

Near Eastern Languages and Civilization

The Farhat J. Ziadeh Distinguished Lecture
in Arab and Islamic Studies

The Quandaries of Emulation:
*The Theory and Politics of Shi'i
Manuals of Practice*

ZIADDEH LECTURE 2011

Professor Roy Mottahedeh

Harvard University

Dear Friends and Colleagues,

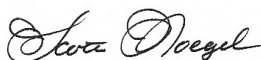
It is my distinct privilege to provide you with a copy of the ninth Farhat J. Ziadeh Distinguished Lecture in Arab and Islamic Studies, “*The Quandaries of Emulation: The Theory and Politics of Shi’i Manuals of Practice*” delivered by Professor Roy Parviz Mottahedeh on May 2, 2011.

The Ziadeh Fund was formally endowed in 2001. Since that time, with your support, it has allowed us to strengthen our educational reach and showcase the most outstanding scholarship in Arab and Islamic Studies, and to do so always in honor of our dear colleague Farhat Ziadeh, whose contributions to the fields of Islamic law, Arabic language, and Islamic Studies are truly unparalleled.

Farhat J. Ziadeh was born in Ramallah, Palestine, in 1917. He received his B.A. from the American University of Beirut in 1937 and his LL.B. from the University of London in 1940. He then attended Lincoln’s Inn, London, where he became a Barrister-at-Law in 1946. In the final years of the British Mandate, he served as a Magistrate for the Government of Palestine before eventually moving with his family to the United States. He was appointed Professor of Arabic and Islamic Law at Princeton University, where he taught until 1966, at which time he moved to the University of Washington.

The annual lectureship in his name is a fitting tribute to his international reputation and his national service to the discipline of Arabic and Islamic Studies. The event and publication would not be possible without the generous support of many contributors including students, colleagues, friends, and above all Farhat and Suad themselves, and their family members. On behalf of our Department, I extend my deepest thanks to them and to all of you who have supported the Ziadeh Fund. You truly have made a difference!

Sincerely yours,



Scott B. Noegel
Chair, Department of Near Eastern Languages & Civilization
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The Department of Near Eastern Languages and Civilization
at the University of Washington

**The Ninth Farhat J. Ziadeh Distinguished
Lecture in Arab and Islamic Studies**

Monday, May 2, 2011

The Quandaries of Emulation:
*The Theory and Politics of Shi'i
Manuals of Practice*

Professor Roy Parviz Mottahedeh



Roy Parviz Mottahedeh is Gurney Professor of History at Harvard University. He founded the *Harvard Middle East and Islamic Review* in 1994.

Professor Mottahedeh was one of the first MacArthur fellows in 1981. He was elected a member of the Academy of Arts

and Sciences and the Council on Foreign Relations. In 2006, he received an honorary degree from Lund University in Sweden. From 2006 to 2011, he served as Director of the Prince Alwaleed Bin Talal Islamic Studies Program at Harvard.

Professor Mottahedeh's scholarly interests range from the Abbasid period in the eighth century to Islamic revival movements of the present day. Some of his publications include *Loyalty and Leadership in an Early Islamic Society* (1980), *The Mantle of the Prophet* (1985), and *Lessons in Islamic Jurisprudence* (2003).

The Quandaries of Emulation: The Theory and Politics of Shi'i Manuals of Practice

Roy Parviz Mottahedeh

The dramatic rise in Shi'i-Sunni sectarianism in 2014 has caught the attention of the world. Iraq is at present split between Shi'i and Sunni factions while Syria survives as a quasi-Shi'i state with significant support from the Lebanese Shi'i community. Bahrain is riven by Sunni-Shi'i antagonism. In the face of the recent conquest of much of northern and western Iraq by Sunni insurgents of the self-proclaimed "Islamic State,"¹ Ayatollah Ali Sistani, the highest Shi'i religious authority in Iraq, issued a statement in his own handwriting and with his seal that addressed recent security "developments in the province of Nineveh and surrounding areas." This statement issued on July 10, 2014, the date that the "Islamic State" captured Mosul, spoke of "the necessity to unite and strengthen efforts to stand in the face of terrorists and increase protection for citizens."² Tens of thousands came forward as volunteers.

This statement is posted on Sistani's website along with two sermons delivered by two authorized "representatives of the highest religious source of emulation"—namely, of Ayatollah Sistani. The first of these sermons was given on June 20, 2014.

*It was a great privilege to honor Professor Farhat Ziadeh, the doyen of Islamic legal studies in North America, by presenting this paper as the Farhat Ziadeh Annual Lecture at the University of Washington in 2011. This paper has been revised and updated after serious illness delayed its publication. It incorporates material presented in a later talk given at the Woodrow Wilson Center in Washington, D.C., under the kind auspices of Dr. Judith Yaphe. Valuable comments were provided by Professors Houchang Chehabi and Hossein Kamaly.

¹ The "Islamic State" was formerly called ISIS (the Islamic State in Iraq and Syria) and ISIL (the Islamic State in Iraq and the Levant).

² Sistani.org/arabic/statement/24906 (viewed on August 13, 2014).



It made clear that the groups easily calling other Muslims “infidels” (i.e., the Sunni leaders of the “Islamic State”) and threatening churches and holy places of all kinds are enemies of all citizens of Iraq. The sermon thanked the “hundreds of thousands” who responded to Sistani’s call to volunteer and told them to join the army or security forces but not to form militias. The sermon also called on Parliament to form a new government. A sermon delivered on July 11, 2014, reiterated all of these points while emphasizing the urgency of appointing a new government.³ On August 14th, Nuri al-Maliki, the Prime Minister, resigned and without question the largest influence on his unwilling withdrawal was Sistani.

How did so much power come to rest with such a religious leader? A full explanation would require a lengthy intellectual and social history of Twelver Shi’ism (hereafter Shi’ism) from the nineteenth century to the present. In this essay I address only one aspect: the rise and continuing importance of “manuals of practice” by the “most learned” of the Shi’is, written to stake their claim to leadership. I also consider some recent conflicts and compromises within the Shi’i ulema about such leadership.

Twelver Shi’is (hereafter Shi’is) recognize religious authority in their Imams, who, according to their understanding were infallible in their judgments. The eleventh of these Imams, and the last one to be in some personal contact with his community, was Imam Ḥasan al-’Askarī who lived in Samarra in central Iraq. The attack in 2006 and 2007 on the shrine where this Imam and his father, the tenth Imam, are buried critically deepened the sectarian war between Shi’i and Sunni Iraqis. The “Islamic State” attacked Samarra on June 4, 2014 and again on June 11th, but was driven off by the Iraqi army and Shi’i militias. On June 30th an attacker fired three mortar rounds at the shrine killing six and slightly damaging the structure.

³ Sistani.org/Arabic/archive/24925 and/24915 (viewed on August 13, 2014).



According to Shi'i understanding, at Imam Ḥasan al-'Askari's death in 260/874 he left a son Muḥammad, who was concealed from the hostile rulers of the time. He communicated with his followers through intermediaries until they declared that his absence was total. While some Sunnis expect a messiah, all Shi'is expect the messianic return of the Twelfth Imam as a savior who will fill the world with justice.

In the absence of the messiah, opinion in the Shi'i community supported the view that those who accurately transmitted the sayings of the Prophet and the Imams were a source who could give guidance. As procedures were elaborated for shaping such guidance, including the use of reason, the Shi'is eventually called such specialist "*mujtahids*," which means "those who exert themselves to determine the Divine Law."

In the Sunni world a consensus gradually emerged that the true *mujtahids* were the founders of the four major Sunni law schools, the Hanafis, the Shafi'is, the Malikis and the Hanbalis, and these founders are often called "Imam *Mujtahids*." Nevertheless, many later Sunni jurists were *de facto mujtahids* in that they used independent reasoning in their decisions, but many preferred to be called *muftis*, issuers of *fatwas* or "legal opinions." In the early period of the formation of Sunni law there developed a fairly extensive use of "opinion" (*ra'y*) by the jurists, a term which Shi'i jurists totally rejected even when later Shi'i jurists declared reason (*'aql*) to be a source of legal opinions. Shi'is were cautious about the term *mujtahid* until the 7th/13th century, perhaps because it seemed a challenge to the position of the earlier infallible Imams from whom they had formerly asked legal advice.

Murtaḍā Anṣārī (d. 1864) is, by general consent among Shi'i scholars, the most important Shi'i legal thinker of the past two centuries. He greatly advanced the use of certain procedural principles which had a basis in reason and proved extremely useful for the *mujtahid* in making legal decisions. One unintended consequence was that legal thinking became more abstruse and



less accessible to the lay person. It took a lot of training and practice to master the works of Anṣārī, which assumed their place as key texts at the end of the curriculum for those studying to become *mujtahids*.⁴

The admiration for Anṣārī was so great that he was widely (some would say universally) recognized as “the most learned” (*mujtahid*) living and several of his pupils wrote a summary of his legal opinions for the ordinary believers. This widespread recognition of Anṣārī was made possible by the diffusion of printed books, the telegraph, more reliable postal service and increased safety of travel, all of which played important roles in the centralization of Shi’i authority through the distribution of *fatwas* and manuals of practice during the nineteenth and early twentieth centuries.

One of the written manuals by a pupil of Anṣārī dramatically states on its opening page the slogan that created the institution of the *marja’*, namely: *al-a’lam fa l-’a’lam* or “[authority is given to] the most learned [*mujtahid* then living] and then [after his death] to the most learned.”⁵ Similarly, another disciple of Anṣārī begins his collection of Anṣārī’s opinions, *Ṣirāṭ al-najāt* (*The Road to Salvation*), with a discussion of the necessity of emulation, a characteristic of these manuals from this time forward.⁶ Gradually, the popularity of such manuals became a gauge by which to measure the acceptance of such would-be “most learned” *mujtahids*.

⁴ See the author's introduction, analysis and translation of Muḥammad Bāqir aṣ-Ṣadr’s, *Lessons in Islamic Jurisprudence* (Oxford, 2003), including an explanation of the procedural principles.

⁵ *Fatwas* of Murtaḍā al-Anṣārī collected by Muḥammad ‘Alī Yazdī and copied in 1274 (1857-8) or 1275 (July 1859) well before the death of the Anṣārī in 1864. Princeton University Library Voyager Bib ID 6737936.

⁶ This manual was printed in Tehran in 1300/1883, nineteen years after Anṣārī’s death. Library of the University of Southern California I.D. 508015.



Similar manuals exist in the Christian, Jewish, Buddhist and other communities. Somewhat similar books also existed in the Islamic tradition long before the 19th century. An early example of this genre is the Mālikī law book, *al-Risālah*, written in 327/938 by Ibn Abī Zayd al-Qayrawānī. This book has been memorized from the time of its production to the present in North and sub-Saharan Africa as an introduction to the Mālikī school of Sunnī law. Its differences from the later Shiʿī manuals from Anṣārī onward are significant. This early Sunnī book begins with a creed whereas the Shiʿī manuals consider the fundamentals of religion as matters that the believer should prove for him or herself and state that he/she “cannot accept the word of another” concerning these fundamentals.⁷

The Shiʿī manuals do not try to establish the “indisputable” matters of Islamic faith such as the need to fast during Ramadan: while they discuss how one should fast, they do not discuss why one should fast.⁸ For Shiʿīs the fundamental beliefs of their faith are established through theology, not through manuals of practice. Later Shiʿī manuals gained an authority that neither earlier Sunnī nor earlier Shiʿī jurists claimed because the concept of obedience to “the most learned and then [after him] the most learned” centralized authority as it had never been centralized before.

A collection of *fatwas* from the Sunnī world organized by subject and somewhat similar to Shiʿī manuals of practice has been written in the 21st century by “Justice Mufti,” Muhammad Taqī Usmani, often considered the intellectual leader of the pow-

⁷ An exception is a manual by Khomeini in which some editions begin with the fundamentals of faith; see J. Borujerdi, “Translator’s Note,” in *Clarification of Questions* by Ruhollah Khomeini (Boulder, 1984), p. xxxi.

⁸ E.g., al-Khūʿī, Abū al-Qāsim, *Articles of Islamic Acts* (3rd ed.; Karachi, 1989) p. 1.



erful Deoband movement in South Asia.⁹ Another such Sunni manual is *Min Fatāwā Faḍīlat al-Imām al-Akbar al-Shaykh Jād al-Haqq* from a decade earlier.¹⁰ The author was Grand Mufti of Egypt, Minister of Religious Affairs, and Shaykh al-Azhar. Both of these manuals are from greatly respected figures, but they could not expect the total obedience that the leading Shi'i *mujtahids* expect in contemporary times.

The post-Anṣārī Shi'i manuals begin with a section on the authority of the *mujtahid* and the obligations of non-*mujtahids* to follow a *mujtahid* (or to exercise *iḥtiyāt*, "precaution," i.e., to adopt the most cautious position imaginable in each action, such as repeating one's prayers if there is the slightest uncertainty as to whether they were correctly performed). Such an obligation to follow the behavior prescribed by a *mujtahid* is called *taqlīd* in Arabic and Persian and is usually translated as "emulation." "Precaution," as the default position when one does not choose to emulate, is considered intellectually prior to emulation, but few choose this burdensome way of living. From the Shi'i point of view emulation frees the believer from any responsibility for a mistaken judgment by the *mujtahid*, and the possibility of such mistakes is freely admitted.

At this point, the number of Shi'i *mujtahids* who are broadly recognized—as determined by the use of their manuals of practice—number about six, the majority of whom are Iranian even though some, like Sistani, may have lived elsewhere for many years. The manuals obligate the emulator to pay a religious tax to his or her chosen "source of emulation" each year. At present Sistani seems to be the source of emulation for the majority of Twelver Shi'is in the world, although he has strong rivals. Not surprisingly, there is an unspoken competition for emulators because of the financial power that comes with a large following.

⁹ *Contemporary Fatwas* (Transl. Muhammad Shoaib Omar; Lahore, 2001) (hereafter Usmani).

¹⁰ Cairo, 1990.



Two important changes in recent Shi'i thought concerning these manuals is the permission for ordinary believers to follow a dead *mujtahid* and permission to divide religious affiliation between different sources of emulation. To understand the earlier situation I refer to the great bibliographer of Twelver Shi'ism, Agha Buzurg aṭ-Ṭihrānī (d. 1389/1970). Here is his description of these manuals, of which I offer an abbreviated English translation from the Arabic:

The Manual of Practice is a general title for treatises consisting of *fatwās* that bring together questions which common people need in their daily actions regulated by the Divine Law. They were composed in abundance in the eleventh, twelfth, and thirteenth centuries of the *Hijrah*. In this [the 14th /20th] century the *ulema* [Shi'i clergymen] have satisfied the need for them. In the forefront of the *ulema* to write them is Sayyid Baḥr al-'Ulūm [d. 1212/1797]¹¹ and Shaykh Anṣārī [d. 1281/1864] . . . Given that recent [ulema] do not allow behavior according to the *fatwā* of someone who is deceased, consequently these manuals of practice and the commentaries upon them are not a matter for concern after the death of the *muftī* [*mujtahid*] issuing them, except in cases in which these manuals are subject to commentary and revision of their questions according to the *fatwā* of living ulema.¹²

In most respects, this passage, which was published in 1951, remains valid. Shi'i leaders, living or dead, are called *marja' at-taqlīd* (in the plural, *marāji' at-taqlīd*, but hereafter *marja's*), variously translated as the "source of emulation" or "reference point for imitation." All jurists who claim this distinc-

¹¹ Sayyid Muḥammad Mahdī Baḥr al-'Ulūm (d. 1212/1797). He did not write a "practical manual" in the style of the later manuals although he did write two short surveys of Islamic law, one in prose and one in poetry.

¹² *Al-Dharī'ah ilā Taṣānīf al-Shī'ah* (Qom, 1951).



tion must issue a manual of practice. The passage from Ṭīhrānī does, however, mention an issue still under dispute, namely, the use of manuals of deceased Shi'i leaders. The issue remains important because some ordinary believers continue to follow parts of the manuals of practice of Khomeini and Abū al-Qasim al-Khū'i.

The "classic" Shi'i manual of practice is the *al-'Urwat al-Wuthqā* by Sayyid Muḥammad Kāzīm al-Yazdī, who died in 1337/1919. It was very clear and, despite the author's reputation as a conservative who opposed elected government, became the point of departure for most subsequent *marja*'s. Commentaries on it have been written by most major *marja*'s including Sistani. Yazdī presents the traditional view that, "It is not permissible to turn from one living person [emulated] to another living person, unless the latter is more learned." Once you choose, you must stick with your choice till his death, unless you are persuaded (presumably by the Shi'i ulema) that someone else is more learned. In his commentary on the *'Urwat al-Wuthqā* Khomeini added: "... or is equal [in learning]."¹³

Sistani modifies this approach, both in his comments on the *'Urwat*¹⁴ and more specifically in his *fatwas* in which he answers questions (pl. *'istiftā'āt*, sing. *'istiftā'*) posed by others.¹⁵ He strongly supports obedience to "the most learned" (*a'lam*) and even states: "The only excuse on the day of resurrection is the *fatwa* of the most learned."¹⁶ Sistani is in no doubt that one can still follow someone who is dead if he is considered more learned and specifically refers to his teacher, "his excellency Sayyid

¹³ *Al-'Urwat al-Wuthqā ma'a-Ta'līqāt* (Qum, 1428), p. 15.

¹⁴ See n. 13.

¹⁵ Sistani.org/Arabic/qa/0369 gives Sistani's Arabic *fatwas* on taqlīd numbered from 1 to 98 and his Persian *fatwas* numbered 1 to 28; hereafter " *'istiftā'āt* Arabic" and " *'istiftā'āt* Persian." The *fatwas* in each language seem to be completely independent from each other.

¹⁶ " *'Istiftā'āt* Persian," no. 11.



Khū'ī,"¹⁷ in this respect although to do so completely may be impossible on questions that have not been covered by the deceased *marja'*. Sistani squarely faces the problem that many contemporary Shi'is want to follow one section of the manual of one *marja'* and another section of the manual of a different *marja'*. This practice is called *tab'īd* (apportioning or division) in Arabic (and called *tajzi'ah* or *tajazzu'* by some Iranian clergymen). The word *tab'īd* has a long history in Islamic law, meaning the division of something into parts, whether it be ritual prayer or the repayment of a debt.¹⁸ Sistani says, "Yes, *tab'īd* is permissible. It is incumbent in the specific case when one of the two *mujtahids* is more learned in some chapters [of the manual] and the other is more learned in different [ones]. Consequently, one imitates each in that [i.e., those chapters] in which he is more learned . . ." ¹⁹ Of course, the emphasis here is on two *mujtahids* rather than on several.

The convenience of *tab'īd*, or what I shall henceforth refer to as the "cut-and-paste method," which allows *marja'*s to share authority with other *marja'*s, was first evident in the time of Khomeini, although some earlier manuals mention this practice. Khomeini was late in issuing his manual of practice, and he was more concerned that he be followed in his political jurisprudence than in a field such as *'ibādāt*, acts of worship. He wanted above all to perpetuate his controversial theory of *wilāyat al-faqīh*, or guardianship of the jurist. Khomeini seemed to be implicitly permitting the cut-and-paste method of choosing "sources of emulation" in order to further acceptance of his views on *wilāyat al-faqīh* among believers who had established allegiances to other *marja'*s.

The cut-and-paste method is also convenient for Sistani as

¹⁷ " 'Istiftā'āt Arabic," nos. 2, 4, 15. See also n. 23.

¹⁸ See *Al-Mawsū'ah al-Fiqhīyah*. Vol. X (Kuwait, 1407/1987), pp. 75-93.

¹⁹ " 'Istiftā'āt Arabic," no. 1.



the most widely accepted *marja'* of the Shi'i world today. Because of this method Sistani (who was born in Iran) is able to share authority (and responsibility) with regionally respected *marja'*s. The cut-and-paste method plus the permission to follow a deceased *marja'* has worked well for the followers of the recently deceased Shaykh Muḥammad Ḥusayn Faḍlallāh of Lebanon, who is still revered as a *marja'* by ordinary believers in Lebanon who may turn to other manuals by other *mujtahids* for guidance on different areas such as politics. It is probably a sign of Sistani's willingness to share authority that many of his *fatwas* are co-signed by the other three *marja'*s of Najaf, Muḥammad Sa'īd al-Ḥakīm who is seen as Arab, Bashīr an-Najafī from South Asia, and Muḥammad Ishāq al-Fayyād from Afghanistan, all of whom are considerably less widely emulated than is Sistani.

Yet there are a fair number of issues in which Sistani agrees with the more conservative Yazdī across two hundred years of history. How does the ordinary believer recognize his or her *marja'*? For both Sistani and Yazdī the primary way is through recognition by the *ahl al-khibrah*, the "people of experience." Functionally, the so-called "people of experience" are the upper level clergy of the Shi'i *madrasah* towns, such as Qom and Najaf. The "people of experience" choose their *marja'* by consensus. Without an election the identification of a *marja'* remains imprecise. Such a system of choice by acclamation among the upper level clergy does not allow for the creation of a hierarchical structure among the *marja'*s, especially if opinions on different sections of the law can be chosen by ordinary believers. We have here, in Christian terms, many bishops, but no single clearly elected Pope. Incidentally, election by acclamation instead of election by votes has occurred several times in the history of the papacy. Even after election by votes was established by a papal decree of 1059, Pope Gregory VII, the great reforming Pope, became Pope when he was acclaimed by the populace at the funeral of his predecessor in 1073.²⁰

²⁰ Somerville, Robert, "Gregory VII," *The Encyclopedia of Religion*. Vol. 6 (New York, 1993), pp. 121-124.



Sistani directly addresses the problem of possible conflict among the people of experience. The question is asked: “What do we do if the people of experience differ in specifying the most learned jurist?” Sistani answers in a *fatwa*: “One accepts the opinion of the strongest in respect to experience.”²¹ To the question “Who are the people of experience?” He answers, “They are the *mujtahids* and those who are near to them in knowledge and excellence (*faḍīlah*).”²²

This Shi’i system of consensual recognition is important to the financial structure of the *madrāsah* towns, where the *marja’* not only receives contributions, but also the religious tax paid by Shi’i believers and then redistributes the monies to student and the lower clergy. In practice, believers pay their obligatory, but self-imposed religious tax to the *marja’* whom they follow in “acts of worship” even if they follow another *marja’* in political or other matters. The *marja’* is supposed to receive one-fifth of the profit earned by a follower after his expenses (including personal and family maintenance expenses) have been deducted. This tax is self-imposed. In Sistani’s case the income from the tax may well amount to hundreds of millions a year. The extent of the leadership of an individual *marja’* is shown by—among other things—the payout that different *marja’*s in Najaf provide for their students. Sistani gives a good stipend; Fayyād gives only approximately one-third of that amount while Ḥakīm gives a meager one-fifth of that amount, and Bashīr pays sporadically, if at all. Payouts are not strictly related to choice of a *marja’* but do reflect the funds at the disposal of a *marja’*.

A widely influential manual of practice entitled *Tawḍīḥ al-Masā’il*, “Clarification of Questions” appeared in Persian in Iran. It was compiled by a relatively unnoticed figure of the Shi’i revival in Iran, Shaykh ‘Alī Aṣghar Karbāschiyān, known as ‘Allāmah, “the very learned.” ‘Allāmah Karbāschiyān founded

²¹ “‘*Istiftā’āt* Arabic,” no. 6.

²² *Ibid.*, no. 59.



the Alavi School in 1955, whose graduates include the well-known reformer Abd al-Karim Soroush as well as the Foreign Minister of Iran, Javad Zarif. In 'Allāmah Karbāschīyān's *Tawḍīḥ* the *fatwas* of Ayatollah Borujerdi, the supreme (and perhaps the sole) *marja'* from the mid-1940s to 1961 are organized more or less in the categories set out by Yazdī. The first printing of this *Tawḍīḥ* was in 1333/1954 and it was frequently printed and widely used in Borujerdi's lifetime.²³ The Arabic translation remains a *locus classicus* for later commentary.

Sayyid Abū l-Qāsim al-Mūsawī al-Khū'ī (d. 1992), the teacher of Sistani, wrote a manual, *Minhāj aṣ-Ṣāliḥīn*, that also achieved high status.²⁴ His manual explains, as most of these treatises do, that a person who is emulated must be '*ādil*, upright.²⁵ Again, local knowledge is invoked: "The sign that a man is upright is that he is apparently a good man so that if enquiries are made about him from the people of his locality or from his neighbors with whom he associates, they should confirm his goodness."²⁶ Functionally, the upper clergy of Shi'i centers of learning determine who is upright because religious scholars have lived most of their adult life in these centers. Yet in theory, this definition, as well as the definition of the "people of experience," would theoretically allow a wider circle of people to determine who has the character and learning to become a *marja'*.

²³ Maḥdī Hā'irī, "Tawḍīḥ al-Masā'il," in A. Sadr, *et al.*, eds., *Encyclopedia of Shia*. Vol. V (Tehrān, 1996), pp. 147-148.

²⁴ "Khū'ī" reflects the spelling of this name in Arabic, but he and his family used "Khoei" which more correctly reflects the actual pronunciation in Persian.

²⁵ See the outstanding article on this subject by Farhat Ziadeh, "Integrity ('*adālah*) in Classical Islamic Law," in W. Heer, ed., *Islamic Law and Jurisprudence* (Seattle, 1990), pp. 73-93.

²⁶ [Abū'l-Qāsim] Khoei [Khū'ī], *Articles of Islamic Acts* (Karachi, 1991), p. 2. This edition mistakenly identifies the Arabic original as *Tawḍīḥ al-Masā'il*, which demonstrates how closely this title became identified with a "manual of practice."



Khū'ī solidly supports the possibility of following a deceased *marja'*, as do most recent manuals of practice: “If the jurist who is emulated dies, and the follower has committed his rulings to memory, he can act on them as he acted during his lifetime.” This opinion has preserved the popularity of Khū'ī's manual well after his death in 1992 as a fair number of Shi'is still follow his manual, which is conservative. Part of the continuing appeal of Khū'ī's manual is that it has nothing to say about “the guardianship of the jurist”—unlike recent manuals written in Iran. Probably his silence is due to his rejection of Khomeini's political jurisprudence. While no new followers are allowed to choose the manual of deceased *marja'*, the commentaries by living *marja'*s, such as Sistani's on Khū'ī's manual would permit adherence to this older text in a mediated fashion.

The late Lebanese *marja'* Faḍlallāh accepted the Iranian political jurisprudence of Khomeini insofar as he says: “All the conditions mentioned for the *mufī-marja'* are sound qualifications for the holder of the guardianship of the jurist, except being most learned, which is certainly not considered.” This view was a fairly obvious commendation of the revised Iranian constitution that allowed the somewhat less-learned Khamenei to assume the “guardianship of the jurist” after the death of Khomeini. Many Lebanese Shi'is admire Khamenei, who has sent extensive monies to his favorite Shi'i causes in Lebanon. But Faḍlallāh also takes a position as to the “general matters” over which the guardian-jurist has control, namely: “That which refers to the general preservation of order on the basis of which the balance of life among Muslims *and* others exists . . . through which their life as a society is preserved.” Faḍlallāh further modifies the power of the guardian-jurist by saying, “There is no harm in having a number of *faqīhs* (jurists) taking care of ‘general matters’ in more than one Islamic region (*qutr 'islāmī*), unless this plurality does harm to all or part [of the Muslim community].” Again, as with Sistani, but explicitly allowing several *marja'*s as sources for cut-and-paste, we see an accommodation to national communities.²⁷

²⁷ Arabic.bayynat.org (viewed on August 13, 2014).



Faḍlallāh's opinion about the limitations of the guardian-jurist coincides with the opinion of Muḥammad Ṣādiq aṣ-Ṣadr, the father of Muqtaḍā Ṣadr, the widely known anti-American cleric. Muḥammad aṣ-Ṣādiq Ṣadr did not want to openly reject Khomeini's theory of a single guardian-jurist, but at the same time he wanted to claim his own authority in Iraq. To this end, he said that there was nothing wrong with recognizing an overarching Shi'i religious leader, but there was at the same time often the need for a "national guardian" who would interpret Islam within the context of a national state. As this leader said of himself in an interview, "Everybody in the Shi'i world knows that Muhammad Ṣādiq aṣ-Ṣadr is the *marja'* of Baghdad!" (Since Ṣadr lived in Najaf, Baghdad signified all of Iraq.)²⁸

Returning to Faḍlallāh, his manual of practice also chips away at the authority of the leading jurist while not sanctioning rebellion. He writes, "When one knows for certain that the guardian-jurist is mistaken, it is **not** incumbent on that person to obey him in matters that are not connected with public order."²⁹ "Public order" and "preservation of order" are code words for political authority. It is significant that Alī Khamenei is the "Leader" and the only Shi'i clergyman who is head of state. Khamenei has not issued a manual of practice partly because his rank as a *mujtahid* and even his appointment as a *mujtahid* are not accepted in all quarters.³⁰ Nevertheless, he has published his *fatwas* organized in the same order as other manuals of practice and indeed this book is reproduced on his website as "Practical Laws of Islam."³¹ To the question, "Is it permissible to follow a

²⁸ Fā'iḳ al-Shaykh 'Alī, *Iḡhtiyāl Sha'b* (London, 2000), p. 46.

²⁹ See "arabic.bayynat.org." (viewed on August 13, 2014).

³⁰ See my article "Shi'ite Political Thought and the Destiny of the Iranian Revolution," in Jamal S. al-Suwaidi, ed., *Iran and the Gulf: A Search for Stability* (Abu Dhabi, 1996), pp. 70-80.

³¹ Leader.ir/tree/index-php?catid+23 (viewed online August 26, 2014). Only in Khamenei's case have I used the English (rather than the Arabic or Persian) version of his website, which is very accurately translated from the Arabic. Questions 1 through 68.



mujtahid who is not a *marji'* and does not have a book of practical laws?" Khamenei answers, "If it is proven for a *mukallaf* (a sane mature Muslim) who wants to follow this *mujtahid* that he is a qualified *mujtahid*, there will be no problem in following him." In other words, being a *marji'* and having a book on practical laws of Islam are not conditions for the emulation of a qualified *mujtahid* to be correct.³² This answer is obliquely self-referential and breaks with the principle of "the most learned" that is affirmed in other answers. The authority of the "jurist-leader" [or guardian-jurist] (i.e., Khamenei) is affirmed in other *fatwas* such as the answer to Question 52: "The edicts of the jurist-leader [guardian-jurist] must be followed with respect to the issues relating to the administration of the Islamic country and general affairs of Muslims; while every *mukallaf* is obliged to follow his own *marja'*s in absolutely personal issues."³³

Another great change in the outlook of the leading Shi'i authorities consists of the differences among the *marāji'*, or sources of emulation, in their attitudes toward mystical Islamic philosophy, also called *'irfān*. The differences in attitude rose to prominence in 2011 when a fairly junior cleric named Hasan Ramazani, who teaches the medieval mystical philosopher Ibn 'Arabi's *Fuṣūṣ al-Hikam* (Bezels of Wisdom) in Qom, visited Sistani in Najaf. Ramazani subsequently published an online summary of his interviews. This summary included the following statements about *'irfān* attributed to Sistani:

Some pursue the goal of making Najaf ugly and its *hawzah* [the area of the seminaries] arid and completely opposed to these disciplines . . . which is not a proper

³² Ibid. Question 9. Here the morphologically correct, but seldom spoken "*marji'*" is given.

³³ To drive home the point in his answer to Question 55, Khamenei writes: "It is obligatory for all to obey the edict of the jurist leader, and the *fatwa* of a *marji'* cannot make it ineffective."



thing to do. [Nevertheless,] *'irfān* (the mystical pursuit of knowledge) is a double-edged sword Pursue *'irfān* with proper attention to the Divine Law and possess these two [paths] together.

Immediately, great pressure was put on Sistani to take back this statement. His Najafī colleague, the *marja'* Ayatollah Muḥammad Iṣḥāq Fayyād, at the opening of his advanced class in 2012, launched a severe attack and called the medieval Ibn 'Arabī a “heretic” (*zindīq*) lacking in belief in God.³⁴ All of this opprobrium was heaped upon Ibn 'Arabī whose philosophy Khomeini himself enjoyed teaching.

About two weeks after Ramazani's publication of the statement quoting Sistani, Ayatollah Ja'far Sayyidān from Mashhad sent Sistani a request for a *fatwa* regarding his opinion of “the author of the *Fuṣūṣ*”—namely Ibn 'Arabī, the font of Islamic mystical philosophy. Sistani replied in early December 2011:

For my part, in accord with the teaching on belief of the great *ulema* of the Imamiyah [the Twelver Shi'is]. . . I do not support the above-mentioned method.³⁵

This exchange is interesting from every point of view. First, we see the continuing importance of a group called *maktab-i tafkīk* in Mashhad. *Tafkīk* means “disassociation” and, in this context, means “disassociation of revealed knowledge attained from the Prophet and the Imams, from suppositional knowledge,

³⁴ See note 33.

³⁵ The episode is told with excellent detail in an article: “Fishār-i Ḥawzah-yi Najaf bar Āyatullāh Sīstānī,” dated (according to the Persian calendar) 8 Day 1390, on the website www.rahesabz.net/46940. All the quotations given above are given in this article.



especially philosophy and mysticism.” Ayatollah Sayyidān who requested the *fatwa* from Sistani is a well-known member of this group, the roots of which go back to the 1950’s or earlier. This group believes that too much philosophy was mixed with *’uṣūl al-fiqh*, the jurisprudence dealing with discovering the Divine Law or *shariah*, as, for example, shown in the works of such jurisprudential greats as Ākhūnd-i Khurāsānī and his celebrated student, Shaykh Muḥammad Ḥusayn, known as Kumpānī. The above-mentioned *marja’* of Najaf, Shaykh Ishāq Fayyād, has also expressed his opposition to philosophical jurisprudence.³⁶ During a trip to Najaf in February 2014 I asked Ayatollah Fayyād to elaborate on his opposition to philosophy (*falsafah*). He said that he enthusiastically approved of natural philosophy (i.e., science), but that Islamic mystical philosophy includes many “imaginary” (*khīyālī*) things. The most significant opponent to philosophy in Qom, where mystical philosophy is in fact popular, may be Ayatollah Vahīd-i Khurāsānī, who does not speak openly against philosophy, but is thought to have preserved his loyalty to his early *tafkīkī* training.

The connection of the movement of *tafkīk* with Mashhad, the great shrine city of northeastern Iran, illustrates an on-going feature in Shi’ism in the last two centuries. The rivalry between Qom, Najaf and Mashhad, cities in which the most important institutions of Shi’i learning have developed, has played a subtle but discernible role in recent history. While Qom may dominate the discussion on Shi’i jurisprudence and Najaf the discussion on the substance of Shi’i law, Mashhad has tried to assert its primacy as the source of “pure” Shi’i Islam. Ayatollah Mirza Mahdī Iṣfahānī (1885-1945), who taught in Mashhad, felt that Hellenis-

³⁶ See Robert Gleave, “Continuity and Originality in Shi’i Thought: The Relationship between the Akhbaryyya and the Maktab-i Tafkīk,” in S. Mervin and D. Hermann, eds., *Shiite Streams and Dynamics* (1800-1925) (Beirut, 2010); Sajjad Rizvi, “‘Only the Imam Knows Best’: The Maktab-e Tafkīk’s Attack on the Legitimacy of Philosophy in Iran,” *Journal of the Royal Asiatic Society* 22 (2012), pp. 487-503. Both of these articles are impressively deep and thorough.



tic influences had corrupted the purity of Islamic thought. His disciple, Shaykh Maḥmūd Ḥalabī (1900-1998), was a charismatic preacher who taught at the seminary in Mashhad and perpetuated Ḥalabī's anti-philosophical approach. He also founded the formerly powerful association known as the Ḥujjatiyah that made opposition to Iranian Baha'is their primary goal. Khomeini seems to have disliked Ḥalabī, but the essence of Iṣfahānī's and Ḥalabī's thought reemerged a decade after the Iranian revolution of 1979 and remains strong. A clergyman of Mashhad, Shaykh Muḥammad Riḍā Ḥakīmī coined the term *tafkīk* and his frequently reprinted book on the subject remains the manifesto of this school.

Sistani does not want to take sides in the quarrels of the Iranian clergy. Through his son-in-law Jawād Shahrstani, who resides in Iran, Sistani has some sort of understanding with the present leadership in Iran. It is even said that a fixed portion of the *khums* or religious tax paid by the followers of Sistani is given directly to Khamenei.

It has often been important for Iranians to maintain a certain independence from their own leaders by recognizing a spiritual leader in Iraq. At the same time it has also been important that this leader in Iraq be an Iranian, as is Sistani, but one not directly under the thumb of the authorities in Iran. Sistani was probably chosen by his predecessor, Ayatollah Khū'ī, also of Iranian origin, in part for this reason. The Iranian clergy may have reason to be apprehensive about their future as Sistani's position as *marja'* continues to grow throughout the Shi'i world, including in Iran.

In many ways the *maktab-i tafkīk* that originated in Mashhad is reminiscent of the Akhbari movement that dominated the Shi'i world in the eighteenth century. The Akhbaris believed that any clergyman of sound mind who had mastered Arabic and could read the Qur'an and the authenticated sayings of the Prophet and the Twelve Imams could have an opinion about the Divine



Law. A revival of this school of thought would be a threat even to the limited hierarchy that exists in Shi'ism and might well be incompatible with the theory of the guardianship of the jurist.

Although there are only a handful of widely recognized *marja*'s, so many clerics have claimed that status that there are quite a number of Shi'i manuals of practice online. This large number of manuals demonstrates the huge effect of the internet on even this fairly traditional category of Shi'i learning. As was said previously, the authority of the *marja*'s grew in the nineteenth century with the appearance of the telegraph, which provided an elegant and expeditious way for Muslims, both Sunni and Shi'i, to put questions to their *mufīt*s and *marja*'s. The internet provides an even more convenient portal. In the Sunni world there are an astonishing number of internet shaykhs who offer a clickable connection for '*istiftā*' (a request for a *fatwa*). Sunni Muslims can and are shopping for opinions on a scale never before imagined in Islamic history. As was demonstrated in the 2011 revolution in Egypt, the youth demographic is so large in the Muslim world and often so tech-savvy that it is empowering a generation looking to the internet for opinions and answers to all sorts of questions, religious or political.

While Shi'i claimants to *marja*' status, each with his own online manual of practice are growing in number, they are not proliferating as much as the online Sunni *mufīt*s, who range from the recently deceased self-educated jihadist Anwar al-Awlaki in Yemen to the very learned former *mufīt* of Egypt, Shaykh Alī al-Gum'ah, who was my teacher in Cairo many years ago. An example of an online Shi'i *marja*' is Ayatollah Muḥammad Ya'qūbī, who lives in Basra and has some following there although by education he is an engineer. He was born in 1960 and is a mere teenager in the eyes of most *marja*'s. (Sistani is eighty-four years old.) Ya'qūbī's following seems to be motivated primarily by local Basran particularism. It remains to be seen if the centrifugal force of the internet will bring further decentralization and diffusion of authority. It can also be argued that, in contrast, for the



six or seven widely recognized the international *marja*'s, their websites have had a centripetal effect that has made their leadership stronger. Shi'i manuals of practice, due to the concentration of Shi'i authority into relatively few hands, offer religious shopping on a "wholesale" level whereas Sunni manuals of practice, due to the diffusion of authority in the Sunni world, offer "retail" shopping.

The question as to which *mujtahid* one should choose is also elaborated in Sunni learning, in which this choice is sometimes called *tarjih*, "preponderance" or "preference." The Shi'i preference for *ahl al-khibrah*, the "people of experience," the upper-level *ulema*, may allow for a similar eventual expansion of the people involved in the choice of a Shi'i *marja*', although we are still far from the practice of some Protestants in which the laity elects the clergy.

Justice Mufti Usmani, who is a Hanafi, faces this problem in the Sunni world, and it is discussed at the beginning of his manual: "Unfortunately there are many persons who claim the mantle of issuing *fatwa* [*sic*] without proper training and without having acquired the necessary experience, thereby causing confusion and misunderstanding amongst the lay public."³⁷ Usmani explains the need to stay strictly in the tradition of one's law school: "If there is only one juristic view on a question amongst all the Hanafi jurists, then that view is binding unless there is cogent textual evidence to the effect that such a view is based on an underlying cause which is absent from the particular case."³⁸ Relatively little leeway is granted the jurist in following the standard authority: "[The *Mufti*] cannot base his reference [for his decision] upon a classical jurist who is not recorded to be amongst the preferred classical jurists (*aṣḥāb al-tarjih*) [those deserving preference]."³⁹ It is clear that if Sunni *muftis* had the same following as

³⁷ See Usmani, p. 23.

³⁸ See Usmani, p. 24.

³⁹ See Usmani, p. 25. Muhammad Taqi Usmani elaborates his views in *The Legal Status of Following a Madhab* (Transl. Muhammed Amin Kholwadia; Karachi, 1999).



the Shi'i *marja's*, some of them might demand the same degree of obedience.

To return to Shi'is, permission to continue to emulate a deceased *marja'* has proved not only politically useful but also a means to broaden the choice available to believers. More important is the permission to "cut-and-paste," to choose different practices from different manuals of practice. Latitude in choosing *marja's* has expanded the role of the individual believer considerably. One may see a move toward individualization of conscientious belief, although we are still far from the Quaker confidence in a personal "inner light." The individual is given some choice between *marja's* and between their *fatwas*. This permission to choose between *fatwas* seems to be a development in twenty-first century Shi'i law without precedent. Permission to cut-and-paste has allowed both partial adaptation to regionally important *marja's* and competing ideas of political philosophy.

Most significant among these changes is the adaptation of Shi'i theories of religious leadership to national contexts mentioned above. This adaptation began at least a century ago but gained momentum after Khomeini's successful role in fostering the Iranian Revolution of 1979. The desire of local Shi'i leadership in many places such as Iraq and Lebanon to maintain their national position has led them to justify both a division of areas of emulation and an emphasis on national contexts in which national religious leaders within their own countries presume to know the application of Islamic law better than outsiders. Most striking in this respect is Faḍlallāh who understood that the Shi'is in Lebanon were a minority and had to live at peace with their non-Shi'i and non-Muslim neighbors. He therefore emphasizes the responsibility of the *marja's* to keep the needs of the national community, Muslim and non-Muslim, in view at all times. This position is a striking instance of open recognition of national religious leadership.

It is important to remember that there was a long period in



which Shi'ī jurists rejected *ijtihād*, the derivation of rulings, because of their insistence on literal interpretations of the sources of the law. This literalism reminds us of American constitutional lawyers who lay exclusive emphasis on the original intention of the founders. Manuals of practice did exist among Shi'īs and Sunnis prior to the eighteenth century, but among Shi'īs only became common among the Shi'īs in the second half of the nineteenth century. The popularity of *ijtihād* in the last century and a half may lead to a period of wider participation in determining religious law, one in which it might even be possible for every believer to be, in respect to some aspects of the law, his own *mujtahid*. Ayatollah Murtaza Mutahhari (d. 1979) and Ayatollah Muḥammad Bāqir aṣ-Ṣadr (d. 1980) both advocated collective leadership instead of investing leadership in a single *marja'*. Nevertheless, the speed with which Iraqi Shi'īs in 2014 responded to Sistani's message and his sermons shows that it is important to have unified leadership and that single person leadership may be the only way to achieve widespread unity in the Shi'ī community.

The recent move of Ayatollah Maḥmūd Hāshimī Shāhrūdī to Iraq may be understood in this context. Fayyāḍ and Muḥammad Sa'īd al-Ḥakīm both have some chance to succeed Sistani as they are fairly learned although ethnically different. Fayyāḍ is an Afghan. Al-Ḥakīm is considered an Arab. Shāhrūdī, who only spoke Arabic in his youth, is considered to be somewhat Iranized due to his long residency in Iran. However, he is still comparatively young. Nevertheless, he is an interesting long-term candidate to succeed Sistani. In Iran he made himself somewhat unpopular during his decade as head of the Iranian judiciary, although there are some conservative voices that would like him to be successor to Khamenei.⁴⁰

In Iran the succession to Khamenei is an open question.

⁴⁰ See Houchang Chehabi, "Iran and Iraq: Intersocietal Linkages and Secular Nationalisms," in Abbas Amanat and Farzin Vejdani, eds., *Iran Facing Others: Identity Boundaries in a Historical Perspective* (New York, 2012), pp. 191-216, esp. p. 198.



Technically, the “guardian-jurist” is elected by the Council of Experts. In practice, the choice may depend on the degree to which the Pasdaran or Revolutionary Guards continue to be nearly all-powerful. Ayatollah Muḥammad-Taqī Misbāḥ-Yazdī, who has made a career of exalting the “guardianship of the jurist” to a cosmically important position, may be acceptable to the Pasdaran as a successor to Khamenei. So may be the equally conservative cleric Ṣādiq Lārījānī, although at fifty-four he is still very young. Whether the high clergy in Iran will remain passive in the face of the problems posed by the succession to Khamenei is very uncertain. Khamenei’s relegation of other leading clergy to authority only in “personal” matters cannot be well-received in all quarters. The upper ranks of the Iranian clergy may find difficulty in accepting any “guardian-jurist” with claims similar to Khamenei.

At this point the young *mullah* politicians of Iraq—Ammār al-Ḥakīm and Muqtaḍā Ṣadr—have to satisfy their followers by referring to older more learned scholars. But both movements seem to be self-sustaining and may show that for many people political leadership among the Shi‘is of Iraq is not always associated with clerical leadership. One of the websites of the Da‘wah party,⁴¹ which has provided three prime ministers in contemporary Iraq, most recently including Haider al-Abadi, starts with a picture of Muḥammad Bāqir aṣ-Ṣadr, who died over thirty years ago. It is unclear which living *marja’* the Da‘wah party presently recognizes.

The tensions among the clergy are numerous and substantial as illustrated by their strongly differing attitudes toward mystical philosophy, often considered an important, but contentious aspect of Shi‘ism. These tensions also illustrate the great difficulty in translating leadership based on consensus into politics. Some accommodation to their differences—insofar as they are based on differences of nationality or region—is allowed by the “cut-and-paste” adherence to manuals of practice. In Iran the sur-

⁴¹ Islamicdawaparty.org (viewed on August 30, 2014).



face toleration among some clergymen is at places very thin. The expulsion and even imprisonment of some clergy have shown that this surface toleration has friable edges. In Iran the cooperation among the clergy is based as much on a shared fear of a liberal change as on any real solidarity among the clergymen themselves.



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