

The Resilience of the Traditional Clergy to the Hardline Challenge in Post-Revolutionary Iran

Ijlal Naqvi

Section 1: Introduction

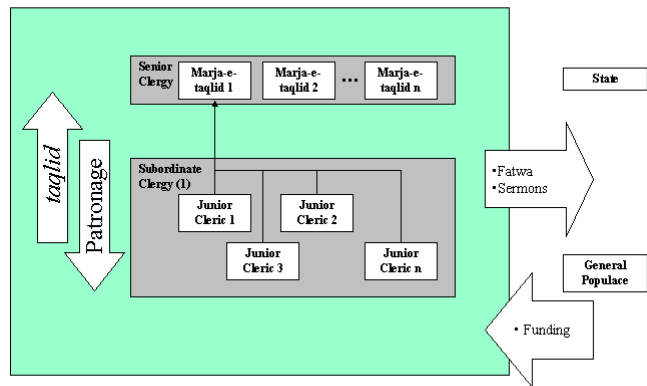
How Resilient is the Clergy as an Institution?

The post-revolutionary period in Iran has seen new challenges to the institution of the clergy that threaten its continued existence in its traditional form. The challenges come mostly from the clerics in government who enforce the official state ideology (the hardliners), and it remains to be seen how much change will occur in the traditional clergy. This paper will argue that the traditional institution of the clergy is resilient enough to survive largely intact thanks to the nature of the legitimacy wielded by a genuine senior ayatollah and the deeply rooted culture of critical discourse in the *madrasa* (shi'i seminary). The hardliners are using the tools of the state in ways that alter the traditional systems of patronage and funding of the clergy. They also seek to regulate the behavior and speech of clerics in a manner never attempted from within the clergy. However, the hardliners' challenge is

weakening because their position is not grounded in a stable, legitimating political order unlike their reformist opponents and the traditional clergy.

The second section of this paper will address some of the relevant background, including a description of the traditional institution of the clergy, changes since the revolution, and the nature of the current challenges. The third section will put forward the main arguments for and against the continued existence of the institution of the clergy in its traditional form. The fourth and final section will present some brief conclusions.

Structure of the Clergy: Pre-Revolution



Section 2: Background

The Clergy as an Institution

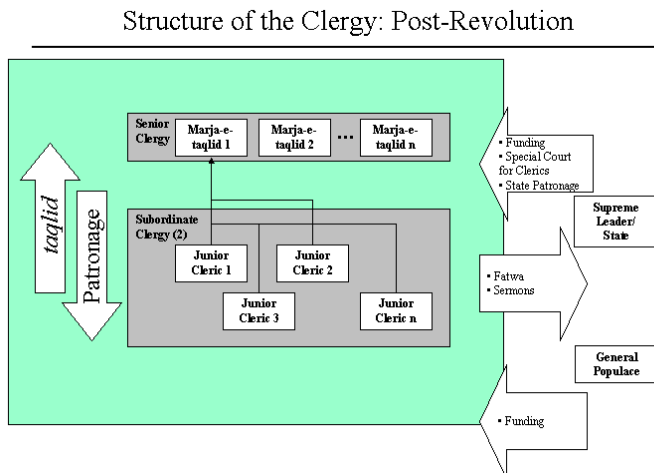
The actors to consider in a pre and post-revolution analysis of the structure of the clergy are the state, senior and junior clerics, and the general populace.

Within the clergy, relationships between junior and senior clergy are semi-transactional based on patronage and *taqlid* (translated as imitation or emulation). The senior cleric acts as a patron and the junior cleric takes the senior as a teacher and guide. The transactional aspect of the relationship is that both parties gain from this voluntary association: a senior cleric's

reputation is positively correlated to his number of followers and a subordinate cleric will gain financial support and a teacher from the relationship. As an additional benefit for the senior cleric, a network of ex-students becomes a powerful support to any future claims of leadership and boosts the cleric's public image. Subordinate clerics are free to choose their patron on the basis of the senior cleric's writings and teachings. The relationship between senior and subordinate clergy in general has not changed substantially in the post-revolution period.

The environment within the *madrasa* is one of debate and disputation. The *madrasa* curriculum is based on rhetoric, grammar, and logic; the first three subjects (or Trivium) of the classical liberal arts as they were defined in the late classical world.¹ The teaching style is based on the "dialectic principle of argument and counter-argument" in which students draw on their knowledge of the standard texts and just about any other intellectual resource they can bring to bear.² In this "culture of critical discourse" students earn promotion and respect through their creative and original contributions.³ However, as Kurzman notes, originality and open debate can conflict with the traditions of authority and leadership that also exist in the *madrasa* system, but that is the rare exception to the rule.

This lack of interpretive closure is consistent with academic debate among scholars, but in the post-revolutionary environment closure is essential for a regime that stakes its legitimacy on a particular interpretation of theological doctrine.



Clerical Leadership Based on the Usuli School

The concept of *marja-e-taqlid* (or source of emulation) developed out of the eighteenth century *usuli* school, which said that every shi'i has to follow an appropriately trained *mujtahid* (a cleric

qualified to interpret Islamic law) on issues of law and doctrine.⁴ In the later part of the nineteenth century the concept of *marja-e-taqlid* was refined to suggest that a *mujtahid* of superior learning should stand atop a virtual pyramid of lesser *mujtahids*, acting as the *marja-e-taqlid* for all others and whose *fatwa* were binding on his followers. In practice it has been common for multiple *mujtahids* to simultaneously be considered *marja-e-taqlid*. Rarely has a single *mujtahid* been considered of such superior learning that he could be the *marja-e-taqlid-e-tamm*, or supreme exemplar for the entire community to follow. There are currently ten senior ayatollahs recognized as *marja-e-taqlid* in the main shi'i seminary town of Qom, and there were six at the time of the Islamic revolution, including Ayatollah Khomeini.⁵ Ayotallah Boroujerdi in the 1950s, Ayatollah Ansari in the mid-nineteenth century, and Ayatollah Shirazi in the late nineteenth century are the three clearest examples of a single *marja-e-taqlid* being able to claim a near universal following.

There are remarkably few constraints on choosing a *marja-e-taqlid*. The emulator is supposed to decide based on which *mujtahid* best embodies the qualities of knowledge of the law, justice in the practice of the law, and piety, with

priority being given to knowledge.⁶ The process of observing these qualities and choosing a source is entirely up to the emulator, though he or she can also rely on the testimony of one or two “just consultants.”⁷ Amanat stresses the flimsiness of this schema to underscore that the emulator has not only a relatively free choice, but also room to change that selection as desired: “the *marja-e-taqlid* is in fact the willing dependent of the [emulator].”⁸

The Clerical Leadership as Representatives

Ayatollah Shirazi was the first *marja-e-taqlid* to use his position as a platform for significant political participation, playing a key in the 1891 tobacco protests. His impetus to action came mainly from the complaints and petitions of merchants whose commercial interests were threatened by the state’s sale of the Tobacco concession.⁹ These merchants were his own financial backers, and his letters to the Shah specify an interest in economic welfare of the merchants.¹⁰ This mutual interdependence described by Amanat is essentially a form of political representation. Of course, the active political role of a *marja-e-taqlid* was a significant departure from the traditionally quietist views of the clergy in which any temporal government in the absence of the hidden twelfth imam was necessarily illegitimate. Once this threshold was crossed, the momentum for clerical involvement in politics lasted beyond Shirazi’s death in 1895 to the period of the Constitutional Revolution in 1905. However, the clergy after Shirazi’s death could not achieve a unified leadership. Like any political representatives, the clergy competed for resources (in the form of students and funding) and were driven by the “conflicting interests and divergences in their followers’ political views and actions.”¹¹ One distinct interest group with an influence over the clergy was the Qajar state.

The State in the Balance

In Qajar times the state was a source of patronage. It furnished the clergy who worked with it with funds, titles, and functions (e.g. Friday prayer leader), though the price was compliance with government wishes through

more or less forceful means as the case required.¹² One such tactic was to appoint a rival to an official position to counterbalance the influence of a major *mujtahid*. The Qajar shahs attempted to placate the clergy after the tobacco protest of 1891-1892 by giving them money, and the clergy accepted pensions, land, and *waqf* funds (inalienable religious endowments) as late as the late 1970s.¹³ Later, in the twentieth century, the Pahlevis resorted to exile and even murder in order to keep the clergy in line, but these attempts to control the clergy always came from outside the institution.

The Post-Revolutionary Period

In the post-revolutionary period things have not changed much at all within the *madrasa* system, but relations among clerics have changed drastically because of their increased participation in the public sphere. There is greater continuity with the past when one considers the hardliners as the state and not clergy at all. The traditional structure continues relatively unchanged, but the state sector has changed considerably because it now incorporates clerics who claim to have married their tradition role to the functions of the state. The impact of this change in the state can be felt at all levels.

At the very top, the head of state is a cleric with a complicated relationship to the rest of the clergy. That the head of state uses the machinery of the state to persuade, coerce, and generally ensure compliance with its wishes was seen in both Pahlevi and Qajar times. What is new is that the head of state now claims the final word in all theological debates. However, the current situation of the leadership does not fully meet Khomeini’s criteria for the guardianship of the jurist (*velayat-e-faqih*).

A head of state commands allegiance; recognition of the *marja-e-taqlid* is the voluntary choice of many. The weak voluntary following for the Supreme Leader goes against the logic of the doctrine that established the position in the first place.

The overall thrust of these changes is that hardline clerics have access to power that has little basis in popular support. Traditional clerics on

the other hand would be marginalized if they lose their ability to attract a following, and the support that they enjoy is a form of representation on behalf of the ordinary people, students, and junior clerics who support them. The position that the Supreme Leader has the final word is also a violation of the norms of the seminary, where a culture of critical discourse based on argument and counter-argument rewards superior learning and not merely rank.

Section 3: The Case for the Continued Existence of the Traditional Clergy

Traditional legitimacy and popular support

The traditional clergy is an institution imbued with tremendous traditional legitimacy. Senior clerics (i.e. a *marja-e-taqlid*) can tap this traditional legitimacy as a platform for political participation through their public communications. However, there are institutional safeguards to ensure that access to this political platform is limited to clerics with genuinely popular roots. Rising in rank to be a senior cleric requires that a cleric offer compelling scholarship that earns him the respect of his peers and of theological students. More practically, supporting a number of students commensurate with the rank of senior cleric requires public support in the form of donations. In effect, there is a system of checks and balances in place. Expressed negatively, clerics are constrained by the consensus of their colleagues and the views of the general public. Expressed positively, senior clerics generally have the popular support to function as legitimate participants in politics. This is a strong position from which to resist the incursions of hardliners seeking to enforce their views.

Hardliners are denied legitimacy by being visibly distant from the traditional system while traditional clerics retain it along with popular backing. The 25 years since the revolution have seen the hardliners move away from their traditional roots to a focus on the exercise and maintenance of their power within the state. An explanation for this result can be derived from the model of the political activism of the clergy as a form of representation. Resources are provided to

hardline clergy on the basis of their participation within the state and their implementation of the guardianship of the jurist. There is therefore little need to maintain their popular constituency, especially as the majority of the populace has repeatedly expressed itself as supporting the reformist position over the hardline position. The interest groups that the hardline clergy represent are those groups associated with the state—mostly themselves. Representation of the broader population's interests has mainly been taken up by the reformists and some of the more traditional clergy (though these two categories often overlap).

The traditional clergy are still reliant on the general public for their access to critical resources. An individual can choose which cleric receives his or her alms, the giving of which is one of the five duties incumbent on every Muslim. Rank, reputation, the number of followers a cleric had, and—most importantly—the attractiveness of a particular cleric's teachings influenced the amount of donations they draw. Consequently, there is an organic link between the status of a senior cleric and their popular appeal. To become unpopular jeopardizes a cleric's funding, attracts less students, undermines his ability to support his students, lowers his reputation, and so on with the negative effects reinforcing each other over time. Without offering compelling teachings a cleric would simply become irrelevant as the individuals (and religious students) could always give their attentions to a different cleric.

Ayatollah Khomeini is a powerful example of a cleric in the traditional system who used the traditional legitimacy of the institution as a platform for political participation. Firstly, he used the communication channels of the clergy to launch his critique of the state. Most notably, he compared Mohammed Reza Shah Pahlevi to the tyrant Yazid, the slayer of Imam Hussain and the most reviled figure in Imami Shi'ism. This incomparable insult was delivered during a sermon on the ninth of Moharram, a day before the emotionally charged observance of the death anniversary of Imam Hussain.

Resistance to tyranny is one of the overriding themes of Shi'ism. Shi'is are literally the party of

Ali (the cousin and son-in-law of the prophet), who they believe was done a grave injustice when he was denied succession to the caliphate after the death of the prophet. This inaugural injustice is outdone only by the martyrdom of Ali's son Hussain, slain in Karbala in 680 in resisting the tyranny of the usurper Yazid. Insurrectionary uprising is "second nature to Shi'is, martyrdom the very cornerstone of their faith."¹⁴ The historical narrative of the Shi'i is nothing if not encouraging resistance to tyrannical rule.

The hardliners need interpretive closure

The Special Court for Clerics embodies the hardline clerics' claim to definitive interpretations of Islam. Leading reformist cleric and journalist Abdollah Nouri was imprisoned for five years for "deviation from the opinions of the Imam Khomeini."¹⁵ Resistance to this dogmatic approach is championed by Abdolkarim Soroush. His writings distinguish between religiosity and religion, and he argues that while religion is perfect, human understanding of it (religiosity) is necessarily imperfect and a function of their times: "It is up to God to reveal a religion, but up to us to understand and realize it."¹⁶ Soroush argues that plurality is unavoidable, but the ideological basis of the guardianship of the jurist is certainty and not merely relative superiority among a plurality of views.¹⁷

A crisis of legitimacy for the hardliners

The death of Khomeini in 1989 deprived the post-revolutionary regime of his unique charisma and left his political successors to seek out a new legitimating political order.¹⁸

This closing or Thermidorian phase of Iran's revolution was typical for a revolution where legitimacy was "derived from one over-arching charismatic figure."¹⁹ In the absence of that figure, the job of routinizing charisma falls to the disciples who survive the revolutionary leader. Brumberg argues that this progression leads in the long run to a more stable legitimating order (either based on tradition and custom or modern, rational legal authority) and is a complex, dissonant, and non-linear process in the case of Iran.²⁰ However, the hardliners are losing this

contest for legitimacy and the reformists are winning.

Despite institutionalizing the role of the supreme jurist as head of state and ensuring a smooth transition, the hardliners weakened their cause immeasurably through the accession of Ali Khamenei to the position of Supreme Leader. Khamenei held the rank of *Hojjat-ol-Islam* (a mid-level position) at the time he was president. Despite being elevated to the rank of Ayatollah when he became the Supreme Leader, he is not a *marja-e-taqlid* and has nothing close to the popular support of Khomeini. The 1989 constitutional amendments removed the requirement in Article 5 that the Supreme Leader be "recognized and accepted as leader by the majority of the people," i.e. have popular support.²¹ The amendment to Article 109 downgraded the minimum qualification from being a *marja-e-taqlid* as specified in the 1979 constitution to a *mujtahid*. However, Brumberg argues that as a *hojjat-ol-islam* Khamenei cannot even be considered a qualified *mujtahid*. A genuine *marja-e-taqlid* would bring his popular support and the traditional legitimacy of the clergy to the position. Instead, the position lost much of its uniting power. The Supreme Leader was ensconced as head of state, though he could hardly claim to lead either the clergy or the general public. The well-known reality behind the appointment of Khamenei is that none of the genuine clerical leaders would have made appropriate choices. Some were disqualified due to rapidly advancing old age, others were too removed from worldly affairs, and some didn't even support the theory of *velayat-e-faqih*.

The hardliners have forsaken the popular roots of the traditional clergy. The presidential election results of 1997 that brought Khatami to power showed that 70 percent of voters chose a reform candidate.²² "Disillusionment with the usefulness of the whole regime" kept voter turnout down to 12 percent in Tehran in February's local council elections, but the loss of popular support for reformists does not mean that the conservatives have improved their low standing.²³ Khomeini understood the paradox of wishing to inject the clergy into politics but seeking to maintain the autonomy of the clergy

from the corrupting influences of politics and state power. The political involvements of leading clerics made their disagreements a matter of public record which Khomeini recognized would lead to a mistrust and delegitimization of the clergy.²⁴

Section 4: Conclusions

Hardliners are losing the battle for legitimacy in the Thermidor of Iran's revolution. As their hold over government weakens and the reformists make progress, their capacity to suppress the traditional clergy will diminish. The hardliners have little left but their dominance in government and lack a legitimating political order with which to sustain that position.

The trends that explain this loss of legitimacy are the history of the shi'i clergy, the transformation of the hardline clergy into a state apparatus, and the state's need for ideological certitude. The hardliners departure from the traditional mold of the clergy has led them to become a state apparatus with needs and ambitions similar to that of any other state. Applying the idea that clergy in their political role are representatives, the hardliners can now be characterized as representing the interests of the state, i.e. themselves. In the traditional mold, the clerical leadership is dependent on its supporters and acts as their representatives in the public sphere. The hardliners now have control over the state, making appointments as they see fit and putting large state-run funds (the charitable organizations, or *bonyads*) under the direct control of hardline clerics. No longer being beholden to the general populace, they will feel less pressure to act as their representatives. Any head of state needs a founding ideology that must hold for people to support the structure of the state. That founding ideology has been weakened since the death of Khomeini, but the state—possibly in recognition of its weakness—tries to stifle debate on the shortcomings of the state ideology in how it is currently implemented.

Bringing closure to theological issues through fiat and decree is entirely at odds with the *madrassa* culture of learning. Superior knowledge of law was always the paramount

requirement of clerical leadership. It undermines the Supreme Leader claim to leadership in the traditional mold when the response to ideological challenges is in the form of sham trials rather than reasoned arguments that demonstrate his superior knowledge. The hardline clerics seem to think that it is necessary to claim certainty of knowledge, as if the debate in which they participated—and which has been a hallmark of the *shi'i madrassa* for a thousand years—is a sign of weakness. The irony is that the theory of *velayat-e-faqih* is itself a radical departure from standard *shi'i* views, and such an innovation of doctrine would never have been possible under the current climate.

The traditional clergy have strong popular roots and a healthy system of institutional checks and balances that keeps them in touch with the general public. The historical narratives of Shi'ism encourage resistance to state oppression and provide the traditional clergy with symbolic currency to be used in the face of persecution and victimization. The resilience of the traditional clergy looks to be outlasting the hardline challenge.

The hardliners have failed to ground their position in either modern, rational-legal legitimacy or traditional legitimacy. Without a more stable basis than the fading star of Khomeini's revolutionary charisma, the hardliners have lost ground to the traditional clergy and the reformists, both of whom offer a more legitimate political order.

Ijlal Naqvi is a second year MALD candidate at the Fletcher School of Law and Diplomacy at Tufts University. He studies the politics of the Near East with a particular focus on Iran. After the completion of his masters degree he is looking to continue his research on the contribution of the Iranian clergy to Iranian democracy at the doctoral level.

The views and opinions expressed in articles are strictly the author's own, and do not necessarily represent those of Al Nakhlah, its Advisory and Editorial Boards, or the Program on Southwest Asia and Islamic Civilization (SWAIC) at The Fletcher School.

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- ² Michael Fischer, *Iran: From Religious Dispute to Revolution*, (Cambridge, MA: Harvard University Press, 1980), 63.
- ³ Charles Kurzman, "Critics Within: Islamic Scholars Protest Against the Islamic State in Iran," *International Journal of Politics, Culture, and Society*, Vol. 15, No. 2., Winter 2001, 343.
- ⁴ Nikki Keddie, Introduction to *Religion and Politics in Iran*, (New Haven, CT: Yale University Press, 1983), 9.
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- ⁷ Ibid.
- ⁸ Ibid, 101.
- ⁹ Ibid, 119.
- ¹⁰ Ibid.
- ¹¹ Ibid .
- ¹² Ibid, 106/
- ¹³ Keddie, 9.
- ¹⁴ Hamid Dabashi, "The End of Islamic Ideology," *Social Research*, vol. 67, no. 2, Summer 2000, 482.
- ¹⁵ Ibid.
- ¹⁶ Abdolkarim Soroush, "Reason, Freedom, and Democracy in Islam," (New York, NY: Oxford University Press, 2000), 31.
- ¹⁷ Charles Kurzman, "Critics Within: Islamic Scholars Protest Against the Islamic State in Iran," *International Journal of Politics, Culture, and Society*, Vol. 15, No. 2, Winter 2001.
- ¹⁸ Daniel Brumberg, *Reinventing Khomeini: The Struggle for Reform in Iran*, (Chicago, IL: University of Chicago Press, 2001), 6.
- ¹⁹ Matthew Wells, "Thermidor in the Islamic Republic of Iran: The Rise of Muhammad Khatami," *British Journal of Middle Eastern Studies*, May 1999, vol. 26, no. 1, 27.
- ²⁰ Brumberg, 6.
- ²¹ Brumberg, 147.
- ²² Hamid Dabashi, "The End of Islamic Ideology," *Social Research*, vol. 67, no. 2, Summer 2000, 480.
- ²³ Quote from President Khatami in "A Weary Country," *The Economist*, March 6 2003.
- Available at: http://www.economist.com/research/backgrounders/displaystory.cfm?story_id=1622968
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The Shi'i Perception of Jihad

Assaf Moghadam

Introduction

The concept of jihad has generated a storm of interest in recent years, particularly in the Western world. While the concept of jihad and its meaning in Islam is often misunderstood, an even deeper lack of knowledge is apparent over how Shi'a Muslims relate to the concept of jihad. The purpose of this study is hence to examine the concept of jihad as it is approached by the Shi'a stream within Islam.

Following a brief overview of the concept of jihad and its multivalent significance in Islam, this study provides a discussion of how the concept is understood and practiced among Shi'i Muslims. A subsequent section will examine thoughts on jihad as espoused by three leading Shi'i thinkers who set the stage for the 1979 Islamic Revolution in Iran.

The study concludes that while the doctrines of Shi'i and Sunni jihad have much in common, the Shi'i conception of jihad is heavily influenced by Shi'i perceptions of historical suffering, leading its exponents to emphasize those grievances and myths that have had a particular impact on their identity, including injustice, tyrannical rule, dignity, humiliation, and resistance. The difference between the Shi'i and Sunni doctrines of Islam remains one of words rather than of deeds.

The Multivalence of Jihad

A proper discussion of the Shi'a view of jihad requires an explanation of the meaning of

jihad, a concept aptly referred to by Bruce Lawrence as a "multivalent category of reference within the Islamic symbol system."¹ Indeed, few concepts that have been used as prolifically as jihad have been so little understood.

The word *jihad* stems from the Arabic and means to strive or to exert oneself, and is rooted in the verb *jahada*.² Jihad involves a "determined effort,"³ directed at an aim that is in accordance with God's command and for the sake of Islam and the Muslim *umma*, and hence praiseworthy. These efforts take two general forms, the first being the peaceful form of a "struggle" against one's evil inclinations (sometimes referred to as the 'greater jihad,' or *mujahadat al-nafs*).⁴ The second is the jihad of the sword, sometimes referred to as the 'smaller jihad,' which is intended at defending the "House of Islam (*dar al-Islam*)⁵ from invasion of non-Islamic and heretical (*kufi*) forces.⁶ The term jihad, according to Seyyed Hossein Nasr, can and should be applied to a variety of exertions aimed at reaching what he calls an "equilibrium within the being of man, as well as in the human society where he functions and fulfills the goals of his earthly life."⁷ Fulfilling the jihad, which is commanded upon all Muslims, leads to the realization of complete integration and unity (*tawhid*).⁸

In its proper form, and in order to distinguish it from the wars of pre-Islamic Arabia, jihad in Islam is *jihad fi sabil Allah*, i.e. jihad in the way of, or for the sake of, God. It is this attribute of jihad, which distinguishes it from wars fought

for the sake of personal ends such as glory or booty.⁹

On the subject of jihad, the Quran offers what at times seem to be conflicting pronouncements. More moderate descriptions of jihad emphasizing a passive endurance of persecution dominate the earlier Meccan verses, while the later Medinan verses tend to stress a jihad more inclined to ward off aggression, and at times permitting it.¹⁰ Verses in the Quran relating to the jihad deal with a variety of issues, encompassing fighting, the treatment of prisoners of war, truce, neutrality, military methods, initiation and termination of war, and the spoils of war.¹¹

The doctrine of jihad presupposes the existence of a unified Islamic state that governs the entire *umma*. It is the latter's duty to expand the territory of this state, aiming to eventually bringing "the whole earth under the sway of Islam and to extirpate unbelief."¹² That expansion is a collective duty of the *umma*, and presupposes the existence of a legitimate caliph.¹³

The Shi'i Perception of Jihad

It must be recognized that the Shi'i conception of jihad is intimately tied to Shi'i perceptions of historical suffering and grievances.¹⁴ The incident that proved most formative for Shi'i identity-building was the martyrdom of Hussein, the Prophet Muhammad's grandson, on a desolate plain in Karbala in today's Iraq in 680. Hussein contended the accession to the caliphate of the new Umayyad leader, Yazid I, by virtue of his descent from the Prophet. Near Karbala, Hussein, a small band of followers, and members of his household were besieged and finally massacred by Umayyad forces on Ashura, the tenth day of the month of Muharram.

Ever since that fateful Ashura, the martyrdom of Hussein at Karbala has become a central component of Shi'i identity and has imbued Shi'i awareness, in the words of Martin Kramer, with an "emotive drama of martyrdom."¹⁵ Moreover, Yann Richard remarked that the martyrdom of Hussein—the only living grandson of the Prophet—"has become the

prototype of every struggle for justice, every suffering."¹⁶ To this day, Shi'i pilgrims visit shrines associated with the battle of Karbala.¹⁷ The emotive drama of Shi'i suffering also finds expressions in Shi'i rites marking the Ashura, when self-flagellation is often used as a sign of mourning.

Apart from martyrdom, an additional element in Shi'i doctrine that had a direct bearing on how Shi'is understand jihad is the Occultation (*ghayba*) of the Twelfth Imam. According to the dominant Twelver (*Ithna-Ashari*) denomination within Shi'ism, there have been twelve Imams since Muhammad's death—descendants of the prophet's family who were the "rightful spiritual and worldly heirs of the Prophet's authority,"¹⁸ and hence the true leaders of the Islamic *umma*. Shi'is emphasize the persecution and eventual murder of these rightful Imams by the reigning caliphs, who thus deprived the Imams of their right to assume the caliphate. Unlike his eleven predecessors, however, the Twelfth Imam is believed to have been taken into occultation by God in 874 to thwart yet another murder of a rightful Imam. In 941, the last time that the "Hidden Imam" had been seen, he entered the Great Occultation. Shi'is believe that the Hidden Imam is alive and will eventually return as the Mahdi, "the one guided by God"¹⁹ who will usher in the End of Days "to fill the world with justice and equity."²⁰ In Shi'ism, it is the Hidden Imam who holds true worldly authority, but in his absence it was the *ulama*, the learned ones, who took over this task until the occulted Imam's return (*raj'a*).

Shi'a perceptions of its suffering have over the time been accompanied by the feeling that the source of Shi'i agony—the Sunni usurpers of the real Islam—need to be battled. It is in this duality of suffering and resistance that modern Shi'i identity is properly understood. Moojan Momen, for example, describes as a "strange paradox in Shi'i Islam" the existence of these two contradictory attitudes: on the one hand, Imams are praised for enduring suffering; on the other hand, Hussein, the great hero of Shi'ism, is praised for standing up to tyranny and fighting in the face of overwhelming odds against him.²¹

Given this historical conditioning of a Shi'i identity marked by grievances, the variance between Shi'i and Sunni perceptions of jihad should come as no surprise. Nevertheless, the degree to which Shi'a and Sunni perceptions of jihad differ from one another are the substance of ongoing debate.²²

In Shi'ism, the notion that jihad, at least in theory, requires the return of the rightful Imam crystallizes as the key difference between Sunni and Shi'a views on jihad. Following the Occultation of the Twelfth Imam, Shi'i theory holds, no lawful expansionist jihad can be fought.²³ Despite the fact that Shi'i theory puts expansionist jihad on hold, this theoretical notion of a time-out as long as the Twelfth Imam is in his *ghayba* has not been strictly adhered to by all Shi'i thinkers and leaders. During the Qajar period of Iran, for instance, Sheikh Ja'far Kashif al-Ghita (1812-13) announced that during the occultation, the duty to defend Islam through jihad rests upon the *mujtaheds*.²⁴

These seemingly contradictory arguments regarding jihad are rooted in the fact that the very question over authority during the Twelfth Imam's absence is still disputed. Mehdi Abedi and Gary Legenhausen elaborate on the different strands of opinion regarding rightful rule in the absence of the Hidden Imam. They explain that while some have deemed as illegitimate any attempt at replacing the Imam's authority by that of another entity, some Shi'i rulers, and especially the shahs during the Safavid Empire (1502-1779), have claimed to reign as the representatives of the Hidden Imam, while even receiving support in their claims from among the *ulama*.²⁵ Today, the dominant view among contemporary Shi'i scholars is that "the responsibilities of the Imam may fall upon lesser souls during his absence."²⁶

Since the question over the rightful authority during the absence of the Twelfth Imam has never been settled to this day, the question of whether it is legitimate to wage jihad in the Imam's absence has been similarly inconclusive.

It should be recalled here again that only expansionist or "offensive" jihad is regarded by most Shi'i thinkers as unlawful as long as the Twelfth Imam is absent.²⁷ Hence, defending the

umma against an outside attack remains obligatory,²⁸ and the question of what constitutes an "attack" on Islam therefore appears to stand at the pivot of the controversy within Shi'ism over whether and under what conditions jihad in the military sense—justified as a defense against a foreign attack—needs to be waged. Abdulaziz Sachedina points out that one Shi'i interpretation of jihad that dates back to early Islamic times permits the 'jihad of the Sword' even against fellow Muslims "if the latter are engaged in spreading discord in the earth."²⁹

Exponents of the Shi'i perception of Jihad

Ali Shariati—Jihad and Shahadat

In his speech "jihad and Shahadat,"³⁰ Ali Shariati (1933-1977), an Iranian sociologist born near Mashad, draws a distinction between jihad on the one hand, and *Shahadat* on the other. Shariati describes a *shahid* (literally "witness") as a person who "negates his whole existence" for a sacred ideal and goal. The ideal embodiment of the notion of the *shahid* is Hussein, the son of Ali, who sacrificed himself at the Battle of Karbala, and through this very act became sacredness himself, Shariati argues.

Shariati distinguishes two kinds of *shahid* personified, on the one hand, by Hamzeh, and on the other hand by Hussein, the grandson of the Prophet. Hamzeh died a hero, going into battle "to achieve victory and defeat the enemy." He became a *shahid* dying for the cause of his personal belief, and his act is an "individual shahadat." Hussein, meanwhile, "consciously welcomes death" by negating himself. He is not killed accidentally, but "rebels." *Shahadat* means more than "to be killed," and involves an issue that is being "covered up" (such as the truth, or an injustice), "and is about to leave the realm of memory..."

Having used the examples of Hamzeh and Hussein, Shariati then juxtaposes jihad and *Shahadat*. Hamzeh, he writes, is a *mujahed* (i.e. a person engaged in jihad) who was killed in the midst of jihad, whereas Hussein was a *shahid* even before he was killed. How so? Shariati argues that from the moment that Hussein refused to swear

allegiance to Yazid before the governor of Medina, he consciously chose his own death, hence negated himself. “A shahid,” Shariati writes, “is a person who, from the beginning of his decision, chooses his own shahadat, even though, between his decision-making and his death, months or even years may pass.” The key difference is that while “Husayn has chosen shahadat... Hamzah has been chosen by shahadat.” While in the case of the death of Hussein, death is an “ideal,” the “destination,” and “an ideology,” in Hamzeh’s case death is “an accident” and a “tragedy.”

Ayatollah Sayyid Mahmud Taleqani

Another prominent commentator on the concept of jihad in Shi’ism is the Iranian cleric Ayatollah Sayyid Mahmud Taleqani (1910-1979), who elaborated on his view regarding jihad in a speech also titled “jihad and Shahadat.”³¹

Taleqani opens his long speech by saying that “God has created a power in man’s instinct which is called ‘anger,’ whose function Taleqani describes as safeguarding the right to live, dignity, and nationality. Anger, however, must be guided by divine legislation in order not to become deviant. Jihad must be *jihad fi sabil Allah*, i.e. jihad in the name, or for the sake, of God—the way of God being the “well-being and betterment of human society.”

The polar opposite, the wrong way to struggle, is *taghut* (from *tughyan*—rebellion, outburst), Taleqani says. Taghut is a “selfish person,” one who “overflows from his rightful social limits.” jihad and *taghut* form a dichotomy in as far as a struggle can only be one or the other, because if people are not guided by God, they will be “possessed by *taghut*.”

Taleqani then proceeds to group jihad into four categories: First, jihad waged against foreigners in order to “remove those obstacles which are placed before those who cannot see the truth”; second, jihad to protect Islam and Islamic countries, which involves the defense of one’s rights and dignity; third, jihad against protected minorities (*dhimmi*) if they rebel against the Muslim law and “become hostile (*muharib*)”; and finally jihad against the despots.

Taleqani says that the Islamic sources command that “jihad cannot be for the sake of strengthening the government of a tyrant, sultan, or imam. But it is recommended for us to fight alongside a just sultan and to defend him.” Hence, if a just ruler leads the Muslims, jihad is required on all Muslims. But much like the leader, the *mujahed* himself must be pure, or the jihad is not just. He must worship God, free himself from his material possessions, and “prostrate himself unto God.”

Ayatollah Murtaza Mutahhari

Another predominant Shi’i commentator on jihad is Ayatollah Murtaza Mutahhari (1920-1979), whose teachings have greatly influenced many Shi’is, including Ayatollah Ruhollah Khomeini. His pamphlet titled “jihad: The Holy War of Islam and its Legitimacy in the Quran” consists of four lectures.³²

On the legitimacy of jihad, Mutahhari argues that a purely aggressive war—such as in pursuit of greed, territory, over-ambition, or as a result of a feeling of one’s own racial superiority over another group—is incorrect, even evil. However, if a war is undertaken in order to defend one’s land, property, freedom, or self-esteem, then war is legitimate, even “commended and necessary for human existence.”

While Mutahhari agrees with Christianity that “Of course peace is good,” he holds that at times, religions themselves are faced with aggression, and “sometimes the reply must be given by force.” Alternatively, the religion will suffer humiliation and misery. “Such a submission in the face of force can never be called peace.”

Jihad is obligatory when another party is guilty of a “gross injustice towards another group of human beings,” and Muslims have the power to come to the aid of the latter—be they Muslims or non-Muslims, but especially when they are Muslims. In this case, the liberating Muslims need not even wait for the oppressed group to invite any help from the outside.

The defense of humanity and human rights is, for Mutahhari, the most superior jihad. He believes that the ‘jihad’ of the European countries,

who rushed to the aid of Algeria during its war with the French, was holier than the jihad that the Algerians themselves waged, “because Algerians were defending the cause of their own rights, while the cause of the others was more ethical and more sacred than that of the Algerians.”

Conclusion

This study has placed the concept of jihad in the context of Shi’i doctrine. It allows us to reach several conclusions about the Shi’i conception of jihad.

The discussion of Shi’i theory on jihad, and particularly an analysis of the views expressed by the three Shi’i thinkers featured in this study suggest that just as jihad is a multivalent concept in Islam at large, so does Shi’ism offer a range of interpretations of jihad within its doctrine. The Shi’i conception of jihad, therefore, is itself multivalent.

Shi’i and Sunni doctrines of jihad have at least as much in common as they are different. Sunnis and Shi’is, for instance, are all obliged to defend their religion, lives, territory and property. In contrast to Sunni doctrine, however, Shi’i doctrine demands that jihad be put on hold until such time that the 12th Imam returns from his *ghayba*, and this key difference to Sunni views of jihad is the most well-known, and arguably the most important difference between Sunni and Shi’i conceptions of jihad. In practice, however, not all Shi’is have internalized this doctrine as a binding law.

The common denominator in the doctrines of all the three Shi’i leaders discussed above is that jihad is always legitimate when Islam itself, or Islamic values for that matter, are imperiled. The crucial question then becomes—and here the views may differ—what constitutes an outside attack, or a “defense of Islam” for that matter? At what point is Islam, or the values for which it stands, considered to be under attack? While there is no clear consensus on this issue, several themes are recurring in the speeches and statements analyzed above. These themes can be said to form the core of the Shi’i view of jihad as a defensive concept. They all have in common the shared memory of real or perceived historical injustices

inflicted upon the Shi’a community by an illegitimate rule.

The first recurrent theme is that jihad must be waged against a tyrannical rule. The three Iranian thinkers discussed above have all experienced, firsthand, persecution by what they deemed an illegitimate monarchy that claimed to rule Iran by divine right, and they therefore best embody historical Shi’i grievances, the ultimate grievance being the martyrdom of Hussein at Karbala. The conclusions drawn by Shi’is against the historical guilt of the illegitimate rulers are exemplified in Taleqani’s call for a jihad against the *taghut* and Mutahhari’s claims that jihad in defense of human rights is the most superior jihad, and should even be waged in non-Muslim countries.

A second theme is the sacred role of martyrdom (*shahadat*). The Shi’i *mujtaheds* and thinkers discussed here extol martyrdom for the sake of God as the greatest service to God possible. Here again, the primary historical example for Shi’is of a *shahid* is Hussein, who “witnessed” the great injustice that has taken place. “Witnessing,” a central idea within “*shahadat*” from which the word also derives its name, helps the Shi’i community remember its historical suffering. From a practical point of view, it also helped Shi’is throughout the centuries maintain a common historical bond and a communal unity that defied sporadic persecutions by Sunni rule. But “witnessing” also serves the function of humiliating the enemy, as Shariati’s speech makes abundantly clear. Shariati writes that through his martyrdom, the *shahid* “cannot defeat the enemy, but he can humiliate him.”

The ultimate defeat of the enemy through the death of the martyr ties in the third recurrent theme within the Shi’i doctrine in general, and its views on jihad in particular, namely the idea of resistance. Taleqani and Mutahhari’s acknowledgement of the existence of personal anger, which they believe necessary to be expressed as long as they are in line with the commandment of God, are a case in point, and reflect the depth of anger in Shi’ism, and the idea

of resistance that it helped foster in Shi'i identity and doctrine.

A fourth recurrent theme is the idea that jihad can legitimately be waged when the dignity of Muslims is at stake. "Man must defend his rights, to defend his dignity. This is the truth of jihad..." Taleqani states. Mutahhari legitimizes jihad in order to defend one's "self-esteem," and regards a "dishonorable peace" as tantamount to surrender. The need to uphold one's dignity is also reflected in Ali Shariati's description of a shahid who, by his death, chooses not to "flee the hard and uncomfortable environment."

In the final analysis, it cannot be concluded that Shi'i conceptions of jihad—both internal and external—are clearly distinguishable from dominant Sunni points of views on this issue. Without a doubt, the Occultation of the 12th Imam and the theoretical inability to wage war in his absence is a belief that is entirely missing in Sunni doctrine. By and large, however, when it comes to waging jihad, Shi'is seem to be guided by rules that are rather similar to those of Sunni Muslims.

What does distinguish the two conceptions of jihad is an element absent in Sunni doctrine, namely the perception of historical suffering that began with the martyrdom of Hussein in Karbala, was followed by the murder of eleven rightful Imams, and continues, up to the present, with the

isolation and/or discrimination in many countries in which Sunnis form a majority of the population and hold political power. These historical grievances have left a deep mark in Shi'i doctrine and identity overall, and in its relationship to jihad in particular. It helps explain why Shi'is, in their pronouncements on jihad, oftentimes emphasize those aspects of jihad which are particularly dear to them—the resistance against injustice and tyrannical rule, the need to maintain dignity, and the continued willingness to pay the ultimate price in this struggle through martyrdom. Ultimately, however, the difference in the perception of jihad between Shi'is and Sunnis remains one of words and emotions, rather than one of substance and deeds.

Assaf Moghadam is a doctoral student at The Fletcher School at Tufts University and a senior research analyst at Mann & Mairone/Global Justice Group. He would like to thank Professor Ayesha Jalal for her comments on an earlier draft of this paper

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¹ Bruce Lawrence, "Holy War (jihad) in Islamic Religion and Nation-State Ideologies," in Kelsay, John, and James Turner Johnson, eds., *Just War and jihad: Historical and Theoretical Perspectives on War and Peace in Western and Islamic Traditions* (New York: Greenwood Press, 1991), 146.

² Rudolph Peters, *jihad in Classical and Modern Islam: A Reader* (Princeton, NJ: Markus Wiener, 1996), 1.

³ Mustansir Mir, "jihad in Islam," in Shakeel, Hadia Dajani and Ronald A. Messier, eds., *The jihad and its Times* (Ann Arbor, Michigan: Center for Near Eastern and North African Studies, University of Michigan, 1991), 113.

⁴ See, for example, Mir, *ibid.*

⁵ Islam divides the world into two zones, the House of Islam (*dar al-Islam*) and the House of War (*dar al-harb*). Some jurists add to this categorization the House of Peace, or *dar as-sulh*.

⁶ Mustansir Mir argues that the *jihad* of the Sword is, for all practical purposes, synonymous to qital. Mir, 13. Seyyed Hossein Nasr argues that the 'jihad of the Sword' also applies to the socio-economic domain, as well as to the personal domain, including the defense of one's rights and reputation, the family, and honor. From a spiritual point of view, he adds, "all the pillars of Islam can be seen as being related to *jihad*." Seyyed Hossein Nasr, "The Spiritual Significance of jihad," in *Traditional Islam in the Modern World* (London and New York: KPI, 1987), 29-33. Mir, quoting

Raghib, adds that some thinkers would add to the duality of “greater” and “lesser” jihad the jihad against Satan, or *mujahadat ash-shaytan*. Mir, 113.

⁷ Nasr, 28.

⁸ Ibid., 29.

⁹ See, for example, Mir, 114.

¹⁰ For examples of more passive Meccan verses, see Surahs (13:22 and 41:34-35 of the Quran. For Medinan verses permitting the violent defense against aggression, and active aggression, see Surahs (2:190; 4:75; 22:39; 2:217; 9:5; 2:191-93 and 216; and 9:29). Peters, 1. Peters points out that the Quran does not provide an unequivocal statement on whether Muslims are to fight the unbelievers only as a defense against aggression or under all circumstances. Supporting the view are a number of verses, including the following: “And fight in the way of God with those who fight you, but aggress not: God loves not the aggressors.” (K. 2:190). See Peters, 2.

¹¹ For a discussion of military methods, see Majid Khadduri, *War and Peace in the Law of Islam* (Baltimore, MD: Johns Hopkins Press, 1955), 83-94. On initiation and termination of war, see Khadduri, pp. 94-102, and 133-140. For examples of the verses on safe conduct of wars and truce, see Peters, 2. On neutrality and the treatment of prisoners of war, see Mir, 121. On the spoils of war, see Khaddouri, 118-133.

¹² See Peters, 2. Peters quotes one verse from the Quran stating “Fight them until there is no persecution (or: seduction) and the religion is God’s (entirely).” (K. 2:193 and 8:39).

¹³ Ibid., 3.

¹⁴ For discussions of Shi’i Islam, see for example Moojan Momen, *An Introduction to Shi’i Islam: The History and Doctrines of Twelver Shi’ism* (New Haven and London: Yale University Press, 1985); David Pinault, *The Shi’ites: Ritual and Popular Piety in a Muslim Community* (New York: St. Martin’s Press, 1992); Yann Richard, *Shi’ite Islam: Polity, Ideology, and Creed* (Oxford, UK & Cambridge, MA: Blackwell, 1995); Roger M. Savory, “The Export of Ithna Ashari Shi’ism: Historical and Ideological Background,” in Menashri, David, *The Iranian Revolution and the Muslim World* (Boulder, CO: Westview Press, 1990), 13-39; and Ayatollah Ja’far Sobhani, *Doctrines of Shi’i Islam: A Compendium of Imami Beliefs and Practices*, Shah-Kazemi, Reza, ed., transl. (London and New York: I.B. Tauris, 2001).

Given the brevity of this paper, a discussion of Shi’i Islam will be deferred to a longer paper to be submitted at the end of the semester.

¹⁵ Martin Kramer, “Introduction,” in *Shi’ism, Resistance, and Revolution*, ed. Martin Kramer (Boulder, CO: Westview Press, 1987), 2.

¹⁶ Yann Richard, *Shi’ite Islam: Polity, Ideology, and Creed* (Oxford, UK & Cambridge, MA: Blackwell, 1995), 29.

¹⁷ David Pinault, *The Shi’ites: Ritual and Popular Piety in a Muslim Community* (New York: St. Martin’s Press, 1992), 6.

¹⁸ Pinault, 178-79.

¹⁹ See, for example, Pinault, 6.

²⁰ Richard, 41.

²¹ Moojan Momen, *An Introduction to Shi’i Islam: The History and Doctrines of Twelver Shi’ism* (New Haven and London: Yale University Press, 1985), 236.

²² Rudolph Peters and Majid Khadduri, for example, argue that the doctrines are very similar, the one crucial difference being that “Twelver Shi’ites hold that jihad can only be waged under the leadership of the rightful Imam.” Quoted from Peters, 4. See also Khadduri, 66.

²³ Abdulaziz Sachedina, for example, points out that in Shi’i Islam, waging an offensive *jihad* requires the permission of the Imam. Abdulaziz Abdulhussein Sachedina, “The Just Ruler (*al-sultan al-adi*),”

in *Shi'ite Islam: The Comprehensive Authority of the Jurist in Imamite Jurisprudence* (New York: 1988), 105. Quoted in Roger M. Savory, "The Export of Ithna Ashari Shi'ism: Historical and Ideological Background," in Menashri, David, ed., *The Iranian Revolution and the Muslim World* (Boulder, CO: Westview Press, 1990), 18, 37.

²⁴ Mehdi Abedi and Gary Legenhausen, eds., *jihad and Shahadat: Struggle and Martyrdom in Islam* (Houston, TX: Institute for Research and Islamic Studies, IRIS, 1986), 17-18.

²⁵ *Ibid.*, 17. It is important to add here that the *ulama* was far from united in either its views on jihad, or on the proper source of authority during the Twelfth Imam's absence. The Akhbari school of Shi'i jurisprudence, for example, was known for its insistence that no state or religious body could legitimately act on the Imam's behalf. See *ibid.*, 19.

²⁶ *Ibid.*, 19.

²⁷ See footnote 23.

²⁸ Compare Peters, 4; Mir, 122; and Momen, 180. See also the Shii thinkers discussed in the section on the "Exponents of the Shi'i Perception of jihad."

²⁹ Sachedina, 112 as quoted in Savory, 18.

³⁰ Ali Shariati, "jihad and Shahadat: A Discussion of Shahid," Website of Ali Shariati, <http://shariati.org/jihadand.html>, last accessed 15 October 2003. All subsequent quotes in this section are taken from this undated speech.

³¹ Taleqani, Ayatollah Sayyid Mahmud, "Beliefs and Practices: jihad and Shahadat," Al Islam Website, <http://www.al-islam.org/beliefs/philosophy/jihadandshahadat.html>, last accessed 15 October 2003. All subsequent quotes in this section are taken from this undated speech.

³² Ayatollah Morteza Mutahhari, "jihad: The Holy War of Islam and its Legitimacy in the Quran," Islamic Propagation Organization, 1985, Website of Salaam: Islamic Information Resources, <http://www.al-islam.org/short/jihad/>, last accessed 17 October 2003. All subsequent quotes in this section are taken from this source.



The Precipitants of the Tehran Hostage Crisis

Roham Alvandi

The Tehran hostage crisis lasted for almost 15 months. It began on November 4, 1979, when Iranian revolutionaries captured the U.S. embassy in Tehran and its staff, holding 52 of them hostage. It ended on January 20, 1981, when the captive Americans departed Iran from Tehran's Mehrabad airport. The television images of Iranian revolutionaries leading blindfolded diplomats down the steps of the U.S. embassy chancery are emblazoned on the minds of an entire generation of Americans and therefore, the hostage crisis continues to cast a shadow over Iranian-American relations.

In his landmark interview with CNN's Christian Amanpour on January 7, 1998, Iran's popularly-elected President, Mohammad Khatami, was asked whether the hostage crisis, "falls into the category of early revolutionary excesses?" Amanpour extended to President Khatami the opportunity to apologize for the hostage crisis and heal a wound in the American national psyche. Khatami's response reflected the Iranian perception of the causes of the hostage crisis:

"The feelings of our people were seriously hurt by U.S. policies. And as you said, in the heat of the revolutionary fervor, things happen which cannot be fully contained or judged according to usual norms. This was the crying out of the people against humiliations and inequities imposed upon them by the policies of the U.S.

and others, particularly in the early days of the revolution."¹

In this paper I will explore the precipitants of the Tehran hostage crisis and delve into President Khatami's assertion that the United States bore some responsibility for the crisis. Utilizing an analytical model developed by Glen Snyder and Paul Diesing, I contend that the general precipitant for the Tehran hostage crisis was the interference of the United States in the internal affairs of Iran from 1953 onwards and that the specific precipitants were the outreach of the Carter administration to members of the Provisional Government of the Islamic Republic of Iran (PGI) and the admission of the exiled Shah to the United States. I will begin by examining how and why the Tehran hostage crisis began. This will involve a discussion of what Snyder and Diesing term the precipitant and challenge of a crisis:

"Typically, the immediate cause of the crisis is an attempt by one state to coerce another by an explicit or implicit threat of force. The first act of severe coercion may be called the challenge; technically it starts the crisis by posing a distinct possibility of war. A challenge is stimulated or motivated by a precipitant, of which there are two broad types, external and internal. In the external type, a state perceives an intolerable situation developing in its environment as a result of action by

another state or states. It may be intolerable for a variety of reasons: it is threatening to the state's external or internal security, it threatens the state's economic viability or affronts its national dignity and prestige. We may call this the general precipitant, which provokes the challenge. There is usually also a specific precipitant, a particular and especially provocative act by the opponent that is seen as the "last straw," or perhaps as the pretext for the challenge."²

There is little controversy over the challenge in this crisis. On November 5, 1979, one day after the U.S. embassy was seized by Iranian revolutionaries, Ahmad Khomeini, the son and spokesperson of Ayatollah Khomeini, warned the Prime Minister of the PGI, Mehdi Bazargan, that if he opposed the seizure of the embassy he would be opposing the Iranian people. Two days later the Bazargan government tendered its resignation to Ayatollah Khomeini. The refusal by Ayatollah Khomeini as the highest Iranian authority to allow the PGI to liberate the U.S. embassy constituted a failure on the part of Iran to fulfill its obligations towards the United States under Article 22 of the 1961 Vienna Convention on Diplomatic Relations, which reads: "The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity."³ This refusal endangered American lives and property and therefore brought Iran and the United States into conflict.

However a discussion of the precipitant for this challenge is more controversial. In the following section I will argue that interference by the United States in the internal affairs of Iran from 1953 to 1979 constituted the general precipitant for the crisis, and the decision by the Carter administration to establish links with member of the PGI while also admitting the Shah to the United States was the specific precipitant or 'last straw' that led to the challenge.

Although Iran had long suffered from foreign interference in its domestic affairs, particularly by Britain and Russia, the United States did not become significantly involved in Iran until the conclusion of the Second World War. In 1953, the U.S. Central Intelligence Agency (CIA) in cooperation with the British Secret Intelligence Service (MI6) orchestrated a coup d'état against the democratically-elected government of Iran, led by Prime Minister Mohammad Mossadegh. The Mossadegh government passed legislation in the Iranian Majlis (parliament) in May 1951 nationalizing the British-owned Iranian oil industry. Premier Mossadegh enjoyed wide popular support in Iran and was warmly received by U.S. President Harry Truman in Washington in October 1951.

The British attempted to oust the Mossadegh government without success and were forced to leave Iran in November 1952 when diplomatic relations were severed by Mossadegh. The British made plans to invade Iran, but they were opposed by Truman in September 1951. However in 1953, the newly elected administration of U.S. President Dwight Eisenhower was more sympathetic to British claims that the 'instability' caused by Mossadegh left Iran open to a Communist takeover. On August 19 and 20, a joint operation by the CIA and MI6, code-named Operation Ajax, was carried out. A military coup, in cooperation with the Shah's court and elements of the Iranian armed forces, ousted the elected Mossadegh government and the Shah was installed as the absolute ruler of Iran.⁴ A first hand account of Operation Ajax written by Kermit Roosevelt, the CIA officer in charge of the operation, was published in 1979.⁵

Over the next 26 years the United State built a client state in Iran, including significant cooperation between the CIA and Iran's National Intelligence and Security Organization, known by its Persian acronym SAVAK. SAVAK was used by the Shah over the next two decades to suppress any opposition to his rule.⁶ The Anglo-American coup against Mossadegh and the American support for the Shah generated immense anger and mistrust by Iranians towards the United States. In the words of Mike Metrinko, an

American diplomat and hostage in Tehran, “in Washington there was a failure to understand the vast degree of suppressed hatred that had been caused by our bringing about the collapse of the Mossadegh government. That was Iran’s chance to become democratic. We screwed it up, and we bragged about it.”⁷ These feelings of anger and mistrust created by American interference in Iran’s domestic affairs constituted the general precipitant of the Tehran hostage crisis.

With the overthrow of the Shah’s regime in 1979, the revolutionaries had every expectation that foreign powers would again intervene to divert the course of Iranian history. Snyder and Diesing write, “Quite obviously, a crisis always involves “severe conflict.” There is, first, a deep conflict of interests between the parties. However, conflict of interest in itself is not sufficient to bring about a crisis. One of the parties must initiate some form of conflict behavior in an attempt to resolve the underlying conflict of interests in its favor.”⁸ The perception of Iranian revolutionaries at that time was that the victory of the Iranian Revolution would not be tolerated by the United States, which sought to protect its client state in Iran. When the United States attempted to reach out to members of the PGI many of the revolutionaries felt that this was an attempt by the United States to subvert the Revolution, just as it had subverted the Mossadegh government in 1953. From the Iranians’ perspective this was a form of “conflict behavior” by the United States aimed at resolving the underlying conflict of interests between Iran and the United States in America’s favor.

The outreach by the Carter administration to the PGI and the admittance of the Shah to the United States constituted the specific precipitants for the hostage crisis, i.e., the ‘last straw’ that compelled Iranian revolutionaries to seize the U.S. embassy. According to Carter’s Secretary of State, Cyrus Vance, the policy of the Carter administration after the victory of the Revolution was to “gradually develop improved relations” with Iran based on “a number of common interests”.⁹ For the United States, the overthrow of the Shah had not reduced Iran’s strategic importance as a major global supplier of

petroleum and as a geographic barrier between the Soviet Union and the Persian Gulf. The U.S. adopted this policy of rapprochement despite awareness amongst Carter’s advisors of the suspicions that Iranian revolutionaries harbored regarding American intentions. Vance writes, “In the fall of 1979, the Iranian revolution was far from over...Every faction seeking to dominate the revolution harbored paranoid fears of residual “pro-Shah” forces in the country and suspected that the United States would try, as it had in 1953, to restore the Shah to his throne.”¹⁰ Carter’s National Security Advisor, Zbigniew Brzezinski, writes of a “common anxiety of the Shah’s successors that the former monarch might somehow stage a comeback”.¹¹

According to Vance, in August 1979 the United States “exchanged intelligence with one or two members of the Bazargan government. This was done discreetly, since any contact with American intelligence officers could endanger our Iranian interlocutors.”¹² These briefings began on August 5, 1979 in Stockholm when CIA Officer George Cave met with the Deputy Prime Minister of the PGI, Amir Abbas Entezam. On August 21 and October 15, 1979, CIA officers flew into Tehran to brief Bazargan, Amir Entezam and Iranian Foreign Minister Ibrahim Yazdi.¹³ From Vance’s comments, it seems clear that the Carter administration was cognizant of the sensitivity in Iran of any meeting between Iranian and American government officials. Nonetheless on October 3, 1979, Vance met with his Iranian counterpart, Foreign Minister Yazdi, on the sidelines of a United Nations meeting in New York. According to Vance, at that meeting Yazdi inquired whether the United States would admit the exiled Shah. Vance sought to assuage the Iranians’ fear of an American counter-revolution: “I told him that we recognized and accepted both the revolution and the new government and were doing nothing to destabilize Iran, as he charged early in our conversation.” Vance also mentions that during his trip to New York, Yazdi met with other State Department officials to “discuss the straightening out of Iran’s military assistance accounts.”¹⁴

Just over two weeks after this meeting, on October 22, 1979, Carter admitted the exiled Shah to the United States for medical treatment. The Shah was admitted despite the cognizance of the State Department that his presence in the United States would arouse great suspicion in Tehran. Vance writes, "Staff studies pointed out that if the Shah were permitted to come to the United States, it would be seen by most Iranians as an indication that we intended to restore him to the throne and overturn the revolution."¹⁵ These warnings had also reached the White House. Hamilton Jordan, President Carter's Chief of Staff, was aware that the Iranians didn't believe that the Shah was being admitted for medical reasons. He recalls that, "They were skeptical that it was true...they thought it was part of some conspiracy to try to return the Shah to power."¹⁶ It seems clear that the State Department's concerns were well founded. Ayatollah Khomeini's biographer, Baqer Moin, writes that when the Shah was admitted to the United States, "Khomeini fumed at what he considered to be a provocative act. To him this was evidence of American plotting. His statements became increasingly belligerent, and he railed against the machinations of the 'Great Satan'."¹⁷

Adding further fuel to the Iranians' suspicions, Brzezinski met with Bazargan, Yazdi and Iranian Defense Minister Mustafa Chamran in Algiers on November 1, 1979, just three days before the U.S. embassy was seized. The meeting was held on the sidelines of Algeria's independence celebrations. According to Brzezinski, the meeting was held at Bazargan's request. Like Vance in October, Brzezinski made the point that "the United States was not engaged in, nor would it encourage, conspiracies against the new Iranian regime". He stated that "we are prepared for any relationship you want...we have a basic community of interests but we do not know what you want us to do." While Chamran raised the issue of American assistance to the Iranian military, Yazdi warned that the Shah's presence in the United States "disturbs us" and "leaves our people with the conclusion that the United States is involved."¹⁸

These contacts between the PGI and the Carter administration were viewed with immense suspicion by many Iranian revolutionaries, including Ayatollah Khomeini. Many revolutionaries mistrusted the Bazargan government, which was made up primarily of foreign-educated technocrats. The PGI was seen as overly liberal in its domestic policies and exceedingly accommodating towards the United States. Khomeini later expressed regret at ever having appointed Bazargan as Prime Minister: "We made a mistake, we did not act in a revolutionary way. We were two groups. One came from the school of theology, the other came from the outside...[Bazargan] did not have the revolutionary spirit."¹⁹ These views were shared by the revolutionaries that stormed the U.S. embassy. As Massoumeh Ebtekar, the spokesperson for the revolutionaries holding the embassy, recalls:

"Bazargan's cabinet, and his whole entourage, had an entirely different perspective on the revolution than the Imam [Khomeini] and other leaders of the Islamic movement. Bazargan was a sincere religious reformist at heart, not a revolutionary. He had mixed feelings about the Imam's tactics, even though they had led to the toppling of the shah. The monarchical system could be modified and improved, he believed. A cautious man by nature, Bazargan lacked revolutionary insight and vigor—precisely the two qualities that were needed at that moment. ...the Provisional Government could not withstand the pressures and fulfill the responsibilities they were facing. Sooner than anyone had anticipated, they had entered into contact with Americans and other foreign elements, in clear violation of the spirit of the revolution."²⁰

By 1979 the general precipitant for the crisis—the Iranian anger and mistrust created by American interference in Iran's domestic affairs since 1953—had created the necessary conditions

for the crisis. A general fear pervaded the revolutionaries that the United States would orchestrate a counter-revolution in Iran. The outreach to the PGI and the admittance of the Shah to United States fueled these suspicions and constituted specific precipitants for the challenge. Ibrahim Asgharzadeh, one of the Iranian revolutionaries who seized the U.S. embassy recalls, “the decision to occupy the embassy began with our reaction to what America had done. We felt that by allowing the Shah into America they were conspiring against the revolution.”²¹ Ebtekar quotes a fellow revolutionary on the day the Shah was admitted to the United States: “The U.S. has decided to admit the Shah,” he said, his voice suddenly falling to a whisper as he looked around. “Look, do we need any more proof about what they think of the Iranian nation. There may even be another plot under way against us.” Mohammad could have been shocked, but he wasn’t. The news was no surprise. When the Shah had fled Iran earlier that year, most Iranians expected he would attempt a comeback, with help from Washington.”²² She then goes on to cite the Algiers meeting as evidence of this conspiracy.²³

Undoubtedly, the United States bears responsibility for creating the precipitants that led to the Tehran Hostage crisis. The Iranian revolutionaries who stormed the U.S. embassy in November 1979 regarded their decision as a defensive act aimed at preserving the victory of the 1979 Iranian Revolution. In this paper I have argued that the general precipitant for the Tehran hostage crisis was the interference of the United States in the internal affairs of Iran from 1953 onwards and that the specific precipitants were the outreach of the Carter administration to members of the Provisional Government of the Islamic Republic of Iran (PGI) and the admission of the exiled Shah to the United States.

Roham Alvandi is a Masters candidate at the Fletcher School of Law and Diplomacy, Tufts University.

The views and opinions expressed in articles are strictly the author’s own, and do not necessarily represent those of Al Nakhlah, its Advisory and Editorial Boards, or the Program on Southwest Asia and Islamic Civilization (SWAIC) at The Fletcher School.

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² Glenn H. Snyder and Paul Diesing, *Conflict Among Nations: Bargaining, Decision-making and System Structure in International Crisis* (Princeton: Princeton University Press, 1977), 11.

³ *Vienna Convention on Diplomatic Relations and Optional Protocols (1961)* (accessed February 26, 2004); available from: <http://fletcher.tufts.edu/multi/texts/BH408.txt>.

⁴ Mark J. Gasiorowski, *U.S. Foreign Policy and the Shah: Building a Client State in Iran* (Ithaca: Cornell University Press, 1991), 57-84.

⁵ Kermit Roosevelt, *Countercoup: The Struggle for the Control of Iran* (New York: McGraw Hill, 1979).

⁶ Gasiorowski, *op. cit.*, 117-121.

⁷ David P. Houghton, *U.S. Foreign Policy and the Iran Hostage Crisis* (Cambridge: Cambridge University Press, 2001), 65.

⁸ Snyder and Diesing, *op. cit.*, 7.

⁹ Cyrus Vance, *Hard Choices: Critical Years in America’s Foreign Policy* (New York: Simon and Schuster, 1983), 368.

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¹¹ Zbigniew Brzezinski, *Power and Principle: Memoirs of the National Security Advisor 1977-1981* (New York: Farrar, Straus, Giroux, 1983), 471.

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¹³ James A. Bill, *The Eagle and the Lion: The Tragedy of American-Iranian Relations* (New Haven: Yale University Press, 1988), 290-291.

¹⁴ Vance, *op. cit.*, 371.

¹⁵ *Ibid.*, 370.

¹⁶ Houghton, *op. cit.*, 61.

¹⁷ Baqer Moin, *Khomeini: Life of the Ayatollah* (New York: St. Martin's Press, 1999), 220.

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²⁰ Massoumeh Ebtekar, *Takeover in Tehran: The Inside Story of the U.S. Embassy Capture* (Burnaby: Talonbooks, 2000), 76-77.

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²³ *Ibid.*, p. 77.



Untangling the Complex Web of Islamic Law: Revolutionizing the Sharia

Maliha Masood

The Foundation of the sharia is wisdom and the safeguarding of people's interests in this world and the next. In its entirety, it is justice, mercy and wisdom. Every rule which transcends justice to tyranny, mercy to its opposite, the good to the evil and wisdom to triviality does not belong to the sharia although it might have been introduced therein by implication. The sharia is God's justice and mercy among His people.

—Ibn al-Qayyim al-Jawziya, Medieval Muslim Jurist

Seeking knowledge is mandatory for every Muslim.

—Prophet Muhammad (PBUH)

The Concept of Law in Islam

When scholars, politicians or lay observers speak of "Islamic law," it is presumed that they are referring to "the sharia." However, as demonstrated in this analysis, there is a subtle, but important, distinction between these two terms. The *sharia* is the totality of divine categorizations of human acts as laid out in the Quran and the Hadith, constituting issues of both legality and morality.¹ While there is no dispute regarding its divine origin, *sharia*, in and of itself, does not exist as a ready-made body of law to administer. Or in other words, while *sharia* is God-given, its application and interpretation is man-made and therein appears the principal dilemma taxing Islamic legal history for over fourteen centuries: law is proposed by God, yet disposed by ordinary mortals. Between the original divine proposition and eventual human disposition appears an extensive field of intellectual activity, differences of opinion and

hotly contested decisions. Therefore, the peculiarity inherent in Islamic law is its dual nature as both divine law and jurists' law.

It is important to keep in mind that the sharia *becomes* law through the process of interpretation, codification and legislation.² This is the fundamental goal of Muslim jurisprudence: to reach an understanding (*fiqh*) of God's articulations (*sharia*). Consequently, Muslim legal theory is referred to as *usul-al-fiqh* or the sources of understanding.³ The word *sharia* itself is derived from the Arabic root *shar*, simply meaning straight path.⁴ In Islamic tradition, it is under the heading of *fiqh* not *sharia*, where the rules and regulations applied in courts and enforced by the state actually reside. According to British legal scholar Noel Coulson, "Islamic jurisprudence is a speculative essay to comprehend the precise terms of Allah's law."⁵ By extension, the *sharia* becomes a sort of Platonic ideal that Muslim jurists endeavor to formulate and codify in the science of *fiqh*, however

imperfectly and infallibly. While there is no contesting the primary sources of fiqh law, the Quran and the *Sunnah* taken together comprise the regulatory framework of a legal system which is *juristically* derived by Muslim scholars (mujtahids) and judges (qazis).⁶ Law, in the sense of a body of precisely articulated rules, is thus not readily presented in Islam; it must be unearthed by the jurists who become the necessary mediators of the divine law. This constant tension between God's will and human agency is a natural consequence that emphasizes Islam's premium on human reason and intellect. As Bernard Weiss eloquently stated, in *The Search for God's Law*: "God in his wisdom has chosen to engage human beings—the *mujtahids*—in the toilsome task of ferreting out the law from a plethora of indicators, or articulating what he himself has not precisely articulate."⁷

The Development of Law in Islam

Islamic law has been evolutionary in its growth phase. The first 150 years of Islam were characterized by an almost untrammelled level of individual freedom in legal reasoning based on divine revelations; when new circumstances posed challenges, the expression of personal opinion, known as *ra'y*, was widely acceptable.⁸ Law then occupied two separate spheres of divine ordinance and individual decision which did not combat each other. However this pragmatic attitude soon became victim to the increasing sophistication of theological and philosophical inquiry and the political rifts in Islam.⁹

Among the growing body of scholars rose the conviction that the legal sovereignty of God was all embracing.¹⁰ To allow human reason to formulate a legal rule—whether by continued recognition of a customary law or by juristic speculation on a new issue—was tantamount to heresy.¹¹ In other words, human interpretation could not "compete with Allah." A compromise solution was to devise a method of reasoning to operate within the parameters of divine will. This appeared in the form of a human legislative authority whose function was harnessed to the implementation and development of the *sharia*

with complete subordination to sacred revelation.¹² However, this process did not occur in a water-tight closet, but rather in an organic cultural, social and political context.

"The person who does not understand the divergence in doctrine has not caught the true scent of jurisprudence"

—*An old Arab proverb*

"Difference of opinion within my community is a sign of the bounty of Allah"

—*Prophet Muhammad (PBUH)*

Divergence in Jurisprudence

Throughout the development of Islamic legal theory, there has been wide-spread divergence in the interpretations of the Muslim jurists qualified to expound God's *sharia*. This captures the tension between unity and diversity in Islamic legal doctrine which goes to the very core of Muslim jurisprudence. As divine revelation is a fixed and constant element and human reason the variable and fluctuating factor, an inevitable rift occurs between the ideal and the profane state of affairs. This was crystallized in the four different schools or versions of sharia law (Hanafi, Maliki, Shafi and Hanbali).¹³ Their stabilizing force was essentially the doctrine of consensus or *ijma*, which addresses the paramount question of legal authority in Islam.¹⁴

Therefore, the whole process of Muslim jurisprudence, from the definition of the sources of law to the derivation of substantive rules, was an exploratory effort of the human intellect. When an individual jurist reached a judicial conclusion, it was considered more of a conjecture; however, when the ruling was the outcome of a more or less unanimous consensus, it became an incontrovertible statement of the divine law.¹⁵ Hence, *ijma* provided an umbrella authority for the variant doctrines of the different schools. Where Muslim jurists could not agree, they agreed to disagree. It is important to appreciate the significance of *ijma* as a candidly pluralistic

aspect of Islamic law which recognizes that no individual opinion can claim, against other variants, a unique authority. By extrapolation, it is apparent that Islamic law emphasizes collective rather than individual action in the temporal sphere.

Rethinking Sharia within Islam

The divine nature of law in Islam has posed multiple complexities: is the sharia simply the manifestation of supernatural revelations or is there room for social and contextual grounding? Are the words of God immutable or adaptive? A majority of disagreements among Western and Islamic circles have stemmed from the failure to distinguish the nuances between the *sharia* and *fiqh*. A broader definition of the *sharia* is: “those institutions which Allah has ordained in full or in essence to guide the individual in his relationship to God, his fellow Muslims, his fellow men and the rest of the Universe.”¹⁶ The means by which Muslims attempt to follow the guidance of the Quran and Sunnah is the most comprehensive assessment of *fiqh*, which is essentially Islamic law in practice with its own rules of engagement and protocols for disagreement. Part of the beauty of—as well as a source of frustration in—Islamic law is the plethora of positions and interpretations in jurisprudence. This underlying precept adds to the confusion: while Islamic law attempts to moralize legal actions and formalities by placing them in the context of religion and morality, it tends to discourage the formalization or legislation of the religious and moral precepts.¹⁷ The very fact that the *sharia* law has to be recreated through the *fiqh*-based approach with its various schools of thought testifies to this assertion.

According to some progressive strands of Islamic thought, “all rules in the *sharia* that are based upon customs change when custom changes.”¹⁸ It is also possible to discern that the Quran is not one document but two. The first deals with social and practical questions and may be understood as a flexible gauge which adjusts to the prevailing socio-political situation. It is legalistic and regulatory in content. The second is

concerned with universal, moral and philosophical issues. It is this which embodies the eternal message of Islam. Undue emphasis on the legislative aspect of Islam is to lose sight of its spiritual context, which is precisely what happened in the over zealous application of the Hudood Ordinances in Pakistan.

The modern Islamic judge Muhammad Sa'id al-Ashmawi further argues that Islam is basically a message of compassion and morals with legislation occupying a secondary place.¹⁹ Of the Quran's 6,000 verses, fewer than 700 deal with legislation and only 200 of these are directly concerned with regulation of social matters (the remaining passages are devoted entirely to regulation of worship).²⁰ If this is the case, the argument can be taken further to advocate the idea of adapting the social precepts of seventh century Islam to the contemporary age.

Stretching the limits: Sharia in Evolution?

While men and women entail some differences in rights in Islam, they are considered equal in terms of spiritual status. This fundamental equality applies to the level of punishments and certainly to *hudood* or criminal matters, which must be identically enforced towards both sexes, according to the Quran. The problem is when the custodians of *sharia* are in political power, as in the case of General Zia's regime. A conflict emerges between the contradictory aims of the national agenda to establish an authentic “Islamic” state and the staunch preservation of a traditional, patriarchal interpretation of so-called *sharia* prerogatives. The resulting tension between the theory and practice of Islamic law was vividly exemplified in the case of Pakistan.

To corroborate this claim, an Iranian female lawyer, has provided a factual analysis of the gendered basis of codification of Islam's punishments incorporated in the Hudood laws; according to her assertions, “Islam is a collection of *Quranic* verses, the Prophetic *Sunnah* and opinions of the Islamic jurists and we know that jurists differed in their perspectives and opinions. Some refute others and it is exactly here that we

need to urge our policy-makers to re-examine the inequalities that exist in penal laws that are derived from Islam but are fundamentally un-Islamic in practice. It is time to prescribe a fundamental revision in these laws. In other words, it is time for progressive *ijtihad*s.”²¹

Society must possess eternal principles to regulate its collective life, for the eternal gives us a foothold in the world of perpetual change. But eternal principles when they are understood to exclude all possibilities of change, which according to the Quran, is one of the greatest signs of God, tend to immobilize what is essentially mobile in its nature...What then is the principle of movement in the structure of Islam? This is known as *ijtihad*.

—Muhammad Allama Iqbal, *The Reconstruction of Religious Thought in Islam*

Ijtihad: Open or Closed?

The word *ijtihad* means “a total expenditure of effort in the attempt to achieve something whose realization is burdensome or difficult.”²² Commonly referred to as independent reasoning, *ijtihad* is a fundamental Islamic concept that is somehow riddled with controversy. Although it is factually true that from the onset of the tenth century in Islam, the process of *ijtihad* was gradually circumscribed, this was merely due to the overwhelming belief at the time that Muslim jurisprudence had been invested with a largely uncontested doctrinal authority that no longer required greater elaboration.²³ Further inquiry would be without purpose or meaning and it was this conclusion as well as a growing rift between Islamic political factions and the ulema that led to the compromise wherein “the doors of *ijtihad* were closed.”²⁴ As *ijtihad* lost its creative force, future generations of jurists were denied the right of independent reasoning and were bound instead by the principle termed *taqlid* to follow their predecessors (however, this was more the

case in Suni Islam rather than the Shia minority).²⁵

While various theories and opinions have flourished to explain this phenomenon of the closing of the door to *ijtihad* and its implications on modern Muslim societies, it is a fanciful assertion that this fundamental process of human reasoning is not allowed in the present day and age. This line of argument falters with the realization that law is by and large a mirror of a given society and ebbs and flows according to the changing social order. Islamic law remained static for an extremely protracted period because Islamic society itself was relatively stable. There was no real impetus to challenge legal authority until the past few decades of the twentieth century, which witnessed great upheavals in the social, political and moral fabric of Islamic nations. This evolution necessitates a critical reexamination of the contemporary validity of some of the medieval precepts of Islamic law; a process which can only occur with a renewed urgency towards *ijtihad*, for which there is no sound intellectual or moral basis for objection.

According to the Muslim jurist, Ibn al-Arabi, the denial of *ijtihad* amounts to nothing less than the denial of Allah’s continuing, living solicitude and the mission of the Prophet as a mercy to the worlds.²⁶ Indeed, despite talk of its closed gates, it is not an exaggeration to claim that Muslims all over the world exercise *ijtihad* everyday in all matters from the mundane to the sacred. As most of the application of law is clarifying definitions, the contest over *ijtihad* is really about the role of the intellect in determining meanings and rulings. Whether desire for standardization and codification in Islamic law is inborn or state-induced, the fact remains that the resulting complacency in reinvigorating *ijtihad* among some Muslim circles, is antithetical to the perpetual inward/outward receptivity enshrined in God’s sharia, where the onus on understanding the law is routinely placed on the reasoning abilities of the individual.

Balancing Stability and Change

No human interpretation of God's law can ever claim to attain the status of eternal wisdom and truth. In a world driven by the need for certainty, Islamic law presents a unique challenge implicit with all its ambiguities and diversity. As theory collides with practice, the question is how to resolve the many disagreements that inevitably result between the judge applying the law, the state reinventing the law and the believer trying to follow it? One of the fundamental challenges confronting Islamic jurisprudence is the ability to adapt and conform to changing times. Since the texts in which the Muslim aspires to discover God's eternal law are also the same texts upon which religious belief is erected, it is difficult to separate traditional Islamic law from the religion itself. Both are part and parcel of the same core foundation which in theory constitutes an enormous range of flexibility and tolerance. Furthermore, since the sharia is the product of human interpretation, there is no reason to believe that alternative conceptions of Islamic law are impossible.

The Secular/Religious Debate

The problem emerges when attempts are made to separate the world into "secular" and "religious" spheres. As argued by the Sudanese lawyer/scholar Abdullahi An-Na'im, the danger of such a strict dichotomy is that "it can be manipulated either to exclude some people from discussion or to give undue weight to the views of others by virtue of their presumed 'special' qualifications or status in 'religious affairs.'"²⁷ In his words, "it is conceptually misleading to speak of 'purely' religious or secular discourse about the rights of women because the two interact and overlap so much."²⁸ Indeed, it is a paradox why the richness of Islamic civilization has been reduced to this futile endeavor to sever the religion from the secular domain.

Contrary to popular opinion, the Islamic context inherently incorporates an integrated world view of the social order. The term "secularism" derives from the Western distinction between church and state. This definition has no resonance in the Islamic milieu where there is no

clerical intervention between the believer and God. In other words, there is no pope in Islam. By extension, it is possible to assert that "secularism" in the Islamic domain contains an altogether different connotation which simply implies a concern with temporal matters. The Quran is a spiritual text but it addresses issues of the everyday world that human beings must live in. As a more specific example, in Zia's Pakistan, religious dogma was made the basis of political authority and/or legal rights and status. It requires little imagination to see that the mantle of religious dogma to legitimize political authority by authoritarian regimes in Muslim countries essentially invalidates the entire secular/religious divide in Islam as a false debate.

Poetic Justice

As a product of human agency, the sharia should be regarded as a constantly evolving ethical and legal system that each generation of Muslim men and women have the right, indeed the obligation, to undertake in their own historical context. Challenging the sharia to adapt to changing circumstances is simply disputing a historically conditioned human understanding of Islam and not repudiating Islam itself. However, by arresting this discourse and merely reiterating archaic arguments that are no longer valid, law itself becomes a captive of its legislators, instead of a progressive instrument for social equity and justice. The melding of political power with religious oppression in the name of religion, is a lethal combination that opposes criticism and opposition through unevenly maneuvering the law that leave open a vacuum of space where silence, fear and intimidation prevail.

When the Quran is silent about certain issues, it allows room for freedom of thought and choice of appropriate actions for different times. But when the interpreters of Islamic law, be they conservative jurists or power hungry politicians, fill the silence with one-sided patriarchal notions of right and wrong, they begin to anoint themselves as the sole guardians of sacred law. Islam has always encouraged diversity and plurality in approaches. However, the current political struggles in the Muslim world to harness

the legitimacy of the state with a singular, narrow-minded version of Islam severely hijack the flourishing of Islamic thought and practice.

Maliha Masood is a second year student at Fletcher, focusing on law and development within the Islamic world. Her career interests involve public policy, technology and economic development.

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