and H. Bowen. *Islamic Society and the West*. 2 vols. London: Oxford University Press, 1950–57.

Gibb, H. A. R. *Studies on the Civilization of Islam*. Ed. Stanford

J. Shaw and Richard Polk. Boston: Beacon Press, 1962.

Gramlich, Richard. *Die Schiitischen Derwischorden Persiens Zweiter Teil—Glaube und Lehre*. 2 vols. Wiesbaden, 1976.

Gurji, Abū'l Qāsim. "Ārā'-i Ghazālī dar 'Ilm-i Uṣūl." *Ma'ārif*, vol. 1, no. 3 (Dec 1984, March 1985), pp. 141–177.

———. *Nigāhā bi Tahavvul-i 'Ilm-i Uṣūl va Maqām-i ān dar Miyān-i 'Ulūm-i Dīgar*. Tehran: Dānishgāh, 1973.

✓ Hairi, Abdul-Hadi. *Nakhustīn Rūyā-Rū'ihā-yi Andīshagaran-i Īrān*. Tehran: Amīr Kabīr, 1988.

———. "The Responses of Libyans and Iranians to Imperialism." *Zeitschrift der Deutschen Morgenländischen Gesellschaft* (1980), pp. 372–92.

———. "Shi'ism and Constitutionalism: A Study of the Life and Views of Muḥammad Ḥusayn Nā'inī." Ph.D. dissertation. Montreal: McGill University, 1973.

Ḥā'irī, Muḥammad b. Ismā'il. *Muntaha 'l-Maqāl*. Manuscript by Muḥammad Ḥusayn Ḥusaynī. Qum: 1267/1850–51.

Ḥakīm, Sayyid Muḥsin. *al-Mustamsak al-'Urwa*. 14 vols. Najaf: Maṭba'at al-Ādāb, 1971.

Ḥalabī, Abū Ṣalāḥ Taqiyy al-Dīn. "Faṣl fī Tanfīdh al-Aḥkām." Excerpt from "al-Kāfī fī 'l-Fiqh." *Silsalat al-Yanābī' al-Fiqhiyya*. 40 vols. Ed. 'Alī Aṣghar Murvarīd. Tehran: Markaz Buḥūth al-Ḥajj wa'l-'Umra, 1410/1990, vol. 11, pp. 53–73.

✓ Hallaq, Wael B. "On the Origins of the Controversy about the Existence of Mujtahids and the Gate of *Ijtihād*." *Studia Islamica* 63 (1986), pp. 129–141.

———. "Uṣūl al-Fiqh: Beyond Tradition." *Journal of Islamic Studies* 3:2 (1992). pp. 172–202.

- . "Was the Gate of *Ijtihād* Closed?". *International Journal of Middle East Studies* 16 (Spring 1984), pp. 3–41.
- . "Was al-Shāfi'ī the Master Architect of Islamic Jurisprudence?". *International Journal of Middle East Studies*, vol. 25, no. 4 (November 1993), pp. 585–603.
- Hidāyat, Rizā Qulī Khān. *Majma' al-Fuṣaḥā*. Tehran: Amīr Kabīr, 1957.
- . *Rawḍat al-Ṣafā-yi Nāṣirī*. Tehran: Khayyām, 1960.
- Hiṣrī, Aḥmad. *al-Tārīkh al-Fiqh al-Islāmī*. Beirut: Dār al-Jayl, 1991.
- Hodgson, Marshall. *The Venture of Islam: Conscience and History in a World Civilization*. 3 vols. Chicago: University of Chicago Press, 1974.
- Hujwīrī, 'Alī Ibn 'Uthmān. *Kashf al-Maḥjūb*. Ed. Valentin Zhukofski. Tehran: Amīr Kabīr, 1957.
- . *Kashf al-Maḥjūb*. Trans. by R. Nicholson. New Delhi: Tāj Printer, 1982.
- Al-Hurr al-'Āmilī, Muḥammad b. al-Ḥusayn. *Amal al-Āmil fī 'Ulamā' al-Jabal 'Āmil*. 2 vols. Baghdad: Maktabat al-Andalus, 1385/1965.
- . *Wasā'il al-Shī'a*. 20 vols. Tehran: Islāmiyya, 1967.
- Ibn Abī Jumhūr al-Aḥsā'i. *'Awālī al-La'ālī al-Azīziyya fī'l-Aḥādīth al-Dīniyya*. Ed. Muḥtabā al-'Irāqī. Qum: 1983.
- Ibn 'Arabī, Muḥyī'l-Dīn. *Fuṣūṣ al-Ḥikam*. 2 vols. Ed. Abū'l-'Ala 'Afīfī. Beirut: Dār al-Kitāb, 1946.
- . *Futūḥat al-Makkiyya*. 12 vols. Cairo: al-Hay'at al-Miṣriyya, 1985.
- Ibn Bābūya al-Ṣadūq, Muḥammad b. 'Alī b. Mūsā. *Kamāl al-*

- Dīn wa Tamām al-Ni'ma*. Ed. 'Alī Akbar Ghaffārī. Qum: Mu'assasat al-Nashr al-Islāmī, 1390/1970.
- . *Ma'ānī al-Akhhbār*. Ed. 'Alī Akbar Ghaffārī. Tehran: Maṭba'at al-Ṣadūq, 1969.
- . *Man Lā Yaḥḍuruhu 'l-Faqīh*. Ed. Mūsavī Khursān. 4 vols. Najaf: Maṭba'at al-Najaf, 1957–58.
- Ibn Bazzāz, Tavakulī B. Ismā'il. *Ṣafwat al-Ṣafā'*. Bombay: Maṭba'a Muẓaffarī, n.d.
- Ibn Ḥajar al-'Asqalānī. *al-Durar al-Kāmina*. 2 vols. Ed. Jād al-Ḥaqq. Cairo: Dār al-Kutub al-Ḥadītha, 1966.
- Ibn al-Ḥājib, 'Uthmān b. 'Umar. *Mukhtaṣar Muntahā 'l-Uṣūl*. Cairo: Maktabat al-Kubrā 'l-Amīriyya, 1316/1898.
- Ibn Idrīs al-Ḥillī, *Kitāb al-Sarā'ir*. Iran: Lithograph, 1290/1877.
- Ibn al-Mi'mār, Muḥammad b. 'Alī Abū 'l-Makārim. *Kitāb al-Futuwwa*. Baghdad: Maktabat al-Muthannā, 1958.
- Ibn al-Nadīm. *The Fihrist of Ibn al-Nadīm*. Trans. Bayard Dodge. 2 vols. Columbia University Press, 1970.
- Ibn Shahrāshūb, Muḥammad b. 'Alī. *Manāqib al-'Ulamā'*. Najaf: Ḥaydariyya, 1961.
- Ibn Zuhra, Ḥamza b. 'Alī. "Ghunyat al-Nuzū'." *al-Jawāmi' al-Fiqhiyya*. Qum: Mashūrāt-i Maktaba-yi Mar'ashī, 1984.
- Ibrāhīmī, Abū'l Qāsim Ibn Zayn al-'Ābidīn Kirmānī. *Fihrist*. 2 vols. Kirman: Sa'adat, 1950.
- Imam, Muḥammad Kāzim. "Dawra-yi Āghāz-i Fiqh." *Hizāra-yi Shaykh-i Ṭūsī*. Ed. 'Alī Davānī. Tehran: Dār al-Tabligh Islāmī, 1970, pp. 80–106.
- Iqbāl Āshūyānī, 'Abbās. "Ḥujjat al-Islām Sayyid Muḥammad Bāqir Shafī." *Yādgar* 10 (1949) pp. 28–42.
- . *Khāndān-i Nawbakhtī*. Tehran: Ṭahūrī, 1978.

- . *Tārīkh-i Mughul*. Tehran: Amīr Kabīr, 1962.
- Iṣfahānī, Muḥammad Mahdī Mūsavī. *Aḥsan al-Wadī'a*. Najaf: Haydariya, 1387/1967.
- Iṣfahānī, Sayyid Abū'l-Ḥasan Mūsavī. *Wasilat al-Najāt*. Tehran: Islāmiyya, n.d.
- I'timād al-Saltāna, Muḥammad Ḥasan. *Khalsa: Mashhūr bi Khwābnāma*. Ed. Maḥmūd Katīrā'ī. Tehran: Ṭahūrī, 1969.
- . *al-Ma'āthir wa'l-Āthār*. Ed. Īraj Afshār. Tehran: Asāṭir, 1984.
- Ivanov, Vladimir Alekseevitch. "Early Shi'ite Movements." *Journal of the Bombay Branch of the Royal Asiatic Society* 17 (1941), pp. 1–23.
- Ja'farī Langarūdi, Muḥammad Ja'far. *Maktabhā-yi Huqūqī dar Islām*. Tehran: Ganjī Dānish, 1991.
- Jafri, Husain. *Origins and Early Development of Shi'a Islam*. New York: Longman, 1979.
- Jahiz, Amr b. al-Baḥr. *al-Bayān wa'l-Tabyān*. Ed. A. al-Salām, M. Hārūn. Cairo: Maktabat al-Khānji, 1985.
- Jannāti, Muḥammad Ibrāhīm. "Advār-i Kayfiyat-i Bayān-i Fiqh." *Kayhān-i Andīsha* 3 (1986), pp. 8–22.
- . "Ghalaba-yi Ijtihād bar Akhbārīgari." *Kayhān-i Andīsha* 14 (1987), pp. 4–25.
- . "Ijtihad dar Jāmi'a-yi Islāmī." *Kayhān-i Andīsha* 10 (1986), pp. 6–18.
- . *Manābi'i-i Ijtihād az Dīdgāh-i Madhāb-i Islāmī*. Tehran: Khayyām, 1991.
- . "Maṣādiq-i A'lām az Āghāz-i Ghaybat tā Kunūn." *Kayhān-i Andīsha* 7 (1986), pp. 10–20.
- . "Qiyām-i Akhbārīhā 'alayhi Ijtihād." *Kayhān-i Andīsha* 13 (1987), pp. 2–22.

- . "Sayrī dar Advār-i Fiqh." *Kayhān-i Andīsha* 2 (1985), pp. 7–29.
- . "Sayr-i Tārīkhī-yi Taqlīd az A'lam." *Kayhān-i Andīsha* 6 (1986), pp. 17–34.
- Jazā'iri, Ni'matallāh. *al-Anwār al-Nu'māniyya*. 4 vols. Tabriz: Shirkat-i Chāp, 1962.
- Juwaynī, Imām al-Ḥaramayn Abū'l Ma'ālī 'Abd al-Mālik b. Abī Muḥammad. *al-Burhān fī Uṣūl al-Fiqh*. 4 vols. Ed. 'Abd al-'Azīm al-Dīb. Cairo: Dār al-Anṣār, 1980.
- . *Ghiyāth al-Umam*. Qatar: University of Qatar, 1980.
- Kafā'i, 'Abdul-Ḥusayn Majīd. *Margī dar Nūr*. Tehran: Zuvvār, 1980.
- Kahnumū'i Kashmīrī, Muḥammad Mahdī. *Nujūm al-Samā'*. Qum: Baṣīratī, 1396/1976.
- ✓ Kamali, Mohammad Hashim. *Freedom of Expression in Islam*. Kuala Lumpur: Berita Publishing, 1994.
- . *Principles of Islamic Jurisprudence*. Kuala Lumpur: Pelanduk Publishers, 1989.
- . "Characteristics of the Islamic State." *Islamic Studies*. 32 (Spring 1993), pp. 17–40.
- Karājikī, Abū'l-Faṭḥ. *Kanz al-Fawā'id*. 2 vols. Ed. 'Abdullāh Ni'ma. Qum: Dār al-Dhakhā'ir, 1990.
- Karakī, 'Alī b. al-Ḥusayn. *Jāmi' al-Maqāṣid fī Sharḥ al-Qawā'id*. 15 vols. Qum: Āl al-Bayt, 1988+.
- . "Qāṭi'at al-Lijāj fī Taḥqīq Hall al-Kharāj." *Kharājīyyāt*. Qum: Mu'assasat al-Nashr al-Islāmī, 1413/1993, pp. 32–92.
- Kashshī, Abū 'Amr Muḥammad b. 'Umar b. 'Abd al-'Azīz. *Ma'rifat al-Nāqilīn*. Quoted by Muḥammad b. al-Ḥasan al-Ṭūsī in *Ikhtiyār Ma'rifat al-Rijāl*. Ed. Ḥasan Muṣṭafavī. Mashhad: Dānīshkada-yi Adabīyyāt, 1970.

Kāshif al-Ghiṭā', Shaykh Ja'far al-Najafī. *Khātimat al-Qawā'id*. Together with *al-Ḥaqq al-Mubīn*. Iran: Lithograph, 1898.

———. *Kashf al-Ghiṭā'*. Tehran: Lithograph, 1317/1899.

Kāshif al-Ghiṭā', 'Alī b. Muḥammad Riḍā. *Adwār 'Ilm al-Uṣūl wa Aṭwāruhū*. Beirut: Dār al-Zahrā', 1979.

Kāshif Sabzavārī, Ḥusayn Wā'iz. *Futuvvat Nāma-yi Sullānī*. Ed. M. J. Maḥjūb. Tehran: Bunyād-i Farhang-i Īrān, 1971.

Kasravī, Aḥmad. *Musha'sha'iyān*. Tehran: Paymān, 1945.

———. *Tārīkh Mashrūṭa-yi Īrān*. 2 vols. Tehran: Amīr Kabīr, 1951.

✓ Kazemi Moussavi, Aḥmad. "The Establishment of the Position of *Marja'-i Taqlīd*." *Iranian Studies* 18 (1985), pp. 35–54.

Kāzīmī Isfāhānī, Muḥammad Mahdī. *Aḥsan al-Wadī'a*. Najaf: Ḥaydariya, 1387/1968.

✓ Keddie, Nikki. *Iran, Religion, Politics and Society*. London: Frank Cass, 1980.

———. *Religion and Politics in Iran*. New Haven: Yale University Press, 1983.

———. *Roots of Revolution: An Interpretive History of Modern Iran*. New Haven and London: Yale University Press, 1981.

———. "The Roots of the Ulama's Power in Iran." *Scholars, Saints, and Sufis*. Berkeley: University of California Press, 1972, pp. 211–229.

Khadduri, Majid. *Islamic Jurisprudence: Shafi'i's Risala*. Baltimore: The John Hopkins Press, 1961.

Khaliṣī, 'Abbās. *Tārīkhcha-yi Bast va Bastnashīnī*. Tehran: 'Ilmī, 1987.

- Khalkhālī, Muḥammad Maḥdī Mūsavī. *Hākimiyyat dar Islām*. Tehran: Āfāq, 1984.
- Khāraqānī, Asadullāh Mūsavī. *Maḥw al-Mawhūm wa Saḥw al-Ma'lūm*. Tehran: Nūr Muḥammadī, n.d.
- Khātūnābādī. *Waqāyi' al-Sunan wa'l-Ayyām*. Ed. M. B. Bihbūdī. Tehran: Islamiyya, 1973.
- Khomeini, Rūḥullāh Mūsavī. *al-Bay'*. 4 vols. Qum: n.p., n.d.
- . *Kashf al-Asrār*. Qum: Intishārāt-i Iran, n.d.
- . *Miṣbāḥ al-Hidāya ilā'l-Khilāfa wa'l-Wilāya*. Tehran: Payām-i Āzādī, 1981.
- . *al-Rasā'il Tashtamil 'alā Mabāḥith 'alā lā Ḍarar wa'l-Istiṣḥāb wa'l-Ta'ādul wa'l-Tarjīḥ wa'l-Ijtihād wa'l-Taqlīd wa'l-Taqiyya*. Annotated by Muḥtabā Tihrānī. 2 vols. Qum: Maṭba'a-yi Qalamiyya, 1385/1965.
- . *Taḥrīr al-Wasīla*. 2 vols. Najaf: Maṭba'at al-Ādāb, 1964-78.
- . *Ta'līqāt 'alā Sharḥ Fuṣūṣ al-Iḥikam*. Tehran: Pāsdār-i Islām, 1986.
- . *Vilāyat-i Faqīh*. Tehran: Amīr Kabīr, 1979.
- Khudrībak, Muḥammad *Tārīkh al-Tashrī' al-Islāmī*. Cairo: Maktabat al-Tijāriyya 'l-Kubrā, 1970.
- Khu'ī, Sayyid Abū'l-Qāsim. *Majma' al-Rijāl*. 23 vols. Qum: Markaz-i Nashr-i Āthār-i Shī'a, 1990.
- Khurāsānī, Muḥammad Kāzīm. *Hāshiyat al-Makāsib*. Ed. Sayyid Maḥdī Shams al-Dīn. Tehran: Vizārat-i Irshād, 1986.
- Khwāndamīr, Ghiyāth al-Dīn. *Tārīkh Ḥabīb al-Siyar*. 4 vols. Tehran: Khayyām, 1954.
- Khwānsārī, Muḥammad Bāqir. *Rawḍāt al-Jannāt*. 8 vols. Qum: Isma'īliyyān, 1980.
- . *Rawḍāt al-Jannāt*. 8 vols. Trans. into Persian by

- Muḥammad Bāqir Sa'īdī Khurāsānī. Qum: Isma'īliyyān, 1980.
- Kirmānī, Muḥammad Karīm Khān. *Irshād al-'Awāmm*. 4 vols. 4th ed. Kirman: Sa'ādat, n.d.
- Kirmānī, Nāẓim al-Islām. *Tārīkh-i Bīdārī-yi Īrāniyyān*. 2 vols. Tehran: Ibn Sinā, 1324/1945.
- Kiyānī, Muḥsin. *Tārīkh-i Khānqāh dar Iran*. Tehran: Ṭahūrī, 1990.
- ✓ Kohlberg, Etan. "Aspects of Akhbari Thought in the Seventeenth and Eighteenth Centuries." *Eighteenth Century Renewal and Reform in Islam*. Ed. Nehemia Levitzion and John Voll. Syracuse: Syracuse University Press, 1987, pp. 133-160.
- . "Akhbārīya". *Encyclopaedia Iranica*. London, Boston and Henley: Routledge & Kegan Paul, 1988, vol. 1, fasc. 7, pp. 716-718.
- . "Imam and Community in the Pre-Ghayba Period." *Authority and Political Culture in Shi'ism*. Ed. Amir Arjomand. Albany: State University of New York, 1988.
- . "al-Uṣūl al-Arba'u Mi'a". *Jerusalem Studies in Arabia and Islam* 10 1987, pp. 128-65.
- Kulaynī, Muḥammad b. Ya'qūb al-Rāzī. *al-Furū' min al-Kāfi*. 7 vols. Ed. 'Alī Akbar Ghaffārī. Tehran: Dār al-Kutub al-Islāmiyya, 1983.
- . *al-Rawḍa min al-Kāfi*. Ed. 'Alī Akbar Ghaffārī. Tehran: Dār al-Kutub al-Islāmiyya, 1983.
- . *al-Uṣūl min al-Kāfi*. 2 vols. Ed. 'Alī Akbar Ghaffārī. Tehran: Dār al-Kutub al-Islāmiyya, 1983.
- ✓ Lambton, Ann. "Concepts of Authority in Persia: Eleventh to Nineteenth Centuries A.D." *Iran* 26 (1988), pp. 95-103.

- . "Islamic Society in Persia." Inaugural lecture delivered on 9 March 1954. London: School of Oriental and African Studies, 1954.
- . "A Nineteenth Century View of *Jihād*." *Studia Islamica* 32 (1970), pp. 181–192.
- . "A Reconsideration of the Position of the *Marja' al-Taqlid* and the Religious Institution." *Studia Islamica* 20 (1964), pp. 115–135.
- . "Some New Trends in Islamic Political Thought in Late 18th and Early 19th Century Persia." *Studia Islamica* 39 (1974), pp. 95–128.
- . "Some Reflections on the Persian Theory of Government." *Studia Islamica* 6 (1956), pp. 125–146.
- . "The Persian 'Ulama and Constitutional Reform". In *Le Shī'isme Imāmīte*. Ed. Toufic Fahd. Paris: Presses Universitaires de France, 1970.
- . *State and Government in Medieval Islam*. London: Oxford University Press, 1981.
- Landolt, Hermann. "Der Briefwechsel zwischen Kāṣānī und Simnānī über Waḥdat al-Wuḡūd." *Der Islam* 50 (1973), pp. 475–486.
- . "Suhrawardi's Tales of Initiation." *Journal of the American Oriental Society* 107 (1987), pp. 475–486.
- . "Walāya." *Encyclopaedia of Religion*, vol. 15. New York & London: Macmillan, 1987, pp. 316–323.
- Lankarānī, Faḍīl. "Muṣāḥiba." *Hawza* 43–44 (March–July 1991), Qum, pp. 139–157.
- ✓ Lawson, Todd. "The Qur'an Commentary of Sayyid 'Alī Muḥammad the Bāb." Ph.D. diss., McGill University, 1987.
- Little, Donald P. "The Nature of *Khānqāhs*, *Ribāṭs*, and

- Zāwiyas* under the Mamlūks". *Islamic Studies presented to Charles J. Adams*. Editors W. Hallaq & D. Little. Leiden & New York: E. J. Brill, 1991. pp. 91–107.
- ✓ Maccoin, D. M. "Charismatic Authority in Qajar Shi'ism." *Qajar Iran*. Ed. Bosworth. Costa Mesa: Mazda Publishers, 1983.
- Madelung, Wilfred. "Akhbāriyya." *Encyclopædia of Islam*. Leiden: E. J. Brill, 1980, supplement 1–2, pp. 56–57.
- . "Authority in Twelver Shi'ism in the Absence of the Imam." *La notion d'autorité au Moyen Age: Islam, Byzance, Occident*. Ed. George Makdisi and Janine Sourdel Thomine. Paris: Presses Universitaires de France, 1982, pp. 163–73.
- . "al-Mahdī." *Encyclopædia of Islam*. New Edition. Leiden: E. J. Brill, 1985+, vol. 5, fasc. 97–98, pp. 1230–1238.
- . *Religious Schools and Sects in Medieval Islam*. London: Variorum Reprints, 1985.
- . *Religious Trends in Early Islamic Iran*. Albany: Persian Heritage Foundation, 1988.
- . "A Treatise of al-Sharīf al-Murtaḍā on the Legality of Working for the Government." *BSOAS* XLIII, 1 (1980).
- Maḥfūz, Ḥusayn 'Alī. *Sīrat al-Shaykh Aḥmad al-Aḥsā'ī*. Baghdad: al-Ma'ārif, 1957.
- Mahjūb, Muḥammad Ja'far. "The Evolution of Popular Eulogy of the Imams among the Shi'a." Trans. by John Perez. *Authority and Political Culture in Shi'ism*. Ed. Said Amir Arjomand. Albany: State University of New York Press, 1988, pp. 25–54.
- Majlisī, Muḥammad Bāqir. *ʿAyn al-Ḥayāt*. Tehran: Shirkat Kitāb, 1952.

- . *Bihār al-Anwār*. 110 vols. Beirut: Mu'assasat al-Wāfī, 1983.
- . *Ḥaqq al-Yaqīn*. Tehran: Mu'tamidi, 1241/1825.
- . *Ḥayāt al-Qulūb*. Tehran: Islāmiyya, 1954.
- . *Ḥudūd va Qiṣās va Diyāl*. Tehran: Nashr Athār Islāmī, 1984.
- . *Jawāhir al-'Uqūl*. Tehran: Lithograph, 1885.
- . *Mir'āt al-'Uqūl*. Ed. Sayyid Hāshim Rasūlī. Tehran: Dār al-Kutub al-Islāmiyya, 1984.
- . *Tadhkirat al-A'imma*. Tehran: Lithograph, Kārkhāna Allahqulī Khān, n.d.
- . *Tuḥfat al-Zā'ir*. Tehran: Mashhadī Muḥammad 'Alī, 1312/1894.
- . *Zād al-Ma'ād*. Tehran: Lithoprint, 1306/1888.
- Majlisī, Muḥammad Taqī. *Lawāmi'-i Ṣāhibqarānī al-Mushtahar bi Sharḥ al-Faqīh*. 2 vols. Tehran: 'Ilmī, n.d.
- . *Rawḍat al-Muttaqīn*. Tehran: Kūshānpūr, n.d.
- . *Risāla-yi Tashvīq-i Sālikīn*. Together with *Risālā-yi Su'āl va Jawāb*. Tabriz: n.p., 1953.
- Makārim Shīrāzī, Nāṣir. "Muṣāhibā bā Āyatullāh Makārim Shīrāzī". *Ḥawza* 43–44 (March–July 1991), Qum, pp. 258–68.
- Malat, Chibli. *The Renewal of Islamic Law: Muḥammad Bāqir al-Ṣadr*. London: Cambridge University Press, 1993.
- Malcolm, Sir John. *Tārīkh-i Īrān*. 2 vols. Trans. by Mīrzā Ḥayrat. Tehran: Sa'dī, n.d.
- Mālik b. Anas. *al-Muwatṭa'*. Ed. 'Abd al-Bāqī. Beirut: al-Maktaba 'l-Thiqāfiyya, 1988.
- Marsot, Afaf Lutfi al-Sayyid. "The Political and Economic Functions of the 'Ulamā' in the 18th Century."

Journal of the Economic and Social History of the Orient
16 (1973), pp. 130–153.

Ma'rūf al-Ḥasanī, Hāshim. *Tārīkh-i Fiqh-i Ja'fari*. Tehran: 1982.

Massignon, Louis. "Ṭarīqa". *Encyclopædia of Islam*. Leiden: E. J. Brill, 1934, vol. 4, pp. 667–672.

———. *The Passion of al-Ḥallāj: Mystic and Martyr of Islam*. 4 vols. Trans. by Herbert Mason. Princeton: Princeton University Press, 1982.

Ma'sūm 'Alī Shāh Nā'ib al-Ṣadr. *Ṭarā'iq al-Ḥaqā'iq*. 3 vols. Tehran: Bārānī, 1960.

✓ Matīnī, Jalāl. "Baḥthī dar Bāra-yi Alqāb va 'Anāvin-i 'Ulamā' dar Madhhab-i Shi'a." *Iran Nameh* 4 (1983), pp. 560–608.

Māwardī, Abū'l Ḥasan 'Alī b. Muḥammad b. Ḥabīb. *al-Aḥkām al-Sultāniyya*. Beirut: Dār al-Kutub al-'Ilmiyya, 1985.

Mazzaoui, Michel. *The Origins of the Safawids*. Wiesbaden: Franz Steiner Verlag GMBH, 1972.

McDermott, Martin. *The Theology of al-Mufīd*. Beirut: Dār al-Machriq, 1986.

Mīr Dāmād, Muḥammad Bāqir Astarābādī. *Ikhtiyār Ma'rifat al-Rijāl*. 2 vols. Qum: Āl al-Bayt, 1404/1983–84.

Mīrzā Rafī'ā Anṣārī. "Dastūr al-Mulūk." *Majalla Dānishkada-yi Adabiyyāt* 65 & 66 (Ādhar 1347 sh/Dec. 1968), pp. 62–93; 67 (Bahman 1347 sh/Feb. 1969), pp. 298–322; 68 (Farvardīn 1348 sh/April 1969), pp. 416–440; 69 & 70 (Murdād 1348 sh/August 1969), pp. 540–564.

✓ Modarresi Tabataba'i, Hossein. *An Introduction to Shi'i Law*. London: Ithaca Press, 1984.

———. *Kharāj in Islamic Law*. London: n.p., 1983.

- ✓ Momen, Moojan. *An Introduction to Shi'i Islam: The History and Doctrines of Twelver Shi'ism*. New Haven and London: Yale University Press, 1955.
- ✓ Morris, J. W. *The Wisdom of the Throne*. Princeton: Princeton University Press, 1981.
- Mottahedeh, Roy. *Loyalty and Leadership in an Early Islamic Society*. Princeton: Princeton University Press, 1980.
- ✓ Mozaffari, Mehdi. *Authority in Islam*. Trans. by Michel Yale. Armonk, New York and London: M. E. Sharpe Inc., 1987.
- Mudarris Khiyābānī, Muḥammad 'Alī. *Rayḥānat al-Adab*. 8 vols. Tehran: Khayyām, 1967.
- Mudarrisi Chārdihī, Murtaḍā. *Shaykhīgarī va Bābīgarī*. Tehran: Furūghī, 1966.
- . *Simā-yi Buzurgān*. Tehran: Amīr Kabīr, 1956.
- . *Tārīkh-i Falāsifa-yi Islām*. Tehran: 'Ilmī, 1957.
- Mudarrisi Zanjānī, Muḥammad. *Sarguzasht va 'Aqā'id-i Falsafī-yi Khwāja Naṣīr-i Ṭūsī*. Tehran: Dānishgāh, 1956.
- Mufid, Muḥammad b. Nu'mān. *Awā'il al-Maqālāt*. Ed. M. Mohaghegh. Tehran: Institute of Islamic Studies, 1993.
- . *al-Ikhtiṣāṣ* Tehran: Maktaba Ṣadūq, 1960.
- . *al-Muqni'a fi'l-Uṣūl wa'l-Furū'*. Qum: Mu'assasat al-Nashr al-Islāmī, 1990.
- Muḥaqqiq al-Ḥillī, Najm al-Dīn Ja'far b. Ḥasan. *Ma'ārij al-Uṣūl*. Qum: Āl al-Bayt, 1983.
- . *Sharāyi' al-Islām*. Tehran: 'Ilmiyya Islāmiyya, 1957.
- Mullā Ṣadrā Shīrāzī, Muḥammad b. Ibrāhīm. *al-Hikma'l-Muta'aliya fi'l-Asfār al-'Aqliya'l-Arba'a*. 4 vols. Tehran: Dār al-Ma'ārif, 1958.

- . *al-Hikma'l-Arshīya*. Ed. G. Āhanī. Isfahan: Shahriyār, 1962.
- . *Kasr Aṣnām al-Jāhiliyya*. Ed. M. T. Dānishpazhūh. Tehran: Dānishgāh, 1962.
- . *Risāla-yi Si Aṣl*. Ed. S. H. Nasr. Tehran: Dānishgāh, 1961.
- . *Sharḥ Uṣūl al-Kāfi*. “Kitāb al-Ḥujja” & “Kitāb al-‘Aql wa’l-Jahl”. Tehran: Litho-reprint., n.d.
- . *al-Shawāhid al-Rubūbiyya*. Ed. S. J. Āshtiyānī. Mashhad: Dānishgāh, 1967.
- Muntajab al-Dīn b. Bābūya al-Rāzī. *Fihrist Asmā’ al-‘Ulāmā’ al-Shī’a wa Muṣannaṣihim*. Qum: Majma’ al-Dhakhā’ir al-Islāmiyya, 1983.
- Muntaẓirī, Ḥusayn ‘Alī. *Dirāsāt fī Wilāyat al-Faqīh*. 2 vols. Qum: al-Markiz al-‘Ālimī, 1988.
- Murtaḍā, Abū’l-Qāsim ‘Alī b. al-Ḥusayn al-Mūsawī. *al-Dhakhīra fī ‘Ilm al-Kalām*. Ed. Sayyid Aḥmad al-Ḥusaynī. Qum: Mu’assasat al-Nashr al-Islāmī, 1990–91.
- . *al-Dharī’a ilā Uṣūl al-Shī’a*. 2 vols. Ed. A. Gurjī. Tehran: Dānishgāh, 1967.
- . “Ibtāl al-‘Amal bi Akhbār al-Aḥād.” Xerox copy from a manuscript by Āqā Shāzī Namāzī dated 1327/1909.
- . *Rasā’il*. 4 vols. Qum: Nashr Dār al-Qur’ān, 1405/1984–85.
- Muṣaddiq, Muḥammad. *Khāṭirāt va Ta’ammulāt*. Ed. Īraj Afshār. Tehran: Intishārāt ‘Ilmī, 1986.
- Muslim b. Ḥajjāj b. Muslim al-Qurashī. *Ṣaḥīḥ*. 8 vols. Cairo: Ṣabīḥ, 1915.
- Muṭahharī, Murtaḍā. *Āshnā’i bā ‘Ulūm-i Islāmī*. Tehran:

Intishārāt Ṣadrā, 1979.

- . *Baḥthī dar Bāra-yi Marjaiyyat va Rūḥāniyyat*. Tehran: Shirkat-i Intishār, 1962.
- Muẓaffar, Muḥammad Riḍā. *Uṣūl al-Fiqh*. 3 vols. Najaf: Amīn, 1962.
- Nafisī, Sa'īd. *Tārīkh-i Ijtimā'i va Siyāsī-yi Irān*. 2 vols. Tehran: Intishārāt-i Bunyād, 1965.
- Nā'inī, Muḥammad Ḥusayn. *Tanbīh al-Umma wa Tanzīh al-Milla*. Ed. Maḥmūd Ṭāliqānī. Tehran: Shirkat-i Intishārāt-i Kitāb, 1955.
- Najafī, Shaykh Muḥammad Ḥasan. *Jawāhir al-Kalām*, 43 vols. Najaf: Dār al-Kutub al-Islāmīya, 1958.
- . *Najāt al-'Ibād*. Bombay: Maṭba'a Ḥaydarī, 1318/1900.
- Najāshī, Abū'l-'Abbās Muḥammad b. 'Alī. *Kitāb al-Rijāl*. Qum: Nashr-i Islāmī, 1987.
- Nakash, Yitzak. *The Shi'is of Iraq*. Princeton University Press, 1994.
- Narāqī, Ḥasan. *Tārīkh-i Ijtimā'i-yi Kāshān*. Tehran: Anjuman Āthār Millī, 1969.
- Narāqī, Mullā Aḥmad b. Mahdī. *'Awā'id al-Ayyām*. Qum: Maktaba-yi Baṣīratī, 1903.
- . *Mathnavī-yi Ṭaqdīs*. Tehran: Amīr Kabīr, 1983.
- . *Mi'rāj al-Sa'āda*. Tehran: Lithoprint, 1281/1864.
- . *Mustanad al-Shī'a*. Tehran: Lithograph, 1927/1856.
- Nasafī, 'Azīz al-Dīn b. Muḥammad. *Majmū'a-yi Rasā'il Mashhūr bi Kitāb al-Insān al-Kāmil*. Ed. M. Molé. Tehran: L'Institut Franco-Iranien, 1962.
- Nāṣir Khusraw Qubādiyānī. *Safarnāma*. Tehran: Kitābhā-yi Jībī, 1991.

Nāṭiq, Humā. *Iran dar Rahyābī-yi Farhangī 1834-1848*. London: Markaz-i Chāp-i va Nashr-i Payām, 1988.

———. "Sarāghāz-i Iqtidār-i Iqtisādī va Siyāsī-yi Mullāyān." *Alifbā* 2 (1983), pp. 40-56.

Navā'i, 'Abdul-Ḥusayn. "Ḥājj Muḥammad Karīm Khān Kirmānī." *Yādgar* 4-5 (Nov. 1944-Jan. 1945), pp. 106-118, and 6-7 (Jan. 1945-Feb. 1945), pp. 62-73.

Nawbakhtī, Ḥasan b. Mūsā. *Firaq al-Shī'a*. Beirut: Dār al-Aḍwā', 1984.

Newman, Andrew. "The Development and Political Significance of the Rational Usuli and Traditional Akhbari Schools in Imami Shi'i History from the Third/Ninth to the Tenth/Sixteenth Century." Ph.D. diss., University of California, 1986.

———. "Towards a Reconsideration of the 'Isfahan School of Philosophy': Shaykh Bahā'i and the Role of the Safawid Ulama." *Studia Iranica* 15 (1986), pp. 165-199.

Nūri, Shaykh Faḍlullāh. *Majmū'a-yi Rasā'il, I'lāmīyahā, Maktūbāt va Rūznāma*. 3 vols. Ed. M. Turkamān. Tehran: Rasā, 1983.

Nūri Ṭabarī, Mīrzā Ḥusayn. *Mustadrak al-Wasā'il*. 18 vols. Beirut: Āl al-Bayt, 1987.

✓ Oraibi, 'Ali al-. "Shi'i Renaissance: A Case Study of the Theological School of Bahrain." Unpublished Ph.D. diss., McGill University, 1993.

Petrushevski, Ilia Pavlovich. *Islām dar Īrān*. Trans. by Karīm Kishāvarz. Tehran: Payām, 1971.

✓ Pirnazar, Saeed. "Non-Corporate Groups and Political Development in Developing Areas." Ph.D. diss., University of Kansas, 1982.

Qā'im Maqām, Mīrzā Buzurg. *Jihādīya*. Ed. Jahāngīr Qā'im

Maqāmī. Tehran: Litho-reprint, 1234/1818, n.p.

Qalamdārān, Ḥaydar ‘Alī. *Hukūmat dar Islām*. Tehran: Ismā‘iliyān, 1965.

Qaṭifi, Sayyid Ibrāhīm. “al-Sirāj al-Wahhāj...”. *Kharājīyyāt*. Qum: Mu’assasat al-Nashr al-Islāmiyya, 1413/1992–93, pp. 19–129.

Qazvīnī Rāzī, ‘Abd al-Jalīl. *Kitāb al-Naqd*. Tehran: Sipīhr, 1952.

Quhpā’i, ‘Ināyatullāh ‘Alī. *Majma‘ al-Rijāl*. 3 vols. Qum: Ismā‘iliyān, n.d.

Qummī, Mīrzā Abū’l-Qāsim. *Qawānīn al-Uṣūl*. Tehran: Lithoprint, 1378/1958.

Qummī, Shaykh ‘Abbās, *al-Kunā wa’l-Alqāb*. Najaf: Ḥaydariyya, 1956.

———. *Mafātīḥ al-Janān*. Tehran: Nashr Farhang Islam, 1985.

Radtke, Bernd. *al-Hakīm al-Fīrmīdhī: Ein islamischer Theosoph*. Freiburg: K.S.V., 1980.

✓ Rafati, Vahid. “The Development of Shaykhī Thought in Shī‘ī Islam.” Ph.D. diss., University of California, 1979.

Raḥīmzāda, Ṣafavī, *Sharḥ-i Janghā va Zīndagānī-yi Shāh Ismā‘īl*. Tehran: Khayyām, 1962.

Rahman, Fazlur. *The Philosophy of Mullā Ṣadrā*. Albany: State University of New York Press, 1975.

Rashtī, Sayyid Kāzīm. *Dalīl al-Mutaḥayyirīn*. Trans. by Zayn al-‘Abīdīn Ibrāhīmī. Kirman: Sa‘ādat, n.d.

———. *Uṣūl-i ‘Aqā‘id*. Tehran: Litho, 1274.

Rāzī, Fakhr al-Dīn, Muḥammad b. ‘Umar. *al-Maḥṣūl*. 2 vols. in 6 facsimiles. Riyād: Ibn Sa‘ūd University, 1979.

Rūḥānī, Sayyid Ḥamīd. *Nihzat-i Imām Khumaynī*. Tehran:

Rāh-i imām, 1982.

Rūhānī, Sayyid Kāzīm. "Aṣnāf va Pīshavarān." *Kayhān-i Andīsha* 19 (1988), pp. 93–104.

———. "Aṣnāf va Pīshavarān dar 'Aṣr-i Ṣafavī." *Kayhān-i Andīsha* 14 (1987), pp. 91–96.

———. "Aṣnāf va Pīshavarān dar Tārikh-i Īrān." *Kayhān-i Andīsha* 11 (1987), pp. 70–83.

Sa'adat Nūrī, Ḥusayn. *Rijāl-i Dawra-yi Qājār*. Tehran: Intishārāt Vahīd, 1985.

Sābitiyan, Z. *Asnad va Namahā-yi Tārikhī-yi Dawra-yi Ṣafavī*. Tehran: Ibn Sinā, 1964.

✓ Sachedina, Abdulaziz. *Islamic Messianism*. Albany: State University of New York, 1981.

———. *The Just Ruler (al-Sulṭān al-Ādil) in Shi'ite Islam*. New York and Oxford: Oxford University Press, 1988.

Ṣadr, Muḥammad Bāqir. *Durūs fi 'Ilm al-Uṣūl*. Qum: Mu'assasat al-Nashr al-Islāmī, 1990.

———. *Iqtisādunā*. Beirut: Dār al-Ma'ārif, 1986.

———. *al-Ma'ālīm al-Jadīda li'l-Uṣūl*. Najaf: Nu'mānī, 1965.

Ṣaffār al-Qummī, Muḥammad b. al-Ḥasan b. al-Furūkh. *Baṣā'ir al-Darājāt*. Tehran: A'lāmī, 1984.

Sākit, Muḥammad Ḥusayn. *Nahād-i Dādrasī dar Islām*. Mashhad: Astān-i Quds, 1986.

Ṣāliḥī Najafābādī, Ni'matullāh. *Vilāyat-i Faqīh: Ḥukūmat-i Ṣāliḥān*. Tehran: Rasā, 1984.

Ṣarrāf, Murtaḍā. *Rasā'il-i Javānmardān*. Tehran: L'Institut Franco-Iranien, 1973.

Savory, Roger. "The Safavid Administrative System". *The Cambridge History of Iran*, vol. 6. Ed. P. Jackson. London & New York: Cambridge University Press, 1986, pp. 351–72.

- . *Iran Under the Safavids*. London: Cambridge University Press, 1980.
- Schacht, Joseph. *An Introduction to Islamic Law*. Oxford University Press, 1964.
- . "Law and the State." *The Legacy of Islam*. Ed. J. Schacht and C. E. Bosworth. Oxford: Clarendon Press, 1974.
- . *The Origin of Muhammedan Jurisprudence*. Oxford: Clarendon Press, 1959.
- Shāfi'ī, Muḥammad b. Idrīs al-. *al-Risāla*. Ed. Aḥmad M. Shākir. Beirut: al-Maktaba'l-'Ilmiyya, 1939.
- Shahīd al-Awwal, Muḥammad b. Jamāl al-Dīn. *al-Lum'at al-Dimishqiyya fī Fiqh al-Imāmiyya*. Tehran: Markaz Buḥūth al-Hajj, 1986.
- . *al-Qawā'id wa'l-Fawā'id*, Ed. 'Abd al-Hādī al-Ḥakīm. 2 vols. Qum: al-Mufīd, 1979.
- Shahīd al-Thānī, Zayn al-Dīn al-'Āmilī. *al-Rawḍa'l-Bahiyya fī Sharḥ al-Lum'at al-Dimishqiyya*. 2 vols. Tehran: 'Ilmiya Islamiya, 1929.
- Shahrastānī, Muḥammad b. 'Abd al-Karīm. *al-Milal wa'l-Niḥal*. Ed. M. S. Kilānī. Beirut: Dār al-Ma'rifa, 1961.
- Sharīf Kāshānī, Mullā Ḥabībullāh. *Lubāb al-Albāb*. Tehran: Buzarjumihri, 1958.
- Sharīf Raḍawī, Ni'matullāh. *Tadhkirat al-Awliyā' fī Sharḥ Aḥwāl al-Ḥajj Muḥammad Karīm Khān al-Kirmānī*. Bombay: Maṭba'a Nāṣirī, 1313/1895.
- Sharīf al-Raḍī, Muḥammad b. al-Ḥusayn al-Mūsawī. *Nahj al-Balāgha*. Ed. Muftī Ja'far Ḥusaynī. Qum: Barrasiḥā-yi Islāmī, 1975.
- . *Nahj al-Balāgha*. Ed. Muḥammad 'Abduh. 3 vols. in 1. Miṣr: Maktabat al-Tijāniya al-Kubrā, n.d.

Shaybī, Muṣṭafā Kāmil. *al-Fikr al-Shī'ī wa'l-Naz'at al-Šūfiyya*. Baghdad: Maktabat al-Nahḍa, 1966.

———. *al-Šila bayn al-Taṣawwuf wa'l-Tashayyu'*. 2nd edition. Cairo: Dār al-Ma'ārif, 1969.

Shihābī, Maḥmūd. *Advār-i Fiqh*. 3 vols. Tehran: Dānishgāh, 1961.

———. *Taqrīrāt-i Uṣūl*. Tehran: Farbud, 1965.

Shirāzī, Sayyid Muḥammad al-Ḥusaynī. *al-Fiqh*. 109 vols. Beirut: Dār al-'Ulūm, 1987.

Shushtarī, Qāḍī Nūrullāh. *Majālis al-Mu'minin*. Tehran: Maktaba Islāmiyya, 1955.

Sipihr, Muḥammad Taqī Lisān al-Mulk. *Nāsikh al-Tawārīkh: Salāṭīn-i Qājār*. 4 vols. Tehran: Maktaba Islāmiyya, 1967.

Smith, Peter. *The Babi and Baha'i Religions*. London: Cambridge University Press, 1987.

Suhrawardī, Abū Ḥafṣ 'Umar b. Muḥammad. *'Awārif al-Ma'ārif*. Beirut: Dār al-Kutub, 1966.

———. "Futuvvat Nāma" in *Rasā'il-i Javānmardān*. Ed. M. Šarrāf Tehran: L'Institut Franco-Iranien, 1973.

Suyūrī, Faḍil Miqdād. *al-Bāb al-Hādī 'Ashr*. Ed. M. Mohaghegh. Tehran: Dānishgāh, 1986.

Ṭabāṭabā'ī, Muḥammad Ḥusayn. *Tafsīr al-Mizān*. 21 vols. Beirut: Mu'assasat al-A'lamī, 1985.

Tadhkirat al-Mulūk. Ed. Vladimir Minorsky. London: E. J. W. Gibb Memorial Series, 1943.

———. Ed. Maḥmūd Dabīr Siyāqī. Tehran: Amīr Kabīr, 1989.

Tamīmī, al-Qāḍī al-Nu'mān b. Muḥammad. *Da'ā'im al-Islām*. Ed. 'Arif Tāmir. Beirut: Dār al-Thaqāfa, 1960.

Taymūrī, Ibrāhīm. *Tahrīm-i Tanbākū*. Tehran: Jibī, 1979.

- Tihirānī, Shaykh Āqā Buzurg. *al-Dharī'a ilā Taṣānīf al-Shī'a*. 26 vols. Beirut: Dār al-Aḍwā', 1983.
- . *Ṭabaqāt A'lām al-Shī'a*. 2 vols. Najaf: Maṭba'a 'Ilmiyya, 1954.
- Tirmidhī, Abū 'Abd Allāh Muḥammad b. 'Alī. "Ḥaqīqat al-Ādamiyya." Ed. 'Abd al-Muḥsin al-Ḥusaynī. *Revue de la Faculté des Lettres d'Alexandrie* 3 (1946).
- . *Khatm al-Awliyā'*. Ed. 'Uthmān Ismā'il Yaḥyā. Beirut: Catholique, 1969.
- Trimingham, Spencer. *The Sufi Orders in Islam*. Oxford University Press, 1971.
- Tunakābunī, Muḥammad b. Sulaymān. *Qīṣaṣ al-'Ulamā'*. Tehran: 'Ilmiyya Islāmiyya, n.d.
- Turkamān, Iskandar Bayk. *Tārīkh-i Ālamārā-yi 'Abbāsī*. 2 vols. Ed. Īraj Afshār. Tehran: Amīr Kabīr, 1956.
- Ṭūsī, Naṣīr al-Dīn. *Sharḥ Mas'alat al-'Ilm*. Ed. 'Abdullāh Nūrānī. Mashhad: Dānishgāh, 1966.
- Ṭūsī, Shaykh al-Ṭā'ifa Muḥammad b. al-Ḥasan. *al-Fihrist*. Ed. Sayyid Muḥammad Ṣādiq Baḥr al-'Ulūm. Qum: Manshūrāt Sharīf al-Raḍī, n.d.
- . *Ikhtiyār Ma'rifat al-Rijāl*. Ed. Ḥasan Muṣṭafavī. Mashhad: Dānishkada-yi Adabiyāt, 1970.
- . *Kitāb al-Ghayba*. Ed. Āqā Buzurg Tihirānī. Najaf: al-Ṣādiq, 1965.
- . *al-Iqtisād al-Hādī ilā Ṭarīq al-Rashād*. Tehran: Maktaba-yi Jāmi'-i Chihilsutūn, 1980.
- . *al-Istibṣār*. 2 vols. Najaf: Dār al-Kutub, 1956.
- . *al-Jumal wa'l-'Uqūd*. Mashhad: Dānishgāh, 1968.
- . *al-Khilāf*. 3 vols. Qum: Nashr al-Islāmī, 1987.
- . *al-Mabsūṭ fī Fiqh al-Imāmiyya*. Ed. Muḥammad Taqī Kāshifi. Tehran: Makataba Murtaḍawī, 1967.

- . *al-Nihāya fī Mujarrad al-Fiqh wa'l-Fatāwī*. Ed. and trans. by M. T. Dānīshpazhūh. Tehran: Dānīshgāh, 1963.
- . *Tahdhīb al-Aḥkām*. 10 vols. Ed. Ḥ. Mūsavi al-Khursān. Najaf: Dār al-Kutub al-Islāmiyya, 1959–62.
- . *'Uddat al-Uṣūl*. 2 vols. Najaf: Āl al-Bayt, 1983.
- Ustādi, Ridā. "Āthār va Ta'lifāt-i Ayatollah Burūjirdī." *Hawza* 43–44 (March–July 1991).
- Varahrām, Ghulām Rizā. *Nizām-i Siyāsī va Sāzmānhā-yi Ijtimā'i-yi Īrān dar 'Aṣr-i Qājār*. Tehran: Intishārāt Mu'in, 1988.
- Vushmgīr, Kaykāvūs. *Qābūs Nāma*. Ed. S. Nafīsī. Tehran: Furūghī, 1963.
- Wardī, 'Alī. *Lamaḥāt Ijtimā'iyya min Tārīkh al-'Irāq al-Ḥadīth*. 6 vols. Baghdad: Maṭba'at al-Irshād, 1969.
- Watt, W. Montgomery. "The Significance of the Early Stages of Imami Shi'ism". *Religion and Politics in Iran*. Ed. Nikki Keddie. New Haven and London: Yale University Press, 1983, pp. 21–32.
- Weiss, Bernard G. *The Search for God's Law: The Islamic Jurisprudence in the Writings of Sayf al-Dīn al-Āmidī*. Salt Lake City: University of Utah Press, 1992.
- Ya'qūbī, Aḥmad b. Abī Ya'qūb. *Tārīkh al-Ya'qūbī*. 2 vols. Beirut: Dār Ṣādir, n.d.
- Yazdī, Muḥammad Kāzīm Ṭabāṭabā'i. *al-'Urwa'l-Wuthqā*. Tehran: Dār al-Kutub al-Islāmiyya, n.d.

Glossary

abdāl (sing. *badal*) : substitutes, a Sufi and Shaykhī status.

abrār (sing. *birr*) : reverent, a Sufi and Shaykhī status.

'alamdānān : standard bearers.

afḍal : superior in knowledge, the most qualified.

ahl al-akhbār : see Akhbārīs.

ahl al-rakhā' : people of leisure.

Akhbārīs : Shī'ī traditionists whose legal and ritual understanding is primarily based on the traditions of the Imams.

al-a'lam fa'l-a'lam : a formula denoting priority of the most superior learned over others.

a'lamīyya : superiority in knowledge.

'ālim (pl. *'ulamā'*) : a scholar well-versed in knowledge of the Qur'ān, the Traditions of the Prophet and Islamic jurisprudence.

'ālim al-rabbānī : the Divine Knower. A title referring to the Shi'ite theosophers.

'amal al-ṭā'ifa : the practice of the most righteous sect, the Imamīs.

'amma : commoners, the Sunnīs.

'ammī al-madhhab (Sunnīs) : inclined to the path of the majority, passing judgments according to the more common rule.

'aql : intellect, reason (in Shi'ite jurisprudence): independent rational inducements such as the human conception of good and evil.

'aql al-fiṭrī : inherent human rationality.

al-'aql al-ḥissī : sensitive reasoning, common sense.

'arīf : mystically enlightened knower.

aṣḥālat al-'adam : one of the practical principles denoting that any ruling is null and void unless its proof is legally established.

aṣḥāb al-'adad : traditionalists who calculated the number of days in the month of Ramaḍān according to the traditions rather than their own sighting of the crescent.

aṣḥāb al-jumal : generalists who do not engage in reasoning.

aṣḥāb al-naql : see Akhbārīs.

aṣḥāb al-Sunna : traditionists in the method of jurisprudence.

aṣḥāb al-ḥadīth : traditionists, transmitters of the Traditions.

aṣḥāb al-uṣūl : the writers of text-traditions.

aṣl al-istiṣḥāb : the principal of presumption of a past situation when there is no proof to indicate the change of condition.

aṣās : essential principle, a title used in Shi'ism to denote the essentiality of a figure or a position.

aṣnāf (sing. *ṣinf*) : Muslim artisans and professional classes.

'aṣhūrā : the drama of Karbala on the 10th of Muḥarram of each lunar year *Hijrī*.

'Atabāt : the Shi'ite shrine cities in Iraq.

āthār (sing. *athar*) : traces of the practice of the Companions of the Prophet.

awlād (sing. *walād*) : poles, pins, tent pins.

'azā : to mourn.

'azā'dārī : mourning rites.

'ayyārān : urban militia, members of *futuwwa* organizations who had a special code of behavior.

bāb : gate (of the Shi'ite Imams).

bast : sanctuary and protection afforded by the holy shrine and the residence of some of the 'ulamā'.

bast nashīnī : to seek refuge in a holy place or the house of a

dignitary.

bid'a : innovation in religion.

bidāhu : self-evidence.

burhān : demonstration, general inductive inference which affords certainty and conviction.

dasta gardīnī : demonstration of mourning rites.

dhu'l-rayāsāt : possessor of many offices.

dirāya : insightful evaluation of the content of the tradition-reports.

dīwān al-mazālim : special tribunal which often functions as an appeal court in the Muslim judicial system.

du'ā : prayer.

faqīh : a jurisprudent who infers legal rules from the Qur'ān and the Traditions.

farmān : decree of a king, charter.

fatwā : juridical opinion pronounced by a jurisprudent (mufti).

fiqh : knowledge of Shari'a, Islamic jurisprudence.

fiqh al-athar : traditional jurisprudence, knowledge of Shari'a based on the Traditions received from the Companions of the Prophet.

fiqh al-ra'y : opinionative jurisprudence.

futuwwa : a semi-religious phenomenon which formed the organization of Muslim brotherhood based on a special ethical code (*futuwwat nāma*) and allegiance to a certain *khan-qāh*.

fityān : youth devoted to a certain organization of *futuwwa*.

furū' : applied law, details of jurisprudence.

ghālī (pl. *ghulat*) : exaggerators who exalt the position of the Imams beyond the limits recognized in Shari'a.

ghawth : resort, a title to denote the centrality of a Sufi or

Shaykhī position or figure.

ghawth-i a'zam : great resort, the head of a mystical hierarchy. It sometimes implies the Twelfth Shi'ite Imam.

ghuluww : exaggeration of the position of the Imams (and some leaders of the Muslim community) beyond the limits recognized in Shari'a.

ḥadīth : the Traditions of the Prophet and the Imams.

ḥajj : pilgrimage to Mecca.

ḥākim : ruling judge.

ḥākim-i shar' : Islamic judge.

ḥamalat 'l-'ulūm : bearers of knowledge.

ḥay'at-i 'azādārān : the sponsor body of Shi'ite mourning rituals.

ḥisba : non-litigious affairs.

ḥiṣṣat al-sultān : the government's share in *zakāt*.

ḥujja : proof (of the authority of the Shari'a).

ḥujjatallāh : proof of God. This title was used in Shi'ism to denote the status of the Shi'ite Imams.

ḥujjatallāh al-bāligha : full-fledged proof of God.

ḥukm al-shar'i : religious ordinance.

Ḥusayniyya : a place for the Muḥarram commemoration procession.

idhn-i saltanat : permission to reign.

iftā' : giving legal opinion (*fatwā*).

iḥtiyāt : the principle of prudence in religion.

ijmā' : general consensus.

ijma' al-manqūl : transmitted general consensus (of the Companions of the Prophet).

ijmā' al-iṣāba : the general consensus if some Ithnā'asharī elites especially during the time of the Imams.

ijāza : permission for juridical *ijtihād* or transmitting *ḥadīth*.
ijtihād : the attempt to deduce legal rulings from the Shari'a sources.

al-ijtihād al-muṭlaq : absolute *ijtihād*.

al-ijtihād al-mutajazzī : partial divisible *ijtihād*.

ilm : knowledge of the Traditions and jurisprudence.

ilm-i rasmī : formal (Shari'a) knowledge.

ilm al-adyān : religionswissenschaft.

al-ilm al-ādī : ordinary knowledge.

al-ilm al-ijmālī : general knowledge.

al-ilm al-wijdānī : perceptual knowledge.

imām : leader, caliph.

Imam : one of the twelve Shi'ite leaders from the house of the Prophet, from 'Alī's descendants.

imām Jum'm'a : leader of the Friday congregational prayer.

imāmuzāda : those descendant from the Imams.

ishāba : band, group.

ishābat al-ijmā' : a body of religiously learned who perform consensus (especially from among the companions of Imam Ja'far al-Ṣādiq).

ishma : infallibility of the Prophet and the Shi'ite Imams.

istiṭlā' : seeking a legal opinion.

istiṣhāb : presuming continuation of the status quo. See *aṣl al-istiṣhāb*.

istishhād : seeking a witness.

al-i'tibārāt al-nazarīyya : theoretical considerations.

jabr : determinism.

jāmi' *al-sharā'i* : fully-qualified jurisprudent.

jarīda kashān : Shi'ite cross carriers.

jihād : holy war.

kaffara : atonement, expiation.

Kalāmiyya : theologians who, in Shi'ism, also favored the practice of Uṣūlī principles

kāshif : see *al-qawl al-kāshif*.

al-khabar al-wāḥid : isolated tradition. A tradition-report by one or a few transmitters which can be taken as valid.

khalīfat Allāh : the vicegerent of God.

khānqāh : Sufi hostel and school.

khālisa : governmental fiefs.

khaṭīb : speaker at the mosque.

khums : an Islamic alms tax which includes one fifth of the booty in Sunni Islam. In Shi'ism, it includes a fifth of most incomes.

khurūsh : clamor, ecstatic cries of Sufis.

lūṭī : ruffians, a band of rowdy, lawless youths, urban brigands.

madrasa : school, Muslim learning institution.

maṣḍūl : less excellent.

majhūl al-mālik : of anonymous ownership.

makrūh : reprehensible (actions).

al-makāsib al-muḥarrama : illegal transactions.

mamdūh : praiseworthy.

marathī : elegies.

marja'ī fatwā va taqlīd : see *marja'ī taqlīd*.

marja'ī taqlīd : the model for emulation who sets patterns for his followers in Shi'ite jurisprudence.

marja'īyya (*marja'īyyat*) : the office of *marja'ī taqlīd*.

marja'ī vujūhāt : repository of funds.

milādh : resort.

mudarris : instructor.

Muḥarram : the first month of the Muslim lunar calendar.

Muḥarram processions : special mourning rites for remembrance of the third Shi'ite Imam Husayn on the 10th of Muḥarram of every year *Hijrī*.

mujtahid : a jurisprudent who attempts to deduce legal rulings from the sources according to a certain discipline.

mujtahid al-zamān : the *mujtahid* of the time.

mullā : ordinary Muslim clergy.

mullā bāshī : the formal head of the 'ulamā' attached to the Safavid court.

munājāt : supplication.

muḥaddith : traditionist, the jurist who also transmits traditions.

al-muqallida : unthinking adherents of the traditions of the Imams.

muqṭadā 'l-anām : the example of the people.

al-mushabbiha : anthropomorphists.

mustafī : one who asks for *fatwās* from the jurist.

mustaḥabb : recommendable.

mustaqillāt al-'aqliyya : see '*aql*'.

mutāba'a : the compliance with the *fatwā* of a *mujtahid* in the specific cases where his commandment should overrule the opinion of others.

mutaḡhallib : usurper.

musannifīn : those who classify tradition-texts.

mut'a : temporary marriage.

mutawallī : custodian.

nā'ib al-Imām : deputy of the Shi'ite Twelfth Imam.

najda : support, well-supported view or person.

nakhl gardānān : couch carriers.

naqīb (plu. *nuqabā'*) : head, principle, chief.

naqīb al-ashrāf : supervisor of the descendants of the Prophet's family, and special judge to settle their affairs.

naṣṣ : explicit legal ruling.

nawḥa khān : mourner.

nāẓir : superintendent.

nujabā' (sing. *najīb*) : nobles.

pishnamāz : leader of the daily prayers.

qāḍī : Muslim judge who administers justice according to the revealed law.

qāḍī 'askar : judge of the army.

qarā'in : legal conjecture.

qaṭ' : certainty in juridical reasoning.

qawā'id : juridical rules understood from the Qur'ān and Tradition sources by virtue of rational reasoning.

al-qawl al-kāshif : word of declaration.

al-qawl al-mashhūr : prevalent opinion, widespread view.

qiyās : juridical analogy, reasoning by analogy.

qutb (plu. *aqṭāb*) : pole, a title denoting the pivotal status of a Sufi figure or position.

qutb al-madār : pole of the universe.

qutb al-zamān : temporal pole.

radd al-maẓālīm : absolution of wrongdoing.

ra'īs : chief.

rawāyāt : reported traditions.

rāwī : transmitter of the traditions.

rawakhān : reciter of religious tragedies.

rawakhānī : recitation of religious tragedies, especially the

events of Karbala.

ra'y : personal opinion.

rijāl : biographical works of Muslim dignitaries.

risāla 'amaliyya : juridical manual, a guide-book on Shī'a legal and ritual norms.

riwāya : reporting a tradition from the Prophet and the Imams.

rūhānī : spiritual, a title applied to the Shi'ite clergy since the late Qajar period.

rukn : pillar, a title to denote the importance of a figure in religion.

al-rukn al-rābi' : the fourth pillar of Shaykhī principles, i.e., the authority of a qualified saint to represent the Imam.

sabīl al-mu'minīn : the path of believers.

ṣāhib-i 'azā : sponsor of mourning rules.

ṣadaqa : charity.

ṣadr : a chief jurist appointed by the government for administering pious foundations.

ṣāhib al-shawka : powerful, mighty.

sahm al-Imām : half of the *khums* alms belonging to the absent Imam.

sayyid : noble, descendant of the Prophet's family.

sarkarda : head.

shafi' : intercessor.

shakk : doubt.

shawka : might, power.

shaykh al-Islām : chief leader of the Friday congregational prayer.

shaykh al-fuqahā' : chief of jurisprudence. In Shi'ism, this title was used for Shaykh Muḥammad Ḥasan Najafī.

al-shaykh al-a'zam : the great *shaykh*. This title was used for Shaykh Murtaḍā Anṣārī.

Shaykhīs : the followers of Shaykh Aḥmad Aḥsā'ī.

shuhra : fame.

suht : illegal possessions.

al-sullān al-jā'ir : unjust government.

Sunna : the Traditions of the Prophet.

taḍarru' : lamentation.

tafwīḍ al-naẓar : giving the right of supervision.

tajdīd : restoration.

ta'līf : collection of text-traditions.

tarkhīṣ (aṣl al-tarkhīṣ) : the principle of free choice, freedom to choose what to do in the choice of *mujtahid*.

taṣarrūf : classification of text-traditions.

tawaqquf : prudential withdrawal.

tafarīd : the principle of free will.

takya : a place for mourning and passion plays.

taqlīd : questioningly following the opinion and practice of others.

taqiyya : protection by dissimulation.

ṭarīqa : a Sufi order headed by a saintly figure.

tasbīḥāt : rosary.

al-tasbīḥāt al-arba'a : tetrad rosary.

ta'ziya : passion play, mourning rules.

thiqat al-Islam : those trustworthy in Islam. In Shi'ism, a title applied to the trustworthy reciters of the Traditions of the Prophet and the Imams.

tūyūl : fiefs.

'ūdūl al-mu'minīn : just believers.

'ulamā' (sing. 'ālim) : scholars learned in knowledge of the Qur'ān and the Traditions and Islamic jurisprudence.

ūlī'l-amr : those invested with power.

'urf : customary law.

Uṣūlis : the rational segment of Imāmī jurists who favored the incorporation of the semantic-exegetical methodology in jurisprudence.

al-uṣūl al-'amaliyya : rational principles to be applied in the absence of the Qur'ān and Tradition proofs in order to meet a practical demand.

uṣūl al-fiqh : principles of interpreting the Shari'a which were developed in an articulated form by al-Shāfi'i.

wā'iz : preacher.

wakīl : agent, deputy.

walī (pl. awliyā) : saint.

walī 'l-amr : custodian of affairs. This title applies to the leader of the community in Iran.

waqf (pl. awqāf) : pious foundation.

al-wāqifa : Shi'is who believed that the chain of Imams stopped at the 7th Imam.

wilāya : proximity, friendship, authority stemming from religious belief. An important Islamic doctrine on which both the Shi'ite structure of Imamology and the Sufi saintly hierarchy have been based.

wilāyat al-'amma : all-embracing mandate.

wilāyat al-faqīh : the doctrine which provides a superior jurist with the full-fledged mandate of the community.

wilāyat al-taṣarruf fī 'l-anfus wa'l-amwāl : the right of disposal over people and their properties.

al-yaqīn al-'ādī : ordinary certainty.

zakāt : Islamic purifying tax.

zakāt al-fiṭra : pole tax paid on the last day of the month of Ramaḍān.

ẓann : valid conjecture or speculation by a jurisperdent.

al-ẓann al-ghālib : the highest probability.

zanjīr zanān : self-flagellating groups.

ziyāra : visitation of holy shrines.

ziyāratnāma : special prayer for visitation.

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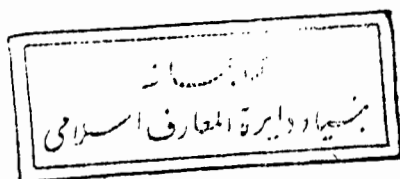
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