

Agents of the Hidden Imam:
Shiite Juristic Authority in Light of the Doctrine of Deputyship

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ABSTRACT

Agents of the Hidden Imam: Shiite Juristic Authority in Light of the Doctrine of Deputyship

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Deputyship deals with the issue of leadership in Twelver Shiism in a situation in which the Imam is believed to be only temporarily absent and still the possessor of ultimate religious and political authority. The jurists were recognized as the deputies of the Imam; this was and still is the source of their legitimacy and authority. There was, however, no consensus about the areas Deputyship would cover. This was due both to caution about trespassing on the prerogatives of the Imam and the unavailability of power to Shiites. The theoretical constraint changed with the lengthening of the Occultation after 940, and the practical constraint was also loosened due to instances of Shiite political power, principally in Iran. Change in thought about Deputyship, however, is very slow until the twentieth century, so that it can be detected and evaluated in juristic and theological texts and sometimes also in historical developments only over the long term. Close to the Occultation, the jurists confined their Deputyship and thus authority to juridical issues and Quranic punishments. In the sixteenth century under the Safavids, they expanded Deputyship to a wider range of religious matters through new interpretations of Shiite jurisprudence. They did not, however, possess or claim actual political authority, and their prominence was due rather to their social, economic and political influence and growth of religious institutions. It was in nineteenth-century Persia under the Qājārs that an interpretation of deputyship was introduced that would grant the jurists political power and upon which a further, even more political interpretation and actual jurist-led Islamic state was established by Khomeini in the twentieth century.

The dissertation argues, contrary to views in a substantial literature on Shiism and Weber, that the jurists form a third category of charismatic authority after the Prophet and Imams. The chief and essential source of juristic charisma is Deputyship of the Imam, i.e. office charisma. A second source is personal qualities, which help the office charisma to flourish. Shiite jurists who possess personal in addition to office charisma and act, in the Weberian sense, “exceptionally” gather more followers. The dissertation makes a contribution to Weberian theory by arguing that charisma and charismatic office continue to evolve after the pure charismatic event. The emergence of Ayatollah Ruhollah Khomeini is a recent striking instance.

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Introduction

The Shiite school of Islam originates in the question of the succession to the Prophet and leadership of the Muslim community after his death. The Shiite account of the succession emphasizes a sharp dispute leading to division of the community between those who believed that ‘Alī, the son of Abū Ṭālib and the Prophet’s cousin and son-in-law, was appointed and designated by the Prophet as the supreme religious and political authority of the community and those who agreed with the selection of an alternate candidate, Abū Bakr, followed by ‘Umar and then ‘Uthmān. These three, along with ‘Alī, who finally succeeded ‘Uthmān, would be called by the Sunnite school of Islam the “Rightly-Guided Caliphs”. As Bernard Lewis writes, the *Shī‘at ‘Alī* or “Party of ‘Alī” was at first no more than “a political faction—the supporters of a candidate for power, with no distinctive religious doctrines and no greater religious content than was inherent in the very nature of Islamic political authority”. Soon, however, “important changes occurred both in the compositions of its following and the nature of its teachings.”¹ That is to say, loyalty to ‘Alī was transformed following his own death into loyalty to various lines of his descendants, while the political kernel of the split gradually grew into an elaborate political-religious theory. This theory opposed the caliphal leadership (*khilāfah*) of the community of Muslims that came to be known, beginning in the 2nd/8th century, as “Sunnites” with the idea of a legitimist, divinely ordained succession of Imams or “leaders”, called Imamate (*imāmah*).

The Imams are considered by all Shiites to be simultaneously the political and religious heads of the community, so that they possess the same authority and prerogatives as the Prophet, except revelation. The Imam for Shiites is the “universal leader of both mundane and religious affairs” (*raʾīs ʿāmm fī umūr al-dunyā wa-al-dīn*).² However, precisely because of the great weight

¹ Bernard Lewis, *The Assassins: a radical sect in Islam* (New York: Basic Books, 2003), 20-21.

² ‘Allāmah al-Ḥillī, *Sharḥ al-Bāb al-ḥādī ‘ashar lil-‘Allāmah al-Ḥillī, ma‘a sharḥihi: al-Nāfi‘ li-yawm al-ḥashr li-Miqdād ‘Abd Allāh al-Suyūrī*, ed. ‘Alī Shīrwānī (Qum: Intishārāt Dār al-Fikr, 1385/[2006]), 83.

placed on the personalities of the Imams and succession within the Imamate, different lines of Imams descending from ‘Alī ibn Abī Ṭālib were recognized by different groups, who came to hold somewhat different ideas about Imamate beyond the basic principle of universal authority. Two numerically important groups surviving today are the Ismā‘īlīs or “Seveners”, with several lines today within Ismā‘īlīsm itself, and Zaydīs or “Fivers”. This dissertation, however, is concerned exclusively with Twelver (*Ithnā’ Asharī*) Shiism, embraced by the vast majority of Shiites today (though Shiites actually represent only about 13% of Muslims worldwide, with most concentrated in present-day Iran). The group is called Twelvers for its belief in a line of twelve Imams – a line partly shared by the Seveners and Fivers – ending with a messianic figure often called Mahdī, i.e. “Guide” or “Guided One”. The Twelver branch of Shiism gradually coalesced in the 4th/10th century around the idea of Twelve Imams and the disappearance or “Occultation” (*Ghaybah*) of the Twelfth. Though far outnumbered by Sunnites and with little access to political power, the Twelvers went on to develop a set of communal structures and doctrines that has allowed them to survive and sometimes even flourish. Among Shiites, the Twelvers developed by far the most potent clerical estate, which has provided religious guidance and leadership since the Occultation, and this leadership was achieved and its power justified through the idea that the ‘ulamā’ are the deputies of the absent Twelfth Imam. The idea and doctrine of Deputyship, the subject of the present dissertation, is found only in Twelver Shiism.

The notion of Deputyship begins with the Occultation. In the eyes of the Twelvers, the Imam is “the successor of Muhammad... having his cumulative knowledge and all his attributes except divine inspiration without a mediator. He is chosen by God, infallible and sinless, perfect and the best man of his age, *al-afḍal*.”³ In reality, however, the Shiite Imams never obtained actual power, apart from the very short (35/656 to 40/661) and tumultuous period of ‘Alī’s caliphate. The Imams who came to be regarded by the Twelvers as constituting the Twelver line were mostly apolitical, pious and scholarly figures; with the advent of the Sunnite Abbasid dynasty in the mid-eighth century, they actually lived under close supervision of the Abbasid caliphs to the extent that communication with their followers was limited. In the midst of these

³ See, Joseph Elias, “The Ithnā’asharī-Shī‘ī Juristic Theory of Political and Legal Authority,” *Studia Islamica*, No. 29 (1969): 23-24.

conditions, the Lesser Occultation of the Twelfth Imām occurred in 260/873-874 and the belief developed that this Imam, who still lived hidden on the earth in the manner of human beings, would return someday to establish a just state and world. The preoccupation of Shiism with politico-religious authority, which also underlies the notion of Deputyship, is clearly displayed in this belief.

The first, approximately seventy years of the Twelfth Imam's absence are termed the Minor Concealment (*al-Ghaybah al-Sughrā*). In this period, four prominent members of the community presented themselves successively as agents of the hidden Imam. These four, 'Uthmān ibn Sa'īd al-'Amrī (exact date of death unknown), Muḥammad ibn 'Uthmān al-'Amrī (d. 305/917), Ḥusayn ibn Rūḥ al-Nawbakhtī (d. 326/937), and 'Alī ibn Muḥammad al-Samarrī (329/941), played two main roles. They acted as bridges between the hidden Twelfth Imām and Shiite community, and they received religious funds due to the Imam. 'Uthmān ibn Sa'īd al-'Amrī was trustee and agent of three Imāms, from the tenth to twelfth. His son, Muḥammad, had been a close associate and agent of the eleventh Imam, Ḥasan al-'Askarī, as well, so that when he succeeded his father, the entire Shiite community recognized his trustworthiness.⁴ 'Uthmān was called upon to verify his successor, Ḥusayn ibn Rūḥ al-Nawbakhtī, as the third agent since some in the Shiite community seemed to doubt him.⁵ The fourth agent was subsequently confirmed through decrees from the Imām concerning the future of the Shiite community.

This is the Twelver Shiite account of how the Imam continued to guide the community during his initial absence. One might have expected the four agents of the hidden Imām, who enjoyed the titles *safīr* (courier, envoy or messenger) *wakīl* (agent, trustee),⁶ and also *nā'ib* (deputy) to reach for extensive authority, but their deputyship was never political. Even in religious responsa, they rarely transferred their own views to the Imam's followers. This set a pattern that would be followed in subsequent authority arrangements, as Elias observes:

⁴ Muḥammad ibn al-Ḥasan al-Ṭūsī, *Kitāb al-ghaybah* (Beirut: Manshūrāt al-Fajr, [1381/2002]), 220-22.

⁵ Ṭūsī, *Ghaybah*, 231-2.

⁶ Ṭūsī, *Ghaybah* 219, 221, 231

[...] during the Lesser Occultation no delegation of the authority of the Shiite was claimed by any of the four deputies of the Twelfth Imām, the wukalā’, and ever since then Ithnā’asharī-Shī’ī jurisprudence has been consistent in blocking any dogmatic trend that might have led to a human claim to infallible authority, be it individual or ex consensus, while emphasizing the fallibility of Ijtihād and subjecting it to the principle of trial and error and setting utmost limits to the Ijma’ in definition and application.⁷

With the death of the last agent and thus final disappearance of the Imam in 329/941 into his Greater Occultation (*al-Ghaybah al-Kubrā*), the Twelver Shiite community was faced directly with the question of political authority. The Imām, regarded as the only Just Ruler, as the sole legitimate leader of Shiites and Muslims temporally and religiously, had vanished and was completely out of reach. The Shiites had now lost all connection with power not only practically, but even theoretically. The Twelver community had been in political depression even in the presence of the Imāms, but religious and social affairs had, at least, been administered under their leadership. The reaction was to emphasize that all temporal rulers were illegitimate, while the Shiite scholars emerged as a religious elite. It was now the turn of the jurists to undertake administration, though in a necessarily restricted manner due to lack of political power.

So far, we have seen that the sole legitimate rulers after the Prophet according to Shiites are the Imams. The Imams or “leaders” are the Prophet’s first cousin and son-in-law ‘Alī ibn Abī Ṭalīb (d. 40/661), who is revered by Shiites to the extent that they are called the Shī’ah or “partisans” of ‘Alī, followed (for the Twelvers) by his eleven descendants. The twelfth and last Imam is believed to have retreated into a “Lesser Occultation” in 260/874 during which he was seen by only a few persons and maintained very limited communication with his community through four personalities viewed as envoys, agents, or deputies of the hidden Imam. The Twelfth Imam is believed to have then completely disappeared in 329/941 into a Greater Occultation, which lasts to this day and during which he is glimpsed only on very rare occasions in dreams and visions. The Twelfth Imam or Mahdī will come back at the end of time in messianic fashion to “fill the earth with justice as it has been filled with injustice”.

⁷ “Ithnā’asharī-Shī’ī Juristic Theory,” 23-24.

Who then guides the Twelver Shiite community during the Greater Occultation? I have indicated that the Shite scholars – the ‘ulamā’ or jurists – play this role. Two different currents of Twelver Shiism, however, view this development in different ways. The Akhbārīs minimize the prerogative of the scholars by reducing them to interpreters of the Traditions (*akhbār*), i.e. anecdotes of the sayings and doings of the Imams and Prophet. The Uṣūlīs, on the other hand, believe that the scholars or ‘ulamā’ should act as jurists in order to guide the community and are therefore entitled to engage in interpretation of the Traditions and Quran, using the “principles” (*uṣūl*) of jurisprudence. The doctrine of Deputyship (often termed *niyābah* in Arabic) is exclusive to the Uṣūlī current, not surprisingly since Uṣūlīsm allows the ‘ulamā’ to take more initiative and power. Deputyship, in fact, seems to be an Uṣūlī product that arose in 4th/10th Baghdad. Before the time of al-Mufīd, the Akhbārī School was the dominant intellectual movement in Shiism, but Akhbārism then gave way to Uṣūlīsm and lost its importance or continued under the shadow of Uṣūlīsm for centuries afterward. Though Akhbārism has experienced revival from time to time and still survives, both as a formal school (for instance, in Bahrain) and in a general literalist tendency among some scholars, it represents a very small minority in Twelver Shiism today.

Deputyship refers to the idea that the Shiite jurists act on behalf of the hidden Twelfth Imam during his Occultation, which has lasted, according to the Twelvers, from the middle of the tenth century until today. It is on the basis of Deputyship that the chief jurists – the figures familiar in the West as “Ayatollahs” – have the responsibility of guiding the Shiite community in the place of the Imam during his absence. This is not to say that there is agreement on the areas the authority of the jurists is supposed to cover. In fact, the relation between Shiites and actual power remained unsolved among Uṣūlī Twelver scholars, so that various views emerged without ever producing a fully workable solution. Mufīd, for instance, who appears at the outset of Uṣūlīsm in the 4th/10th century, confined the authority of the jurist (*faqīh*) to judgeship, while Narāqī (d. 1245/1829), working in the Qājār period, and after him Khomeini expanded it to politics as well to claim the Imām’s authority in that sphere.

The issue of the scope of Deputyship is entwined with the relation of post-Occultation Shiism and its religious leaders, the jurists, with politics. The mainstream has opted for quietism, even though, in practice, a number of Shiite scholars worked for the temporal rulers of their time

(while viewing them as essentially “unjust”). Activism, however, gradually found its place in Twelver Uṣūlī Shiism in instances in which the ‘ulamā’ accumulated social and economic power, leading to the rise of political jurisprudence both in the juristic mentality and practice. This happened in Iran. Thus both activist and quietist attitudes towards prevailing political authority are seen in Twelver Shiism, as Algar confirms.⁸ And this is not, at heart, contradictory, since both attitudes are concerned in their own way with respecting the Imām’s right. Quietism during the Major Occultation signals that political leadership is the exclusive right of the Imam, whose return must be patiently awaited for the re-establishment of the Mahdī’s own state. For activists, on the other hand, political power is the great issue because without it, Muslim (Shiite) law cannot be enforced. In the view of contemporary activists, political power also provides the ground for the Mahdī’s return.

Thus, although the quietist approach has certainly been dominant, activism also has its advocates, and this activism has found expression through the doctrine of Deputyship. Those who would characterize Twelver Uṣūlī Shiism as *essentially* either activist or quietist have both missed both the point I make in the previous paragraph and failed to examine developments in Deputyship. Elias, for instance, maintains that the Twelvers do not grant the jurists (he uses the term *marji’ al-taqlīd*, though this came into use under the Qājārs) the “sovereign legal authority of the Imam”, because they essentially look upon the mujtahid as “not more than an ordinary *mukallaf*” (person responsible for fulfilling the law), though skilled in the ordinances of the Shariah and their application. It is even more wrong, says Elias, to regard the *mujtahid* “as a performer of the function of the Imām during the Great Occultation by virtue of ‘an ex ante appointment’.”⁹ Elias and the like do not take into account developments in Shiite jurisprudence, even though the jurists express themselves principally through that discipline. As mentioned, the doctrine of Deputyship is a product primarily of Uṣūlī jurisprudence that makes the jurists the Imam’s deputies during his Occultation, and the doctrine is liable to both quietist and activist interpretations. Nevertheless, the move toward combining religious and political roles for the

⁸ Hamid Algar, *Religion and State in Iran, 1785-1906: The Role of the Ulama in the Qajar Period* (Berkeley: University of California Press, 1969), 2.

⁹ “Ithnā’asharī-Shī’ī Juristic Theory”, 26.

jurists is a major transition – something quite new and unusual, even if not out of line with the basic logic of Deputyship and still expressed within the frame of traditional jurisprudence – wrought and justified by charismatic figures without whom it would not have been possible.

The authority of the Shiite religious class has been extensively studied, but without real attention to Deputyship. This is a serious omission, since juristic authority is, in the final analysis, legitimized solely by it. The occulted Twelfth Imam still ultimately holds, in theory, all religious and political power, which he will take back into his hands again when he reappears. The authority of the Shiite religious class is therefore derivative; without Deputyship, they have nothing. Until this day, Shiite jurists routinely remark that they are taking this or that action – for instance, managing religious taxes and issuing fatwas – as agents or deputies of the Imam. This fact alone tells us that Deputyship is worthy of study and that Shiite juristic authority can be truly comprehended only if it is taken into account.

My study of Deputyship draws on jurisprudential, theological, and historical sources. The jurisprudential texts contain specific references to the kinds of functions jurists may undertake as deputies – for instance, acting as the guardians of orphans, collecting certain taxes, sitting as judges, and so on. Due to the formal, conservative nature of Islamic legal writings, jurisprudential references to Deputyship tend to be brief and repetitive, and careful reading is required to detect and evaluate change through time. Material in theological sources consists of discussion of the authority of the Imams in their times and how certain parts of it were supposedly delegated to their scholarly followers. These discussions can also be quite sparse and enigmatic – with the exception of those appearing in the twentieth century, which are written in a modern, more expansive style, as seen in the works of Ayatollah Ruhollah Khomeini. The shifting Arabic terminology of the theological and especially legal sources presents a real challenge. We are not dealing with a stable vocabulary, so that even the central concept of Deputyship is at one point called *niyābah*, at another *wilāyah*, and in the earliest period not even explicitly named, though obviously present. Because of these difficulties with the texts, I begin each chapter with an examination of terms and concepts.

I place the discussion in historical context in order to throw light on the actual relationship between the Shiite religious class and temporal events and authorities, a reality that

is not directly addressed in jurisprudence and theology. The thesis argues that Deputyship can be understood only in historical context, as it plays out differently under different conditions. Furthermore, Deputyship and therefore juristic authority, including the modern instance of Ayatollah Khomeini's jurist-led Islamic state, are comprehensible only in a long view that allows us to compare shifts in this foundational doctrine and real conditions relating to it.

The fact that Deputyship must be studied as a long-term, contextualized development along with the elusiveness of the Arabic texts may explain why it has been neglected by scholars, even though it is absolutely basic to juristic authority and also key to the explanation of current events. In order to place Deputyship in long-term historical context, I have focused in Chapters Two to Four on three points in history. I do not pretend to provide a full historical account. Rather, I look at these three "moments", as I call them, in full consciousness that other developments and situations existed between them. Despite this limitation, I do suggest that Deputyship and therefore the juristic authority that is based upon it tends to waver between apoliticality, that is limiting of Deputyship to non-political functions, and realization of the political side of Imamic authority – keeping in mind that the Imams are believed to have been the absolute political as well as religious authorities of the community. The present investigation counters the rigidity of two current scholarly views, one which insists that Twelver Shiism is quietist, and the other that sees it as activist. In fact, juristic authority based on Deputyship can be understood only in historical context; it was born in a specific period of Shiite history in a particular location, and has developed since in various and particular places and periods. Individual Shiite scholars contemporary with each other have also had different interpretations of the doctrine, depending on their circumstances. Seen from this dynamic point of view, the apoliticality of Deputyship favored by the majority of Shiite scholars because of their feeling that claiming political authority trespasses on the Imam's exclusive right is understandable in the context of the earliest period of the Occultation. It is understandable because the Shiite community expected their Imam to come back soon and also did not dare to think of political power since they lived, for the most part, as a very small minority amidst the Sunnite majority. At this time, references in the texts to Deputyship seem artificial since they usually speak about it as if the Imam were still present and his deputies personally appointed by him. The activist approach emerges, political circumstances permitting, as time goes on and Shiites lose their hope of the Mahdī's imminent return; but this alternate possibility emerges only very slowly and is

always restrained, even for Khomeini, by the sense that the occulted Imam ultimately owns all authority.

The first “moment” of Deputyship selected occurs in the fourth/tenth century when the last Imam finally disappeared and the Greater Occultation began. In this period, we see the initial emergence of the idea of Deputyship in response to a crisis of leadership caused by the Imam’s withdrawal. Deputyship begins to change from delegation to a few specific individuals as occurred during the Lesser Occultation, when the Imām was thought to be still accessible, to a general version with the potential of conferring authority on the religious class as a whole. For this period, I utilize the writings of the prolific jurist and theologian Shaykh Mufīd (d. 413/1022). The second moment of Deputyship, lying approximately halfway between the Occultation and modern times, is represented by ‘Alī ibn al-Ḥusayn Karakī (d. 940/1533), who worked in the very different context of the Shiite Safavid dynasty in Iran. In Karakī we see a slight widening of the scope of Deputyship, along with increasing political accommodation facilitated by influence gained by the Shiite community and its jurist-scholars. The third moment deals with the theory of the Guardianship of the Jurist proposed by the founder of the Islamic Republic of Iran, Ayatollah Khomeini (d. 1989). The establishment of an Islamic state led by a Shiite jurist is an astonishing development that can be fully understood only in light of the dynamic of Deputyship. Khomeini suggests that the jurists as the executors of Islamic law on behalf of the Imam are effectively equivalent to the Prophet and Imams in political authority.

I use Weber’s theory of authority, specifically the concepts of charisma and routinization, as an analytical framework for the thesis. My work is certainly not the first to link Shiism and charisma, as can be seen in a substantial and growing literature (see bibliography). Much of this literature, however, is in my opinion subject to a basic error in that it is inspired by and focuses on the remarkable figure of Ayatollah Khomeini, before whose appearance there is really nothing on Shiism and charisma or Shiism and Weber. I assert that Khomeini’s charismatic personality and the event of the 1979 Iranian Islamic Revolution cannot be understood in isolation, from the point of view of either Shiism or Weber’s theory. To put it another way, Weber presents charisma as an event within a tradition. The few scholarly works that focus on charisma of the Imams (all of which are also subsequent to Khomeini’s appearance on the international stage) also end up focusing on the outsize, semi-divine personalities of the Imams and their charisma in

the personal sense. Although I suggest certain refinements to Weber that are helpful for understanding Shiism and might be considered by researchers examining other cases, I believe that Weber, when properly applied, has a great deal of explanatory power. The thesis rehabilitates or reclaims Weber's theory, and a large part of the first chapter on charisma critiques the many scholars of Shiism who have simultaneously tried to build on and dismantle it.

Chapter One: Re-reading post-Occultation juristic authority

Scholars of Twelver (Ithnā ‘Asharī) Shiism¹⁰ and Islam have been puzzled about how to account for the authority of the Shiite jurists. The clerical estate in Shiism seems to be somewhat more hierarchical than its Sunnite counterpart, and certain figures – epitomized by Ayatollah Khomeini in the 20th century – seem to possess more of what is loosely called “charisma”. Providing a sociologically coherent explanation for the authority of the Imams in relation to that of the Prophet has also proved a challenge. In this chapter, I will relate the views of those who have addressed this double problem, and then provide my own reading, which serves as the theoretical framework for the thesis.

Scholars who have attempted to analyze the authority of the Shiite Imams and jurists all depend in some way on the thought of Max Weber, with each attempting to fit the views of the great 19th-century German sociologist to the Shiite case by suggesting refinements to his well-known tripartite theory of authority. The general premise seems to be that Weber’s theories, though still very important in thinking about religious authority today, are inadequate to Shiism. Note that although Weber wrote on Islam, he did not take account of Shiism, since it was little known amongst European scholars in his time.

Some scholars of religion continue to apply Weber to Islam without considering or fully considering Shiism. The work of contemporary Islamicist Jonathan Brockopp is an example. In attempting to theorize the “charisma” of the early Sunnite jurists, Brockopp maintains that the Prophet Muḥammad’s charisma was reproduced in various ways following his demise. He suggests that by “theorizing the Prophet” as “something more than an ordinary leader”, the tradition provided “space for new exemplary leaders to create their own cycles”. Thus,

For Islamic law, this cycle of derivative charisma includes charismatic individuals (the *mujtahid mutlaqs* of the past) and a community of followers made up of students

¹⁰ Throughout this work, ‘Shiism’ refers to Twelver Shiism, particularly the dominant Uṣūlī tendency. All branches of Shiism except, to a limited degree, the Zaydīs are not led by jurists and have different patterns of authority.

who collect and publish the master's work. As this cycle develops and flourishes, it remains in creative tension with both the central Prophetic cycle and also with other forms of Islamic leadership and governance.¹¹

Brockopp's scheme is apparently also meant to explain Twelver Shiism, since he refers at least briefly to the work of Hamid Dabashi, for whom Twelver Shiism is a central concern. And indeed, Brockopp's idea that charisma may be redefined and reproduced after the death of a pure charismatic personality, i.e., the Prophet, does seem to fit Shiite history. His argument, however, that prophetic charisma is taken on by a range of personalities – not only jurists, but also figures involved in “other forms of Islamic leadership and governance” – does not fit Shiism. In Twelver Shiism, as we shall see, religious authority and charisma accrue to the jurists only. Nor do the jurists' authority and charisma exist “in tension” with those of the Prophet or Imams. Rather, they always remain, even as they develop and flourish, in accord with the central prophetic cycle.¹²

Brockopp's treatment of charisma is also vague, despite his attempts even to diagram it. Who are the “charismatic” figures involved in “other forms of Islamic leadership and

¹¹ Jonathan Brockopp, “Theorizing Charismatic Authority in Early Islamic Law,” in *Comparative Islamic Studies*, Dec 2005, Vol. 1 Issue 2, 139. *Mujtahid mutlaq* or “absolute *mujtahid*” refers to legal authorities competent to produce original rulings in all areas of the law. The term is sometimes applied particularly to the eponymous founders of the Sunnite schools of law.

¹² It seems that Brockopp's emphasis on creative tension between juristic cycles with the central Prophetic cycle is based on experiences and examples in history of Judaism and Christianity, as Wach explains it. Wach says: “[...] we can trace the transition from purely personal charismatic prophecy to an institution with professional training, habits, and rewards. History shows that the priest, in addition to being the successor, is frequently also the antagonist of the prophet” (Joachim Wach, *Sociology of religion* [Chicago & London: the University of Chicago Press, 1944], 350. Wach also refers to tension between the priest and the prophet, saying: “[...] the emergence of new prophetic charisma will evoke the opposition of those who either reject the prophetic principle or oppose the claims of some individual prophet.” (loc. cit). In spite of such tension in Judaism and Christianity, it does not exist in either Shiite or Sunnite Islam. Muslims deny the emergence of new prophetic charisma, so there is no ground for the creative tension Brockopp claims.

governance” apart from the jurists? Are they rulers of various kinds, or warriors? What exactly is “creative tension”? Brockopp seems to conflate charisma with mere authority, prestige, or magnetism. There is a danger when speaking about charisma of applying it in a general rather than precise Weberian sense, and Brockopp appears to have gone down that road.

I see similar problems with other discussions that deal more fully with Shiism. In the following sections of the chapter, I engage with scholars who have attempted to theorize Shiite Imamic and juristic authority, while examining the charisma of the Prophet Muḥammad and its routinization in the Imams; the charisma of the Imams themselves; and finally the charisma of the Shiite jurists, the main focus of this dissertation.

Prophetic charisma and its routinization

Before turning to the original charismatic event of the prophethood of Muḥammad, let us review Weber’s own definition of charisma. Weber defines charisma as:

[A] certain quality of an individual personality by virtue of which he is considered extraordinary and treated as endowed with supernatural, superhuman, or at least specifically exceptional powers or qualities. These are such as are not accessible to the ordinary person, but are regarded as of divine origin or as exemplary, and on the basis of them the individual concerned is treated as a "leader."¹³

Weber further says that where charisma is “fully served”, it amounts to “a gift that inheres in an object or person simply by natural endowment.” This is “primary charisma”, which, he emphasizes, “cannot be acquired by any means”, whereas “charisma of the other type may be produced artificially in an object or person through some extraordinary means.”¹⁴ In Weber’s view, “charismatic grounds” rest on “devotion to the exceptional sanctity, heroism or exemplary

¹³ Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, edited by Guenther Roth and Claus Wittich, Vol. 1 (Berkeley; Los Angeles; London: University of California Press, 1978), 241; see also Max Weber, *From Max Weber: Essays in Sociology*, translated, edited and with an introduction by H.H., Gerth, and C. Wright Mills (New York: Oxford University Press, 1979-2), 245-48, 295-96.

¹⁴ Max Weber, *the Sociology of Religion*, introduction by Talcott Parsons with a new foreword by Ann Swidler (Boston: Beacon Press, [1993]), 2.

character of an individual person, and of the normative patterns or order revealed or ordained by him [the charismatic authority].”¹⁵ Finally, how charisma might be judged “from any ethical, aesthetic, or other such point of view” is irrelevant to its definition. All that is important according to Weber is “how the individual is actually regarded by those subject to charismatic authority, by his ‘followers’ or ‘disciples.’”¹⁶

Weber cites the Prophet Muḥammad as an example of such a holder of charismatic authority.¹⁷ He is no doubt led to this conclusion by his evaluation of the quality of prophethood in general. In Weber’s view, the prophet is “a purely individual bearer of charisma, who by virtue of his mission proclaims a religious doctrine or divine commandment”;¹⁸ the “prophet’s [very] claim”, he says, is “based on personal revelation and charisma.”¹⁹ On the basis of oracles or dream interpretation received through gifts of the spirit and a magical or ecstatic ability, the prophet proclaims a religious doctrine or divine commandment.²⁰ “Islam”, Weber concludes, “developed out of a charismatic community of warriors led by the militant prophet and his successors; it accepted the commandment of the forcible subjection of the infidels, glorified heroism, and promised sensual pleasures in the here and the hereafter to the fighter for the true faith.”²¹

¹⁵ Max Weber, *Economy and Society*, Vol. 1, 215.

¹⁶ *Economy and Society*, Vol. 1, 242.

¹⁷ Weber includes prophets in his examples of charismatic figures. Insofar as he characterizes Muḥammad as a prophet, he considers him to be a charismatic figure. See Weber, *Sociology of Religion*, 46, 54-55, 185, 202, 264.

¹⁸ Weber, *Sociology of Religion*, 46; Max Weber, *Max Weber on Charisma and Institution Building*, ed. and trans. S.N. Eisenstadt (Chicago: University of Chicago Press, 1968), 253.

¹⁹ Weber, *Sociology of Religion*, 46; Max Weber, *Max Weber on Charisma and Institution Building*, 253.

²⁰ Max Weber, *The religion of China: Confucianism and Taoism*, translated and edited by Hans H. Gerth (Illinois: the Free Press, 1951), 46-47.

²¹ Weber, *Economy and Society*, Vol. 2, 1185.

Muhammad is indisputably such a figure. The source of his charisma is his prophethood, i.e., contact with the Divine, proceeding in an oracular fashion and resulting in commandment and doctrine. The event of Muhammad's contact with the divine is considered by the tradition to be unique and not repeatable by his successors, however revered or powerful they may be. Muhammad produced the revelations of the Quran as miraculous proof of that contact, so that he came to be viewed as distinct from the rest of the people as his charisma was hailed or constructed by his followers.

Weber's views on prophetic charisma were seconded some decades later by Joachim Wach in his *Sociology of Religion*. Like Weber, Wach emphasizes the prophets' contact or communion with Heaven, crediting them with the ability to transcend time and place. Through illumination, the prophet is able to interpret the past and anticipate the future. An essential element of the prophetic personality in Wach's estimation is the extraordinary spiritual power with which they are credited, symbolized by miracles, the power for which comes from God.²²

Dustin Byrd in his *Ayatollah Khomeini and the Anatomy of the Islamic Revolution in Iran: Toward a Theory of Prophetic Charisma* proposes a major amendment to Weber's scheme. He combines Weber's concept of charisma and his definition of 'prophet' with Erich Fromm's concepts of the prophet and priest.²³ Fromm paints a picture of the prophet as a bringer of transformative ideas opposed to the prevailing system. The prophet awakens the people to reality and inspires them to protest against injustice and oppression in a time of hopelessness and disillusionment. He shows alternatives to the dilemmas with which man is confronted. Fromm also emphasizes the necessity of dialectic between theory and praxis. That is to say, in order to be properly considered a prophet, a personality must put into practice and thus embody in their life

²² Joachim Wach, *Sociology of Religion* (Chicago & London: University of Chicago Press, 1944), 346-348.

²³ Dustin Byrd, *Ayatollah Khomeini and the Anatomy of the Islamic Revolution in Iran: Toward a Theory of Prophetic Charisma* (Lanham; Boulder; New York; Toronto; Plymouth, UK: University Press of America, 2011), 25. Also, see Armand J Boehme, review of Byrd, *Ayatollah Khomeini and the Anatomy of the Islamic Revolution in Iran: Toward a Theory of Prophetic Charisma* in *Reviews in Religion & Theology*, Volume 20, Issue 1 (January 2013), 22.

the “theoretical” ideas proposed.²⁴ Fromm contrasts the type of the prophet with that of the priest. Priests, in his view, do not live the prophetic message, instead exploiting those of prophets, once they are gone, with the aim of maintaining a status quo that works to their own advantage. Most priests, Fromm says, simply use the ideas of the prophets to organize men and “control them through controlling the proper expression of the idea.”²⁵

Under the influence of these ideas of Fromm, Byrd offers the following definition of the prophet as a charismatic figure:

An individual who possess or is perceived to possess charisma, i.e., extraordinary gifts, talents, and or abilities, not generally attainable to the average person; whose uncompromising goal is to show alternative vision of being; the dissemination of rational authority over irrational and or authoritarian authority; and in general embodies that rational authority through the theory – praxis dialectic; thus becoming an example of the alternative mode of being; without regards to his own personal safety, status, and or wealth.²⁶

Once again, the wide focus leaves us with no way to distinguish between different personalities in the Shiite tradition – even though Byrd’s work is aimed specifically at Shiism! The Prophet, Imam, and jurist – or a particular jurist, in the person of Ayatollah Khomeini – turn out to be essentially similar, in Byrd’s telling. One very obvious problem with Byrd’s formulation is his failure to seriously consider,²⁷ as Weber does, the office of prophethood conferred on Muḥammad by revelation - or more precisely, the perception of Muḥammad’s followers, in response to his claim, that he had received revelation. Even if it is admitted that

²⁴ Erich Fromm, *On Disobedience and other Essays* (New York: the Seabury Press, 1981), 42.

²⁵ Fromm, *Disobedience*, 43-4.

²⁶ Byrd, *Khomeini*, 36.

²⁷ Byrd does acknowledge that no-one in the Islamic tradition can “legitimately claim to be divinely designated as a prophet” (p. 42). He supposedly solves this problem by noting that he uses the word “prophet” for a person who is so in Islamic doctrine, and “prophetic” for those who are prophets only in Fromm’s sense (*ibid.*). Apart from ignoring a very clear distinction in the tradition, this is confusing.

prophetic charisma springs from a dialectic between theory and praxis, the office of prophethood still forms the core of Muḥammad's personality as prophet. Without this, he has no prophetic charisma. To take another example, from an Islamic perspective, Jesus would be a prophet even without the events of the crucifixion (or staged crucifixion, in the Muslim view), even though that particular episode indicates that he had personal qualities unattainable for the average person. Just so, 'Alī and his son Ḥusayn possessed, according to the Shiites, several characteristics attributed to Muḥammad, including infallibility. Nevertheless, they neither claimed to be prophets, nor were they regarded as such.

Fromm's very broad definition of 'prophet' – essentially, the prophet is one who advances and embodies universal values and ideas – appears to be a result of his aim to speak normatively or inspirationally, rather than analytically. Fromm's prophet figure, in other words, is part of his lifelong project of humanistic social commentary. His picture of the prophet is not at all *Wertfrei*. Byrd's attempt to incorporate Fromm consequently compels him to paint an idealized picture of the Prophet Muḥammad as social revolutionary and, more problematically, to depict Ayatollah Khomeini in the same way. It must surely also be obvious that Khomeini was a *priest*, whose whole political theory, moreover, was aimed at firmly establishing and institutionalizing priestly rule.

Having treated prophetic charisma, I will now go on to its routinization. Again, I believe that Weber's theory serves quite well for Shiism, testifying to the strength of the theory itself. According to Weber's analysis, prophetic charisma, as the pure form of charisma, needs to be "routinized" and "become radically changed."²⁸ Accordingly, Muḥammad's charisma after his death is routinized, from the point of view of Sunnism, into the office of the caliphate, in which "designation of a successor by the charismatically qualified administrative staff and his recognition by the community" is legitimized.²⁹ An additional clause from Weber particularly fits the Shiite perception of transition of prophetic authority. Weber refers to "designation on the part of the original charismatic leader of his own successor and his recognition on the part of the followers."³⁰ This nicely describes the Shiite view that the crisis of leadership that arose at the

²⁸ Max Weber, *Economy and Society*, Vol. 1, 246.

²⁹ *Economy and Society*, Vol. 1, 247.

³⁰ *Economy and Society*, Vol. 1, 247.

Prophet's death was resolved in the designation of 'Alī. 'Alī's designation represents the routinization described by Weber in which the successor "no longer rules by virtue of purely personal qualities, but by virtue of acquired or inherited qualities."³¹ The Imams are actually called the "heirs" (*wārithūn*) of the Prophet; they inherit their extraordinary Knowledge (*ilm*) ultimately from him, and other qualities flow to them through the blood. Crucially, organization of authority in the Shiite view becomes permanent in the office of the Imamate, the power and authority of which is believed to endure to the end of time. This development also matches Weber's account of routinization in which the circle around the ruler is comprised of officials dependent upon him and "the staff supporting the charismatic ruler becomes routinized."³² The economic and legal systems described below in this chapter richly testify to such a circumstance.

Dabashi asserts that Weber's theory of routinization does not work for Shiism, since, he says, the Prophet's charisma is actually continued in the Imams to the end of time. According to Dabashi:

The particular nature of 'Alī's designation" necessitated a significant clause in the Weberian stipulation of the "routinization" of charismatic authority. If "routinization" refers to "the charismatic authority to become radically changed", then the continuation of authority from Muḥammad to 'Alī and the subsequent institutionalization of the imamate (the legitimate leadership of Ali and his male descendants) cannot be considered as the "routinization" of charisma, a situation in which the social relationships are not "strictly personal, based on the validity and practice of charismatic personal qualities".³³

Dabashi's answer to this apparent problem is to assert that Muḥammad's charisma continued in 'Alī. Thus he speaks of a "perpetuation" of charisma through which "the original

³¹ Gerth and Mills, *From Max Weber*, 297.

³² Gerth and Mills, *From Max Weber*, 297.

³³ Hamid Dabashi, *Authority in Islam: From the Rise of Muhammad to the Establishment of the Umayyads* (New Brunswick (U.S.A; London (U.K.): Transaction Publishers, 1989), 100. The quotation marks indicate citations from Weber.

source that was believed to have legitimated Muḥammad’s authority [i.e., God] now, through him, established and legitimated ‘Alī’s authority.”³⁴ Dabashi goes on to explain that the death of Muḥammad “in the larger metaphysical context... is considered as an inevitable phase, inevitable because of the natural laws established by the source of the Prophet’s charismatic authority [again, God], which does not alter, qualitatively, the nature of authority to be transferred to his successor.”³⁵ According to Dabashi, Muḥammad’s authority, which was both this-worldly and other-worldly, tells us that the title “Successor to the Prophet” [*khalīfat rasūl Allāh*] used to refer to the Imams indicates a “persistent continuation of his charismatic authority.”³⁶

Dabashi cites Shiite doctrine in which ‘Alī’s qualities are the same as or close to those of the Prophet. For instance, ‘Alī is a member of the same bloodline, he is infallible, he possesses extraordinary knowledge, and so on.³⁷ In trying to place ‘Alī in the same rank as the Prophet,

³⁴ Dabashi, *Authority in Islam*, 100.

³⁵ Dabashi, *Authority in Islam*, 100.

³⁶ Dabashi, *Authority in Islam*, 101.

³⁷ Dabashi, *Authority in Islam*, 102-110. In order to do justice to Dabashi’s point of view it is necessary to cite the list of parallel qualities in full:

The charismatic nature of ‘Alī’s authority for the Shi’ites can be verified further by considering the particular characteristics attributed to him by his pious followers: (1) the lineage of ‘Alī, who had close family ties to the Prophet; (2) the birth of ‘Alī inside Ka’bah, the holiest shrine of Islam; (3) ‘Alī’s childhood, spent under the protective care of Muhammad; (4) ‘Alī’s marriage, to the Prophet’s daughter, Fatimah; (5) the Qur’anic references to ‘Alī—the Shi’ites believe that verses such as II:255 refer to ‘Alī; (6) ‘Alī’s membership in ahl al-bayt, which, according to Qur’anic verses III:61 and XLII:23, among others, is infallible; (7) ‘Alī as guide (hadi) to his people, from Qur’anic verse XIII:7; (8) ‘Alī as the leader (Imam) of his people, from Qur’anic verse XXXVI:12; (9) ‘Alī as the most knowledgeable Muslim, from Qur’anic verse XIII:43; (10) ‘Alī as the most virtuous person, from Qur’anic verse LXVI:4; (11) ‘Alī as the foremost amongst the truthful, from Qur’anic verse IX:119; (12) ‘Alī as a charitable Muslim, from Qur’anic verse V:55; (13) ‘Alī’s bravery in the battles of Badr, Uḥud, Khaybar, the siege of Khandaq, and other battles; (14) ‘Alī merits according to many Shi’ite-accepted prophetic traditions, among them "I and ‘Alī are

Dabashi actually goes beyond traditional Twelver Uṣūlī Shiite thought, which is careful to attribute to the Imams less direct contact with God than the prophets, by adding observations of his own, remarking that, although ‘Alī was not considered a prophet and did not introduce a new religion, “the source of his authority, which defined and constituted its nature as charismatic, *was Allah*, through the medium of His Prophet” [emphasis added]³⁸ (whereas the source of the Imams’ charisma according to Twelver Shiites is the Prophet, and never God, even through the Prophet’s “medium”).

Dabashi’s views are open to criticism on three grounds. First, he takes power to be equal to charisma. He argues that since the Prophet held absolute power, the same absolute power held by the Imams, even in theory - for none of the Imams actually ruled, save ‘Alī during his short and contested reign - amounts to perpetuation of Muḥammad’s charismatic authority in the imamate. The crucial point, however, is not the level of power or authority transferred from the pure charismatic figure to his successor, but rather the perception by the followers of the charismatic individual of his or her personality. Though it is true that Twelver Shiites attribute absolute political and religious authority to their Imams, they nevertheless place them (unlike some groups of the Shiite so-called Ghulāt or “Exaggerators”) in a lower position than the Prophet.³⁹ The central quality or event from which prophetic charisma flows is revelation, which was never claimed for the Shiite Imams, at least in the form attributed to Muḥammad. Thus Muḥammad’s charisma remains exceptional and unrepeatable.

Second, for the early Shiites, the Imams were regarded as successors to the Prophet and interpreters of the Islam brought by Muḥammad. As Turner rightly says, after the Prophet, Islam “came to be constituted around the law, the book and the prophet.”⁴⁰ The situation of the Shiite

from one and the same light"; "O ‘Alī your flesh is my flesh, your blood is my blood, your self is my self, and your soul is my soul"; "Verily, ‘Alī is from me and I am from him and he is the ruler of all the faithful"; "O ‘Alī, your relationship to me is similar to the one that existed between Moses and Aaron"; "I am the city of knowledge and ‘Alī is its gate" (*Authority in Islam*, 111-112).

³⁸ Dabashi, *Authority in Islam*, 103.

³⁹ This is not, of course, the case in the so-called Extremist groups such as the Nuṣarīs and Druze.

⁴⁰ Bryan S. Turner, “Revisiting Weber and Islam,” *British Journal of Sociology* (2010): 163.

community was no different; the Imams became the lawgivers by virtue of being incorporated into the prophetic Sunnah (life-pattern of the Prophet), and certainly not because they brought a new law or new book. As interpreters of the Book and prophetic Sunnah, the Imams do not enjoy the same status as the Prophet. This is underlined by the rule that when there is a conflict between two *ḥadīths* or *sunnahs*, one from Muḥammad and another from an Imam, the Prophet's dictum or behavior is preferred. Moreover, the Imams are represented as mostly referring their dicta to the Prophet.⁴¹ Thus, contrary to Dabashi's argument, the succession of the Imams to the Prophet does exhibit the Weberian characteristic of routinization in which "the charismatic message inevitably becomes dogma, doctrine, theory, règlement, law or petrified tradition."⁴²

Third and finally, Dabashi's argument that the charisma of the Prophet was not routinized in the office of imamate is belied by the economic arrangements connected with it. According to Weber, for charisma to be routinized, "it is necessary that its anti-economic character should be altered."⁴³ Economics is central to Weber's theory, as he says:

⁴¹ The Quran is the main source of authentication of Traditions of the Prophet or Imams. The Prophet and Shiite Imams order their followers to refer Traditions to the Quran and to take what is in accord with it, and to reject what is not; see Kulaynī, *al-Kāfī*, 8 vols. , edited by 'Alī Akbar al-Ghaffārī, vol. I (Tehran: Dār al-Kutub al-Islāmīyah, 1363 [1984]), 8; al-Ḥurr al-'Āmilī, *Wasā'il al-Shī'ah*, 20 vols, ed. 'Abū al-Ḥasan al-Sha'rānī and Muḥammad Rāzī, vol. 18 (Beirut: Dār Iḥyā' al-Turāth al-'Arabī), 78-79; Muḥammad Kāzīm Khurāsānī, *Kifāyat al-uṣūl* (Beirut: Mu'assasat Āl al-Bayt li-Iḥyā' al-Turāth, 1411/1990), 444. Ja'far al-Ṣādiq says to his followers that whenever they find a Tradition supported by the Quran or the Prophet's sayings, they can follow it; see Aḥmad ibn Muḥammad ibn Khālid al-Barqī, *al-Maḥāsin*, ed. Sayyid Jalāl al-Dīn al-Ḥusaynī, vol. 1 (Tehran: Dār al-Kutub al-Islāmīyah, 1330/1951), 225; al-Ḥurr al-'Āmilī, *Wasā'il al-Shī'ah*, vol. 18, 78. The Imams' Traditions are clearly subordinate to those of the Prophet since the latter are used as a criterion of authenticity, so that there are many cases in which the Imams fortify their responsa by referring to the Prophet; see for instance Muḥammad ibn al-Ḥasan al-Ṭūsī, *al-Istibṣār fi-mā ikhtalafa min al-akhbār*, 4 vols. (Najaf: Dār al-Kutub al-Islāmīyah, 1375/1955), 30, 52, 55, 58, 63, 66-8, 154, 170, 185, 196, 203, 211, 259.

⁴² Weber, *Economy and Society*, vol. 2, 1122.

⁴³ Weber, *Economy and Society*, vol. 2, 251.

The process of routinization of charisma is in very important respects identical with adaptation to the conditions of the economy, since this is the principal continually operating force in everyday life. Economic conditions in this connection play a leading role and do not constitute merely a dependent variable. To a very large extent the transition to hereditary charisma or the charisma of office serves as a means of legitimizing existing or recently acquired powers of control over economic goods.⁴⁴

For Weber, what he calls “pure charisma” is foreign specifically to economic considerations. Wherever it appears, it constitutes a "call" in the most emphatic sense of the word, a "mission" or a "spiritual duty." Thus the “pure type” certainly “disdains and repudiates economic exploitation of the gifts of grace as a source of income” even if that “often remains more an ideal than a fact.”⁴⁵ This is true for the time of Muḥammad, in which the “typical form of charismatic provision for needs”⁴⁶ was booty, a sporadic source of income not amounting to an organized and rationalized system.

Because of the importance of economics to Weber’s thought and the abundance of data in the sources, I will devote several pages to the topic here, particularly in connection with *khums*, the “one fifth-tax” mentioned in Quran 8:41 which Shiites (different, obviously, from Sunnites) interpret as a kind of income tax to be turned over to the Prophet and subsequently to his descendants the Imams.

There is no evidence to indicate that the first through fifth Imams received *khums*. Modarressi finds that the sixth Imam Ja‘far al-Ṣādiq was the first to be regularly funded by his followers, though this was still in the form of voluntary donations and gifts and not systematic. Nevertheless, at least two reports handed down in the sources have the Abbasid caliph Manṣūr reproach Ja‘far al-Ṣādiq for receiving obligatory alms and *kharāj*, i.e., land taxes. That Ja‘far was

⁴⁴ Weber, *Economy and Society*, vol. 2, 254.

⁴⁵ *Economy and Society*, vol. 2, 254. For Weber, economic factors “predominantly determine the routinization of charisma” due to “the need of social strata, privileged through existing political, social, and economic orders, to have their social and economic positions legitimized” (Gerth and Mills, *From Max Weber*, 262).

⁴⁶ Gerth and Mills, *From Max Weber: Essays in Sociology*, 245.

suspected of usurping the authority of the ruler by setting up financial arrangements suggests some degree of systemization. According to Modarressi, the seventh Twelver Imam, Mūsā al-Kāzīm, subsequently proceeded to establish an actual system in which the Imams' agents (*wukalā'*, sing. *wakīl*) collected religious funds, the network of agents having "already grown into an elaborate and well-organized institution by the middle of the third/ninth century". The system was methodical and extensive, to the point that:

Mūsā's representatives served in all the major Shiite communities in Egypt, Kūfa, Baghdad, Medina, and elsewhere. At the time of his death, Mūsā's agents had large sums for him in their possession, from ten to thirty and even seventy thousand *dīnārs*. These funds came from a variety of levies, including the *zakāt*.⁴⁷

The financial system continued to develop and grow through the time of the eleventh Imam, with envoys being periodically sent out especially for the purpose of collecting taxes. Letters were also sent underlining the duty of payment - even equating non-payment to unbelief - and urging the faithful to remit funds due. It appears that, with the addition of the *khums* tax in particular, the amounts gathered grew considerably.⁴⁸

The shift from an 'anti-economic' position or one indifferent to economy to a pro-economic stance continued during the Lesser Occultation. In fact, the four agents of the Imam during the Lesser Occultation functioned primarily in an economic capacity, as Modarressi points out:

‘Uthmān b. Sa‘īd al-‘Amrī served as a financial agent first to Imam ‘Alī al-Hādī (apparently from the time of the Imam's removal to Sāmarrā’) and then as the principal financial aide to Imam Ḥasan al-‘Askarī during whose time ‘Uthmān was in full control of the office. ‘Uthmān outlived both of his masters and remained head of

⁴⁷Hossein Modarressi, *Crisis and Consolidation in the Formative Period of Shi‘ite Islam: Abū Ja‘far ibn Qiba al-Rāzī and his Contribution to Imamite Shi‘ite Thought* (Princeton: The Darwin Press, 1993), 13-14.

⁴⁸ Modarressi, *Crisis and Consolidation* 14.

the imamate administration after the death of Ḥasan al-‘Askarī, continuing to receive religious funds on behalf of his son who had passed into occultation beyond the reach of ordinary Shiisms. Upon ‘Uthmān’s death, his position was assumed by his son, Muḥammad b. ‘Uthmān, and then by two others.⁴⁹

Thus, to summarize, two major shifts occurred in the time of the Imams in regard to the *khums* tax, both of which were prompted by new circumstances in which the Shiite community found itself. First, in the first half of third/ninth century during the time of the ninth and tenth Imams, the sphere of *khums* was expanded from booty to the general income of community members. The interpretation of Quran 8:41 mentioned above expresses that development, which is understandable in view of the need to consolidate a community deprived of political power and economic privileges, e.g. the possibility to collect booty. The second shift concerns the notion that economic prerogatives, primarily the *khums*, were hereditary. The one-fifth booty that had belonged to the Prophet and his family now accrued to each Imam as he succeeded the one before. Exactly as Weber says, economic prerogatives belonging to the charismatic leader “become patrimonial in nature” after his death.⁵⁰ The firm establishment of *khums* as a hereditary right is confirmed in numerous texts, such as the following statement attributed to the eighth Imam ‘Alī ibn Mūsā al-Riḍā:

The *khums* helps us with our religion, to meet the expenses of our family, support our followers, and maintain our respect in front of those whose power we fear. Do not refrain, as far as you are able, from paying us the *khums*. Do not deprive yourselves of our prayers, for paying the *khums* increases your sustenance, purifies you from sin, and prepares you for unexpected days of hardship. A [true] Muslim is not one who promises with his tongue but opposes in his heart!⁵¹

⁴⁹ Modarressi, *Crisis and Consolidation*, 17-18.

⁵⁰ Gerth and Milles, *From Max Weber*, 297.

⁵¹ Kulaynī, *al-Kāfī*, vol. 1, 548; for a similar statement from the eighth Imam, see Ṭusī, *al-Istibṣār*, 60.

Both the patrimonial nature of the Imams' economic prerogatives and magnitude of this change in economics can be judged by objections raised by persons outside the Imāmī Shiite community. A Zaydī author contemporary to the Imam 'Alī al-Hādī, criticizes him for levying the *khums* on the general income of all Shiites, appointing representatives to collect funds, and, he claims, using the money for personal needs rather than giving it to the poor.⁵² This critique demonstrates how influential and central economics had become for the office of the imamate, while it was a marginal issue during the period of pure charisma, i.e., that of Muḥammad, and even in the time of the first five Imams. Both the fifth Imam Muḥammad al-Bāqir⁵³ and ninth Imam al-Jawād⁵⁴ call *khums* their own "right" (*ḥaqq*), a tendency that began with the fifth Imam and continued thereafter. After more than a thousand years of Occultation, pious Shiites still remit fifty percent of their *khums* to the notables (*sādāt*, i.e., sayyids) who claim to be the descendants of Muḥammad.

The two shifts described above represent nothing other than the routinization and transformation of prophetic charisma into the office of the imamate, conclusively disproving, in my view, Dabashi's argument that prophetic charisma continues essentially unaltered in the line of the Imams. If the Shiites had not been prevented by having to operate as a marginalized group from building an economic system as the Sunni caliphs did, the office of Imamate might have become even more systematized and extensively staffed.

Imamic charisma

The basic point I wish to make in this section is that the charisma of the Imams is derivative of the charisma of the Prophet. It represents, in other words, a routinization.

⁵² Modarressi, *Crisis and Consolidation*, 16. A Ḥanafite scholar, Abū al-'Abbās al-Ṣāghānī, who met Ibn Junayd in Nisabūr in 340/951, claimed that the Shiites of the city gave him a great deal of money (*mālan kathīran*) to deliver to their Imam, whom they believed to be still alive, living in an area of Ḥijāz. According to al-Ṣāghānī, Ibn Junayd told the Shiites that he was in contact with the Imam through correspondence (*mukātabah*); see Muḥammad ibn Muḥammad ibn Nu'mān al-Mufīd, *Al-Masā'il al-Ṣāghānīyah*, ed. al-Sayyid Muḥammad a-Qāḍī (Qum: al-Mu'tamar al-'Ālamī li-Alfiyat al-Shaykh Mufid, 1413/1993), 12-13, 56.

⁵³ Kulaynī, *al-Kāfi*, vol. 8, 285-286.

⁵⁴ Kulaynī, *al-Kāfi*, vol. 7, 36.

In Shiism, there are two sources for the charisma of the Imam: hereditary and acquired. In Weber's theory, the acquired aspect of the routinized charisma loses its place in favor of the office or the hereditary aspect. What I propose instead is a *combination of charisma of office and personal qualities*. I argue that charisma of office, though the main source of juristical charisma, is not the final cause of being an influential religious leader. In what we may call the "maximalist" view of the Imams (different degrees of charisma being attributed to the Imams by different Shiite scholars), the inherited and inheritable charismatic qualities of the Imam include blood, a supernatural constitution, God-given knowledge (*'ilm ladunī*), the ability to work miracles, and appointment. Acquired charisma, on the other hand, involves individual qualities, which are not conferred but acquired and exhibited over time. 'Alī ibn Abī Ṭālib, for instance, had charisma through standing bravely against injustice and ministering to the poor – qualities not possessed or featured in the personalities of any of the other Imams.

In regard to charisma of office, the Imam's charisma, contrary to that of the Prophet, is not of a pure type, because he acts according to the vision God revealed to Muḥammad. To legitimize his rulings, the Imams need to refer to the Prophet, making them only interpreters (even if the "only true" ones) of Muḥammad's legacy. The juristic literature says clearly that the Imam is the *mufassir* (interpreter). This does not mean, however, that the Imam's charisma is *completely* different from that of the Prophet, for it represents its routinized and institutionalized form, which "like its genuine antecedent, remains something extraordinary and inaccessible to most people".⁵⁵ As Weber says, "after its routinization its very quality as an extraordinary, supernatural and divine force makes it a suitable source of legitimate authority for the successors of the charismatic hero; moreover, in this form it is advantageous to all those whose power and property are guaranteed by this authority, that is, dependent upon its perpetuation."⁵⁶

We can now proceed to consider the sources first of the Imams' hereditary charisma (charisma of office), and then their acquired charisma. God-given knowledge is one of the chief hereditary qualities of the Imams, according to Shiite theology. Concerning the sources and nature of the Imam's knowledge, Kohlberg says:

⁵⁵ Ron Van Dooren, *Messengers from the Promised Land: An interactive theory of political charisma* (Leiden: DSWO Press, 1994), 18.

⁵⁶ Weber, *Economy and Society*, Vol. 2, 1146-47

The sources are essentially four, all of a kind denied to ordinary mortals: transmission from the previous Imam, knowledge acquired in hereditary fashion, knowledge acquired from books whose contents are known only to the Imams, and knowledge acquired through direct contact with an angel. This last manner of transmission is often referred to as ‘inspiration’ (*ilhām*), and its recipient is described as a *mufahham* or *muḥaddath* (one addressed by a divine messenger). Unlike a Prophet, the Imam does not see the messenger, but only hears his voice in a dream... Views concerning the nature and scope of the Imam’s knowledge range from the minimalist position, according to which the Imam’s *‘ilm* is largely confined to a superior knowledge of the law (*al-ḥalāl wa’l-ḥarām*), to the popular conception of the Imam as partaking of many of the divine mysteries (*ghayb*), such as knowledge of all languages (including those of animals and plants), future events, and the innermost thoughts of other persons.⁵⁷

Kohlberg notes the extraordinary nature of the Imam’s knowledge, referring to Muḥammad Ibn ‘Alī Ibn Bābawayh (d. 381/991), who is the main representative of the maximalist position. This position maintains that the Prophet granted supernatural knowledge to the Imam.⁵⁸ Kohlberg also, however, points out the clear difference, according to Shiite doctrine, between the Imam’s knowledge and that of the Prophet. Thus it is clear that even the maximalist position as reflected in the work of Ibn Bābawayh envisions transmission of prophetic charisma to the Imam not in the sense of its perpetuation, but rather routinization. The main reason for this, as I have explained, is that the Imam is dependent on the Prophet, while the Prophet is subordinate to no one. The pure charisma of the Prophet is clearly highlighted in the notion that he and he alone is able to see and talk to the angel (i.e., only the Prophet receives revelation in

⁵⁷ Etan Kohlberg, “Imam and Community in the Pre-Ghayba Period,” in *Authority and Political Culture in Shiism*, ed. Said Amir Arjomand, (Albany: State University of New York Press, 1988), 26.

⁵⁸ Kohlberg, “Imam and Community”, 26-27; Shaykh al-Ṣadūq, *Kitāb al-khiṣāl*, vol. 2 (Qum: Mu’assasat al-Nashr al-Islāmī, 1362/1983), 642-652.

the full sense), while the Imam, though he enjoys some kind of communication with Heaven, is not so able.

Mufīd represents the minimalist position in regard to the Imam's knowledge. The basic position is that, while the Imams' knowledge may be supernatural, that is not obligatory (*wājib*) by reason and analogy, as falsely claimed, he says, by the Banū Nawbakht, Delegators (*mufawwiḍah*) and Exaggerators (*ghulāt*), i.e., different groups of maximizers. At the same time, Mufīd observes that there are traditions from trustworthy sources confirming that the Imams are indeed possessed of supernatural knowledge. Such traditions, he concludes (with some hesitation) bring certitude, which makes their acceptance mandatory. This is the moderate view held by the majority (*jamā'ah*) of Twelver Shiites.⁵⁹

Mufīd takes care to distinguish his position from that of the maximizers also on the issue of the Imams knowing the minds (*damā'ir*) of men and the Unseen (*ghayb*). He reports that the Delegators and Exaggerators believed in these things, along with another very small group of Twelvers who cited rational necessity. Nevertheless, Mufīd acknowledges that the Imams had the ability to read the minds of certain individuals and preview future events before they came into existence. For him, this particular knowledge is not a mandatory [*wājib*] attribute of the Imams or a condition of their Imamate. Rather, the Imams possess that knowledge

...because God honored them and gave them such knowledge to aid [the people] in obeying them and adhering to their imamate. [Our knowledge that] they must have had that comes not through rational necessity, but revelation. As for asserting absolutely that they knew the Unseen (*al-ghaib*), that is an obvious error. No one deserves that qualification except Him who knows things by Himself and not by a knowledge bestowed upon Him. That is God alone.⁶⁰

⁵⁹ Mufīd, *Awa'il*, 67; for a French translation, see Dominique Sourdel, *L'Imāmisme vu par le Cheikh Mufīd* (Paris : Librairie Orientaliste Paul Geuthner, 1974), 62; also see Martin McDermott, *The Theology of Al-Shaikh Mufīd (d. 413/1022)* (Beyrouth: Dar el-Machreq, 1978), 105-110.

⁶⁰ *The Theology of Al-Shaikh Mufīd (d. 413/1022)*, 108.

The ability to work miracles is another hereditary attribute of the Imams discussed by Mufīd. He takes the same minimalist approach seen above in regard to knowledge, saying:

As for their performing miracles and receiving signs, it is possible but not necessary from reason, nor is it impossible from analogy. Mutually confirmatory and widespread traditions have come down to this effect. I hold it on the basis of revelation and the truth of traditions. With me in this are the majority of the Imamites.⁶¹

Again, the maximalists on the issue of miracles are those who considered it rationally necessary, such as (Mufīd says) the Nawbakhtīs.⁶²

Thus we see that although Mufīd was a minimalist, he like other Shiite scholars strives to ascribe ever more qualities to the Imams. He describes them as the successors to the prophets in enforcing judgments, executing legal penalties, safeguarding the law, and educating humankind. Like the prophets, they are infallible; they do not commit even venial sins (except in cases where this would be possible for prophets) and they are protected from error in relation to religion and ordinances. “Nor can they be negligent in anything pertaining to religious duty. Nor can they forget any of the rules of the Law”.⁶³ It seems that, with the exception of receiving revelation, the Imams in regard to their hereditary qualities are quite like the prophets.⁶⁴

It is important to note that none of the supernatural qualities discussed by Mufīd and other Shiite scholars is acquired. They are rather conferred by God through being passed down from the Prophet through his blood. To be an Imam, the recognition of the preceding Imam (or in the case of ‘Alī Ibn Abī Ṭālib, the Prophet) is also necessary. These inherited qualities, i.e., office of charisma, take first place in the imamate. It is these qualities that make the Imams – even in the

⁶¹ Mufīd, *Awā’il*, 68-69. English translation quoted from McDermott, *Theology*, 112.

⁶² Mufīd, *Awā’il*, 68-69. English translation quoted from McDermott, *Theology*, 112.

⁶³ English translation quoted from McDermott, *Theology*, 107; see Mufīd, *Awā’il*, 65.

⁶⁴ Mufīd, *Awā’il*, 65. This view of the Imams is both religious and this-worldly, completely agreeing with Mufīd’s description of them in his *Muqni’ah*, where he calls them “*sultān* of Islam, appointed by God to guide and lead the people” (*al-Muqni’ah* [Qum: Mu’assasat al-Nashr al-Islāmī, 1410 [1991]], 809-810).

minimalist view, as we seen – supernatural figures whom believers must obey whether they “stand or sit”. “Stand or sit” (*qāma aw qa ‘ada*) is a phase in a tradition from the Prophet referring to Ḥasan, who “sat” rather than rising up, and Ḥusayn, who, in contrast, stood against the powers of his time. Ḥasan and Ḥusayn had entirely different acquired personal qualities, but they were both Imams just the same by virtue of inheritance.

Thus we see that, while personal charisma springing from the acquired qualities of the Imams such as bravery, resistance against injustice, aiding the poor, and so on has been very significant, these are not relevant to the doctrine of the Imamate, i.e., to formal theology. The Imam is an Imam by virtue of the inherited, supernatural qualities enumerated above; that ‘Alī is just or Ḥusayn is revolutionary is not material to their holding the office of Imamate. In practice, however, personal, acquired, qualities make them more charismatic in the eyes of their followers. After more than thirteen centuries, Twelver Shiites still commemorate Ḥusayn’s brave actions at Karbala. Popular focus on this event is, in fact, increasing even in our day. This is evidently not the case for other Imams who did not perform exceptional acts; yet they are still Imams, without doubt or contest, by virtue of office charisma.

Mufīd differs from the majority of Shiite theologians in specifically acknowledging personal, acquired qualities. He describes the Imamate as a favor from God (*tafaḍḍul, lutf*) given to the person whose qualities God knows and who deserves to be honored, revered, and obeyed by the people because of his determination to perform the duties given him by God.⁶⁵ Mufīd thus connects the Imam’s actions in following God’s commands with the respect and obedience he receives from his followers, which would appear to make the Imams somewhat unequal, since, for instance, ‘Alī and Ḥusayn did not compromise in the face of unjust authority, while Ḥasan, as is well known, made peace with the Umayyad caliph, Mu‘āwiyah. The dominant scholarly opinion, in contrast, holds that ‘Alī and two his sons, Ḥasan and Ḥusayn – as well as the subsequent Imams – are all equal.

I will now turn to the analysis of the prominent German scholar of Shiism, Heinz Halm. Halm counts the Imams’ knowledge (*‘ilm*) as the prime source of their charisma. Contrary, he

⁶⁵ Mufīd, *al-Muqni‘ah*, 64; also see Sourdel, *L’Imāmisme*, 62.

says, to prophetic charisma, the charisma of the Imams resides not in their genes, but their *'ilm*.⁶⁶ Now, there is no doubt that knowledge or *'ilm* is a very important quality of the Imam. It is not, however, the only source of their charisma. More to the point for my argument here, Imamic *'ilm* is clearly heritable, that is, it is part of the charisma of office rather than a personal quality as Halm seems to say. In fact, as we saw in Mufid's remarks, the Imams' charisma overall has a genetic or genealogical aspect, i.e., they must be from Muḥammad's family. So the genealogical aspect is part of the Imams' charisma, contrary to Halm. The jurists also claim that they are the "heirs" of the Imams' knowledge during the Occultation. This is clearly a case not of pure but hereditary charisma. We return to Weber, who says:

In the case of hereditary charisma, recognition is no longer paid to the charismatic qualities of the individual, but to the legitimacy of the position he has acquired by hereditary succession. This may lead in the direction either of traditionalization or of legalization. The concept of divine right is fundamentally altered and now comes to mean authority by virtue of a personal right which is not dependent on the recognition of those subject to authority. Personal charisma may be totally absent.⁶⁷

Weber's view of hereditary charisma and its turning to a "personal right" gives a much better account of the charisma of the Shiite Imams than Halm does; notice how even Mufid, despite also discussing individual deeds, essentially characterizes the Imams' extraordinary qualities as hereditary and conferred through God's favor. Weber's theory matches the fact of the Imams' charisma being hereditary, i.e., attributable to their kinship with the Prophet, as he says: "the belief in the charismatic qualification of the charismatic leader's sib can lead to a belief in hereditary charisma".⁶⁸

⁶⁶ Heinz Halm, "Das Charisma der Imame," in *Das Charisma: Funktionen und symbolische Repräsentationen*, ed. Pavlína Rychterová, Stefan Seit und Raphaela Veit, et al (Berline: Akademie, 2008), 451.

⁶⁷ Weber, *Economy and Society*, Vol.I, 248.

⁶⁸ Gerth and Mills, *From Max Weber*, 297.

Halm emphasizes the stability and continuity of the Imams' charisma, though he confines it to their knowledge, even when they are not present. The genius of Twelver Shiite teachings, according to Halm, is that only fourteen figures (the Prophet, Imams, and Fāṭimah) are infallible, thirteen of which are deceased, and one of whom is inaccessible. This means that no living person can arrogate their authority to himself. It is also the basis for a paradox: the charismatic leader may be considered to be present, but is at the same time not present.⁶⁹ Halm further observes that the charisma of the Imam is not missing because of their absence; it is present not only in their sayings in the four books, but also at their tomb-shrines."⁷⁰ All this is basically correct, but Halm's error, in my view, is that he tends to view all Imamic charisma as personal alone. Personal qualities give the Imams increased standing in the eyes of their followers, but the chief source is still office charisma. Pilgrimage to the tombs of 'Alī, Ḥusayn, and Riḍā, for example, attracts millions of the faithful because of their personal qualities; but from the point of theology, they are equal to the Imams whose tombs are not usually the goal of pilgrims. Note well that Ḥusayn and 'Alī, whatever their deeds, would not have become the goal of pilgrimage to begin with if they had not been, theologically speaking, Imams.

If it is asked what the Imams actually did as charismatic figures by virtue of office charisma (rather than personal qualities), the answer is that they were lawgivers, something that is extremely important in Islam. They functioned chiefly as interpreters of the Quran and Sunnah. They even became, according to Shiites, part of the Sunnah; that is, their sayings and actions became a source of law like those of the Prophet. (Note here that traditional doctrine stands entirely opposed to Khomeini's statement that the successors of the Prophet were not lawgivers and that their duty was rather to guide the community politically.⁷¹) It is important here to understand that the sayings of the earlier Imams, including even 'Alī, were *not* part of the Sunnah. 'Alī, in fact, is depicted instead as constantly insisting that the Prophet's practice be preserved. The sixth Imam, by contrast, is depicted as issuing his own dicta, which are incorporated in the Shiite books of Traditions. This is evidence of a dynamic in which there is a

⁶⁹ Halm, "Das Charisma der Imame", 452.

⁷⁰ Halm, "Das Charisma der Imame," 454.

⁷¹ KhomeiniRuhollah Khomeini, *Vilāyat-i faqīh: ḥukūmat-i Islāmī* ([Tehran: s.n., 197-?]), 18.

tendency to elaborate office charisma as the time of original, pure charisma becomes more distant. We will see this phenomenon – not addressed by Weber – also in the case of the clerics.

Charisma of the jurist

In the period of the Occultation, the jurists' religious authority is expressed through the theory of Deputyship (sometimes called *niyābah*) of the Imam. By virtue of Deputyship, they fall into a third category of charisma after the Prophet and Imams. Brockopp is thus correct (in my view) to the extent that he recognizes the jurists' charisma as being "derivative".⁷² The theory of Deputyship has been elaborated over the centuries by various scholars, with wide debate about its exact definition and extent. There has been, as I have explained in the Introduction, sharp disagreement in particular between the Uṣūlī and Akhbārī tendencies. The Akhbārīs do not recognize the 'ulamā' as the deputies of the Imam. For Akhbārīs, the idea of jurists' charisma and even a clerical estate is meaningless. For this reason, Akhbārīsm is not relevant to the present work.

Before proceeding to discuss juristic charisma, it is necessary to address Liyakatali Takim's assessment in his *Heirs of the Prophet* of the authority of the scholarly Companions of the Imams who were the forerunners of the Shiite clerics. Takim proposes a refinement of Weber, designed particularly to explain the position of these personalities. He sees prophetic charisma as continuing through to the Imams, who are then envisioned as transferring their authority to the jurists during their lifetimes. The straight continuation of charisma from the Prophet, indisputably the original charismatic figure, to the Imams is itself an innovation in terms of Weber, which Takim, unlike Dabashi, does not address. He does, however, have a great deal to say about transfer of authority to the Companions.

The transfer according to Takim happens in the manner of a precipitate institutionalization. The charisma of the Imams, he says, "was institutionalized during, rather than after" their lifetimes, routinization of their charismatic authority being "interwoven with the

⁷² "For Islamic law, this cycle of derivative charisma includes charismatic individuals (the mujtahid mutlaqs of the past) and a community of followers made up of students who collect and publish the master's work." Jonathan Brockopp, "Theorizing Charismatic Authority in Early Islamic Law," in *Comparative Islamic Studies*, Pennsylvania State University, Dec 2005, Vol. 1 Issue 2:139.

need to provide religious guidance to their followers in far-flung areas.”⁷³ In Takim’s view, “delegation of the Imams’ authority to their close associates” was “an important landmark in Shi‘i intellectual history insofar as it signified a transition from the centralized, universal, charismatic authority of the Imams to a more structured and organized charismatic office of the rijal.” *Rijāl* (literally, “men”) means the Companions of the Imams who transmitted their teachings, and “charismatic office” apparently refers to Weber’s office charisma, involving investment of charisma from the original charismatic figure in an institutionalized position. Takim concludes: “In the process of divesting their authority to their close disciples, the Imams were routinizing their charismatic domination and diffusing their charisma into a nascent, symbiotic structure, one that was dominated by the rijal.”⁷⁴

Two objections may be made to Takim’s formulation. First, the functions of the *rijāl* or scholarly associates of the Imams do not point to a transfer of charisma. In the pre-Occultation period Takim treats, some Shiite scholars worked on behalf of the Imams, mostly by collecting taxes and giving advice on religious issues. They were deployed to remote areas far from the cities where the Imams dwelt such as Khurāsān, Ray, Fārs, and the further parts of Iraq. These scholars did indeed provide religious guidance for members of the community scattered over these territories, as well as working to propagate the doctrine of the Imamate. However, sending envoys to “far-flung” areas in order to “provide religious guidance” is merely to employ someone as a functionary. The Imams’ envoys did not exercise power in their own right, but held it only as their trustees or delegates. Community members heeded the scholars for the sake of the Imams whose teachings and commands they conveyed, and certainly not because of the scholars themselves. The position of the *rijāl* in the Imams’ lifetimes is thus comparable to that of the “delegates” (*wukalā’*, sing. *wakīl*) of a *marji’* in modern times; the *wakīl* has no independent authority and is appointed and dismissed entirely at the pleasure of the *marji’*. Transfer of power and authority from a charismatic leader to his successors requires that the successors exercise power in their own right, something that never happened during the lifetimes of the Shiite Imams. The situation is also comparable to that of the Prophet Muḥammad sending his delegates

⁷³ Liyakatali Takim, *The Heirs of the Prophet: Charisma and Religious Authority in Shi‘ite Islam* (New York: State University of New York Press, 2006), 79.

⁷⁴ Takim, *Heirs of the Prophet*, 80-81.

or functionaries to newly conquered territories. Sending envoys to distant lands does not amount to routinization of the charisma of those who send them, neither according to Weber nor, in fact, Takim himself, who does not explain the case of the Prophet's envoys even though it seems parallel to that of the Companion-scholars in the time of the Imams.

My point is confirmed by comparison of delegation of the Imams' authority during their lifetimes with the principle of appointment (*naṣṣ*) by which the Imams themselves were appointed by the previous Imam. Delegation is different from succession. Delegation took place during the Imams' lifetimes, while succession occurred upon the death of each Imam. Delegation finishes with the death of the delegator or delegate. Efforts made by the *rijāl* to establish Shiite doctrine and promote the Imams' teaching while an Imam is alive are thus quite different from enjoying the personally-owned, durable quality of charisma and charismatic authority. The *rijāl* were instead dependent on and beholden to the Imam living in their times for their authority. They did not occupy their own independent, routinized office. The faithful asked the Companions about the views of the Imams, not their own views, just as Shiites today ask the "delegates" of the *marji'* about the views of the *marji'*, and certainly not about their own views.

Second, Takim's argument that the Imams' charismatic authority was routinized during their lifetimes – that routinization consisted of a process in which charisma was gradually diffused while the Imams were still alive to the nascent charismatic office of their close disciples⁷⁵ – raises questions about the compatibility of two categories of charismatic figures living simultaneously. Takim does not explain this illogical or unusual situation.

My own contention is that Weber's original model, when properly applied, has a great deal of explanatory power for Shiism, including the position of the jurists. The structure of Shiite political theology and history has been formed under the shadow of the two categories of prophethood and Imamate, so that the third category, that is, clerical office, is perceived to be derivative. Muḥammad as a prophet represents, in Weberian terms, the pure type of charismatic figure and event. Prophetic charismatic authority is then transferred into the Imamate, according to Shiite sources. In Weberian terms, this is routinization of pure charisma through succession, or as Weber says: "designation on the part of the original charismatic leader of his own successor

⁷⁵ See Takim, *Heirs of the Prophet*, 86.

and his recognition on the part of the followers.”⁷⁶ Weber’s words here exactly match the Shiite view of the transfer of the Prophet’s authority to ‘Alī. Dabashi and Takim apparently do not want to call this transfer routinization because they are impressed by the great charisma of the Imams; they consequently fail to consider that the charisma is not original, but inherited and derived. They seem to forget that Weber envisioned a continuation of some form of charisma even in the midst of routinization. Pure charisma, in other words, ended with the Prophet, but transmitted elements were redefined in the forms of the Imams’ and jurists’ charisma. One should not be confused or misled, as I believe several of the critics of Weber examined in this dissertation have been, by the endowment of charisma either in the Imams or certain outstanding jurists, including Khomeini. There is no Imamic charisma without the charisma of the Prophet and no charisma of jurists without the Imamic and prophetic charisma before. The matter in essence is as simple as that.

I would, however, like to propose adjustments to the Weberian frame in relation to the authority and charisma of the Shiite jurists in particular, the chief subject of my research. While Weber’s concepts of charismatic authority and its transformation through routinization help (if applied precisely) in understanding the basic position of the Imams and jurists in Twelver Shiism, the peculiar circumstances of the Occultation, in which the Twelfth Imam is considered to be hidden but still living as a human upon the earth, necessitate further reflection. In Shiite theological theory at least, the term “routinization” does not apply to the relation between the Imams and jurists. It is true that during the absence of the Twelfth Imam, the jurists (*fuqahā*, sing. *faqīh*) emerged as a third category of potentially charismatic authority and that they have led the community and functioned as interpreters of religion for more than a millennium of Occultation. Transfer of authority and charisma to the jurists, however, has been only partial, and - as I shall demonstrate in the following chapters - very gradual. This is due not only to the jurists remaining within the prophet-Imam structure described above, but also because of the continued “living” (virtual) presence of the Twelfth Imam. Because of the notion that the Twelfth Imam still lives on this earth, the jurists remained somewhat in the position of the Companions during the other Imams’ lifetimes; i.e., they operated, in theory, as functionaries with delegated tasks. The great difference between the Companions living in the times of the earlier Imams and jurists

⁷⁶ Weber, *Economy and Society*, vol. I, 247.

living during the Occultation is that the Twelfth Imam's temporary absence allowed the latter to play a greater and more independent role. In sum, while the jurists as the dominant educated class certainly played important roles both during the time of the Imams' presence and during the Occultation, they saw themselves and were viewed by the people merely as deputies (sing. *nā'ib*) of the Hidden Imam, who retained both political authority and ultimate religious authority.

Attention also has to be paid in the Shiite case to a distinction between political and religious authority. Both types were united in the persons of the Prophet and Imams, since they were destined to rule the community - the Prophet in fact and the Imams in theory on the model of the Prophet. The jurists, on the other hand, enjoy – in theory – only religious authority. They have limited political authority, or none, since political rule is considered to be in abeyance until the return of the Twelfth Imam. The theory of Shiite political authority, in other words, continues to be structured according to prophethood and Imamate. After the Prophet, it is the Imams who lead the community, until the end of time. Although the last Imam, the Mahdī, has gone into Occultation, he is only temporarily absent and may return at any time to (as it is commonly said) “fill the earth with justice as it has been filled with injustice.” The always present and persistent idea of the Mahdī's return bridges the gap in Imamic political authority caused by the Occultation, leaving (again, in theory) little or no independent political space for the jurists to occupy.

In order to express this essentially subordinate position, the jurists produced the doctrine of Deputyship. Over time, they have developed the doctrine as far as they have been able within its conceptual limits. Through developing Deputyship, the activists among them have aimed both to expand their religious authority and extend it from the purely religious to the political sphere.

My account in this thesis of juristic authority examines these historical developments. It distinguishes between religious and political aspects and examines relations between the two within Shiite history. Through historical contextualization, it will be shown how Mufīd and (contrary to what some scholars assert) also Karakī possessed religious authority only, while Ayatollah Khomeini many centuries later enjoyed both religious and political authority. In fact, Khomeini's political theory of Guardianship of the Jurist actually does not fit the theological prophetic-Imamic structure of authority described above. Guardianship of the Jurist, as I will explain in Chapter Four, is a new and unusual development in Shiism.

I will also argue that, while the pure charisma of Muḥammad with his prophethood as the originating charismatic event and the derivative charisma of the Imams were associated by the charismatic community with supernatural qualities, charisma when it is attributed to the jurists is attached to exceptional but still decidedly human qualities and actions. This is consistent with the jurists being at a further remove from original, prophetic charisma and the flow of charisma being impeded, in effect, by the virtual presence of the Twelfth Imam.

In Shiism, the jurists or *fuqahā'* are charismatic figures, with their charisma springing chiefly from that of the Imam. They possess authority and are followed because they are perceived to be (collectively) the deputy (*nā'ib*) of the Imam. The authority derived from delegation has – as I have stated above - tended to expand over time. It began, as we shall see, as judgeship and became elaborated by the third “moment” of juristic authority I describe in the dissertation to political sovereignty.

Who are these deputies? What charismatic qualities do they possess? How do they gain their position? It will be helpful to know first how they were understood in the early period of the Occultation. Mufīd briefly discusses the agents of the Imam (at this point, they are called *wulāt* and not *nā'ib*) in his treatise *Awā'il al-maqālāt*. Although he does not say who the delegates he describes are, it may be inferred that there are the “specific” (*khāṣṣ*) delegates, meaning the Companions:

The impeccability and infallibility of the Imams' *wulāt* is not necessary [*wājib*], but what is mandatory is their knowledge of that by which they govern and their superiority over their subjects, because it is impossible that those who are inferior command those who are superior [in terms of knowledge, *li-istiḥālat ri'āsat al-mafḍūl 'alā al-fādil*]. In addition, it is not necessary to believe that the *wulāt* are designated in advance, by formal appointment, for instance by *naṣṣ*. Their appointment has been confined to the infallible Imams' choice.⁷⁷

This passage, however brief, is significant in terms of charisma. Infallibility and formal appointment (*naṣṣ*), the qualities that would put the *wulāt* in place of the Imam himself, are

⁷⁷ Mufīd, *Awā'il*, 65.

explicitly denied. The majority of the Imamites rejected those conditions, with the exception of the Banū Nawbakht, who maintained that it was obligatory.⁷⁸

The charisma of the Shiite religious leaders, the jurists, has two sources: knowledge (*'ilm*), which is derived from and approximates the Imam's knowledge, and their own personal qualities. The first represents office charisma, possessed by every well-educated jurist, while the second is personal and consequently varies from one personality to another. Office charisma is always fundamental; that is to say, it is impossible to become a religious leader without it. It does not, however, guarantee the emergence of active charisma. Here we may refer to Weber's statement concerning dormant charisma. Weber explains that:

[I]t is assumed that charismatic powers can be developed only in people or objects in which the germ already existed but would have remained dormant unless evoked by some ascetic or other regimen.⁷⁹

Just so, the qualified jurists overall enjoy charismatic authority because of doctrine, specifically that of deputization; but their charisma is "awakened" only when they are recognized by followers, who heed or, in the case of the highest authorities, "imitate" (*taqlīd*) their views.

Halm disagrees with this. He rejects the notion that persons other than the Imam may have charisma, on the grounds that they are subject to error. According to Halm, belief in existence of a hidden Imam requires someone to stand in his place. If he is not present, someone has to be there to guide society daily. Among the Twelvers of Iraq and Iran, Halm says, the *'ulamā'* occupy this position, and none of them, he insists, are charismatic figures. In Halm's view, they are merely jurists, possessing knowledge acquired in seminaries and issuing fatwas that are liable to error and can be revised. Thus Shiites, as Halm sees it, finally adopted a model of religious authority akin to that of the Sunnites.⁸⁰

I would say in reply first that all Uṣūlīs follow the doctrine of Deputyship, and not only the Twelvers of Iran and Iraq. Second, although the jurists certainly accept that they are subject

⁷⁸ Mufīd, *Awā'il*, 66.

⁷⁹ Weber, *Sociology of Religion*, 2.

⁸⁰Halm, "Das Charisma der Imame, 454.

to error, they as well as their followers hold that they are allowed by the Imam to carry out some of the functions of the latter, or many of them (views on the degree of delegation differing in different times and opinions). Thus, in the eyes of their followers, the jurists in fact are charismatic figures.

At the same time, the clerics' charisma, contrary to that of the Prophet and also in comparison with that of the Imam, is not a pure type, precisely because of its dependence on the two aforementioned. To legitimize his acts, the jurist must refer to the sayings of the Prophet and Imams, so his impact on the charismatic community is not as deep and widespread as that of the Prophet and Imam. As Weber remarks that charisma, in a *Wertfrei* analysis, may be of many kinds,⁸¹ jurists may also be considered charismatic figures as the “greatest heroes, prophets, and saviors” have been. However, for Shiite Muslims the jurist's charisma is never of the same rank as that of the Prophet. The jurists' authority depends on their knowledge and interpretation of the Imams' words. As Calder puts it:

Stress on the uniqueness of the Imam's authority when he is present ensures that in his absence authority depends on correct interpretation of his words (revelation) and so authority is confined, during the Ghayba, to the clerical class: those who extrapolate law from sacred texts. Rule of law replaces the rule of the charismatic leader.

⁸¹ According to Weber, “[I]t will be necessary to treat a variety of different types as being endowed with charisma in this sense. It includes the state of a “berserk” whose spells of maniac passion have, apparently wrongly, sometimes been attributed to the use of drugs..... It includes the “shaman,” the magician who in the pure type has to be subject to epileptoid seizures as a means of falling into trances. Another type is represented by Joseph Smith, the founder of Mormonism, who may have been a very sophisticated swindler (although this cannot be definitely established). Finally, it includes the type of *littérateur*, such as Kurt Eisner, who is overwhelmed by his own demagogic success. Value-free sociological analysis will treat all these on the same level as it does the charisma of men who are the “greatest” heroes, prophets, and saviors according to conventional judgements [sic]” (Weber, *Economy and Society*, 242).

Emphasis on the centrality and superiority of the Imam's rule, when present, gives place, in his absence, to an unranked unhierarchic system.”⁸²

Calder here usefully underlines the fact that the extraction of law from sacred texts in the time of Occultation is carried out by the clerical class and is the main source of their charisma. Other points, however, should be corrected. First, the Imams' words are not considered 'revelation', at least not in the sense used in relation to the Prophet. In addition, the Imam interprets not only the Quran, but also Prophet's Sunnah, which is not revelation. And second, Calder characterizes the Shiite clerical estate as “unhierarchic”, whereas hierarchy and rank among the Twelver Shiite clerics during the Occultation is very evident, even if not as visible as in, say, the Catholic Church. Denying this leads to ignoring the clerics' charisma and its historical development.

Various scholars have asserted that the charisma of the Imams is routinized in the 'ulamā' (an assertion with which I disagree). Rainer Brunner, for instance, comes to this conclusion in analyzing dreams the Shiite scholars have had of the Imams. Visions of the Imams in dreams is a time-honoured phenomenon; the author recounts the dreams of, among others, Muḥammad Amīn al-Astarābādī (1036/1627), Muḥammad Taqī al-Majlisī (1070/1659-60), Muḥammad Bāqir al-Majlisī (1110/1699-70/), Mīrzā Ḥusayn Nūrī Ṭabarsī (1902) and 'Abd Allah al-Māmaqānī (d. 1933), along with the theorist of the Iranian constitutionalist movement, Muḥammad Ḥusayn Nā'īnī (d. 1936).⁸³ The dreamers receive endorsement of their works, assurance of success, and even physical energy to finish writings. To explain the occurrence of such dreams, Brunner relies on the Weberian concept of routinization of charisma, in particular the idea of “charisma as a quality that may be transferred to others or generated as a whole, as a kind of office charisma” (*Amtscharisma*, in Weber's language):

⁸² Norman Calder, “The Structure of Authority in Imamī Shī'ī Jurisprudence” (PhD Diss., SOAS University of London, 1980), 73.

⁸³ Rainer Brunner, “Sleeping Mullahs: dreams and charisma in Shiite Islam,” *Quaderni di Studi Indo-Mediterranei*, Vol. 2 (2009): 289, 296-8.

What is widespread in Western culture in a very formal way as the unction and ordination of priests, or the coronation of kings, finds a much more informal counterpart in Shiism in the form of a constant and close contact between the Imams and the scholars, the latter thereby assuming more and more traits of the former. The message to the believers is unequivocal: there is no salvation without recourse to the scholars who are the gatekeepers of the Imams. This is also the idea behind the vast amount of dreams in which visiting the tombs of the Imams – Najaf and Karbalā first and foremost – is strongly recommended. This inevitably puts the believers in contact with the learned class of the scholars, which certainly also from an economical point of view was not without beneficial consequences for the ‘ulamā’. At any rate one understands one of the reasons why such a firm hierocracy managed to take root in Shiism – the dreams narratives [sic] are a popular subtext to the well-known legal evolution within Shiism, which put the scholars more and more in the place of the Imams.⁸⁴

Though Brunner’s work on dreams is informative, his analysis in terms of charisma may be challenged from several angles. First, the scholars who had dreams of the Imams are mostly of the Akhbārī tendency, Nā’īnī being the sole exception in the list given above. As already noted, Akhbārīs do not believe that the charisma of the Imams accrues to the scholars, which is why they do not support the idea of Deputyship. It was the Uṣūlīs who conceived and developed the doctrine of delegation of authority by the Imam to the jurists, making adducing the dreams of Akhbārī “sleeping Mullās” as evidence of routinization of charisma highly questionable. The ‘ulamā’ in Akhbārī thought are not the Imams’ deputies, and are therefore not in a position to receive their charisma. Second, it is not only the ‘ulamā’ (or at least not only the higher members of the hierarchy, i.e., those who may possess charisma) who dream of the Imams. Many others have claimed to have this experience. Third, as already noted above in my critique of Dabashi (as well as Takim), the idea that the Imams’ charisma is routinized in the ‘ulamā’ contradicts traditional understandings of the Imamate. In Shiism, the Imams lead the community after the Prophet, both in theory and in practice (even though the praxis was realized only for a short time

⁸⁴ Rainer Brunner, “Sleeping Mullahs”, 299-300.

during the caliphate of ‘Alī). Routinization in the office of the jurists would put an end to Imamic charisma, which would not make sense as this would challenge the Mahdī’s authority when he returns to claim restoration of the second category of charisma.

Clerical charisma is different from that of the Imams. According to the Uṣūlī school, the leading Shiite clerics are the heirs of the Imams in terms of their knowledge, a knowledge that serves to maintain the charismatic potential of the clerical estate overall. Clerical charisma also springs to a very small extent from blood, since some clerics claim to be descendants of the Prophet (although having the status of a “sayyid” does not in the final analysis significantly contribute to the possibility of rising in the clerical hierarchy). Thus, in marked contrast to the charisma of the Imams which is hereditary and has a supernatural character, the charisma of the clerics emerges from or is activated by the actions of the charisma holder. The jurists actually make their own charisma, by producing theories, as Khomeini did with his “Guardianship of the Jurist”, and by acting upon those theories.

The clerics also gather charisma through being acclaimed by their followers. This takes place chiefly through those followers’ acknowledgement of a cleric’s personal qualities exercised in the political sphere.⁸⁵ Weber does not, unfortunately, pay much attention to the role of followers in expanding the charisma of charismatic figures. In Weber’s theory, the source of charisma seems static. The political scientist Ron Van Dooren and the sociologist of religion Frederick Bird are helpful here. In his *Messengers from the Promised Land: An Interactive Theory of Political Charisma*, Van Dooren describes charisma as a “specific kind of personal political leadership” which is particularly relevant to “social levels of analysis”,⁸⁶ since in the political sphere in particular, “what matters is not what qualities the leader ‘really’ possesses, but what qualities he is believed to possess”.⁸⁷ This, as we shall see, is particularly helpful in explaining the charisma of Khomeini.

As for Bird, his research on religious leadership focuses on characteristics of leaders that allow them to gain and maintain a following and exercise various forms of leadership. Bird

⁸⁵ The initial rank of a cleric and his recognition as a *marji*’ is actually the result of agreement among the highest-ranking clerics. Popular acclaim of a cleric has virtually no impact on this process.

⁸⁶ Van Dooren, *Messengers*, 10.

⁸⁷ Van Dooren, *Messengers*, 14.

develops seven criteria: leadership must be elective, relational, productive, normative, deliberative, administrative, and ceremonial.⁸⁸ His point in general is that leaders are individuals with the ability to gather followers who look to them for inspiration and guidance and finally identify with them. Leaders can turn things around, provide direction and establish a new course of action. If these accomplishments do not continue, they lose their legitimacy.⁸⁹ Bird's view does not fit the Shiite case in one aspect. Shiite leaders, whether they be Imams or jurists, do not lose their legitimacy as soon as they cease to be productive in the sense suggested by Bird. The later Imams are certainly viewed as legitimate, even though they were not active in any conventional sense, and were in fact prisoners of the caliphs. As for the "unproductive" jurist – for example, a *marji'* who is not very active, or a *mujtahid* who does not do anything to become a *marji'* – his leadership is still legitimate by virtue of dormant charisma, even if in practice he loses the power to mobilize his followers. Bird's distinction between religious leaders and administrators or officials is, on the other hand, very useful. Weber speaks of religious and administrative authority together, that is, religious leaders also functioning as administrators. Weber says that the official's authority is not his own. For Bird, officials are those who hold positions within organizations in which they administer, judge, or direct. Obedience to them by the rest of the organization comes only from their legitimate right to manage that association, and not from any personal source. The members of an organization are not regarded as the followers of an administrator, because s/he is not the model to whom they look for inspiration.⁹⁰ As we shall see in the following chapters, there are instances in Shiite history in which clerics functioned in the capacity of officials, rather than religious authorities, so that any authority and following of them in that role actually indicated the authority of the organization, and not independent religious authority with charisma deriving from it.

The way Deputyship is expressed affects the clerics' charisma. Wider, more political interpretations afford more opportunity for charisma. By confining Deputyship to the field of jurisprudence, Mufid gives little chance to the jurist to be a charismatic figure, politically.

⁸⁸ Frederick Bird, "Religious Leadership," *Journal of Religion and Culture*, Vol. 6 (Spring 1992), 6-13.

⁸⁹ Bird, "Religious Leadership," 4-5.

⁹⁰ Bird, "Religious Leadership," 1.

Khomeini's interpretation of Deputyship, since it includes politics, gives much more room for the jurist to be charismatic in the eyes of his followers. Khomeini's interpretation was political to the degree that it overturned previously accepted views. For example, Mufid takes into account *taqiya* (dissimulation of belief, an important Shiite doctrine) in the jurists' issuing of legal opinions and executing punishments, while Khomeini rejects dissimulation. Mufid and Karakī both recognize sovereignty of the *salṭanat*, i.e., temporal power, whereas Khomeini considers temporal power to be non-Islamic and declares that it must be overthrown.⁹¹

The traditional apoliticality of the Shiite jurists, which limits their charisma, is the result of both doctrine and history. Mufid, in an early expression of the doctrine, explicitly excludes political activities from Deputyship. We see that Shiite religious leaders who speak only of the non-political duties of the jurist are nevertheless charismatic, although only through charisma of office (being a *marji'*, for instance), since they do not develop Deputyship in the direction of politics. As for history, the political circumstances in which Shiites have usually lived necessitated avoiding political conflict and politics altogether. With the sphere of Deputyship restricted by circumstances such as these, the Shiite jurists were not involved in the social and political affairs of their followers, as would have been expected of the Imam. Unlike their Sunni counterparts, they did not interpret the law in a political matter or extend it in political directions. They laboured for establishment and not for re-establishment; they were not revolutionaries. Mufid, for instance, was not even a judge. He was merely a leading figure in the Shiite community, a very popular personality among his followers by virtue of being a leading scholar. Since the community in Mufid's time lived as a minority under considerable religious and political pressure, any potential for political charisma was very far from being realizable.

As for charisma derived from acclamation of followers, it must be admitted that historical evidence for interaction of the Shiite religious authorities with their followers is thin. There is not sufficient material to tell us what the community expected from their religious leaders. Nor do we have statements of the authorities themselves on such matters, since, apart from the limitations of being a minority and the doctrine of *taqiya*, working as judge under the temporal authority (which some jurists did) encouraged discretion, as judgeship depended on the pleasure of that authority. Even though there were episodes of religious unrest and violence in Mufid's

⁹¹ Khomeini, *Vilāyat-i faqīh*, 10-11, 34-35.

time and he was even exiled from Baghdad by the Buyids,⁹² there is no evidence that he actually mobilized his followers for political purposes. The political charisma of other prominent Shiite religious authorities in this early period also remained dormant. Mufīd's disciples al-Murtaḍā (d. 436/1044) and al-Ṭūsī (460/1068), who were both prominent religious authorities and community leaders, did not act politically. In fact, they established good relations with the Abbasid caliphs of their time, working for them as functionaries in their non-Shiite political system. Thus we may say that in the first moment of Deputyship, the political charisma of the Shiite jurists was inactive. On the level of theory, they did not produce any writings challenging the dominant Sunnite power or providing support for the Shiite *amīrs* who were looking at that time to establish a Shiite system. And practically, they did not – at least as far as we can tell – politically mobilize their followers or articulate political demands. This is in contrast to the later case of Muḥammad Jamāl al-Dīn al-Makkī al-‘Āmilī, known as al-Shahīd al-Awwal or “The First Martyr” (d. 786/ 1385). Al-Shahīd al-Awwal had political tendencies, writing his famous *Kitāb al-lum‘ah* for the Sarbadārān of Khorasan and later being killed by the Sunnite system. Thus to sum up, Shiite religious authorities in the first moment were religiously but not politically charismatic figures. Their charisma, such as it was, rested rather on a scholarly expertise perceived to be exercised on behalf of the Imam, as well as their social status and actions as individuals.

To say that Shiite religious authorities defined Deputyship apolitically and consequently narrowed their potential for charisma to strictly religious affairs may seem puzzling in the case of Karakī. How can it be that Karakī was less charismatic than, for instance, the outstanding jurisprudent ‘Allāmah al-Ḥillī (d. 726/1325), when he was part of the power structure of the Shiite Safavid state? The answer lies in the type of authority held. Karakī was a state functionary,⁹³ even though he did not (in theory) recognize the state as being “just” (i.e., religiously legitimate), since it did not represent the authority of the Imam.

⁹² The Buyids were a Shiite dynasty but not a Twelver one (as Lambton mistakenly asserts; see Ann K. S. Lambton, “A Nineteenth Century View of Jihād,” in *Studia Islamica*, No. 32 [1970], 182). Their impact on Twelver Shiism was therefore not very significant.

⁹³ See the discussion of Weber and Bird above.

What are the sources of the derivative charisma (charisma of office) of the jurists during the Occultation? These have in fact developed over time. During the first few centuries of the Uṣūlī School – which countenances the transfer of charisma – the charisma of the jurists was based, as Mufīd points out,⁹⁴ first on the endorsement or permission they received from the Imam as the “*sulṭān*” (ruler) of Islam. We may also conclude from Mufīd’s arguments that office charisma for him is based chiefly on knowledge. He says, for instance, that “it is obligatory to carry *zakāt* to the Shiite trustworthy jurists, for the jurists know better where to spend *zakāt* than others do,” i.e., they know the law that lays out proper distribution of those funds.⁹⁵ Only a generation after Mufīd, however, Abū al-Ṣalāḥ al-Ḥalabī (d. 447/1055) uses the term “*nā’ib* of the Imam” in its technical rather than general meaning, and places more emphasis on Deputyship from the Imam as the source of charisma for the jurists. The crucial point here is that Ḥalabī does not distinguish between Deputyship and personal qualities, and in fact makes Deputyship dependent on personal qualities. For instance, he says that while enforcement of Shariah rulings is an exclusive right of the Imam, those who are the Imam’s *nā’ib* are permitted to issue judgments, provided that they possess the qualities of knowledge, piety, justice, and wide tolerance (*si’at al-ḥilm*), along with combined reason and discernment (*ijtimā’ al-’aql wa-al-ra’y*), the possibility of enforcing the law, insight into the situation at hand (*baṣīrah bi al-waḍ’*), faith in Shiism, and so on.⁹⁶ Ḥalabī, however, is speaking here about judgeship in particular, which is narrower than the field covered by religious authority in general.

As the Greater Occultation wore on and the time of the Imams became more distant, the transfer of Prophetic and Imamic charisma to the jurist accelerated, albeit slowly, strengthening the office of the clerics. Consolidation from the tenth/sixteenth century onwards of the theory of *ijtihād* (independent reasoning by the jurists) is part of this development, as is the institutionalization of clerical offices. Consequently, in Iran, “mujtahids were distinguished as religious elite and qualifications for acquiring the status of *ijtihād* were formulated in some

⁹⁴ Mufīd, *al-Muqni’ah*, 810.

⁹⁵ Mufīd, *al-Muqni’ah*, 252.

⁹⁶ Abū al-Ṣalāḥ al-Ḥalabī, *al-Kāfi fī al-fiqh*, ed. Riḍā Ustādī (Iran: n. p., n.d.), 421-23.

detail.”⁹⁷ Moreover, the *mujtahid* was defined as one holding three basic qualifications, that is, knowledge (*‘ilm*), justice (*‘adl*), and piety (*taqwā*). Nevertheless, clerical office and capacity for *ijtihād* - the formal requirement for religious leadership – have not been the only source of clerical charisma.

Let us now look more closely at personal qualities, the second source of charisma after charisma of office. Factors contributing to the individual personality of a *mujtahid* who may then exude charisma and be acclaimed by followers as charismatic include his studies, social and economic connections, descent – whether from a scholarly family or line of sayyids, or both - and exceptionality, in the positive meaning of actions. Jurists enjoying office charisma without manifesting such traits appear to be quite ordinary, especially if the community is living in challenging times. Novel and exceptional actions, especially, increase charisma. *Exceptionality in actions* is different from Weber’s “exceptional powers or qualities”⁹⁸, which suggests static and ahistorical aspects such as being supernatural. Weber’s static conception of exceptionality does not apply at all to juristic charisma (even if it does fit the prophetic and Imamic categories). This was certainly the case for Khomeini. Shaykh Anṣārī (d. 1281/1864) is another example. Anṣārī is recognized by Shiite jurists as well as the community in general as the greatest Shiite scholar of the 19th century. Seeking to explain Anṣārī’s complete authority (*al-marji ‘īyah al-‘āmmah*) over the Shiite community in his time, Amanat refers to his “ability to attract funds and divert them for the upkeep of his educational and social network—almost the function of a rudimentary welfare system—both to the satisfaction of the contributors and the recipients.”⁹⁹ From a modern perspective, these actions of Anṣārī’s seem quite normal, but in his time, they were exceptional.

Though I mention Anṣārī and Khomeini together, their sources of charisma were different. Khomeini also had political charisma. Van Dooren, it will be recalled, differentiates between political and religious charisma by defining the latter as “a specific kind of personal

⁹⁷ Abbas Amanat, “In Between the Madrasa and the Marketplace: The Designation of Clerical Leadership in Modern Shiism,” In *Authority and Political Culture in Shiism*, ed. Said Amir Arjomand (Albany: State University of New York Press, 1988), 98.

⁹⁸ Weber, *Economy and Society*, Vol. 1, 241.

⁹⁹ Amanat, “Madrasa and Marketplace,” 113.

political leadership”.¹⁰⁰ Nevertheless, Khomeini’s charisma or acclaim of it by his followers cannot be explained as being *only* political. He and his following also necessarily depended on the already established derivative “office charisma” that accrues to Shiite clerics. Not keeping both dimensions in mind leads to the confusion evident in the following statement of Van Dooren:

If asked who exactly these people were who went to extremes to show their unwavering faith in the Ayat Allah, often risking their lives in the process or sometimes even sure of meeting death, we are left with some rough demographic data concerning social class, residence, income distribution, employment or migration rates, or with some general remarks on religious, tribal or political affiliation. But none of these data, although certainly important, give us satisfying answers. They do not tell us what the nature of people’s blind obedience to and faith in Khomeini was, what personal or collective histories may account for it, why Khomeini was singled out as the object for their adoration, rather than someone else, what active part he or his closest aides may have played in fostering unusual degrees of loyalty or, as Taheri seems to argue, whether there was really something akin to a “collective hallucination” taking place in Iran at the end of the 1970’s. Finally, one may ask whether the close bond between Khomeini and his followers is a unique phenomenon in world history, or whether there are similar cases to be found elsewhere.¹⁰¹

To re-iterate: Khomeini as a religious authority possessed both charisma springing from or attributed to his person *and* charisma of office. As Kimmel and Tavakkol put it, “Khomeini’s charismatic authority derives ultimately from his personal characteristics, which are legitimated by recourse to religion. But even here, religion justifies charisma [...]”¹⁰² By virtue of charisma

¹⁰⁰ Van Dooren, *Messengers*, 10.

¹⁰¹ Van Dooren, *Messengers*, 4.

¹⁰² Michael S. Kimmel and Rahmat Tavakol, “Against Satan: charisma and tradition in Iran,” in *Charisma, history, and social structure*, ed. Ronald M. Glassman and William H. Swatos, Jr. (New York; Westport; Connecticut; London: Greenwood Press, 1986), 109.

of office, which Khomeini possessed in common with other qualified religious scholars, he was a deputy of the Imam. This made obedience to him obligatory for his followers, whatever their class, income, tribal affiliation, and so on. This is the basic reason for what Van Dooren characterizes as “blind obedience and faith” by a wide variety of persons.

A key issue in the study of charisma is the attitude of followers toward their leader. Dabashi explains the charismatic appeal of the aged Ayatollah to his followers thus:

Khomeini is seen by his followers as the organizer of the three most essential virtues missing from a monarchical tyranny. First, he has revived a religious consciousness without which men are thought to be trapped in a temporal mendacity; second, he has made it possible to believe again in a metaphysics of Ultimate Salvation, whereby limitations of rationality do not hinder a view of the eternal in man; third, he is considered to have enacted a popular epic, an odyssey of revolt for dignity.¹⁰³

Since these attributes are novel and exceptional in Shiite doctrine, while also answering to current trying circumstances, they stirred acclaim within the charismatic community. As Dabashi expresses it:

The charismatic dimensions of [Khomeini’s] leadership rest on the dialectical growth of a unique relationship between Khomeini and his followers, whose texture and tone go beyond the ordinary authority assumed by a high-ranking Shī‘ī cleric. An ayatollah does indeed occupy the highest position of religious authority in a Shī‘ī community. The years of learning, the mystic of devotion, and the concomitant spiritual presence they all inevitably attain give the high-ranking Shī‘ī authorities a certain air of genuine respect and lasting loyalty. Yet the mode and intensity of devotion afforded Khomeini by his followers, particularly in moments leading to the revolutionary crescendo, drive deeper into the collective consciousness of his mass of followers. He grasped something deeply disturbing, something deeply moving, in the midst of the

¹⁰³ Hamid Dabashi, *Theology of Discontent: The Ideological Foundations of the Islamic Revolution in Iran* (New York: New York University Press, 1993), 418.

misery, actual and imaginary, that defined his followers. He turned that mute anger against indignity into an articulate voice of dissent and then, being an ayatollah, put God's stamp of approval on it.¹⁰⁴

Notice in Dabashi's account the combination – although this is not explicit in his analysis – of derivative charisma, i.e., charisma of office (“being an ayatollah”) and personal charisma. Khomeini also, however, redefined or reconstructed juristic charisma itself. Vanessa Martin seems to recognize this activity, as she says:

The title of the Imam was, not inadvertently, applied to Ayatollah Khomeini at the time of revolution for the exceptional understanding and therefore charisma it implies. It formed part of the conceptual vocabulary used to mobilize the ordinary people and to create for Ayatollah Khomeini a unique image. He thus appeared to his followers to be deeply pious, even holy. As such he was to them a source of wisdom, faith, and strength, of hope and renewal.¹⁰⁵

Martin assesses Khomeini's charisma from the point of view of the charismatic community at two levels, that of the common people and Khomeini's students, i.e., the Shiite intellectual elite. Concerning the latter, Martin asserts that Khomeini created a vanguard of students whom he had personally trained. As an aspirant gnostic, he conveyed, according to Martin, “a sense of awareness of a feeling of spiritual nobility and of responsibility and commitment”, while stressing “self-knowledge and with it ethics and self-discipline” that would equip the vanguard for the most weighty social and political responsibilities.¹⁰⁶ This much, I

¹⁰⁴ *Theology of Discontent*, 417.

¹⁰⁵ Vanessa Martin, “‘Irfān, Self-assertion, and the Mobilization of the People,” in *Ayatollah Khomeini and the Modernization of Islamic Thought*, ed. Richard Tapper (London: Centre of Near and Middle Eastern Studies, University of London; Institute of Islamic Studies, Islamic Centre, England, 2000), 37; see also 39-40.

¹⁰⁶ Martin, “‘Irfān, Self-assertion, the Mobilization of the People,” 37; Vanessa Martin, *Creating an Islamic State: Khomeini and the Making of New Iran* (London; New York: I.B. TAURIS, 2003), 33. Also,

think, is true. Martin also, however, maintains that *'irfān* was the main source of Khomeini's mobilizing charisma:

The jurist as such does not emanate political charisma—the ability to generate widespread devotion in the political arena. That must be drawn from personal qualities and reference to their association. So Khomeini played upon the image of the leader with the divine aura evolved in the Iranian Islamic tradition from the tales of the Imams and the vision of Ibn 'Arabī and Mullā Ṣadrā. He was able to use the gulf that had developed between ordinary Shi'a and a remote secular state that insistently emphasized the pre-Islamic past—a state that was increasingly perceived as pursuing the interests of its own elite and of a foreign power while operating an oppressive political system and neglecting the poor. In such circumstances adherence to a charismatic leader conferred dignity, and a release from humiliation and rejection; it provided new goals along with the potential for human transformation.¹⁰⁷

First, it should again be noted, as I have done in relation to Van Dooren's view of Khomeini above, that office charisma is always the basic source of charisma for the jurists. Personal charisma is something added. Second, there is reason to doubt the influence of *'irfān* on the laity, both because of the specialized and indeed semi-secret nature of the discipline, and strong opposition to it by traditional jurists. Thus *'irfān*, along with the notion of the Perfect Man, cannot count as a factor in mass political mobilization. Third, I would question Martin's assertion that "the jurist as such does not emanate political charisma—the ability to generate widespread devotion in the political arena".¹⁰⁸ The jurist 'as such' does have the *potential* for political charisma; two obvious examples found before Khomeini are mentioned above. The difference is one of approach and degree; the earlier and later Shīrāzīs did not have mystical tendencies or endeavor to establish and rule over an Islamic state. They did not use jurisprudence

Daniel Brumberg, *Reinventing Khomeini: The Struggle for Reform in Iran* (Chicago; London: The University of Chicago Press, 2001), 53.

¹⁰⁷Martin, *Creating an Islamic State*, 46-47.

¹⁰⁸ Martin, *Creating an Islamic State*, 46.

as a wrapping for mysticism and make mysticism politically operational under the cloak of the jurist, as Khomeini did. Juristic charisma had always been a subset of prophetic and Imamic charisma, while the spiritual traveler of mysticism is a recipient of pure charisma; this is the difference. Thus we may also doubt Calder's assessment of Khomeini's charisma as springing purely from the juristic tradition:

Khomeini's success as a revolutionary leader was due largely to his ability to exploit the revolutionary implications of the Imami Shī'ī juristic tradition in a manner not obviously inconsistent with earlier developments. He was able thereby to secure a considerable degree of solidarity amongst the clerical class and to rally the traditional loyalty of the Iranian people. While the fundamental economic, political and social causes of the revolution must be explored elsewhere the reason for the emergence of a cleric as the obvious alternative to the actual ruler (and not for example, a colonel) may be explained by reference to purely theoretical matters. The Imami juristic tradition had for centuries preserved and propagated an idea of legitimate authority as belonging ultimately to the fuqaha'.¹⁰⁹

In sum: Martin errs on one side by emphasizing personal charisma to the virtual exclusion of office charisma; and Calder errs on the other side by emphasizing office charisma without paying attention to personal qualities. Byrd's comment that the sources of Ayatollah Khomeini's charismatic authority were "complicated" is more on the mark.¹¹⁰ I must, however, object to his analysis on several other grounds.

First, the line of charismatic authority Byrd traces – God, Muḥammad, 'Alī, the Twelve Imams, and then the 'ulamā' – is not correct. As I have shown, Shiite history in the theological view is structured according to prophethood and Imamate; the 'ulamā' do not constitute a third category. A good piece of evidence of this is that in religious gatherings, for instance in mosques or Husayniyahs, only God, the Prophet, and the Imams are invoked, and never any religious

¹⁰⁹ Norman Calder, "Accommodation and Revolution in Imami Shi'i Jurisprudence: Khumayni and the Classical Tradition," in *Middle Eastern Studies*, Vol. 18, No. 1 (Jan. 1982), 18.

¹¹⁰ Byrd, *Khomeini*, 61.

scholar or jurist, no matter what their rank. Second, Byrd frequently refers to Khomeini's "prophetic charisma" and uses the expression as a title for a chapter in which he attempts to theorize that charisma, as follows:

Khomeini was considered by many to be [in Weber's words] "extraordinary" and endowed with "exceptional power or qualities." His power of intellect, persuasion, scholarship, and rhetoric, not to mention his unflinching courage, all contributed to the almost mystical aura and appeal that surrounded him. However, though he never claimed to be anything other than a cleric, many perceived him to be nearly "supernatural" and or "superhuman." In fact, the very title of "Imam", usually only applied to the twelve Imams of Shī'a Islam, testifies that some speculated, whether spoken or only in thought, that he could be the returning Imam Muḥammad al-Mahdī, or at least that he was somehow connected with the return of the hidden Imam However, he was often called nā'ib al-Imam or Vice-Regent of the Hidden Imam.... This designation gave him heightened stature through his connection to the Hidden Imam, while implicitly denying that he was the Hidden Imam himself.¹¹¹

Byrd goes on to argue that Khomeini's so-called prophetic charisma is derived from extraordinary personal qualities along with personal actions or stances such as standing outside the institutions of power to speak against them, offering an alternative vision for the future, suffering with the masses, and so on.¹¹² He distinguishes between Khomeini's "charismatic" and "prophetic" authority. By prophetic authority, he means authority generated by Khomeini's "followers' perceptions of him." These perceptions, he says, rest on four conditions: first, an environment of alienation and chaos that readies the people for prophetic leadership; second, pre-existing criteria for prophetic leadership in Shiism; third, recognition by the populace that these criteria are met by Khomeini; and fourth, attribution to him of authority to lead because of these perceptions.¹¹³ Byrd concludes that Khomeini's charismatic authority rested both on "his

¹¹¹ Byrd, *Khomeini*, 49.

¹¹² For details see Byrd, *Khomeini*, 59.

¹¹³ Byrd, *Khomeini*, 67.

education, titles and status, as well as his actions” and “how he was perceived by the Iranian people.”¹¹⁴

The distinction Byrd makes between Khomeini’s “charismatic” and “prophetic” authority relies a great deal on Weber’s requirement for charisma of exceptionality, i.e., being perceived as supernatural or superhuman by the charismatic’s followers. By likening the exceptionality of Muḥammad to that of Khomeini, Byrd attempts to convey the idea that their charisma is similar. The exceptionality of the Prophet, however, is very different from that of the jurist, even if they may both be charismatic figures. In addition, Khomeini’s followers’ perceptions of him are not, as Byrd along with many other Western scholars imagine, the source of his actual authority. According to Khomeini’s own theory of Guardianship of the Jurist, Khomeini, as a qualified jurist (i.e., one enjoying office charisma), has religious and political authority, and he must be followed for that reason, and not because of personal qualities alone. He then had additional personal qualities without which his charisma would have remained dormant and which helped him to mobilize a large following. Therefore, Khomeini has juristic charisma only (not prophetic charisma), even though in his view, the jurist has both political and religious authority. Moreover, Byrd believes that Khomeini enjoyed both prophetic authority and prophetic charisma. Khomeini did claim prophetic authority, as we will see in the chapter devoted to him. This does not, however, mean that he enjoyed prophetic *charisma*, because prophetic charisma, based on revelation and involving a connection to heaven, was unique to the Prophet and (as Weber says) unrepeatably. Khomeini claimed prophetic authority, but never revelation. It seems that Byrd thinks that to have prophetic authority, it is necessary first to have prophetic charisma, which is not the case.

Byrd’s insistence on Khomeini’s prophetic charisma is also misleading as it suggests to the reader that Khomeini claimed that only he possessed such a quality. Byrd compounds the error by at the same time asserting that Khomeini “never claimed to have a special designation from the divine that would give him the authority of a prophet,”¹¹⁵ so that (according to Byrd) his goal instead was to instill prophetic charisma into the clerics’ priestly attitudes.¹¹⁶ Perhaps Byrd

¹¹⁴ Byrd, *Khomeini*, 66.

¹¹⁵ Byrd, *Khomeini*, 54.

¹¹⁶ Byrd, *Khomeini* 54.

adds this comment because, despite highlighting prophetic charisma, he senses that there might be a problem with attributing prophetic authority to the jurist. Khomeini's own statements prove him wrong on both counts, as seen in the following example:

The just jurist possesses everything that the Prophet and the Imams possess, both in relation to judgeship [*hukūmah*, i.e., religious authority] and politics (*siyāsah*). Any separation between these two aspects is unreasonable. For the *wālī*, whoever he may be, is the executor of Sharī‘ah laws, enforcer of the divine punishments, collector of *kharāj* and other types of tax, and the one who manages the spending of taxes in the interests of the Muslims. Thus the Prophet (God bless him and his family) gives the adulterer a hundred lashes, as does the Imam (PBUH) and the jurist. All of them collect taxes in the same manner in accord with the interests of the people. All of them order people to concerning matters that belong to the one in charge [*wālī*, referring to the Prophet, Imams, and jurists], and obedience to the *wālī* is obligatory.¹¹⁷

It is clear from what Khomeini says here that all jurists or the clerical estate altogether – certainly not only Khomeini himself – possess political authority to the degree that they have the same authority as the Prophet. Khomeini refers to the legitimate authority of the jurists as the successors of the Prophet, which obviously includes – but is not limited to – his own authority. Khomeini emphasizes that even jurists who are not in a position to set up a government still have guardianship (*wilāyah*) over all the affairs of the Muslims, including the public treasury, taxes, execution of Quranic punishments, and the lives of Muslims (*nufūs al-Muslimīn*).¹¹⁸ Note in addition that it is not only Khomeini or modern activists who claim to possess elements of prophetic charisma, but also traditional quietists, who equally believe they are the “heirs of the Prophet”. Concerning Byrd’s error in denying that Khomeini attributed “the authority of a prophet” to the jurist, Khomeini, as is well known, says specifically that the Imams and jurists

¹¹⁷ Ruhollah Khomeini, *Kitāb al-bay‘*, vol. 2 (Tehran: Mu’assasat Tanzīm wa-Nashr Āthār al-Imām al-Khomeini, 1421/1379 [2000]), 626.

¹¹⁸ Khomeini, *Kitāb al-bay‘*, vol. 2, 624-25.

receive their authority from the Prophet such that they become his *khalīfahs* (caliphs, i.e., successors). Though the two types of caliphs (the Imams, who are *khalīfah* generally and universally, and the jurist, who is according to Khomeini, *khalīfah* in a specific area) are not equal in charisma, the authority of the Prophet, Imam, and jurist, says Khomeini, are *politically (min jihat wilāyah wa-salṭanah)* at the same level.¹¹⁹ Khomeini's innovation is to assert that the clerics are also the political heirs of the Prophet, while the quietists, i.e., traditionalists, exclude political authority.

Thus in sum, Khomeini is to be regarded as a charismatic authority leading the greatest revolution of the second half of the twentieth century. His charisma generally stemmed from the religious knowledge and articles of doctrine from which all Shiite religious authorities gain their charisma; but he showed himself to be a much more exceptional figure than his colleagues, whose charisma remained mostly dormant, especially in regard to politics. Shiite religious leaders have two types of charisma: charisma of office, and personal charisma. The former exists both in the office of Imamate and office of *marji'iyah*, so that whoever holds the *marji'iyah* may be considered a charismatic figure, since he has in the eyes of his followers something more than the rest of the community. This does not mean, however, that such a person is an entirely and thoroughly charismatic figure, like the Prophet or Imams.

In the first moment of Deputship, Mufīd's charisma was built on his acquired personal qualities. It is difficult to speak about charisma of office in his time, because the office of *mujtahid* and *marji'iyah* had not yet been established. His charisma sprung rather from his knowledge of Shiite law and theology. He was the head of the Shiite community in his time and his legal rulings were followed by Shiites in various parts of the Shiite world. Despite being apolitical, Mufīd was sent into exile several times, having been accused of playing a role in religious unrest in the Abbasid capital, Baghdad. Nevertheless, he does not seem to have acted politically, and his charismatic actions were limited to religious scholarship and leadership. In the absence of charisma of office, Mufīd's individual qualities become especially significant. The image is that of an exceptionally pious individual, as testified by letters or decrees (*tawqī'*) attributed to the hidden Imam that call him "the leader, honest in religion, helper of the

¹¹⁹ Khomeini, *Kitāb al-bay'*, vol. 2, 650, 654.

righteousness and fighter against injustice”.¹²⁰ According to the 12th-century Shiite scholar Ibn Shahrāshūb, the Hidden Imam granted him the title “al-Mufīd”, meaning “the beneficial”.¹²¹ Thus we see that the acquired qualities of this outstanding scholar were thought to be recognized even by the Imam. Such acquired qualities are later formally termed in Shiite jurisprudential theory piety (*taqwā*), justice (*‘adl*), and knowledge (*‘ilm*). At the same time, the political aspects of Shiite religious leadership were at a low ebb, and thus potential for political charisma was lacking.

This situation did not significantly change in the very long time between Mufīd and Karakī, as far as can be discerned from the available religious and historical texts. Karakī’s time, however, saw a very significant development: the office of the cleric (*mujtahid*) was formally established and became the chief source of clerical charisma. Karakī’s recognition as the leading jurist of the Safavid court with authority over all other scholars made obedience to him obligatory. This did not happen without resistance from traditionalists; his novel doctrine and practice in regard to religious taxes, for instance, was strongly challenged by many of his contemporaries. Karakī’s authority was thus based on his religious office - as well as esteem for his origins (he was a *sayyid*) and of his association with temporal power, although his personal charisma did not flourish to the extent of that of either Khomeini or Mufīd.

Karakī’s position within the Safavid court and associated Safavid institutions such as the Şadrship, position of Shaykh al-Islam, and judgeship have sometimes been thought to reflect independent authority and charisma. In fact, these accrued to the clerics merely as officials or functionaries. Conferral of such offices was no doubt a sign that the candidate was considered a qualified religious authority, but they were not actually part of a clerical apparatus. Lambton clearly recognizes this fact, as she says:

¹²⁰ Muḥammad ibn ‘Alī Ibn Shahrāshūb, *Kitāb ma‘ālim al-‘ulamā’*: *fī Fihrist kutub al-Shī‘ah wa-asmā’ al-muṣannifīn min-hum qadīman wa-ḥadīthan: tatimmat Kitāb al-fihrist lil-Shaykh Abī Ja‘far al-Ṭūsī* (Najaf [Iraq]: al-Maṭba‘ah al-Ḥaydarīyah, 1380 /1960), 148.

¹²¹ Ibn Shahrāshūb, *Kitāb ma‘ālim al-‘ulamā’*, 148. Another report says that ‘Alī ibn ‘Isā, a Sunnite Mu‘tazilite figure, gave him the title of “Mufīd”. For more on the decrees (*tawqī‘*), see Ṭabarsī, *al-Ihtijāj*, vol. 2 (Beirut: Mu‘assasat al-‘alamī lil-Maṭbū‘āt, 1401/1981), 497-99; Muḥammad Bāqir ibn Muḥammad Taqī al-Majlisī, *Mahdī Maw‘ūd: translation of thirteenth Volume of Biḥār al-anwār*, tr. ‘Alī Dawānī (Tehran: Mu‘assasat Taḥqīqāt wa-Nashr Ma‘ārif Ahl al-Bayt, n.d.), 1246-1248.

The religious institution under the Safavids was from the first subordinate to the political institution. The religious classes, or a section of them were, like the officials of the Sunni religious institution before them, virtually incorporated into the bureaucratic administration of the state. In due course there emerged a wealthy and influential religious class, which owed its rise largely to government patronage and which disposed of large revenues.¹²²

Expressed in Weberian terms, Karakī's situation and power in the Safavid bureaucracy would not have resulted in charisma because of his subordinate position. Jurists acting as functionaries actually received their authority from the Shahs for whom they worked. As Lambton suggests, they resembled the Sunnite 'ulamā' in that they derived their power from the fact of appointment by the ruler; they were, as Calder puts it, servants of the state and agents of the Shariah.¹²³ Shiite religious authorities hold a mandate and authority that is critically different from that granted by a head of a state at any time. As Weber says, though the "official" holds power to command, he never exercises that power in his own right, but rather as a "trustee".¹²⁴

Weber's words probably fit modern institutions and bureaucracies better than the sixteenth-century Safavid system in which Karakī worked. Nevertheless, Weber's basic insight alerts us to the fact that the authority given to Karakī by the court was not charismatic authority, though it gave him temporal power. Khomeini, speaking from within the tradition, recognizes the same fact:

¹²² Ann K. S. Lambton, "A Reconsideration of the Position of the Marja' Al-Taqlīd and the Religious Institution," *Studia Islamica*, No. 20 (1964), p 115-116. Also See Laurence Louër, *Transnational Shia politics: religious and political networks in the Gulf* (New York: Columbia University Press; Paris: Centre d'Etudes et de Recherches Internationales, 2008), 71.

¹²³ Norman Calder, "Legitimacy and Accommodation in Safavid Iran: The Juristic Theory of Muḥammad Bāqir al-Sabzavārī (D. 1090/1679)," *Iran*, Vol. 25 (1987): 103.

¹²⁴ Miller, *From Max Weber*, 295.

It is an established principle that the faqīh has authority over the ruler. If the ruler adheres to Islam, he must necessarily submit to the faqīh, asking him about the laws and ordinances of Islam in order to implement them. This being the case, the true rulers are the fuqahā themselves, and rulership ought officially to be theirs, to apply to them, not to those who are obliged to follow the guidance of the fuqahā on account of their own ignorance of the law. Of course, it is not necessary for all officials, provincial governors, and administrators to know all the laws of Islam and be fuqahā; it is enough that they should know the laws pertaining to their functions and duties. Such was the case in the time of the Prophet (s), and the Commander of the Faithful (‘a). The highest authority must possess the two qualities mentioned—comprehensive knowledge and justice—but his assistants, officials and those sent to the provinces need know only the laws relevant to their own tasks; on other matters they must consult the ruler.¹²⁵

In brief, Karakī was able to mobilize his followers or be obeyed by them because of his traditional source of charisma, clerical office. He was not obeyed because of acclamation by the people, which Van Dooren and Byrd believe to be the source of the charisma of the chief jurists (*marji*’). His charisma remained limited to the religious type, with its effects restricted to gathering more followers. As a servant of the state, he was not in any position to produce a political interpretation that might have seemed exceptional or unique to his followers. Some scholars, as we will see in Chapter Four, have traced elements of Khomeini’s “Guardianship of the Jurist” back to Karakī, but al-Karakī was novel neither in the way he exercised religious authority nor in how he expounded Deputyship. He did not, like Khomeini, bring forth a new interpretation of clerical charisma and its sources.

Conclusion

In Twelver Shiism, prophetic charisma is routinized in the office of the Imamate, just as it was routinized in the office of the caliphate in Sunnism. With this perspective, I argue that

¹²⁵ Imam Khomeini, *Governance of the Jurist (wilāyat-i faqīh): Islamic Government*, Translated and annotated by Hamid Algar (Tehran: The Institute for Compilation and Publication of Imam Khomeini’s Works, n.d.), 32.

Weberian notions of charismatic authority are able to explain the first step of transmission of charisma from a pure type or event that is the Prophet Muḥammad, to his successors, i.e., ‘Alī Ibn Abī Ṭālib and his descendants the Imams. I then maintain that, in spite of routinization of prophetic charisma in the Imamate, the jurists are also charismatic figures, a third category of charisma developed in the Uṣūlī school of Shiite thought. While the Weberian theory of charismatic authority explains the typology and transformation of authority from Prophet to Imam, it is unable to account for developments occurring in the period of the Occultation in which bearers and makers of charisma redefined the notion of charisma. Weber’s theory also fails to take account of personal qualities when it talks of charisma of office.

In order to adequately explain Shiism, Weberian theory also needs to be adjusted to explain the office charisma of the Imamate and clerics, the second and third categories of charisma in Shiism after that of the Prophet. The first adjustment I propose is a combination of charisma of office and personal qualities. Contrary to Weber, I argue that office charisma, though the main source of clerical charisma, is not the final cause of being an influential religious leader. During the Occultation, the jurists have largely been recognized as religious rather than political authorities. Their charisma springs from two sources: charisma of office, as expressed in the doctrine of Deputyship, and personal, individual qualities. Charisma of office is said in the developed doctrine of “qualifications of the *mujtahid*” to include knowledge, piety, and justice. No one without these acquired (non-hereditary) qualities is recognized as a charismatic religious figure. However, those who possess them are not necessarily acknowledged as religious leaders, or at least not to a high or significant degree. Rather, believers follow jurists who reach the rank of “model of emulation” or *marji ‘al-taqlīd* on the basis of truly exceptional personal qualities, whether that be extraordinary learning, outstanding piety, giving more public service, social and economic status, or perceived political heroism.

The second adjustment to Weber I propose concerns a tendency toward revitalization of pure charisma in the derivative, routinized category of charisma. As the time of the Prophet and early Imams becomes distant, this tendency accelerates and the theory of the Imamate is elaborated. Hereditary knowledge, infallibility, and miracles are attributed to the Imams, making them superhuman. For instance, the ninth and twelfth Imams were thought to have extraordinary knowledge even as children, something not claimed for the earlier Imams. In another example, the supernaturally long life attributed to the Mahdī is an exceptional quality not possessed even

by the Prophet Muḥammad. The Prophet could not establish a global state, but it is said that Mahdī will “fill the world with justice”, and even that Jesus will help him in this mission. We see the same tendency in the office of the clerics, resulting finally in attribution of prophetic authority to the jurists.

The third adjustment I propose concerns a tendency, not accounted for in Weber’s theory, for charisma to be redefined even as it is routinized. This is clearly seen in Shiism. Even matters that might be thought not to generate charisma became charisma builders. For instance, economy was foreign to the pure charisma of ‘Alī, as predicted by Weber. Also as predicted by Weber, routinization involved the introduction of economic considerations. The economic system itself, however, was connected to charisma. Let us look again at the tradition from the eighth Imam ‘Alī ibn Mūsā al-Riḍā cited above in the discussion of the tax system. In this report, *khums* is spoken of not only as generating income for the Imam’s family and support of the Shiites, but also inspiring respect for the Imam from his enemies, purifying the sins of those who remit it, increasing sustenance, and attracting the Imam’s prayers. To pay the *khums* was a sign of being a true Muslim. The later Shiite Imams were rich men partly because of this “charismatic economy”. Paying attention to such redefinitions is vital for an adequate account of charisma and authority in Shiism.

The fourth adjustment concerns Weber’s term ‘exceptionality’. Weber largely understands exceptionality as involving supernatural; but this characteristic of charisma loses its weight in the third category of Shiite charisma. In order to account for Shiite juristic charisma, one has to acknowledge a transition to mere exceptional actions. We see that the personal charisma of the leading jurists results from their providing novel, exceptional interpretations of the sacred texts or providing more new services. If Weber’s “exceptionality” is understood in this way, it becomes more dynamic and retains its explanatory power over time and in a variety of circumstances. Note again, however, that to say that the Prophet and Imams in Shiism have the same authority – i.e., religious and political authority together – does not mean that the two possess the same charisma. Rather, prophetic charisma is of the pure type, with the second and third categories, i.e., the charisma of the Imams and jurists, in a subordinate relation. The jurists – the principal subjects of this dissertation – developed and re-defined this charisma in different periods. They expanded their authority and charisma as political conditions allowed. The

derivative charismas of the Imams and jurists are nevertheless constantly tied to that of the Prophet, from whom they ultimately derive their basic legitimacy.

Thus, while charisma has been redefined in Shiite literature over time from ‘Alī to Khomeini, there are, from a macro perspective it can be said that there are three categories of charisma. Historically, various charismas emerged within the second and third categories according to the personal qualities of the bearers. For instance, while the Imams were present, Ḥusayn ibn ‘Alī evinced a revolutionary charisma, while his son ‘Alī ibn al-Ḥusayn, who witnessed his father’s martyrdom at Karbala, chose an apolitical way of life while exhibiting an exceptional piety and eloquence in prayer. Shiite theology gives equal credit to these different behaviors by emphasizing the ideal nature – for instance, inerrancy – of the Imams overall. The result is a smoothing out of the category so that the office of Imamate rather than individual qualities may serve as the first basis of charisma. We see the same dynamic in relation to the clerics, who represent the third category of Shiite charisma. Clerical office is the constant in creating charisma for those who issue legal opinions, while personal, *acquired* qualities are the variables (although in practice, of course, Shiite religious leaders must possess at least some measure of the latter in order to be followed).

The dual structure of charisma also governs the relation of the charismatic figure to the charismatic community. A qualified jurist is followed because of his religious position and status, i.e., because of the office and not merely due to demand from his followers. *Mujtahids* are charismatic figures by default; they are assumed to possess the basic and general qualities of justice, great learning, and piety. Personal charisma, the second part of the dual structure, flourishes only if the holder of the qualities that must be acquired to be a *mujtahid* behaves in an exceptional manner. Exceptionality in turn emerges in relation to social, political, economic, and intellectual contexts (described in three separate “moments” in the following chapters). Thus, in sum, a following does not legitimate a *mujtahid*, but rather awakens dormant charisma and may cause it to flourish. This feature makes the Shiite case different from that envisaged by Weber, and also different from the analyses of scholars such as Van Dooren and Byrd.

The jurists function as interpreters of the sacred texts and providers of religious guidance. In order to establish legitimacy in the eyes of their followers, whose attachment and loyalty is, after all, to the Imams, they connect themselves to the Imams’ charisma through the doctrine of Deputyship. Deputyship has strengthened the jurists’ charisma even economically, since it gives

them access to the *khums* taxes, which also allows them to preserve, in Imam-like fashion, independence from temporal governments. I argue that the jurists recreate and strengthen their charisma through shifting its elements. They incorporate new elements or introduce new and exceptional interpretations. The outstanding example is Ayatollah Khomeini, who incorporated political charisma in his version of Shiite thought through reinterpreting the doctrine of Deputyship. Khomeini also gained additional charisma by adding elements of a particular form of Islamic mystical thought called *'irfān* to his learning and teaching.

I finally contend that there has often been a reciprocal relation between personal charisma and temporal (non-religious) power. We see numerous examples in history of Twelver Shiite 'ulamā' who worked for the state. For instance, al-Murtaḍā (d. 436/1044), an outstanding pupil of Muḥid, worked for the Abbasids as the head of *Niqābah* (corporation of descendants of the Prophet) and as a judge. Naṣīr al-Dīn Ṭūsī (d. 672/1274) accepted office from Hulegu Khan, founder of the Mongol dynasty of the Ilkhanids, and later became head of the observatory built by Abaqa, son and successor of Hulegu, at Marāgha and supervisor of pious endowments (*awqāf*). 'Allāmah al-Ḥillī (d. 726/1325) also co-operated with the Ilkhanids. And finally we have Karakī, who associated with the Safavid court and is the topic of the fourth chapter of this thesis. The connection of personal charisma and temporal power is apparently due to the political deprivation traditionally suffered by the community, which caused Deputyship to be interpreted apolitically. When scholars did manage to gain power despite that situation, charisma accrued to them. At the same time, the personal qualities or individual characteristics of jurists have slowly but steadily pushed the scholars toward a political interpretation of juristic authority and charisma. Ultimately, in addition to his religious knowledge and doctrinal support, from which all religious authorities gain their charisma, Khomeini moved very far in this direction by showing himself to be an exceptional figure in comparison to his colleagues, whose charisma remained mostly dormant, especially in relation to politics. Thus we see that charisma brings influence and power, while power affects charisma in its turn.

Chapter Two: First moment of Deputyship: Struggling with political limitation

In this chapter, I investigate what I call the first “moment” of Deputyship by focusing on the 4th/10th century theologian and jurist al-Shaykh al-Mufid. Mufid is an appropriate focus because of his influence in early Shiite intellectual history. He is also an ideal case because of his position as head of the Shiite community in his time, which would have potentially endowed him with the charisma we wish to examine, as well as compelling him to reflect in his writings on the nature of his own leadership. I contend that in the period Mufid lived and for some time after, Deputyship remained apolitical because the Shiite community, despite progress in establishing itself as a sect with its own intellectual heritage, suffered from straitened political circumstances. The minority status of Shiism and lack of access to political power influenced views of politics and reduced the ambit of Deputyship to non-political affairs.

Thus for Mufid, the Deputyship of the jurists during the Occultation is not political. In the first part of his most chief legal treatise *al-Muqni‘ah*, he addresses only some topics of the law such as purity (*tahārah*), daily prayers, fasting, religious taxes, and the pilgrimage to Mecca.¹²⁶ This is, in fact, also the case with other Shiite juristic writing of the period; the focus is on devotions and other private affairs such as commercial law. Public matters such as the state, army and so on are not addressed. This is in contrast to the Sunnites; ‘Alī ibn Muḥammad al-Māwardī (d. 450/1058), for example, extensively addresses the political, administrative and fiscal structures of Muslim society in his *Kitāb al-aḥkām al-sulṭānīyah*.¹²⁷ Shiite scholars living in the earlier period of the Greater Occultation from about the 4th/10th to 5th/11th centuries did not theorize or claim political authority. In fact, although delegation by the Imam is clearly a known concept, Mufid does not actually employ the conceptual term *niyābah* and uses the concrete word

¹²⁶ Muḥammad ibn Muḥammad in Nu'mān al-Mufid, *al-Muqni‘ah* (Qum: al-Nashr al-Islāmī, 1410 [1991]), 34.

¹²⁷ ‘Alī ibn Muḥammad al Māwardī, *Kitāb al-aḥkām al-sulṭānīyah*, ed. Aḥmad Mubārak al-Baghdādī. (Kuwait: Maktabat Dār Ibn Qutaybah, 1409/1989).

nā'ib (deputy) only four times in his extant writings. These words are also rarely used by others, and not at all by al-Shaykh al-Ṣadūq, Mufīd's illustrious predecessor and teacher. Mufīd does speak of deputization in administration of the Quranic legal punishments or *hudūd*, likely because their application would have stood as a symbol of the continued existence of Shiite law. Apparently in response to the community's lack of political power, he also tries to justify the co-operation of Shiite jurists and *amīrs* with "unjust", i.e., non-Shiite rulers. His justification for Shiite scholars working as functionaries for the Abbasid caliphs and other Sunnite political powers was taken up by other scholars after him, who essentially repeat his view. For instance, Sharīf al-Murtaḍā, an outstanding pupil of Mufīd who worked for the Abbasids as a judge and the head of the corporation of the Prophet's descendants (*niqābah*), wrote a separate treatise on the permissibility of collaboration with supposedly illegitimate, rulers.

Thus in sum, in the first moment, Shiite jurists such as Mufīd neither produced an intellectual basis for a Shiite state or emirate, nor acted politically.¹²⁸ It is reasonable to suppose that the belief in the near return of the Twelfth Imam, the Mahdī, was a factor in limiting deputyship and pushing it toward a quite narrow range of functions. Since the Shiites expected the Imam to return very soon, there was no need to discuss putting political arrangements in place during his absence.

Mufīd's juristic and theological works are utilized as the primary sources for the present chapter. There are very few secondary works on Mufīd. In English, McDermott's book, *The Theology of al-Shaykh Mufīd (d.413/1022)* is thorough and well known, while a French translation of Mufīd's *Awā'ilal-Maqālāt* by Dominique Sourdel and a few articles by the great German scholar Wilferd Madelung provide additional useful information. Ian Howard's 1981 translation of al-Mufid's *Kitāb al-Irshād* remains a valuable contribution, although the *Irshād* concerns the lives of the Imams rather than law or authority. Western scholars have focused chiefly on theological aspects of Mufīd's thought rather than his jurisprudential writings, although those complete the picture of his thought and are certainly important for the present

¹²⁸ At the beginning of his chief jurisprudential work *al-Muqniah*, Mufīd says that he has compiled that book in response to the order of a "Great Amīr" in order to provide a guide for the people (p. 27). It is said that that Amīr referred to was Abū Naṣr Aḥmad Bahā' al-Dawlah, son of 'Iḍad al-Dawlah, (d. 403/1012). There is, however, no real evidence for this.

study. Norman Calder's 1980 PhD dissertation, *The structure of authority in Imamī Shī'ī jurisprudence* does, however, shed some light on Mufīd's legal views. Tamima Bayhom-Daou's *Shaykh Mufīd* covers both theological and legal views, but is written for general readers.

Life and times

Known as Shaykh al-Mufīd, Muḥammad ibn Muḥammad ibn al-Nu'mān al-'Ukbarī acquired the name of al-Baghdādī as well after living in Bagdad and was also called Ibn al-Mu'allim since his father was teacher. Born around 336/948¹²⁹ or 338/950¹³⁰ in the village of al-'Ukbarā, Mufīd was a prominent Shiite scholar during the first century of the Greater Occultation. He studied with both Akhbārī figures such as Shaykh Ṣadūq, Ibn Junayd al-Iskāfī, Abū al-Qāsim Ja'far ibn Muḥammad ibn Qūlawayh al-Qummī, Abū Alī al-Ṣūlī, and Abū Ghālib al-Rāzī. Among his students, Sayyid al-Murtaḍā, Sayyid al-Raḍī, Shaykh al-Ṭūsī, Sallār al-Daylamī, Abū al-'Abbās al al-Najjashī, and Abū al-Futūḥ al-Karājkī are the best known.

As a theologian, Mufīd played a significant role in the consolidation of Shiite post-Occultation theology, in which the doctrine of Occultation is a central point. As a jurist, Shaykh Mufīd was also a religious leader of the Shiite community in his time. Mufīd represents a turning point in the transition from the traditionalist school of Qum—the main figures of which were al-Kulaynī (d. 329/941) and Shaykh Ṣadūq (d. 381/991)—to the rationalist school of Bagdad, of which he was the main representative. For the school of Qum, the Quran, Sunnah and *akhbār*, i.e., sayings or “Traditions” of the Imams, were the legitimate sources from which Islamic legal rulings could be derived. Kulaynī, for instance, suggests three criteria for distinguishing a correct Tradition from a doubtful one or solving the conflict between traditions: refer the Tradition to the Quran, compare it with Sunnite Traditions and take an opposite view, and refer to the consensus

¹²⁹ Al-Najāshī, Mufīd's student, considers 336 /948 to be a more accurate dating of Mufīd's birth; Aḥmad ibn 'Alī al-Najāshī, *Kitāb al-rijāl* ([Tehran, Iran]: Markaz-i Nashr-i Islāmī, 1407/1986), 402-3.

¹³⁰ Mufīd's student, Shaykh al-Ṭūsī fixes the birth date at 338; Muḥammad ibn al-Ḥasan Ṭūsī, *Al-Fihrist* (Mu'assasat Nashr Fuqāhat, 1417 [1997]), 238. Ibn Nadīm, a contemporary of Mufīd, has the same view as al-Ṭūsī; Muḥammad ibn Ishāq ibn al-Nadīm, *Al-Fihrist*, ed. Riḍā Tajaddud ([Iran]: Riḍā Tajaddud, 1350/[1971]), 248.

of the Shiite scholars.¹³¹ In contrast, within the school of Baghdad the role of human reason or “intellect” (*‘aql*) is recognized. In Mufīd’s opinion, we know the authenticity of the Quran not only from Traditions, but also from reason,¹³² and when there is lack of knowledge about new legal circumstances, we also refer to reason.¹³³

In the time Mufīd was living, the Abbasid caliphs dominated the political system and applied Sunnite law, while the sons of Abū Shujā‘ Daylamī, the Shiite Buwayhid dynasty,¹³⁴ were in their service, holding the title of Commander of the Commanders [*amīr al-umarā’*], a military title with executive power. The Hamdanids in the northern part of Iraq were another Shiite dynasty working for the Abbasid caliphs. Thus circumstances were relatively favorable for the Twelver Shiite community, and the Shiite-Sunnite relationship was also relatively stable. The Būyid dynasty promoted Shiite religious ceremonies such as ‘Ashūrā’, which took place in public space in Baghdad, the centre of the Sunnite caliphate, in 352/962¹³⁵, and the ‘Īd al-Ghadīr¹³⁶ commemorating Ali’s Imamate. The Būyids did not, however, play sectarian politics against the majority Sunnite population. As for Mufīd’s relations with the Būyids, they were mostly friendly, though he was at one point exiled from Baghdad by them because of Sunnite-Shiite unrest. We know from Ṭūsī and Ibn al-Nadīm that he served as the head of the Shiite

¹³¹ Kulaynī, *Kāfī*, vol.1, 8-9, 68.

¹³² Mufīd, *al-Tadhkirah bi-uṣūl al-fiqh*, in *Silsilat muḥallafāt al-Shaykh Mufīd*, ed. al-Shaykh Mahdī Najaf, vol. 9 (Beirut: Dār Mufīd lil-Ṭibā‘ah wa-al-Nashr wa-al-Tawzī‘, 1414 Q/1993), 28.

¹³³ Mufīd, *Rasā’il fi al-Ghaybah*, ed. ‘Alā’ Āl Ja‘far, vol. 1 (Congress of Shaykh Mufīd), 14-15.

¹³⁴ Whether the Buwayhids were Zaydī or Twelver is a matter of debate. Thus modern historians often call them simply “‘Alawī”, i.e. followers of ‘Alī.

¹³⁵ Abū al-Faraj ‘Abd al-Rahmān ibn ‘Alī Ibn al-Jawzī, *al-Muntaẓam fī tawārīkh al-mulūk wa-al-umam*, ed. Muḥammad ‘Abd al-Qādir ‘Aṭā and Muṣṭafā ‘Abd al-Qādir ‘Aṭā, vol. 14 (Beirut: Dār al-Kutub al-Ilmīyah, 1992 [1412]), 150.

¹³⁶ Aun Hasan Ali, “Imamite Rationalism in the Buyid Era,” (master’s thesis, McGill University, 2007), 50.

community for an extended period.¹³⁷ Mufīd died in 413/1022. Because of his high status and influence, thousands of Baghdad residents, both Shiites and Sunnites, participated in his funeral commemoration.

Ideas and influence

Mufīd stands as a leading theologian and jurist not only in his time, but long after. His main book in law is *al-Muqni‘ah*. The *Muqni‘ah* was expanded and commented upon by Shaykh al-Ṭūsī (460/1068), Mufīd’s prominent pupil, under the title *Tahdhīb al-aḥkām*, which became one of the main four Shiite legal sources. Mufīd applies reason in interpreting the Quran and traditions, a great change, as indicated above, from the school of Qum and from his teacher, Ibn Bābawayh al-Qummī, known as “al-Shaykh al-Saduq”. McDermott identifies the establishment of a rational foundation for Shiism as one of Mufīd’s chief goals.¹³⁸ Along with Ibn Abī ‘Aqīl al-‘Ummānī (fl. 4th/10th century, and thus al-Kulaynī’s contemporary) and Mufīd’s tutor Ibn al-Junayd al-Iskāfī (d. 381/991, and so a contemporary of al-Ṣadūq) he is the founder of independent legal reasoning or *ijtihād* in Shiism.¹³⁹ *Ijtihad* became possible because Shiite

¹³⁷ Tusi, *Al-Fihrist*, 238; Ibn al-Nadīm’s words; he died in 338/950 around thirty years before Mufīd’s death, indicating that Mufīd was the religious leader of the Shiites for more than thirty years. See, *al-Fihrist*, 248.

¹³⁸ Martin McDermott, “Muqāyasah’i ravish-i kalāmi-yi Shaykh Mufīd bā kalām-i masīhī,” *Kayhān-i Farhangī*, 97 (1372/1993), 11. English version available at http://www.al-islam.org/al-tawhid/mufid_kalam/ under the title “Method in Mufid's Kalam and in Christian Theology”.

¹³⁹ Wilfred Madelung asserts that Mufīd repudiates the use of *ijtihād* and analogy in law and criticizes Ibn al-Junayd for employing them: Wilfred Madelung, “Mufīd,” in *The Encyclopedia of Islam*, 2d ed., vol. 7 (Leiden; New York: E.J. Brill, 1993), 312-313. In another place, Madelung adds that in the 7th/13th century, Muḥaqqiq al-Ḥillī and ‘Allāmah al-Ḥillī admitted the use of *ijtihād* (Wilferd Madelung, “Authority in Twelver Shiism in the Absence of the Imam,” in *La notion d’ autorité au Moyen Age: Islam, Byzance, Occident. Colloques internationaux de la Napoule 1978*, ed. G. Makdisi, D. Sourdel, J. Sourdel-Thomine [Paris: Presses Universitaires de France, 1982]), 168-9. Arjomand expresses the same view in his *Authority and political culture in Shi'ism* (Albany: State University of New York Press, 1988), 5. I believe, however, that Mufīd is a co-founder of Shiite *ijtihād*. Although he questioned Ibn al-Junayd’s standing in knowledge of jurisprudence and Traditions among the Shiites, he emphasizes (in reaction to a

scholars started using the science of jurisprudence, in which consensus, reason, linguistic analysis, and “the custom of rational persons” (*sīrat al-‘uqalā’*) occupied an important place.¹⁴⁰

Sunnite scholar’s critique) that Ibn al-Junayd was more knowledgeable than and superior to the Sunnite imams (*al-Masā’il al-Ṣāghāniyyah*, 58). Mufīd’s reaction against Ibn al-Junayd’s view of *ijtihād* has cast doubt on his sympathy for it, and it is true that he did argue against it on several occasions, in addition to which al-Najjāshī’s *Rijāl* (p. 402) gives the title of a work of his criticizing Ibn al-Junayd’s approach. It seems, however, that his concern was more with Ibn al-Junayd’s use of analogy in religious law and his adoption in some cases of the views of Abū Ḥanīfah and other Sunnite jurists (*al-Masā’il al-Ṣāghāniyyah*, 58-59). Mufīd accuses Ibn al-Junayd of not separating the Traditions transmitted from his personal opinion, or not sufficiently trusting their well-attested traditions (*mutawātir*) Traditions (Mufīd, *al-Masā’il al-sarawīyah*, 73). Explaining why *ijtihād* and analogy are rejected, Mufīd argues that in every new case, there is an explicit text (*naṣṣ*) from the Imams which guarantees the authenticity of law, so that it is not permitted or at least not necessary to employ *ijtihād* or analogy (*Awā’il*, 139; see also *al-Taḍkirah bi-uṣūl al-fiqh*, 38). We may understand from Mufīd’s statements that he rejects only the type of *ijtihād* Ibn al-Junayd introduced and employed in his legal works, but not *ijtihād* per se, because, as McDermott notes, Mufīd talks about real or legitimate *ijtihād* as well. Legitimate *ijtihād* refers to the Book, the Sunnah, including the Imams’ Traditions, and the works of preceding ‘ulamā’. Where there is no specific determination from revelation for new cases, they are to be subjects to the judgement of reason (‘*aql*) (McDermott, *Theology*, 294-96). Those who postpone the beginning of *ijtihād* to the time of the School of Ḥillah are, I believe, mistaken. In their evaluation of *ijtihād*, they have focused on how the Traditions are perceived, but other key elements of *ijtihād* having to do with the application of jurisprudence (*uṣūl al-fiqh*) have been neglected. Madelung does point to the importance of legal methodology or *uṣūl al-fiqh* when he talks about the constant renovation of *ijtihād* in Shiism (Madelung, *Authority in Twelver Shiism*, 169), but he does not pay enough attention to its role in the *ijtihād* of Mufīd. Though Mufīd’s position on reason is not as clear as that of medieval and modern *mujtahids*, he does discuss it. In his *al-Tadhīrah bi-uṣūl al-fiqh*, he says that reason as a way to understanding the authenticity of the Quran and proofs of the traditions (p 28), though not as an independent but supplementary source (see *Awā’il*, 4). Nevertheless, Mufīd points to reason as independent source in this same book frequently; see pp. 57, 67, 69, 87, 157-158. Elsewhere, he places reason next to the Quran, Sunnah, and Consensus in a manner similar to that seen in our time. See also *Khulāṣat al-ijāz fī al-mut’ah* (Beirut: Dār Mufīd, 1414/1993), 22.

¹⁴⁰ Abū al-Qāsim Gurjī, *Tārīkh fiqh wa-fuqahā’*, 5th edition (Tehran: SMT, 1382 [2003]), 140-141.

Mufīd's most significant theological writings are *Awā'il al-maqālāt*, *al-Fuṣūl al-mukhtārah*, and the *Kitāb al-irshād*. He also occasionally discusses legal topics in these texts. Mufīd favours reason (*'aql*), which was necessary for legitimizing *ijtihād* because analogy (*qiyās*) was forbidden in Shiism. He says that whenever one needs knowledge to produce a judgement (*ḥukm*) or is involved in legal dispute, one has first to review it in light of the Quran and the Sunnah. If the Imam, Mufīd says, is not accessible, it is necessary to refer to the 'ulamā' or jurists to find out what they learned from the former Imams. If there is no relevant specific text (*naṣṣ*) from those Imams, it is permitted to refer to the judgement of the intellect.¹⁴¹ There is, of course, an ambiguity here. Because Mufīd lived close to the time of the Occultation, he does not specify if he means the Twelfth Imam who is not accessible because he is occulted, or other Imams in the past who were not accessible to their followers because, for instance, they were far away or imprisoned by the Abbasids.

It is also relevant to our study that Mufīd was recognized as an exceptionally pious figure - in Weberian terms, as possessing religious charisma. The several decrees (s. *tawqī'*) issued, it is said, by the Twelfth Imam call Mufīd "a leader, honest in religion, support of the righteous, and fighter against injustice". As already mentioned the Hidden Imam is thought to have granted him the title al-Mufīd, i.e., "useful" [to the religion and community]. Mufīd's view on the relationship between the Shiite 'ulamā' and an "unjust", i.e., non-legitimate, government was formed in the context of the political system of his time in general and that of the Abbasid caliphate in particular. His views on theology show an earlier Shiite thought coming to terms with the Occultation.

Contemporary politicization of the image of Mufīd

This thesis contends that Deputyship or *niyābah* was originally not political, and only became so gradually and rather late, i.e., only in the 18th century under the Qājārs. There has been a drive, however, to portray Deputyship as political so that it may serve as a basis for the modern doctrine of Guardianship of the Jurist or *wilāyat al-faqīh*. Since I have often had to undo what I consider to be errors related to this drive throughout the work, it will be useful to see some examples here.

¹⁴¹ Mufīd, *Ghaybah*, ed. 'Alā' Āl Ja'far, vol 1 (Congress of Shaykh Mufid), 14-16.

In 1413/1992, a “Millennium International Congress” on Shaykh Mufid was held by the seminary school of Qom, Iran, following which his extant works were (re-) published along with several articles submitted to the Congress. The Congress, unfortunately, was finally an effort to politicize Mufid, specifically to cast him as a proponent of Khomeini’s theory of *wilāyat al-faqīh* or Guardianship of the Jurist. The politicization of Mufid continued after the Millennium International Congress. Abū al-Faḍl Shākūrī, the author of a long preface to the work on Guardianship of Ayatollah Muntazirī, a prominent proponent of the theory, asserted that Mufid had been active in politics and society. Shākūrī asserts that Mufid’s writings address the theory as well as the necessity of establishing a Shiite state. He claims that Mufid made it obligatory for Shiites to support a political system or government created by qualified jurists. Shākūrī also claims that Mufid forbade any collaboration with “erring kings” and oppressive powers (*sulṭān*), though his writings show quite the opposite. For Shākūrī, Mufid’s legal opinions and views on politics represent a propitious development in Shiite jurisprudence, in contrast to the views of his teacher Shaykh Ṣadūq.¹⁴²

Contrary to Shākūrī’s claims, however, Mufid never uses the term “Guardianship of the Jurist” or discusses anything like it. Nor does he broach the necessity of establishing a Shiite state. Mufid did not tell Shiites to support a system created by the jurists. Far from being a political activist, he held that it is permissible and even in some circumstances obligatory to work for an unjust ruler. Shakuri does not provide any proof for his claim and no reference to a source. He refers to developments in Shiite jurisprudence between the time of Ṣadūq and Mufid, i.e., from the traditionist school of Qom to more rationalist school of Baghdad as involving politics, but the shift in fact occurred mostly in methodology and certainly not in the approach to politics. Al-Ṣadūq and Mufid were both apolitical.

Shākūrī quotes a lengthy passage from the *Kitāb al-Ḥudūd* (Section on Quranic Punishments) of Mufid’s *Muqni‘ah* and then comments as follows:

It is individually incumbent (*wajib ‘aynī*) upon one who has obtained power [*ghalabah yaft*] and become caliph and *amīr*, as well as anyone appointed by such a person, to

¹⁴² Ḥusayn ‘Alī Muntazirī, *Mabānī-fiqhī‘i ḥukūmat-i Islāmī: Dawlat va-ḥukūmat*, tr. and ed. Maḥmūd Ṣalawātī, vol.1 (Tehran: Intishārat-i Sarāī, 1379 [2000]), 32.

administer the Quranic punishments (*ḥudūd*), enforce the Shariah, encourage good and forbid the evil [... and so on].¹⁴³

The issue of the jurists administering Quranic punishments will be discussed in detail later on, but very briefly, it must be said that the quotation is not accurate. Mufīd writes about the necessity of observing *ḥudūd* by a Shiite jurist appointed by a non-Shiite ruler, not a Shiite person such as a jurist possessing the power to appoint someone else. There are two very evident tendencies in Shākūrī's interpretation of Mufīd's views about politics and the relation between Shiite jurists and "unjust" rulers. First, he tries to prove that political Deputyship has long and strong roots among prominent Shiite jurists. Second, he undermines the idea of working for an unjust ruler, obviously with the conditions of pre-revolutionary Iran in mind.

Aḥmad Āzarī Qummī is even more eager than Shākūrī to politicize Deputyship. He states with apparent certainty that Mufīd is the first jurist to introduce the theory of Guardianship, especially in his *Muqni'ah*, and adds that he tried to strengthen the intellectual basis for it.¹⁴⁴ He does not, however, tell us where this is stated in the *Muqni'ah* or any other of Mufīd's writings. Āzarī Qummī cites prayer leadership on the two Eids, prayers for rain, and prayers in the event of a lunar or solar eclipse as evidence that Mufīd propounded *niyābah*.¹⁴⁵ Apart from these being quite minor functions, the jurists are actually asked, in Mufīd's telling, to lead the prayer as a general duty of a religious figure, and certainly but not as something delegated by the Imam. From Mufīd's view on enjoining good and forbidding evil, execution of legal penalties, and the necessity of paying alms (*zakat*) to the Shiite jurists, Āzarī Qummī, astonishingly, infers "Absolute Guardianship of the Jurist" (*wilāyat-i muṭlaqah-i faqīh*). His argument is that absolute power or *sulṭān* in the above-mentioned cases refers to the Prophet and the Imams; and since during the Occultation, the jurists function as the deputy of the Imam, their authority is

¹⁴³ Muntazirī, *Mabānī-i Fiqhī*, 33.

¹⁴⁴ Aḥmad Āzarī Qummī, "Wilāyat-i faqīh az nigāh-i Shaykh Mufīd," in 'Ulūm-i insānī "Majmū'ah Maqālāt Congarah Shaykh Mufīd" 4 (1371/1992), 46.

¹⁴⁵ Āzarī Qumī, "Wilāyat-i faqīh," 52.

absolute.¹⁴⁶ Āzarī Qummī does not stop there, for, based again supposedly on Mufīd, takes the jurists to actually themselves be the “*sulṭān al-Islām*”.

It is not my goal here to respond in detail to Āzarī Qummī’s or Shākūrī’s understandings of Shaykh Mufīd. I will only point out three basic defects, which greatly contrast with the picture of Mufīd presented in this chapter. First, as I have said, both represent Mufīd’s approach to Deputyship as being thoroughly political without proof or reference. Second, their understanding of Mufīd is constructed by expanding a specific case to something general or universal. For instance, Āzarī Qummī quotes from the *Muqni‘ah* as follows: “The Shiite jurists who are just, knowledgeable, wise, and virtuous take up the duties of the sulṭān [*yatawallū mā yatawallāhu al-sulṭān*].”¹⁴⁷ The passage quoted actually concerns a very specific and narrow case, one in which a person who is the executor of someone’s will himself dies without having executed the whole will. Can the executor of the will of the second person then complete the execution of the will of the first? Mufīd says that he cannot; rather he should refer it to the just *sulṭān*. However, when there is no just *sulṭān*, people may refer to a jurist,¹⁴⁸ who then acts in the capacity of a judge. Third, Āzarī Qummī and Shākūrī interpret texts to serve their ends. Āzarī Qummī, for example, seeing that the term *sulṭān al-Islām* refers to the jurists, takes a great leap by going on to define it as the sovereign or highest authority in a community. He concludes that the Shiite jurists must be the head of state, the *sulṭān*,¹⁴⁹ while Shaykh Mufīd in truth does not give the title of *sulṭān* to the jurists in the sense of head of the state. Mufīd explicitly says that the Imams are the *sulṭān* of Islam,¹⁵⁰ but he does not give the same title to the *hākims* and *amīrs* who are appointed by them. Immediately following this statement, Mufīd specifies that the Shiite jurists are granted the authority to judge, which is specific, and not general. They possess only one part of the *sulṭān*’s powers, i.e., judgement.

¹⁴⁶ Āzarī Qumī, “Vilāyat-i faqīh”, 55.

¹⁴⁷ Āzarī Qumī, “Vilāyat-i faqīh”, 59; Muntazirī, *Mabānī-i fiqhī*, 35.

¹⁴⁸ Mufīd, *al-Muqniyah*, 675.

¹⁴⁹ Āzarī Qumī, “Vilāyat-i faqīh”, 60.

¹⁵⁰ Mufīd, *al-Muqni‘ah*, 810. Āzarī Qumī also maintains that Mufīd did not give the title *sulṭān al-Islām* to non-jurists (“Vilāyat-i faqīh”, 61), which is manifestly untrue, as I explain further on in this chapter.

Key terms and concepts

The Arabic terms *sultān*, *nā'ib*, *ḥākim*, *amīr*, *wālī*, *nāzir*, and *'āmil* are key to understanding *niyābah*. Their meanings develop and even change between the “moments” of Deputyship highlighted in this work. These shifts are significant enough that they have facilitated quite different interpretations. As always with the dense juristic and theological texts, it is necessary to pay close attention to Arabic usage. Therefore in this and the next sections, I will analyze the terms used in some detail, leaving their analysis in light of Deputyship to a separate section.

Nā'ib, the general sense of which is representative or deputy, has a technical meaning in Shiism of the person to whom the Imam deputizes his functions during his Occultation. In his chief legal work *Muqni'ah*, Mufīd utilizes the term *nā'ib* five times. In this early period, however, *nā'ib* is meant in a general and not in the specialized, technical sense we see later of Deputyship of the Imam. Al-Ṣadūq actually does not use the term at all in his four-volume legal compendium, *Man lā yaḥḍuruḥu al-faqīh* or in his *al-Muqni'*.¹⁵¹ In *al-Fuṣūl al-mukhtārah*, Mufīd calls Ali the Prophet's *nā'ib* in speaking about Ali's great faith and virtues, and not in any technical sense.¹⁵²

The term *sultān* is used frequently in the *Muqni'ah*. It mostly conveys a general meaning, for example, the person who governs the community with comprehensive power or sovereignty, or the sovereign himself.¹⁵³ In some places, it refers to the Shiite Imams. In others, it is used to speak of a judge, or the head of the community acting as the judge. It also appears in compound forms such as ‘just’ or ‘right’ *sultān*,¹⁵⁴ “unjust *sultān*,”¹⁵⁵ “*sultān al-ẓulmah*” (ruler of

¹⁵¹ Muḥammad ibn 'Alī Ibn Babawayh (al-Ṣadūq), *Al-Muqni'*; ed. Lajnat al-taḥqīq li-Mu'assasat al-Imam al-Hādī (Qom: Mu'assasat al-Imām al-Hādī, 1415/1994); Ibn Bābawayh, *Man lā yaḥḍuruḥu al-faqīh*, ed. 'Alī Akbar al-Ghaffārī (Qom: Jāmi'at Mudarrisīn al-Ḥawzah al-'Ilmīyah, 1363 sh. 1404q/1983).

¹⁵² Mufīd, *al-Fuṣūl al-mukhtārah*, 278.

¹⁵³ Mufīd, *al-Muqni'ah*, 220, 386, 614, 616, 652, 736, 739, 749, 781, 787, 788, 791, 792, 795, 800, 804, 805, 826, 842.

¹⁵⁴ Mufīd, *Al-Muqni'ah*, 613, 649, 675, 676, 740.

darkness),¹⁵⁶ “*sulṭān al-zamān*” (ruler of the time),¹⁵⁷ “*sulṭān al-ḡalāl*,”¹⁵⁸ and “*sulṭān al-Islām*.”¹⁵⁹ Mufīd calls the Imam *sulṭān* (obviously not meaning unjust *sulṭān*, *sulṭān* of darkness, or *sulṭān al-ḡalāl*). The Imam is the *sulṭān al-Islām*, appointed by God. Mufīd uses the terms *umarāʾ* and *ḥukkām* for political, judicial, or military delegates of the Imams. Who exactly are these personalities? In the Abbasid period in which Mufīd lived, *amīr* had quite a wide meaning. *Al-umarāʾ*, plural of *amīr*, meant commander, governor, prince, leader, advisor or counselor.¹⁶⁰ Lewis says that when the position of authority is hereditary such as in the Abbasid dynasty, the prince was called *amīr*.¹⁶¹ Prior to the Umayyads, *amīr* was equivalent to ‘*āmil*, “functionary”, including collectors of taxes.¹⁶² Levy suggests that in the lifetime of the Prophet, the ‘*āmil* (whose responsibility it was to collect alms-taxes) was separate from that of the *amīr*; however, they were sent together to newly occupied territories.¹⁶³ *Amīr* also, of course, meant a military commander. Under the caliphate, the title “was bestowed on a ‘*āmil* (delegate) appointed with

¹⁵⁵ Mufīd, *Al-Muqni ʾah*, 349, 706, 740, 810, 811.

¹⁵⁶ Mufīd, *Al-Muqni ʾah*, 706.

¹⁵⁷ Mufīd, *al-Muqniyah*, 537, 809.

¹⁵⁸ Mufīd, *al-Muqniyah*, 810, 811.

¹⁵⁹ Mufīd, *al-Muqniyah*, 648, 649, 810, 811.

¹⁶⁰ See, Nādīyā Bargnīsī, “Amīr,” in *Great Islamic Encyclopedia*, retrieved:

<http://www.cgie.org.ir/fa/publication/entryview/4742>; also, ‘Amīr’ in *The Encyclopædia Iranica*:

<http://www.iranicaonline.org/articles/amir-commander-governor-prince-in-arabic>; A. A. Duri, “Amīr,” in *The Encyclopedia of Islam*, volume I (London: Luzac & Co., 1960), 438-439; Hibba Eltigani Abugideiri, “Amīr,” in *The Oxford encyclopedia of the Islamic World*, 1st Vol., Editor in chief: John L. Esposito (New York, NY: Oxford University Press, 2009), 137; Cyril Glassé, *The new encyclopedia of Islam*, 3rd edition (Lanham, Md.: Rowman & Littlefield, 2008), 50.

¹⁶¹ Bernard Lewis, *The political language of Islam* (Chicago: University of Chicago Press, 1988), 50.

¹⁶² *Great Islamic Encyclopedia*, entry ‘Amīr’.

¹⁶³ Reuben Levy, *The social structure of Islam* (Cambridge: Cambridge University Press, 1969), 355.

the approval of the caliph”.¹⁶⁴ In Abbasid times, political connotations were added to the military notion, so that *amīr* came to mean both a high ranking civil and military official. *Amīr* thus became the habitual title of a governor, ruler, or provincial military official holding political and military power together.

The term *ḥākim* in Mufīd’s usage refers to an appointee of an Imam. Generally, it means sovereign, judge, or governor;¹⁶⁵ thus it seems vaguer than *amīr*. *Ḥākim* in Mufīd’s *Muqni‘ah* means judge. Mufīd does call the *ḥākim* as the appointee of the *sulṭān al-Islam*, that is to say, the *Imams*. “The *sulṭān al-Islam* appointed by God, namely the guiding Imams from the Family of Muḥammad, and the *amīrs* and *ḥākims* whom they have appointed have the responsibility to execute the Quranic punishments.”¹⁶⁶ However, following the statement just quoted, Mufīd clearly specifies that the jurist’s authority is limited to judgeship. Thus we must conclude that the jurists’ *ḥukūmat*, like that of the *amīr’s emarate* here also mentioned, is only part of that of the Imam. Only the Imam combines the two and is the *sulṭān al-Islam*.

The term *sulṭān* is used in a general, non-technical sense also in Mufīd’s *Kitāb al-irshād*, where it refers to the holder of the highest level of power in a state, or the power itself.¹⁶⁷ In the *Irshād*, we see the phrases *sulṭān al-ṣa‘b*,¹⁶⁸ unjust ruler, and *sulṭān al-risālah*,¹⁶⁹ meaning the Prophet. There is one instance in the *Irshād* where *sulṭān* denotes the Imam in its Imamī sense;¹⁷⁰ but on other occasions, Mufīd uses the expressions *sulṭān al-zamān* (*sulṭān* of the time) in a

¹⁶⁴ Hibba Eltigani Abugideiri, “Amīr”, in John Esposito, ed., *The Oxford Encyclopedia of the Islamic World*, (New York, NY: Oxford University Press, 2009), 137.

¹⁶⁵ Geneviève Gobillot, “Al-Ḥakīm”, in Esposito, *The Oxford Encyclopedia of the Islamic World*, 362-3.

¹⁶⁶ Mufīd, *al-Muqniyah*, 810.

¹⁶⁷ Mufīd, *Kitāb Al-irshād: The Book of Guidance to the Lives of the Twelve Imams*, vol. 1 (Qom: Dār Mufīd), 14, 166, 242, 245, 291, 309, 320. Vol. 2: 120, 121, 182, and 369.

¹⁶⁸ Mufīd, *Book of Guidance*, vol. 1, 281.

¹⁶⁹ Mufīd, *Book of Guidance*, vol. 1, 249.

¹⁷⁰ Mufīd, *Book of Guidance*, vol. 2, 342.

general sense, for instance in reference to a contemporary Abbasid caliph that might be identified either as al-Muhtadi or al-Mu‘tamid.¹⁷¹

Does Mufīd use the term *sulṭān* for the jurist? He defines the Imams as *sulṭān al-Islam* and then states that the *amīrs* and *ḥākims* appointed by the Imams have the same authority for execution of the Quranic punishments. It is the Shiite jurists who judge on behalf of the Imams for these punishments.¹⁷² So it does not mean that the jurist is a sovereign also holding political and military power.

The term *nāẓir* (literally, supervisor) or *nāẓir fi umūr al-muslimīn*¹⁷³ (supervisor of the Muslims’ affairs) refers to the sovereign person or judge; *nāẓir* in its general, non-technical meaning can be both judicial and political. However, in the Book of Quranic Punishments of Mufīd’s *Muqni‘ah*, it takes on the specific meaning of judgment in relation to the jurists¹⁷⁴ and has a political meaning only for *amīrs*.¹⁷⁵ Shaykh Ṭūsī in his *Nihāyah* also terms the Imam *nāẓir fi umūr al-muslimīn*. He explains that when the Imam is not present, the just and knowledgeable Imamī jurists play his role in the case of someone dying without an executor for his will by appointing the executor for him.¹⁷⁶ This is clearly a judicial function, and a rather narrow one at that. Kamali asserts that the *mujtahid* is competent in both judicial affairs *and* supervising “the affairs of the Muslims”. In reference to Mufīd, Sayyid Murtaḍā, Ṭūsī, and the leading *mujtahid* Shaykh Anṣārī (d. 1281/1864), Kamali says that [...] a fully qualified *mujtahid* (one qualified to exercise independent reasoning) is a representative (*nā‘ib*) of the imam regarding judgement and administration of the people affairs”.¹⁷⁷ Kamālī’s statement, I would assert, applies to the second

¹⁷¹ Mufid, *Book of Guidance*, vol. 2, 336 and 337.

¹⁷² Mufid, *al-Muqni‘ah*, 810.

¹⁷³ Mufid, *al-Muqni‘ah*, 669, 673, 675.

¹⁷⁴ Mufid, *al-Muqni‘ah*, 810.

¹⁷⁵ Mufid, *al-Muqni‘ah*, 812.

¹⁷⁶ Muḥammad ibn al-Ḥasan Ṭūsī, *al-Nihāyah* (Qum: al-Mu‘assasah, 1412 [1991]), 607.

¹⁷⁷ Mohammad Hashim Kamali, “Law and Society: The Interpretation of Revelation and Reason in the Shariah,” in John L. Esposito, ed., *The Oxford History of Islam* (New York: Oxford University Press, 1999), 116-117. The author has called those three Shiite figure *mujtahids*, although in their time the use of

and third moments of *niyābah*, and not to the first. There is no clear evidence in Mufid's writings that he regarded the jurists as possessing both the power to judge in the community and to administer the affairs of its members. There is no doubt that he considered the first valid; but for the second, which is crucial to the issue of politics, much clearer evidence is required.

The Imam's *amīrs*, *hākims*, and *wālīs*

Shiite legal literature in Mufid's time does not present specifically Shiite definitions of the terms *hākim*, *wālī* and *amīr*. They are used in a manner very close to that seen in Sunnite literature. This is probably why Sourdel translates *wulāt* as "agents" rather than giving it a political sense.¹⁷⁸ In the Sunnite political hierarchy in the early centuries of Islam, authority was transferred from the Prophet to the caliphs, with the *sulṭān* gaining power after. *Amīrs* included a variety of figures with lesser powers than the caliphs, from princes in the caliphal family to provincial governors and military commanders. Bernard Lewis places *sulṭān* lower than *amīr*, dating its official appearance to the year 428/1037 under the Great Seljuqs.¹⁷⁹ I would assert, however, that before the Seljuqs, the Ghaznavids, who were contemporary to Mufid, called themselves *sulṭān* and held the titles *amīr* and *sulṭān* simultaneously.

Despite the parallel vocabulary, Shiite reality was very different from that of the Sunnites. In Mufid's time, the model of political hierarchy seen among the Sunnites did not exist. Mufid nevertheless uses the terms *sulṭān*, *amīr*, *hākim*, *nāzīr*, and *wulāt*. Different from the Sunnite construction, he defines the Imams as *sulṭāns* of Islam, that is to say the main authority, equal to the caliph for the Sunnites. The Imam's source of authority is God, because he is appointed by Him. The *amīrs* and *hākims* appointed by the Imams also hold the title of *sulṭān*. Mufid says, "The Imams of Guidance are *sulṭān* of Islam, appointed by God, and the *amīrs* and *hākims* they appoint are the *sulṭān* of Islam as well."¹⁸⁰

this title was not current. He also mentions the date of death of Mufid as 1044 and that of al-Murtaḍā as 1060. The correct dates are 1022 and 1044.

¹⁷⁸ See, Sourdel, *L'Imāmisme*, 61.

¹⁷⁹ Bernard Lewis, *The Political Language of Islam*, 52-53.

¹⁸⁰ Mufid, *al-Muqni'ah*, 810.

Let us look first at the theoretical side of Mufīd's construction. Instead of the caliph, the Imam is the successor to the Prophet, and thus the head of the community. The *amīrs* and *ḥākims* are the Imam's appointees, possessing, theoretically, the same authority as the Imam. It is necessary, however, to understand that they are entirely different figures from a theological point of view. Mufīd considers the possibility that the Imam's agents have the same characteristics as the Imam, but he decides in every case that this is not so. It is not necessary for appointees to be infallible or specifically designated (*naṣṣ*). They must be more knowledgeable than others, but their knowledge does not have to be equal to that of the Imam.

Mufīd's construction of a political system, it should be understood, was mostly imaginary. Although he speaks about *amīrs* appointed by the Imam, none actually existed. Though the terms *amīr*, *ḥākim*, and *walī* have political, military and administrative meaning, they were not relevant even during the time of the Shiite Imams, who made no such appointments, save for the first Imam 'Alī. The purely judicial title of *ḥākim*, however, did have a reality.

The jurists and judgeship

In Mufīd's theology, all power belongs to God, the Prophet, and the Imams, one after the other. Though the Imam has disappeared, he still is the holder of supreme power. The Imam does, however, delegate judicial power. Although Mufīd does not use the term *niyābah* in his *Muqni'ah*, the general concept of Deputyship is present when he discusses the question of the jurists taking charge of judicial affairs involving Quranic punishments (*iqāmat al-ḥudūd*).¹⁸¹ Why are judicial affairs the subject of delegation? Traditions according to which the jurists were granted authority to judge belong to a time when the Imams were not only distant from political leadership, but also extremely reluctant to mount any political claims. In a situation in which there was a lack of actual power, delegation of most powers was unreal. What was left was legal

¹⁸¹ Mufīd, *al-Muqni'ah*, 810, 811. If we go back to al-Ṣadūq, we will see that he asks the Shiites not to refer to non-Shiite jurists for judgement of litigation. Instead, they are ordered to refer to a Shiite man (*rajul*) with some legal knowledge – not, as Mufīd says, jurists. There is no doubt that for al-Ṣadūq, *ḥukm* means judgeship and *ḥākim* is equal to Judge (*qāḍī*): *Man lā yaḥduruhu al-faqīh*, 3. At the same time, al-Ṣadūq warns his followers not to accept position of judgeship, because it belongs to the Imam who knows judgeship and is just toward Muslims, as the Prophet and his successors the Imams did (*ibid.*, 5).

rulings and judgeship. Emphasis on these was pivotal for the Shiite community, for it kept the unofficial Shiite judiciary system alive and helped to preserve the identity of a politically marginalized community. The Quranic punishments in particular are mentioned because, as I have already suggested, their operation stood as a symbol of the continued existence of Shiite law. Unlike private law, they also suggested real power, which the jurists and their system of law were, in reality, deprived of. Mufid's detailed discussion of the *ḥudūd* should be understood in light of these realities.

Mufid's view is that the Imam has granted the Shiite jurists authority during the Greater Occultation to apply the Quranic punishments, if possible. The Quranic punishments include the amputation of the hand for thieves, lashing for adulterers, and retaliation for murderers. The responsibility is, in technical terms, *farḍ 'alā al-kifāyah*, a duty that, even if it does not have to be carried out by all members of the community, must be carried out by someone; as well as *farḍ 'alā al-ṭā'ah*, a duty that can be carried out by a few, for instance some or one of the jurists, but only if it does not involve danger to one's life, property, and religion. Thus administration of the punishments ceases to be obligatory for the jurists if they fear the unjust ruler or threats from other groups.¹⁸² Mufid calls on the Shiite jurists to apply the Quranic punishments at least among their family members and servants, and then expand it to their relatives and other community groups, as far as conditions, especially safety, allow.

Obviously, the scope for judicial activity among Shiites was quite limited. Mufid also, however, allows the jurists to act as judges while serving as functionaries appointed by an "unjust" ruler. Mufid writes,

If a Shiite jurist is appointed by a non-Shiite ruler to administer the Quranic punishments (*ḥudūd*) among a group of the ruler's subjects, the jurist will be personally obliged (*farḍ muta 'ayyan*) to accept it, because of the outwardly apparent (*zahir*) power of the ruler. Then the jurist shall execute the prescribed punishments, enforce the ordinances, command the good and forbid the evil, and fight non-Muslims [referring to jihad] and iniquitous persons. In this case, it is obligatory for his Shiite brothers to support him whenever he requests help; of course, as long as he [the jurist]

¹⁸² Al-Mufid, *al-Muqni'ah*, 810.

does not exceed the limits of faith and does not obey the “*sulṭān* of darkness” when he acts against God’s orders.¹⁸³

This statement conveys important information. We see that working for an unjust ruler if asked and even obedience to such a ruler is obligatory, at least as far as accepting a judgeship goes. In addition, Mufīd makes it obligatory for other Shiites to support such jurists whenever they need aid and as long as they follow “truth” (*ḥaqq*, i.e., Shiite law). If the jurists do not fulfill these conditions, support is forbidden.¹⁸⁴ Mufīd is quite concerned about how to justify working for an unjust ruler, in light of the apparent prohibition in Shiite thought. This question will be tackled later in the chapter, but it is useful here to review it briefly. According to Mufīd, if a Shiite jurist working in a non-Shiite judicial system judges on the basis of Shiite law, his cooperation with the unjust system is allowed or even necessary. He stresses that neither the Shiite jurists nor those who are appointed by the oppressive *sulṭān* are allowed to judge against the permanent principles of Shiism, save in a time of great pressure when it might be necessary to practice dissimulation (*taqiyyah*) for fear of losing faith and life. Even at such a time, however, deliberate shedding of Shiite blood is not in any way permissible.¹⁸⁵ Clearly, serving Shiite interests is the reason for permissibility of working with an unjust ruler.

Thus, to review, the doctrine of *niyābah* for Mufīd is limited to judgeship. He explicitly says that the Imams granted Shiite jurists the authority to judge. The scholars must carry out all responsibilities given to judges in Shiite law. Mufīd says much the same in his *Amālī*: Whenever God wishes good for His servants, He has righteous individuals govern them, jurists judge among them, and places property in the hands of the generous.¹⁸⁶

One last point: Although Mufīd permits the Shiite jurist to play a role as a political authority if he is appointed to such a position by an unjust ruler, but he only talks about this in

¹⁸³ Mufīd, *al-Muqni'ah*, 810.

¹⁸⁴ Mufīd, *al-Muqni'ah*, 810.

¹⁸⁵ Mufīd, *al-Muqni'ah*, 811.

¹⁸⁶ Mufīd, *Kitab al-amālī* (Qum: al-Maṭba‘ah al-Islāmīyah, 1403 [1982]), 97. Here Mufīd distinguishes between those who govern and those who judge. He emphasizes that the best society is that in which the jurists judge (not where they govern or rule as statesmen).

connection with authority over Sunnites.¹⁸⁷ It seems to me possible that this rather odd omission of Shiites might be due to *taqiyah*, i.e., strategic dissimulation. Mufīd is silent on the jurist’s political authority over Shiites because he does not want to put himself or the community in a dangerous position with the Abbasids by suggesting that the jurist could have independent political power. Even, however, if we admit that Mufīd permits the jurists to own political leadership – for which we really do not have solid evidence – he never represents it as a monopolistic and obligatory “guardianship” (*wilāyah*) of the jurists. So once again, we must conclude that Deputyship for Mufīd is limited to judgeship, and that its actual functioning during his time was rather narrow.

The jurists and leadership of Friday prayer

Leadership of the Friday prayer has been much debated by Shiite scholars. There has been a connection in Islam overall between leadership of the Friday prayer and political power, as the Prophet, Rightly-Guided Caliphs, and Umayyad and the Abbasid caliphs led the prayer. In Shiism, leading the congregational Friday prayer has been the exclusive task and right of the Imam, the spiritual and political leader of the school. What then is the situation in the absence of the Imam?

Mufīd was born seven or nine years after the beginning of the Greater Occultation in 329/941, so that his views throw light on how Friday prayer was treated among the early Shiite community. Let us first, however, see what the historical sources can tell us. History records observance of the congregational Friday prayer before and after Mufīd’s time. According to al-Khaṭīb al-Baghdādī (463/1071), the Shiites of Baghdad had a mosque for Friday prayer in Burāthā; the mosque was destroyed by the Abbasid caliph al-Muqtadir when it was reported to him that the congregants were cursing the Prophet’s Companions and disobeying the ruling caliph. In 324/936, Amīr Bajkam Mākānī, Commander of the Commanders in Baghdad, ordered the mosque rebuilt, and the caliph al-Rāḍī’s name was inscribed upon it.¹⁸⁸ The mosque was

¹⁸⁷ Mufīd, *al-Muqni’ah*, 810-12.

¹⁸⁸ Abū Bakr Aḥmad ibn ‘Alī Kātib al-Baghdādī, *Tārīkh Baghdād aw madīnat al-salām* (Beirut: Dār al-Kutub al-‘Ilmīyah, 1997/1417), 123-124.

rebuilt by 329/940 and Friday prayer was held there until 450/1058.¹⁸⁹ Ibn Athīr (630/1233) reveals that the congregational Friday prayer continued in Burāthā during the Shiite-Sunniite clashes occurring in Baghdad in 349/960 even while it was stopped in other mosques in areas in which Shiites were a majority.¹⁹⁰

In short, the prayer did take place, despite the dominant theoretical view dictating that leading the Friday prayer is the exclusive right of the Imam. Who, we may ask, led the prayers, and what was the position of Shiite scholars? It was very probably the Shiite ‘ulamā’ themselves who led the prayer, due to lack of any Shiite political leader, though we finally do not have this information or any indication if Mufīd would have participated.

Mufīd begins his discussion of the Friday prayer in his *Muqni‘ah* by saying that it is obligatory (*wājib*) and should be held in congregation.¹⁹¹ The obligation, however, depends on the presence of the Imam. Mufīd does not say clearly if that means the infallible Imam such that the prayer becomes obligatory only during his presence, or any imam, that is to say, a generic prayer leader. When Mufīd talks about the physical and moral qualities of an imam leading the Friday prayer, saying that such a person must be pious, free, of legitimate birth, adult, and so on,¹⁹² it does seem evident that he is referring to a fallible (ordinary or generic) imam. Nor does he list among the attributes of the imam the quality of being a jurist or *faqīh*, as he says in the case of judgeship. This leads one to conclude that the Friday congregational prayer in Mufīd’s view does not depend on the infallible Imam leading it. Some Shiite scholars after Mufīd say that

¹⁸⁹ Yāqūt ibn ‘Abd Allāh al-Ḥamawī, *Mu‘jam al-buldān*, vol. 2 (Beriut: Dār Iḥyā’ al-Turāth al-‘Arabī, 1399/1979), 362-363. Yāqūt considers that it was al-Rāḍī who ordered the mosque be demolished, not al-Muqtadir.

¹⁹⁰ ‘Izz al-Dīn Ibn al-Athīr, *Tārīkh kāmil*, tr. Ḥamīd Riḍā Āzhīr, vol. 12 (Tehran: Intishārāt-i Asāṭīr, 1383 [2004]), 5074.

¹⁹¹ Mufīd, *al-Muqni‘ah*, 163. The Quranic foundation for the necessity (*wujūb*) of assembly prayer is the ninth verse of 62 surah [al-Jum‘a] of the Quran, which says: Oh you believers! When the call is proclaimed to prayer on Friday, hasten earnestly to the remembrance of Allah and leave off business. That is best for you if you knew.

¹⁹² Mufīd, *al-Muqni‘ah*, 163-4. These qualities are being free, adult, of legitimate birth, free from vitiligo and leprosy, Muslim, Shiite, and observing the prayers at the proper times.

the prayer during the Occultation is not licit, while others say that it is permissible but not obligatory. It appears that Mufīd, different from those after him, considers Friday prayer actually obligatory during the Occultation, with the only condition being a qualified imam (of any kind) and at least four other persons to form the congregation. Otherwise, it becomes merely permissible. Thus, it seems, prayer leadership is not one of a jurist's deputized duties.

Mufīd's students Sallār al-Daylamī (448/1056)¹⁹³ and al-Murtaḍā¹⁹⁴ say that the Friday prayer is obligatory only when the Imam or his (specific) appointee is present, and not during the Occultation as Mufīd says. It seems that it may even be prohibited during the Occultation in their view. In his *al-Nihāyah*, Ṭūsī (460/1068) expresses the same opinion about prayer before the Occultation, but he also says that all kinds of prayer – thus presumably including Friday prayer – are permitted and may be led by the jurist during the Occultation.¹⁹⁵ Mufīd, in contrast, limits the role of the scholars and jurists in prayer to daily prayer, the Eid prayers, prayers upon the eclipses of the sun and moon, and prayer for rain.¹⁹⁶

The argument of Bayhom-Daou¹⁹⁷ and some other modern scholars that Mufīd held that the Shiite jurists could serve as leaders of Friday prayer because they were granted that authority by the Imam is clearly incorrect. This can also be seen by referring Mufīd's students Daylamī

¹⁹³ Ḥamzah ibn 'Abd al-'Azīz Sallār, *al-Marāsim al-'Alawīyah fī al-aḥkām al-nabawīyah*, ed. al-Sayyid Muḥsin al-Amīnī (Qum: al-Mu'āwiniyyah al-Thaqāfiyyah lil-Majma' al-'Ālamī li-Ahl al-bayt, 1414/1993), 77. On page 264, Sallār adds that the Shiite jurists can lead prayers of the feasts and rain, but not Friday prayer.

¹⁹⁴ Al-Murtaḍā says that Friday prayer is valid only with a just Imam or with his appointee, so for the Occultation, people perform the midday instead of Friday prayer. See 'Alī ibn al-Ḥusayn Sharīf al-Murtaḍā 'Alam al-Hudā, *Rasā'il al-Sharīf al-Murtaḍā*, ed. al-Sayyid Aḥmad al-Ḥusaynī, vol. 1 (Qum: Dār al-Qur'ān al-Karīm, 1405/1985), 272.

¹⁹⁵ Ṭūsī, *al-Nihāyah*, 103, 302. Ibn Idrīs al-Ḥillī criticizes al-Ṭūsī and supports al-Murtaḍā and Sallār. For more information about Ibn Idrīs' view, see Muḥammad ibn Aḥmad ibn Idrīs Ḥillī, *Kitāb al-sarā'ir al-ḥawī li-taḥrīr al-fatāwī*, vol. 1 (Qum: al-Nashr al-Islāmī, 1410 [1991]), 290-292.

¹⁹⁶ Mufīd, *Al-Muqni'ah*, 811.

¹⁹⁷ Tamima Bayhom-Daou, *Shaykh Mufīd* (Oxford: Oneworld, 2005), 127. The author has not provided any reference for this claim.

and al-Murtaḍā. As I have shown, Mufīd maintains that the Imams have delegated their judicial authority to the jurists, and not more. He does not, unfortunately, say why he excludes Friday prayer from the list of different prayers given above.

Deputyship and jihād

Though jihad has always been significant in the minds of the Muslims, particularly in early and medieval Islam, the political deprivation suffered by Shiites excluded them from leading it. This had economic consequences, for jihad was also a source of income. The Shiite *khums* tax was a likely response to this political-economic deprivation.

This may explain why Mufīd does not pay much attention to jihad. In the *Muqni'ah*, the term jihad is mentioned only eleven times in noun form and three times in the form of a verb.¹⁹⁸ Mufīd does not allocate an independent section of the *Muqni'ah* to jihad, as became the practice after him. He instead puts it in a section with the topics of commanding good and forbidding evil and Quranic punishments. Even here, one can find the word jihad only three times: once in the title of the book, and twice in the body of the text.¹⁹⁹ In his *Al-fuṣūl al-'asharah*, in answer to objections raised by opponents of the Shiites about the disappearance of the Imam, Mufīd does say that religious duties and principles, including jihad, do not cease during the Imam's absence but are fulfilled by his *wulāt*, *'āmils*, or *amīrs*.²⁰⁰ He does not, however, provide substantial information about who these figures might be and how they could carry out jihad from within a non-Shiite system.

Mufīd does not discuss jihad because it was declared by the political authority, while the Shiite Imam was not present and had not designated a political deputy. Nevertheless, jihad in the sense of war against infidels does occur once in the *Muqni'ah*. This concerns the jurist engaging in jihad when he works for an unjust *sulṭān*,²⁰¹ which was a reality in the time of Mufīd since the

¹⁹⁸ Mufīd, *al-Muqni'ah*, 231, 241 (two times), 288, 469 (noun and verb), 477 (noun and verb), 483 (noun and verb), 808, 810, 812.

¹⁹⁹ Mufīd, *al-Muqni'ah*, 808, 810, 812.

²⁰⁰ Mufīd, *al-Fuṣūl al-'asharah fī al-ghaybah*, ed. Shaykh Fāris Ḥassūn (Qom: al-Mu'tamar al-'Ālamī li-alfiyat al-Shaykh al-Mufīd, 1413 [1992]), 105-106.

²⁰¹ Mufīd, *al-Muqni'ah*, 810.

Abbasids were still fighting against non-Muslims. On one occasion, the word jihad is also used to describe fighting against non-Shiite Muslims, whom Mufid calls “misguided and wrongly acting” (*ahl al-dalāl wa-al-khilāf*). He calls this type of jihad “grand” (*a ‘zam*) jihad. Jihad in this case means the jurist using his position under the unjust ruler to harm non-Shiites.²⁰² The key point, in any case, is that jihad is not among the responsibilities granted the Shiite jurist, in Mufid’s view.

Commanding good and forbidding evil

Mufid affirms that commanding good and forbidding evil is compulsory. It takes two forms. The first is commanding good and forbidding evil by word or tongue. This is a collective duty. Wrongdoers violating the Shariah need to be admonished by some individuals, not by all members of the community. Using force against those who violate the law, the second level, is part of the competence of the *sulṭān*. Commanding good and forbidding evil becomes individually incumbent upon whomever been appointed or permitted by the *sulṭān* to perform that task.²⁰³ Note that it is not clear what Mufid means by the term *sulṭān*²⁰⁴ here, whether the Imam or any dominant power. What is clear is that it is not the responsibility of the jurist.

This is the material found in Mufid’s *Awā’il*. In his *Muqni’ah*, he names three levels of commanding good and forbidding evil: by heart, tongue, and finally hand, i.e., force. As in the *Awā’il*, he stresses that carrying out this duty is obligatory for all Shiites—whom he calls *ahl al-imān* or “people of true belief”—if they are able to do so. Those with little or no power are responsible for commanding good and forbidding evil through words and force, but without wounding or killing. If, however, such persons may suffer harm as a result, they should command and forbid only with their hearts, by showing displeasure. The third level, use of force involving killing or wounding, is exclusive to the *sulṭān*.²⁰⁵ Once again, it is not clear what Mufid means by the term *sulṭān*, whether the Imam or any dominant power. And again we see that the

²⁰² Mufid, *al-Muqni’ah*, 812.

²⁰³ Mufid, *Awā’il*, 119.

²⁰⁴ It is very probable the term has general meaning, i.e., sovereignty. Thus McDermott’s definition of the term as ‘the *de facto* holder of power’ (*Theology*, p. 279) seems reasonable.

²⁰⁵ Mufid, *Al-Muqni’ah*, 809-810.

one responsible for commanding good and forbidding evil through force is not the jurist – except, of course, like others in his capacity as an ordinary Muslim, where there is no fear of harm. Even if one assumes that by *sulṭān* of the time Mufīd means the Shiite Imam, we cannot consequently infer that this becomes the jurist during the Occultation.

Deputyship and religious taxes

Religious taxes, especially the *khums* or one-fifth tax, have a significant place in Shiism. During the Occultation, it fell to the scholars not only to interpret the texts concerning religious taxes, but also, for the most part, to practically manage them.²⁰⁶

One cannot, however, infer that it was intended that the jurists be heads of state simply because they received these taxes. Mufīd affirms that the alms-tax (*zakāt*) must be given over to the jurists, but not because of political leadership. He says that the alms first go to the Prophet; then to his successor, the Imam; and then in the absence of the Imam to his appointed delegates (*sufarā'*, i.e., the Imam's representatives during the Minor Occultation); and finally to trustworthy Shiite jurists when there is no such delegate. Certainly Mufīd views the jurists as a distinct group placed over others in the Shiite community; but this special position comes not from Deputyship, but knowledge, as he says that the tax should be given to the jurists since they “know better than others where to spend *zakāt*”.²⁰⁷

Based on statements from Mufīd and later scholars, Bayhom-Daou concludes that early Shiite jurists regarded themselves as the representatives of tax donors, rather than of the Imam.²⁰⁸ I have already established that the jurists were not the Imam's delegates in the management of *khums*; I must add that the notion that they were deputized by donors of *zakāt* is also not supported by available evidence. I repeat: Mufīd makes payment of *zakāt* to the jurists mandatory not on the basis of any delegated power, whether from the Imam or those paying tax, but for the simple reason that they know best how to spend it. They do not have a formal position or function, but merely, in effect, provide a service.

²⁰⁶ I said ‘mostly,’ because the donors can manage it, or at least half, themselves as well.

²⁰⁷ Mufīd, *Al-Muqni'ah*, 252.

²⁰⁸ Tamima Bayhom-Daou, *Shaykh Mufīd*, 128.

Mufīd defines *khums* as an obligatory (*wājib*) tax, levied on all types of properties and incomes accruing to Shiites, whether through ordinary economic efforts or military action.²⁰⁹ The way the *khums* was to be collected and distributed deserves our attention, since this speaks to the jurists' authority and helps us to know if such functions were part of a Deputyship. Mufīd mentions several approaches to administration of *khums* in the absence of the Imam. These are: either discontinuing it, since the Imam is not present, distributing it among descendants of the Prophet and *also* poor Shiites in general; burying it so that it can be given to the Imam when he returns;²¹⁰ keeping it aside to be delivered to the Imam upon his return; and finally, as in the present dominant legal view, dividing it into two shares, one of which is to go to the Imam and the other to the needy among the Prophet's offspring.²¹¹ Ibn Idrīs al-Ḥillī (d. 598/1202) cites a ruling of Mufīd that shows that he favoured the last approach. According to Ibn Idrīs, Mufīd replied to a community member asking about whom he should deliver his *khums* to that it should be divided into two portions, half for the needy among Muḥammad's descendants (specifically, orphans, the poor, and needy travelers), and half for the Imam. The donor according to Mufīd is responsible for delivering the first portion and also for giving the Imam's share to the Imam himself, if he is able to reach him. If the Imam is not to be found, the donor should ask a trustworthy person to deliver the tax to the Imam on his behalf.²¹² Thus according to both Mufīd's *Muqni'ah* and Ibn Idrīs's *Kitāb al-sarā'ir*, Shiite authorities do not play a role in managing the *khums*. Payment and delivery of the tax is the duty of the donor.

In Mufīd's account, nevertheless, a Shiite working for a non-Shiite governmental system may collect *khums*. He considers this function one of the conditions of working for a non-Shiite ruler, as he says:

One who is appointed by iniquitous (*fāsiq*) persons [i.e., rulers] for administering societies and territories must help and protect the Shiites and pay *khums* on all

²⁰⁹ Mufīd, *al-Muqni'ah*, 276.

²¹⁰ Burying is justified on the basis of a tradition saying that the earth will display its treasures when Mahdī returns. See, Mufīd, *al-Muqni'ah*, 285-286.

²¹¹ Mufīd, *al-Muqni'ah*, 285-288; Ṭūsī, *Tahdhīb*, 147-148.

²¹² *Kitāb al-sarā'ir al-ḥāwī li-tahrīr al-fatāwī*, vol. 1, 504-505.

properties and booty he gains through his governorship . Otherwise, his working for that non-Shiite ruler is not permissible.²¹³

This case is discussed in detail below. Let us think here about who the “one appointed” might be. There are two possibilities: the appointee is either a jurist, or an *amīr*, a commander. Appointing a jurist for non-judicial positions was not current practice in the period we are talking about, so that is unlikely, leading us to conclude that the appointee being discussed is in reality an *amīr*. In what capacity did this personality pay his taxes? Here again there are two possibilities. One may say that the donor is the person in authority himself, that is, he is to pay *khums* from his own income earned from working as the agent of the state.²¹⁴ It is more logical, however, to imagine the donor of *khums* not as real person but rather a legal one. What is meant is that that, as in early Islam, the person in authority is obliged to collect *khums* from his subjects (whether Shiite or Sunnite) and send it to the seat of the caliphate. Otherwise, the statement is redundant, since all Shiites in their personal capacity have to pay their *khums*. Thus we may conclude that gathering and distributing *khums* here is the responsibility not of someone functioning as a jurist, but a political authority. The personality concerned may indeed be a jurist, but his work for the ruler is nevertheless in the capacity of an *amīr*.

It is good to recall here that Mufīd, as I have shown, also does not say that *zakat*, the other religious tax in addition to *khums*, is to be managed by the jurists as part of their Deputyship. He states that *zakāt* must be paid to the trustworthy jurists (*al-fuqahā' al-ma'mūnūn*), but only says, as I mentioned, that this is to be done because the jurists know better how to spend it.

Mufīd also briefly discusses the land tax (*kharāj*). The whole discussion is related to the period of the Imams' presence during which they are the religio-political leaders of the community. *Kharāj* according to Mufīd is of several kinds. While the cultivated lands of those who accepted Islam voluntarily belong to the original owners, uncultivated lands are public property, to be given by the Imam to persons willing to cultivate them and return one tenth or one-twentieth of the income to the Imam. Land conquered by force belongs to the Muslims in general, and those who contract with the Imam to develop it give the Imam half, two thirds or

²¹³ Mufīd, *al-Muqni'ah*, 811-812.

²¹⁴ Muntazirī, *Mabānī-i fiqhī*, 34.

one third of the produce. Non-Muslims who submit to the Imam keep their land and pay the poll-tax (*jizyah*), to be specified by the Imam. According to Mufid, lands gifted to the Imam or lands from which the inhabitants have fled belong absolutely to the person of the Imam.²¹⁵ Mufid draws on ‘Alī’s example to show how *kharāj* should be managed. Despite this detailed account of what should theoretically happen during the time the Imams are present, Mufid is completely silent about *kharāj* during the Occultation and possible role of the ‘ulamā’. Clearly in this as in the previous cases, religious taxes were not part of juristic authority derived from Deputyship.

The jurist as a charismatic figure

Like other Shiite great scholars before and after him, Mufid was a charismatic leader. The sources of charisma for such leaders are quite similar. To understand those sources, it is necessary to understand the charisma of the Imam himself from Mufid’s perspective. I will review that briefly here, having already addressed the topic in Chapter One.

Mufid describes the Imams as the successors to the prophets [sic] for enforcing judgments, executing penalties, safeguarding the law, and educating humankind. Like the prophets, they are infallible; they do not commit even venial sins and are protected from error when teaching and issuing rulings.²¹⁶ Mufid allows that knowing all arts and languages, though not “necessary”, may be part of the Imams’ supernatural characteristics, although he does not go so far as to agree with the so-called Exaggerators (*Ghulāt*) that they know the Unseen (*ghayb*). He does hold that the Imams had the ability to see into the future. For him, that knowledge is also not a necessary attribute or a condition for their Imamate. Rather, such knowledge is granted:

because God honored them and gave them that knowledge as a help [to the people] for obeying them and adhering to their imamate. [We know] they must have had that not by rational necessity, but because of revelation. As for asserting of them absolutely that they knew the unseen (*al-ghaib*), that is an obvious error. No one

²¹⁵ Mufid, *al-Muqni’ah*, 274-5.

²¹⁶ Mufid, *Awā’il*, 65. This definition of the Imams is both religious and this-worldly, which completely agrees with the description Mufid provides of the Imams in *al-Muqni’ah* (pp. 809-810) where he calls them “*sultān of Islām*, appointed by God for guiding and leading the people.”

deserves that qualification except Him who knows things by Himself, not by a knowledge bestowed upon Him. That is God alone.²¹⁷

The Imams, according to Mufīd, work miracles; although, again, this is not made necessary by reason but established by “mutually confirmatory and widespread traditions”.²¹⁸

Possession of such attributes by the Imams show that the chief sources of their charisma are blood and knowledge. And of course, recognition of the Imam by the Prophet or preceding Imam is also necessary. None of these characteristics is acquired. The supernatural abilities discussed by Mufīd are God-given and received through the blood, generation to generation. The Imams’ personal charisma, in contrast, consists of acquired characteristics such as bravery, resistance against injustice, and so on. Although theologically conferred, received elements take first place, personal, acquired charisma is certainly significant. It shows us that the theologians regarded the Imams as both supernatural *and* worldly figures. In one statement, Mufīd actually makes the distinction between divine favor and personal merit: he describes the Imamate as a favor from God (*tafaḍḍul, lutf*) given to one whose characteristics He knows, but who also himself deserves honor, respect and obedience because of his determination to perform the duties God imposes on him.²¹⁹ Though Mufīd’s view is not, as he claims, generally accepted, it is valuable data, as it affords a better understanding of the Imams’ charisma and consequently that of Shiite religious authorities during the Occultation.

Having addressed the charisma of the Imam, we may turn to the Shiite jurists, the *fuqahā’*, whose charisma springs from that of the Imam. The jurists are followed because they are perceived to be the delegates - a term I will use here instead of Deputy, since Mufīd does not actually speak of a *nā’ib* - of the Imam. As we shall see, the delegates have accumulated authority over time, beginning with judgeship and culminating in the Imam-like sovereign *faqīh* of our times. Who are the delegates, according to Mufīd? What characteristics do they have? Are they infallible, like the Imams? How are they appointed? Mufīd briefly addresses the delegates in his *Awā’il al-maqālāt*, although without identifying them:

²¹⁷ McDermott, *Theology*, 108.

²¹⁸ Mufīd, *Awā’il*, 68-69. English translation quoted from McDermott, *Theology*, 112.

²¹⁹ Mufīd, *al-Muqni’ah*, 64; also see Sourdel, *L’Imāmisme vu par le Cheikh Mufīd*, 62.

The infallibility of the Imams' *wulāt* (pl. of *wālī*) is not necessary (*wājib*), but what is necessary is knowledge of that over which they have authority and superiority over those subject to them, since it is impossible that those who are inferior command those who are superior [in terms of knowledge: *li-istiḥālat ri'āsat al-mafḍūl 'alā al-fādil*]. In addition, it is not necessary to believe that the *wulāt* are designated in advance by formal appointment, for example through a text (*naṣṣ*). They are appointed by choice of the infallible Imam.²²⁰

We may infer from Mufid's text here that the charisma of the religious authorities basically has three elements during the Imam's absence. It can be seen that each of these elements is parallel to a source of charisma in the Imam, from whom they ultimately receive them. First, the religious leaders, the jurists, possess the Imam's knowledge, in the sense that they have studied and acquired knowledge of the sayings of the Imams. Second, they are appointed by the Imams (remembering that each of the Imams was appointed by the one before), by virtue of certain traditions and doctrines. And third, they have certain personal characteristics. The first two are possessed in similar forms by every well-educated jurist, while the third one is personal and differs from one jurist to another.

Note that juristic charisma is not, however, at this point political. Mufid does not consider the competence of the jurists to include politics, and the real-world situation also required that they keep their distance from politics. Restricting the scope of Deputyship, i.e., of powers delegated by the Imam, allowed the Shiite jurists to avoid being involved in the social and political expectations of their followers. Most jurists lacked political charisma because of their actual situation and activities. The few functions they fulfilled when in the employ of a ruler, such as judgeship and collecting of taxes, were not conducive to charisma. They were not in any way revolutionaries; they worked for establishment, not re-establishment, and were open to serving so-called "unjust" rulers. They certainly did not hold political office, where charisma might have been gained.

²²⁰ Mufid, *Awā'il*, 65.

Mufid, for instance, was not even a judge, but a very popular and leading figure in the Shiite community. It is not clear if Shiites had any expectations from their religious leaders while the community, as a minority sect, was under political and religious pressure. The leaders themselves were reluctant to act politically. Working as a judge under restrictions from a non-Shiite ruler certainly encouraged quietism. In Mufid's time, there were incidents of religious conflict and violence, leading at one point to his exile by the Buyids from Baghdad. There is no evidence, however, to support the idea that he mobilized the community for political purposes. Nor was Mufid the only Shiite religious authority whose political charisma remained dormant, for the same may be said of his students, al-Murtaḍā and al-Ṭūsī, who were both outstanding community leaders. In fact, al-Murtaḍā and Ṭūsī both maintained good relations with the Abbasid caliphs and worked as functionaries for them.

Moreover, in the first moment of *niyābah*, the Shiite jurists did not dare to produce writings and doctrine on the basis of which the dominant Sunnite power might have been challenged or which would provide support for the Shiite *amīrs* who were looking to establish Shiite systems. This is in contrast to the activity in the second moment of *niyābah* of al-Shahīd al-Awwal (d. 786/1385), who composed his famous *Kitāb al-lum'ah* for the Sarbadārān of Khorasan, and Karakī, who worked for the Safavids. Thus in conclusion, the jurists in the first moment enjoyed office charisma derived from the Imam due to their scholarly activities, along with a measure of personal charisma springing from the general admiration of their followers. They did not derive charisma from a political stance or political activities.

Deputyship from an unjust ruler is deputyship from the Imam

The relationship of jurists with a non-Shiite political system deemed “unjust” has long been debated in Shiism. The root idea behind the problem is that sovereignty always belongs to God, the Prophet, and the Imams. Thus Shiites tried, both in theory and practice, to distance themselves from non-Shiite rulers and political systems. Reality, however, necessitated relations of some kind, giving rise to the intellectual problem of legitimating cooperation with an illegitimate state.

Shiite treatment of the problem differed widely, ranging from prohibition on any type of collaboration with an unjust State (including a Shiite one), to permission for some degree of contact, to making it obligatory. Mufid has his own view. He not only permits working for and

being delegated by a non-Shiite government, but also in some circumstances deems cooperation necessary. He brings up the issue both in relation to law and politics (*imārah*). His judicial views are discussed above in connection with judgeship. His approach to politics is as follows:

And the Imamī who commands the people and has been appointed outwardly (*zahir*) by an unjust ruler to work for him is in reality (*haqiqah*) *amir* on behalf of the Imam, and not on behalf of the ruler of “the people of darkness”, because he has been permitted by the Imam.²²¹

Mufid touches briefly on forms of cooperation with “unjust” political systems in his theological work *Awā'il*. For Mufid, lending aid to the unjust system in the right instance is permissible and sometimes obligatory; although it is not permitted if one willingly or deliberately assists in oppression and aggression.²²² Such cooperation, however, is allowed only with the permission of the “Imam of the time”, and under certain conditions such as helping the Shiite community, judging according to Shiite law, and so on.²²³ Now, since cooperation with an unjust ruler is legitimated by the Imam, the authority of a Shiite scholar or jurist working for a ruler is as authentic as the authority of those who are appointed by the Imam to work in the Shiite community. Both, in effect, are appointed by the Imam. It is, however, necessary to keep in mind that the jurists working in the community function only as judges or persons performing religious rituals. They are not given political duties and do not lead the community in non-religious affairs.

As mentioned above, textual and historical evidence tells us that Mufid also envisioned non-jurists holding office. As for textual evidence, Mufid uses the phrase *tadbīr al-'ibād wa-al-bilād* (administration of people and territories),²²⁴ a clear reference to administrative and political positions. The holders of such positions were *not* Shiite scholars. That is to say, they were not Shiite scholars if the reference to “administration of peoples and territories” refers to those functions over the Shiite community. If what is referred to is administration over all the Muslims

²²¹ Mufid, *al-Muqni'ah*, 812.

²²² Mufid, *Awā'il*, 120.

²²³ Mufid, *Awā'il*, 120.

²²⁴ Mufid, *al-Muqni'ah*, 811.

as a functionary of a Sunnite ruler, the office-holder could be a jurist. The matter is complicated by the equivocality of words and terms in Mufīd's time, when specialized technical vocabulary was not much developed in Shiite or, for that matter, Sunnite legal literature. We do, in any case, have historical evidence: we know that in Mufīd's time, two groups of Shiites worked for the Abbasid caliphs, those being the jurists and the *amīrs*.

Having established that the office holders Mufīd talks about include jurists and non-jurists, we must ask how in his view the Imam would give permission for the latter. It will be useful here to examine al-Murtaḍā's approach toward the same issue. As we have seen, al-Sharīf al-Murtaḍā was the leading figure in the Shiite community in his time and an outstanding pupil of Mufīd, who worked, like his father and elder brother before him, for the Abbasid caliph as judge and *naqīb* (head of the corporation of descendants of the Prophet). Kazemi demonstrates that two other Shiite jurists, Abū al-Faṭḥ al-Karājākī and Ibn al-Barrāj (al-Murtaḍā's students) also worked as judges for Sunnite governments, so this was not an unusual situation.²²⁵ Al-Murtaḍā, in fact, wrote a treatise on the subject, entitled *On Working for the Government*,²²⁶ two years after his teacher's death.

It is evident from comparing the views of Mufīd and al-Murtaḍā that their basic idea is similar: working for an illegitimate rulership is permissible and even obligatory, with the permission of the Imam. Al-Murtaḍā, however, argues the issue more fully. He categorizes the ruler (and consequently, rulership) into two kinds: legitimate and just (*muḥiqq 'ādil*) or illegitimate, unjust and usurpatory (*mubṭil, zālim, mutaghallib*).²²⁷ For al-Murtaḍā, working for a just ruler is permissible and even obligatory (*wājib*) in some cases, such as when it would be in the interests of the Shiite community, and is thus beyond question. Working for an illegitimate or unjust ruler, however, may be obligatory, permissible, an object of caution (*mahdhūr*) evil (*qabīḥ*), or forbidden. Holding office on behalf of a ruler who is a usurper is obligatory when the

²²⁵ Ahmad Kazemi Moussavi, *Religious Authority in Shiite Islam: from the Office of Mufti to the Institution of Marja'*, (Kualalumpur: International Institute of Islamic Thought and Civilization, 1996), 67.

²²⁶ 'Alī ibn al-Ḥusayn Sharīf al-Murtaḍā 'Alam al-Hudā, *Rasā'il al-Sharīf al-Murtaḍā*, ed. al-Sayyid Aḥmad al-Ḥusaynī, vol. 2 (Qum: Dār al-Qur'ān al-Karīm, 1405/1985), 89-97; Wilferd Madelung, "A Treatise of the Sharīf al-Murtaḍā on the Legality of Working for the Government", *Bulletin of the School of Oriental and African Studies*, Vol. 43, No. 1 (1980), pp. 18-31. Jafariyan also has discussed this treatise in his, *Şafawīyyah Dar 'Arşa-e Dīn, Farhang va-Siyāsāt*, Vol. 1st. (Qom: Puzhūhishkadah Ḥawzah wa-Dānīshgāh, 1379/2000), 116-117.

²²⁷ 'Alam al-Hudā, *Rasā'il*, 89; Madelung, "Treatise", 24.

office holder either knows or strongly supposes (*ẓann*) that he will be capable of upholding the right (*iqāmat al-ḥaqq*), rejecting falsehood, ordering good and forbidding evil. It is permissible when the jurist fears for his personal wealth if he rejects the position. It is an object of caution if one is forced to accept the office and believes he will be killed if he does not accept. It will, on the other hand, be evil to accept the office if holding it is a cause of evil or the office-holder uses his office for his own worldly interests. Accepting the appointment is, exactly as Mufid says, forbidden if it involves assisting an unjust ruler to disobey God.²²⁸

As a rationalist, al-Murtaḍā cites both rational and legal (*sharʿī* and *ʿaqlī*) proofs for his position.²²⁹ For instance, he cites ʿAlī’s caliphate as an example of being accepted by an unjust group (i.e., the various factions and persons who were in his favour following the murder of ʿUthmān), adding that there are other many cases in which scholars and pious men have accepted positions under an illegitimate ruler. The rational justification, which appears to be more important for al-Murtaḍā’s argument than the legal proof, concerns the interests Shiites derive from having one of their own in office.

Thus we see that in the view of Mufid as well as his students, jurists can work for so-called “unjust” rulers, since they have been given permission to do so by the Imam. The jurist holding such position does not, however, work for the unjust ruler in his capacity as a Shiite jurist, but only as a functionary (whether as an *amīr*, or as a judge *among Sunnites alone*, since it is forbidden for Shiites to refer to an unjust power for judgement so that Shiites seeking judgement could refer to that jurist only privately). He does not have political power in his capacity *as a Shiite jurist*, even if he is encouraged to use his position to the advantage of the community. We must conclude that Mufid’s theory of deputyship is apolitical despite the permission to work for unjust rulers, since the jurists are not political figures in their own right.

Analysis and conclusion

In the first moment of Deputyship, the doctrine is clearly apolitical. Mufid leaves no doubt that Shiite jurists are delegated by the Imam to judge and to execute the Quranic punishments, but Deputyship does not extend beyond that. This very limited construction reflects

²²⁸ ʿAlam al-Hudā, *Rasāʿil*, 90-94.

²²⁹ ʿAlam al-Hudā, *Rasāʿil*, 91-92.

the political circumstances of the Shiite community in Mufīd's time. The Shiites were living as a minority under the Sunnite Abbasids, even though the Buwayhids and Twelver Shiite Hamdanids had gained power as well. In addition to political limitation, Deputyship was subject to theoretical limitation resulting from a conviction that any worldly power other than that of the Imams was illegitimate and that the Hidden Imam would return soon in any case. Due to these limitations, the jurists, though they were supposedly delegates of the Imam, were reluctant to play a political role even in religious duties.

Even though Mufīd says that the Friday congregational prayer is obligatory, he does not include it among the various prayers led by the Shiite jurists. He does not say why this is so, but one can infer that a specific ground or qualification of the jurist for holding the Friday prayer is absent, though present for the other prayers. If we look at the history of the Friday prayer, it is clear that the leader of this prayer has had a relationship with political power.²³⁰ The Prophet Muḥammad instituted Friday prayers in Medina when he first gained political power, and holders or representatives of power among the first four caliphs, Umayyads, and Abbasids also used to lead the prayer. The Imams are both the religious and political leaders of the Shiites, even if they could not, with the exception of 'Alī, actually exercise political power. Thus it is possible that Mufīd does not consider that leadership of the Friday prayer falls to the Shiite jurists because, for him, they are not politically the delegates of the Imam.²³¹

As for the *khums*, Mufīd, as explained above, believes that leading Shiites, whether jurists or not, who work for unjust rulers are to collect the *khums* tax. Let us now ask why that right or obligation falls to those persons and who distributes the funds. For Mufīd, the *khums* is divided into two parts: one belonging to the Imam, and the other reserved for needy descendants of the Prophet. Taxpayers are allowed to distribute the funds in person to the needy, but Mufīd does not tell us how the Imam's share is to be delivered. It seems that in his view, no one has the right to spend the share of the political and religious leader of the community, the Imam. Nevertheless, Mufīd makes it clear that a Shiite figure functioning in the non-Shiite system must collect the

²³⁰ In contemporary Iran, the leader of the Friday prayer is exclusively appointed by the Supreme Leader, or else he leads the prayer himself.

²³¹ There is, however, another possibility that must be admitted. It may be that Mufīd, despite the historical connection of the Friday prayer to political power, did not believe that it had any political colour and simply did not consider it to be one of the duties delegated to the jurists by the Imam.

khums. Such a person has no more privileges than his counterpart within the Shiite community, except for his connection to the dominant political power. Even in the case of the jurist with connections to political power, Mufid does not give any information about the agent who manages the tax; he does not make it clear if he collects *khums* for himself to manage it, for another jurist, or even for the state. He also does not explain if the agent is to spend the Imam's share, bury it, or hand it over to a trustworthy person to give it to the Imam whenever he appears. As in the case of Friday prayer, it is probable that Mufid refrains from addressing these details because of the connection between tax collection and political power. If tax collection were part of the jurists' duties, Mufid would have addressed the topic of jurists not possessing political power gathering the *khums* from their brethren. It is therefore actually not important if the Shiite figure holding office on behalf of the illegitimate ruler is a jurist, *amīr*, or some other figure. The significant point is that the collection and administration of *khums* is not part of delegation (Deputyship) at this time. Delegation is limited to judgeship, while *khums* is not a juristic function.

Jihad presents a parallel case. Mufid includes jihad among the tasks of a Shiite jurist functioning within a non-Shiite judicial system, but he does not mention it when discussing the tasks of judges not possessing political power and working within the Shiite community.

Commanding good and forbidding evil is another parallel case. The Shiite jurists do not have the power to command good and forbid evil with force because they do not have any political power. Their responsibility in commanding good and forbidding evil is just the same as that of other Muslims. From the point of view of religious expertise they would have been the most appropriate persons to engage in that duty; but, first, they did not possess power, which is "a requirement in the fulfillment of this crucial obligation in the public interest",²³² and second, the obligation itself is not incumbent on every individual.

Mufid discussed the cooperation of Shiite scholars with unjust rulers in response to practical and theoretical limitations faced by Shiism. He looks for ways right might co-exist with wrong. To treat this problem, he takes both a macro- and micro-analytical view. On the macro level, seen in his theological works, he looks at the Sunnite system overall and condemns it not

²³² Abdulaziz Abdulhussein Sachedina, *The Just Ruler in Shiite Islam: The Comprehensive Authority of the Jurist in Imamite Jurisprudence* (New York: Oxford: Oxford University Press, 1988), 104.

only as unjust and false, but non-salvific.²³³ In the *Awā'il*, for instance, he divides the Abodes (*dār*) into three: *dār al-ḥarb* (Abode of War), Abode of *dār al-Islām* (Abode of Islam), and *dār al-īmān* (Abode of True Belief).²³⁴ As Lambton writes, *dār al-īmān* “comprised those places in which the true faith, i.e., Ithnā ‘Asharī Shi’ism, prevailed, whereas the *dār al-islām* consisted of those places where Islam other than Ithnā ‘Asharī Shiism was followed.”²³⁵ In his juridical work, on the other hand, Mufid works at the micro level where right can potentially co-exist with wrong. From a micro perspective, the non-Shiite political system, while not pure overall, represents a combination of aggression and justice, giving Shiite scholars the opportunity to choose just aspects and leave the wrong aside in assisting their community.

How is justice to be distinguished from injustice? As I have explained, it is necessary to distinguish between two types of agents undertaking responsibilities in the so-called unjust system, the jurists (*fuqahā'*) and *amirs* (*umarā'*). Mufid, it seems, left it to the jurists themselves to distinguish justice from injustice. The criteria for doing so are related to Shiism, since Shiism itself is considered to be “right” (*haqq*). The most important criteria are the ability to judge in accord with Shiite law, looking out for the interests of the community, and preventing the shedding of Shiite blood.²³⁶ A jurist acting in the capacity of an *amir* applies the same criteria. Mufid is silent, however, about the case of an *amir* who is not also a jurist.

Why did Mufid take the trouble to formulate such elaborate justifications for working for an unjust ruler? The answer is found in the nature of delegation as perceived in that period. Delegation in the first moment is limited to the law, without venturing into politics or military affairs. This very limited notion left the Shiites struggling with their political defeat. Living without any political power whatsoever was difficult and harmful. The only way out of this dilemma was to find a way to politically reconcile with the dominant system, which was done by Mufid under the rubric of “working for the *sulṭān*”. This solution as detailed by Mufid secured

²³³ Mufid, *Awā'il*, 44. Here Shaykh Mufid holds the view that according to the Imamites, one who rejects the Imamate of one of the Imams has denied God’s ordinances, so that s/he is an infidel and consequently in Hell permanently.

²³⁴ Mufid, *Awā'il*, 94.

²³⁵ Ann K. S. Lambton, “A Nineteenth Century View of Jihād,” *Studia Islamica*, No. 32 (1970), 181-182.

²³⁶ Mufid, *al-Muqni'ah*, 811, 812.

the Shiites' interests from one side, and avoided contradicting Shiite theology and the Shiite worldview on the other. Mufīd's theory of "working for the *sulṭān*" does not represent accommodation, as some have asserted, but the opposite: the least compromise with politics possible, carefully fenced in by theory.

As we have seen, a Shiite holder of office on behalf of an illegitimate ruler could be either a jurist or *amīr*. Though there were no Shiite *amīrs* after the Abbasid dynasty was extinguished, the Shiite Buyids and Hamdanids were contemporary with Mufīd. One would think that Mufīd would be interested in the sovereignty of such *amīrs* since for him, the jurist holding office on behalf of an unjust ruler is a step toward enforcing the ordinances of Shiite law. He asks the community to follow and support the office holder in order to enhance his legitimacy. Al-Murtaḍā is very clearly interested in power. He says that without power, the obligatory enforcement of Shariah —for instance, enjoining good and forbidding evil – is not possible. Power, according to al-Murtaḍā, is consequently obligatory (*wājib*) because it is the means or is the premise of enforcement of Shariah.²³⁷

Nonetheless, neither Mufīd nor al-Murtaḍā talks of building a Shiite sovereign power led by Shiites, whether jurists or *amīrs*. They did not regard the Buyids or Hamdanids as constituting such a power, since their legitimacy was derived from the Abbasid caliphs. The term "just *sulṭān*", with whom cooperation is permissible or obligatory according to Mufīd and al-Murtaḍā,²³⁸ means the Imam and no one else; it refers neither to the jurists nor the Shiite *amīrs*, because the *amīrs* working for the Abbasids were neither appointed by the Imam in person nor delegated through his decree. And the jurists, as I have said several times, were not the just *sulṭān* because the authority granted to them was limited to judgeship, so that they could not be heads of state.

Thus it appears that the idea of working for an unjust ruler formulated by Mufīd and further developed by his student al-Murtaḍā is a response to severe limitations on delegation or Deputyship in its first phase. The goal was to prevent the ordinances of the Shariah (in the Shiite

²³⁷ 'Alam al-Hudā, *Rasā'il*, 90, 93.

²³⁸ Madelung believes that the expression "rightful and just ruler" is undefined in al-Murtaḍā's treatise (Madelung, "Treatise", 30). While Murtaḍā does not define it in the source cited, it is clear in light of other theological texts that it means the Imam. It seems that after Mufīd's time, the term found a broader meaning. Rasūl Ja'fariyān holds a similar view' see his "Şafawīyah dar 'Arşa-i Dīn", *Farhang va-Siyāsat*, Vol. 1 (1389/201), 113-14, 117.

version, of course) from being suspended. Because of the importance of this goal, the case of the unjust ruler would continue to be discussed after Mufid and was followed in practice by many others. The idea of working for an unjust ruler has had a profound and lasting influence on Shiite thought, for it raised this question in the minds of the jurists: If working with a Sunnite *sulṭān* can be in the interests of Shiism and permitted by the Imam, might perhaps cooperating with a Shiite *sulṭān* or even establishing a jurist-run state be the best choice?

In conclusion: Twelver Shiites between the 4th and 5th/ 11th and 12th centuries constituted a mostly apolitical community living under Abbasid rule. Some Shiite *amīrs* gained political and military power, but they were formally in the service of the Abbasids. The Twelver Shiite religious authorities remained out of the political structure, occupying themselves instead with teaching and writing. It should be remembered, however, that the Imamate itself was not apolitical. This is why Mufid uses the term *sulṭān al-Islām* to describe the Imam. He is indeed the *sulṭān*, the sovereign power, with his sovereignty coming from none other than God.

The Shiite jurists are in turn the *sulṭān* of Islam appointed by the Imam. Nevertheless, their sultanate is not equal to that of the Imam. The Imam excludes the jurists from being on the same level of authority with him, as they are granted only the authority to judge on his behalf as the sovereign. In other words, delegation in Mufid's formulation is apolitical. Despite the (theoretical) political authority of the Imam, it is clearly and explicitly limited to judgeship. That very limited delegation, furthermore, is conditional, as it depends on the jurist's safety from potential harm from non-Shiite groups and powers.

This explains why the jurists do not, in the view of Shaykh Mufid, play many roles during the absence of the Imam. Their chief duties are purely religious, such as interpretation of the texts and teaching or preaching; and they are, like other members of the community, not permitted to enjoin good and forbid evil through force. The management of *khums* is not in the hands of the jurists in Mufid's view, a very great difference from the third moment of *niyābah* when it is understood by some to be a state tax needing to be administered by an Islamic government. Mufid's full opinion on the Friday congregational prayer, which is also conventionally linked to politics, remains unclear. What is evident at least is that delegacy in his view does not include leadership of the Friday prayer; although he does not say why he excludes that prayer from the list of those that can be led by the jurists.

In the first moment of *niyābah*, the religious leaders of the Shiite community, i.e., the jurists, possess charisma, but not political charisma. The sources of their charisma are knowledge, their appointment by the Imams through certain traditions and doctrines, and their personal characteristics. The first two are found in every well-educated jurist, while the third differs from one to the other. It is not clear if the Shiites expected their religious leaders to be politically active, but the leaders themselves were certainly reluctant to play that role. Leading figures did have the ability to mobilize people, gather a following, and construct a political charisma, but they chose not to. This is in stark contrast to the third moment.

Mufīd's interpretation of *niyābah* has had two contradictory results in Shiite thought. On the one hand, he provided a privatized, apolitical interpretation of Shiism and consequently Deputyship, an interpretation that lasted a very long time. His influence has been tremendous. He focused on private affairs such as prayers, fasting, alms, and commercial law, while refraining from addressing public matters such as the state, army and so on. As a consequence, the Shiite 'ulamā' neither theorized nor claimed political authority through Deputyship in the early centuries of the Greater Occultation. On the other hand, Mufīd's thought also opened the way for a political interpretation of Deputyship many centuries later. He justified working for a non-Shiite political system using an atomistic approach, making it equivalent, when the terms were fulfilled, to working for the Imam himself. When the jurists found themselves in a better, less politically constricted situation, his formulation opened the way to them considering collaboration with a non-Shiite system or even establishing a state themselves. After Mufīd, many prominent figures such as al-Murtaḍā, Naṣīr al-Dīn al-Ṭūsī, 'Allāmah Ḥillī, and Karakī and others under the Safavids associated with the state, both recognizing state authority and cooperating with it. Those who refused the idea that one can work with an "unjust" ruler belonged mostly to the quietist stream of the tradition, save some in modern Iran such as Khomeini who rejected working with those in power in order to establish a state themselves. Even Khomeini's arguments for establishing an Islamic state are quite similar to those of Mufīd justifying working for an oppressive ruler. In Khomeini's view, an Islamic state is needed for religious laws to be enforced and Muslim interests to be secured, while for Mufīd, the same considerations permit the jurists to collaborate with those he considers to be "oppressors". What made figures subsequent to Mufīd, including Khomeini, different from him was the different contexts in which they lived, as we shall see in the following chapters.

Chapter Three: Karakī and *niyābah*: The dilemma of two sultans

‘Alī ibn al-Ḥusayn Karakī (d. 940/1533) played a key role in developing the doctrine of *niyābah*. We have seen that in the first phase or “moment” of *niyābah*, Deputyship was confined to judgeship and carrying out, in the very limited circumstances possible, of Quranic punishments. Karakī expanded Deputyship to the Friday congregational prayer and land tax (*kharāj*). He also left an indirect legacy in a line of strong religious leaders appearing after him during the Safavid and Qājār periods who continued to develop the doctrine of Deputyship. Karakī’s theory and practice mark a turning point in the relations of Shiite scholars with governmental power.

The social and political environment in which Karakī acted was very different from that of Mufīd. Karakī’s re-definition of legal and political issues should be viewed in the context of his life and political developments in Iran. For instance, he keenly felt the pressure of Sunnism. Having experienced Ottoman enmity in his native Syria, he was imprisoned by the Ottoman governor of Baghdad, being freed only when Shah Ismā‘īl I captured the city in 1508. The Safavids whom Karakī served had established a political regime resting on a new Shiite ideology, and Karakī was given the opportunity to renovate aspects of Shiism to enhance that ideology.

The Safavids recruited Karakī and gave him a high position in the Safavid religious corporation in order to ensure the stability of their power. Karakī’s own project was to draw on the legacy of Shiite learning and use the favourable conditions in which he found himself to look to the future of Shiism and the Shiite ‘ulamā’. This is not to say that he had a clear road in front of him, for even the issue of working for an unjust *sulṭān* was still subject to debate. Having gained power through his high position in the Safavid system, Karakī took two important measures not available to his predecessors. First, he expanded treatment of the political and social aspects of Shiite law in his writings.²³⁹ And second, he encouraged the Safavids to enforce Shiite law.

Much more has been written on Karakī’s thought and environment than on the first moment of Deputyship, or more precisely, on Mufīd. Secondary sources, including in Western

²³⁹ See Gurjī, *Tārīkh*, 227, 233.

languages, treat his biography, legal scholarship, and Safavid institutions. Readers may refer for these to the bibliography. Karakī's role in developing the concept of *niyābah*, however, has received almost no attention. The subject is discussed here under the headings of Friday prayer, judgeship, association with political powers, jihad, the principle of enjoining good and forbidding evil, and the *khums*, alms (*zakāt*), and land taxes. It should be noted that each of these subjects is addressed chiefly in connection with the issue of *niyābah* and juristic authority. The overwhelmingly private and non-political nature of Shiite law is still very much in evidence in Karakī's writings.

Life and times

‘Alī ibn al-Ḥusayn ibn ‘Abd al-‘Ālī Karakī, known as al-Muḥaqqiq al-Thānī or “The Second Investigator” (the “First Investigator” being the famous 13th-century scholar al-Muḥaqqiq al-Ḥillī) was born in 870/1465, or according to one report, 868, in Karak Nūḥ in present-day South Lebanon. He was called by some Sunnites, not in a favourable sense, “The Creator of Shiism (*Mukhtari‘ al-Shī‘ah*).²⁴⁰ Apart from his birthplace, Karakī studied in Damascus, Mecca, Jerusalem, and Cairo, finally settling in the important shrine town of Najaf, Iraq.²⁴¹ Having received an invitation from the founder of the Safavid dynasty Shāh Ismā‘īl I, Karakī migrated to Iran in 916/1511, dwelling there for some time before returning to Iraq, and then coming back to Iran in 936/1530 during the rule of Shāh Ṭahmasp.

Upon Shah Ṭahmāsp's ascent to the throne, Karakī was given the unofficial title “deputy of the Imam” (*nā'ib al-Imām*). He was later installed in an official position as the Shaykh al-Islam of the Safavid court.²⁴² Karakī's accomplishments were numerous. He appointed clerics in the various towns to teach the common people their religious duties and went on to found a number of seminaries. He shifted the direction of the *qiblah* in many areas in Iran to conform to

²⁴⁰ Ḥasan Rūmlū, *Kitāb-i aḥsan al-tavārīkh*, tr. and ed. ‘Abd al-Ḥusayn Nawānī (Tehran: Intishārāt-i Asāṭir, 1384/2005), 1223-24; Muḥammad Bāqir ibn Muḥammad Taqī Majlisī, *Biḥār al-anwār*, vol. 1 (Beirut: Mu‘assasat al-Wafā‘, 1403/1983), 21; Muḥammad Bāqir al-Mūsavī al-Khwānsārī al-Isfahānī, *Rawḍāt al-jannāt fī aḥwāl al-‘ulamā’ wa-al-sādāt*, vol. 4 (Beirut: Dār al-Islāmīyah, 1411/1991), 348.

²⁴¹ Muḥammad Ḥassūn, *Ḥayāt al-Muḥaqqiq Karakī wa-āthāruhu*, vol. 2 ([Tehran]: Iḥtijāj, 1423 [2002 or 2003]), 7-8.

²⁴² Ḥassūn, *Ḥayāt*, 59-60. Ḥassūn states that Karakī went to Iran for the first time no sooner than in 916, and that it was in 936 that he returned (*ibid*, 86-87).

the Shiite instead of Sunnite calculation.²⁴³ Karakī also took on his shoulders the training of senior governmental personnel. The modern editor of Karakī's Epistles deems him the "cause" and "renovator" of Shiism in Iran and founder of Shariah law for the Safavid state.²⁴⁴

As a scholar in the circle of Shāh Ṭahmāsp, Karakī was granted the authority to control state affairs. According to the great 18th-century Akhbari scholar Baḥrānī, who describes Karakī as a "pure, excellent *Uṣūlī* and *mujtahid*", Shah Ṭahmāsp had everyone under his rule obey Karakī because, it was declared, he was the real king and the deputy of the Imam. Consequently, Karakī wrote to Safavid territories ordering them to collect the land tax (*kharāj*).²⁴⁵ Al-Muḥaqqiq al-Thānī 'Alī ibn al-Ḥusayn Karakī died in 940/1534²⁴⁶ in Najaf, Iraq, leaving approximately sixty works including treatises, responsa, and various commentaries.²⁴⁷ His chief works are the legal compendium *Jāmi' al-maqāṣid*, dedicated to Shah Ṭahmāsp, and his *Rasā'il* (Epistles), also mostly addressing legal issues.

The secondary literature acknowledges Karakī's significance in relation to the Safavids and his lasting influence on Shiite thought. In distinguishing generations of Arab scholars established in Iran according to their home regions, Arjomand remarks that immigrants from Jabal 'Āmil were predominant in the first one hundred and forty years of Safavid rule. Hourani argues that Karakī was the most influential of these, as his views were taken up by his scholarly descendants, students, and other 'ulamā' in the 16th and first half of the 17th centuries.²⁴⁸ According to Hourani, the Safavids felt compelled to recruit religious scholars from outside Iran partly because they did not have sufficient personnel themselves. The most significant factor in

²⁴³ Yūsuf ibn Aḥmad al-Baḥrānī, *Lu'lu'āt al-Baḥrayn fī al-ijāzāt wa-tarājim rijāl al-ḥadīth*, ed. Muḥammad Sādiq Baḥr al-'Ulūm (Manamah [Bahrain]: Fakhrawi Book Shop, 1429/2008), 148.

²⁴⁴ Muhammad Ḥassūn, "Muqaddamah al-Taḥqīq [Introduction to this inquiry]," in *Rasā'il al-Muḥaqqiq Karakī*, by 'Alī ibn al-Ḥusayn Muḥaqqiq al-Thānī, Taḥqīq: Muḥammad Ḥassūn, 1st vol. (Qum: Maktabat Āyat Allāh al-'Uzmā al-Mar'ashī al-Najafī, 1409- [1988 or 1989]), 28-30. Ḥassūn names fourteen *mujtahids* trained in Karakī's schools (p. 33).

²⁴⁵ Baḥrānī, *Lu'lu'āt*, 146-148. Al-Ḥurr al-'Āmilī also praises Karakī; see Muḥammad ibn al-Ḥasan Ḥurr al-'Āmilī, *Amal al-Āmil*, 121.

²⁴⁶ The majority of related sources support 940/1533. See Yūsuf ibn Aḥmad al-Baḥrānī, *Lu'lu'āt*, 149; Ḥassūn, *Ḥayāt*, 36. However, 937/1530 has been mentioned by Ḥurr al-'Āmilī (*Amal al-Āmil*, 122).

²⁴⁷ Ḥassūn names fifty-seven, see *Ḥayāt*, 33-36.

²⁴⁸ Albert Houranī, "From Jabal 'Āmil to Iran," *Bulletin of the School of Oriental and African Studies*, Vol. 49, No. 1 (1986), 137-138.

Hourani's view, however, was that the foreign scholars were outsiders, "without roots in Iranian urban society"²⁴⁹ and thus less likely to cause trouble. Even for Newman and Stewart, who challenge the notion that a large number of Arab Twelver scholars migrated to Iran to assist the Safavids in strengthening Shiism, Karakī is an exception.²⁵⁰ Newman states that Karakī's legacy of support for the Safavid program for Shiism was continued during the second half of Safavid rule by Iranian and Arab scholars trained in Isfahan and other centers in Iran,²⁵¹ while clerics hailing from Bahrain predominated only in the last fifty years.²⁵² The Safavids granted the 'Āmilī significant positions such as *amīr*, *Shaykh al-Islām*, and *muftī*.²⁵³

Several Iranian scholars have critiqued the approach taken by Newman in his seminal article "The Myth of the Clerical Migration to Safavid Iran", arguing that the fact that the number of Arab scholars who migrated to Iran is not large does not speak to their actual influence. Influence, in fact, did not even depend on residence, as some Arab scholars who did not go to Iran also affected Safavid religious discourse. For instance, the Akhbārī movement which became active in the second half of Safavid rule has roots in 'Āmilī legal tradition.²⁵⁴ As for Karakī, his influence is evident in the establishment of a strong hierocracy (*marja'īyah*), the

²⁴⁹ Houranī, "From Jabal 'Āmil to Iran", 137.

²⁵⁰ Devin J. Stewart, "Notes on the Migration of 'Āmilī Scholars to Safavid Iran," *Journal of Near Eastern Studies*, Vol. 55, No. 2 (Apr., 1996), 82.

²⁵¹ Andrew J. Newman, "The Myth of the Clerical Migration to Safavid Iran: Arab Shiite Opposition to 'Alī Karakī and Safavid Shiism," in *Die Welt des Islams*, New Series, Vol. 33, Issue 1 (Apr., 1993), 111-112. In this article, Newman questions three issues: the migration of large number of Arab Twelver clerics to Safavid Iran, Ottoman pressure on their Shiites subjects, and the broad consent of Arab Shiite clerics of Safavid Shiism. However, none of these critiques are supported by Karakī's own case. Karakī was an immigrant to Iran, he supported the Safavids enthusiastically, and he was anti-Sunni and consequently under pressure from the Ottomans.

²⁵² Said Amir Arjomand, *the Shadow of God and the Hidden Imam: Religion, Political Order, and Societal Change in Shi'ite Iran from the Beginning to 1890* (Chicago: University of Chicago Press, 1984), 129.

²⁵³ Muhammad Ḥassūn, "Muqaddamat al-Taḥqīq [Introduction to this *Rasā'il*]," in *Rasā'il al-Muḥaqqiq Karakī*, by 'Alī ibn al-Ḥusayn Muḥaqqiq al-Thānī, Taḥqīq: Muḥammad Ḥassūn, 1st vol. (Qum: Maktabat Āyat Allāh al-'Uẓmā al-Mar'ashī al-Najafī, 1409- [1988 or 1989]), 28.

²⁵⁴ Ṣādiq Ānehwand, et al., "Taḥawwulhāi Dīnī 'Aṣr Ṣafaviyyah wa-Naqsh 'Alimān 'Āmilī: Muṭāli'ah Mawridī Muḥaqqiq-i Karakī va-Shahīd-i Thānī," in *Justārḥāi Tarīkhī*, Pujūhishgāh 'ulūm-i Insānī va-Muṭāli'āt-i Farhangī, 1st year, Vol. 2nd (1389/2011), 2.

predominance of legal over theological and philosophical discourse in Iran, a lasting legacy of writings, above all in law, and the training of a whole generation of Iranian scholars.²⁵⁵

In this chapter, we will concentrate on Karakī's influence, particularly in regard to Deputyship, leaving aside the question of origin. As an Uṣūlī promoting the doctrine of *niyābah* and broad authority for religious scholars as well as the legitimacy of the Safavid system, Karakī is an important figure without doubt. As Stewart notes, "The fact that al-Muḥaqqiq Karakī was recognized as the leading jurist in the Empire with authority over all other scholars seems to indicate not only his personal charisma or relationship with the Shah but also the esteem held for his origin and training."²⁵⁶

Key terms and concepts

The second moment of *niyābah* sees development of a stable technical vocabulary. The term *mujtahid*, for instance, is used instead of simply *faqih* (jurist), the word we see in Mufīd's writings, is a jurist who meets the conditions for issuing responsa.²⁵⁷ *Mujtahid* is a more specialized term for a jurist of higher accomplishment; here we see a sign of professionalization and perhaps the beginning of a formal hierarchy.

We saw that the term *nā'ib* is used only four times in Mufīd's *Muqni'ah*, only in a general sense, and not at all by al-Ṣadūq in his *Man lā yaḥduruhu al-faqīh*. As illustrated in Figure One below, in the second moment it is given a technical sense, denoting a *mujtahid* possessing the knowledge necessary for issuing responsa, who is consequently delegated by the Imam to guide Shiites during his Occultation. Karakī utilizes the term *nā'ib* frequently in his works, either in a technical or general sense depending on the subject being discussed. For instance, in his treatises on Friday prayer and jihad, the sense is clearly technical (see Figure One). Karakī's main legal work *Jāmi' al-maqāṣid* is a commentary on the *Qawā'id al-aḥkām* of 'Allāmah Ḥillī (726/1325), who belonged to the third or fourth generation of the Ḥillah School,

²⁵⁵ Ṣādiq Āenehwand, et al, "Taḥawwulhā'ī Dīnī", 3.

²⁵⁶ Stewart, "Migration", 83-84.

²⁵⁷ 'Alī ibn al-Ḥusayn Muḥaqqiq al-Thānī, "Risālah al-ṣalāt al-jum'ah," in *Rasā'il al-Muḥaqqiq Karakī*, ed. Muḥammad Ḥassūn, vol. 1 (Qum: Maktabat Āyat Allāh al-'Uzmā al-Mar'ashī al-Najafī, 1409- [1988 or 1989]), 142.

and the term *nā'ib* had already been in use in that school. 'Allāmah Ḥillī's *Qawā'id*²⁵⁸ makes use of the term *nā'ib* both in the general²⁵⁹ and technical meaning. He uses it in a technical sense, however, only to refer to the Imam's deputy during the Imam's own time. The 'Allāmah's treatment of the distribution of *zakāt*,²⁶⁰ obligation of jihad,²⁶¹ fighting against or concluding a truce with rebels (*bughāt*), administration of Quranic punishments,²⁶² judgeship,²⁶³ and dealing with the deputy's deputy²⁶⁴ demonstrates that the concept of *nā'ib* in his understanding does not apply to the time of Occultation. This is completely different from Karakī.

Karakī divides the term *nā'ib* into the categories specific (*khāss*) and general (*'āmm*). The specific delegate is a *particular person* appointed by the Imam to serve him in his time for a specific period or specific task, or both together; while the general *nā'ib* is *any person qualified*

²⁵⁸ Before 'Allāmah al-Ḥillī, Ja'far ibn al-Ḥasan Muḥaqqiq Ḥillī used the term *nā'ib* while discussing the Friday prayer; but only in a general and not technical sense. See for instance his *al-Mu'tabar fī sharḥ al-mukhtaṣar*, vol. 1 (Qom: Mu'assasat Sayyid al-Shuhadā'), 279.

²⁵⁹ al-Ḥasan ibn Yūsuf Ibn al-Muṭahhar al-Ḥillī, *Qawā'id al-aḥkām fī ma'rifat al-ḥalāl wa al-ḥarām*, Vol. I, 283, 405, 408, 410, 411, 414, 445, 447; *ibid*, vol. II, 210, 249, 471, 567; *ibid*, Vol. III, 424, 425, 436.

²⁶⁰ 'Allāmah al-Ḥillī, *Qawā'id al-aḥkām fī ma'rifat al-ḥalāl wa-al-ḥarām*, vol. 1, 360. 'Allāmah believes that the donor distributes the *zakāt*. It is recommended that either the Imam or his *nā'ib* do it, but during the Occultation, it is better that the jurist undertake the task, which makes it clear that the term *nā'ib* is used for the time of the Imam's presence.

²⁶¹ 'Allāmah al-Ḥillī, *Qawā'id*, vol. 1, 478. 'Allāmah says that jihad is obligatory with the presence of the Imam or his *nā'ib*; and it is individually incumbent when the Imam or his *nā'ib* orders it.

²⁶² 'Allāmah al-Ḥillī, *Qawā'id*, vol. 1, 525. Concerning execution of legal punishments, 'Allāmah distinguishes the time of presence of the Imam from that of the Occultation. He notes that the administration of punishments is specific to the Imam or those to whom he has given permission. During the Occultation, it is the Shiite jurists who accomplish this task.

²⁶³ 'Allāmah al-Ḥillī, *Qawā'id*, vol. 3, 419. As in the enforcement of Quranic punishments, from 'Allāmah's perspective, judgeship is the Imam's exclusive right or that of his *nā'ib*. He then immediately adds that during the Occultation, judgeship is with "the jurist with comprehensive conditions for issuing legal opinion". Whoever refers to an unjust judge instead of that jurist is a sinner.

²⁶⁴ 'Allāmah al-Ḥillī, *Qawā'id*, vol. 3, 424. Here he argues whenever an Imam's delegate loses his authority either through dismissal by the Imam or for other cause such as impiety, his delegates (delegates of the dismissed person) are also discharged.

to issue legal responsa and legal rulings - i.e., the *mujtahids* - appointed by the Imam to take care of the affairs that are delegated to them during the Occultation.²⁶⁵

Figure One: Occurrences of the term *nā'ib*

Term	Scholars	Sources	Number	General sense	Technical sense
Nā'ib	Al-Ṣadūq (d. 381/991)	<i>Man lā yaḥduruhu al-faqīh</i>	0	0	0
	Mufīd (d. 413/1022)	<i>Al-Muqni'ah</i>	5	5 ¹	0
	Karakī (d. 940/1533)	<i>Rasā'il</i> (3 vols)	36	5 ²	31 ³
		<i>Jāmi' al-maqāṣid</i> (13 volumes)	76	49 ⁴	27 ⁵

1. *Al-Muqni'ah*, 443, 507, 596, 610, 823.

2. *Rasā'il al-Muḥaqqiq Karakī*, vol. I, 129, 164, 283; vol. II, 162; vol. III, 113.

3. *Rasā'il al-Muḥaqqiq Karakī*, vol. I, 129, 142-145, 149, 150-152, 157-159, 161, 163, 165-167, 282; vol. III, 109, 332.

4. *Jāmi' al-maqāṣid*, vol. I, 413, 466; vol. II, 411, 415; vol. III, 45, 143, 259, 292; vol. IV, 46, 199, 248, 358; vol. V, 98, 108, 115, 121, 391; vol. VI, 15, 107, 162, 209, 376, 391; vol. VII, 65, 99, 307, 385, 387; vol. VIII, 178, 194, 213, 214, 269, 319; vol. IX, 12, 23, 25, 210; vol. X, 221; vol. XI, 265, 268, 271, 275, 285, 294; vol. XII, 103; vol. XIII, 158.

5. *Jāmi' al-maqāṣid*, vol. I, 365-66; vol. II, 371, 373, 377, 379, 381-406, 411; vol. III, 365, 410, 430, 474; vol. IX, 103; vol. XI, 266-67.

Karakī uses the term *ḥākim* in a categorical and conditioned sense. *Ḥākim* in the categorical sense refers to the infallible Imam or his specific deputy (*nā'ib khāṣṣ*, i.e., a particular, named person functioning during the Imam's life), as well as his general deputy (*nā'ib 'āmm*), understood to be a jurist fully qualified to issue responsa during the Occultation.²⁶⁶ Karakī makes it clear that the simple term *ḥākim* during the Occultation always means “leading

²⁶⁵ Alī ibn al-Ḥusayn Muḥaqqiq al-Thānī al-Karakī, *Jāmi' al-maqāṣid fi sharḥ al-qawā'id*, vol. 11 (Qom: Mu'assasat Āl al-Bayt li-Iḥyā' al-Turāth, 1408-11 [1988-91]), 266-67.

²⁶⁶ Karakī, *Jāmi' al-maqāṣid* vol. 11, 266; vol. 12, 96. In volume 8, 193-4, Karakī says that the *ḥākim* is the Imam or his appointee.

jurist”.²⁶⁷ *Hākim* in a conditioned (compound) expression refers to other personalities; for instance, *al-ḥākim al-shar‘ī* or *al-ḥākim al-shar‘ī al-sharīf*²⁶⁸ are rulers who correctly apply the Shariah – in fact, Shiite rulers – while the “oppressive” *ḥākim (al-ḥākim al-jā‘ir)*²⁶⁹ refers to an unjust, probably Sunnite ruler. Karakī’s application of the word *ḥākim* is finally broader than that of al-Ṣadūq and Mufīd, since according to the latter two, it means judge and the word *ḥukm* (legal ruling) is confined to the field of law, while for Karakī it also includes certain other aspects of religious life (discussed below).²⁷⁰ The *ḥākim*, however, is still not involved in political affairs.

According to Karakī, *sulṭān* is the highest power in a political hierarchy. Once again, he uses the term in either a categorical or conditioned sense, although he does not make it clear if the categorical sense means the highest Shiite jurist, as he affirms in the case of *ḥākim*. Conditioned expressions include *sulṭān al-jawr* or *al-sulṭān al-jā‘ir* (ruler of oppression, oppressive ruler),²⁷¹ referring, obviously, to non-Shiite rulers; *sulṭān al-Islam* (the sovereign of Islam, referent not specified),²⁷² and *al-sulṭān al-‘ādil*, “the just sovereign”, meaning the infallible Imam or his deputy. Karakī does not say here who that deputy is, but the consensus of Shiite scholars points to the possibility of it being either the *nā‘ib* appointed by the Imam while he is still present, his general *nā‘ib*, or his delegate in the Friday prayers.²⁷³

²⁶⁷ Karakī, *Jāmi‘ al-maqāṣid* vol. 11, 267.

²⁶⁸ Karakī, *Rasā‘il al-Muḥaqqiq Karakī*, ed. Muḥammad Ḥassūn, vol. 3 (Qum: Maktabat Āyat Allāh al-‘Uzmā al-Mar‘ashī al-Najafī, 1409- [1988 or 1989]), 91, 95.

²⁶⁹ Karakī, *Rasā‘il*, vol. 3, 95, 102.

²⁷⁰ ‘Alī ibn al-Ḥusayn Muḥaqqiq al-Thānī, *Rasā‘il al-Muḥaqqiq Karakī*, Taḥqīq: Muḥammad Ḥassūn, 1st vol. (Qum: Maktabat Āyat Allāh al-‘Uzmā al-Mar‘ashī al-Najafī, 1409- [1988 or 1989]), 142-143.

²⁷¹ ‘Alī ibn al-Ḥusayn Muḥaqqiq al-Thānī, *Rasā‘il al-Muḥaqqiq Karakī*, Taḥqīq: Muḥammad Ḥassūn, vol. I (Qom: Maktabat Āyat Allāh al-‘Uzmā al-Mar‘ashī al-Najafī, 1409- [1988 or 1989]), 257, 276, 282, 285; *Jāmi‘ al-maqāṣid fī sharḥ al-qawā‘id*, volume III, 22; volume VII, 11.

²⁷² ‘Alī ibn al-Ḥusayn Muḥaqqiq al-Thānī, *Jāmi‘ al-maqāṣid fī sharḥ al-qawā‘id*, volume VI (Qom: Mu‘assasat Āl al-bayt li Ḥyā‘ al-turāth, 1408-11 [1988-91]), 176.

²⁷³ ‘Alī ibn al-Ḥusayn Muḥaqqiq al-Thānī, *Rasā‘il al-Muḥaqqiq Karakī*, Taḥqīq: Muḥammad Ḥassūn, vol. I (Qom: Maktabat Āyat Allāh al-‘Uzmā al-Mar‘ashī al-Najafī, 1409- [1988 or 1989]), 158; *Jāmi‘ al-maqāṣid fī sharḥ al-qawā‘id*, volume II (Qom: Mu‘assasat Āl al-bayt li Ḥyā‘ al-turāth, 1408-11 [1988-91]), 371.

Karakī's *ḥākim* becomes, in effect, what was for Mufid the *sulṭān al-Islām*. For Mufid, the Imams are *sulṭān* of Islam, but for Karakī, they are *ḥākim*. Karakī remarks at one point that the *ḥākim* is subordinate to the *sulṭān*, since the *ḥākim* is the *sulṭān*'s delegate (*nā'ib*) and in his service.²⁷⁴ This may seem contradictory, since for Karakī the Imams and their delegates are both *sulṭān al-Islām* and *ḥākim*; but when he ranks *ḥākim* below *sulṭān*, *ḥākim* has the sense of one who is a judge and in charge of religious affairs.²⁷⁵

In early Shiism, the term *sulṭān 'ādil* meant the infallible Imam. The Imam is the just ruler, and all others are unjust. Mufid and al-Murtaḍā use the phrase in this sense (although, as noted in the previous chapter, this is not entirely clear in every occurrence). Beginning in the 5th/11th century, the title began to be given to rulers other than the Imam. In these occurrences, the term loses its original theological meaning and takes on a political colour. In the 5th/11th century, Ṭūsī contributes a rather novel definition. Instead of the theological criterion according to which only the Imam is the right and just ruler, Ṭūsī takes into account acts and policies. Accordingly, the *sulṭān* who orders good and forbids evil and “put things in their correct places” may be considered just.²⁷⁶ In the School of Ḥillah, al-Muḥaqqiq al-Ḥillī uses the expression *al-sulṭān al-'ādil*²⁷⁷ and ‘Allāmah Ḥillī *sulṭān al-ḥaqq*²⁷⁸ to describe rulers other than the infallible Imams. Ḥillī remarks that accepting a position of authority from such a *sulṭān 'ādil* is permissible and even sometimes obligatory, just as if one were to be appointed by the Imam, especially if carrying out the duty of enjoining good and forbidding evil is dependent upon working with that *sulṭān*.²⁷⁹ Ṭūsī and Ḥillī, it should be noted, merely apply the term in a practical way. They were describing rulers they worked for and did not actually alter their theology. An idea did eventually

²⁷⁴ ‘Alī ibn al-Ḥusayn Muḥaqqiq al-Thānī, *Jāmi' al-maqāṣid fī sharḥ al-qawā'id*, vol. XI (Qom: Mu'assasat Āl al-bayt li Ḥyā' al-turāth, 1408-11 [1988-91]), 267.

²⁷⁵ ‘Alī ibn al-Ḥusayn Muḥaqqiq al-Thānī, *Jāmi' al-maqāṣid fī sharḥ al-qawā'id*, vol. XI (Qom: Mu'assasat Āl al-bayt li Ḥyā' al-turāth, 1408-11 [1988-91]), 267.

²⁷⁶ Ṭūsī, *al-Nihayah fī mujarrad al-fiqh wa-al-fatawa* (Qum: Intishārāt-I Quds, n.d.), 356.

²⁷⁷ Ja'far ibn al-Ḥasan Muḥaqqiq al-Ḥillī, *Sharā'i' al-Islām fī masā'il al-ḥalāl wa-al-ḥarām*, vol. 2 (Tehran: Istiqlāl, 1409/1988), 266.

²⁷⁸ al-Ḥasan ibn Yūsuf Ibn al-Muṭahhar al-Ḥillī, *Taḥrīr al-aḥkām al-shar'iyyah*, ed. Ibrāhīm al-Bahādurī, vol. 2 (Qom: Mu'assasat al-Imām al-Ṣādiq, 1420/[1999]), 270.

²⁷⁹ Al-Muḥaqqiq al-Ḥillī, *Sharā'i' al-Islām*, vol. 2, 266.

emerge, as explained by Jafariyan,²⁸⁰ that a well-qualified *mujtahid* who is the deputy of the Imam can appoint a *sulṭān* who may then be regarded as just by virtue of that appointment. This view, however, was established in the last period of Safavid rule well over a century after Karakī, and then relied upon again by the Qājārs. Karakī himself did not hold the view that the jurist appoints the *sulṭān* and there is no evidence that he regarded the Safavid Shah as being legitimated by the Imam.²⁸¹ Newman asserts that Karakī used the phrases *al-sulṭān al-‘ādil* and *al-Imam al-‘ādil* to refer to the Shah Ismā‘īl and even encouraged “the shāh's exploitation of the ambiguity of meaning of these terms to bolster the shāh's claim to the Imamate”,²⁸² but I see no evidence in Karakī’s writings to support Newman’s contention, which he apparently bases on his endorsement of the policies of the Safavid monarchs. Karakī remained within the framework of Shiite theology dominant by his time, in which only the Imam is acknowledged as a just ruler. I do, on the other hand, agree with the contemporary biographer of Karakī, Muḥammad Ḥassūn, who maintains that Karakī regarded Safavid rule as unjust and tyrannical but nevertheless worked with the Shahs in the interests of religion. Ḥassūn believes that Karakī was well aware that the Safavids installed him in high positions in order to use him for religious legitimation to counter the Ottomans, who had claimed that they were the sole legitimate rulers of Muslims.²⁸³

Niyābah as construed by Karakī does not include political power. While the Imams were present, not only jurists but also *amīrs* could be their delegates or agents, but during the Occultation, the *amīrs* could no longer be deputized because the texts (i.e., traditions from the

²⁸⁰ Rasūl Ja‘fariyān, *Şafawiyyah*, 119; also see Rasūl Ja‘fariyān, *Dīn va siyāsāt dar dawrah-i Şafavī* (Qum: Anşāriyān, 1370 [1991 or 1992]), 31.

²⁸¹ In fact, Ja‘fariyān has based his statement on Kashmīrī’s account of the relations between the Shah and *mujtahids* under the later Safavids. Kashmīrī says that the country (*mulk*) belongs to the Mahdī, but in his Occultation, his *nā‘ib*, that is, the *mujtahid*, takes the Shah as his *nā‘ib* to lead the country. He mentions that Āqā Ḥusayn Khwānsārī appointed Shah Sulaymān and Muḥammad Bāqir Majlisī, Shāh Sulṭān Ḥusayn (Muḥammad ‘Alī Āzād Kashmīrī, *Nujūm al-samā’ fī tarājum al-‘ulamā’*: *sharḥ-i ḥāl-i ‘ulamā-yi Shī‘ah-i qarn’hā-yi yāzdahum va davāzdahum va sīzdahum-i Hijrī Qamarī*, ed. Mīr Ḥāshim Muḥaddith [Tehran: Amīr Kabīr, 1382 (2003)], 111).. This is a large change in *niyābah* without doubt, but it happened *during the second half of the Safavid period*, and not in the first. It is obvious Karakī’s interpretation is different.

²⁸² Newman, “Myth”, 80. The author stresses that with Karakī’s endorsement, Shāh Ismā‘īl characterized himself as the ultimate arbiter of the faith's doctrines and practices. See also *ibid*, 84.

²⁸³ Muḥammad Ḥassūn, *Ḥayāt al-Muḥaqqiq Karakī wa-āthāruhu*, vol. I ([Tehran]: Iḥtijāj, 1423 [2002 or 2003]), 482.

Imams and the ‘ulamā’'s interpretations of them) refer to Deputyship of the jurists. Neither Mufīd’s nor Karakī’s interpretation of Deputyship extends it to politics. For Mufīd, as we have seen, Deputyship is limited to judicial affairs, while for Karakī, it covers both judicial affairs *and* “all religious affairs” (*jamī’ al-umūr al-shar‘īyah*). Neither Mufīd nor Karakī suggests that the jurists as deputy of the Imam possesses the legal authority to intervene in areas outside this mandate.

Certainly there is a notion of “general Deputyship”, but this has been not been understood accurately. The term has been taken to mean that, in addition to the Imam deputizing the jurists in general (i.e., as a group) rather than specific, named personalities as during the Lesser Occultation, he gave them permission to handle on his behalf not just certain deputized affairs, but affairs in general. The very fact that the jurists debated which areas they had permission to handle shows that this cannot be correct. Stewart, nevertheless, appears to make the same error in the following passage.

Together with ‘Alī b. ‘Abd al-‘Ālī Karakī, al-Shahīd al-Thānī was one of the first jurists in the tradition to endorse the theory of *niyābah ‘āmmah* (general Deputyship), whereby the *mujtahid*, or the class of *mujtahids* as a whole, is said to be “general representative” (*nā’ib ‘āmm*) of the Twelfth Imam. This claim justifies the *mujtahids*’ exclusive authority, holding that they stand in the place of the Imam during the Greater Occultation. They are thus entitled to serve a number of functions normally reserved for the control of the Imam himself, such as the appointment of judges, the performance of *hudūd* punishments, and the collection and distribution of *khums* funds.²⁸⁴

Stewart seems to have back-projected a later development in which jurists coming well after Karakī who wished to give political meaning to *niyābah* imagined that it meant Deputyship over affairs in general and thus, as he says “standing in the place of the Imam”. I rather contend that from Mufīd to the time of Karakī the jurists enjoyed a limited Deputyship, confined first to

²⁸⁴ Devin J. Stewart, “The Genesis of the Akhbārī Revival,” in *Safavid Iran and Her Neighbors*, edited by Michel Mazzaoui (Salt Lake City, Utah: University of Utah Press, 2003), 179-180.

judgeship and then, in the time of Karakī, religious affairs, while the tendency to understand Deputyship as a very broad mandate including even politics appeared only long after.

Scope of the mujtahid's niyābah

The *mujtahid*'s authority is key to understanding Karakī's role in developing the concept of Deputyship or *niyābah*. In this section I intend to demonstrate that, contrary to the dominant view, the *mujtahid*'s authority according to Karakī is limited to religious or legal (Shariah) affairs. The deputy of the Imams during the Occultation is according to Karakī a just jurist qualified to issue legal responsa, that is to say, a *mujtahid*, who also handles certain other religious affairs. Karakī believes the *mujtahid*'s Deputyship to be, though quite broad, still limited to specific functions, which he lists in the following passage near the beginning of his treatise on Friday prayer:²⁸⁵

It is obligatory to the people to refer to him [the *mujtahid*] in legal cases and obey his judgments. He has the authority to sell the properties of those who refuse to pay their debts, to manage absentee property, children [without guardians], the insane, and bankrupts, as well as to seize the goods of individuals who are forbidden to possess their own properties. He finally possesses all the authority that the agent (*hākim*) appointed by the Imam himself has when he is present.²⁸⁶

Understanding of Deputyship from Mufīd to Karakī was based on a tradition from the sixth Imam al-Ṣādiq related through his Companion 'Umar ibn Ḥanzalah in which the jurists were appointed as *hākim* or judge. Karakī bases his broader understanding of *niyābah* on this same tradition:

Seek out from among yourselves one who narrates our traditions, heeds our injunctions and prohibitions, and knows our ordinances (s. *ḥukm*). You must consent to his judgment, because I have made him your *hākim*. Whenever he judges according

²⁸⁵ 'Alī ibn al-Ḥusayn Muḥaqqiq al-Thānī, "Risālat al-ṣalāt al-jum'ah," in *Rasā'il al-Muḥaqqiq Karakī*, vol. 1, 142-3.

²⁸⁶ Karakī, "Risālat al-ṣalāt al-jum'ah," in *Rasā'il*, vol. 1, 143.

to our law and his judgement is not accepted, that is underestimation of God's command and denial of us, which amounts to denying God and accepting association [of other things with God, i.e., *shirk*].²⁸⁷

The two key terms in the tradition are *ḥākim* and *ḥukm*. Karakī defines these more broadly than Mufīd. For Mufīd, *ḥākim* is equal to judge; the *ḥākim* is a personality who is part of an administrative system theoretically existing under the Imams. In Mufīd's understanding of Deputyship, the jurist is also one who also has the authority, at least in theory, to execute the Quranic punishments. For Karakī, on the other hand, the *ḥākim* has power over all religious affairs – although not including politics. As for *ḥukm*, for Mufīd it means the judgement of the *ḥākim*, i.e., of a judge; whereas for Karakī, it means any ruling of the *mujtahids* concerning religious affairs, for instance a *ḥukm* occurring in a responsum. Again, this does not extend to governance. Karakī does, however, feel that the *mujtahid* should be obeyed, and thus quotes the part of the tradition translated above that says that disobeying involves underestimation of God's command, denial of the Imams, and *shirk*. Mufīd does not quote that part.

What is Karakī's view on the scope of the authority of the jurist? The different mandates given to the *mujtahid* he enumerates in the passage quoted above finally all concern judgment. This is similar to Mufīd's view. Karakī also adds, as I discuss below, the Friday prayer as one of the principal tasks of a jurist²⁸⁸ along with collection of taxes. The authority of the jurist is thus broader in Karakī's thinking than in that of Mufīd.²⁸⁹ This wider competence has led Sachedina to conclude that in Karakī's view, "the jurist possessed all the necessary qualifications for assuming the position of *al-Imam al-'ādil* (the just ruler) when the twelfth Imam is in concealment."²⁹⁰ Sachedina's assessment, I believe, is too sweeping as it includes the political capacity of the Imam, which Karakī definitely does not include. Karakī only argues on the basis

²⁸⁷ Karakī, "Risālat al-ṣalāt al-jum'ah," in *Rasā'il*, vol. 1, 143. In the same source (p. 153) Karakī notes that the jurist as the *ḥākim* appointed by the Imams has authority in "all affairs having to do with law" (*al-umūr al-shar'iyya*).

²⁸⁸ Karakī, *Jāmi' al-maqāsid*, vol. 2, 375.

²⁸⁹ Karakī, "Risālat al-ṣalāt al-jum'ah," in *Rasā'il*, vol. 1, 142.

²⁹⁰ Abdulaziz Abdulhussein Sachedina, *The Just Ruler in Shiite Islam: The Comprehensive Authority of the Jurist in Imamite Jurisprudence* (New York: Oxford: Oxford University Press, 1988), 197.

of the tradition from ‘Umar ibn Ḥanzalah that Deputyship is granted to the jurists “in a general manner” (*isti’nābah ‘alā wajh kullī*), because the Imam says that he has appointed him “your *ḥākim*” (*fa-innī qad ja’altu-hu ‘alaykum ḥākim*).²⁹¹ Ḥassūn makes a similar error, but he is clearly influenced to do so by his sympathy for the modern notion of Guardianship of the Jurist, as he argues that the word *ḥākim* as used by Karakī means “general governance” (*al-ḥukūmah al-‘āmmah*), which, he claims, means not only judgeship, but is identical with Guardianship of the Jurist.²⁹²

It may be useful to further argue the point that Karakī does not include politics in the competence of the jurist, since the idea that it is included seems to be widespread. Three points should make this clear. The first concerns Karakī’s treatise on Friday prayer where he says that the jurist is *ḥākim* “in all religious affairs” (*fī jamī‘ al-umūr al-shar‘iyah*).²⁹³ Karakī’s chief concern in the treatise is, of course, Friday prayer; his goal is to establish the legitimacy of the Friday congregational prayer led by a qualified jurist. This is not possible without expanding the jurist’s authority to all religious affairs. Thus he writes: “It must not be said that the jurist is meant to judge and issue legal opinions and that prayer is not among these things, because we say that the authority of the jurist (*faqīh*) covers all revealed (*shar‘ī*) affairs.”²⁹⁴ This is not an endorsement of absolute authority, but merely a remark justifying prayer leadership. Karakī, in any case, does not make clear what “all religious affairs” means so that we cannot say for certain if political affairs are included or not. Second, Ṭūsī brings up the ‘Umar ibn Ḥanzalah tradition in,²⁹⁵ in which he deals with exclusively with legal, and not political, issues. The action of the report takes place in the context of a legal disagreement between two Shiites who are about to refer their dispute to the administration of an unjust ruler. The Imam prevents them from doing so, ordering them to carry their dispute before a Shiite jurist instead. As in the case of Karakī’s statement, examined above concerning Friday prayer, it is really too much to transfer authority from the particular instance being considered to leadership, especially since leadership is much wider and more general than the topic (judgeship) under consideration. As an accomplished

²⁹¹ Karakī, “Risālat al-ṣalāt al-jum‘ah,” in *Rasā’il*, vol. 1, 143.

²⁹² Ḥassūn, *Ḥayāt*, vol. 1, 482.

²⁹³ Karakī, “Risālat al-ṣalāt al-jum‘ah,” in *Rasā’il*, vol. 1, 153.

²⁹⁴ Karakī, “Risālat al-ṣalāt al-jum‘ah,” in *Rasā’il*, vol. 1, 153.

²⁹⁵ Ṭūsī, *Tahdhīb*, 218.

jurist, Ṭūsī would not have made such transference. Nor were Shiites in the time of the sixth Imam in any position to claim political power, in which case *ḥākim* cannot have meant anything more than a judge. Those who connect statements such as that of Karakī referring to “all religious affairs” with political leadership have plucked texts from their context and tried to give them a modern meaning. And third and perhaps most telling, Karakī did not claim such an absolute authority for himself, while in the Safavid decrees (s. *farmān*), the authority of the jurists is confined to religious affairs.²⁹⁶ If the Shahs had actually allowed that Karakī and other *mujtahids* were the Deputy of the Hidden Imam in a political sense, they would have completely undermined their own authority, since that would have entitled the Deputy and no one else to rule!

Karakī’s application of the authority of the jurists to “all revealed affairs” makes him different than both Mufīd and Khomeini, placing him, in fact, between the two. For Mufīd, the jurist’s authority is limited to judgeship, while Khomeini considers the jurist to be the religious and political head of society. In Karakī’s view, the jurist’s authority covers not just judgeship, but all religious affairs; although it does not extend to politics. In any case, the jurist was obviously not the political head of the community under the Safavids, so this fact alone tells us that Karakī distinguished between religious and political affairs. In spite of his high religious status, he did not own independent authority in the Safavid court. He was rather a functionary. It would be Shiite ‘ulamā’ in the distant future, especially Mullā Aḥmad al-Narāqī and Ayatollah Khomeini, who combined religion and politics to theorize a jurist-led Shiite state and then establish a state in practice.

We will now turn to the details of the *mujtahid*’s Deputyship in the thought of Karakī, under the headings of Friday prayer, judgeship, working for an unjust ruler, enjoining good and forbidding evil, and finally, management of religious taxes. These affairs are currently considered to be part of what is often called *fiqh al-hukumah* (in Persian, *fiqh-i hukumati*), i.e., “governmental jurisprudence”; although, note well, this is a modern expression that was not employed in Karakī’s time.

²⁹⁶ Rasūl Ja‘fariyān, *Dīn va-siyāsāt dar dawrah-’i Ṣafavī* (Qum: Anṣāriyān, 1370 [1991 or 1992]), 96, 407-410, 411.

The jurists and Friday prayer

The Friday congregational prayer was very important under the Safavids. Large crowds attended the prayer and the sermon included in it. The Friday prayer has been associated with politics since the early days of Islam, since the head of the community appointed the prayer leader. Under the Safavids, the Friday prayer served to legitimate the Shiite dynasty.²⁹⁷ A crucial moment occurred when the *mujtahid*, the chief of the religious institution who led the prayer, praised the sovereign in his sermon. As a ritual, the prayer joined religious with political power and united the three elements of religion, state, and the masses.

The Safavid Friday prayer also bolstered the authority of the ‘ulamā’. In addition to enhancing their status, prayer leadership was a source of patronage and income, leading to competition. This competition or conflict is significant for our study of legal views pertaining to *niyābah*, as I will explain in the analysis below.

Karakī penned *Risālat ṣalāt al-jum‘ah*, his first treatise on the Friday congregational prayer, in 921/1515 during his association with the Safavids. His writings constituted the chief support for Safavid state ideology and practice in regard to the prayer.²⁹⁸ Unlike Mufīd, who was silent on the subject of Friday prayer during the Occultation, Karakī declared it to be *takhyīrī*, that is, “subject to personal choice”, i.e., believers can choose to go to the congregational prayer or pray alone. This was, in fact, the view of the Hillah School. Karakī, however, adds that if a pious jurist is available to lead the prayer, it becomes incumbent (*wājib*). This condition obviously adds to the jurists’ power. As in the case of the land-tax, Karakī’s work on Friday prayer prompted other scholars to write on the same subject. Approximately one hundred and sixty separate books and treatises have been devoted to congregational prayer from the Safavids up to the present, demonstrating that it is still considered important. Most authors, however, have

²⁹⁷ Rula Jurdi Abisaab, *Converting Persia: religion and power in the Safavid Empire* (London; New York: I.B. Tauris, 2004), 21; Devin J. Stewart, “Polemics and patronage in Safavid Iran: The debate on Friday prayer during the reign of Shah Tahmasp,” in *Bulletin of the School of Oriental and African Studies*, Vol. 72 (October 2009): 457.

²⁹⁸ Stewart, “Polemics and patronage”, 453.

concluded that such prayer is optional, without Karakī's proviso that it becomes incumbent with the availability of a pious jurist.²⁹⁹

Karakī's treatise gives us insight into how the people of his time regarded the Friday prayer. He admits that the masses doubted its legitimacy. They were perplexed that it was being performed and at a loss as what to do. As disagreement mounted, the situation became critical.³⁰⁰ Karakī's treatise was intended to convince the masses that the prayer was obligatory.³⁰¹ Holding the prayer depends on the presence of the Imam or his deputy, according to Shiite consensus; but there is the question of whether the deputy of the Imam is appointed specially, i.e., as a specific person while the Imams are present or during the Minor Occultation, or generally, i.e. any qualified *mujtahid* during the Greater Occultation. Karakī states that the majority of the Shiite 'ulamā' support general Deputyship,³⁰² with which he agrees. That position, of course, served to promote the holding of the Friday prayer and the jurists' leadership of it. Karakī also, as mentioned above, took the practical measure of appointing Friday prayer leaders. Nevertheless, he does not say that the Friday prayer is actually obligatory for individuals during the Occultation (except if there is a pious *mujtahid* available to lead it), apparently because he wanted to avoid open conflict with those who disagreed because they deemed the congregational prayer solely the prerogative of the Imam or because they considered it entirely optional.³⁰³ Karakī, though powerful, was not as all-powerful as modern authors such as Jafariyan, Hassun, and Abisaab make him out to be.

Thus in sum, the issue of the legitimacy of the Friday prayer gave Karakī an opportunity to take a further step in establishing the *mujtahid*'s authority. He states that the Friday prayer is obligatory only when a jurist fully qualified in the religious law (*mujtahid jāmi' al-sharā'it*) is

²⁹⁹ For detail see, Rasūl Ja'fariyān, *Dawāzdah Risālah Fiqhī Darbārah Namāz Jum'ah Az Rūzgār Šafavī* (Qom: Anšāriyān, 1381/2003), 13, 15.

³⁰⁰ Karakī, "Risālat al-šalāt al-jum'ah," in *Rasā'il*, vol. 1, 139.

³⁰¹ Karakī, "Risālat al-šalāt al-jum'ah," in *Rasā'il*, vol. 1, 139.

³⁰² Karakī, "Risālat al-šalāt al-jum'ah," in *Rasā'il*, vol. 1, 371.

³⁰² Modarressi, *Kharāj in Islamic Law*, 165.

³⁰³ Karakī, "Risālat al-šalāt al-jum'ah," in *Rasā'il*, vol. 1, 148.

present and leads the prayer.³⁰⁴ Though others disagree with him, he claims a consensus for this position.³⁰⁵ Karakī argues that the qualified jurist is the Imam’s appointee through general appointment and who is in charge of all religious affairs, which includes the Friday prayer.³⁰⁶

Making the obligation of the Friday prayer conditional on the presence of the *mujtahid* acting as the deputy of the Imam enhanced the status and authority of the jurists under the Safavids.³⁰⁷ The political significance of the prayer, it seems, finally exceeded its religious importance. The Safavids were rivals of the Ottomans, who boasted a highly developed institution in charge of religious affairs, including the congregational prayer. This, it seems, prompted the Safavids to mount the same rituals - with a Shiite character, of course - in order to

³⁰⁴ Karakī, “Risālat al-ṣalāt al-jum‘ah,” in *Rasā’il*, vol. 1, 158; Karakī, *Jāmi‘ al-maqāṣid* vol. 2, 379. Devin Stewart maintains that according to Karakī the legality of Friday prayer while the Imam is occulted depends on his representative (the jurist) designating someone to conduct the prayer. In other words, it is the permission of the Imam’s general representative to others that is significant, not his own Friday prayer leadership (“Polemics and patronage”, 429, 440, 457.). Based on this perception, Stewart concludes that Karakī’s view led to accumulation of power in the hands of *mujtahids*. It was, Stewart says, “somewhat risky for Shah Ṭahmāsp to accede to Karakī’s’ position at this juncture, for the authority of the leading *mujtahid* expanded at the expense of the Shah’s own authority” However, in none of Karakī’s writings on Friday prayer - neither in *Jāmi‘ al-maqāṣid* nor in *Risālat al-ṣalāt al-jum‘ah* – does he talk about the requirement of the well-qualified jurist’s permission to others. Instead, he argues that the qualified jurist himself must lead the prayer. Moreover, it was, historically speaking, the Shah who appointed the jurist who led Friday prayer, not the *mujtahid*, even if the powerful *mujtahids* did play a significant role in the designation of that jurist; see Rasūl Ja‘fariyān, *Dawāzdah Risālah Fiqhī Darbārah Namāz Jum‘ah Az Rūzgār Šafavī* (Qom: Anṣāriyān, 1381/2003), 31-32 and Ḥassūn, *Ḥayāt*, vol. 2, 67. Shāh Ṭahmāsp was certainly not eager to have Karakī accumulate too much power. As Abisaab notes (*Converting Iran*, 24), he was not eager to make his position hereditary in his descendants. This concern, however, did not arise from Karakī’s interpretation of the role of the qualified *mujtahid* in the Friday prayer.

³⁰⁵ This claim of Karakī about the consensus is criticized by other Shiite ‘ulamā’ before and after him. For instance, he himself names some Shiite leading jurists in the past who did not consider Friday prayer obligatory in the absence of the Imam, such as al-Murtaḍā, al-Sallār, al-Ṭūsī (in his *Khilāf*), Ibn Idrīs, and ‘Allāmah (in his *Muntahā*). After Karakī also, many prominent Shiite scholars do not recognize the consensus he claims. Those scholars condition the obligation of Friday prayer on the presence of the Imam’s or of his agent, which is not possible during the Occultation. To get around this problem, Karakī emphasizes that the jurist is the Imam’s appointee, in a general manner. In fact, the consensus he refers to concerns the presence of the infallible Imam or his *nā’ib*, not role of the jurist during the Occultation. Nevertheless, Karakī expands it to the time of the Occultation to facilitate his view of the Deputyship of the jurists and their role in Friday prayer.

³⁰⁶ Karakī, “Risālat al-ṣalāt al-jum‘ah,” in *Rasā’il*, vol. 1, 159-160, 163.

³⁰⁷ Ja‘fariyān, *Dawāzdah*, 12.

keep up appearances for themselves, their subjects, and other Muslims. Karakī found a solution to the problem of how to mount and display the ritual despite the absence of the Imam in the notion of an optional obligation depending on the presence of the *mujtahid*. If Karakī had not been associated with the Safavids, he would not have formulated such a doctrine.

The jurists and judgeship

Arjomand (referring to Calder) claims that Karakī does not in his chief legal work *Jāmi‘ al-maqāṣid* use the phrase “general delegate” of the Hidden Imam in relation to religious taxes, implementation of the *ḥudūd*, or jihad.³⁰⁸ It is true that Karakī, like other jurists, does not give the *mujtahid* any part in jihad, but he certainly does address *mujtahid* authority in Quranic punishments and religious taxes. Regarding Quranic punishments, for instance, he distinguishes, as Mufīd does, between executing legal punishments among one’s family circle and the public, asserting that the master may, on the basis of what he characterizes as “almost a consensus”, punish his slave, but in his capacity as a master and not as a jurist. Karakī also takes the authority of the jurist in Quranic punishments a small step further than Mufīd by maintaining that one has to be a jurist to enforce judgments on one’s children or wife.³⁰⁹ We may say in general that Karakī prefers that the ‘ulamā’ judge during the Occultation.

The issue of judgeship is intimately connected with that of working for an unjust ruler, so that Shiite scholars generally discuss working for an unjust ruler under the heading of Quranic punishments. Karakī does the same, particularly following ‘Allāmah Ḥillī, on whose work he comments. The ‘Allāmah, however, has a view of the issue that is even more restrictive than that of Mufīd. He believes that the legality of a jurist appointed as a judge by an unjust ruler enforcing the Quranic punishments is doubtful. That jurist (contrary to Mufīd’s view) does not have the permission of the Imam. Working for an unjust ruler is permissible only when the jurist is forced to serve or his life is threatened by the ruler - although not even in those circumstances if the judge is compelled to shed Shiite blood illicitly, in which case he may no longer dissimilate, i.e., practice *taqiyaḥ*.³¹⁰

³⁰⁸ Arjomand, *The Shadow of God*, 142.

³⁰⁹ Karakī, *Jāmi‘ al-maqāṣid*, vol. 3, 489.

³¹⁰ Karakī, *Jāmi‘ al-maqāṣid*, vol. 3, 489.

This view of ‘Allāmah Ḥillī was evidently unfavourable to Karakī’s desire to work with the Safavids. He tries to refute it by suggesting that ‘Allāmah’s caution refers to non-jurists and asserting that he “very certainly states” (*qad jazama*) that the jurist who is a deputy of the Imam can judge during the Occultation.³¹¹ This, however, is simply not true. The discussions of ‘Allāmah and of Mufīd both use the terms *ḥukm* and *ḥākim*, which refer, as I have shown above, to judgeship and the judge, and clearly concern a person who is qualified to judge for an oppressive ruler, i.e., a jurist. ‘Allāmah, for instance, discusses three roles for the jurist during the Occultation. First, (exactly as Mufīd says) the jurists judge among the people (*ḥukm bayn al-nās*), provided they are secure from governmental pressure or danger. Second, they collect and distribute *zakāt* and *khums* (the latter of which Mufīd denies); and third, they issue responsa (which Mufīd probably assumes, although he does not use the technical term *iftā*’, as ‘Allāmah does) provided they are qualified to do so. Karakī’s very weak interpretation of ‘Allāmah vividly illustrates the lengths a Shiite scholar had to go to in these times to expand juristic authority in the face of a tradition that tended to limit it. Nevertheless Karakī, continuing in his commentary on ‘Allāmah, goes on to declare that Shiites must support the jurists and refer to them for judgeship. If they refer their legal problems instead to an unjust *ḥākim* (judge), they are sinful.³¹²

Niyābah from the Imam and working with an unjust ruler

Karakī accepted high-ranking posts from the Safavid Shahs, including that of Shaykh al-Islām, i.e., overseer of religious affairs in the kingdom. His position in the court and as Shaykh al-Islām was not, however, the basis of his religious authority per se. His authority as a leading jurist was rather derived from deputization by the Imam. As heir to the Uṣūlī tradition, Karakī regarded the Safavids as “unjust” rulers and considered that he was permitted to work with them only under certain conditions, stated by Mufīd and others. Karakī was nevertheless eager to be associated with the Safavid court, beginning with the reign of Shāh Ismā‘īl I in 916/1510, when, as Abisaab says, says, he was “officially recognized as the Safavids’ religious scholar in Iraq and received monetary funds from Shāh Ismā‘īl I, to the great indignation of numerous

³¹¹ Karakī, *Jāmi‘ al-maqāṣid*, vol. 3, 490.

³¹² Karakī, *Jāmi‘ al-maqāṣid*, vol. 3, 490.

theologians.”³¹³ Indignation, since the permissibility of accepting a position and wealth from a so-called unjust ruler was still widely debated in Shiism. Karakī himself did not openly call the Safavid Shahs “unjust”. He actually praises them on a few occasions and dedicates his magnum opus *Jāmi‘ al-maqāṣid* to them, giving the dynasty a series of lofty titles. Conspicuously, however, he does not include the adjective (‘*ādil*).³¹⁴ He also effectively implies that the Safavids were unjust by taking the trouble to argue for certain permissions, for instance the permissibility of receiving land-tax and other financial support from the state in his treatise on land-tax (*kharāj*). He decides in favor of these, not surprisingly since he wished to legalize dealing with the political powers in view of his close relationship with the Safavid court.

Apart from these additional permissions, how did Karakī legitimate his position on the basis of the Shiite theological and legal doctrine he received, which does not easily admit the legitimacy of a ruler other than the Imam? Emphasis on the term *mujtahid* provided an additional small opening. Mufīd says that the Imam’s delegate is a jurist, while according to Karakī, the Imam’s delegate is a *mujtahid*, i.e., an exceptionally well qualified jurist entitled to issue responsa. While both figures are legitimated in the same way by Mufīd and Karakī and Mufīd probably also considered that a jurist working for the government would issue responsa, Mufīd is not explicit about this (and the term *mujtahid* was not used in his time). Karakī, on the other hand, greatly emphasizes the high qualifications of the *mujtahid* -jurist and his ability to issue responsa, so that such activity is more clearly represented as being legitimate while working for the *sultan*. Karakī could conceivably also have gone back to Mufīd to draw on his discussion of delegation of the Imam’s authority to *amirs* in order to legitimate the Safavids and thus his own activities; but he does not do this, probably because the discussion had died out after Mufīd. Thus we see that, despite having the opportunity of dwelling in a powerful Shiite kingdom rather than amidst a predominantly hostile Sunnite majority like Shiite scholars before him, Karakī did not succeed in devising a framework and terminology suitable for the different circumstances. He

³¹³ Abisaab, *Converting Persia*, 15-16. On page 16, Abisaab in two cases refers to Karakī’s *Rasā’il*, vol. II, 237-39 to show that for Karakī and other subsequent ‘Āmilī theologians, offering religious service and support to a just ruler during the Occultation was deemed necessary and spiritually rewarding. This information, however, is not found in the *Rasā’il* at the place cited or anywhere else as far as I can see.

³¹⁴ See for instance, Karakī, *Jāmi‘ al-maqāṣid*, vol. 1, 67; also Karakī, *Nafaḥāt al-lāhūt fī la‘n al-jibt wa-al-ṭāghūt*, ed. Muḥammad Ḥassūn (Qom: Manshūrāt al-Iḥtijāj, 1423 [2002 or 2003]).

was unable to, as Abisaab aptly puts it, “extract Shiism from its scholastic puritanism”.³¹⁵ Karakī failed to re-cast the key concepts of a just ruler (*sultān ‘ādil*) and unjust or oppressive (*jā’ir*) ruler to fit new conditions, continuing instead with the old usage constructed in the context of opposition between the Shiite Imams and Umayyad and Abbasid caliphs. Even the theory Ja‘fariyān (see above) attributes to the seventeenth-century Safavid scholars Āghā Ḥusayn Khwānsārī and Muḥammad Bāqir al-Majlisī that a *sultān* appointed by a well-qualified *mujtahid* who is the deputy of the Imam may be considered just, does not lead to the conclusion that the *sultān* and his actions are just *in themselves*. All this is surprising when one considers that the Safavids built their rule on Shiism and that Shiite scholars such as Karakī associated with them. It is as if Ṭūsī’s definition of the just and unjust *sultān* and dealings of the scholars of the School of al-Ḥillah with the Mongols had created a template that could not be altered.

Although the constricted theory of Deputyship was not basically changed, the status and power of the religious class did increase in practice. It was these changes taking place on the levels of society and history that finally prepared the ground for much more expansive views of Deputyship in the Qajar and post-Qajar periods.

Under the Safavids, power gradually became divided between religious and non-religious (*urfi*) groups, i.e., the scholar-jurists on the other hand and the Shāh, military, bureaucracy and landowners on the other.³¹⁶ The Safavids regarded the jurists as a legitimating force, including against their foreign enemies. As for the jurists, their motivations for collaboration with a supposedly unjust rulership were both religious and, to a lesser extent, related to personal gain. Being welcomed in the court constituted recognition of the ‘ulamā’’s power and social influence. I have mentioned the titles given to Karakī. Shāh Ṭahmasp’s decree bestowing on him the title of Deputy of the Imam, issued on 16 Dhu al-Ḥijjah 1039/ July 9, 1533, is worth special consideration. The text as translated by Arjomand is as follows:

[...] the highly positioned seal of the *mujtahidīn*, Heir to the science of the Lord of the messengers, Protector of the Religion of Commander of the Faithful [...], the Kibla of the pious faithful, the Exemplar of expert ‘ulamā’, the Proof of Islam (*ḥujjat al-*

³¹⁵ Abisaab, *Converting Persia*, 32.

³¹⁶ Ja‘fariyān, *Dīn va-siyāsāt*, 37.

Islām) and of the Muslims who direct the people unto the clear path, Erector of the banners of the indelible Law (*sharī‘a*) who is obeyed by the great governors in all times, and Guide (*muqtadā*) of all the people of the time, the Clarifier of the permissible and the forbidden, the Deputy of the Imam (*nā‘ib al-Imam*)—peace be upon Him—who has clarified the difficulties of the rules of the community of the believers and the rightful laws; may he not come to an end, like his elevated victorious namesake, ‘Alī. The highly positioned ‘‘ulamā’’ of all quarters have bowed their heads in humility at the threshold of his sciences and are honored by what they acquire from the rays of his beneficent lamp through the use of sciences. Furthermore, the lords and nobles of the time obey and follow the orders and prohibitions of that guide and consider submission to his commands the cause of salvation. They all devote their lofty will and honorable intent to the rising of the position and elevation of the rank of that Excellency.³¹⁷

From a religious and theological perspective, these many titles bestowed on ‘Alī ibn al-Ḥusayn Karakī by the highest political power of Persia add nothing to his authority. As a jurist, Karakī was already the deputy (*nā‘ib*) of the Imam, so that Shāh Tahmāsp’s elaborate formulas only emphasize and enhance his power and that of the ‘ulamā’ in general. The order to the nobles and administration to obey Karakī on pain of punishment did, on the other hand, have significant economic and political implications. The very length of the decree - three of today’s printed pages - is due to the economic benefits detailed:

We have also decreed that agricultural estate of Kabīsa and Dawālīb ... adjacent to the river of holy Najaf ... and the cultivated lands of Umm al-‘Azamāt and the Kāhīn al-Wa‘d of Ramāḥiyya that he has brought into cultivation be made an endowment (*waqf*) for him, and for his descendants after him, according to the correct procedure of the Sacred Law as specified in the deed of endowment. [...] [the above] to be removed from the tax registry of the Arab Iraq, excluded from the revenue and expenditure accounts, be considered His Holy Excellency’s endowment and entitlement, and be exempted from all future orders affecting requisition, division, replacement and change

³¹⁷ Said Amir Arjomand, “Two Decrees of Shāh Ṭahmāsp Concerning Statecraft and Authority of Shaykh ‘Alī Karakī,” in *Authority, and Political Culture in Shiism*, ed. by Said Amir Arjomand (Albany: State University of New York Press, 1988.), 253-254. For the Persian see ‘Abd Allāh ibn ‘Īsā Afandī, *Riyāḍ al-‘ulamā’ wa-ḥiyāḍ al-fuḍalā’*, ed. Aḥmad Ḥusaynī, vol. 3 (Qum: Maktabat Āyat Allāh al-Mar‘ashī al-‘Āmmah, 1401/1981), 456; al-Khwānsārī al-Iṣfahānī, *Rawḍāt al-jannāt*, vol. 4 (Beirut: Dār al-Islāmīyah, 1411/1991), 349-50; Ḥassūn, *Ḥayāt*, vol. 1, 456 (another decree with the same titles available in page 477); Ja‘fariyān, *Dīn va-siyāsāt*, 96, 407-410, 411; Baḥrānī, *Lu‘lu‘āt*, 147-148.

of the *suyūrghāls* and land grants. Furthermore, the sum of ten Tabrīzī *tūmans* from the mint of Ḥilla is established as *suyūrghal* for His Excellency instead of the tar of Ḥārḥīt and Ḥilla which has been His Excellency's *suyūrghal* in the sum of eight hundred *tūmāns* but which he has given up willingly owing to the difficulty of transportation. The officials must give the above sum priority over all other receipts and drafts and not pay a single *dīnār* to anyone until it has reached his deputies (*wukalā*) from the mint.

[...] we ordered that Barqāniyya and its surroundings be recognized as the *suyūrghal* of the above-mentioned Seal of the Mujtahidīn from the beginning of the year 'ilān 'il [sic] and be handed over to his deputies. All its produce for that year is to be handed over to his agents without excuse and without any reduction. ...

The respected tax accountants, agents, and bureaucrats must remove all the above from the tax registry and exempt them from all dues, especially ... the tithe ... the stamp due, the due of *vozarā*, the due of *ṣidāra*, etc. ... The officials of the tax bureau of the Arab Iraq must remove their pen from these estates and not set foot in them ... not inspect them, ... not impose fines and if a fine is issued, leave it to the agents ... and consider all the receipts fully due to the above-mentioned Shaykh al-Islām and exempt from taxation as his other *suyūrghals*.

As the world-incumbent order has been issued prohibiting the central *dushlakāt* bureau from imposing the *dushlakāt*, the *dushlakāt* bureau of the Arab Iraq should similarly consider itself prohibited.³¹⁸

As the document illustrates, Karakī was granted land grants, fiscal rights, and tax immunities. Through his association with the Safavids, he opened the way for employment of the 'ulamā' and clerical estate in the government, including high positions such as that of *Ṣadr* (employee of the Shah responsible for administering religious affairs and supervision of pious endowments), Shaykh al-Islām, judgeship, prayer leadership, and so on. This access allowed the 'ulamā' not only to improve their economic situation, but even to become major landowners and holders of wealth. As for the political implications of Shāh Ṭahmāsp's honouring of Karakī, the presence in the court of a religious authority with such a high reputation led to administrative problems. It was difficult to contain him in the court structure. This is why, as Arjomand points out, the Safavid king's attempt to institutionalize the Mujtahid of the Age as the supreme religious authority failed, delaying that development to future generations of 'ulamā'.³¹⁹ Using

³¹⁸ Arjomand, "Two Decrees", 254-255.

³¹⁹ Said Amir Arjomand, "The Mujtahid of the Age and the Mullā-bāshī: An Intermediate Stage in the Institutionalization of Religious Authority in Shi'ite Iran," in Arjomand, ed., *Authority, and Political*

his position in the court, Karakī organized religious centers and prepared the ground for the powerful emergence of those future generations.

What we are left with is an apparent contradiction. In Karakī's theological view, the Safavid state was illegitimate and its monarchs unjust, as we will see in his treatise on the land-tax. At the same time, however, he worked for and maintained close relations with the court while accepting land grants and other fiscal advantages. A well-qualified *mujtahid* is the deputy of the just ruler, the Imam, in the law and all religious affairs. Even while working for and gaining advantage from the Safavids, Karakī remained, in Mufīd's words, *sulṭān al-Islām* in *sharῑ* affairs, and the Safavid kings continued to be regarded theoretically as unjust. Deputization by the Imam allowed Karakī, as it had since the time of Mufīd, to associate with the court and function within it, in the areas theological and juridical theory had always permitted. Receiving the title of Deputy of the Imam from Shāh Ṭahmāsp did not help Karakī to claim political Deputyship as well. It had no implications for political leadership. Karakī remained the Deputy of the just *sulṭān* – meaning, of course, the Imam – and a functionary (i.e., a position involving no independent political power) of an unjust ruler, even though his efforts greatly increased the influence of the 'ulamā' in practice, finally giving them the confidence to change theory. Despite Karakī's own limited or contradictory position, the economic and political power he opened to the clerical estate finally proved to be a bridge, as we shall see in the next chapter, to the articulation of *niyābah* in its absolute form.

Enjoining good and forbidding evil and jihad

The role the leading jurist plays in enjoining good and forbidding evil reflects his position in executing the law. Karakī discusses the issue very briefly, without offering anything new. He considers enjoining good and forbidding evil incumbent on individuals (*wājib 'aynī*), meaning that every adult Muslim is obliged to participate. Like Mufīd, he distinguishes three levels, i.e., enjoining good and forbidding evil by the heart, tongue, and hand (force). In his *al-Risālah al-najmīyah*, Karakī makes enjoining good and forbidding evil obligatory for every adult, on the condition that one knows what s/he orders or prohibits, is aware of the impact, and is secure from

Culture in Shiism, ed. by Said Amir Arjomand (Albany: State University of New York Press, 1988.), 80-83; Ja'fariyān, *Dīn va- siyāsāt*, 92.

harm.³²⁰ The jurists do not play a special role, in enjoining good and forbidding evil in their capacity as jurists and the Imam's deputy.³²¹ Enjoining good and forbidding evil is only a personal duty, as for other Muslims.

Jihad is another topic closely connected with power. For Karakī, jihad is conditional on the presence of the Imam or his specific (*khāṣṣ*) and not general (*'āmm*) deputy.³²² He equates the warrior killed while fighting against rebels (*bughāt*, i.e., Muslims who oppose the Imam) with those killed in war against infidels.³²³ These are not novel views, and Karakī does not say much about jihad altogether, leading us to conclude that he did not do anything to develop the doctrine.

The jurists and religio-political taxes

Religious taxes, especially the one-fifth tax called *khums* and *zakāt* or alms-tax have an important place in Shiism. During the Occultation, it is the jurists who interpret the texts pertaining to religious taxes and who manage it for the most part. The scholars held two different views on taxes in the time of the Greater Occultation: one that the taxes should be paid to the jurists, and the other that they should be managed by the donors themselves.

Concerning the one-fifth tax, Karakī holds that the jurist is responsible for receiving and spending the one-half constituting the Imam's share. He says that the Imam can appoint someone in his place to distribute his share to those who are entitled to receive it, since deputization is legally allowed in such a matter, and the Imam has in fact deputized the jurists. According to Karakī, the jurists also have the right to specify the recipients of the tax, since the Imam's share is the property of a missing (*ghā'ib*) person and it is the duty of the jurists to handle the property of such persons.³²⁴ This is a great change from the first moment of Deputyship in which the jurists according to Mufīd are responsible neither for the gathering nor distribution of taxes. Clearly, the change increased the power of the religious class. Karakī does not actually make it clear who the recipients are, and there is no evidence showing how he managed the *khums* in his

³²⁰ Karakī, *Rasā'il*, 63; Karakī, *Jāmi' al-maqāṣid*, vol. 3, 486.

³²¹ Karakī, *Jāmi' al-maqāṣid*, vol. 3, 485, 488.

³²² Karakī, *Jāmi' al-maqāṣid*, vol. 1, 365; vol.3, 370.

³²³ Karakī, *Jāmi' al-maqāṣid*, vol. 1, 365.

³²⁴ Karakī, *Jāmi' al-maqāṣid*, vol. 8, 212.

time, but this does not indicate that the power was not used, as we would not expect these details to be addressed in a system that was essentially informal. Decrees from Shāh Sulaymān appointing the Shaykh al-Islām of Tabriz in 1093/1682 and Mashhad in 1079/1669 tell us definitely that the collection and distribution of *khums* was the responsibility of that personage,³²⁵ even though these also do not throw any light on practice.

As for *zakāt*, though Mufīd deems it obligatory (*wājib*) to pay the alms-tax to the jurists during the Occultation, Karakī says that it is only recommended (*mandūb*).³²⁶ This difference, however, does not imply a decrease in the power of the jurists. It only indicates the much greater importance of *khums* in this time, a situation that continues to the present day in Shiism.

From a Shiite perspective, the land tax or *kharāj* belongs to the Imam, who then spends it in the interests of the Muslims. There is no dispute about this during the Imam's presence. In his absence, however, there is much debate about the permissibility of paying *kharāj* to an unjust ruler and accepting it from that ruler. Among the religious taxes, Karakī pays the most attention to *kharāj*. It may be that the subject was important for him because it was related to the support he received from the Safavids. He remarks that if the Shahs were to withdraw their support, "the cause of the 'ulamā'" would be weakened and their centers of learning would become deserted and spiritless."³²⁷

Thus Karakī, unlike Mufīd, produced an independent treatise on the land-tax, entitled *Qāṭi 'at al-lajāj fī taḥqīq ḥill al-kharāj* (Putting an End to Obstant Resistance to the Licitness of Kharaj).³²⁸ Composed in answer to opponents who included 'ulamā' not connected with the Safavid state,³²⁹ *Qāṭi 'at al-lajāj* treats the much-debated issue in Shiite law of the disposition of *kharāj*. This had implications both for the Safavid Shahs and 'ulamā'. The Safavids wanted to encourage their subjects to submit the land tax to them, despite hesitations that paying the tax would imply legitimation of an unjust ruler. As for Karakī and his fellows, they needed their receipt of government grants from the *kharāj* to be legitimized, since this was a significant

³²⁵ Ja'fariyān, *Dīn va-siyāsāt*, 399, 404.

³²⁶ Karakī, *Jāmi' al-maqāṣid*, vol. 3, 37.

³²⁷ Modarressi, *Kharāj in Islamic law*, 58.

³²⁸ (Qom: Mu'assasat al-Nashr al-Islāmī, n.d.). The treatise has also been published along with others in the three-volume collection of *Rasā'il* referred to many times above.

³²⁹ Karakī, *Rasā'il*, vol. 1, 237.

source of income both for their religious projects and their own benefit. Karakī was actually not the first leading Shiite jurist to receive such support, but he became a target of criticism by some jurists because Shah Ṭahmāsp had bestowed on him particularly large land grants in the region of Najaf, in the form of a *waqf* or hereditary religious endowment.³³⁰

What was Karakī's argument? He maintained that, as during the reign of 'Alī, cultivable lands taken during the Muslim conquests "by force" (*maftūh al-'anwah*), of which there was much in Iraq and Iran, belong to the entire Muslim community and not to the conquering warriors alone. (The exception is uncultivated land or wastelands, called *ard mawāt*, which belong to the Imam when he is present³³¹ but may be renovated and cultivated without the permission of the Imam during the Occultation and are exempt from tax.³³²) It is thus the Imam who has authority to levy *kharāj* upon lands and spend it in the Muslims' interests, for instance on the army, administration, and so on. Karakī then goes on to contend that the jurists receive the *kharāj* in the Imam's interest, for although the lands and taxes from them may have been illegally seized by unjust governments, they remain the property of the just ruler, i.e., the Imam. The Imam, moreover, granted permission to his Shiites to spend the *kharāj*, so its control by government does not make it illegal to take it. Paying the land tax to an unjust ruler is not forbidden, for payment is a lawful duty obligatory for those who occupy land which is not their own property, while the ruler receiving the taxes is spending it for the community.³³³ Thus, Karakī says, the Shiites in general—whether rich or poor, jurist or non-jurist—are permitted by the Imams during the Occultation to receive *kharāj* from an unjust ruler (or from jurists if the jurists are collecting it), just as the pious 'ulamā' in the past received it from unjust rulers without hesitation.³³⁴

³³⁰ Wilferd Madelung, "Shiite Discussions on the Legality of the Kharāj." in *Proceedings of the Ninth Congress of the Union européenne des arabisants et islamisants*, ed. Rudolph Peters (Leiden: E. J. Brill, 1981), 201. In this paper, Madelung states that the *kharāj* and land tenure in Shiite Imāmī law were classically defined in the 5th/eleventh century by al-Ṭūsī (ibid, 193). By this statement, he neglects Mufid's role in development of the topic; see Modarressi, *Kharāj in Islamic law*, 50.

³³¹ Karakī, *Qāṭi 'at al-lajāj*, 37-8, 40, 70-72, 75.

³³² Karakī, *Qāṭi 'at al-lajāj*, 49, 53-5, 57-9.

³³³ Karakī, *Qāṭi 'at al-lajāj*, 73; *Jāmi' al-maqāṣid*, vol. 3, 22.

³³⁴ Karakī, *Qāṭi 'at al-lajāj*, 38.

Mufid, in contrast, while also citing the practice of ‘Alī for management of the land-tax, is completely silent on *kharāj* during the Occultation and possible role the ‘ulamā’ might play. Karakī’s doctrine seems to be novel, indicating, as Abisaab says, “a fundamental historical transformation in the economic and political conditions of the Shiite jurists.”³³⁵ Abisaab is correct as regards theory. Karakī is indeed the first scholar to discuss *kharāj* in detail and give permission for it to be delivered to and received from the ruler. In practice, however, many others before him received *kharāj* funds, as he himself goes on to say. Karakī confirms, in fact, that there is no explicit textual stipulation (*naṣṣ*) relating to the role of the ‘ulamā’ in the *kharāj* during the absence of the Imam. Rather, he says, scholars who discuss the Deputyship of the jurists in Quranic punishments and so forth have preferred to add management of *kharāj* to those responsibilities of the ‘ulamā’, since people who have a right to *kharāj* exist in every age and it is less risky (because of their competence and knowledge) to give it to the jurists to distribute.³³⁶ Karakī also cites the practice of past Shiite scholars from the 10th to the 14th century such as al-Sharif al-Murtaḍā,³³⁷ Naṣīr al-Dīn al-Ṭūsī,³³⁸ and Muḥaqqiq al-Ḥillī³³⁹ (to which he could well have added ‘Allāmah Ḥillī), all of whom received land and grants from governments in their time without facing criticism or disagreement from other ‘ulamā’.³⁴⁰ On this basis he concludes that

³³⁵ Abisaab, *Converting Persia*, 23.

³³⁶ Karakī, *Qāṭi ‘at al-lajāj*, 74.

³³⁷ The family of al-Mūsawī includes Ḥusayn ibn Mūsā al-Mūsawī and his sons, al-Murtaḍā and al-Raḍī. They worked for the Abbasids as Qāḍī (judge) and Naqīb (head of the corporation of descendants of the Prophet) and received considerable fiscal grants and support from the caliphate. Karakī (*Qāṭi ‘at al-lajāj*, 74) mentions that al-Raḍī had three provinces in his possession, while the other had eighty villages.

³³⁸ Hulagu Khan appointed Naṣīr al-Dīn al-Ṭūsī as his advisor, and he also was in charge of religious endowments and affairs. He reckons *kharāj* as one of the income sources for Hulagu’s court (*Qāṭi ‘at al-lajāj* 86; see also M. Mīnuvī and V. Minorsky, “Naṣīr al-Dīn Ṭūsī on Finance,” *Bulletin of the School of Oriental and African Studies*, Vol. 10, No. 3 [1940], 759-761).

³³⁹ ‘Allāmah al-Ḥillī, who dedicated his *Minhāj al-karāmah fi ithbāt al-Imamah* to the “Great Shāhanshāh” Sultān Muḥammad Khudā Bandah, was much respected in the Mogul court. He worked for the *sulṭān* and received grants and financial support from, along with many villages. See, Ḥillī, *Minhāj al-karāmah fi ithbāt al-Imamah* (Mumbai: n.p., 1294), 2 and Karakī, *Qāṭi ‘at al-lajāj*, 86.

³⁴⁰ Karakī, *Qāṭi ‘at al-lajāj*, 74, 76, 88-89. In addition to the above-mentioned jurists, during the Minor Occultation, Abū Sahl Ismā‘īl Nawbakhtī (d. 311/923) worked for the Abbasids as a scribe (*dabīr*) or judge (*qāḍī*). Later, al-Karājī (d. 449/1057), and ibn Barrāj (d. 481/1088) were also employed as *qāḍīs*

taking land grants and taxes from unjust rulers is permissible for the jurists as it would be for Shiites in general to receive such taxes from the *nā'ib* of the Imam (i.e., the jurist) if he were the tax collector. Observe again how this argument begins from the assumption that the Safavids are unjust rulers.

Karakī's view was seriously contested by some of his contemporaries and others in the next generation of Safavid scholars. His chief critic was Shaykh Ibrāhīm ibn Sulaymān al-Qaṭīfī (d. ca 949/1543), who insisted that it was not only permissible but actually obligatory to abstain from paying *kharāj* to unjust rulers. Qaṭīfī uses strong language to condemn Karakī, characterizing his treatise as having “flimsy foundations” (*wāhiyat al-mabānī*) and “feeble meaning” (*rakīkat al-ma'ānī*)³⁴¹ and Karakī himself as “ignorant”.³⁴² In Qaṭīfī's view, accepting grants and financial support or remuneration from an unjust sultān is clearly unlawful.³⁴³ According to Modarressi, Qaṭīfī's perspective was

[...] fully supported by al-Ardabīlī [Muhaqqiq Ardabili, leading Safavid jurist who died in 993/1585] who did not consider that an unjust ruler had any authority over *Kharāj* and *Kharāj* land, and he wondered why Karakī and al-Shahīd al-Thānī had thought that people should pay their taxes to such rulers and not withhold their fiscal dues. He was also very surprised by his contemporaries who refrained from making use of the grants (*iqṭā's*) they had from *Kharāj*, and instead waited for the officials to divide the crop in order to receive their grants from the government's share, thus in effect accepting that collection by the officials of an unjust government was valid and that *Kharāj* in such cases was legal. Al-Ardabīlī was strongly opposed to this view and insisted that the actions of unjust rulers and their officials did not have any legal validity and could not, thus, make anything lawful.³⁴⁴

³⁴¹ Ibrāhīm ibn Sulaymān al-Qaṭīfī. *al-Sirāj al-wahhāj li-daf' 'ajāj qāṭi'at al-lajāj* (Qom: Mu'assasat al-Nashr al-Islāmī, 1413/[1992]), 128.

³⁴² Baḥrānī, *Lu'lu'āt*, 155.

³⁴³ Modarressi, *Kharāj in Islamic Law*, 165.

³⁴⁴ Modarressi, *Kharāj in Islamic Law*, 165-166.

Despite the strong disagreement seen here, Karakī's perspective influenced the literature on *kharāj* and inspired a number of commentaries.³⁴⁵ This literature, however, focuses mostly on the permissibility or impermissibility of giving or receiving land-tax and other funds from an unjust ruler. It does not, surprisingly, address the role of the *mujtahid* in collection and spending of *kharāj*, something that was also important for Karakī. It is unclear why subsequent literature does not address this aspect, though it is possible that Karakī's position as a functionary of an unjust ruler caused subsequent scholars to regard him as being co-opted by the state, so that arguing for the impermissibility or permissibility of receiving funds from an unjust ruler would also have covered that case.

Thus we see that Karakī's interpretation of *kharāj* and the literature that builds upon it did not bring additional theoretical authority to the 'ulamā'. His view is based merely on the practice of early Shiite scholars, from al-Murtaḍā to the 'ulamā' of the Ḥillah School, without effecting a change in the doctrine behind that practice. Karakī did, however, provide an argument for the legality of accepting grants from an unjust ruler that is clearer than that of his predecessors. Understanding Karakī's influence in the field of Islamic taxes requires a distinction between these two aspects. On the one hand, he laid the foundation for a scholarly literature on *kharāj* and argued successfully (albeit in the face of opposition) for receiving grants from rulers. The number of jurists under the Safavids and Qājārs who received lands and other grants then greatly increased, as a consequence of which, as Abisaab says, the economic and political position of the Shiite 'ulamā' changed. But on the other hand, Karakī did not manage to establish the practice of jurists collecting or being in charge of *kharāj*, and none of the Safavid 'ulamā' after him did this.

Analysis and conclusion

Karakī's expansion of the authority of the Shiite scholars was accomplished partly through reinterpretation of Shiite doctrine. Though development of a theoretical basis in theology and law was not, as I have said, the most significant factor in the rise of the 'ulamā' under the Safavids, Karakī did manage to move theory into the era of Occultation by promoting the idea of general Deputyship, in the sense of Deputyship by all qualified *mujtahids* living in any age. This

³⁴⁵ See for instance, Karakī, et al., *al-Kharājīyāt* (Qom: Mu'assasat al-Nashr al-Islāmī, 1372/1993). This work includes five treatises on *kharāj*: Karakī's piece, two from al-Muḥaqqiq al-Ardabīlī, Qaṭīfī's *al-Sirāj al-wahhāj*, and al-Shaybānī's *Risālah fī ḥall al-kharāj*.

shift was accomplished partly through citing the tradition from Ja‘far al-Şādiq narrated by ‘Umar ibn Ḥanzalah. As Karakī concludes from this *ḥadīth* that the authority granted to the *mujtahids* by the Hidden Imam is somewhat broad, it will be useful to review it here.

In the text of the tradition preserved by Kulaynī in his *al-Uşūl min al-Kāfi*, ‘Umar ibn Ḥanzalah tells the story of two Shiites referring to a non-Shiite judge to solve their dispute, despite being forbidden by the Imams from resorting to an ungodly power (*ṭāghūt*).³⁴⁶ This tradition gives insight into an environment in which the Shiites, due to lack of political power, did not possess an official judicial institution. In the tradition, the sixth Imam Ja‘far al-Şādiq’s response is to command Shiites to find from among themselves one who can issue judgements who is familiar with Imamī laws and *ḥadīths*. Al-Şādiq legitimizes the authority of such a person by saying that he (the Imam) has appointed him to judge among the Shiites. He goes on to declare that he must judge in accord with Imāmī law and that not accepting his ruling is tantamount to refusing God’s command, rejecting the Imams, and associating (*shirk*) other things with God.³⁴⁷

Karakī reinterpreted the ‘Umar ibn Ḥanzalah tradition principally by shifting the meaning of the term *ḥākim* (judge). Karakī, as we have seen, says that the jurist is *ḥākim* “in all religious affairs (*jamī‘al-umūr al-shar‘īyah*)”, so the application becomes wider than judgeship. That shift increased the jurists’ authority considerably, since previous scholars had limited application of the term to judicial affairs.³⁴⁸ I would actually translate *ḥākim* in the meaning Karakī gives it as “head of the community”. Note, however, that the figure Karakī constructs out of the tradition is not a *political* head of the community. As in the time of the Imams, his leadership remains apolitical. The tradition of ‘Umar ibn Ḥanzalah would continue to be important in the third moment of Deputyship (as, indeed, it was for Mufīd, although Mufīd simply understands it to mean judgeship). After the time of Karakī under the later Safavids and up to the present in Iran,

³⁴⁶ Kulaynī, *al-Kāfi*, 67.

³⁴⁷ Kulaynī, *al-Kāfi*, 67. Al-Kulaynī’s view in this case is close to Mufīd’s opinion about the Deputyship of jurists, rather than Karakī’s view. What makes al-Şādūq different from Mufīd is that the former does not use the term “jurists”, while in Mufīd’s work, the jurists appear as a distinguishable social group. Shaykh Mufīd does not equate rejection of the jurists’ judgeship with the rejection of God or the Imams; see his *Muqni‘ah*, 810.

³⁴⁸ Muḥsin Muḥājirniyah, ed., *Andīshah‘i siyāsī-i Muḥaqqiq Karakī*, vol. 2 (Tehran: Puzhishgāh-i Farhang va- Andīsha‘ih Islāmī, 1389/2010), 186.

scholars who wish to interpret the authority of the jurists in a political sense have depended increasingly on a statement in a Decree (*tawqī'*) attributed to the Twelfth Imam in which he tells the faithful that they should when faced with “new cases that occur” refer to “those who transmit our traditions, for they are my proof (*ḥujjah*) for you as I am God’s proof for them”.³⁴⁹ This much vaguer tradition, though considered weaker than the “well-accepted” (*maqḅūlah*) hadith transmitted from ‘Umar ibn Ḥanzalah, is more easily transferrable to the political realm.

Material factors, however, were finally more important than developments in theory, proving once again that doctrinal shifts must always be understood in historical context. Working at this level of analysis, I have traced expansion of the authority of the ‘ulamā’ under the Safavids to the establishment of a Shiite political order and concurrent emergence of a powerful clerical estate. The rest of this section is devoted to a third level of analysis, that of the personality of Karakī, which is more important, I believe, than usually supposed by scholars of Safavid history. At this level, we can see clearly the dynamics of juristic charisma theorized in Chapter One.

Karakī is a charismatic religious authority, whose charisma is derived from two sources: Deputyship of the Imam and his personal qualities. We will deal here first with Deputyship. As a Shiite jurist and *mujtahid*, Karakī possessed Deputyship as all jurists do. He also widened the scope of Deputyship through expanding, as we have seen, the understanding of *ḥukm* and the jurists’ relation to land-tax (*kharāj*). Here we see the dialectical (feedback) relationship between charisma and the charisma holder discussed in the Introduction to this dissertation. The charismatic figure uses the charisma he inherits to define it more widely, which causes more charisma to accrue to the office, which in turn affords future holders the opportunity of defining it even more widely. Developments from Karakī to Khomeini clearly exhibit this dynamic. However, as we can see in Karakī’s writings, it had to struggle against the reality of the Imam’s charisma not being routinized in the office of the jurist. The Imam, though hidden, was always on the horizon, and broadening Deputyship was a real challenge, which Karakī was not much able to meet.

What of the other source of Karakī’s charisma, his personal qualities? There is no doubt that it was very important in Karakī’s case; although, of course, it should be kept in mind that

³⁴⁹ Ibn Bābawayh, *Ikmāl al-din* (Najaf: al-Maṭba‘ah al-Ḥaydarīyah, 1389/1970), 451.

personal charisma depends on the existence of office charisma, that is to say, the second is not relevant without the existence of the first, the potential of which it serves to activate.

Referring to the theoretical frame of the thesis, we see that the personal charisma of the Shiite clerics is greatly enhanced by their alleviating the political deprivation suffered by the community. Safavid rule provided new political opportunities for the Shiite religious class, who were now able to think of formulating and advancing a religious program. Karakī as a pious *mujtahid* desiring the establishment of a Shiite state was quite eager to take advantage of this framework by associating with Shāh Ismā‘īl I.³⁵⁰ Happily for Karakī, Shāh Ismā‘īl’s son and successor Shāh Ṭahmāsp was also sympathetic with jurisprudential rather than philosophical or mystical Shiism.³⁵¹ Interests between the Safavid political system and Shiite ‘ulamā’ were mutual and finally influenced both sides. Karakī thus became a political realist in the line of al-Murtaḍā, Naṣīr al-Dīn al-Ṭūsī, al-Muḥaqqiq al-Ḥillī, and ‘Allāmah al-Ḥillī, all of whom associated with the governments of their time in the interests of religion and sometimes personal gain.

A personally charismatic figure rises through support from his followers, the charismatic community that constructs his charisma. Karakī achieved his position not only by alleviating Shiite political deprivation through his influence in the Safavid state, but also effective mobilization. His use of the Friday prayer is a striking example of mobilization, along with creation of a clerical bureaucracy overseeing the propagation of Shiism, which he supervised. The titles given to him by the Shah, though adding nothing to his religious authority (i.e., office charisma) were an additional sign of his political influence and thus contributed to his personal charisma. Karakī also strengthened his personal charisma through his anti-Sunnite sectarianism. He was, indeed, radically anti-Sunnite.³⁵² In his *Nafaḥāt al-lāhut fī la‘n al-jibt wa-al-ṭāghūt - Divine Breaths Cursing the Idol and Tyrant* - written in 917/1511 in Mashhad and dedicated to Shāh Ismā‘īl I, he argues for the permissibility of cursing the first and second caliphs Abū Bakr and ‘Umar.³⁵³ He attempts to demonstrate that the Quran, Sunnah and even some reliable Sunnite

³⁵⁰ Abisaab, *Converting Persia*, 15.

³⁵¹ Ja‘fariyān, *Ṣafavīyah* vol. 1, 120-121.

³⁵² Madelung, “Shiite Discussions”, 193.

³⁵³ Ed. Muḥammad Ḥassūn (Qom: Manshūrāt al-Iḥtijāj, 1423 [2002 or 2003]), 11-12. In one database, the work is called *Nafaḥāt al-lāhūt fī la‘n al-jubbat wa-al-ṭāghūt*, which must be incorrect (<http://www.worldcat.org/title/nafahat-al-lahut-fi-lan-al-jubbat-wa-al->

sources prove that Abū Bakr and ‘Umar were pagans and thus properly subject to cursing. Karakī actually accompanied the Safavid king to his battles with Sunnites, from the Ottoman borders to Herat and central Asia. Karakī’s anti-Sunnism is not very new in Shiism, but novel for being so open, and thus surely gave the Shiite population a sense of some power. Note here how important historical context is to the making of charisma. Khomeini’s *anti*-sectarian rhetoric was a great factor in stoking his charisma not only among Shiites but Muslims in general because it represented an ideal response to the problems of his time (principally, Western imperialism). Through open anti-Sunnism demonstrated even by attendance in military campaigns, Karakī in the Safavid age similarly provided a response to the problems of Ottoman domination and legitimacy and need for confidence by an isolated Shiite state and society.

Karakī’s willingness to be close to power was due not only to realism, but the personal characteristic of ambition or aspiration. As Madelung notes, he was ambitious and keen to claim religious leadership of the community.³⁵⁴ Such a characteristic can be important in gathering personal charisma, as we will see in the example of Khomeini. Ambition is often related to personal interest. Madelung is inclined to think that Karakī wrote his treatise on *kharāj* particularly to defend his wealth in Iraq,³⁵⁵ and Karakī’s legal opinions stating positive positions toward government seem to be in harmony with his work for and strong relationship with the court, from which he derived much wealth. In the view of Qaṭīfī, Karakī was an example of the jurist whose following in religious affairs has been forbidden by the Prophet because of association with kings.³⁵⁶ There is evidence for the later Safavid period showing how some religious scholars changed their views in order to gain positions in the Safavid administration.³⁵⁷

taghut/oclc/74813933&referer=brief_results). Karakī has surely adopted the title from Quran 4: 51-52, where we find the two terms *jibt* and *ṭāghūt* rather than *jubbat* and *ṭāghūt*.

³⁵⁴ Wilferd Madelung, “Shiite Discussions”, 194.

³⁵⁵ Wilferd Madelung, “Shiite Discussions”, 196.

³⁵⁶ Qaṭīfī, *al-Sirāj al-wahhāj*, 22-23, 128-129.

³⁵⁷ Muḥsin Fayḍ al-Kāshānī (d. 1090/1680), a philosopher, traditionist, gnostic, and jurist of the Safavid period, was Friday prayer leader under Shāh ‘Abbās II. He held that Friday congregational prayer is individually incumbent during the Occultation. (Rasūl Ja‘fariyān, *Dawāzdah risālat-i fiqhī dar bāra-ih namāz-i jum‘ah az rūzgār-i Ṣafavī* [Qom: Anṣāriyān, 1381/2003], 41, 43.). Information can be gleaned about the environment in which Safavid scholars altered their legal views from his treatise of “I‘tidhār yā Shikwāyah” The treatise is written in response to a scholar from Khurāsān who asked Kāshānī to intercede with the Shāh to grant him the Friday prayer leadership in Mashhad or guardianship of the

Did charisma accrue to Karakī, as it did for Mufid, because he was an unusually great scholar or offered novel interpretations of the tradition? Here we must admit that Karakī's exceptionality, to put it in Weberian terms, did not lie in his scholarly production, which really consists only of the commentary on Ḥillī (although it is thirteen volumes long) and a number of epistles. Rather, Karakī was exceptional and is remembered for the actions he undertook in the favourable environment provided by the Safavid state. He does, on the other hand, provide a few novel interpretations. Apart from changes in legal theory relating to the Friday prayer and land-tax and a reinterpretation of the religious texts that proposed giving the high-ranking jurist or *mujtahid* supervision over "all religious affairs", Karakī was the first Shiite scholar to compose an independent treatise on the necessity of following or "emulation" (*taqlīd*) of a living *mujtahid*. Though the treatise has been lost, Rasūl Ja'fariyān has determined that its main arguments are preserved in Muḥaqqiq Ardabīlī's work on the same subject (although Ardabīlī does not actually name Karakī). The first argument is that the legal opinion of a *mujtahid* loses validity at his death; the second is that the rationale a *mujtahid* provides is necessarily presumptive (*zannī*) and thus no longer valid after he dies; and the third is that since it is obligatory to follow (*taqlīd*) the opinions of the *mujtahid* who is most learned, one cannot follow a deceased *mujtahid* as it will no longer be possible to determine if he still is the best candidate.³⁵⁸ Karakī also emphasizes *taqlīd* of a living *mujtahid* in his treatise *Sharḥ alfīyah*, asserting that it enjoys the consensus of the Shiite scholars.³⁵⁹ I have delayed mentioning Karakī's conspicuous role in establishing the principle that Shiites can do *taqlīd* only of a living *mujtahid* because of its relevance to personal charisma. With the rise of this doctrine, the chief *mujtahids* were able to more easily gather and

shrine of Imam Riḍā as a source of income for his family, and to prevent his rival from gaining those positions. Kāshānī, however, rejected his friend's request. He remarks that the scholars in Iṣfahān, whom he characterizes as capricious and world-seeking, were constantly in conflict. Kāshānī divides them into four groups: one without religious status or political power; a second consisting of those calling themselves *mujtahids* who aim for high positions and Safavid patronage and introduce undesirable innovations into religion; a third, "satanic" group led by sin and violent revolt to deny the obligation of the Friday prayer; and a fourth consisting of persons indifferent to the observance or abandonment of obligation (Ja'fariyān, *Dawāzdah Risālat*, 42 – 46).

³⁵⁸ Al-Muḥaqqiq al-Ardabīlī, *Kitāb hafdah risālat* (Qum: Kungrah-i Muqaddas al-Ardabīlī, 1375/[1996]), 79; Rasūl Ja'fariyān, "Tārīkh-i ijtihād va-taqlīd az Sayyid Murtaḍā tā Shahīd Thānī va-ta'thīr-i ān dar andīshah-'i sīyāsī-i Shī'ah", *Ulūm-i sīyāsī*, Autumn 1383 [2004], Vol. 27, 176-177.

³⁵⁹ Karakī, *Rasā'il*, vol. 3, 176.

exert that charisma, since the faithful were directed to follow them personally instead of texts and figures from the past. The idea that the *mujtahid* whom one follows must be living made their personalities a focus of attention, as if it were designed to ensure that their personal qualities could activate the charisma dormant in their office. The doctrine of a living *mujtahid* also freed living clerics to some degree from the rulings of the past so that they were more easily able to produce novel and exceptional interpretations.

Despite these juristic innovations, however, Karakī never went over the theological red lines of Shiism concerning unjust rule and the exclusive right of the Hidden Imam to political power. Theologically speaking, he did not even come close to legitimating Safavid rule. And he did not gain actual political charisma, for he confined the *mujtahid's* authority to religious affairs. History does not tell us if Karakī was unwilling or simply unable to claim absolute religio-political authority for himself and the *mujtahids*. The upshot, in any case, is that his political charisma remained dormant, as it had for Mufīd. Like Mufīd's students who associated with the Abbasids and then members of the School of Ḥillah who worked for the Mongols, Karakī lessened the political deprivation of the community through his association with and influence on the so-called unjust ruler; but he did not himself own or claim rulership and political power. Actual possession of political charisma, along with the much more exceptional mobilization and charismatic personality that accompanies it in Shiism, comes only in the third moment of Deputyship with Ayatollah Ruhollah Khomeini.

Chapter Four: Khomeini and the doctrine of wilāyah: Reviving the Prophet's authority

This chapter explores the activist approach taken by Ayatollah Ruhollah Khomeini in a third moment of Deputyship in the 20th century. The theory and historico-social roots of this phase go back to Safavid and Qājār times. Under the Safavids and Qājārs, the jurists associated extensively with the state, religious centers flourished, and the economic level of the ‘ulamā’ overall was raised. The latter decades of Qājār rule also saw the arrival of modern thought in Iran along with the intrusion of foreign powers. These developments stimulated participation of the ‘ulamā’ in social and political affairs.

At this moment, we see Islam portrayed as a complete system embracing not only ritual and law, but economics and politics. Political aspects in particular are significant in this new ideology, to the extent that Islam comes to be equated with state and governance. In his treatise *Guardianship of the Jurist (Wilāyat-i faqīh)* written a decade before the 1979 Iranian Islamic Revolution,³⁶⁰ Khomeini warns that lack of Islamic government leaves the frontiers and territories of Islam defenseless and amounts to discontinuation of Islam altogether.³⁶¹ The appearance of this idea should be understood in light of the Occultation. That event interrupted the continuity of the line of the Imamate, leaving, in effect, a leadership vacuum expected to be filled at a later, unknown date. Even before the Occultation, none of the Shiite Imams apart from the first Imam, ‘Alī, was able to establish a state (though that circumstance, of course, was not linked to leaving Islam defenseless or in danger of decline). Khomeini’s theory of Guardianship represented a bridging of this rupture through replacing the Imam by the jurist. Khomeini, however, goes further. He charges himself and his colleagues with a responsibility that most of

³⁶⁰ Khomeini began his discussions on Islamic government (Arabic *wilāyat al-faqīh*) in 1970 in Shaykh al-Anṣārī mosque in Najaf. See Sayyid Ḥamīd Rūḥānī, *Nahzat-i Imām Khumaynī* ([Tehran]: Wāḥid Farhangī-i Bunyād-i Shahīd and Sāzmān-i Intishārāt va-Āmūzish-i Inqilāb -i Islāmī, 1364/[1985]), vol. 2, 494.

³⁶¹ Ruhollah Khomeini, *Vilāyat-i faqīh: ḥukūmat-i Islāmī* ([Tehran: s.n., 197-?]), 53-54.

the Imams did not shoulder by declaring it the duty of the ‘ulamā’ to work toward the establishment of an Islamic state:

You must teach the people matters relating to worship, of course, but more important are the political, economic, and legal aspects of Islam. These are, or should be, the focus of our concern. It is our duty to begin exerting ourselves now in order to establish a truly Islamic government. We must propagate our cause to the people, instruct them in it, and convince them of its validity. We must generate a wave of intellectual awakening, to emerge as a current throughout society, and gradually, to take shape as an organized Islamic movement made up of the awakened, committed, and religious masses who will rise up and establish an Islamic government.³⁶²

Nine years after the victory of revolution, Khomeini re-iterated that statehood or governance in his theory actually meant “Absolute Guardianship” (*al-wilāyah al-mutlaqah lil-faqīh*) as granted to the Prophet Muḥammad by God. He deemed Absolute Guardianship the most important of religious imperatives or “rulings” (*aḥkām*), a fundamental or “primary” ruling that cannot ever be abridged by secondary rules (*furū’*) including even prayer, fasting, and pilgrimage to Mecca, while the secondary *can* be abridged by the primary.³⁶³ The third moment of Deputyship examined here occurs a millennium after the first, but they share a common theme. Mufīd distances the ‘ulamā’ from politics because he sees no proof that they are the political heirs of the Imams, while Khomeini argues in favor of a jurist-led state on the premise that the jurists are the Imam’s heirs. Governance, however, is the central concern for both. Both scholars are concerned with the leadership vacuum described above, even if their attitudes toward it are completely different. We will see in this chapter that Khomeini’s conception of Deputyship – for which he uses the term *wilāyah* rather than *niyābah* - includes political power, a very potent force in gathering personal charisma in Shiism.

³⁶² Ruhollah Khomeini, *Islam and revolution: writings and declarations of Imam Khomeini*, Translated and Annotated by Hamid Algar (London, Melbourne, Henley: KPI Limited, 1985), 126-127.

³⁶³ Ruhollah Khomeini, *Ṣaḥīfah-i Nūr*, vol. 20 (Tehran: Intishārat Surūsh, 1369/1990), 170.

Life and times

Ruhollah Khomeini was born in 1902 in Khumayn, a small town in central Iran. His paternal grandfather came from India in the early 19th century first to Iraq and then to Iran. When he was only five month old, Ruhollah lost his father, Sayyid Muṣṭafā Mūsawī, leaving him in the care of his mother and aunt.³⁶⁴ Despite these tragedies, the family did not fall into poverty since it belonged to the religious nobility, with learned scholars in the line and both parents originating from land-owning families³⁶⁵ even though Khomeini's forebears were not in the stratum of the great and wealthy landed 'ulamā'.

Khomeini completed his elementary studies in his birth town and then attended the rather small seminary in Arāk. In 1921 he arrived in Qum, the main seminary town in Iran at that time just as it is at the present. There he began to show his political tendencies by encouraging reform within the Qum religious institutions and curricula. In addition to the customary seminary studies of law, *uṣūl al-fiqh* (principles of jurisprudence), Quranic sciences, ethics, Arabic literature, logic, and so on, Khomeini immersed himself in philosophy and mysticism. His main teachers in jurisprudence were Ayatollah Muḥammad Taqī Khwānsārī, Ayatollah 'Abd al-Karīm Ḥā'irī Yazdī, and Ayatollah Burujirdī. None of these was politically active. Khomeini studied philosophy with Shaykh Muḥammad Riḍā Najafī Iṣfahānī, Mīrzā 'Alī Akbar Ḥakīm Yazdī, and Abū al-Ḥasan Rafī'ī Qazwīnī, all leading teachers in the field. In the realm of Islamic mystical thought or "Gnosis" (*irfān*), his mentors were Mīrzā Jawād Malikī Tabrīzī and Ayatollah Muḥammad 'Alī Shāhābādī, from whom Khomeini imbibed the mysticism and philosophy of Ibn 'Arabī and Mullā Ṣadrā. A few words about *irfān* are in order here, since Khomeini's attachment to the subject was somewhat unusual among the 'ulamā' at this time and some of his charismatic appeal was drawn from it. Though Islamic mysticism contains many schools and branches, it may be said in general that it focuses on reaching unity with God and achieving a transcendent unity of being through direct, experiential knowledge (hence the word "Gnosis") of the divine. *Irfaan*, a term used especially in the Persian-speaking world and in Shiism, suggests a philosophical mysticism or theosophy. Ibn 'Arabī (d. 638/1240), though not Shiite, is a seminal

³⁶⁴ Rūḥānī, *Nahzat*, Vol. 1, 20, 24; Baqer Moin, *Khomeini: Life of the Ayatollah* (New York: St. Martin's Press, 2000), 2.

³⁶⁵ Ervand Abrahamian, *Khomeinism: Essays on the Islamic Republic* (Berkeley: University of California Press, 1993), 5.

figure in *'irfān*, as is the Shiite member of the Iran-centered Illuminationist (*Ishrāqī*) school and exponent of “Transcendent Wisdom” (*ḥikmah muta 'āliyah*), Mullā Ṣadrā (d.1050/1640). The influence of both figures on Khomeini may be judged by his mention of them in a letter to Mikhail Gorbachev, in which he lauds the “Great Shaykh” (al-Shaykh al-Akbar, an epithet of Ibn 'Arabī) and invites Gorbachev to send Russian experts in Islamic mysticism to Qom to learn more about him.³⁶⁶

Khomeini started teaching when he was twenty-seven years old.³⁶⁷ Ethics was the first topic he taught, followed by *'irfān*. His first book, written during this same period, was *Miṣbāḥ al-hidāyah ilā al-khilāfah wa-al-wilāyah* (*Lamp of Guidance to Caliphate and Guardianship*), caliphate and guardianship being two concepts that would remain important through his life. *Lamp of Guidance* was published in 1931. In 1943, at the age of forty-one, Khomeini wrote his *Kashf al-asrār* (*Revealing of Secrets*), in which he voiced his opposition to the Pahlavi dynasty. The inexperienced young Pahlavi Shah, Mohammad Reza, recently placed on the throne by the British who had deposed his father Reza Shah, was in Khomeini's estimation “a mere soldier” unworthy of power who had violated Islamic law and betrayed the country.³⁶⁸ Citing the infamous massacre of religious students in Mashhad at the Gawhar Shād Mosque in 1935 in which, according to Khomeini, thousands were killed, he denounces the government established by Reza Shah as “unjust” and “infidel”. He condemns the two Pahlavis rulers for their promotion of a Western lifestyle and declares that those who support them are worse than infidels.³⁶⁹ Khomeini claims that the 'ulamā' opposed Mohamed Shah's rule from its inception because they considered continuation of his regime to be contrary to the interests of the country. The 'ulamā', he says, constitute the major obstacle to the Shah's goals, as a result of which he suppresses them whenever he can, not stopping even at murder.³⁷⁰ The feeling of outrage on behalf of religion and country that would become characteristic of Khomeini's writings and declarations is already fully displayed in this early work.

³⁶⁶ Khomeini, *Ṣaḥīfah*, Vol. 21, 224-225.

³⁶⁷ Rūḥānī, *Nahẓat*, Vol. 1, 38.

³⁶⁸ Ruhollah Khomeini, *Kashf al-asrār* (Qum: Intishārāt-i Muṣṭafavī [19--]), 233.

³⁶⁹ Khomeini, *Kashf al-asrār*, 239.

³⁷⁰ Khomeini, *Kashf al-asrār*, 9-10.

Khomeini's entry into politics began in 1963 with his opposition to the policies of Mohamed Reza Shah, notably the social and land reform program begun in 1961 known as the White Revolution. In 1964, Khomeini bitterly condemned the granting of diplomatic immunity to American military personnel in a speech that has since become famous for its call to resistance:

By God, whoever does not come out in protest is a sinner! By God, whoever does not express his outrage commits a major sin!

Leaders of Islam, come to the aid of Islam!

'ulamā' of Najaf, come to the aid of Islam!

'ulamā' of Qum, come to the aid of Islam; Islam is destroyed!³⁷¹

The initial impetus for Khomeini's bitter opposition to the immunity measure was a widely-perceived capitulation of Iran's autonomy to the United States. Behind this, however, his focus, as ever, was on Islam. His activism led to an uprising in Qum, following which he was arrested, imprisoned, and finally sent into exile in 1964, going first to Turkey, then in 1965 to Iraq, and finally after the Shah used his influence to have him expelled from Iraq, to France in 1978.³⁷²

Upon his arrival in Iraq, Khomeini immediately began teaching in the chief seminary town of Najaf. The tone and emphasis of his writings completed in Iraq are more political than before his exile. In Iran apart from the book on Gnosticism, Khomeini, as mentioned above, had excoriated the Shah in his *Revealing of Secrets*. He had also touched on the role of the 'ulamā' during the Occultation in a third entitled *al-Ijtihād wa-al-taqlīd (Legal Reasoning and Following the Religio-legal Authority)*. The doctrine of Guardianship, however, is nowhere in evidence. In *Revealing of Secrets*, "guardianship and governance of the jurist" (*vilāyat va-ḥukūmat-i faqīh*) simply means that jurists can and should have the right to be members of parliament or part of an assembly appointing a king so that they can ensure Islamic law is not violated. The role for the jurists Khomeini envisions here is quite similar to that of the 'ulamā' under the Qājārs and during the Constitutional Revolution. Khomeini's *al-Ijtihād wa-al-taqlīd*, written at the age of forty-seven, does seem to foreshadow his theory of Guardianship by describing the jurist as "he who

³⁷¹ Moin, *Life of the Ayatollah*, 125; for the Persian, see Rūhānī, *Nahzat*, vol. 1: 716-726.

³⁷² Rūhānī, *Nahzat*, vol. 2, 3 and vol. 1, 739.

has guardianship (*wilāyah*) and a leading role (*za'āmah*) in legal-political affairs (*al-umūr al-siyāsīyah al-shar'īyah*)³⁷³. As in *Revealing of Secrets*, however, he actually does not call for the overthrow of the Pahlavi regime.

Khomeini's first work completed in Iraq was the *Tahrīr al-wasīlah*, a commentary on the *Wasīlah* of Isfahani (see below) in which he adds some political content to the traditionally apolitical subject of legal issues encountered by believers in everyday life. Khomeini's other books compiled in Iraq, the *Vilāyat-i faqīh: hukūmat-i Islāmī* - his famous *Guardianship of the Jurist or Islamic Government* - and *Kitāb al-bay'* (*Book on Sales*) are thoroughly political. Khomeini speaks openly and determinedly against the monarchy in Iran and outlines his theory of Absolute Guardianship of the Jurist (*al-wilāyah al-muṭlaqah lil-faqīh*). With his exile, the battle against the Pahlavī monarchy had begun in earnest.

From the success of the revolution in 1979 to his death in 1989, Khomeini ceased writing, focusing instead on preserving the Islamic Republic. In his public declarations in this period, he equates the Islamic state with that of Prophet and thus support of and obedience to it a religious obligation.

Key terms and concepts

Key concepts appearing in the two previous moments of Deputyship change significantly in the third. Terms used by the 'ulamā' in the past are given new meanings, and entirely new words are introduced. Expanding the authority of the jurists and declaring political leadership by them to be a religious imperative would not have been possible without a new vocabulary. Khomeini gives political meaning to words that were entirely non-political in the times of Mufīd and Karakī.

As in the previous moment, the term deputy (*nā'ib*) means the deputy of the Imam. Mullā Aḥmad Narāqī (d. 1245/1829), the great jurist of the Qājār period who is known for issuing a fatwa declaring jihad against Russian encroachment, refers in his *Profitable Points for Present Days*, a treatise on government written at the request of Fath 'Alī Shāh, to both the specific and

³⁷³ *Al-Ijtihād wa-al-taqlīd* (Tehran: Mu'assasat Tanzīm wa-Nashr Āthār al-Imam al-Khomeini, 1376/1997), 5.

general deputyship.³⁷⁴ Narāqī argues that the jurists have authority or “guardianship” (*wilāyah*) over all affairs in which the Prophet and Imams possessed guardianship – save that which is excluded by the consensus of religious scholars, the explicit texts (*naṣṣ*) and so on, as for instance minors whose fathers have died but still have other guardians³⁷⁵ – along with other affairs of the believers, whether religious or generally necessary for carrying on life in this world.³⁷⁶ As can be seen from this passage, Narāqī defines the competence of the jurist widely and then excludes certain specific matters; whereas Mufīd and Karakī’s approach is to list specific matters and confine the jurist’s authority to those. Khomeini takes an approach very similar to that of Narāqī.

Khomeini does not actually employ the term *nā’ib* in its technical sense of deputy of the Imam in his main writings on Guardianship, *al-Ijtihād wa-al-taqlīd* (where he does, however, mention it once, but in a general sense³⁷⁷), *Book of Sales*, and *Guardianship of the Jurist*. In the *Tahrīr al-wasīlah*, in contrast, he uses *nā’ib* eight times in discussing inheritance, Quranic punishments, judgeship, and signing a contract with a captive member of the People of the Book. Although he does not indicate explicitly if he means *nā’ib* in the general sense of any deputy or technical sense of Deputy of the Imam, he seems to have in mind in the three cases just mentioned³⁷⁸ and also in relation to judgeship, where he calls the judge “guardian of the Muslims, or their *nā’ib*”,³⁷⁹ specific Deputyship, i.e., the capacity of the four figures appointed successively by the Hidden Imam during the Minor Occultation. He does not seem to be referring to the general Deputyship of the Occultation.

Thus there is a shift in terminology. Though Majlisī in the late Safavid period, as mentioned in the previous chapter, appointed the Shah in his capacity as *nā’ib* of the Imam, he also speaks of the *wilāyah* of the jurists, jurist here meaning *mujtahid*. Narāqī mentions general Deputyship, but nevertheless prefers the term *wilāyah*. Khomeini leaves the terms *nā’ib* and

³⁷⁴ Aḥmad ibn Muḥammad Mahdī Narāqī, *‘Awā’id al-ayyām* (Qum: Markaz al-Abḥāth wa-al-Dirāsāt al-Islāmīyah, 1417 [1996 or 1997]), 317, 499, 655-657.

³⁷⁵ Narāqī, *‘Awā’id*, 657.

³⁷⁶ Narāqī, *‘Awā’id*, 536.

³⁷⁷ P. 146.

³⁷⁸ *Tahrīr al-wasīlah* (Najaf: Maṭba‘at al-Ādāb, 1390/1969), vol. 2, 364, 470, 477, 501, 601.

³⁷⁹ *Tahrīr al-wasīlah*, vol. 2, 535.

niyābah (in the technical sense of general Deputyship) behind and settles entirely on *wilāyah*. It appears that the two later scholars archived the words *nā'ib* and *niyābah* because they are less expansive than *wilāyah*, which can be understood as meaning leadership of the community. As the confidence of the jurists increased, they saw themselves as actual leaders; though the idea that they are deputized by the Imam was still, of course, in the background.

Hākim and *ḥukm* are key terms in all three periods. Both Narāqī and Khomeini understand *hākim* and *ḥukm* as seen in the Shiite traditions to mean ruler or head of state and rule, whereas for Mufid they meant the judge and judgement, and for Karakī, the *mujtahid* and handling of all religious affairs.³⁸⁰ With this new definition of *ḥukm*, the jurist is given competence in both judicial and executive affairs. In fact according to Khomeini, the *hākim* during the Occultation occupies the highest executive position and appoints all others as sub-authorities in his government.

Evolution in the terms *hākim* and *ḥukm* can be seen even the work of Khomeini. In the section on the fifth tax (*khums*) in his *Tahrīr al-wasīlah*, he equates *hākim* with *mujtahid*, like Karakī. The statement made is that the share of the one-fifth tax due to the descendants of the Prophet should be paid to the *hākim*, as the safest course of action (*'alā al-aḥwaṭ*).³⁸¹ *Hākim* here evidently means a *mujtahid* qualified to issue responsa, especially since the expression *al-hākim al-shar'ī*, “legal *hākim*” is employed (Note that Khomeini’s *Tahrīr* is actually based on the *Wasīlat al-najāt* of Sayyid Abū al-Ḥasan Iṣfahānī (d, 1946), who was apolitical, so that Iṣfahānī’s original may have affected the usage and obscured Khomeini’s political bent).³⁸² In the *Book of Sales* also written in Najaf, Ayatollah Khomeini also, again like Karakī, defines *hākim* as a “jurist qualified to issue legal opinions”, but then adds that he is responsible for “Islamic rulings in general, including as they extend to social affairs”.³⁸³ Note that the section in which this statement appears is headed “the necessity of Islamic government” and discusses politics.

³⁸⁰ Khomeini, *Ijtihād*, 19-20, 29-30, 37-30, 53; Khomeini, *Vilāyat-i faqīh* ([Tehran: s.n., 197-?]), 104-105; Narāqī, *'Awā'id*, 529.

³⁸¹ *Tahrīr al-wasīlah*, 366.

³⁸² The distinction between the text and commentary is not always clear, at least in the edition used here.

³⁸³ Khomeini, *Kitāb al-bay'* (Tehran: Mu'assasat Tanzīm wa-Nashr Āthār al-Imām al-Khomeini, 1421/1379 [2000]), vol. 2, 617.

Khomeini seems to realize the difficulty in turning the word *ḥākim*, so important for his theory of Guardianship, in a political direction. He is aware that he has to escape the restricted contexts in which the word is found in Shiite traditions in order to expand its application to politics. His treatment of the report of ‘Umar ibn Ḥanzalah (key for the term *ḥākim* and introduced in the previous chapters) in which the sixth Imam al-Ṣādiq forbids his followers to refer their disputes to non-Shiite authorities because they represent ungodly powers (*tāghūt*) is one example. The ‘Umar ibn Ḥanzalah tradition says that Shiites are to seek out qualified persons from among themselves to judge; the subject is obviously judges and judgeship. In the *Book of Sales*, however, he gives a political sense to the tradition by recruiting passages from the Quran and additional *hadiths*. For instance, in Quran 4:59, God commands the believers to “obey God and the Messenger, and those in authority from among you; then if you quarrel about anything, refer it to God and the Messenger, if you believe in God and the last day”. Khomeini points out that the verse gives three examples of power that must be obeyed, and then two of referees to whom disputes are to be referred. He argues that the presence of these together means that disputes are referred to the latter because they are, like the former, *wālīs* (governors), and not because they are judges.³⁸⁴ Among the Traditions Khomeini cites is one in which the jurists are called trustees (*umanā’*) of the prophets. He argues that since the Prophet of Islam had not only religious but also political responsibility, which clearly includes leadership of society and establishment of justice, the jurists, who are his trustees in all aspects of his prophethood, also have that responsibility.³⁸⁵ On the basis of these additional texts, Khomeini concludes that *ḥākim* in the tradition of ‘Umar ibn Ḥanzalah, as (supposedly) in all others, includes both judgeship and political leadership, so that the *ḥākim*-jurist also owns political power.³⁸⁶

Ayatollah Khomeini’s interpretation of this Tradition (very important for his theory of Guardianship even though he also cites eighteen others) is clearly ahistorical. The context of the Tradition is the time of the Imām al-Ṣādiq. This raises two problems. First, the Imām tells the members of his community to resort to Shiite judges *in his time*. There is no indication that they are to continue this practice during the Occultation. Karakī had realized this difficulty and tried

³⁸⁴ Khomeini, *Kitāb al-bay’*, vol. 2, p. 639. Khomeini also treats Q. 4:58 and 4:60.

³⁸⁵ Khomeini, *Kitāb al-bay’*, vol. 2, 633-34.

³⁸⁶ Khomeini, *Kitāb al-bay’*, vol. 2, 641.

to convince his readers that this it was not problematic at all, because the Imāms' commandments are identical and thus do not change with time.³⁸⁷ The second, more serious problem arises when the term *ḥākim* or *ḥukm* is given a political sense, as Khomeini does in his theory of *vilāyat-i faqīh*. The idea that the judges referred to by Imām al-Ṣādiq have political power does not make sense, since there was no such power available at the time (and we have seen that Shiite scholars consequently understood *ḥākim* and *ḥukm* to mean judgeship).

These same two points are made by two modern clerical critics of Khomeini's theory of Guardianship, Muḥsin Kadīvar (b. 1959) and Mahdī Hā'irī Yazdī (d. 1999). Kadīvar remarks in addition that applying the terms *ḥākim* and *ḥukm* to governance, as Khomeini does, is a transference from modern Persian usage to Arabic,³⁸⁸ while Hā'irī Yazdī believes that Khomeini's "verbal fallacy" (*mughālaṭ-i ishtirāk-i lafẓī*) in adding political to judicial meaning originates with Narāqī and a few of his followers.³⁸⁹ While these particular findings coincide with my own, Kadīvar and Hā'irī Yazdī are, of course, working from inside the tradition as Shiite jurists. Their goal is to prove that Khomeini is "wrong" in his assertions while they are "right", and they have their own, creative and actually quite politicized views of juristic authority. Since this dissertation, in contrast, approaches the tradition from outside the tradition, my goal is rather to analyze Khomeini's views as one interpretation among others, as the product of evolution within a historical context just like prior interpretations.

Khomeini's usage of *salṭanat* (kingdom or political entity, related to the word *sulṭān* or political power) also evolves. We first see the word in his *Revealing of Secrets*. There he says that whenever a *salṭanat* was formed, wise individuals acknowledged its necessity. The 'ulamā' never opposed it in essence, even though they may have criticized kings because of their policies.³⁹⁰ In his *Guardianship of the Jurist*, however, he absolutely denies *salṭanat* on the grounds that kingdoms and dynasties in Muslim territories are an illegitimate form of government created by the hated Umayyads on the model of ancient Egypt, Persia, and

³⁸⁷ Ḥusayn Muḥaqqiq al-Thānī, "Risālah al-ṣalāt al-jum'ah," in *Rasā'il al-Muḥaqqiq al-Karakī*, Taḥqīq: Muḥammad Ḥassūn, 1st vol. (Qum: Maktabat Āyat Allāh al-'Uẓmā al-Mar'ashī al-Najafī, 1409-[1988 or 1989]), 143.

³⁸⁸ Muḥsin Kadīvar, *Ḥukūmat-i valāyī* (Tehran: Nashr-i Nay, 1377 [1998 or 1999]), 308.

³⁸⁹ Mahdī Hā'irī Yazdī, *Ḥikmat va-ḥukūmat* (London: Nashr-i Shādī, 1995), 264.

³⁹⁰ Khomeini, *Kashf al-asrār*, 185-186.

Byzantium.³⁹¹ In Khomeini's *al-Ijtihād wa-al-taqlīd*, written twenty-eight years before the victory of the Islamic revolution, *salṭanat* no longer means kingdom and dynasty but the dominion of the Prophet and Imams. Without actually discussing the import of *sulṭān* as Mufīd and Karakī do, Khomeini calls the Prophet the “*sulṭān*” appointed by God as caliph and *ḥākim* over the community possessing absolute religious and political authority (*al-ḥukūmah wa-al-khilāfah al-muṭlaqah*); and after the Prophet, he says, the Imams are the *sulṭāns* of Islam, possessing the same authority.³⁹²

Khomeini and other proponents of the theory of Guardianship of the Jurist also give political meaning to the term *walī*, which in classical texts means guardian or custodian of minors, orphans, and the mentally and physically unfit. The jurist now becomes the *walī* of the Muslim community overall, because, as Narāqī puts it, non-jurists are “ignorant” (*jāhil*, i.e., not expert in Islamic law) and thus likely to go astray like orphans if left without guidance.³⁹³ Thus the jurist is *walī* and the *walī* is the leader of the community.

The terms *khilāfah* (caliphate, succession) and caliph seldom appear in Shiite texts. Mufīd uses the term caliphate only once in his *Muqni'ah* to describe the succession to the Prophet³⁹⁴ and once also in *Awā'ilal-Maqālāt* in mentioning the caliphate of the three first caliphs of Islam.³⁹⁵ He does on several occasions give the title caliph to the Imams in general, and 'Alī or the Mahdī in particular.³⁹⁶ Karakī, similarly, speaks of the caliphate just once in the third volume of his *Rasā'il*, again in connection with the caliphate following the Prophet.³⁹⁷ The term *wilāyah* is more common than *khilāfah* in Shiite literature, and seems to replace it in relation to the Imams. Khomeini, in contrast, utilizes the term caliphate frequently; no less than fifteen times,

³⁹¹ Khomeini, *Vilāyat-i faqīh*, 10, 34. He calls all Muslims to rise against this type of political system (p. 35).

³⁹² Khomeini, *Ijtihād*, 19.

³⁹³ Narāqī uses the word “ignorant” to describe the non-jurists. See Narāqī, *'Awā'id*, 537, 540, 543. Khomeini has the same view, but it is explained in softer words, for instance, he sees the rule of a layman (non-jurist) simply as not in accord with reason. See, Khomeini, *Islam and revolution*, 34; Khomeini, *Kitāb al-bay'*, vol. 2, 630.

³⁹⁴ Mufīd, *al-Muqni'ah*, 204.

³⁹⁵ Mufīd, *Awā'il*, 35.

³⁹⁶ Mufīd, *al-Muqni'ah*, 252, 339, 462.

³⁹⁷ Karakī, *Rasā'i*, vol. 2, 228-229.

for instance, in his *Guardianship of the Jurist*.³⁹⁸ In his discussions of Guardianship, *khilāfah* is equivalent to *wilāyah*. Khomeini makes even the very well-established phrases “creative authority” (*wilāyah takwīnīyah*) and “legislative authority” (*wilāyah tashrī‘īyah*) into creative caliphate (*khilāfah ilāhīyah takwīnīyah*) or great caliphate (*al-khilāfah al-kubrā*), and legislative, conventional caliphate (*al-khilāfah al-i ‘tibārī al-ja ‘lī*). (To clarify: creative or “creative divine” authority, *al-khilāfah al-ilāhīyah al-takwīnīyah*, is something belonging only to certain Messengers of God and the Imams, while “legislative authority” belongs to the Prophet, Imams, and then jurists.³⁹⁹) In the section on Guardianship of the Jurist in his *Kitāb al-bay‘*, Khomeini also routinely writes *khilāfah* in place of *wilāyah*⁴⁰⁰ and calls the rule of the jurist both *wilāyat al-faqīh* and *khilāfat al-faqīh*.⁴⁰¹ In this way, *wilāyah* is pushed in a political direction; *khilāfah* (caliphate) means *wilāyah* and *wilāyah* thus more certainly means governance.⁴⁰² It is interesting that Khomeini’s gnostic treatise on the authority of the Perfect Man written when he was only twenty-nine already combines *khilāfah* and *wilāyah*, as seen in its title, “Lamp of Guidance to *Khilafah* and *Wilayah*”.⁴⁰³ In his *Guardianship of the Jurist or Islamic Government*, *wilāyah* finally takes on its widest meaning of “governance, administering the country, and enforcing the laws of the holy Shariah”.⁴⁰⁴ Khomeini’s emphasis in *Guardianship of the Jurist* on *wilāyah* as a

³⁹⁸ Khomeini, *Vilāyat-i faqīh*, 22 (‘Ali’s caliphate), 28 (early Islamic caliphate), 45 (the Prophet’s caliphate and designation of ‘Ali to “caliphate” in Ghadīr Khumm), 66 (caliphate and governance of the Messenger of God and the Imams), 81 (caliphate of the Umayyads and the Abbasids), and 151 (the caliphate and State of ‘Alī’s descendants).

³⁹⁹ Khomeini, *Kitāb al-bay‘*, vol. 2, 625.

⁴⁰⁰ Khomeini, *Kitāb al-bay‘*, vol. 2, 621-22, 624-26, 628-630, 646, 650, 686, 689, 691-692, 694-95.

⁴⁰¹ Khomeini, *Kitāb al-bay‘*, vol. 2, 615, 627, 630, 650, 686, 689.

⁴⁰² Khomeini, *Vilāyat-i faqīh*, 48.

⁴⁰³ The book has been published in Arabic, English, and Persian. For the Arabic version, see Khomeini, *Miṣbāḥ al-hidāyah ʾila al-khilāfat wa-al-wilayah* (Beirut: Mu’assasat al-A‘lamī lil-Maṭbū‘āt, 2006/1427). The Persian version, with an introduction by Sayyid Jalāl al-Dīn Āshtiyānī, had been published with same title earlier in Tehrann in 1372/1993 by Mu’assasat Tanzīm wa-Nashr Āthār al-Imam al-Khomeini. The English title is *The Lamp of Guidance into Vicegerency and Sanctity*, published by Intishārāt-i ‘Urūj in 2010/1389.

⁴⁰⁴ Khomeini, *Vilāyat-i faqīh*, 51.

critical and burdensome duty is worth mentioning.⁴⁰⁵ He seems to want to deflect the perception that he is seeking privilege and prestige for the jurists.

Wālī (governor) according to Mufid means specifically an agent appointed by the Imam. Khomeini, however, understands the word in its general sense of a governing figure, i.e., head of the community. For Khomeini, *wālī* is equal to *ḥākim*. Khomeini uses the word in this broad sense to refer, in their capacity as legislative authorities, to the Prophet, Imams, and jurists.⁴⁰⁶ During the Occultation, says Khomeini, the two qualifications for a *wālī* - here, obviously, a jurist - are knowledge of jurisprudence and justice, since both reason and the texts exclude the leadership of those who are ignorant and unjust.⁴⁰⁷ Khomeini believes knowledge of jurisprudence to be key to leadership. A just jurist is *wālī* (governor) of the Muslims because it is obligatory for a governor to be expert in jurisprudence.⁴⁰⁸ Khomeini thus first equates *wālī* with the head of state, and then says that only the jurist is qualified to hold that position. If the jurists are able to establish an Islamic state, they must do, because they are *wālī*. They should work together to do so, and if one of them manages it, the others should obey him. But even when the jurists are not in a position to set up a government, they are still *wālī*, possessing *wilāyah* over all the affairs of the community, including taxes, the treasury, execution of Quranic punishments, and the “lives of Muslims” (*nufūs al-muslimīn*) overall.⁴⁰⁹

Khomeini politicized the meanings of *ijtihād* (independent legal reasoning) and *mujtahid* (one who does that reasoning). Already in the 1960s, religious scholars close to Khomeini had begun speaking of a *marji‘iyah* (institution of the leading jurist whose legal opinions are followed by the laity) with religio-political aspects. The notions of *ijtihād* and *mujtahid* were further politicized by Khomeini after the Islamic Revolution. In Khomeini’s view, the *mujtahid* possesses the best knowledge of society and politics, which allows him to benefit the people most. On the basis of this conviction, he argues that the *ijtihād* currently practiced in the Shiite seminaries is not sufficient for being a *mujtahid* in social and political issues, even if the

⁴⁰⁵ Khomeini, *Vilāyat-i faqīh*, 51.

⁴⁰⁶ Khomeini, *Kitāb al-bay‘*, vol. 2, 622.

⁴⁰⁷ Khomeini, *Kitāb al-bay‘*, vol. 2, 623-624.

⁴⁰⁸ Khomeini, *Kitāb al-bay‘*, vol. 2, 624.

⁴⁰⁹ Khomeini, *Kitāb al-bay‘*, vol. 2, 624-25.

mujtahid concerned is very learned in the subjects commonly studied. Such a person if not expert in social issues is unable to discern the public interest and thus cannot be the leader of society.⁴¹⁰

This politicized sense of *ijtihād* and *mujtahid* represents a major transition in ideas about who a *mujtahid* is, what his authority is, and what his followers expect him to be. Khomeini remarks that it was not acceptable in his time for the youth and even laity in general that their *marji* ' (leading *mujtahid* whose legal opinions are followed) not speak about political issues. People expect their *mujtahid* to be familiar with economics, international affairs, and so on. For Khomeini, a qualified *mujtahid* must be capable of leading a large society. Thus, in addition to piety, knowledge, and sincerity, a qualified jurist needs to know how to govern the country, since governance, in Khomeini's view, is the core of jurisprudence and its practical philosophy.⁴¹¹

Personal charisma through politicization

The case of Khomeini is most productively analyzed at the level of his personality, including his scholarship. Khomeini was a charismatic figure, whose charisma came, as explained in the first chapter, from office charisma in the first instance and personal qualities in the second. While he possessed office charisma as all Shiite jurists do, his personal charisma was outstanding to an extent not seen in a millennium of Occultation. That charisma derived from his qualities and exceptional intellectual profile, but above all from his entry into politics. The thesis asserts that the Shiite jurists very effectively gather charisma and are able to mobilize followers whenever they are able to alleviate the political deprivation of the Shiite community, and Khomeini certainly did that.

Historical circumstances in Khomeini's case work differently than for Mufīd and Karakī. They are important chiefly in term of the Ayatollah's perception of and reaction to them. It has been unusual for the Twelver Shiite 'ulamā' to state their political views or claim power, due to the pressure they have been under from various rulers, whether Sunnite, Safavid, or Pahlavi. When they enjoyed relative freedom under the Safavids and Qājārs, they did reach for political influence to some extent (as well as rising in wealth and social standing), and this caused the

⁴¹⁰ KhomeiniRuhollah Khomeini, *Ṣaḥīfah-i Imām* (Tehran: Mu'assasat Tanzīm wa-Nashr Āthār al-Imam al-Khomeini, 1378 [1999]), 177-178.

⁴¹¹ Khomeini, *Ṣaḥīfah*, 289.

doctrine to take on a somewhat more political colour, as we see faintly in the case of Karakī and much more strikingly in Narāqī, who was able to tout the role of the clerics because he was actually asked by Fath ‘Alī Shāh to do so. This dynamic or balance seems to be irrelevant to Khomeini, especially from the time of the 1963 Qum uprising when he decided to no longer go along with the quietest establishment. He drew on his charisma to proceed on an activist path regardless of the facts of lack of clerical power under the Pahlavī monarchy, Western domination, and so on. His personal charisma transcended material and historical circumstances, or rather, he was able with his charisma to make ingenious use of them.

Babak Rahimi and Ervand Abrahamian are two scholars who attribute Khomeini’s activism chiefly to his environment – in the first case, in Iran, and in the second in Iraq. Neither analysis, in my view, is sound. Rahimi asserts that the “central point” in “Khomeini’s change of approach to political activism” was related “mainly to a shifting political situation that created conditions in which the ayatollah felt the need to initiate a new political philosophy, challenging centuries of traditional Shī‘ī political thought.”⁴¹² Although it is true that the “shifting political situation”, as Rahimi puts it, influenced Khomeini in his understanding of Islam, it was only one factor among others. If political context was the main factor, one would have to ask why other leading religious figures contemporary with Khomeini did not feel a similar need to construct a new political jurisprudence and philosophy. That only Khomeini responded in this way confirms the importance of personal characteristics.

Abrahamian focuses instead on the environment of Najaf. He observes that while Khomeini was “developing new ideas” in his Najaf exile, he was “conspicuously silent, rarely giving interviews, sermons, and pronouncements.”⁴¹³ He concludes that the ultimate source of Khomeini’s political doctrine might then have been “Shī‘ī theologians in Najaf who were forging new concepts while combating the Communist party, which at the time had many adherents among Iraqi Shī‘īs.”⁴¹⁴ As for the importance of Najaf and impact of other jurists residing there, Abrahamian does not, unfortunately, tell us clearly who those might have been. As for Najaf being a starting point, Abrahamian fails to mention Khomeini’s *al-Ijtihād wa-al-taqlīd*, written at

⁴¹² Babak Rahimi, “Ayatollah Ali al-Sistani and the Democratization of Post-Saddam Iraq,” in *Middle East Review of International Affairs*, Vol. 8, No. 4 (December 2004): 14.

⁴¹³ Ervand Abrahamian, *Khomeinism: Essays on the Islamic Republic* (Berkeley: University of California Press, 1993), 22.

⁴¹⁴ Abrahamian, *Khomeinism*, 22.

the age of forty-seven in 1950 when he was embarking on his first round of teaching advanced principles of jurisprudence (*khārij al-uṣūl*) in Qum.⁴¹⁵ Khomeini laid down the scholarly basis for his theory of Guardianship in this work thirteen to fourteen years before the Najaf exile, declaring, as he would again later in *Guardianship of the Jurist*, the jurist to be head of the community in a manner similar to the Prophet and the Imam. In Najaf, Khomeini compiled the Arabic *Kitāb al-Bay‘* and Persian-language *Vilāyat-i faqīh*, both of which continued themes already found in *al-Ijtihād wa-al-taqlīd*.

Ayatollah Khomeini’s charisma is analyzed here under the headings of education, methodology, and use of internal and external political situations of his time. In each instance, he gathers charisma – or his followers, the charismatic community, construct his charisma – due to political interpretations and actions of a novel and exceptional nature. Politicality, this thesis has argued, is a powerful magnet for the personal aspect of charisma in Shiism.

As for education, Khomeini in addition to the common curriculum of the Shiite seminary schools studied philosophy and mysticism or Gnosticism (*‘irfān*). Gnosticism was very important in shaping his personal charisma. Through it, he became familiar with the concept of the Perfect Man (*al-insān al-kāmil*). Khomeini believed in the sovereignty (*ḥākimīyah*) of the Perfect Man first propounded by Muḥyi al-Dīn Ibn ‘Arabī in the thirteenth century. Among the commentators on Ibn ‘Arabī, Āqā Muḥammad Reza Qumshā’ī (d. 1889), who was the teacher of Khomeini’s teacher Shāhābādī, related the Perfect Man to the Imamate and concluded that “a true *‘arīf* (gnostic), like an Imam, automatically has the right to lead and legislate”.⁴¹⁶ Khomeini equates the true gnostic with the Perfect Man, writing that a spiritual traveler (*sālik*) after completing his voyage towards God and for God returns towards man in order to save the servants of God and develop the earth. He asks the people to go with him towards salvation and light. Khomeini draws particularly on the gnostic thought of the prominent Shiite theosopher Mullā Ṣadrā (1045/1640).⁴¹⁷ Mullā Ṣadrā says that the spiritual traveler at the end of his journey returns as the

⁴¹⁵ Khomeini, *Ijtihād*, 1-2.

⁴¹⁶ Sayyid Muṣṭafā Muḥaqqiq Dāmād, “The Spiritual Sovereignty of the Perfect Man in Imam Khomeini’s Perspective,” *Āyat Allāh Khomeini and the Modernization of Islamic Thought*, ed. Richard Tapper (London: Centre of Near and Middle Eastern Studies, University of London; Institute of Islamic Studies, Islamic Centre, England, 2000), 42.

⁴¹⁷ Vanessa Martin, “‘Irfān, Self-assertion, the Mobilization of the People,” Tapper, ed., *Āyat Allāh Khomeini and the Modernization of Islamic Thought*, 35; Martin, *Creating an Islamic State*, 34-35, 38.

guide of the community towards a better life.⁴¹⁸ The understanding of the spiritual man (*‘arif*) as a guide means that people are imperfect, so they need to be perfected. Khomeini politicizes this idea by adding that the returned guide fulfills his mission by setting up a government. As Dabashi puts it, “The perfect man’ (Insan-e Kamel), as a mystical notion stipulating the ideal-typical striving of man towards total identification with all the Divine attributes, is translated [by Khomeini] into political terms necessitating the active operation of an "Islamic government" leading people towards their own perfection.”⁴¹⁹

Khomeini actually uses both the phrases Perfect Man and Perfect Guardian (*walī*) to describe one who draws near to God to become, in the words of a well-known Tradition, “His tongue, eyes, and ears, while God in return is his tongue, eyes, and ears”.⁴²⁰ The Prophet Muḥammad for Khomeini as for Ibn ‘Arabī represents the highest rank of the Perfect Man. Khomeini explains that Muḥammad is a manifestation (*tajallī*) of the Greatest Name of God, which is dominant over the other Greatest Names of God. Muḥammad is God’s caliph; the holder of the divine’s attributes and the reality (*ḥaqīqah*) of God’s Names.⁴²¹ Khomeini describes his caliphate (i.e., political authority) as the source and origin of all caliphates in the world. It represents his emergence or manifestation as God’s “Greatest Names”, so that he and his caliphate are one.⁴²² Khomeini is obliged to fit Ibn ‘Arabī’s Perfect Man into a Shiite context in order to link it with the Imamate. He does this by declaring that Muḥammad’s caliphate and ‘Alī’s *wilāyah* are united in creation and truth; prophethood, he says, is the place where both caliphate and *wilāyah* manifest together, since they are both the inner reality (*bāṭin*) of prophethood.⁴²³

How did this politicized Gnosticism impact Khomeini’s charisma in the community? Martin lists three steps: “the creation of a leader, the creation of a vanguard and through these

⁴¹⁸ Muḥaqqiq Dāmād, “Spiritual Sovereignty”, 43.

⁴¹⁹ Dabashi, *Theology of Discontent*, 442.

⁴²⁰ KhomeiniRuhollah Khomeini, *Miṣbāḥ al-hidāyah ilā al-khilāfah wa-al-wilāyah*, translated by Sayyid Aḥmad Fihri (Tehran: Mu’assasat Tanzīm wa-Nashr Āthār al-Imām al-Khomeini, 1376/[1997]), 61.

⁴²¹ Khomeini, *Miṣbāḥ al-hidāyah*, 192-193.

⁴²² Khomeini, *Miṣbāḥ al-hidāyah*, 51-53.

⁴²³ Khomeini, *Miṣbāḥ al-hidāyah*, 74, 77.

two mobilizing the people”.⁴²⁴ Martin is correct in the first two steps. Ideas connected with *‘irfan* helped Khomeini to imagine himself as a charismatic leader. He believed he was the Perfect Man whose role was to guide the community towards a better life. It is true also that he formed a group of avant-garde students such as Muṭahharī, Muntazirī, and Bihishtī, who would later become Ayatollahs and very important in the Revolution. This circle constructed his charisma based on *‘irfan*. As for the third step, however, Khomeini’s idea that he was the Perfect Man and even the discipline of *‘irfan* was not welcome in the Shiite seminaries, so that he was reluctant to make the claim publicly, while the notion of a Perfect Man and philosophy of Gnosticism are not things that can be understood by the laity. It is therefore not likely, as Martin says, that Gnostic ideas “mobilized the people”. Rather, Khomeini’s students, being convinced of his special status, mediated between him and the community, mobilizing the people and managing the movement in his absence.

For this purpose, the charismatic appeal of the Perfect Man was translated into a more palatable political jurisprudence, allowing Khomeini to appear in the acceptable guise of a *mujtahid*. In Khomeini’s jurisprudential works, which were compiled and published after his writings on Gnosticism, the Perfect Man is called the Guardian Jurist. In these writings he implies (although he does not say it openly) that the jurist is the Perfect Man, and thus a true traveler to God and manifestation of the Greatest Names of God possessing absolute authority to lead the community and improve humankind. In Shiite jurisprudence, the jurist holds the highest position, and Khomeini takes advantage of that status to equate him with the Perfect Man.

Therefore, in pushing Khomeini towards politicization of Shiite jurisprudence in Iran, various factors have played a role. Methodologically, Khomeini viewed Islam as a whole, as a comprehensive system, which includes a political system in addition to its religious dimension. With this perception of Islam, he then interpreted religious sources socially and politically. He also introduced Shiite jurisprudence as a dynamic phenomenon that reacts positively to its time and place. Rationally, he argued that the postponement of Mahdī’s return permits the ‘ulamā’ to act to establish a state that enforces Islamic law; otherwise, its law remains unexecuted. Through historical narratives or even his own experience, he realized that the ground for enforcing the Shariah is not prepared through collaboration with the oppressor rulers- neither through the mechanism of the permission of the *mujtahid* of the time, which was current during the Safavids,

⁴²⁴ Martin, *Creating an Islamic State*, 45.

nor through the supervision of the jurists in the Constitutional revolution. The reason was clear for Khomeini; as long as the ‘ulamā’ were not heads of state, they could not fulfill their role as executors of Islamic law. Moreover, the period in which Khomeini lived and grew up was a period of political ideologies, including political Islamism (in Arab countries), hegemony of Western culture, and penetration of Marxism into Islamic communities. These circumstances provided additional motivation for Khomeini to dream of a political project. In terms of personal characteristics, Khomeini was the most ambitious jurist claiming religious leadership not only in the Shiite community, but also in the Muslim community. He was a mystic believing in his capability and merit to guide the community, a belief that could be realized only with a political interpretation of Shiism and Islam.

Methodology is very important in Shiite jurisprudence. Different approaches can lead to quite different results. As a *mujtahid*, Khomeini characteristically applied an approach that might be described as comprehensive. To arrive at a ruling, he looks at the totality of sources, not one or one isolated from others. The traditions he uses as proof-texts for his theory of Guardianship of the Jurist are, he admits, somewhat weak, but when all of them are put together, he is able to arrive at the desired result. Khomeini is also comprehensive in his approach in that he thinks of the devotions (*‘ibādāt*) and politics together. Thus in his view, the Friday prayer, other prayer gatherings, and the pilgrimage to Mecca all have political meaning. Devotions and politics are also linked to Islamic society; the goal of these religio-political rituals, he says, is to solve the social problems of the community as when people gather together in the prayer and pilgrimage to dialogue about common problems facing the *ummah*.⁴²⁵

For Khomeini, Shiite jurisprudence is also dynamic, allowing the *mujtahid* to find new answers to both new and old issues. This quality is emphasized especially when Khomeini finds it is needed for the functioning of the Islamic Republic; it is precisely ten years after the 1979 revolution and in response to a need to open the way for state legislation that Khomeini points to the importance of considering time (*zamān*) and place (*makān*) in jurisprudential methodology, declaring them to be crucial in the process of *ijtihād*. Khomeini maintained that the *mujtahid* who properly takes into account the political, social, and economic context and impact of an issue will

⁴²⁵ Khomeini, *Vilāyat-i faqīh*, 156; Khomeini, *Kitāb al-bay‘*, vol. 2, 617.

often find that the “subject” or crucial aspect of a situation requiring a ruling changes.⁴²⁶ With the establishment of an Islamic government, Khomeini sensed the challenges the infant state would be faced with, and he left a methodological legacy for his successors to help them deal with future challenges.

As for Khomeini’s use of the political situation, he ably exploited crises in Iran and the Muslim world. In the nineteenth and twentieth centuries, Iran underwent considerable and rapid change. The Shahs were determined to modernize the country based on a Western model. The waning of the influence of the religious class along with Westernization of education, the judicial system, and other sectors pressed Khomeini and his followers to challenge the secularizing Pahlavi government. This was an ideal opportunity for Khomeini’s activist, politically-inclined personality. The pressures exerted by the Pahlavi regime and penetration of Western culture did not prevent him from acting politically. On the contrary, they strengthened his approach and made it even more extreme, especially since he was an outsider not only to the regime but also did not have economic interest in the old order of the class of wealthy clerics.

Khomeini attempted to eliminate the long-standing political deprivation of the Shiites that had weighed heavily on Mufid and even Karakī. One way he did this was by taking the novel step of attempting to transcend sectarian difference, by focusing in his writings on Islam overall rather than Shiism in particular. Especially in his later life close to the time of the Revolution, Khomeini promoted Muslim unity, or even the unity of all oppressed peoples of the world. This was a bid to eliminate political deprivation at its source, since the Shiites had traditionally been a small minority living under pressure from a Sunnite majority. Khomeini then further increased the sense of the community that they were politically potent by identifying the enemy as Western “colonialists” and their “internal agents” in Muslim territories.⁴²⁷ He strengthened his position and thus indirectly that of Shiites by showing himself to be a powerful person who understands the national and international problems of his times and the problems of Muslims in general. In

⁴²⁶ Khomeini, *Ṣaḥīfah*, vol. 21, 289. To give an example: the game of chess had been generally prohibited because it is a useless pastime; but Khomeini asserted that the “subject” or relevant aspect of the situation in the present day is development of human mental capacities suitable to the times, so that playing chess becomes permissible.

⁴²⁷ *Vilāyat-i faqīh*, 5-6, 8-11, 14-17, 19-21, 35-38.

order to effectively operate in the political environment and turn apparently restrictive circumstances to his advantage, Khomeini also had to move beyond the traditional legal and theological language of the jurists and use a more appropriate, non-sectarian political vocabulary translating the traditional Shiite spirit of protest and struggle into a modern language. This included the language of the modern phenomenon of (Iranian) nationalism.

Khomeini's political theology

This thesis asserts that the charisma of the Shiite jurists derives both from office charisma, the attributes of which are possessed by every jurist, and personal charisma, varying from one jurist to the other. In addition to gathering a rather spectacular personal charisma in the exceptional ways described in the previous section, Khomeini also presented a significantly different understanding of the jurists' office (their Deputyship), in the form of his theory of Guardianship of the Jurist. We have seen that each jurist possesses knowledge, justice, and piety. Khomeini broadened and re-defined these elements. For instance, juristic knowledge according to Khomeini must also include awareness of and expertise in socio-political affairs, since in his view, the individual or private and social-political aspects of Islam are inseparable. A *mujtahid* is consequently expert in politics along with religious sciences, and has authority over both.

It is as if a new office – that of the Guardian-Jurist – had to be created to accommodate Khomeini's very large vision and personality. Nevertheless, the Guardian-Jurist still does not represent routinization of the Imams' charisma into that office (which, as I have explained in the first chapter, is not possible within the Twelver Shiite worldview). Though the jurist may rule a state, he is still a deputy of the Imam – in Khomeini's parlance, a “guardian” – and Khomeini discusses him within that frame, including the various traditional concerns of working for an unjust ruler, collecting the *khums* tax, and so on, each of which is also addressed below.

Ayatollah Khomeini founded the Islamic Republic of Iran on the basis of Guardianship of the Jurist, but he was not the inventor of that theory. Though the ‘ulamā’ in the pre-modern period had never claimed power for themselves, even during the later Safavid period when they sometimes asserted the right of appointing the king,⁴²⁸ the early 19th century saw a very different doctrine constructed by Mullā Aḥmad al-Narāqī. Narāqī's discussion of the guardianship of the

⁴²⁸ Kashmīrī, *Nujūm al-samā'*, 111, in Rasūl Ja'fariyān, *Dīn va- siyāsāt*, 33.

ḥākim (*wilāyat al-ḥākim*) in his *Profitable Points* already referred to above assigns guardianship to God, the Prophet, and his infallible successors the Imams, who are, he says, the *sultāns*, *mulūk* (sovereigns), *wālīs*, and *ḥākims* of the people. As a basic principle, he declares, persons other than the Prophet and Imams have no authority over the people, with the exception of those appointed (*man walā-hu*) to a defined field of authority by God, the Prophet, or the Imams.⁴²⁹ For Narāqī, this definitely means the jurist, who is the Imam's *nā'ib* during the Occultation. Up to here, Narāqī's views are not particularly unusual. He goes on however, to assert that the Deputies possess the same authority, as *ḥākims*, that the Imams and Prophet do (except, he says, where there is a specific exclusion, as, for instance, in *jihad*). Narāqī deploys a series of rational proofs and Traditions to support this novel assertion.⁴³⁰ As for rational proof, he argues that the necessity of government by the jurist is self-evident and leadership of non-jurists not in accord with reason because non-jurists are "ignorant" (*jāhil*) of Islamic law and thus likely to offer ineffective or damaging leadership (the view already touched on in the section on terms and concepts). Jurists, he says, are the best of the people after the Imams and the prophets and thus most fit to lead.⁴³¹ These rational proofs are quite similar to those used by Khomeini, though less developed, and the Traditions Narāqī presents are exactly the same given by Khomeini and referred to below.

Khomeini's view of juristic authority thus clearly represents a further development of an idea of Deputyship proposed by Narāqī, even though Khomeini does not, like Narāqī, use the term *nā'ib*. It would take him decades, however, to arrive at Guardianship of the Jurist. In Khomeini's *Revealing of Secrets*,⁴³² the doctrine of Guardianship is not yet apparent. When in *Secrets* Khomeini talks about guardianship and governance of the jurist (*wilāyat va-ḥukūmat-i faqīh*), he only means, as explained above, that the jurists must have the right to be members of parliament. Even though government based on divine justice and religious law (*aḥkām*) is the

⁴²⁹ Narāqī, *'Awā'id*, 529.

⁴³⁰ Narāqī, *'Awā'id*, 530-543.

⁴³¹ Narāqī, *'Awā'id*, 537, 540, 543.

⁴³² *Kashf al-asrār* was written in 1322/1943 but published in 1323/1944 without its author's name. It was compiled in reaction to *Asrār Hazār Sālah* written by 'Alī Akbar Ḥakamī-zādah, son of Shaykh Mahdī Pāyīn-shahrī, a well-known religious scholar from Qom. In that short book, published in 36 pages as an appendix in the journal *Parcham* (N. 12), the author had criticized Shiism and its clerics.

best government, the jurists, says Khomeini, never opposed the Shah. Whenever they have opposed a *sulṭān*, it has been because of his unjust policies, and not because they were against monarchy in principle.⁴³³ Khomeini goes on to give examples of ‘ulamā’ who worked for kings and supported them, even when they were under pressure from those kings. According to Khomeini, those who accuse the ‘ulamā’ of opposing the state (*salṭanat*) want to ruin their relations, which is contrary to national interests.⁴³⁴ In his *Revealing of Secrets*, Khomeini is neither pro-*salṭanat* (in the sense of monarchy) nor, apparently, against it; the role he claims for the ‘ulamā’, as Martin states, is relatively modest, consisting of a supervisory function rather than government.⁴³⁵

In *Secrets*, Khomeini cites only four Traditions to establish the authority of the jurists during the Occultation.⁴³⁶ These are the Tradition from ‘Umar ibn Ḥanzalah; the more broad or vague Decree of the Twelfth Imam; a Tradition saying that the ‘ulamā’ are the “caliphs” of the Prophet; and another asserting that “affairs” (unspecified which kind) as well as religious rulings are “in the hands of the ‘ulamā’” (*majārī al-umūr wa al-aḥkām ‘alā aydī al-’ulamā’*).⁴³⁷ He does not on the basis of these texts clearly or directly claim political authority for the jurists as he does in his later writings, even though he does in one instance use the phrase “government of the jurist” (*ḥukūmat-i faqīh*) and mention that the jurist should be obeyed.

It is in his writings published after *Secrets* that Khomeini begins to develop his theory of Guardianship of the Jurist. In his *Ijtihād wa-taqlīd*, written in 1951 after *Secrets* but still twenty-eight years before the Islamic revolution, Khomeini develops two ideas that later become key to his political thought. First, he says, the jurists’ authority covers “political-religious affairs” (*al-*

⁴³³ Khomeini, *Kashf al-asrār*, 186.

⁴³⁴ Khomeini, *Kashf al-asrār*, 187.

⁴³⁵ Vanessa Martin, “Religion and State in Khomeini’s kashf al-asrār,” *Bulletin of the School of Oriental and African studies*, University of London, Vol. 56, No 1 (1993), 45.

⁴³⁶ Khomeini, *Kashf al-asrār*, 188.

⁴³⁷ In this ḥadīth cited from *Tuḥaf al-’uqūl* (The Gifts of Reasons), Imam Ḥusayn says that the conduct of all affairs is in the hands of the ‘ulamā’, who are God’s trustees in His permissible and forbidden issues. See, Khomeini, *Kashf al-asrār*, 188.

umūr al-siyāsīyah al-shar‘īyah); and second, Islam covers all human needs, from political to social to individual affairs.⁴³⁸

In the *Tahrīr al-wasīlah* written some years after *al-Ijtihād wa-taqlīd*, Khomeini expresses the belief, also of course, held by his predecessors, that jurists qualified to issue *responsa* and judge are the “general deputies” of the Imam during the Occultation. The phrase is *nuwwābu-hu al-‘āmmah*, this being one of the few or possibly the only time Khomeini uses the word *nā‘ib* (in connection with jihad; see below), possibly under the influence of Iṣfahānī. What makes his view different from that of most previous jurists is his emphasis on the politicality of Deputyship. According to Khomeini, *mujtahids* (jurists qualified to issue *responsa* and judgments) are also obliged to supervise and enforce political affairs in which the Imam before them possessed guardianship (*wilāyah*).⁴³⁹ This activist interpretation of Deputyship is nevertheless not too far removed from the non-political approach of Mufīd. According to Khomeini in the *Tahrīr*, while carrying out the general Deputyship of the Imam is obligatory for the jurists, that obligation as well as the obligation of believers to help them in executing their Deputyship both in non-political and political affairs depends on security and availability of power.⁴⁴⁰ This restriction tells us that Khomeini is discussing Deputyship under circumstances in which a non-juristic or unjust authority is governing. He is not yet claiming political power or thinking of attempting to establish an Islamic state.

Subsequently in his *Guardianship of the Jurist or Islamic Government*, Khomeini, very similar to Narāqī, says that Guardianship is self-evident (*badīhī*) from the point of view of reason. Anyone generally familiar with Islamic beliefs and ordinances will, he says, acknowledge the necessity of governance of the jurist.⁴⁴¹ From the point of view of ideal practice, the Prophet and ‘Alī, who are religio-political models for Shiites, established government and did not confine themselves to private religion. Islamic laws, which pertain to both the private and public spheres, must be enforced.⁴⁴² These are Khomeini’s arguments for the necessity of Islamic government

⁴³⁸ Khomeini, *Ijtihād*, 5, 22-23, 25.

⁴³⁹ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 482.

⁴⁴⁰ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 483.

⁴⁴¹ Khomeini, *Vilāyat-i faqīh*, 5; Khomeini, *Islam and revolution: writings and declarations*, 27; Khomeini, *Kitāb al-bay‘*, vol. 2, 627.

⁴⁴² Khomeini, *Vilāyat-i faqīh*, 25-34.

from reason, to which he also adds, as is customary in Shiite argument, proof texts from the Quran and Traditions.⁴⁴³

As for textual arguments confirming the conclusions of reason, Khomeini in *Guardianship of the Jurist* presents Traditions that say that the jurists are the successors (*khulafā'*) of the Prophets and Imams,⁴⁴⁴ that they are the heirs of the prophets,⁴⁴⁵ the fortress (*hiṣn*) of Islam,⁴⁴⁶ the Prophet's trustees or vicegerents (*umanā'* and *waṣī*),⁴⁴⁷ and judges (*ḥākim* or *qāḍī*),⁴⁴⁸ that they have the same position as Moses had among his people,⁴⁴⁹ and that they

⁴⁴³ Khomeini, *Vilāyat-i faqīh*, 39-42.

⁴⁴⁴ Khomeini, *Vilāyat-i faqīh*, 64-70. In this Tradition, narrated by 'Alī, the Prophet asks God to have pity on his successor, that is, those who come after him and transmit his Traditions and Sunnah. Khomeini concludes that the transmitters in this case are the jurists and that they are consequently the caliphs and successors of the Prophet.

⁴⁴⁵ Khomeini discusses the well-authenticated tradition of Qaddāḥ (Ṣaḥīḥah of Qaddāḥ) and the weak narration (*da'if*) of Abū al-Bakhtarī, both narrated from al-Ṣādiq. These say that the 'ulamā' are the heirs of the prophets. For Khomeini, the 'ulamā' who are heirs of the prophets refers to the religious scholars and not the Imams, this being, he says, the common usage (*urf*). Since Muḥammad is a prophet, the Shiite 'ulamā' are his heirs. He emphasizes that the term "inheritance" includes both the Prophet's knowledge and his political authority, again according to common usage. See Khomeini, *Vilāyat-i faqīh*, 111-122; Khomeini, *Ijtihād*, 32-33.

⁴⁴⁶ Khomeini, *Vilāyat-i faqīh*, 70-75. Khomeini argues on the basis of this Tradition that the jurists have to hold the political leadership; otherwise, they are unable to protect Islam as a fortress does for those residing in it.

⁴⁴⁷ Al-Ṣādiq, transmitting from the Prophet, says that the jurists are the prophets' trustees, whenever they do not follow the ruler's power. To justify the rulership of the jurists, Khomeini discusses the sending Messengers by God and their duties by saying that the most significant duties of the prophets were to establish a just social and political system in order to execute the ordinances and laws. Since the jurists are the prophets' trustees, they are responsible for fulfilling all of affairs the prophets were ordered to conduct. Thus they must also be the rulers of the community. He also refers to 'Alī's saying confining judgeship to the Prophet or his trusted appointee. For him, the jurists are the Prophet's second-level trustees, so they receive all of the competence he granted to the Imams. See Khomeini, *Vilāyat-i faqīh*, 75-77, 79, 82-86.

⁴⁴⁸ The Tradition concerning the *hakim* is from al-Ṣādiq. He tells his followers not to judge, since judgeship belongs to the Imam, the Prophet, or his trustee. He demonstrates that during the Occultation, the jurist is the Prophet's trustee and thus his successor, with the same authority in judging (Khomeini, *Vilāyat-i faqīh*, 86-88; Khomeini, *Ijtihād*, 21-22). The Tradition concerning the judge is from Abū Khadrījah, a Companion of al-Ṣādiq. It is very close to the *maqbulah* of 'Umar ibn Ḥanzalah in terms of content, except that the term *qāḍī* is used instead of *ḥākim*. Khomeini, however, analyzes both in the same manner; he even defines the *qāḍī* as governor: "Thus the Muslim scholars ('ulamā') according to this

should be referred to for “new cases” (*al-ḥawādith al-wāqi‘ah*),⁴⁵⁰ as well as all disputes in the community (the “accepted” Tradition of ‘Umar ibn Ḥanzalah already discussed).⁴⁵¹ These Traditions are also cited by Narāqī, but Khomeini links them more explicitly to juristic authority. Both Narāqī and Khomeini are certain that the authority possessed by the Prophet and Imams is completely turned over to the jurists during the Occultation (except, as is always said, in areas specifically excluded in the sources).⁴⁵² On the basis of a Tradition in *al-Fiqh al-Raḍavī* also cited by Narāqī, Khomeini compares the Shiite jurists to the prophets of Israel, for they – he said – also had guardianship over the people.⁴⁵³ While admitting on more than one occasion that some of the Traditions are weak, he claims certainty concerning Guardianship because of the collective force of the texts.⁴⁵⁴

Finally in the *Book of Sales (Kitāb al-bay‘)*, appearing more than five years after *Guardianship of the Jurist*, Khomeini maintains that:

The just jurist has everything that belongs to the Prophet and Imams pertaining to judgeship (*ḥukūmah*) and politics, and to distinguish between the two [i.e., judgeship and politics] is not in accord with reason. The two aspects cannot be separated

Tradition were appointed by the Imam for the positions of governance and judgeship, and these posts are for them forever” (Khomeini, *Vilāyat-i faqīh*, 109-110; Khomeini, *Ijtihād*, 37).

⁴⁴⁹ Khomeini used Narāqī’s *‘Awā‘id* for this Tradition, in which the ‘ulamā’ are compared with the prophets of the Jews. He concludes that the ‘ulamā’ have the same authority as the Moses, for instance, had among his followers (Khomeini, *Vilāyat-i faqīh*, 123; Narāqī, *‘Awā‘id*, 532).

⁴⁵⁰ In this Tradition, narrated by Iṣḥāq ibn Ya‘qūb, the Mahdī asks his Shiites for “new cases that occur” to “refer to the transmitters of our Traditions, for they are my *ḥujjah* (proof) onto you and I am God’s proof onto them.” Khomeini identifies the “transmitters of Traditions” as the jurists, as he does in other related Traditions. Then he says that “new cases” refers to social and not religious affairs (Khomeini, *Vilāyat-i faqīh*, 88-92).

⁴⁵¹ In the Tradition of ‘Umar ibn Ḥanzalah, al-Ṣādiq asks his followers to refrain from referring their litigation to the dominant non-Shiite system. Instead, they are told to refer to those who narrate the Imam’s sayings, knows the ordinances, and is familiar with what is permissible and forbidden. For Khomeini, the narrator of Traditions is the jurist and the *ḥākim* is a jurist-governor who deals with juridical and other aspects of social life (Khomeini, *Vilāyat-i faqīh*, 100-105; Khomeini, *Ijtihād*, 26-28).

⁴⁵² Narāqī, *‘Awā‘id*, 537; Khomeini, *Vilāyat-i faqīh*, 149.

⁴⁵³ Khomeini, *Kitāb al-bay‘*, vol. 2, 650.

⁴⁵⁴ Khomeini, *Kitāb al-bay‘*, vol. 2, 651; Khomeini, *Ijtihād*, 25.

because the head of a state (*wālī*) whoever he may be is the executor of Shariah laws, enforcer of Quranic punishments, collector of the land (*kharāj*) and other types of tax, and the one who spends taxes in the interests of the Muslims.⁴⁵⁵

Khomeini asserts in his *Book of Sales* that the Imams and jurists receive their authority from the Prophet, because they are the Prophet's *khalīfahs* (caliphs). He is careful, however, to distinguish between the Imams' caliphate and that of the jurist. In terms of the theoretical frame of this thesis, he is careful not to say that the charisma of the Imams is routinized in the office of the jurist. The Prophet is caliph over all humanity, while the caliphate of the jurists, on the other hand, is "partial" (*juz'īyah*), in the sense that they are the caliph or successors of particular persons or in particular locales. In other words, an Imam is caliph over the Imam after him and all the others down the line, while a jurist can never be the caliph for the Imam. He is always an appointee, just, Khomeini says, as an *amīr* is the appointee of a *sulṭān*. Thus the two types of caliphate are not equal, even though from the point of view of guardianship (*wilāyah*) and sovereignty (*salṭanah*), that is to say in being head of a state, the authority of the Prophet, Imams, and jurists is at the same level.⁴⁵⁶

Having established the equal political authority of the Prophet, Imams, and jurists, Khomeini goes on in the *Book of Sales* to discuss the just ruler (*al-sulṭān al-'ādil*). His assessment of the justice or injustice of rulers is based on their relation to the Prophet or Imam, rather than the ruler's intentions and actions.⁴⁵⁷ For Mufid, the Prophet and the Imam are the *sulṭān* of Islam (equal to "just ruler"), and the jurists as their appointees are also the *sulṭān* of Islam, even though the jurist has much less authority than the Imam and no political authority. For Khomeini, on the other hand, the fact that the jurists are the successors or "caliphs" of the Imam means that they are just rulers and *sulṭān* over the Muslim community, in a sense that includes political authority, like the Imam and the Prophet.⁴⁵⁸ Khomeini's view here represents a shift in understanding of the just ruler (prefigured in the time of the Qājārs in the writings of

⁴⁵⁵ Khomeini, *Kitāb al-bay'*, vol. 2, 626.

⁴⁵⁶ Khomeini, *Kitāb al-bay'*, vol. 2, 650.

⁴⁵⁷ Norman Calder, "Legitimacy and Accommodation in Safavid Iran: The Juristic Theory of Muḥammad Bāqir al-Sabzavāri (D. 1090/1679)," *Iran*, Vol. 25 (1987): 103.

⁴⁵⁸ Khomeini, *Kitāb al-bay'*, vol. 2, 650, 653.

Shaykh Ja‘far Kāshif al-Ghiṭā’ and his pupil Shaykh Muḥammad Ḥasan Najafī⁴⁵⁹). In previous thought, the jurist though he was equal to the just ruler could work for an unjust government, since he did not have political power. However, since the jurist in Khomeini’s view should if possible seize political power because he is the just *sulṭān*, he absolutely cannot cooperate with an unjust ruler. In other words, he cannot work for another *sulṭān*, because he is himself the *sulṭān*.

Working for an unjust ruler denied

Khomeini is strongly opposed to working for unjust rulers, on the principle that it contradicts the interdiction against assisting oppressors in their cruelties. In his *Book of Earnings* (*Kitāb al-Makāsib*) written in 1960,⁴⁶⁰ he argues that since God granted guardianship or statesmanship (*wilāyah*) to Muḥammad, who then passed it on by God’s command to ‘Alī and his successors the Imams so that they are the sole legitimate rulers appointed by the Heaven, this automatically means that no-one but them has the right at any time to hold any authority, whether entirely or partially. Those who do so are usurper of a sovereignty (*salṭanat*) rightly belonging to others.⁴⁶¹ He does not, however, mention the topic of working for an unjust ruler. In his *Tahrīr al-wasīlah* written near the beginning of his residence in Najaf,⁴⁶² Khomeini is more specific. He denies that the jurist can work with oppressive, i.e., non-jurist, rulers in judicial and especially political affairs. If a jurist willingly accepts a position in an unjust system, he bears responsibility for all his actions taken while so employed, since his work is counted as a crime from the perspective of Shariah. Even if he is forced to accept the position, he cannot cooperate in shedding blood unjustly (which in Khomeini’s case probably means any innocent blood, rather than the blood of Shiites as in traditional discussions).

⁴⁵⁹ Muḥammad Ḥasan Najafī, *Jawāhir al-kalām fī sharḥ Sharā‘i‘ al-Islām* (Tehran: Dār al-Kutub al-Islāmīyah, 1368/1989), vol. 22, 156.

⁴⁶⁰ Khomeini, *al-Makāsib al-muḥarramah* (Qum: al-Maṭba‘ah al-‘Ilmīyah, 1381/[1960]), vol. 2, 105.

⁴⁶¹ Khomeini, *Makāsib*, vol. 2, 106.

⁴⁶² It is necessary to repeat that this work, *Tahrīr al-wasīlah*, is a commentary on the work of the quietist Iṣfahānī, so that it is sometimes difficult to distinguish the words of the commentator from the base text. I did not have access to Iṣfahānī’s *Wasīlah* to compare the two.

Khomeini does open a further window in his *Tahrīr* - which, remember, appears before the time he decides that it is necessary to establish a jurist-led Islamic state - for the absolute (*muṭlaq*, i.e., fully qualified) *mujtahid* to work with an unjust ruler. An absolute *mujtahid* may cooperate with an unjust ruler in political and judicial affairs in order to secure the interest (*maṣlahah*) of the community. It is even obligatory for such a person to do so, in order to carry out the Quranic punishments and other judicial affairs in accord with Shariah standards. A partial (*mutajazzī'*) *mujtahid*, however, i.e., a jurist expert in only some affairs, is forbidden to work for an unjust system, just as ordinary persons are forbidden.⁴⁶³ Khomeini admits that assisting an oppressive ruler in permissible actions is allowed; although he still expresses concern about such aid increasing the oppressor's strength and power.⁴⁶⁴ Although Khomeini does not make it clear why the absolute *mujtahid* in particular is allowed to collaborate, one may speculate that it is because this especially well-qualified person is thought to be able to wisely discern community interests. It may also be that Khomeini did not want to denigrate the great jurists of the past or those in his own time who were engaged in collaboration.

Khomeini does not, however, discuss further permission to collaborate as the Shiite jurists traditionally had. He even goes on, while still in his pre-Guardianship phase, to address the sins of persons other than the jurists who work for the usurper *sulṭān*. Such agents, he says, while not actual usurpers, have taken possession of the *salṭanat* of another (*taṣarruf fī sulṭān al-ghayr*) without permission.⁴⁶⁵ This is most serious for those holding high political and military positions, since their collaboration is additionally forbidden because of "aggressive possession" (*al-taṣarruf al-'udwānī*) and "innate interdiction" (*al-ḥurmah al-dhātīyah*), the latter meaning that their cooperation is the root of other kinds of corruption. The cooperation of lower-ranking agents is prohibited only because of their basic cooperation with the unjust ruler, which God has interdicted generally in any case.⁴⁶⁶ Khomeini's goal seems to be undermining the position and legitimacy of prominent members in the Shah's government. The idea seen in Mufīd that jurists and non-jurists can and actually should gain positions in an unjust system in order to benefit the community is entirely gone.

⁴⁶³ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 483.

⁴⁶⁴ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 497.

⁴⁶⁵ Khomeini, *Tahrīr al-wasīlah*, vol. 2, 106-107.

⁴⁶⁶ Khomeini, *Makāsib*, vol. 2, 115.

Khomeini prohibits all political, financial, and judicial connections with an unjust state. Similar to the early Shiite ‘ulamā’, he attempts to distance his followers or Shiites in general from referring to the unjust judicial system to mediate their legal disputes. But again, he goes further than the traditional position. Although he says in the *Tahrīr* that he considers it incumbent for at least some of the ‘ulamā’ to associate with the government to enforce good and forbid evil, the status of and respect for the ‘ulamā’ represent for him a higher value.⁴⁶⁷ He forbids religious students from attending religious schools set up by government and receiving income from institutions supporting those schools, even if they need the support, because of its corrupting effects on Islam and society. The ‘ulamā’ and mosque leaders according to Khomeini’s *Tahrīr* are not permitted to either directly or indirectly administer religious schools on behalf of the unjust state. Khomeini deems religious scholars who administer or even attend state schools “unjust”, thus excluding them from prayer leadership, witness in divorce, and so on. Such persons are also not permitted to receive *khums* as long as they do not repent.⁴⁶⁸ In these provisions, we see a determination to condemn and isolate government ‘ulamā’. Even before he forms the idea of a theocracy, Khomeini has an activist and political drive that makes his discussion of the traditional subject of “working for an unjust ruler” very distinctive.

Khums

Khomeini’s political proclivities come out clearly in his discussion of the one-fifth tax, called *khums*. He focuses in his discussion on the relation of the tax to leadership. Differently from the ‘ulamā’ before him, he asserts that *khums* was given by God to Muḥammad because he was the leader of the community and his family.⁴⁶⁹ Also uniquely, Khomeini replaces the third category of those to whom *khums* should be given, i.e., relatives of the Prophet, with the Imam. It is safest (*aḥwaṭ*) according to him to deliver the last three shares normally due to the descendants of the Prophet, orphans, poor, and travelers to the *ḥākim*, here meaning a high-ranking *mujtahid*, the *marji’ al-taqlīd* (“Source of Emulation”).⁴⁷⁰ Many authorities in his time, in contrast,

⁴⁶⁷ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 474.

⁴⁶⁸ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 474-475.

⁴⁶⁹ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 351.

⁴⁷⁰ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 365-67.

considered that the taxpayer could hand over the funds to recipients directly. Khomeini obliges taxpayers to deliver the Imam's share to the *ḥākim*, the jurist, as the only one who can legitimately administer it.⁴⁷¹ Though this *ḥākim* is not necessarily one who holds actual power, the intent to give authority over *khums* to the 'ulamā' exclusively and include it in a kind of governance is evident.

Following his formulation of the theory of Guardianship of the Jurist, Khomeini ties *khums* directly to government. In his *Book of Sales*, he maintains that the whole of the *khums*, including the shares of the Imam and descendants of the Prophet, should be referred to the *wālī*.⁴⁷² The Prophet's descendants, he says, are not the actual owners of the *khums*, even though it must be spent for their needs. In Khomeini's view, *khums* is a source of government revenue. The governor (Khomeini again uses the term *wālī*) is responsible for meeting the needs of the Prophet's descendants from *khums* and spending the rest of that share for public services, while if the *khums* does not suffice, they must be provided for from other governmental funds.⁴⁷³

Administration of *khums* in Khomeini's novel formulation not only becomes part of governance, but it is also used to justify Islamic government and the authority of the jurist. We have seen that Khomeini uses the term *wālī* or governor when he talks about the authority to whom *khums* must be delivered. He also argues that the Prophet and Imams are neither conventionally nor ontologically (*lā milkīyah al-i'tibārīyah wa-lā al-takwinīyah*) the personal owners of *khums*, but rather "best qualified to handle it" (*awlā bi-al-taṣarruf*). To put it differently, they are the owners of *khums* as leaders and not as legal entities in themselves (*mālik min jihat al-riā'sah, lā nafs al-ra'īs*). Therefore, the Prophet has the authority to manage (*wilāyat al-taṣarruf*) the *khums* tax as an economic resource for government.⁴⁷⁴ The point is driven home most economically in Khomeini's *Guardianship of the Jurist*. There Khomeini argues that the very size and complexity of *khums* and other religious taxes shows that they are meant not merely "for the sake of providing subsistence to the poor or feeding the indigent among the descendants of the Prophet", but in order to found "a great government and to assure its essential

⁴⁷¹ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 366.

⁴⁷² Khomeini, *Kitāb al-bay'*, vol. 2, 655.

⁴⁷³ Khomeini, *Kitāb al-bay'*, vol. 2, 656-57.

⁴⁷⁴ Khomeini, *Kitāb al-bay'*, vol. 2, 659-60.

expenditures”. Without an Islamic state, such taxes cannot be efficiently managed and have little meaning.⁴⁷⁵

Friday Prayer

Although Khomeini allows that Friday prayer during the Occultation is only optionally obligatory, that is, believers may choose between attending the congregational prayer or praying privately, he also says that the former is “better” (*afḍal*) and “safer” (*aḥwaṭ*). The reason, it seems, that he places more emphasis on the Friday prayer than those before him is because it presents a forum to discuss political topics. According to Ayatollah Khomeini, it is preferable that the Friday prayer leader and preacher of the associated sermon address not only religion but temporal affairs such as economics, independence from foreign powers, and warning about colonialist schemes.⁴⁷⁶ This emphasis was put into practice in the Islamic Republic of Iran as Khomeini as head of state appointed prayer leaders in all the major cities of Iran.

Jihad

Khomeini, like his predecessors, holds that *mujtahids* as the general deputies or *nā'ibs* of the Imam during the Occultation do not declare primary, that is offensive, jihad.⁴⁷⁷ He nevertheless emphasizes jihad and thus juristic activism by including in his definition of defence resistance against economic and cultural hegemony and political dependency. Since these involve humiliation of the Muslims, they are obliged to defend themselves through boycotts and other civil resistance. Defensive jihad, in other words, involves much more than simply war. If ruling powers, he adds, facilitate the political or economic influence of foreigners, they are traitors and it is obligatory on the people to remove them from power.⁴⁷⁸

⁴⁷⁵ Khomeini, *Governance of the Jurist*, 188, 20.

⁴⁷⁶ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 234.

⁴⁷⁷ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 482.

⁴⁷⁸ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 486-87.

Zakāt

Khomeini strengthens the authority of the jurists in *zakāt*. Whereas Mufid made it obligatory to deliver *zakāt* to trustworthy jurists not on the basis any formal authority but simply because they know best how to distribute it, Khomeini makes it obligatory when a high-ranking jurist, i.e., *marji' al-taqlīd*, orders it in the “interest of the Muslims and Islam”, even for those who do not follow, i.e., do *taqlīd* of, that jurist. Even if a ranking jurist does not order the *zakāt* to be delivered to him, it is still “better” (*afḍal*) and “safer” (*aḥwat*) to do so.⁴⁷⁹ Khomeini goes on to remark that those who turn over their *zakāt* to the jurist on the basis of him holding *wilāyah*, i.e., having a right to leadership of the community as a deputy of the Imam, are not personally liable if it is mistakenly given to ineligible recipients; but if they give their *zakāt* to a jurist on the basis of him being merely a trustee (*wakīl*), i.e., someone to whom the funds are given simply because he is regarded as being well able to handle them, they will be liable for any misspending.⁴⁸⁰ Khomeini, in sum, gives jurists the right to administer *zakāt* during the Occultation because of their *wilāyah*. His statement that the jurist discerns and articulates the interests of Muslims also gives that authority a political colour.

Enjoining good and forbidding evil

Khomeini declares enjoining good and forbidding evil to be the noblest of the obligatory duties, since the upholding of other obligatory duties depends upon it. Enjoining good and forbidding evil is a necessary part of religion and those who deny it not Muslims, he says.⁴⁸¹ From the point of view of Islamic law, he says that it is “stronger” to consider enjoining good and forbidding evil collectively obligatory (*wājib kifā'ī*, that is, having to be carried out only by some members of the community) than obligatory on each individual. Most if not all jurists already consider the duty to be collectively obligatory, so what Khomeini is doing here is conforming to the accepted opinion while also hinting at the possibility of individual responsibility. Here we see a subtle shift, typical of Khomeini’s legal discourse, toward activism. Another shift toward activism concerns the condition that those who carry out the duty can do so

⁴⁷⁹ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 343.

⁴⁸⁰ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 343-344.

⁴⁸¹ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 462.

safely. Ayatollah Khomeini, like others before him, says that the duty of commanding good and forbidding evil is conditional on safety (along with knowing that one should do it, persistence of the sinners in their sins, and likelihood that commanding and forbidden them will have an effect).⁴⁸² He also, however, says that safety should be measured against the importance of the issues involved, so that very important issues such as protection of the life and dignity of the community or of Islamic rituals such as the Hajj pilgrimage would remove the consideration.⁴⁸³

Let us now turn to juristic authority as it relates to commanding good and forbidding evil. The ‘ulamā’ naturally play a significant role. Khomeini calls on them to raise their voices without regard to their safety, personal interests, or likelihood of success. When the ‘ulamā’ and religious leaders among them remain silent, the consequences are dire. Good and evil become confused, oppressive rulers become more powerful and dare to commit forbidden acts, and the status of the ‘ulamā’ is harmed as they are accused of supporting oppression. Silence, Khomeini says, is categorically forbidden (*ḥarām*).⁴⁸⁴ This is what Khomeini has to say about the role of the ‘ulamā’ in commanding good and forbidding evil at the level of “the tongue”, i.e., admonition. At the level of “the hand”, that is to say, force, he points to the role of the chief jurists as heads of the community. The tradition holds that believers require permission of the Imam for commanding good and forbidding evil by force, since it may result in injury or killing. Khomeini asserts that during the Occultation, there is strong evidence (*aqwā*) that permission for this very significant measure may come from the “qualified jurist” (*al-faqīh al-jāmi‘ lil-sharāi’*) as the Imam’s successor (*qāma maqāma-hu*).⁴⁸⁵ The jurist’s authority through Deputyship is here increased considerably.

Non-litigious affairs

Non-litigious affairs (*al-umūr al-ḥisbiyah*) pertain to legal situations with no normally responsible person to handle them, e.g. guardianship of orphans, disposition of property for which there are no heirs, and so on. Due to a strong belief that such matters should not be left

⁴⁸² Khomeini, *Tahrīr al-wasīlah*, vol. 1, 463, 465, 467, 470, 472.

⁴⁸³ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 472.

⁴⁸⁴ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 473.

⁴⁸⁵ Khomeini, *Tahrīr al-wasīlah*, vol. 1, 481.

untreated, the jurists were called on to manage them, and it was also said that they could be managed by other pious and trustworthy persons if no jurist was able or available. There is consensus of the scholars that authority in non-litigious affairs is conferred on the jurists by Deputyship.

Ayatollah Khomeini in his *Book of Sales* greatly emphasizes the authority (*wilāyah*) of the jurist in non-litigious affairs. Since non-litigious affairs were the responsibility of the Imam, they are, Khomeini says, also the responsibility of the jurist during the Occultation, for the jurist is in the same position with regard to *wilāyah* in such matters as the Imam. The jurist, he says, is guardian (*walī*) because of having *wilāyah* from the Imam. Even if this were not the case, he would still be responsible for non-litigious affairs because of his piety, knowledge, and trustworthiness; and though other pious and trustworthy persons can fill in when the jurist is unable or unavailable, this should always be done with the jurists' permission.⁴⁸⁶

Along with emphasizing the jurists' control of non-litigious affairs, Khomeini greatly widens the definition of *al-umūr al-ḥisbīyah* include such things as defence of Islamic lands, protecting youth from corruption, and stopping anti-Islamic propaganda from spreading among Muslims.⁴⁸⁷ Expansion of the scope of non-litigious affairs to the public and political sphere implies a public office. This leads Khomeini to discussion of a "just Islamic state". The just Islamic state, Khomeini says, must be led by "just jurists" whenever it is possible to establish such a state. Since affairs of state must be treated, it is also incumbent upon "just Muslims" to undertake those affairs, though that must be done with the permission of the jurists, either because of *wilāyah*, or because they are *ḥākim*, or because they are the most pious and trustworthy.⁴⁸⁸ Khomeini here seems to be speaking about a government of pious technocrats appointed by and under the executive rule of a jurist, just as in present-day Iran.

It is good here to remember that the authority conferred by Deputyship belongs exclusively to the jurists (that is after Mufid, who also spoke of Deputyship of *amīrs*, as we have seen). It is agreed that the jurists have a monopoly on such authority, exactly as Khomeini

⁴⁸⁶ Khomeini, *Kitāb al-bayʿ*, vol. 2, 665.

⁴⁸⁷ Khomeini, *Kitāb al-bayʿ*, vol. 2, 665.

⁴⁸⁸ Khomeini, *Kitāb al-bayʿ*, vol. 2, 665, 669, 670.

says.⁴⁸⁹ In this case, expanding the definition of a legal area in which it is universally accepted that the jurists own Deputyship is a clever move.

Analysis and conclusion

In the previous section, we saw how Khomeini broadened the office of the jurist to include politics. To knowledge, justice, and piety, the three traditionally recognized elements of office charisma, he added a fourth: political acumen – defined as knowledge of Shariah law, since Muslim life and the state must be conducted according to Shariah. As in the previous section, we will see that, though his interpretation is novel, it is still within the frame of Deputyship. To say as Khomeini does that the government of the jurist is the governance of the Prophet still means that the jurists derive their office and authority from deputization. The Guardian-Jurist, though undeniably powerful, stands in the shadow of the Imams' political authority.

The driving force, in fact, behind Ayatollah Khomeini's very novel theory is not determination to make the jurist a head of state, but a desire to address the structural, theological gap caused by the absence of the Imam (or to put it differently, the jurist is made head of the state in order to fill a gap caused by absence of the Imam). Theologically according to the Shiites, an Imam must always exist, but with the absence of the Mahdī, the community found itself without an Imam. Thus Khomeini asks:

From the time of the Lesser Occultation down to the present (a period of more than twelve centuries that may continue for hundreds of millennia if it is not appropriate for the Occulted Imam to manifest himself), is it proper that the laws of Islam be cast aside and remain unexecuted, so that everyone acts as he pleases and anarchy prevails? Were the laws that the Prophet of Islam labored so hard for twenty-three years to set forth, promulgate, and execute valid only for a limited period of time? Was everything pertaining to Islam meant to be abandoned after the Lesser Occultation? Anyone who believes so, or voices such a belief, is worse situated than

⁴⁸⁹ Khomeini, *Kitāb al-bay'*, vol. 2, 667.

the person who believes and proclaims that Islam has been superseded or abrogated by another supposed revelation.⁴⁹⁰

Khomeini was inspired to pose this question by what he viewed as the unprecedented dire circumstances of Western domination and influence, which preoccupied him throughout his life, as well as what he saw as the unacceptable passivity of the ‘ulamā’ in the face of those circumstances. His first thought and wish was then for an Islamic state that could restore the sovereignty and dignity of Muslims. The rule of the jurist, though important, is not his first aim, but a consequence of the drive for a state, since in Shiism, an Islamic state is by definition a state led by the Imam, making the jurist as the Imam’s deputy the only figure who can lead. The structure of Khomeini’s famous *Guardianship of the Jurist or Islamic Government* shows this logic clearly; the work begins with a chapter pointing out the “necessity of an Islamic state” and then goes on to describe the jurist who could lead that state. Despite its title – which was probably not devised by Khomeini himself – “Islamic government” is placed before “guardianship”, since it logically precedes it. Contemporary Sunnite theories of and attempts to establish Islamic states provide an instructive contrast. Sunnites do not focus very much on who will lead the state, since the leader does not have to be someone qualified to actually stand in for the Prophet, whose office has been routinized in those of the Sunnite jurists, caliph and other figures.

The figure of the jurist necessarily had to be enlarged to enable this greater role. Khomeini accomplished the enlargement first in his personal capacity through a great personal charisma, gathered in the ways described in this chapter; and second through re-defining Deputyship, in a novel fashion but still under the traditional jurisprudential headings of the doctrine, as seen in the previous section.

The one instance in which Khomeini goes outside traditional thought is in his insistence on a state. This, move, however, should still be understood in the context of Shiite thought. By “Islamic government” (*ḥukūmat-i Islāmī*), Khomeini does not mean only a state. The gap he was seeking to fill did not have to do with a lack of ordinary governance. The Imam himself, after all, did not have a government, and the Shiites did not feel it was necessary to install one. Like the

⁴⁹⁰ Khomeini, *Governance of the Jurist*, 19.

Prophet, the Imam controlled and guided his followers rather as an executor of law. That is what Khomeini wants to recover. By his assertion that the governance of the jurist is equal to the government of the Prophet, he does not mean that the jurist is equal to the Prophet and Imams – which he explicitly denies – but that they have the same function in executing Islamic law. The jurist per se cannot bridge the theological gap in Shiism, for he does not have the same qualities as the Prophet or Imam. Nor can Deputyship completely close the gap, even in Khomeini’s outsize formulation, for the deputy does not act on behalf of the Imam in all his functions. The gap is filled by restoring enforcement of Islamic law - for which a state is needed, and which requires as a consequence Guardianship of the Jurist.

Khomeini’s theory of Guardianship of the Jurist puts an end to several key disputed points in Shiite thought that had lasted more than a thousand years. In Khomeini’s interpretation, the ruling jurist leads Friday prayer himself or appoints others as his agents to hold the congregational prayers. Not only is juristic rule not unjust, but obedience to it is incumbent upon believers, to the degree that it becomes more significant than the daily ritual prayer and pilgrimage to Mecca. Since the authority of the jurist as executor of Islamic law is equal to that of the Prophet and Imams, the expression “just sultan” might also be applied to him, and this, though not explicit in Khomeini’s writings, is certainly implied. Khomeini did not, however, envision restoration of the rule of Islamic law, along with the Islamic state and enlarged role of the jurist that it implies, as a permanent solution. Shiites would still be waiting for the full institution of Shariah, government, and justice at the hands of the Mahdī. The temporary or interim nature of the juristic Islamic state is clearly seen in its containment within a nation-state and Khomeini’s mixing of Shiite thought with what Dabashi characterizes as “Islamic nationalism.”⁴⁹¹ As the revolution progressed, Khomeini “increasingly spoke of the Iranian fatherland, the Iranian nation, the Iranian patriot, and the honorable people of Iran.”⁴⁹² Nationalistic tendencies and the use of patriotic language continue to mount in the post-Khomeini period.

The goal of this dissertation has been to analyze Shiite juristic authority by presenting an intellectual history, the history of the idea of Deputyship in Twelver Uṣūlī Shiism, as well as an

⁴⁹¹ Dabashi, *Theology of Discontent*, 195.

⁴⁹² Ervand Abrahamian, *Khomeinism: essays on the Islamic Republic* (Berkeley: University of California Press, 1993), 15.

account of the sociological process (charisma and its routinization) that helps to explain it. Both come into focus only in the long term. My work, as I have said more than once, is not about Ayatollah Khomeini, but rather Twelver Shiite juristic authority, the story of which begins long before Khomeini and will continue long after. Much less is it about events and doings in the Islamic Republic of Iran. The institutionalization of *vilāyat-i faqīh*, Khomeini's version of Deputyship, does, however, throw additional light on Khomeini's formulation.

First let it be said that for Khomeini, Islamic government and the Islamic state are identical with Guardianship of the Jurist (*vilāyat-i faqīh*), as seen in the dual title of his famous *Islamic Government or Guardianship of the Jurist (al-Hukūmah al-islāmīyah aw wilāyat al-faqīh)*. Khomeini has no thought on governance other than Guardianship. The theory, moreover, was formulated by Khomeini well before the coming of the Iranian Islamic Revolution and Islamic Republic of Iran. As I pointed out earlier in this chapter, a good part of it is already in place in his *al-Ijtihād wa-al-taqlīd*, written at the age of forty-seven in 1950 while he was still in Qom and just beginning his advanced teaching career. The Arabic version of Khomeini's originally Persian-language *Islamic Government or Guardianship of the Jurist* appeared in Najaf, Iraq in 1969, and his *Book of Sales (Kitāb al-Bayʿ)*, also important for the Guardianship theory, presents material delivered in Najaf between 1964 and 1971. From the time of the Revolution and even for some time before, Khomeini wrote nothing, and no development of the theory whatsoever is seen in his subsequent speeches and declarations. The historical context of the genesis of Khomeini's politicized theory of Guardianship is therefore not the Islamic Revolution or Republic, but rather decades of Western domination in Iran and the Muslim world experienced by Khomeini in his long life before.

Guardianship of the Jurist is decidedly not a modern theory of government. In fact, Khomeini in his *Islamic Government* explicitly enumerates the differences between the two in order to emphasize his preference for his system over other systems and ideologies. He loudly proclaims that his *vilāyat-i faqīh* is neither a democratic system (like Western democracies) nor a tyranny (apparently, like monarchies and other authoritarian regimes in the area). For Khomeini, Islamic government is purely the rule over humanity of Shariah, of the divine law:

The fundamental difference between Islamic government, on the one hand, and constitutional monarchies and republics, on the other, is this: whereas the representatives of the people or the monarch in such regimes engage in legislation, in Islam the

legislative power and competence to establish laws belongs exclusively to God Almighty. The Sacred Legislator of Islam is the sole legislative power. No one has the right to legislate and no law may be executed except the law of the Divine Legislator. It is for this reason that in an Islamic government, a simple planning body takes the place of the legislative assembly that is one of the three branches of government. This body draws up programs for the different ministries in the light of the ordinances of Islam and thereby determines how public services are to be provided across the country.⁴⁹³

The rule of Shariah guaranteed by the Guardian-Jurist requires, as suggested in the previous quotation, no elaborate government machinery. Justice is delivered directly and, seemingly, automatically:

Islamic government is not a form of monarchy, especially not an imperial one. In that type of government, the rulers are empowered over the property and persons of those they rule and may dispose of them entirely as they wish. Islam has not the slightest connection with this form and method of government. For this reason, we find that in Islamic government, unlike monarchial and imperial regimes, there is not the slightest trace of vast palaces, opulent buildings, servants and retainers, private equeries, adjutants to the heir apparent, and all the other appurtenances of monarchy that consume as much as half of the national budget.⁴⁹⁴

It is clear that Khomeini was not motivated to establish a modern state, much less a democratic one. Khomeini's Guardian-Jurist is empowered with absolute authority over all the affairs of the Muslims, including the public treasury, taxes, execution of Quranic punishments, and "lives of Muslims" (*nufūs al-Muslimīn*).⁴⁹⁵ According to the theory of Guardianship, no power or institution may act in disaccord with the jurist-leader's authority. None of the conditions of democracy or indeed any modern state are met: the head of state is not appointed

⁴⁹³ Imām Khomeini, *Governance of the Jurist (wilāyat al-faqīh): Islamic Government*, translated and annotated by Hamid Algar (Tehran: The Institute for Compilation and Publication of Imam Khomeini's Works), 29.

⁴⁹⁴ Khomeini, *Governance*, 30.

⁴⁹⁵ Khomeini, *Kitāb al-bay'*, vol. 2, 624-25.

by its citizens, sovereignty does not belong to the people, and the dominant law cannot change. One has to agree with Milani when he says that popular sovereignty, rationalism, and secularism are three points irreconcilable with Khomeini.⁴⁹⁶ Referring to Kant, Milani says that human thought and freedom are only possible under conditions of insecure and limited knowledge;⁴⁹⁷ but Khomeini's theory depends on divine knowledge and an expositor (the Guardian-Jurist) who is absolutely secure, for his theory is built on jurisprudential expertise and mystical perfection. My goal here is not to criticize Khomeini for being "undemocratic", but rather to bring the point home, important for my analysis here, that he did not consider it necessary to modernize or combine his political theory with elements belonging to other schools coming from modern countries. The theory of Guardianship, formulated before the state was even on the horizon, is considered self-sufficient, and it remains inert after the state is founded.

Has Guardianship or the office of the Guardian been affected by Iranian nationalism at least? It is true that the Islamic Republic is contained within a country-state framework. In spite of its religious content, the state remained territorially confined to the land of Iran. The new leaders of the Republic, moreover, recognized the country-state system and respected the international law that is the basis of that system. As for Shiite Islam, it had been part of Persian or Iranian culture and identity for centuries before the establishment of the Islamic Republic, and the Iranian (more precisely, Fārs) nationalism promoted during the Pahlavī monarchy did maintain a strong presence in the new "Islamic" state both in culture and in law. As Ansari says, the dominant ruling groups in Iran made efforts to introduce their own definitions of nationalism, and one of these groups (in addition to the secular, leftist, and dynastic nationalists) included the men of religion.⁴⁹⁸ After all, nationalism, as Ansari says again, "has been the preserve of elites... eager to recruit the masses to their respective causes [and] jealously protect[ing] their rights to define the precise parameters of the particular nationalism they espouse."⁴⁹⁹ Thus serious efforts were made by the proponents of an Islamic regime in Iran to redefine Iranian nationalism. For instance, the philosopher of the Revolution, Murtaḍā Muṭahharī (d. 1979), tried to reconcile

⁴⁹⁶ Abbas Milani, *Eminent Persians: the men and women who made modern Iran, 1941-1979*; Vol. 1 (Syracuse, N.Y.: Syracuse University Press; New York, N.Y.: Persian World Press, 2008), 358.

⁴⁹⁷ Milani, *Eminent Persians*, 357.

⁴⁹⁸ Ali M. Ansari, *The politics of nationalism in modern Iran* (Cambridge University Press, 2012), 2.

⁴⁹⁹ Ansari, *The politics of nationalism*, 2.

(Shiite) Islam with Iranian nationalism by asserting that, even if Islam was at first a foreign idea, it did not finally undermine Iranian identity but rather introduced new elements suitable to the Iranian context and consistent with that identity.⁵⁰⁰ Muṭahharī then effectively redefines nationalism by adding emphasis on the internationalism of Islam, suggesting that it be substituted for fanatical nationalism established solely on the basis of territory and ethnicity.⁵⁰¹

During the Islamic revolution, Khomeini appealed to Iranian nationalism to the extent that he “disqualified one of his staunch supporters from entering the 1980 presidential elections on the grounds that his father had been born in Afghanistan.”⁵⁰² This action and the nationalist rhetoric referred to above are certainly at odds with the non-territorial, supra-ethnic, all-religious nature of Deputyship and Guardianship. In Abrahamian’s view, “nationalistic language together with the use of exclusively Shiite symbols and imagery helps explain why the Khomeinists have had limited success in exporting their revolution.”⁵⁰³ The Guardian-Jurist, especially after Khomeini, has become an Iranian national figure, limited in his influence not only by territory, but also nationality and sect. These developments, however, are external to the power he has within the Republic. Nationalism has not brought any shift in the theory of the Guardianship of the Jurist or changed the position the *valī-faqīh* himself.

The Islamic Republic of Iran – the word “Republic” itself is telling – seems much more modern than would be an entity ruled by Ayatollah Khomeini’s Islamic governance or *ḥukūmat-i Islāmī* as laid out in his writings. The appearance of modernity, however, comes from taking over already existing institutions, and not from anything in the theory of Guardianship. The theory and office do not represent a modernization of juristic theory; they are not “modern”, and are not intended to be. In addition to recognizing the framework of a nation-state and Iranian character of that state, the Iranian Islamic Republic, following its confirmation in a referendum in 1979, adopted almost all governmental institutions remaining from the previous regime, while changing the names of some and creating a number of new sections. Republicanism in which election is the recognized way to fill some higher positions such as the presidency and seats in a

⁵⁰⁰ Murtaḍā Muṭahharī, *Khadamāt-i mutaḳābil-i Islam va-Īrān*, 8th ed. (Tehran: Ṣadrā, 1375 [1996]), 58-60.

⁵⁰¹ Muṭahharī, *Khadamāt-i mutaḳābil*, 61-66. Muṭahharī’s “internationalistic nationalism”, however, did not really catch on.

⁵⁰² Abrahamian, *Khomeinism*, 15.

⁵⁰³ Abrahamian, *Khomeinism*, 15.

parliamentary-type “assembly” (*Majlis*) has also been admitted. The presidency of the Islamic Republic is essentially a carry-over from the monarchical system, the former “National Consultative Assembly” reappears as the Islamic Consultative Assembly (*Majlis-i Shūrā-yi Islāmī*), and Assembly of Experts (*Majlis-i Khubragān-i Rahbarī*), created to select or dismiss the leader-jurist, effectively replaces the former Senate (*Kākh-i Majlis*) so that the basic bicameral structure of the previous government is also preserved.

What has happened is that the Leader-Jurist simply sits on top of the already existing somewhat modern institutions (and also modern society) of Iran. The relation between the Leader-Jurist and political institutions of the state such as presidency, legislative assembly, judicial and military is essentially that of a caliphal system, in which all subsystems are legitimized by the head of the total system. In terms of Shiite juristic authority, Mufīd’s *sultān* of Islam (the Imam) with his *amīrs* and *ḥākims* (as legitimate subsystems) is now manifested in the Guardianship system. The interface between the *faqīh* and system below is not a compromise, much less a situation of “check-and-balance”, but rather allows the *faqīh* to project his power. This is the case with the Guardian Council (*Shūrā-yi Nigahbān*), established to vet laws passed in the parliament. Even the formation of the “Expediency Discernment Council” (*Majma‘-i Tashkhīṣ-i Maṣlahat-i Niẓām*) does not reduce the Leader-Jurist’s authority. Rather, continuous intervention of the “Supreme Leader” (*Rahbar*, another name for the office) in disputes between the three branches of the system and especially the *Majlis* and Guardian Council “invariably highlights the political system’s dependence on his own charisma,”⁵⁰⁴ and the authority the theory of Guardianship bestows upon him. The Leader-Jurist holds – definitely in theory and also to a good extent in practice – the absolute (*muṭlaqah*) authority of the *faqīh* described by Khomeini.

Ayatollah Khomeini, in short, designed his theory of Guardianship of the Jurist on the basis and within the thought-world of traditional Shiite jurisprudence and theology. It was not designed for a modern nation state. The state happened to be there and finally, by historical accident, it was captured.

⁵⁰⁴ Brumberg, *Reinventing Khomeini: The Struggle for Reform in Iran* (Chicago; London: The University of Chicago Press, 2001), 119.

Final conclusion

This study has explored the nature, typology, and development of religious authority in Twelver Shiism, and particularly the authority of the jurists during the Occultation of the Twelfth Imam. Authority is an essential subject in the study of religion in general. It is critical for understanding Shiism especially since Shiism initially emerged as a separate branch of Islam due to distinctive notions of authority and then, in an unusual situation, was led by religious experts who claimed authority only indirectly since it was believed to belong ultimately to the Hidden Imam.

The dissertation has also sought to apply Weber's theory of authority, and particularly his notion of charisma, to the case of Shiite religious authority and leadership. Chapter One shows how scholars in Western institutions working on Shiism in the last few decades have been very critical of Weber. But they do not then discard him and use another framework. They apparently see some value in his theory; and there is not yet, in any case, a new framework available that can be used. The literature on Shiism and Weber is so extensive, as well as growing, that it has been necessary to critique it in some detail before proceeding to my own application. I find that Weber, when properly understood and applied, has a great deal of explanatory power for Shiism. The basic error of Weber's critics who work on Shiism has been first, to understand charisma in the vague sense of something like personal magnetism; and second, to then make the "charisma" of particular personalities, whether Ayatollah Khomeini or the Shiite Imams, the starting point and focus of the analysis. Charisma should rather be understood as an exceptional quality constructed by the charismatic community, in particular circumstances and for particular reasons having to do with the tradition. Most importantly, charisma and its routinization should be seen as processes of religious traditions that have to be studied as long-term developments. Scholars first began to speak of charisma and Shiism after the conspicuous appearance of Khomeini on the international scene in the late 1970s. They tried to explain his charisma in particular, and then, as they began to delve deeper into the tradition, the charisma of the Ayatollahs and Imams; but the proper focus, in my view, is charisma as a process in Shiism, as part of the making of the tradition.

The thesis has shown how Weber can be recovered. His definition of charisma fits. His highlighting of the exceptionality and supernaturalness of the holders of charisma brings the

Prophet clearly into focus as the pure charismatic figure in the Shiite (as well as Islamic) tradition. The supernatural nature of the Prophet's charisma is manifested in his tie to Heaven through revelation, which is unique for Muslims. Shiites do not give their Imams that position. The quality of the Imams is not the same as that of the Prophet and their functions are substantially different, for pure charisma ends with the Prophet's death.

Weber's explanation of routinization also fits. His theory does explain, contrary to his critics, how Prophetic authority was transferred to his successors the Imams, at which point routinization did take place. When the long-term process of charisma and routinization is traced, we are not in danger of being led, as some scholars have been, by the wonderful personalities of the Imams into denying routinization. It is true that Shiites have gradually attributed supernaturalistic qualities to their Imams and these have increased over time. Imamic charisma, however, is hereditary and derivative; it comes from Prophetic charisma. It is important not to lose sight of the basic fact that the Imams are Imams because they are the Prophet's successors. Without the Prophet, there are no Imams. Weber's observation that the original charisma holder designates his successor also holds, since the Prophet designated 'Alī, something on which Shiism places tremendous emphasis. By this designation, prophetic charisma is routinized into the office of the Imamate, and social and economic conditions shift, exactly as Weber said, toward institutionalization, which is not seen in a pure charismatic event.

Weber's notion of office charisma enables us to explain both Imamic and juristic charisma. Following routinization, the Imam possesses, as Weber says, charisma of office. The Imamate (*imāmah*), as the word itself tells us, is an office, and the Imams who occupy it take on the qualities of the office such as universal knowledge, infallibility, the right to rule, and so on. Here, however, I have introduced a refinement to Weber that I expect can also be useful for others applying his theory. Contrary to Weber's view, after the routinization of personal into office charisma, a personal charisma still co-exists with it. We can see this in the case of the Imams. All the Imams, even those who were personally not very remarkable, derived charisma from holding the office of the Imamate; but some had an additional charisma due to exceptional characteristics recognized or constructed by the community in their time – for instance, 'Alī ibn Abī Ṭālib due to his active leadership and struggle for justice and the sixth Imam Ja'far al-Ṣādiq due to his exceptional legal and mystical knowledge. In the case of the jurists, office and personal charisma also co-exist. The office of the jurist, though it is acquired and not inherited as

it is for the Imams, is still an office, and it is the basis of charisma. Without it, no charisma can be derived from Deputyship. The office is, however, rather limited. This explains why most jurists do not seem charismatic. They acquire the basic qualifications for the office and are acknowledged just for those. The potential for charisma remains dormant. Some, however, go beyond that to be hailed by their followers for exceptional personal qualities and actions that heighten and even re-define the office. These are the charismatic jurists we see in Shiite history, from Mufīd to Khomeini.

Exceptionality can consist of different things, depending on the personality and on the context, i.e., historical situation and resulting response of the community. We saw that Mufīd's exceptionality consisted in his scholarly achievement, which caused him to be hailed by the community while the tradition was still under construction shortly after the Occultation. Karakī's charisma in the context of the Safavid era derived from his association with the ruling power, the championing of Shiism against the Sunnite Ottoman Empire, and the mobilization of the population. I have suggested that politicality has been particularly effective in gathering charisma in Shiism due to the political deprivation suffered by Shiites throughout most of history. Political power is effective in creating charisma in Shiism also because it recalls the Imams' political leadership, for they are the ultimate and only legitimate political authorities, even though they were themselves mostly without political power. Khomeini is an obvious example of political charisma.

The processes of charisma take place in Shiism in special circumstances. The charisma of the Twelfth Imam was routinized neither in his lifetime nor after the Occultation, since he is still present as a living human somewhere on the earth. Authority in Shiism is therefore theologically structured into prophethood and Imamate, with the chain of Imamate holding the leadership to the end of time. This restrictive context of juristic authority is expressed in the idea and doctrine of Deputyship (sometimes called *niyābah*) of the Imam, promoted by the Uṣūlī School in response to the problem of leadership during the absence of the Hidden Imam. Deputyship is the source of authority for the Shiite leaders, the jurists, in the absence of the Imam, so that it is vital to take it into account in any study relating to them.

Juristic charisma in Shiism has the potential to be redefined and reproduced, with new interpretations in response to new places and times. Charisma should be understood to be dynamic. Not only personal charisma, but also elements of the office itself may change. My

study has shown that Deputyship has continued to be redefined in different contexts from its emergence in the tenth century to now.

The striking fact, nevertheless, is that the jurists stay within the frame of Deputyship. This includes Khomeini who, despite his innovations and political personality, works with and expresses himself through the traditional theological and juristic categories, as seen in Chapter Four. (Previous scholars have not appreciated Khomeini's use of the tradition because they have not fully taken account of his juristic writings, despite the fact that he works as a jurist and jurisprudence defines the 'ulamā' and their way of acting.) From the first moment, Shiite jurisprudence demonstrates the efforts the jurists made to comprehend and explain the political marginality of the Shiites, and to resolve it. Despite the concern with governance, however, they are very conscious that their authority is subordinate to that of the Imam. Scholars have failed to recognize this not only in the case of Karakī (mistaking the authority he held as a functionary under the Safavids for actual religious authority), but also, I would say Khomeini. Khomeini also tries to solve the Shiite problem with governance, expanding Deputyship by basing it on an Islamic state, but all he finally really claims for the jurist is his traditional prerogative of interpreting and promoting Islamic law.

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