Political Thought in Contemporary Shi'a Islam

Muhammad Mahdi Shams al-Din

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To my father, Wajih Kawtharani,
And to my mother, Mona Fayad
With much love and in gratitude

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Transliteration Note

The system adopted for rendering Arabic names and terms in Latin characters is the one used by the IJMES transliteration guide. All proper names have been transliterated using this system with the exception of common names that appear in media outlets such as Fadlallah, Khomeini, and al-Sadr family. The name of the subject of the book, *Muhammad Mahdi Shams al-Din*, was not transliterated using diacritics. Common Arabic terms such as Shi'i, Islami, Imam, and Hezbollah were also not transliterated. The word Shi'a was used to denote the groups of individuals who identify as Shi'i Muslims. The word Shi'i was used as an adjective. The most common abbreviation used in this manuscript is ISSC, which stands for the Islamic Shi'i Supreme Council.

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Introduction

The main focus of this study is the intellectual work and political career of Shaykh Muhammad Mahdi Shams al-Din (d. 2001), a distinguished Shi'i religious figure of the twentieth century, and one of the most prominent and influential modern Shi'i intellectual figures in Lebanese history. The significance of his work lies in his linking together of several key Islamic themes relevant to the current Islamic and sectarian state of affairs in Middle Eastern countries. Shams al-Din examined various theories of Islamic government and the role of Islam in multi-confessional societies. His writings and political career centered on forging a civil role for Islam in the public space of modern states, establishing equitable citizenship and political reform in sectarian-based systems of government like Lebanon's, the safeguarding of Shi'i minorities in multi-confessional societies, and the protection of Islam from two threats, first that of Communism and second that of radical and militant Islamist movements.

The book analyzes the political thought of Shams al-Din mainly surrounding the issue of government and governmental authority. In particular, it examines his reformist approach in conceptualizing and reformulating the notion of government in two contexts: first within the Islamic tradition and second within a multi-confessional nation-state in a way that also accommodates the needs of an Islamic society. A fundamental preoccupation in Shams al-Din's thought, in the later stage of his career, was to find ways for Islam to coexist and thrive within multi-confessional nation-states. Because of his experiences in Lebanon and Iraq, he was preoccupied in his consideration of legitimate government—and

Islam's role in it—with trying to theorize a system of government that would be suitable for modern Muslim-majority societies living under the secular jurisdiction of contemporary nation-states, paying particular attention to Shi'i populations living as minorities or within a multi-confessional society. His intellectual concerns intersected with his political career, which culminated in holding a high official religious position as head of Lebanon's Islamic Shi'i Supreme Council (ISSC), and thus brought him in contact and in collaboration with state officials, policy-making, and legislation. In that sense, his thought was a by-product of intellectual engagement steeped in the realities and constraints of political responsibility.

Shams al-Din's innovative work involved a legal critique of Ayatollah Ruhollah Khomeini's political theory of *wilāyat al-faqīh* (the Guardianship of the Jurist), which vests absolute governmental powers in the Guardian-Jurist. In connection with this critique, Shams al-Din developed his own theory of *wilāyat al-umma 'ala nafsiha* (the umma's sovereignty upon itself), which advocates for the establishment of an Islamic government, delegating limited authority to religious jurists (*fuqahā'*) and investing most powers in the hands of the *umma* (Muslim community) collectively. This was his response to the widespread repercussions of Khomeini's thesis, politically on Shi'a living outside Iran and theologically on Shi'i *'ulama* whose authority was undermined by the Iran's Islamic Revolution and by the absolute powers that Khomeini's theory vested in the Guardian-Jurist. Shams al-Din's theory of *wilāyat al-umma* was his own elaboration on the theme of Islamic government as a concept, which he developed and debated during the 1960s and 1970s within the Shi'i scholarly and political circles of Iraq and Iran. However, his later scholarship was to develop around the prospects of political integration for Shi'i minority populations living in either multi-confessional societies or Sunni-dominated ones. These intellectual concerns led him to examine the concept of civil government (*al-dawla al-madaniyya*), which prepared the groundwork for a potentially viable form of government—accepted by Islamic tenets—for multi-confessional societies. He saw this as specifically important for Lebanon, which was witnessing the rise of Shi'i political Islam and the political empowerment of the Shi'a in which the Islamic Republic of Iran played a pivotal role.

His theoretical engagements with the concept of government were conjoined with intellectual attempts to secure a public voice for civil

Islam and the reinforcement of religion in society in order to protect it from two perceived threats: first, during the 1970s, from leftist secularizing forces that aimed to restrict religion to very limited private spaces such as family law, and second, from Islamism, which in its quest for power, undermined the traditional role of clerics or religious scholars (*'ulama*). For that purpose, he was vested in the protection of the Shi'i juristic tradition and its plurality; he wanted to ensure that the '*ulama* had a protected function within the public sphere and in collaboration with the nation-state.

The book situates Shams al-Din's intellectual legacy in three contexts that have impacted and shaped the evolution of Shi'i political thought in regard to government: The first being the transnational context of Shi'i religious relations across Iraq, Iran, and Lebanon; the second is the national context of Lebanon's nation-building processes, sectarian politics, inter-confessional relations, and civil war (1975–1990); and the third is the context in which the political mobilization of Lebanese Shi'a took place and gave rise to Hezbollah since 1984.

By locating the intellectual history of Shams al-Din as a prominent theorist in the religious and political movements of Shi'i communities, both nationally in Lebanon and transnationally in Iraq and Iran, the book weaves together several themes. It first addresses Islamic reformist thought in regard to government and then links it nationally to inter-confessional relations within sectarian systems, specifically that of Lebanon, before finally linking it transnationally to critiques of Khomeini's theory upon which the Islamic Republic of Iran is founded. It also contextualizes Shi'i Islamic political thought within the broader political mobilization and sociopolitical transformations of the Shi'a throughout the Middle East, who moved from favoring the leftist and Communist movements of the 1970s to Islamist movements in the 1980s due mainly to the influence of the Najaf seminaries in Iraq and the Islamic Revolution in Iran.

I show the interconnectedness of these historical and political contexts and their impact on the development of reformist trends in the twentieth-century Shi'i Islamic thought, demonstrating the ways in which these trends respond, adapt, and are shaped by the political constraints raised by the jurisdictions and policies of nation-states, be they Islamic or secular. The book also shows that the development of a militant and revolutionary version of Shi'ism under Khomeini did not totally obfuscate the earlier civil form of Shi'ism that was open to parliamentary and

constitutional forms of government, and which originally developed in Iran at the dawn of the twentieth century. This civil form of politically engaged Shi'ism was first elaborated in the activism and work of two of the most illustrious and influential Shi'i Iranian scholars and religious leaders of Najaf's religious seminaries: Akhūnd Muḥammad Kāẓim Khurasānī (d. 1911) and Ayatollah Muḥammad Ḥussein Nā'īnī (d. 1936). These scholars supported the Constitutional Revolution of Iran in 1906 and wrote about a constitutional and parliamentary form of government in the absence of the Twelfth Imam, that is the absence of a legitimate government from the standpoint of Shi'i Islam. In the Arab realm of Shi'ism, this tradition has survived and flourished significantly in the work of Muhammad Mahdi Shams al-Din.

Shams al-Din, as a twentieth-century Lebanese Islamic jurist and scholar, is significant because of his double role, first as a prominent Shi'i scholar whose work resonated within Shi'i intellectual religious circles across the Arab world and Iran and second as a significant religious leader who headed an official religious institution in Lebanon. He occupied the dual positions of a high-ranking jurist trained in the seminaries of Najaf, Iraq, with the most renowned Shi'i *marāji'* (singular: *marja'*—highest source of religious emulation) of his times—both Sayyid Muhsin al-Hakim (d. 1970) and Sayyid Abu'l Qasim al-Khu'i (d. 1992)—and of a prominent religious and political figure as a participant in an official religious office affiliated and regulated by the Lebanese state, the Islamic Shi'i Supreme Council in Lebanon (ISSC). Founded in 1969 by Sayyid Musa al-Sadr, who appointed Shams al-Din as vice-president, this was the first official institution to give a religious-legal organization for the Shi'i confessional community in Lebanon. Shams al-Din presided over the ISSC from 1994 to 2001. However, he actually became fully in charge of the ISSC as early as 1978, the year in which al-Sadr was abducted in Libya. His mandate over the ISSC coincided with the most critical time in the political history of Lebanon, a time when the Lebanese Shi'i community was undergoing major political and social transformations in the midst of an intractable civil war.

Shams al-Din's rich and versatile legacy consists of a wide collection of books, legal treatise, journal articles, manifestos, lectures, and interviews. His legacy as well as his political career at a very critical time in the history of Lebanon made him one of the most distinguished Shi'i scholars of his time, according to several academics and Muslim scholars. The Iranian reformist jurist and scholar Mohsen Kadivar considers

Shams al-Din to be one of the most innovative Shiʿi *ʿulama* in the twentieth century.[1] Chibli Mallat sees him as a major figure of the Lebanese Shiʿi distinguished intellectual and literary heritage.[2] Augustus Richard Norton describes him as an intellectually gifted *ʿalim* who gave the ISSC a leadership independent from both Hezbollah and the *Amal* Movement until his death, after which it succumbed to the hegemony of these two parties.[3] Jamal al-Banna, a reformist Sunni Islamic thinker, views Shams al-Din as one of the most serious and reform-oriented intellectual figures of twentieth-century Islam.[4]

The study shows how Shams al-Din's thought on government was formed and shaped as part of a complex process within the multilayered political context of Lebanon, its civil war, and the changing sectarian system that underwent major revisions under the Ṭāʾif Agreement that ended the Lebanese civil war in 1989. This political context was complicated further by Israeli attacks against South Lebanon during the 1970s and 1980s, and the enormous repercussions of the Islamic Revolution of Iran on Shiʿi populations in the Arab world. The interplay of these influential political events and dynamics contributed significantly to the formulation of modern Shiʿi thought in Lebanon and across the Arab and Persian Shiʿi worlds. Analyzing the evolution of Shams al-Din's thought sheds light more broadly on the evolution of Shiʿi political thought in the second half of the twentieth century.

The book pays particular attention to how this complex political context first shaped Shams al-Din's thought over four decades—from his time as a seminary student in Iraq to his migration and settlement in Lebanon—and second influenced his ensuing political career, initially alongside Musa al-Sadr and then on his own at the head of the ISSC. This journey led him to revisit and revise his original treatise on Islamic government, adapting it to the specific political developments and the social transformations of the Lebanese Shiʿa. The work of Chibli Mallat, published in 1988, shows that Shams al-Din during the 1980s was still undecided between nationalist allegiance to Lebanon and Islamic-regional allegiances in the wake of the Israeli invasion of South Lebanon and the rise of Shiʿi military resistance against it. This position was to evolve at the beginning of 1990s.[5] It would be totally revised in the wake of the Ṭāʾif Agreement of 1989, which reshuffled the power distribution in Lebanon and inaugurated a new political era.

I argue that Shams al-Din, belonging to a reformist Shiʿi school of thought, deployed resourcefulness and pragmatism in his understanding

and interpretation of Shiʻi *Imāmī* traditions which enabled him to have great leeway in formulating Shiʻi Islamic law in many areas, but specifically in regard to public law as it relates to governmental authority. Part of doing so was to resort to fundamental arguments in classical Shiʻi law formulated during the Islamic classical era that witnessed the lifetimes of the Twelve Imams. This required going back to the legal corpus of Imam Jaʻfar al-Ṣādiq, the sixth Imam and the founder of the Shiʻi school of law, in order to locate arguments about the legality and permissibility of cooperating with unjust rulers, which could be translated in modern times to the legitimacy of holding office and working within the bureaucracies of modern nation-states during the time when the Twelfth Imam is in Occultation. As it is known in the Shiʻi doctrine, any government that is not the government of the Twelfth Imam is inherently illegitimate. However, mechanisms of coexisting and cooperating with such a government were devised during the classical period due to the pragmatic needs of the Shiʻa. Most importantly, we see this with the legacy of the Shiʻi Imams, especially Imams Jaʻfar al-Ṣādiq and Mūsa al-Kāẓim, whose accommodating approaches to temporal governments are well delineated in the work of Hossein Modarressi.[6] Shams al-Din used his knowledge of the traditions of the Imamate doctrine in order to formulate Islamic legal arguments that validated his conceptions of a government that is compatible with the exigencies and constraints of the modern nation-state in a way that does not contradict Islamic precepts.

This is a study of the transformations of Shams al-din's thinking where he innovatively examined various forms of government both within the Islamic tradition as well as, but more interestingly, outside of the Islamic tradition during the post-Ṭāʾif Agreement period beginning in 1990 while still using Islamic legal arguments to reach his conclusions. This process started with an exploration of various theses of Islamic government including a thorough and comprehensive legal and political critique of Khomeini's *wilāyat al-faqīh* followed by a formulation of a counter-thesis that Shams al-Din named *wilāyat al-umma ʻala nafsiha*, utilizing and engaging the same arguments deployed by Khomeini within the *uṣūlī* Shiʻi tradition but reaching radically different conclusions. His intellectual endeavors were inscribed within a reformist project that was began at the end of the nineteenth century by Shiʻi jurists in Iran and Iraq. This Shiʻi juristic project aimed to protect Islam from the encroachments of modern political institutions and secular laws

by either conceiving of forms of governments that would protect it or, at best, would not threaten Islam's space in the public sphere.

A main argument of the book is that Shams al-Din put forward the most comprehensive critique of Khomeini's thesis, *wilāyat al-faqīh*, in the Arabic language, a critique that emanated from deep concerns he had about the potential threats that Khomeini's thought and the Iranian state apparatus that developed around it could have on the Shiʿa in general and Shiʿi jurists in particular. This critique was to develop, in time, toward the exploration of non-Islamic governmental models in which Islam could still thrive and be protected. In order to explain and contextualize this intellectual development, the book explores and analyzes how Shams al-Din's position as a religious authority outside the realm of Iran could be threatened by the ground-shaking impact of Iran's Islamic Revolution and its ripple effect on all Shiʿi religious authorities, both inside and outside Iran, as was the case with independent jurists, such as Grand Ayatollah Muhammad Kazim Shariʿatmadari, who came to oppose *wilāyat al-faqīh* and its subsequent reformulation increasing its powers, *wilāyat al-faqīh al-muṭlaqa* (the absolute Guardianship of the Jurist). This Opposition resulted in the imprisonment or self-imposed banishment of several Iranian jurists and Islamic intellectuals. In addition, this perceived threat posed by Khomeini's theory was joined with the threat, in Shams al-Din's eyes, of the rise of militant Islamist forces, namely Hezbollah, that competed with him and eventually won the allegiance and loyalty of most Lebanese Shiʿi youth. Moreover, Hezbollah started to compete with him over the leadership of the ISSC.

The book analyzes the impact of these events on the transnational and local Shiʿi scenes that led to the formulation of the most comprehensive critique of *wilāyat al-faqīh*, both through legal as well as political arguments. It also analyzes the Islamist scene in Lebanon, its transnational alliances as well as its militancy and how these were couched in an idealized rhetoric and were able to secure massive appeal among the youth, forming a new and successful challenge to the authority of the traditional jurist. In response, Shams al-Din, as just such a jurist, had to respond innovatively and resourcefully, interpreting the Shiʿi Islamic traditions and putting them to use in the modern context in order to devise arguments aimed at protecting the tradition he represented.

The book also focuses on the period of the 1990s, the time frame that marked the fundamental shift in his thought when he made a significant intellectual compromise in favor of a non-Islamic governmental

authority. The dominant theme in his writings during the 1990s is the discussion of a government that is not Islamic in nature but is still respectful of a religious civil society, which he designated as *al-dawla al-madaniyya* (civil government). The legal distinction he made between *fiqh ʿamm* and *fiqh khāṣṣ*,[7] on the one hand, and his emphasis on the relevance of the *umma*, and civil "*ahlī*" (communitarian) society as a frame for the *shariʿa*, on the other hand, made it possible for him to defend "*al-dawla al-madaniyya*," which, he argued, allowed religion to flourish without the need for religious jurists to have governmental powers to implement religious ordinances and laws. It is important to note that it was around this time that the majority of Lebanese Shiʿi youth became alienated from his political vision, which seemed cut off from their worldly concerns, especially in South Lebanon where many of them were actively engaged in armed resistance to Israeli occupation, leading many youth to increasingly see the resistance movement of Hezbollah as the best representative of their needs.

The book explains the reasons for this change in Shams al-Din's thought from Islamic government to *al-dawla al-madaniyya*, or 'civil government' and it discusses how the evolution of his thought was shaped and impacted to a considerable extent by the specific political context of the Lebanese state, the outcome of the civil war, and the country's sectarian system that required citizens to work around its restrictions, regulations, and biases. Another important factor that impacted his thought was the Islamic Revolution of Iran and its influence outside that country as well as the rise of new challenges posed by Islamist actors like *Amal* Movement and Hezbollah in Lebanon. In order to meet these new and modern challenges, he worked around the classical Imamate legacy of Twelver Shiʿism to devise appropriate legal arguments defending the traditional role and authority of the *ʿulama* as religious guardians of society. His legal discussions underline the flexibility of Shiʿi Islamic law and also testify to the malleability of Shiʿism over time. It also shows how Shiʿi law has often showed malleability and the ability to adapt to rising political conditions and constraints and has been able to find middle ground between the theoretical rejection of temporal governments and ways to cooperate with and lend them de facto legitimacy in the interest of the Shiʿi community. His work also underlines the significant influence that can be wielded by *ʿulama*, as opposed to lay Islamists, thanks to their superior knowledge of Islamic law and the scripturalist tradition, which allows them to put forward theories of

government that engage with current political developments and respond to the exigencies and constraints of nation-states and local politics.

Main Themes of the Book

The core of the book consists of three interrelated main themes that constitute the major threads of Shams al-Din's intellectual legacy. The first theme is Islamic government and his critique of *wilāyat al-faqīh*; the second theme is civil government (*al-dawla al-madaniyya*) and the role of Islam within this state framework; and the third theme is the political integration of the Shi'a in their respective countries and nation-state contexts.

Theme 1: Islamic Government and Critique
of *Wilāyat al-Faqīh*

The book traces the debates surrounding the conceptualization of an Islamic government in the thought of Shi'i religious scholars in the Iraqi shrine and seminary city of Najaf during the mid-twentieth century that took shape during the 1950s and onward and were later transferred to Lebanon in the 1970s as the result of the migration of many Islamists to that country and the opening of a branch of *Ḥizb al-Da'wā*, which was founded in Iraq, in Lebanon. Shams al-Din's early scholarship during the late 1950s in Najaf focused on developing a concept of what an ideal form of government in Islam would be in the context of contemporary Muslim-majority counties. His work over the subsequent decades contributed to the ongoing debate on Islamic government, what it means, and the repercussions it has on Muslim citizens, especially in the wake of the establishment of the Islamic regime in Iran in 1979, which was based on the political thesis of Imam Ruhollah Khomeini, *wilāyat al-faqīh*.

The main concern that led Shams al-Din to a critique of Imam Khomeini's *wilāyat al-faqīh* was the former's preoccupation with the delineation and restriction of the powers of governmental authorities as well as the prevention of tyranny and abuse of powers. He engaged in a thorough legal and political critique of *wilāyat al-faqīh*, questioning the legal foundations that, according to Khomeini, necessitate the establishment of such an Islamic state. In that regard, he discussed other concepts of what would be a legitimate state model that would allocate less absolute power into the hands of religious figures and, instead, involve

a larger group of religious scholars and lay experts. In this respect, he developed his thesis, *wilāyat al-umma*, which places legislative powers in the hands of representatives of the *umma* rather than giving absolute power to the Guardian-Jurist. His critique of *wilāyat al-faqīh* was inspired by the legal work of nineteenth-century constitutionalist Iranian religious scholars who defended the Iranian constitution at the beginning of the twentieth century. Foremost among this group was Akhūnd Khurasānī (d. 1911), one of the highest *marāji' al-taqlīd* (singular: *marja' al-taqlīd*) of his time, who was a powerful supporter of the Iranian constitution of 1906 and the establishment of a parliamentary government in the country. Another important figure was Ayatollah Muḥammad Ḥussein Nā'īnī (d. 1936), a constitutionalist leader and the author of the famous treatise *Tanbīh al-Umma wa Tanzīh al-Mullah*, in which he earnestly argued for the legitimacy of a constitutional government in the absence of the Twelfth Imam. Their works were very influential in forming the intellectual grounds for Shams al-Din, enabling him to argue for the legitimacy of a non-theocratic state, one which is led by a government that accommodates Western political institutions such as a constitution and a parliament, and yet is not antithetical to the moral and ethical interests of the *shari'a* and Islam more broadly.

Shams al-Din's critique was also rooted in the political transformations besetting Lebanon and the exigencies of working in a multi-confessional environment. He was deeply concerned about the political repercussions that a government based on the thesis of *wilāyat al-faqīh* would have, first on Shi'i citizens living outside Iran in Arab states, and second on Shi'i jurists whose authority would be marginalized under the absolute religious and political powers of the Guardian-Jurist in Iran, whose authority, Khomeini and his successors claimed, extended across the Shi'i Islamic world.

Theme 2: *Al-dawla al-madaniyya* and Pluralism in Society

Due to the complexity of political and intellectual considerations and specific political developments in the Lebanese context that the book explores, Shams al-Din eventually took an audacious intellectual leap and distanced himself from his previous engagement with and endorsement of the concept of an Islamic government. He engaged with forms of what he called *al-dawla al-madaniyya* or 'civil government' in which he debated the role of religion in politics and in the public sphere.

The pressures from the specific historical developments and context in Lebanon significantly impacted the development of his thought and led him toward the much more reformed vision of government for multi-religious communities in a fragmented political society and precarious political system, that of *wilāyat al-umma*. These pressures emanated from a few main factors. First, there was the Lebanese sectarian system that, before the civil war began in 1975, privileged Christians over Muslims. Incapable of withstanding multiple challenges, this sectarian system gave way to the fifteen-year civil war of 1975. Second, there was the Israeli invasion of Lebanon in 1978, and then on a greater scale the second Israeli invasion in 1982 that raised the constant fears that Israel would annex the territories of South Lebanon, which it occupied until 2000. Third, there was the rise of Islamism in the form of Hezbollah that challenged Shams al-Din and other traditional *ʿulama* over the leadership of the Shiʿi community and that of the ISSC. The fourth factor came with the Ṭāʾif Agreement, which ended the civil war in 1989 and reshuffled the distribution of power among the Lebanese confessional groups, introducing more equality among Muslims and Christians. The civil war and the agreement ending it revealed the fragility of communitarian peace and the precariousness of Lebanon's political system. All these factors conjoined to make Shams al-Din explore notions of civil government and its relation to religion in public space.

The main characteristic of Shams al-Din's conception of civil government, *al-dawla al-madaniyya*, was the "exclusion of religion" from the realm of government. He argued that a government without a religious identity does not mean its citizens will be without religion. Religion, he stated, resides in the "*umma*" (the Muslim community) and it is the *umma* that protects and preserves religion, not the state. The state exists to protect the choices of people. It must then ensure an environment of religious freedom and must refrain from encroaching on religious institutions or trying to control them.

In order to validate and legally justify his later focus on the notion of civil government, he argued that government as a concept was not central to the *shariʿa*. It is also not antithetical to the *shariʿa* to accept and abide by the secular laws of modern civil governments. In fact, what was mandatory in *shariʿa*, he argued, is to observe the execution of governmental functions and not to neglect them under any circumstances. The *shariʿa* requirements mandate the preservation of Muslim lives, the unity of the Islamic *umma*, the defense of its political society, and finally the

preservation of the social order at any cost. That said, it is not mandatory to implement these functions within the framework of an Islamic state; any government that upholds these principles is legitimate.

Furthermore, Shams al-Din argued that the question of government does not constitute an independent topic in the *shari'a* and that no branch of Islamic law is specialized in legislation on government. Rules and injunctions on this topic are embedded in different parts of the *shari'a* to the extent that they permeate all of its rules and principles. This point does not contradict his earlier statement that the *shari'a* ordained the observation of certain administrative and governmental functions without the necessity of instituting an Islamic government. Actually, it corroborates his argument that an Islamic government is not central to the observation of Islamic law and that the *shari'a* can fully be observed and implemented without the establishment of an Islamic government. Any government that meets the requirements of justice is acceptable, in the sense that Muslims are allowed to cooperate with it and exercise the obligations and rights of full citizenship.

The state in his conceptualization is not a project pursued by Islamic law but a profane temporal project that occupies a marginal place as an institution in Islam. The *umma* (Muslim community) is on the other hand a sacredly held core institution in Islamic law. The Muslim *umma* resides, flourishes, and expresses itself in civil society and the community, and not in state institutions. Therefore, the *umma* could thrive within the context of a non-Islamic civil government. Furthermore, the *umma* requires the establishment of governmental institutions to protect and supervise its public and political affairs. The state as the governmental authority and its institutions are essential only to the extent that they fulfill administrative functions for the *umma*. Moreover, Islamic law does not contain any explicit text on the question of government, which is not treated independently in a separate legal section.

In his reading of the *shari'a*, Shams al-Din could not locate explicit injunctions for government to be Islamic in nature. Rather, he indicated that the provisions of the *shari'a* require the mandatory implementation of certain governmental and administrative functions, such as the establishment of a judicial authority and its smooth operation, the implementation of *ḥudūd* (setting penalties for the transgression of certain penal laws), the collection of taxes and the just dispensation of public funds, among others. All of the above functions of the *shari'a* are natural institutions of any government and are an integral part of the management of

public life and political society. The administrative functions commanded by the *shariʿa*, therefore, are integral functions of any government and are not particularly related specifically to an Islamic government. The conclusion to be drawn from these two positions is that it is mandatory, according to the *shariʿa*, to ensure the proper functions of government and not to neglect these functions under any circumstances. However, it is not mandatory to form an Islamic state to implement these functions. Any state with an efficient institutional apparatus can fulfill the necessary governmental functions.

The discussion of civil government came in association with Shams al-Din's concern for a public role for Islam. Therefore, he stressed the compatibility between civil government and Islam. He argued that such an arrangement rested on the division of Islamic law into two component parts: *fiqh ʿāmm*, or public law, and *fiqh al-afrād*, which is the legal corpus that addresses individual acts of worship and piety. *Fiqh al-afrād*, as acts of worship, can permeate the civil realm of society independently of governmental intervention and the rules of public administration. Simultaneously, a secular state can uphold or include a great deal of societal piety and religiousness. *Fiqh ʿāmm* on the other hand is the branch of *fiqh* related to government and its functions and it addresses the sources of legitimacy for governmental authority and its administration in the areas of defense, economy, social welfare, and foreign affairs. *Fiqh al-afrād* takes primacy over *fiqh ʿāmm* because it carries in essence the spirit of the *shariʿa*, and was developed in Madina by the Prophet Muhammad. Indeed, when the Prophet Muhammad was ruling Madina, he did not specify the contours, functions, and institutions of government. The succeeding temporal Islamic dynasties implemented *fiqh ʿāmm* in the form of rules that organized the judiciary, the army, and taxation, but *fiqh al-afrād* was not observed by these dynasties. It was the *umma* autonomously and outside the realm of these governments that carried out and observed the important requirements of *fiqh al-afrād*. *Fiqh ʿāmm* is thus subordinate in relation to *fiqh al-afrād* because it is historically specific and it lacks in details, having been formulated in a context quite different from the contemporary one. Moreover, it suffers from many lacunas in terms of the structure of government, posing a major challenge to anyone relying on it to found a current, modern Islamic state. Throughout pre-modern Islamic history, it was the *umma* autonomously and outside the realm of these governments that carried out and observed these important requirements of *fiqh al-afrād*. Shams al-Din believed that as

long as *fiqh al-afrād* is completely observed and upheld by the *umma*, the major requirements of the *shari‘a* have been observed. *Fiqh al-afrād* allowed him to pragmatically accept the secular nation-state and adopt a cooperative approach toward it, despite the theoretical reservations he had about the sectarian system of the Lebanese state. Therefore, Shams al-Din concluded that even though Islam theoretically possesses the concepts adequate to found a government, it could always forego this project and still thrive and flourish as a religion in a secular context.

He saw the model of *al-dawla al-madaniyya* as the most suitable form of governance for modern societies, especially those of the religiously heterogeneous type, such as in his native country, Lebanon. Such a position had one caveat: Theoretical defense of civil government that does not have a religious identity and gives power and role to non-Muslims in a multi-confessional society would certainly stand at odds with Islamists seeking to establish an Islamic government. The book will explore the ideological and pragmatic differences between Shams al-Din and figures from the Islamist scene, such as Sayyid Muhammad Hussein Fadlallah and Hezbollah, in regard to government in Lebanon. It will explore the historical and political factors that convinced Shams al-Din that the Islamist model would not work for Lebanon.

THEME 3: NATIONAL INTEGRATION OF THE SHI‘A WITHIN THEIR STATES

Ultimately, Shams al-Din saw the state as a subsidiary institution of the *umma* for which it fulfills executive functions but did not see it as a sacred Islamic institution for which there is specific legislation or a requisite model. This specific understanding of the state enabled him to use and transfer to modern times an approach, drawn from the multiple positions within Shi‘i legal doctrine, that sanctioned the permissibility of cooperation with temporal governments and the recognition of their legitimacy. His conclusion was that the historical quietism characterizing the Imamate tradition could be adapted to modern times. Therefore, if the Shi‘i Imams cooperated with governments that were illegitimate from their Shi‘i legal perspective, i.e., unjust rulers, modern Shi‘a could readapt this position to modern times and recognize the legitimacy of modern secular governments. This meant cooperating with them and holding office therein. In certain cases, such cooperation could be even commendable. This of course opened the doors for Shams al-Din

to discuss modern citizenship and specifically the future prospects of the political integration of Shi'i citizens in their respective countries, especially where they represent a significant part of the population as in Lebanon.

In that respect, Shams al-Din defended the principle of national integration (*indimāj*) of Shi'i minority populations into their respective nation-states. In his last and posthumously published book *Waṣāya* (Testaments), he put forth a set of recommendations in which he urged Arab Shi'a and particularly Lebanese Shi'a to achieve integration in the societies in which they live. In this book, he incited Lebanese and Arab Shi'a to profess loyalty to their respective states even where there is mild, tolerable discrimination against them. These recommendations, he argued, were in line with the traditional legacy of the Twelve Shi'i Imams, which permitted cooperation with unjust rulers and governments in pre-modern times and hence could be stretched to modern times and interpreted to allow for national and political integration in the modern nation-state system. These recommendations also, he underlined, protected Shi'i citizens from militant radicalization, ensured their safety, and shielded them from retaliation by the dominant Sunni population or by their respective governments.

The book discusses why would a Shi'i jurist, coming from the independent Shi'i tradition that has been characterized historically by its apprehension toward temporal governments, make such a compromising and pragmatic decision to accommodate secular nation-states. Hence, the book first investigates why Shams al-Din voiced concerns about the safety of Shi'i populations in multi-confessional or Sunni-majority countries and what gave rise to these concerns. It then analyzes the tensions created by the Islamic Republic of Iran under the absolute powers of the Guardian-Jurist within the transnational Shi'i juristic body, and between the broader array of Shi'i jurists on the one hand and the Iranian Islamic leadership on the other. It examines how Shams al-Din interpreted the rise of militancy among Shi'i youth, and the formation of transnational alliances with the Iranian leadership; it also examines why Shams al-Din believed that this alliance between Islamist groups and the Iranian state would have negative repercussions on the citizenship prospects of Shi'i populations in their own countries and might also generate mistrust toward them from Arab governments and the larger non-Shi'i populations.

SHI'I INTELLECTUALS IN JABAL 'ĀMIL AND THE BEGINNINGS OF MODERN LEBANON

To understand the historical context of the work of Shams al-Din, it is useful to examine the history of the Shi'a in Lebanon at the moment of the breakup of the Ottoman Empire and the emergence and construction of the Lebanese nation at the beginning of the twentieth century. At the time when the Ottoman Empire launched its major administrative reforms, the *Tanẓīmāt*, in the second half of the nineteenth century in an attempt to allay the ethno-nationalist revolutions ripping apart the empire, the people of *Jabal 'Āmil*—later known as South Lebanon— found themselves thrust into a new and rapidly changing political order that pressed them to search for the identity of their community and territory and consider their future prospects. This was a time when ideas of nationalism, modernization, constitutionalism, and rights and citizenship occupied the thinking of the local intellectual elites of the Ottoman Arab provinces, prompting the local intellectual elite of *Jabal 'Āmil* to attempt to define the identity of their own community and its political future. Specifically, on the territory of what was soon to become modern Lebanon, every community looked into ways to forge its own nation: Sunnis wanted unity with other Arabs under a Hashemite Kingdom in Greater Syria and some Christians were thinking of a multi-confessional Syrian nation while others flirted with the idea of a Christian-dominated nation of Lebanon. Sabrina Mervin has shown that the *'Āmilīs*, unlike these other communities, did not formulate their political demands as clearly.[8] Waddah Sharara captured the conceptual duality of their position and the tensions that it aroused by elucidating the angst that gripped the soul of this community while it explored its communal identity and its ensuing loyalties. He pointed to Shi'i *'Āmilī* engagement with national political affairs beyond the borders of their local territory and noted how this was accompanied simultaneously by an uneasy awareness of the particularism of their local identity. Two solidarities *('āṣabiyya)* were elaborated by the *'Āmilīs*: one *'āṣabiyya* for the Ottoman Empire, and the second *'āṣabiyya* for *Jabal 'Āmil*.[9] In the first one, the *'Āmilīs* visualized themselves as members of an imagined Ottoman community or *umma*, brought together through loose religious-ethno-linguistic ties. For them, the Ottoman Empire and its *Tanẓīmāt* offered promises of modernization, progress, and the entry into a modern urban space and away from rural provincialism. Concomitantly, they were aware of

cultural particularism that distinguished them from the other communities surrounding *Jabal ʿĀmil* and created their particular identity. This *ʿĀmilī ʿaṣabiyya* consisted of an identity based on an imagined common ancestry and also on bonds of territoriality, locality, common history, and common religious identity, namely Shiʿism.[10] When Waddah Sharara captured the angst that beset the soul of the *ʿĀmilīs*, he was underlining the multiple loyalties that the *ʿĀmilīs* professed in their imagination of their place in the nation. Their quest was for a larger nation in which to inscribe themselves. At the same time, their awareness of the particularity of their religious identity, which set them apart from the other religious communities surrounding *Jabal ʿĀmil*, persisted and continued to shape their unique sense of identity.[11] This historical duality, inherent to their collective identity as Shiʿa of *Jabal ʿĀmil*, was to persist into later decades after they became citizens in the Lebanese Republic.

That said, it is interestingly noted by Sharara and Mervin that the particular Shiʿi identity of the *ʿĀmilīs* did not translate into identification with their co-religionists in Iran; they believed that they had overarching ties with the Ottomans rather than with the Iranian Qajar Empire on the eve of its declaration of its first constitution in 1906.[12] The young generation of Lebanese Shiʿi intellectuals looked at Iran through the lens of its national identity as Persian, hence weakening the ties with Iran that rested on the commonality of religion.[13] Engaged with the local and transnational bonds embedded in their multilayered identity, *ʿĀmilī* intellectuals took recourse to the local *al-ʿIrfān* journal, published by Shaykh Ahmad ʿArif al-Zayn, as a platform to channel their reformist ideas.[14] This journal became the intellectual platform for current debates and the chronicler of an intellectual era in the history of *Jabal ʿĀmil*.[15] A keen interest was shown by these intellectuals in the political and religious reform taking place in the larger Muslim world, especially in Najaf and all the way to Qajar Iran.[16] The essence of *ʿĀmilī* interest in Shiʿi affairs beyond their local borders, especially Iranian Shiʿi affairs, unfolded mainly in the search for political and religious reform in the form of constitutionalism and the struggle against tyranny. They showed particular interest in the works of Iranian scholars who supported a parliamentary and constitutional form of government that was not antithetical to Islam.[17] Iranian Shiʿi scholars explored and discussed these ideas in their treatises, defending constitutionalism against the authoritarianism of the Iranian Shah and the religious scholars who supported him. This paved the way for a distinctive intellectual trend within Shiʿism that

set it apart from the religious absolutist authoritarianism that ultimately found its pinnacle expression in Ayatollah Khomeini's *wilāyat al-faqīh*. This religious reform and support for constitutional governments resonated deeply within *ʿĀmilī* intellectual circles, with the *al-ʿIrfān* journal republishing in Arabic pro-constitutional works in Persian from Iran.[18] Wajih Kawtharani underlined the keen interest that the *ʿĀmilī* intellectuals took in religious and political reform, leading them to join voices with the constitutional movement of Iran and denounce the tyranny of the Shah. This intellectual current which took shape with the intellectuals, and particularly Sayyid Muhsin al-Amin at the beginning of the twentieth century, was to persist with the Shiʿi scholars of Lebanon through the work of Sayyid Musa al-Sadr, Shaykh Muhammad Jawad Mughniyya, and Shaykh Muhammad Mahdi Shams al-Din.[19]

The failure of the Ottoman Empire to survive and implement the reforms of the *Tanzīmāt* was disorienting to the *ʿĀmilīs*, who had to find an alternative medium for political action and modernization.[20] This they found in the rising sentiments of pan-Arabism spreading in the Arab provinces of the Ottoman Empire: While maintaining their ties to the Ottoman Empire, they opened up to the nascent pan-Arabism spreading throughout much of the Levant. The pan-Arab nationalist movement burgeoning in Greater Syria gained support from the intellectual elite of *Jabal ʿĀmil*, namely the intellectuals and writers Ahmad Rida, Sulayman Zahir, Ahmad Ali al-Zayn and Muhamad Jaber al-Safa.[21] These *ʿĀmilīs* were trying to make sense of the radical changes besetting their community and territory and they attempted to formulate an adequate discourse that corresponded to these changes taking place beyond their ability to control it.[22] The intellectual *ʿĀmilīs* did not see any conflict between these two loyalties, pan-Arabism and Ottomanism, and with their perception of their local identity as a historical cultural community on a specific territory.[23] With the dismantlement of the Ottoman Empire and the rise of the Hashemite King Faysal in Greater Syria, the intellectual elite of *Jabal ʿĀmil* saw in this new political order the framework within which *Jabal ʿĀmil* could be inserted. However, with the establishment of the French mandate over Lebanon and the declaration of *Grand Liban* in 1920, the people of *Jabal ʿĀmil* had to choose between two powers: the Arab nationalist government of Damascus and the French rule in Lebanon.

And while the *ʿĀmili* intellectuals were clear about their pan-Arabist loyalty and their choice to join Syria, the traditional authorities of the

community, such as the communal leader Kamil al-As'ad and the most prominent representative of the *'ulama*, Sayyid Abdul Hussein Sharaf al-Din, did not take too long to abandon their vacillations and hesitation and to make peace with French rule and the emerging Lebanese state.[24] Sayyid Sharaf al-Din opted for Lebanese nationalism through forging ties with the French authorities and the Christians of Lebanon. This meant that he was distancing the Shi'a from the Sunnis, with their pan-Arabist tendencies pulling toward unity with Syria; it also meant adhering to a new independent confessional group for the Shi'a inside the Lebanese order. The acceptance by the most prominent authorities of *Jabal 'Āmil* to join the new Lebanon marked the ability of *'Āmilīs* to adapt to new structures of power and to perceive the potential advantages, and possible benefits, that the new order could procure for them, even though they were not the instigators of the radical change redefining their territory and community.[25] This acceptance also meant that the Shi'i population of Lebanon was taking the first step in turning into a confessional community as part of the sectarian makeup of Lebanon.[26] This would be a long journey whose chapters are still unfolding in the twenty-first century. I argue in this book that Shams al-Din, through the progression of his intellectual journey and his political responsibilities as the head of the ISSC as the official representative of the Shi'i confessional group vis-à-vis the Lebanese state, built on this *'Āmilī* legacy. It is a legacy of Shi'i intellectuals who have vacillated in their political loyalties at the turn of the century and the birth of modern Lebanon, but who finally made their choice to integrate into the Lebanese state and to choose this country as their final homeland. It will become clearer in the next chapter that by making this nationalist choice, Shams al-Din distinguished his position from the other protagonists of the Islamic scene in Lebanon, which started taking shape in the 1970s and became mostly visible in the 1980s, during the intractable Lebanese civil war.

Biography of Muhammad Mahdi Shams al-Din

Muhammad Mahdi 'Abdul-Karim Shams al-Din was born in 1936 in the Iraqi city of Najaf where his father pursued Islamic studies in its seminaries. The family originated from a village called Qabrikha in *Jabal 'Āmil* or South Lebanon.[27] At a very early age, Muhammad Mahdi Shams al-Din was trained in the primary Islamic sciences, such as the Qur'an,

ḥadīth, and Arabic grammar.[28] Due to economic hardship, Shams al-Din's father decided to return to South Lebanon, leaving behind his son who was then twelve years old and who wished to continue his studies in Najaf. Shams al-Din described his perseverance and tenacity in pursuing his studies under harsh circumstances caused by poverty, cold, and sometimes hunger.[29] The only entertainment available in that period, as he noted, was leisurely reading of history books, novels, and newspapers, which was always done secretly away from the eyes of the senior *ʿulama*. Newspapers were deemed by the high religious authorities that supervised the affairs of the seminaries to be vehicles of nefarious modern ideas that hailed from the "decadent West," spreading apostasy (*ridda*) and unbelief (*kufr*) as well as religious and cultural alienation (*ḍalāl*).[30] A seminarian who wrote his memoire about the cultural life in the Najaf seminaries in the late 1950s and 1960s mentioned that even listening to the radio was strongly condemned by the high religious authorities.[31] The Najaf of the 1950s was resistant to Western modes of knowledge, the media, and political activism. Owning a radio in this milieu was considered a major blasphemy.[32] In a testimony by his roommate, Sayyid Muhammad ʿAli al-Amin, Shams al-Din was reported to be highly studious, diligent, and able to tolerate the extreme variations in Najaf's harsh weather.[33]

In summary, Shams al-Din spent the first thirty-three years of his life in Najaf without having once visited Lebanon.[34] He completed his studies under the tutelage of several prominent jurists in the seminaries and graduated under the supervision of the two eminent *marājiʿ*, Sayyid Muhsin al-Hakim and Sayyid Abu'l Qasim al-Khu'i, under whom he studied *fiqh* and *uṣūl al-fiqh*.[35] Between the years 1961 and 1969, he was appointed by al-Hakim and served as his legal representative (*wakīl*) in al-Diwaniyyia, a city in the center of the Furat Province.[36]

Shams al-Din belonged to a generation of young *ʿulama*, who were— at that critical moment of modern state-building replete with great legal, institutional, and ideological transformations—gripped with existential concerns about the role of Islam in the newly emerging polities, the relationship of religion and government, and the various threats faced by Islam from state secularization and secular grassroots movements. They viewed Islam as a public system that goes beyond legal orthopraxis, piety, and spiritual beliefs, and concerns itself with the affairs of government and the protection of the public interests of Muslims. The most noteworthy of his peers were Muhammad Baqir al-Sadr (d. 1980), Musa

al-Sadr (disappeared in 1978), Muhammad Baqir al-Hakim (d. 2003), Mahdi al-Hakim (d. 1988), and Muhammad Taqi al-Hakim (d. 2002).[37] Muhammad Baqir al-Sadr was the most noteworthy ideologue and supporter of the *Daʿwā* Party that was founded in 1957–1958. Imam Musa al-Sadr was to move to Lebanon in 1959 to become the most prominent Shiʿi leader, founding *Ḥarakat al-Maḥrūmīn* (the Movement of the Deprived), which later became the *Amal* Movement, and founding the ISSC in 1967.

Shams al-Din's first books underlined his preoccupation with the political affairs and social changes gripping Arab societies in the late fifties and early sixties. The two books he produced were *Niẓām al-Ḥukm fī al-Islām* and *Bayn al-Jāhiliyya wa al-Islām*, which were written in the context of anti-secular activism that characterized that generation of young and politicized *ʿulama*. His main goal was to refute the political theses of secular thinkers, especially the Communists. It is said that these books were highly regarded by prominent peers of Shams al-Din such as Muhammad Baqir al-Sadr and his brother Ismaʿil.[38] He was also critical of the Islamists who advocated political action through modern political parties[39] because such involvement sidelined the religious authority of senior jurists, who disapproved of party membership and activism. They were against the Western-type organizations like political parties and committees and despised the use of such parties as tools for political action.[40]

The Islamist movement in Iraq, in which Shams al-Din actively participated, took shape in 1958 as a reaction to the Iraqi *coup d'état* of the same year, which ushered in the regime of ʿAbdul-Karim Qasim (d. 1963). Qasim entertained sympathies toward the Communists and introduced reforms that were antagonistic to the interests of the religious elite, undermining many of their clerical prerogatives and economic interests.[41] For instance, family law reforms meant the secularization of laws and the retrenchment of *shariʿa*-based laws.[42] Moreover, agrarian reforms undermined the wealthy landlords, the majority of whom were Shiʿi, who were closely tied to the Shiʿi establishment of the *ḥawza*, and who constituted a major source of funding for the latter through the payment of *khums* and other taxes.[43] The high-ranking *ʿulama* and clerics of Najaf were gravely dismayed by the policies of this regime. In addition to these reforms, the spread of Marxism was also an essential source of concern for the "clerical" class. The proliferation of Communism among the youth of Najaf and other Iraqi cities was the major catalyst that mobilized the *ḥawza* authorities.[44]

In response to these significantly destabilizing changes for the Najaf religious institutions, the body of the senior and junior *'ulama* reacted in two different ways. The first reaction of the senior conservative *'ulama*, some of whom were considerably apolitical and opposed to the involvement of *'ulama* in politics, was to launch a philanthropic, pedagogical, and theological initiative that culminated in the foundation of the Society of the Najaf *'Ulama*, in which Shams al-Din was an active junior member.[45]

The second response initiated by the religious establishment of Najaf was to found a political organization that was to become the origins of the *Da'wā* Party, which took shape between 1957 and 1958.[46] It was founded by apprentice junior *'ulama* and Shi'i lay activists who were descendants of the mercantile families in Najaf. These junior clerics were more inclined toward modern modes of mobilization that considerably parted ways with the more conservative and traditionalist methods of the senior *'ulama*.[47] The *Da'wā* Party did not enjoy good relations with either the conservative senior *'ulama*, who had quietist inclinations, or with the traditionalist senior *'ulama* who were opposed to party politics, preferring to invest political power in a religious *marja'*.[48] The latter *'ulama* believed that party politics was in competition with them for the loyalty of the masses as well for ever-diminishing financial resources.[49] These two initiatives were parallel to each other, emanating from the same circumstances, and aimed at combating the expansion of Communism.[50] The "clerical" struggle against Communism reached its apogee when Muhsin al-Hakim issued a *fatwā* in 1960 proclaiming the blasphemy of the Communists and enjoining the death punishment for it.[51]

Amidst this political context, Shams al-Din saw his own activities and writings as part of what he called the "general Islamic Movement in Iraq" that grew in the aftermath of the 1958 revolution under the guidance of Muhsin al-Hakim.[52] He tried to distance himself from the trends of what he called "political parties" within the Islamic movement and defined his involvement with the general Islamic movement as a moral and intellectual support for the general resistance against the excesses of the incumbent regime.[53] It was later noted about him that he never joined any Islamic political party, preferring to support the goals of the general Islamic movement in both its resistance against the Qasim regime and the spread of secular ideologies,[54] and in its efforts to propagate Islamic knowledge against Marxism.[55]

There is no indication that Shams al-Din was involved with the *Daʿwā* Party; he had aligned himself with the *marjaʿiyya* in the confrontation with the political regime in Iraq and secular forces, and he joined the Society of *ʿUlama*, in which he fulfilled executive tasks as a junior member.[56] He, along with other members, was in charge of the Society's publication: *al-Aḍwāʾ al-Islāmiyya*, whose managing editor was the young Muhammad Baqir al-Sadr. Muhammad Husayn Fadlallah was also a participant.[57] This publication aimed at connecting the youth to their Islamic heritage by providing an Islamic perspective on current political and economic issues and by denouncing secular or atheist ideologies.[58] The *Aḍwāʾ* lasted for two or three years, but Baqir al-Sadr's duties were suspended after the fifth issue because, purportedly, some of his writings raised the disapproval of Muhsin al-Hakim.[59] He then was replaced by Muhammad Husayn Fadlallah.[60] Although publications were an unusual method for the *ʿulama*, it gave the junior activist *ʿulama* a platform, helping them to elaborate a coherent discourse and to better define their activist role.[61] By examining these publication records, Faleh Jabar concluded that Shams al-Din authored most of the editorials that had been attributed to Muhammad Baqir al-Sadr.[62] The themes that were most prevalent in this publication consisted of the defense of Islam as a comprehensive sociopolitical system, delineation of the threat of Communism, opposition to Western hegemony, and the loss of Palestine.[63] On the latter theme, indeed, Jabar pointed out the pro-Arabist inclinations that characterized the *ʿĀmilī* scholars of Najaf. For example, Shams al-Din along with Fadlallah expressed the strongest commitment to the question of Palestine.

During his residence in Najaf, Shams al-Din was actively involved in writing and publishing. He contributed along with Shaykh Muhammad Rida al-Muzaffar and Sayyid Muhammad Taqi al-Hakim to the publication of two magazines: *Muntadā al-Nashr* and *Majallat al-Aḍwāʾ*. The goal of these publications was educational, aimed at popularizing and promoting the modernization of the seminaries' curricula.[64] Jabar, however, pointed out that the goals of these publications expanded beyond literary and academic interests to include political topics.[65] Shams al-Din joined the association of *Muntadā al-Nashr*, which was headed by Shaykh Muhammad al-Muzaffar and Sayyid Muhammad Taqi al-Hakim.[66] The *Muntadā al-Nashr* founded the first college of jurisprudence, *Kulliyat al-Fiqh*, which Shams al-Din joined as a faculty member.[67] Among this young generation of trained *ʿulama*, there

was a dominant malaise about the inability of the Najaf seminaries and its authorities to absorb the major political changes sweeping society, to appeal to the concerns of young people by providing them with informed answers, and to connect the corpus of Islamic traditions and sciences to the contemporary concerns and issues arising from constant social change in society.[68] Shams al-Din was keen on educational and social modernization from the early years of his studies and activism in Najaf. For example, he suggested the replacement of the practice of *taṭbīr* (self-flagellation) during '*Ashura*' (commemoration of Imam Husayn's martyrdom) by the institution of a blood bank whose donations would be carried out in tribute to Imam Husayn for the benefit of medical patients.[69]

In the aftermath of the coup planned by groups of *Ba'thists* and pan-Arabists in February 1963, 'Abdul Salam 'Arif came to power, setting in motion major hostilities between the new government and various parties and Shi'i interest groups.[70] Soon, the Shi'a were underrepresented in the state apparatus while the Shi'i *'ulama* of non-Iraqi origins were harassed and persecuted.[71] This situation deteriorated further with the advent of the *Ba'thist* regime in 1968. The *Ba'th* government suppressed several autonomous institutions in society. It preyed on the Shi'i establishments: *khums* management, the seminaries, and community organizations.[72] There was a violent phase of confrontation between the *Ba'th* on the one hand, and the Shi'i *marja'iyya* and the *Da'wā* Party on the other.[73] The conflict was the result of several factors: secularization of the state, uneven distribution of economic benefits that disfavored the Shi'a, and ideological contradiction between the *Ba'th* and the *Da'wā*. The *Ba'th* was pan-Arabist and social nationalist, while the *Da'wā* was universally Islamic.[74] There was also the divergence between Iran and Iraq. The measures taken to limit the Shi'i establishment included confiscating funds, eliminating the exemption of seminarians from military service, the dislocation of 40,000 Shi'i individuals, and a series of tight controls on domestic and foreign trade that undermined Shi'i merchants.[75] Soon Muhsin al-Hakim and his sons, who had previously cooperated with the Ba'thists against Qasim's government, were harassed personally by the *Ba'th* regime.[76]

It is under these excruciating conditions for the Shi'a in general and the Shi'i *'ulama* and political activists in particular that Shams al-Din left Iraq in 1969 and headed, for the first time, to Lebanon to settle permanently in his ancestral homeland.[77] Upon his return, he worked closely

with Imam Musa al-Sadr, who had settled in Lebanon earlier in 1959 and had been preoccupied with the foundation of the ISSC. In 1967, thanks to Musa al-Sadr's persistence, Law 72/67, legislating the organization of the religious affairs of the Lebanese Shi'i Muslims, was ratified, allowing Shi'i *ulama* to found a council whose mandate was to administer the religious affairs of Lebanese Shi'a and provide them with formal representation.[78] Shams al-Din also became the president of a philanthropic organization called *al-Jam'iyya al-Khayriyya al-Thaqāfiyya* that was founded by several other *ulama* and lay philanthropists.[79] In the years between 1969 and 1975, his scholarly writings, particularly the books, *Al-ʿAlmāniyya* and *Ṭurūḥāt*, denounced secularism and expressed his persistent concerns about the proliferation of secular and anti-religious ideas among the Muslim youth of Lebanon. It is in these years that he produced two books that denounced secularism.

Apparently, Shams al-Din had not been wholeheartedly willing to join the Islamic Shi'i Supreme Council, despite his close cooperation with Musa al-Sadr. He did not participate in the first election of the council's board.[80] He feared that joining the Shi'i Council would prevent him from reaching out to young people from the position of a religious scholar with no institutional affiliations.[81] He believed that being free of institutional ties provided him with a large margin of intellectual freedom and movement.[82] It is said that he preferred to concentrate his energy on intellectual pursuits and philanthropic work rather than institutional ones.[83] In 1975, Musa al-Sadr, wanting Shams al-Din to become a member of the council, sent to him two envoys to persuade him to join. These were Sayyid Muhammad 'Ali al-Amin and Ahmad Isma'il.[84] Al-Sadr's desire to appoint Shams al-Din as vice-president was accentuated by the threats to his own position and leadership in Lebanon. He wanted to make sure that the council would be left in Shams al-Din's trustworthy and capable hands.[85] Musa Al-Sadr is reported to have said to Sayyid Muhammad 'Ali al-Amin: "I will perform my duties to the best of my abilities as long as I am present and I will leave the rest of the work afterwards to Shams al-Din." Elections to the board of the council took place in 1975 while Shams al-Din was on a medical trip to London, only for him to find upon his return that he had been elected as the vice-president of Musa al-Sadr, a position that he accepted[86] and fulfilled until after the disappearance of Musa al-Sadr in 1978.[87] This new position came during a time of major domestic upheaval in Lebanon. Indeed, 1975 was the year in which the country's civil war broke out.

The abduction of Musa al-Sadr in August 1978 while on a visit to Libya, a few months after the first Israeli invasion of Lebanon that took place in March 1978, left Shams al-Din alone to lead the Shi'i Council and fulfill the duties of the "vanished Imam," Musa al-Sadr, during a troubled phase of the history of the Lebanese state and society.[88] In 1994, Shams al-Din was elected president of the ISSC, assuming the full responsibilities of a Shi'i jurist and a religio-political leader at a critical juncture in the history of Lebanese Shi'a.

NOTES

1. Mohsin Kadivar, *Naẓariyyāt al- Ḥukm fī al-Fiqh al-Shī'ī* (Beirut: Dar al-Jadid, 2000).
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80. Musa, *Al-Shaykh Muhammad Mahdi Shams al-Din bayn Wahj al-Islām wa Jalīd al-Madhāhib*, 47.
81. Ibid.
82. Ibid., 50.
83. Ibid., 49.
84. Sayyid Muhammad 'Ali al-Amin confided in an interview that Musa al-Sadr had this time insisted on Shams al-Din's membership, insinuating that he would not appreciate refusal on the part of Shams al-Din to join the council board and accept his appointment as the latter's vice-president. Ibid.
85. Ibid.
86. In fact, Shams al-Din reluctantly accepted his election to this position, acquiescing only in order to avoid antagonizing Musa al-Sadr. He assumed the responsibility that al-Sadr was delegating to him in consideration of the critical circumstances that made al-Sadr entrust him with the supervision of this council. Ibid., 51.
87. Ibid., 49.
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Shams al-Din and the Islamic Scene of Lebanon in the Turmoil of the 1970s and 1980s

The intellectual history and political legacy of Muhammad Mahdi Shams al-Din are better understood in context within the broader framework of the intellectual and political renaissance of the Shi'i religious seminaries in Najaf during the 1950s and the political turbulences that marked the intellectual activism of the clerical class there. His legacy should also be examined in relation to other twentieth-century important Lebanese Shi'i intellectual figures including Sayyid Musa al-Sadr and of Sayyid Muhammad Hussein Fadlallah. Specifically, a discussion of the differences that marked the thought of Shams al-Din and Fadlallah will illuminate the intricacies of the religious Shi'i scene in the turbulent last decades of the twentieth century in Lebanon.

During the 1990s in Lebanon, Shams al-Din and Fadlallah emerged at the forefront of discussions about the intellectual and political impact of Islam on public affairs in Lebanon. Their works were discussed in the context of how they brought their own Islamic perspectives to mainstream Lebanese debates on politics and the government system and how this shaped the political choices of Shi'i citizens towards the state after the country's civil war. Their writings and speeches on national and Islamic issues and the role of Shi'i Muslims within the nation-state highlighted the religious and intellectual dynamism of contemporary Shi'ism in Lebanon and beyond. These discussions were immensely relevant because they took place at a time when the Shi'i community of Lebanon was redefining itself from within after having been deeply impacted by two important factors: the local political mobilization and

the 1979 Islamic Revolution in Iran, which both led to the empower-
ment of the Shi'a within the sectarian system of Lebanon. Prior to that
and under the influence of the secular Left movement, the Shi'a had
already started questioning the position that was allocated to them in the
Lebanese sectarian system and demanded improvements that addressed
their long-standing social and economic grievances. With the rise of
Islamic politics in the 1980s, the political dynamism of the Shi'a shifted
from a Leftist secular framework to an Islamist one. Examining the intel-
lectual influences and the political contexts that shaped the political and
religious thought of Shams al-Din and Fadlallah will better contextual-
ize the connections and differences between their views of the Lebanese
state and will shed light on the main trends in the twentieth-century
Lebanese Shi'i thought.

BEGINNINGS IN NAJAF: ACTIVISM AND POLITICS

Both Shams al-Din (b. 1936) and Fadlallah (b. 1935) were born and
raised in the seminary and shrine city of Najaf in southern Iraq, where
they studied in the religious seminaries (*ḥawza*) under the same *marja'*,
the most senior and knowledgeable authorities—more popularly known
as Grand Ayatollahs—including the leading mujtahid Abul-Qasim
al-Khu'i and the grand *marja'* Sayyid Muhsin al-Hakim.[1] Both worked
in the circle of Sayyid Muhammad Baqir al-Sadr (d. 1980), a towering
intellectual figure of their generation who left his deep imprint on the
intellectual life of Najaf and produced distinctive work on Constitutional
Law and the conceptualization of government in Islam in addition
to philosophical works in which he tried to make a case for Islam as a
counter-philosophy to Marxism.[2] Soon both Shams al-Din and Fadlallah
were involved in the intellectual activities of the Society of the *'Ulama*
of Najaf (*Jama'at al-'Ulama*), particularly the journal it sponsored:
Al-Aḍwā' al-Islāmiyya. Despite their shared involvement in the society
and religious activism, both scholars grew alienated from one another
since their return to Lebanon, (Shams al-Din in 1969 and Fadlallah in
1966), and they embarked on distinct intellectual trajectories and politi-
cal projects of their own. The question that arises in regard to their leg-
acy and careers is to what extent their intellectual projects differed in
regard to their views of the proper role of the local Islamic movement,
specifically within the political system of Lebanon, a country beset then
by a civil war in which the state's very foundations and legitimacy as

an independent nation-state were called into question by the competing factions. What political ideas did the two Lebanese *mujtahids* hold and what trajectory did each exactly represent in regard to the political struggles of Lebanon and to the choices of its Shi'i citizens? This chapter attempts to clarify these questions by focusing on what distinguished the political thought of Shams al-Din in comparison with the broader Lebanese Shi'i political scene while also paying close attention to the influence of key events and intellectual trends in Najaf.

The period in which Shams al-Din and Fadlallah pursued their seminary studies was a time of significant intellectual and political upheaval in Najaf. The city in the 1950s was going through an intellectual renaissance that was connected to the larger political changes then occurring in the Middle East. Following the political quietism that had reined in Najaf since the 1920s, the city was awakening to the deep threats from new ideologies and political realities that were challenging the *'ulama* and forcing them to reevaluate their quietist and conservative traditions.[3] A new environment in Iraq that was more hostile to the Najaf *'ulama* was set in motion by the regime of General Abdul Karim Qasim in 1958. The policies of Qasim's regime dealt a blow to the *'ulama's* traditional social authority at a time when they were already struggling to address emerging societal trends that marked the decline of their traditional social influence and the beginning of the diminishment of visible religious behavior and public religious activities among many lay people.[4] Hostile new governmental policies introduced secularizing family law reform, and agrarian reforms that destroyed the financial resources that the *'ulama* relied on. The *'ulama's* fear of these threats and angst about the assailing official policies was intensified further by the rise in popularity of Marxism among many Iraqi Shi'i youth who started joining the Iraqi Communist Party that would become the largest such party in the Middle East in considerable numbers.[5]

In response to the perceived threats assailing the *'ualma's* traditional societal role and influence as an elite class and in an attempt to reverse the decline of the religious establishment, the young *'ulama* in Najaf felt the need to engage in political action and mobilization efforts, especially with regard to targeting Shi'i youth. Their urge to counter-mobilize and reach out to the alienated youth betrayed a sense of disgruntlement with the old class of senior *'ulama*. The younger Shi'i *'ulama* were opposed to the older generation's conservative attitude toward education and its reluctance to innovate the *Ḥawza's* curriculum in order to counter the

rapid social changes. They also opposed the older generation's quietist approach to politics, which was seen as being extremely detrimental to the survival of the Najaf religious establishment because it refused to engage with the pressing social change such as the rise in popularity of Marxism and the spread of secularism among Shi'i youth.[6]

In order to effectuate the desired change, the young politicized *ulama* launched two important political bodies to counter the negative effects brought about by secularizing trends, mainly Marxism. The first was the foundation of the Shi'i Islamist political party, *Hizb al-Da'wā*, the first of its kind, in 1958. It was initiated by apprentice junior *ulama* and Shi'i religious lay activists from mercantile families in Najaf. The party's founders were young men who sought to enter the world of political action through an assertive and vocal strategy of engagement and contestation with secularizing sociopolitical trends like Marxism and the secularization of Iraqi family law.[7] Their aim was to create an ideological and political organization to counter Marxist ideas through an Islamic ideology that was compatible with modern politics and addressed pressing social concerns.[8] The ambition of the founders of the party went as far as to envisage the establishment of an Islamic state. Such political goals reflected the intellectual work of the prominent Shi'i scholar Baqir al-Sadr. Most sources agree that his work was the main catalyst that animated the party's founding and the development of its sociopolitical program.[9]

Understandably, the work of Baqir al-Sadr did not sit well with the old regime of senior *ulama* in Najaf who regarded his innovative contributions as unwelcome and risky to the classical modes of intellectual production that had dominated the city's seminaries for many centuries. Concomitantly, the *Da'wā* Party was not held in high regard by the senior *ulama* who expressed their reservations, if not open opposition, to the activities of the party because they feared it would further undermine their authority and reduce their base of followers.[10] From a doctrinal viewpoint, some senior *ulama* looked with suspicion on the stated goal of the party and its supporters of working to establish an Islamic state, as this contradicted the senior *ulama's* quietist stance.[11]

At the same time as the *Da'wā* Party was founded, Najaf's middle-ranking Shi'i *ulama* founded *Jamā'at 'Ulamā' al-Najaf* (The Society of the Najaf *Ulama*), whose membership generally overlapped with the group that founded the *Da'wā* Party. But unlike the *Da'wā* Party, the work of the Society focused mostly on theological,

educational, and philanthropic matters.[12] The young founders of the Society were motivated to form an organized body to combat the spread of Communist ideas and reassert Shi'i values and core Islamic tenets.[13] The aim of the Society was to cause a cultural revitalization of classical Islamic education in the seminaries and incite more Islam-informed political involvement among Muslim youth as well as counter the influence of Communism among them. These young religious scholars were disillusioned with the quietist and traditionalist modes of action of the senior 'ulama, even though they shared the same concerns as the latter group, and preferred to use modern means of mobilization and to effectuate creative pedagogical reforms that would enable them to reach the hearts and minds of the alienated and increasingly secularized youth.[14] The sponsor of the Society was Sayyid Muhsin al-Hakim whose support was necessary in order to successfully facilitate the gathering and organization of such a large number of junior 'ulama.[15] Shams al-Din, who joined the Society, was put in charge of executive tasks.[16] He, alongside Fadlallah and both Mahdi and Baqir al-Hakim, the sons of the *marja'* Muhsin al-Hakim, later became prolific contributors to the Society's cultural journal, *Majallat al-Aḍwā' al-Islāmiyya*.[17] The worldview reflected in this journal was that 'ulama should forgo political quietism and embrace a more active role in providing guidance and advice to laypeople in political matters. Islamic tradition was depicted as a cultural marker that could compete with the Western philosophical traditions of secularism and Marxism.[18] The first editorials were authored by Baqir al-Sadr and Muhammad Hussein Fadlallah, while the issues following the sixth one were written by Muhammad Mahdi Shams al-Din after Baqir al-Sadr faced criticism from senior conservative 'ulama for his writings that were deemed to be too revolutionary.[19] His critics believed that Baqir al-Sadr had taken too many ideological liberties in his editorials and therefore, they asked him to step down from his position as editor of the journal.[20] The writings of Shams al-Din revolved around central themes including the loss of Palestine, the ideological threat of Communism, opposition to Western interference in local political affairs, and Islam as the epitome of ideals for progress and advancement.[21]

The connection of Shams al-Din and Fadlallah to the *Da'wā* Party was different with regard to the nature of their respective participation and remains debated. In time, both scholars denied holding any office in the Party and dissociated themselves from involvement in party politics. It was known that Shams al-Din did not play any role in the

Daʿwā Party.[22] In contrast, while Fadlallah denied having any operational or organizational role with the *Daʿwā* Party, he acknowledged that he was one of the theoreticians of the Party and he would later say that he believed his writings and sermons had had a fundamental influence on its members.[23] Fadlallah justified his claim that he had never been an official member of the Party, despite his maintaining close ties to its founders, by arguing that he could serve the Islamic cause more freely by not being affiliated organizationally with any formal political structure or organization.[24] Ultimately, the *marjaʿiyya*, an institution bypassing politics and encompassing all Shiʿi spheres, won him over partisan party politics.[25] In this respect, Chibli Mallat argued that due to the nineteenth-century *uṣūlī* structure that defined *mujtahid* and *muqallid* relations it was considered to be highly commendable for an aspiring jurist not to be affiliated with any modern political organization as this would have the nefarious effect of limiting their followers to party members.[26]

The reason for the return of Shams al-Din and Fadlallah to Lebanon was the intensification of the Iraqi *Baʿth* regime's crackdown on Najaf and its *ulama* that began in the late 1960s and continued into the 1970s. After the seizure of the reins of power by the *Baʿth* Party in 1968, the confrontation between the regime and the Shiʿi establishment of Najaf, as well as the *Daʿwā* Party reached its peak, leading to the arrest and detention of scores of Shiʿi *ulama* and political activists.[27] The measures taken to undermine the Shiʿi establishment included confiscation of funds, reversing the exemption granted previously to seminary students from military service, and the implementation of a series of tight controls on domestic and foreign trade. The latter measure ruined Shiʿi merchants who financially supported the Shiʿi establishment through the payment of *khums* and *zakat*. All of this resulted in the dislocation of 40,000 Shiʿi individuals.[28] When living conditions became unbearable and the lives of the *ulama*, many of whom were non-Iraqis, were seriously endangered, many of them decided to leave Najaf for a safer place.

Upon Return to Lebanon: Shams al-Din and Fadlallah

When the young Sham al-Din arrived in Lebanon in 1969, the religious Shiʿi scene was heavily dominated by Sayyid Musa al-Sadr who had moved from Iran in 1959 and started developing a social and political agenda with unprecedented dynamism and ambition.

His foundational work soon established him as the most active and distinguished of Shi'i *'ulama* and political activists, propelling him into the mainstream Lebanese political scene. Al-Sadr set out with the main goal of improving the socioeconomic and political affairs of country's Shi'i population. Toward this aim, he established several organizations and educational centers.[29] In parting ways with the already active Lebanese Leftist movement, whose ranks were filled by Shi'i youth, activists, and ideologues, al-Sadr saw the plight of the Shi'a as being particularly rooted in their confessional status and its marginal history, which in turn caused him to try and alter this state within the available confessional mechanisms of the sectarian Lebanese system rather than seeking to replace the system. This differentiated him from the leading intellectuals of the Leftist movement who sought to attack and ultimately replace the existing sectarian system. al-Sadr believed the way to achieve these goals was through strengthening the status of the Shi'a as a confessional group by providing more services and state benefits to them while also seeking to integrate them more deeply into the sectarian politics of Lebanon, pressing for more state sponsorship and more favorable allocation of funds and resources.[30] One major initiative toward this goal was al-Sadr's efforts to found *al-Majlis al-Islami al-Shi'i al-a'la* or the Islamic Shi'i Supreme Council (ISSC) in 1969. This major initiative by Musa al-Sadr sought to build a state-recognized confessional-religious institution to help the Shi'a become a confessional group similar to the other groups that had achieved this institutional, official status; it was meant to give the Shi'a an autonomous and state-sponsored institution that would organize and oversee their religious and legal affairs. The creation of the ISSC led to a major change in the previous arrangement according to which Shi'i religious and legal affairs were under the jurisdiction of the Sunni Mufti of the Republic who was appointed to his position by the Lebanese government. Al-Sadr argued that the Sunni Mufti's resistance to introducing these reforms, which would redress the imbalance of representation for the Shi'a, necessitated the establishment of an independent body to represent the best interests of Lebanon's Shi'i citizens.[31] In that respect, Fadlallah, who did not support or participate in the foundation of ISSC, defended his opposition by claiming that he had suggested to Musa al-Sadr to found instead a joint Sunni-Shi'i institution. Al-Sadr's response was that this suggestion was not feasible because the Sunni Muftihood of Lebanon objected to the formation of a pan-sect Sunni-Shi'i religious representative body.[32]

Although Shams al-Din at the time was not invested in taking an official position in the ISSC, he still collaborated very closely with al-Sadr, fully supporting his endeavors and later yielding to al-Sadr's desire for him to run for internal elections and be appointed as al-Sadr's vice-president of the ISSC. The foundation of the ISSC, which at first seemed to be a major cornerstone in the institutionalization of legal and confessional existence for the Shiʿi citizens, did not, however, garner the support of all prominent Lebanese Shiʿi scholars during that period. Foremost among its most vocal opponents was Shaykh Muhammad Hussein Mughniyya, a prominent intellectual *ʿalim*, and a *shariʿa* court judge who occupied the highest judicial office in Lebanon's Shiʿi religious tribunal in 1949. Fadlallah also regarded the ISSC initiative skeptically and refused to be involved in it despite the repeated invitations of Musa al-Sadr to join the board. At the root of Mughniyya's opposition to the establishment of the Majlis may have been fears that such modern institutions, which were previously unknown in Shiʿi history would result in increasing government intervention, which in turn would undermine the traditional authority that the *ʿulama* had enjoyed by forgoing the patronage of governments.[33] Mughniyya's opposition was so vehemently expressed that Fadlallah had to step in to persuade him to refrain from publishing a diatribe against al-Sadr.[34] As for Fadlallah, his opposition stemmed from the priority he set out to encourage broader Islamic political mobilization among Muslim youth, rather than to focus on the local affairs of the Lebanese Shiʿi community.[35]

Fadlallah left Najaf for Lebanon in 1966 and settled in the poor suburbs of eastern Beirut. During that period, his efforts concentrated on building religious seminaries in his neighborhood and beyond, and on initiating grassroots activities with the aim of politically mobilizing and indoctrinating the Shiʿi disenfranchised and dislocated youth of the poor suburbs with an active and political Islamic education.[36] Fadlallah's lectures, delivered at a cultural society that he established, the *Jamʿiyat al-Taʾākhī* (The Society for Forging Brotherhood), revolved around political and religious themes. He aimed to nurture a local Islamist movement in Lebanon that would in time turn to political action. To achieve this goal, he built various religious institutions in Shiʿi-populated regions of Lebanon in the South and the Biqaʿ, such as *al-Maʿhad al-Sharʿi al-Islami*, in 1966, which was modelled after the religious institutions in Najaf.[37] Many of the Shiʿi *ʿulama* who would play a prominent role within the Islamist Shiʿi scene later, especially in the ranks

of Hezbollah, were Fadlallah's disciples in these seminaries. Prominent examples include Subhi Tufayli and Abbas al-Musawi who would both later become, respectively, the first and second secretary-generals of Hezbollah.[38] Fadlallah was involved in the organization and support of other seminaries in the Biqaʿ, notably, *Ḥawzat al-Imam al-Muntaẓar*, a seminary that would later become the headquarters for a contingent of the Iranian Revolutionary Guard Corps (IRGC), whose mission was to indoctrinate local Shiʿi youth in the ideology of the Iranian Revolution.[39]

Focusing on the dissemination of revolutionary Islamic ideals, such as Islamic unity and freedom from Western political hegemony and economic exploitation, Fadlallah did not prioritize the improvement of the social or political conditions of the Shiʿi community within the contours of the Lebanese system,[40] and therefore, he was not keen on Musa al-Sadr's work to ameliorate locally the social affairs of the Shiʿa. Indeed, Fadlallah and al-Sadr had a divergent vision of the "proper" path forward for Lebanon and the role and fate of the Shiʿa within the nation-state. Fadlallah was not interested in creating a confessional identity for the Shiʿi community but rather deemed such efforts to be a distraction from the more pressing and comprehensive goal of building an inter-sectarian transnational Islamic movement capable of mobilizing across national borders.[41] Because of his much broader focus, Fadlallah considered local institutional initiatives that focused on inter-confessional relations in Lebanon as well as cementing official ties to the state, which were the most important cornerstone in al-Sadr's project, to be of no consequence to the transnational Islamic project which he sought to build. In contrast to Fadlallah's more transnational project, al-Sadr thought the mobilization of the Lebanese Shiʿa should lead to their empowerment and the acquisition of more rights to counter the neglect that they had suffered from for many years. With these ideological differences, the paths of Fadlallah and al-Sadr parted ways: "It seems that Fadlallah admitted in an interview that he never liked or trusted Musa al-Sadr because he was promoted as a star by the Lebanese Christians."[42]

Furthermore, the two scholar-activists also expressed different strategies with regard to the Palestinian–Israeli conflict, especially during the 1970s when the Palestinian Liberation Organization (PLO) started to use Lebanese territories to launch attacks against Israeli targets, which in turn led the Israeli military to retaliate by bombarding civilian targets in South Lebanon and hence force the southern Lebanese civilian population to carry the brunt of the attacks. While Musa al-Sadr put at the

center of his platform the well-being and the safety of the Shiʻi population of South Lebanon, Fadlallah seemed to relegate this issue to one of secondary importance and instead saw the struggle against Israel as more prominent than the safety and communal affairs of the local Shiʻi population.[43] In this respect, Shaykh Mughniyya took a distinctive and noteworthy position: Despite his major differences with Musa al-Sadr, he highly valued and prioritized the well-being of the local population of South Lebanon and did not approve of the PLO's use of Lebanese territories to launch military operations against Israel as this unnecessarily imperiled the lives of the civilian population and exposed their villages to destruction from Israeli retaliation. Shams al-Din, in the years following the disappearance of al-Sadr during a trip to Libya in 1978, while he headed the ISSC, seemed to be resigned to the prospects of peace with Israel; rather than being interested in military confrontation, his main concern was to prepare for what he called cultural confrontation in the post-peace era.[44] In one of his statements, shortly before the Israeli invasion of 1982, he publicly made it clear that he was exasperated with the military activities of the Palestine Liberation Organization (PLO) and its allied Lebanese Leftist movement in the southern villages that caused the deaths of many local civilians.

Al-Sadr was committed to religious pluralism and the protection and preservation of the diverse political makeup of Lebanon and its multi-confessional system. He saw Lebanon's religious diversity as an enrichment and distinction for the country.[45] He expressed these views at a time when the Lebanese system was heavily contested from both Leftists and radical Islamists. This made him willing to cooperate with right-wing Christians leaders,[46] which was seen as unacceptable by the *Daʻwā* Party Islamists and Fadlallah because such cooperation gave legitimacy to what they saw as being an incorrigible and repressive regime. The *Daʻwā* Party on the other hand was opposed to Maronite domination over Lebanon's political institutions.[47] Rather than toppling the Lebanese system and instituting an Islamic regime, al-Sadr, in collaboration with Shams al-Din, introduced several reformist programs that aimed to introduce more egalitarian representations for the Shiʻa and more equitable development programs to the peripheral areas of Lebanon, especially to the underdeveloped southern Lebanon. The section below will discuss in more details these reformist initiatives sponsored by al-Sadr and Shams al-Din.

The rivalry going on between the *Daʻwā* Party Islamists, who were to become loyal supporters of Imam Ruhollah Khomeini's Islamic

Revolution in Iran in 1979, on the one hand, and Musa al-Sadr and Shams al-Din from the ISSC, on the other hand, was also grounded in the ideological differences between al-Sadr and Khomeini. Divergent views existed between al-Sadr and Khomeini over the political role of Lebanese Shiʿa. For instance, al-Sadr declared that the ISSC, that he founded and presided over, follows as *marjaʿ* Ayatollah al-Khuʾi rather than Ayatollah Khomeini, upon the death of Sayyid Muhsin al-Hakim in 1970.[48] There was also some malaise expressed by Khomeini toward Musa al-Sadr in regard to the latter's policy on resistance against Israel and tactics toward Israeli attacks, as well as al-Sadr's attitude toward Palestinian guerila fighters in their operations against Israel. Khomeini believed that al-Sadr was not militant enough toward Israel and too critical of the Palestinian guerrilla fighters. For instance, Ali Akbar Mohtashami, a cleric closely associated with Khomeini, who resided in Lebanon in the late 1970s, in the aim to help create Shiʿi military groups to fight Israel, complained to Khomeini about al-Sadr's position and about how some local Lebanese Shiʿi *ʿulama* were blaming Israeli attacks on Palestinian guerillas.[49] In that respect, Houchang Chehabi wrote: "For Khomeini the struggle against Israel took precedence over efforts to ameliorate the situation for Lebanon's Shiʿa."[50]

Shams al-Din and Fadlallah After al-Sadr

With the disappearance of Musa al-Sadr in 1978, it was upon Shams al-Din, as the highest official after al-Sadr in the leadership hierarchy of the ISSC, to take the mantle. The institutional legacy of al-Sadr got divided: While the ISSC was to be led by Shams al-Din, the leadership of Amal went first to Hussein al-Husseini, who then was a parliament member and a co-founder of *Amal* Movement with Musa al-Sadr, and who occupied the office of House Speaker for the parliament from 1984 to 1992. In 1980, Nabih Berri was to replace Hussein al-Husseini in the leadership of *Amal*. The separation of *Amal* leadership from the leadership of ISSC marked the dispersion of the institutional and political legacy of Musa al-Sadr, leading to its partition between two organizations, each headed by one of these political figures: Shams al-Din over the ISCC and Nabih Berri over *Amal*. In the next three years, Nabih Berri would drive out both Hussein al-Hussein and Shams al-Din from *Amal* leadership, despite the fact that the two were closer to al-Sadr than he was. Berri was able to expel Shams al-Din from the party during the *Amal* annual

congress of April 1982, where he seized this opportunity to redistribute power inside the party to his own advantage. He managed to persuade the cadres of the party to cancel the thirty-member Leadership Council of which Shams al-Din was a member and to replace it with a sixteen-member political bureau, to which Shams al-Din did not get elected and hence was left out of *Amal's* new Leadership Council.[51] In the aftermath, the two men would maintain a tense relationship, emanating from their rivalry over the leadership of the Shi'i community. Nabih Berri, a newcomer with no political or religious pedigree, having worked his way up to the leadership of *Amal* while ousting older and more influential figures than him, would vie to be the only representative of the Lebanese Shi'a, wanting to eliminate the influence of Shams al-Din and others. In the next years, Berri would tighten his grip over *Amal*, removing many of his internal rivals. With his alliance with Syria, this would catapult him to become one of Lebanon's major political players, in the post civil war period, as long as he acquiesced, under Syrian and Iranian pressure, to share the representation of the Shi'a with his acrimonious rival, Hezbollah.

Under the leadership of Berri, *Amal*, unlike what the *Da'wā* Party sympathizers had wished for, would rather become a partially secular and sectarian party that is fully integrated into the clientelistic networks of sectarianism. Shams al-Din on the other hand, after being ousted from his influential position over *Amal* Movement in 1983, would reinforce his leadership over the ISSC and would turn this institution into the only legitimate political and religious institution to represent the Shi'a in the Lebanese system and to lead a national role engaging in all the milestone events assailing Lebanon in attempt to preserve the unity of the country. Fadlallah was to embark on his own unique path, first as a revolutionary religious ideologue with unofficial but strong ties to Islamic parties: The *Da'wā* Party and later Hezbollah, and second, as described by his followers, a modernist jurist, redefining his role from a revolutionary Islamic activist scholar, to a multifaceted "modern" religious scholar who provides reason-based religious guidance to his pious followers.[52]

SHAMS AL-DIN AND FADLALLAH'S VIEWS ON THE LEBANESE STATE, HEZBOLLAH, AND WILĀYAT AL-FAQĪH

It has been noted that both Fadlallah and Shams al-Din were the last of the Najaf-trained *marja'*, meaning that they were the last senior religious scholars and jurists who were independent from party politics and

maintained independent scholarly careers.[53] Chibli Mallat wrote that both Shams al-Din and Fadlallah were apprehensive about being affiliated with Hezbollah as a political party because this would have undermined their image as *mujtahids* among their followers. The way the authority of a *mujtahid* is constructed is based on his charismatic authority and not his affiliation with modern political organizations.[54] Indeed, being too closely affiliated with a political party can be detrimental to a *mujtahid's* reputation as an independent religious scholar and jurist. Insofar as these are accurate assessments of the two activist scholars, it remains a fact that the name of Fadlallah has long been closely associated with Hezbollah and prior to that to the *Da'wā* Party. During his lifetime, Fadlallah maintained complex relations with Hezbollah and expressed religious, social, and political opinions that coincided with those of the party despite the fact that he was never an official member or officeholder therein. In direct contrast to Fadlallah, Shams al-Din did not have any ties to Hezbollah and he was not on friendly terms with its party officials, as will be discussed below.

It is well known that in the early days following Fadlallah's return to Lebanon and his involvement in public religious work, he was a keen supporter of Ayatollah Ruhollah Khomeini's theory of *wilāyat al-faqīh* and the Islamization of Iran's 1979. He firmly supported not only the Islamic Revolution, but its exportation to other countries.[55] The fact that he was appointed as the official representative of the grand *marja'* al-Khu'i, who was known for his quietist stances in relation to political affairs, did not seem to contradict Fadlallah's political support for both *wilāyat al-faqīh* and Khomeini's revolutionary leadership.[56] The association with Khomeini was translated into the political sphere through Fadlallah's political activism and commitment to the spread of politically engaged and anti-imperialist Islam, a cause that was central to his worldview.

Despite his close ties with Hezbollah and his known sympathies for Khomeini, in time Fadlallah developed a subtle stance against *wilāyat al-faqīh*.[57] As Michaelle Browers stated, he later "tend[ed] to diminish or relativize the theory's importance rather than rejecting it outright. He diminish(ed) its importance at the level of practicality."[58] In order to understand the process through which Fadlallah became more distant toward Hezbollah and gradually moved away from the theory of *wilāyat al-faqīh*, it is important to examine the circumstances surrounding the declaration of his *marja'iyya*, and the acrimonious opposition it received

from Iran and by extension Hezbollah in the later decades of his life and career. In the 1990s, Fadlallah's prolific writings and the large following that he succeeded in gathering in Lebanon, especially in his home location in southern Beirut, and the large popularity he achieved as a religious scholar which extended well beyond the borders of Lebanon, were all factors that propelled him to declare his *marjaʿiyya* independently. This development, however, resonated badly with the Iranian authorities who perceived in his declaration to be a grand *mujtahid* a brazen challenge to the religious authority of the Iranian *waliyy-faqīh* or Guardian-Jurist. The ensuing result was that the *ʿulama* of Iran would wage an ideological war against Fadlallah, mostly over doctrinal differences, his rapprochement with the Sunnis, his alleged disrespect for Fatima, the Prophet's daughter, and belief in the fallibility of the Imams.[59] They discarded many of his writings and disparaged his scholarship and integrity as a religious authority. His religious authority was nevertheless not significantly undermined due to the popular and deep support he enjoyed among his many followers domestically and in the Lebanese diaspora.[60] However, relations with Hezbollah improve after the 2006 Hezbollah-Israel War of 2006, as a matter of unifying the Islamic sphere. Meanwhile, Fadlallah continued his role as a modernist *marjaʿ*.[61]

Notwithstanding the convictions of some analysts and Fadlallah's followers that he later dissociated himself from the theory of *wilāyat al-faqīh*, it remains debatable as to what extent Fadlallah rejected this theory. What is clear is that in his later years he was advocating an Islamic government based on the fusion of two concepts: *wilāyat al-faqīh* and *al-shūrā* (a mechanism of consultation among the authority-holding individuals in the community). In his opinion, the jurist was theoretically invested in—and capable of being put in charge of the political affairs of his community—by the Hidden Imam, the "Mahdī." But the jurist has to be elected through the mechanisms of *shūrā*, which in modern times can take the form of elections, a referendum, and other forms of consultation with the general population. Therefore, it is within this framework that an Islamic government can be established, at the head of which a jurist or a committee of jurists would preside. But which jurist is to be elected when contemporary Islamic societies have many qualified jurists who are capable of taking up the mantle of political leadership? Herein comes the necessity of *shūrā*, as a mechanism to elect one jurist to govern. It seems Fadlallah's opinion on Islamic government is a

variation on *wilāyat al-faqīh* that introduces more democratic elements to the absolute version espoused by Khomeini.[62]

Despite Fadlallah's dissociation from Hezbollah, especially during the 1990s, it became clear that his relations with this political party were much more complex than the once-dominant claim that he was the party's "spiritual mentor."[63] Fadlallah, in his own words, said that he was close to many members of Hezbollah, many of whom were originally trained in his seminaries. It is plausible that he was an influential figure for many members of the party. This was natural considering his main goal upon his return to Lebanon in 1966 was to raise an Islamist political movement in the country. Despite the close rapport that he had with the founders of Hezbollah, he denied ever holding an office or having an operational link to the party. This of course did not prevent him from still lending much support to Hezbollah's policies on central issues such as the military resistance that it was conducting in South Lebanon against Israel and its Lebanese proxies. In his own words, he claimed that upon the foundation of Hezbollah, he refused to take an office or occupy an operational role inside the party due to his refusal to be involved in party politics. Instead, he offered to play a consultative role, providing mentorship and guidance to its members, many of whom he helped train as his disciples in the *ḥawza* he founded.[64] He was in agreement with Hezbollah over the major political stances its leadership took in the mainstream political affairs of Lebanon such as the party's opposition to the Agreement of May 17, 1983, a US-sponsored accord between Lebanon and Israel that was never implemented, or the overall revolutionary stances Hezbollah initially took in regard to Lebanon's regime. In his own explanation of the dissociation that took place between him and Hezbollah, Fadlallah noted that it happened when the leaders of the party decided to merge their political and religious loyalties in regard to Iran and could thus not tolerate his local, independent *marja'iyya* because it could unduly influence their mass base in Lebanon.[65]

It is certain that Fadlallah was clearly separated from Hezbollah after the declaration of his *marja'iyya*, yet he remained a supporter of the Islamic Revolution in Iran and a genuine believer in the desirability of establishing an Islamic government, at least at the theoretical level. It is arguable that his disagreements with Hezbollah and Iran did not take an ideological aspect, but were rather of a strategic nature, related to Hezbollah's and behind it Iran's desire to curb his religious authority, especially in view of the widespread popularity that he enjoyed among

the Lebanese Shiʿa, especially among Hezbollah's followers, a Shiʿi base that Iran preferred to see Hezbollah control directly.

Fadlallah has been criticized posthumously by other Shiʿi clerics in Lebanon on account that he manipulated his relationship with Hezbollah to promote his career and the establishment of his *marjaʿiyya*, highlighting or reducing the connection depending on how beneficial it was for his status. He is said to have used Hezbollah and Iran to build a large mass following and consolidate his constituency in order to declare his *marjaʿiyya*, but once he found himself powerful enough, he distanced himself from Iran, yet remained in alignment with its ideology and policies.[66]

A more vocal critic of *wilāyat al-faqīh* and much earlier voice was that of Shaykh Muhammad Jawad Mughniyya. It is noteworthy to highlight his critical position as he gave an early distinctive deliberation on the subject shortly before he passed away in 1979. Out of the three Lebanese jurists, Shams al-Din, Fadlallah, and himself, he was the one to take the earliest and most clear rejection of Khomeini's theory. Chibli Mallat noted that the role he advocated for the jurist was much more limited than what appears in Khomeini's writings in *Al-Ḥukūma al-Islāmiyya* (Islamic government). Mughniyya rather saw the institutional role of the jurist as rather consultative or part of a constitutional court that supervises legislation. Beyond that role, the contemporary jurist could not arguably have the means to wield the same authority that was invested in the Imams during their lifetime over adult human beings. Despite the vague delineation of the role of the jurists, it is clear that Mughniyya allocated a much more restrained role to the jurist than Khomeini did.[67]

In view of this background of Fadlallah's thought and in order to understand better the intellectual differences between him and Shams al-Din, it becomes clear that Shams al-Din's thought fundamentally developed in relation to both the theory of an "Islamic state" and the Lebanese government and confessional political system in deeper and more fundamental ways than that of Fadlallah. Chibli Mallat noted that in the early 1980s, Shams al-Din showed allegiance to Islamic internationalism and entertained the notion of an Islamic state in Lebanon at least on a theoretical level but not on an operational one.[68] This of course did not put him on the same par with Fadlallah. Their divergent views of what an Islamic state should be started with their differences over Khomeini's theory of *wilāyat al-faqīh*. The early version of Shams al-Din's book "*Niẓām al-Ḥukm fī al-Islām,*" which followed the

tradition of polemical works by *'ulama* that defend the Shi'i position on the government of the Imam,[69] was a very early work written during his early life and scholarly career in his young years spent in Najaf, before he moved to Lebanon and had to grapple with the complicated situation of Lebanon's fragmented multi-confessional society. This early version of the book was written before he began to be influenced by and work with Musa al-Sadr. However, the revised edition of his book, which was published in 2000, would become a much more sophisticated treatise with an explicit and comprehensive critique of *wilāyat al-faqīh*.

A few years into the Lebanese civil war (1975–1990), Shams al-Din became interested in opening a dialogue with the country's Christians and developed his thesis of "Consultative Majority-Based Democracy,"[70] a thesis that is distinct from the theory of *wilāyat al-faqīh* mainly on the account that it does not seek to establish an Islamic government. Mallat noted that both scholars, Shams al-Din and Fadlallah, could not openly undermine the Iranian model of *wilāyat al-faqīh*, even though it was obvious to them that this model would be problematic for Lebanon. So instead they took a "constitutional and non-committal position" toward the idea of an Islamic state while entertaining positions that were at odds with Khomeini's theory including Shams al-Din taking into account the concerns of Lebanese Christians and Fadlallah's engaging in dialogue with the country's Christian communities.[71] Mallat's analysis is time-specific to the mid-1980s, a period when the works of these two Shi'i scholars reflected specifically their concerns regarding the turmoil hitting Lebanon and the repercussions of the Islamic Revolution in Iran on Shi'i activism outside that country in conjunction with specific circumstances surrounding Lebanon at that time, mainly referring to 1982 Israeli invasion, subsequent occupation, and its reverberating consequences. The thought of the two scholars was soon to develop in more accommodationist directions to suit the sociopolitical realities of Lebanon. Specifically, Shams al-Din would build upon his thesis of "Consultative Majority-Based Democracy" and develop it toward discussions of civil government and the role of public Islam in it. Fadlallah, on the other hand, would refrain from working toward an Islamic government in his sermons and lectures, focusing instead on the religious and social needs of his large constituency that looked up to him for religious guidance.

One aspect that the two scholars shared was that they both had a public persona among the wider Lebanese public as innovative and intellectually engaged Islamic scholars. Both acquired the reputation of being

rationalist, accommodationist, and respectful of the diverse social and religious mosaic of Lebanese society. But this portrayal glosses over an important intellectual and fundamental difference that set the two jurists apart, and one which may explain partially the apathy that governed the relationship of each toward the other. Shams al-Din and Fadlallah viewed Lebanon differently in regard to its political institutions, constitutional foundations, and institutional future. Fadlallah never settled on with the idea of Lebanon as it has been conceived of by its founding fathers: the consociational democracy built on a sectarian distribution of power among the various confessional groups whereby the custom institutes a Christian Maronite in the office of the presidency. This system, controlled by "Maronite hegemony" as denounced in the literature of Hezbollah in the early 1980s, was never to gain conclusive legitimacy in his eyes. The ultimate goal for Fadlallah and his fellow Shi'i Islamists was to supplant it with an Islamic government. That goal, which characterized the roadmap of the Islamist scene in Lebanon was never abandoned on the discursive level in the Shi'i circles of seminaries. In time, under the unpropitious circumstances created by the new reality put in place by the 1989 Ṭā'if Agreement,[72] it became clear that implementing an Islamic government was not an easy goal and its underpinnings had to be reformulated. For Fadlallah, the Islamic project was postponed and made contingent on certain conditions which had to first be met before it would be strategically feasible to establish an Islamic system of government. He stated that an Islamic government was not to be imposed by force but had to be embraced and called for by the Lebanese population, until which time he conceived of another form of government that he labelled "*Dawlat al-Insān*," (the Government of Humans). The latter remained a vague concept, lacking in substance and detail. It was also a prelude to the establishment of an Islamic government if the right conditions to propel it were met.[73] What matters in this context is not how deficient his thesis was, but the fact that he never granted full legitimacy to the existing Lebanese state and political order. Fadlallah also spoke laudably about democracy and more specifically about democratic processes, but from a very narrow and specific angle: His concern was how to create a political culture that afforded a free space for Islamists to act, operate, and pursue their goals. Democracy was appreciated in its capacity to carve out the space necessary to allow the Islamists to reach power and then pursue the goal of instituting an Islamic state. Here, Fadlallah

inserted a conditional clause about acceding to power, which is that it could only be achieved if this project received popular support.

The Political Journey and Platform of Shams al-Din

Shams al-Din, as the head of the ISSC, was more removed from the daily lives of Lebanon's Muslims and did not present himself as a *marjaʿ* in the way Fadlallah did. Shams al-Din rather focused on political and intellectual issues, writing prolifically on the possibility of establishing an Islamic government in modern times, in which context he developed a legal and political critique of *wilāyat al-faqīh*. One of the main themes in his writings was the political integration of the Shiʿa as citizens in modern nation-states. This was a concern that had been first raised by Musa al-Sadr and which served as the main catalyst giving rise to the ISSC. It was the orchestrated efforts mainly of al-Sadr and Shams al-Din that gave birth to the first Shiʿi manifesto expressing loyalty to Lebanon and legitimizing it as the final homeland for the Shiʿa of Lebanon.[74] These declarations were included in the two official documents published by the ISSC in 1975 and 1977, respectively, which came to be collectively known as the papers of the Islamic Shiʿi Council.[75]

These two documents reflected al-Sadr's and Shams al-Din's understanding of the roots of the conflict between Lebanon's Shiʿa and the state and the other confessional groups and included suggestions for how to reform citizen-state relations and inter-confessional relations. The ISSC papers demanded fundamental reforms of the Lebanese political system with the goal of preserving the unity of Lebanon and terminating the military clashes that had led to the country's civil war. The two papers were an avant-garde step toward an Islamic recognition of the ultimate political sovereignty and independence of Lebanon. They also proposed reshuffling the functions and prerogatives of the presidential, legislative, and executive offices and their respective powers.[76] At the forefront of these proposals was the demand to increase the number of parliament seats to 120 while equally distributing the seats between Muslims and Christians.[77] It is noteworthy that these documents, in their promulgation of a vision for a reformed sectarian system, resonate substantially with the provisions enclosed in the Ṭāʾif Agreement, which later put an end to the civil war in 1989, and preserved Lebanon as a sovereign country, despite its problematic preservation of the pre-existing sectarian power-sharing arrangements.[78]

Upon the signing and ratification of the Ṭā'if Agreement, Shams al-Din gave it his full support. The most significant part of the ISSC's documents was the declaration by Musa al-Sadr and Shams al-Din of the famous political slogan, "Lebanon is the final homeland for all Lebanese people." This slogan signaled a formal acceptance of the Lebanese status quo by the highest Shi'i clerical leadership in Lebanon. It was later adopted as one of the Ten Islamic Principles in the document issued by the Islamic authorities (Shi'is, Sunnis, and Druze) in 1983, known as the *Islamic Principles Statement* of 1983 (Bayan al-Thawabit al-Islamiyya).[79] *The Islamic Principles Statement* also reflected some of the clauses of the Ṭā'if Agreement.

The endorsement of "Lebanon as a final homeland for its citizens" in 1977 by Musa al-Sadr without an insistence on reform as a pre-condition indicated that Musa al-Sadr and Sham al-Din had come to the conclusion that sectarianism as it was enshrined in the Constitution of Lebanon and incumbent political practices and conventions was a reality that had to be reckoned with and be adapted to. This was a significant realization, especially in regard to the position of other Islamists groups, which at that time preferred to pursue the radical, revolutionary path of overthrowing the sectarian regime of Lebanon and replacing it with an Islamic government. Overthrowing the regime was among the goals of the activists of the *Da'wā* Party and would later also become a major principle in the Open Letter published by Hezbollah in 1985.

Indeed, al-Sadr and Shams al-Din recognized that the best answer for redressing the Lebanese Shi'a's disadvantaged position in the country was through fuller and more fair integration into the sectarian political system of Lebanon rather than through radical opposition to it. Shams al-Din reached this conclusion despite his theoretical and principled disapproval of sectarianism, which was the result of his awareness of the disparities and marginalization the sectarian system created for many groups, specifically the Shi'i community. He sought to pressure the sectarian system from within in order to extract benefits for the Shi'i population including more positions in the government and more resources, thus integrating Lebanon's Shi'i citizens in a system that thus far had disenfranchised them economically and politically.

By the time Hezbollah published its Open Letter in 1985, which introduced its commitment to the establishment of an Islamic government in Lebanon, Shams al-Din had already moved away from the abstract idea of Islamic government and was already engaged in political

reform specific to the Lebanese context in the midst of the violent civil war an external Israeli invasion and occupation. At this time, he began to focus his efforts on theorizing a system of government that could manage sectarian tensions in a multi-confessional society. It is in this context that he put forth a political thesis that he called "Majority-Based Consultative Democracy." In this thesis, he proposed a set of constitutional and administrative reforms aimed at the empowerment of communities that were marginalized under the incumbent sectarian system through direct voting rights and specifically to empower Muslims by redistributing sectarian allocations of resources and political offices. For example, his demand for an expansion of the authority of the ministerial cabinet, and at its head, the prime minister, would lead to changes that would empower Muslims further and redefine the long-standing hegemony of Christians over the state. His call for direct popular national elections, a staple of presidential elections in major world democracies, would result in a more significant representation for Lebanese Muslims whose numbers were growing but were not then fully represented in the country's sectarian political system. It would also introduce administrative reforms that would put an end to the manipulation of power among political cliques that had been accustomed to having a voice in both the parliament and the cabinet thus combining legislative and executive powers.[80]

During the 1980s, in the midst of the civil war, Shams al-Din was not only contributing theoretically to possible solutions to settle the ongoing conflict, but at critical junctures, he also had to take political stances that had major consequences for both the Shi'a and Lebanon. Some of the decisions he took were backed by his convictions in favor of Lebanon's sovereignty but fell unfavorably with the Shi'i revolutionary militants, namely Hezbollah, looking to overthrow the status quo in Lebanon and to find an Islamic state while prioritizing the war against Israel. The Shi'i Islamists' criticism of Shams al-Din's national role reached a peak on the eve of the Israeli invasion of 1982.[81] In response to the devastation caused by the Israeli invasion, Lebanon's incumbent president Elias Sarkis called for the establishment of a "National Salvation Committee," which in addition to himself, included Prime Minister Shafic Wazzan, and other politicians and the leaders of the major militias, with the stated goals of launching a consorted effort to bring national unity in the face of the invasion and negotiating a settlement with Palestinian organizations and Israeli forces. The Committee included Bashir al-Gemayel,

the head of the Lebanese Forces, a militia which collaborated openly with the Israeli army, Nabih Berri, Druze leader Walid Jumblatt, who had reservations that later led him to withdraw, and Sulayman Frangieh, the pro-Syrian former president of Lebanon (term: 1970–1976).[82] Shams al-Din, in a statement from the ISSC, supported the work and goals of the Committee as a national effort to salvage Lebanon and to support the Lebanese state from the looming threat of full disintegration. He corroborated Nabih Berri's choice to participate. This position incurred on him the wrath of the Islamists who condemned both Shams al-Din and Berri for their participation and support of the Committee's work to save the Lebanese political order.[83] This condemnation was the catalyst that led many of these Islamists to defect from *Amal* and to found a splinter group, *Islamic Amal*, with many later joining the ranks of Hezbollah. It was also a breaking point between Shams al-Din and the militant Islamists who were soon going to form the rank and file of Hezbollah in the next couple of years and who saw in Shams al-Din and his political positions, as well as the direction in which he led the ISSC, an opponent. It is noteworthy that the Iranian authorities were at this time also very disapproving of Berri joining the National Salvation Committee. The Iranian ambassador to Damascus explicitly asked Berri to refrain from joining the Committee, an advice that Berri ignored.[84] So Berri's decision to join the Committee in July 1982, backed by the support of Shams al-Din, was a clear signal to Iran, that the leadership of the Lebanese Shi'i community, as evidenced by both *Amal* and the ISSC was clearly independent from Iran and its endeavor to control Lebanon's Shi'a.[85] To shed more light on the split that took place between the ISSC and Hezbollah, Shaykh Hasan Mushaymish, who served as the deputy secretary-general of Hezbollah during the tenure of its first secretary-general, Shaykh Subhi Tufayli (term: 1989–1991), recalled the heated debates over the issue that took place in July 1982 inside Hezbollah's *ḥawza* in Ba'alback, which then served as the headquarters of a legion of Iran's IRGC (Islamic Revolutionary Guard Corps). In these internal debates, the most pressing topic was what Hezbollah officials saw as the controversial decision of Shams al-Din to give legitimacy to the National Salvation Committee, and by extension the Lebanese state and its regime. Hezbollah officials considered the question of whether Shams al-Din's decision undermines his religious authority and disqualifies him from heading the ISSC. Shaykh Mushaymish noted that when he voiced his approval of Shams al-Din's position,

which he saw as defending Lebanese political institutions from full disintegration and which was in line with the national guidelines that al-Sadr had set out for the Lebanese Shi'a, Mushaymish faced acrimonious opposition from the *ḥawza*'s leading figures, namely the late Abbas al-Musawi who served as the general secretary of Hezbollah (1991–1992) and Hasan Nasrallah, the current secretary-general of the party. In the eyes of most Hezbollah leaders, Shams al-Din had lost his probity as a jurist and was not qualified any longer to lead the ISSC because of his decision to support the Lebanese president in his national reconciliation efforts.[86] The various revolutionary Islamists who filled the rank and file of Hezbollah were convinced of the primary importance of fighting Israel which superseded any other internal Lebanese issue. As avid admirers of the Islamic Revolution in Iran and seeking to reproduce this model in Lebanon, Hezbollah's Islamists were critical of *Amal's* policies because it was not sufficiently opposed to the existing Lebanese political system.[87] Additionally, the idea to create an Islamic party in Lebanon was already at this time a main goal for these militants. Many of them decided to defect from *Amal* and move on to form an Islamist party on the eve of Berri's decision to join the National Salvation Committee.

The relationship between Hezbollah and Shams al-Din paralleled in its pattern and roots his rocky relationship with Fadlallah. The rivalry between the ISSC and Hezbollah, while it was centered on the representation of Lebanese Shi'a, differed fundamentally from Shams al-Din's competition with *Amal* under the leadership of Berri. In contrast to his political differences with Berri, Shams al-Din's differences with Hezbollah were more deeply ideological and revolved around divergent visions of Lebanon and its relations with the Islamic Republic of Iran. Shams al-Din was deeply concerned about the ramifications for Lebanon of the rise of Khomeini's Islamist state in Iran and the allure of his theory of *wilāyat al-faqīh* over Arab Shi'a, particularly the Lebanese. Moreover, he took legal issues with the construction of *wilāyat al-faqīh*, a theme that will be discussed at length in the next chapters. Concerned about the influence of Iran's revolutionary fervor over Arab Shi'a, Shams al-Din became much more vocal during the 1990s about the need for Arab Shi'a to demonstrate their allegiance to their own nation-states and not to allow external actors, such as Iran, to interfere with their domestic loyalties.

It was during the war that broke out in the late 1980s between Hezbollah and *Amal* Movement, that the deep differences between

Shams al-Din and Hezbollah came unmistakably to the forefront, divisions that were to continue until the end of his life in 2001. In April 1988, the long-standing tensions and skirmishes between *Amal* and Hezbollah erupted into open military conflict. This was a war for the control of Shi'i-inhabited areas of the country that pitted Lebanon's two Shi'i groups against each other: *Amal*, the Shi'i militia that was at the time already established as the preeminent Shi'i force on the ground, and Hezbollah, the newcomer whose radical members enjoyed the full military and financial support of Iran through its IRGC contingent in Lebanon that sought, with Iran's backing, to supplant *Amal*. From *Amal's* perspective, Hezbollah had expanded too far into South Lebanon. Moreover, the war reflected the rivalry between Iran and Syria, which backed *Amal* and Berri. Despite the support that Syria lent to Iran in its war with Iraq, the two countries had different interests in Lebanon. The growth of Hezbollah in the 1980s would have reduced the level of control wielded by Syria over South Lebanon.[88] The war between *Amal* and Hezbollah on the Shi'i scene also exemplified the nationalist versus the internationalist paradigm, in which Hezbollah preferred "an Islamic form of Internationalism centered in Iran."[89] *Amal* in this war represented the nationalist Lebanese choice of the Shi'a.[90]

In May and June of 1988, in the midst of the Hezbollah-*Amal* war, Hezbollah published a series of booklets entitled: *Fī Muwājahat al-Mu'āmara* (Confronting the Conspiracy), under the penname of "*Lajnat al-Mub'adīn min Jabal 'Āmil*" (The Committee of the Deportees from South Lebanon) which accused Shams al-Din, as the head of the ISSC, to cover for *Amal* and Nabih Berri[91] in their decision to support the policies of the Lebanese state and to distance the ISSC from Iran, while opposing Islamist parties in Lebanon.[92] This claim was made despite the tensions that were known to characterize the relationship between Shams al-Din and Berri. The booklets also contained accusations that Shams al-Din was misrepresenting the Shi'a in Lebanon and was actually trying to turn them into pawns of the Maronites.[93]

During this inter-Shi'i war, the relationship between the two scholars, Shams al-Din and Fadlallah, reached its most tense level. Fadlallah was close to Hezbollah, at least ideologically, although it is not known to what extent he supported Hezbollah's involvement in the actual battles, in a war that was deemed one of the bloodiest in the saga of the internal Lebanese wars. Shams al-Din, having been isolated from *Amal* leadership since 1983 and having had a tense rapport with Berri due to

their personal rivalries over the leadership of the Shi'a, stood against this war, deemed an aimless depletion of Shi'i blood. In a meeting between the two, Shams al-Din, frustrated with Fadlallah's close proximity to Hezbollah, accused the latter of being too cozy with the Hezbollah leadership while also not doing enough to stop the war. He said to Fadlallah: "you are Hezbollah!" an accusation that was meant to spur Fadlallah to use his leverage with the party to stop the fighting. Fadlallah, in response, denied having any influence on Hezbollah's decision making, and said that the party did not listen to his advice nor abided by any of his *fatwā* or legal rulings, and instead followed only Iranian leadership, in particular that of Khomeini.[94]

Given his intellectual evolution and experiences within Lebanon's fractured political scene and destructive civil war, it was natural for Shams al-Din to support the Ṭā'if Agreement in 1989 to end the war and support the restitution of the political system. The Ṭā'if Agreement was seen positively by Shams al-Din because it contained many of the stipulations and proposals that he had previously advanced in the treatises and documents that he had produced with Musa al-Sadr during the first years of the Lebanese civil war, in the late 1970s. Shams al-Din took the Ṭā'if Agreement as a starting point toward building more transparent, competent, and autonomous state institutions through the introduction of administrative and governmental reforms.[95] Such reforms, he believed, would eventually give rise to civil government in Lebanon. Under civil government, power would be equally divided between Christians and Muslims, but in a way that would keep "religion" from having any direct interference in state affairs.[96] Fadlallah disapproved of the Ṭā'if Agreement and until 1988, he still believed that the sectarian system of Lebanon needed to be abrogated with a non-confessional system in order to get rid of Maronite hegemony over the Lebanese government.[97]

Conclusion

Finally, one arguably concludes that the period surrounding the Lebanese civil war, beginning in the 1970s and lasting into the 1990s witnessed the emergence of two politicized religious Shi'i trends. The first one was represented by Musa al-Sadr and later by Shams al-Din, who in the post-Ṭā'if period would become its most notable representative following Musa al-Sadr's disappearance in Libya in 1978, and his subsequent rise to the leadership of the ISSC. The second trend was

represented first by the *Daʿwā* Party to which Fadlallah was associated with, both in Najaf and later in Lebanon, where he mentored the party's young activists who settled in therein. Later the Islamists initially affiliated with the *Daʿwā* Party or with the Society of the Najaf *ʿUlama* would join Hezbollah, which then became the standard-bearer for the cause of establishing an Islamic state in Lebanon during the 1980s. The main difference between these two trends, or between Hezbollah and Fadlallah, when he was still close to the party, on the one hand, and Musa al-Sadr and Shams al-Din on the other was their position on the legitimacy of the Lebanese system and the visions they held in regard to solutions to the intractable predicaments of the Lebanese Republic. As argued in the sections above, the Lebanese nationalist trend was mostly taken up and defended by the ISSC, through the work and agenda of its founders, first Musa al-Sadr and later Shams al-Din. Musa al-Sadr's project was to adapt to the existing Lebanese polity, and Shams al-Din, who developed and further theorized this project, later fully embraced Lebanon and not only conformed to and protected al-Sadr' famous slogan "Lebanon is a final homeland for its citizens" but also worked to theorize and further develop a workable vision for a reformed government system that would provide the once-marginalized Shiʿa with greater resources and political representation, not through revolution, but through reform of the country's confessional political arrangement.

What best characterizes the political journey of Shams al-Din as the head of the ISSC is his central goal to help improve the lot of Lebanon's Shiʿa by further integrating them into the existing national political order while also keeping them independent and free from the control and influence of Iran and its Lebanese Islamist allies who sought to realign the Lebanese Shiʿa with a foreign regime. His efforts required him to navigate the inherent tensions between the Shiʿa and the Lebanese confessional state in an attempt to bring the two into alignment. Shams al-Din needed to bring the Shiʿa further into the Lebanese state while also working to make the Lebanese state more just in its treatment and interaction with the Shiʿa. To this end, he wrote numerous treatises and political theses and backed political initiatives to achieve these goals. Under his leadership, the ISSC managed to preserve its independence in spite of sustained attempts by Iran to establish its dominance over Lebanon's Shiʿa and he was to become the last of the towering Lebanese Shiʿi religious leaders to defend loyalty to the Lebanese state against

the Shi'i Islamist transnationalism centered on Iran and represented by Hezbollah and its adherence to Khomeini's theory of *wilāyat al-faqīh*.

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The Shi'i Imamate Doctrine: Historical and Conceptual Developments

INTRODUCTION

A thorough examination of Shams al-Din's critique of *wilāyat al-faqīh* must first include a discussion of Shi'i political thought and doctrine, particularly the concepts of *Imāma* (Imamate) and *wilāya* (sovereignty or political authority) in the Shi'i political tradition.[1] More specifically, we start first with a brief history of the political crisis created by the question of succession to the Prophet Muhammad, followed by a discussion of the evolution of the Twelver Shi'i doctrine of the Imamate and the conditions that shaped it. We move, second, to the Shi'i concept of *wilāya* and examine how it lays the foundation for the authority of the jurist, the political-legal offices of *niyābat al-faqīh* (deputyship of the jurist) and *wilāyat al-faqīh al-ʿāmma* (general guardianship of the jurist). The conceptual developments relating to *wilāya* and *niyāba* are tied to three questions. The first question revolves around the nature of the Imamate and the existence of its religious-theological aspects alongside politico-juridical ones; that is, to what extent does the Imamate doctrine claim governmental authority? The second question relates to the Imam's delegation of his governmental authority to the jurist. As the leadership of the Imam is two-pronged, religious and governmental/political, the pertinent question is whether or not the Imam delegates, or can delegate, his governmental authority. The third question deals with the position of the Imamate doctrine on temporal governments. Are the temporal governments legitimate or not? If not, what is the range

of attitudes and positions that the Shi'i Imami jurists can adopt toward these governments? As we will see, these three questions overlap around issues of the governmental authority of the Imamate, its legitimacy, and approach to temporal governments, interrogating whether or not there exists a governmental dimension to the jurist's authority. The response to these questions will be formulated in the context of historicizing and discussing these concepts and their developments.

THE SUCCESSION OF MUHAMMAD AND THE ADVENT OF THE IMAMATE

An early political question that occupied Muslims was to whom the Prophet's political leadership should devolve after his death. All members of the community agreed about the necessity for a successor, but there was disagreement and conflict over who this should be and the mechanisms for his election and designation. This question was further complicated by the fact that the legacy of the Prophet was twofold: religious and political. The ensuing debates that have occupied Muslims for centuries were concerned with the nature of the office of the Prophet's successor, specifically was it to be purely religious or politico-religious. In time, Muslims have produced different conceptions of religious authority and political leadership. Sunnis and Shi'a each developed doctrines that outlined the contours of legitimate religious and political leadership.

The Succession to Muhammad

Divisions and dissent emerged around the identity of the most qualified candidate to occupy the position of the Prophet's successor. The Islamic Scriptures, the Qur'an and *Ḥadīths* (Prophetic Traditions), do not designate the identity of the successor, nor define his qualifications or functions, nor the process of his advent or election to power, but they stipulate that the legitimate ruler is the Prophet himself. The differences between the Shi'i conception of the Imamate and the Sunni conception of the caliphate lie in the conflict over the identification of a successor to the Prophet, and the mechanisms for his appointment.

Shi'ism, a word deriving from the partisanship or loyalty to 'Ali as the successor to the Prophet, evolved from the very conflict over the question of that succession. The earliest forms of Shi'ism, which took shape

during the lifetime of 'Ali, consisted of a conviction that 'Ali was the legatee (*waṣī*) of the Prophet and therefore his lawful successor in the leadership of the Muslim community. The right to this position of leadership resided in the House of 'Ali and by extension the House of Muhammad (*Ahl al-Bayt*) since the progeny of 'Ali through Fatima were the sole descendants of the Prophet. From the beginning, 'Ali made it known that he saw himself to be worthy of this office by virtue of his early conversion to Islam, the excellent services he had rendered to the new religion, and his close kinship to the Prophet.[2]

Immediately after the Prophet's death in 632 CE, the *Anṣār*—made up of the two local tribes of Madina, the *Aws* and the *Khazraj*, and the *Muhājirūn*, emigrants with the Prophet from Mecca to Madina—met at the Saqīfat Banī Sā'ida, in Madina to discuss the question of the succession to Muhammad. The *Muhājirūn* were represented by only a tiny faction made up of Abū Bakr, 'Umar, and Abū 'Ubayda bin al-Jarraḥ and perhaps some of their family members and clients. 'Ali was not represented and was not summoned to participate in this fateful meeting.[3] He and most of the Banū Hāshim were in Fatima's house, tending to the deceased Prophet's body in preparation for burial.[4] The *Khazraj* chief, Sa'd bin 'Ubāda, and the members of his tribe were in favor of 'Ali when a succession to Muhammad was proposed at the meeting.[5] The *Aws* were opposed to the *Khazraj* from the beginning.[6] 'Umar and Abū Bakr headed to the Saqīfa in order to make sure that neither the *Anṣār* factions would choose a successor from among themselves,[7] nor the Banū Hāshim arrogate power to themselves and deprive Abū Bakr and 'Umar from what they believed was the collective right of the Quraysh.[8] Most of the *Muhājirūn* were absent from this meeting including the Prophet's own family and clan.[9] Not all the *Muhājirūn* supported the claims of 'Umar.

As the discussion at the Saqīfa revolved around political succession, the *Anṣār's* main issue was the administration of the affairs of their city Madina, not the succession to Muhammad.[10] It was only Abū Bakr and 'Umar who were concerned with the political succession to Muhammad and the leadership of the new political community of Muslims.[11] By using two approaches, one to ignore and oust 'Ali from the meeting and the second to maneuver the *Anṣār* through a politically intimidating argument, Abū Bakr successfully won the leadership of the Muslim community. He pointed to the existing divisions between the *Aws* and the *Khazraj* and focused on the precedence of the Quraysh with their

exclusive ability to rule over all Arabs.[12] He also purposefully avoided mention of the Qurayshi blood relationship to the Prophet because this would have made a strong case for the candidature of 'Ali, the Prophet's cousin and son-in-law.[13] What tilted the balance toward Abū Bakr and 'Umar were the *Banū Aslam*, from the *Khuzā'a* tribe who lent their support to Abū Bakr against the *Anṣār*.[14] The *Khazraj* chief, Sa'd bin 'Ubāda, was physically assaulted by 'Umar for daring to challenge the right of the Quraysh to rule.[15] In the words of 'Umar, the oath of allegiance to Abū Bakr was a *falta* (a matter concluded in haste), "yet it succeeded," adding: "it was indeed so, but God has warded off its evil."[16] 'Umar deemed it *falta* mainly because of the absence of the majority of the *Muhājirūn* and the Prophet's family and clan at the Saqīfa meeting.[17] Thus, Abū Bakr arrogated the leadership to himself, and the succession of Muhammad slipped from 'Ali's hands.[18] This marked the point at which Shi'ism begins to emerge, a movement that was to gain further momentum later.

The Shi'i Imamate Doctrine

Ghayba

After the death of the eleventh Imam, Ḥasan al-'Askarī, in 874 CE, important developments took place in the formation of the Imamate doctrine, which underlined its transition from Shi'ism in general to Imami or Twelver Shi'ism in particular. The definitive form of the Shi'i Imamate doctrine took shape after the death of the eleventh Imam in 874 CE.[19] The Imam's death triggered uncertainty about whether he left a son to succeed him or not. According to the reports collected in Shi'i compendiums of *Ḥadīths*, the Imami community, stricken with confusion and restlessness, expressed various opinions about the existence of a son of the deceased Imam, or lack thereof.[20] The birth of a twelfth Imam and his early Occultation was to a great extent the conceptual production of the Imam's *wukalā'* (representatives), namely 'Uthmān al-'Amrī, Muhammad al-'Amrī, Ḥusayn al-Nawbakhtī, and 'Ali bin Muhammad al-Samarrī (d. 941).[21]

Ideas about *ghayba* (Occultation) had gained solid ground among the followers of the Imam after the death of the eleventh Imam, Ḥasan al-'Askarī.[22] The concept of *ghayba* was already present in the cultural landscape of early Shi'i groups; it had origins in the chiliastic ideas that

were spread among the *Kaysāniyya* and the *Wāqifiyya*.[23] This crisis, triggered by the absence of an Imam, made the Imami scholars adopt the concept of *ghayba* in order to explain his prolonged absence and quell the doubts and restlessness of the community. These scholars disseminated the idea that the absent Imam had gone into *ghayba*.[24]

The idea of the Mahdī (the divinely guided one) as the savior, who will rise and restore religion and justice in the world, has been present in the Islamic tradition from the earliest times.[25] There also existed Prophetic Traditions predicting that a descendant of Fatima, the Prophet's daughter and the wife of 'Ali, will rise and fill the world with justice.[26] It was only in the middle of the tenth century that the concept of the Mahdī appeared in the Imamate doctrine. Before that period, only pro-'Alid groups which burgeoned in the centuries that followed the assassination of Imam 'Ali to include groups such as the *Kaysāniyya*, the *Wāqifiyya*, and the *Mukhtāriyya,* adopted the idea of the Mahdī.[27] These groups constantly sought historical figures that would fulfill their messianic and chiliastic yearnings in an age of structural change that was characterized by political frustration and intellectual hybridity. Prior to that, at the end of the Umayyad age, and on the eve of the Abbasid revolution, in the middle of the eighth century, messianic and chiliastic beliefs were widespread in the form of the idea of the *qā'im* (the one who will rise and rule), a future Imam who will rise and reestablish the rule of religion.[28]

In 941 CE, the Imam's last representative declared that the Imam had entered into the Greater Occultation, announcing the end of the Lesser Occultation (874–941). It was around this time that a tradition emerged which identified the twelfth Imam as both the Mahdī and the *qā'im*.[29] The Imamis accepted the view that the Imams were twelve and that the last one, the Twelfth, is in Occultation.[30] By the middle of the tenth century, the twelve names of the Imams began to appear in important Shi'i *ḥadīths* compilations such as *Uṣūl al-Kāfī* of Kulaynī (d. 941) and the works of Ibn Babawayh (d. 991).[31]

The *ghayba* was developed at a specific historical juncture when the Abbasid persecutions had become intolerable. And so at this historical stage many political and theological advantages could be perceived in the disappearance of the Imam.[32] The disappearance allowed the Imami Shi'a to cooperate with the pro-Shi'i Buwayhid regime without compromising their loyalty to their Imam and enabled them to reap some of the advantages available due to their closeness to the center of political

power.[33] With the disappearance of the Imam, there were no longer any serious and practical claims to political authority, and thus the Imam, despite his being alive and hidden, no longer represented a direct threat to the incumbent Abbasid power.[34]

Characteristics of the Imam

Shi'a confined the successor of Muhammad to a descendant from *Ahl al-Bayt*, specifically the 'Alid and Ḥusaynid lineages.[35] The Imam's special status is based on two distinguishing characteristics: He is divinely appointed as successor and he is invested with personal qualities.[36] The method through which he achieves his status is divinely inspired designation or appointment (*naṣṣ*). The Prophet designates the successive Imam, and each Imam occupies his position through the designation of the former one.[37] Popular legitimation is inconsequential.[38] One of his important qualities is possession of *'ilm*[39] through conventional ways of acquisition of knowledge and through heredity and divine inspiration (*waḥī*) that occurs by contact with an angel during sleep.[40] Some of this knowledge is esoteric, but otherwise it is religious, focusing on the Qur'an and jurisprudence, since the Imam is the guardian of the law.[41] The extent of his knowledge is open to debate and the juristic opinions about it vary from an assertion of the Imam's superior knowledge of the divine law to the conviction of his mastery of supernatural and extraordinary forms of knowledge.[42] Another attribute of the Imam is infallibility (*'iṣmā*) which denotes immunity from sin and error.[43]

The Imam has a focal legal role. He possesses all of the Prophet's accumulated knowledge.[44] The Imam alone ensures believers don't go astray and provides them with legal guidance to help them to fulfill their religious and legal obligations as Muslims. He is the guardian of the Qur'an and most importantly the interpreter who wards off misguided and ill-intentioned interpretations of the ignorant and Islam's enemies. The Imam becomes the embodiment of the *shari'a* and its executor. He has the authority to legislate when there are no explicit legal directives in the Scriptures and to interpret the divine law and execute it.[45]

During the age of the sixth Imam Ja'far al-Ṣādiq (d. 765), the office of the Imamate was religious in the first order. Many of the followers of Imam Ja'far believed that the principal role of the Imam was to provide religious and legal guidance. He was the ultimate interpreter of the Qur'an and its protector from distortions and corruptions. He explained

to believers the divine law of God and settled the problems that believers encountered in their practice of religious laws.[46]

Therefore, before the *ghayba*, there is strong evidence that the Imams, especially in the period of the fifth and sixth ones, Muḥammad al-Bā-qir and Jaʻfar al-Ṣādiq, strongly emphasized the theological aspect of the Imamate and the religious function of the Imam. The Imam explained his role to be the sole and exclusive source of interpretation of the divine law and the interpretive guardian of the Qurʾan. A natural development of this emphasis on the theological aspect of the Imamate was to separate temporal from religious authority and to suspend the pursuit of political power. Modarressi has underlined the numerous times in which the Imam had to actively face and deflect pressure from his own community to rise up against the incumbent power and establish his own government. Many of the Imams had to constantly dissuade their own followers from the idea that they were the *qāʾim* whose mandate is to rise against injustice.[47]

Esoteric Dimensions of Shiʻism

As we have seen from the above section on the succession to Muhammad, starting out as a political question, the first important tenet in Shiʻism was the belief in the right of ʻAli and the *Ahl al-Bayt* to succeed the Prophet in the leadership of the Muslim community. However, in time, the temporal and governmental claims of Shiʻism receded whereas its religious and legal elements continued to develop. The Imamate doctrine, which took its final shape after the Greater *ghayba*, emphasized religious leadership, such as the exegesis of the Qurʾan, the custodianship of the prophetic teachings, the source of religious guidance, and the elaboration of Islamic law.

Mohammad Ali Amir-Moezzi argued that during their lifetimes, the Twelve Imams were expressing an esoteric knowledge-centered dogma whose cornerstone was the Imam per se. It was a doctrinal tradition with less emphasis on the juridical content than cosmological and metaphysical dimensions.[48] Amir-Moezzi calls the central esoteric tendency a cosmogonic doctrine.[49] The cosmogonic elements consisted of the elaboration of the supernatural characteristics of the pre-eternal luminous entities of the Imams, the creation of the spirits, hearts, and bodies of the Imams, and their miraculous conception and birth, as well as their "clairvoyance," meaning their supernatural powers and knowledge.[50] At this early stage in its formation, Imamism might have been called

"esoteric non-rational Imamism" and was reported by the traditionists of the Qum School. It is distinct from the tradition that developed later, which could be referred to as "theological-juridical rational Imamism."[51]

From the tenth century onward, Twelver Shi'ism was transforming into a tradition with deep roots in juridical knowledge. However, before we explore this historical development toward rational juridical Imamism, we must see how Muhammad Mahdi Shams al-Din defined the doctrine of the Imamate, a prelude that will allow us to explore the semantic and conceptual meanings of *wilāya*, which are necessary backgrounds for our main discussion in this chapter: *wilayāt al-faqīh al-'āmma*.

Shams al-Din on the Imamate

Muhammad Mahdi Shams al-Din (d. 2001) noted that Shi'ism is an authentic movement within Islam since the time of the Prophet. Its first manifestations were professed by a few companions of the Prophet who vowed loyalty and admiration to 'Ali, based on his exceptional qualities, which were confirmed by the Prophet's statements. They recognized in him the aptitude for the leadership of the Muslim community in succession of the Prophet.[52] Shams al-Din defined the Imamate as a continuation of Prophethood in all its functions except the reception of revelation. It assumes religious functions and consists of promoting the faith, preserving the creed and protecting it from distortion, misinterpretation, and accretions. The Imam is an infallible exegete who explicates and clarifies Islam's legal and moral rules and injunctions.[53] The latter function represents the legislative part of the Imamate, which consists of finding legal rules for specific social areas, which appeared after the death of the Prophet and, which would otherwise fall within a legislative void. These legal rules are inferred through deductive reasoning from the Scriptures. This deductive process is conducted in light of the social changes that have occurred since the death of the Prophet.[54] As such, the Imamate encompasses roles that go beyond political leadership to include functions shared partly by the role of Prophethood.

It is a consensus among Shi'i jurists that the core of the Imamate doctrine is religious and that the leadership of the Imam is a religious form of leadership in the first order.[55] In the second order, the Imamate is vested with the privilege of governmental and political leadership. Since the occupation of the office of caliph or sovereign is a secondary function of the Imamate whose exercise or lack thereof is contingent upon

temporal circumstances, the absence of the politico-governmental leadership of the Imam does not diminish or tarnish in any way the main function of the Imam, which is the continuation of Prophethood with the exception of the receipt of revelation (*waḥī*).[56] Therefore, whether the Imam exercises his political functions or not, it is inconsequential to his religious status as the guardian of the *shari'a*.[57] Shams al-Din observed further that the Traditions reported on behalf of the Imams concerning the essence and nature of the Imamate include few references to the governmental and administrative functions of the Imam. The latter Traditions are usually found in the chapter on "the Necessity of Obedience to the Imams" (*bāb farḍ ṭā'at al-a'ima*) and the chapter on "Imams are the Leaders" (*Inna al-a'imma wulāt al-amr wa hum al-maqṣūdūn*) and a few other Traditions. Furthermore, these Traditions also stress that the governmental and administrative aspects of the Imamate are a derivative of the requirement of obedience to the Imam in legislative matters.[58] The Imamate is mainly an institution of Prophethood and not an institution of the political order. As such, its function cannot be restricted to statehood but to the entirety of the *umma* as it pertains to all of its various needs.[59] It follows then that the governmental functions of the Imamate take a secondary role.

Wilāya

Semantically, the three-letter verbal root "*w-l-ā*" that the term *wilāya* is derived from means adjacency and denotes support, proximity, and closeness. This closeness may be either literal, denoting geographical proximity, or figurative, denoting close association in terms of religion, friendship, doctrine, and support.[60] The verbal noun is pronounced both as *walāya* and *wilāya*, the former used in the sense of the act of assuming responsibility, being in charge of a matter, or occupying a supervisory position over a matter (*tawwalī al-amr*), while the latter, *wilāya*, denotes support, assistance, and standing up for a cause to make it victorious (*naṣrā*).[61]

In Ayatollah Husayn 'Ali Muntaziri's opinion (d. 2009),[62] *wilāya* denotes less the meaning of friendship than of management of affairs (*tadbīr*), administration (*taṣarruf*), and taking matters in charge (*tawwalī al-amr*).[63] He argued that the connotation of proximity implied in the term's semantics does not rule out the implication of administration (*taṣarruf*) and influence (*ta'thīr*), which is a dimension usually involved in relationships of closeness.[64] Therefore, the term always implies

administration (*taṣarruf*) because the supervision of the affairs of others requires closeness to them in order to manage their affairs and defend their interests properly.[65] Muntaziri's argument that *wilāya* indicates political administration is his interpretation of the Tradition in which the Prophet speaks of 'Ali in these terms: "*huwa walī kul mu'min min ba'dī*" (He is the *walī* of every believer after me), which is cited in al-Tirmidhī's *Sunan* (5:296). Muntaziri argued that this Tradition attributes to 'Ali the administration (*taṣarruf*) of public affairs (*wa innahu al-awlā bi al-taṣarruf*).[66] The phrase "*min ba'dī*" (after me) cancels out the connotation of friendship and indicates rather authority.[67] Muntaziri cites also other Traditions such as that of Zayd ibn Arqam and Barīdā,[68] namely "*man kuntu mawlāh fa 'Alī mawlāh*" (Of whomsoever I am Lord, then 'Ali is also his Lord).[69]

As a concept, *wilāya* is divided into two kinds, one called *tashrī'iyya* (legislative), and another called *takwīniyya* (formational). Muntaziri explains that the *wilāya* in the sense of management of the affairs and lives of human beings (*taṣarruf*) is twofold: *takwīniyya* and *tashrī'iyya*.[70] In their true and full forms both belong to God for God's sovereignty is universal.[71] However, in its earthly form, *wilāya takwīniyya* belongs to the Prophets, the Imams, and also to some spiritual mentors *(awliyā')*. The miracles of Prophets and Imams and the graces (*karāmāt*) of the spiritual mentors stem from their *wilāya takwīniyya*.[72] *Wilāya tashrī'iyya*, on the other hand, refers to the act of taking in charge (*tawwalī*) or the promulgation of laws for the components of the universe.[73] It is also the act of legislation, which came into being as a result of the *shari'a* and follows its commands and prohibitions. It addresses issues of property (*amwāl*) and lives.[74] *Wilāya tashrī'iyya* addresses legislation of rules such as hygiene (*ṭahāra*), and health.[75]

To whom does *wilāya tashrī'iyya* belong? There is consensus that this *wilāya* is fully devolved upon the Prophets and the Imams by virtue of many Qur'anic verses, the most important of which is a verse from *Sūrat al-Aḥzāb* (33:6): "*al-nabī awlā bi al-mu'minīn min anfusihim wa azwājuhu ummahātuhum wa ulū al-arḥām ba'ḍahum awlā bi-ba'ḍ fī kitāb Allah min al-mu'minīn wa al-muhājirīn.*" (The Prophet is closer to the Believers than their own selves, and his wives are their mothers. Blood relations among each other have closer personal ties, in the Decree of God, than the Brotherhood of Believers and *Muhājirs.*)[76] It is apparent that this verse assigns many authorities to the Prophet.[77]

But some jurists believe additionally that, apart from Prophets and the Imam, this *wilāya* also belongs to some just believers. Muntaziri stated that levels (*marātib*) of *wilāya tashrī'iyya* are confirmed for the Prophet and the Imams, and in certain cases, for just believers (*'udūl al-mu'minīn*), as confirmed in a verse in *Sūrat al-Tawba* (9:71)[78]: "*wa al-mu'minūn wa al-mu'mināt ba'ḍuhum awliyā' ba'ḍ ya'murūn bi al-ma'rūf wa yanhawna 'an al-munkar ...*" (The Believers, men and women, are protectors one of another: They enjoin what is just, and forbid what is evil; they observe regular prayers, practice regular charity, and obey God and His Apostle; on them will God pour His mercy: for God is Exalted in power, Wise).[79]

Muntaziri argued that this verse from *Sūrat al-Tawba* (9:71) is subject to many interpretations. First, it denotes the precedence of the Prophet over others in all matters even in personal matters related to one's dignity and love as the prophet should be the object of these feelings before the believer's own self. Second, in terms of the execution of will, the believer should advance the will of the Prophet over his own will.[80] Third, the execution of the Prophet's will should be carried in matters of social obligations whose observance is not required of any specific believer, but can usually be carried out by the notables and decision makers of the community. These social obligations indicate the administration and supervision of the money of the deceased and orphaned minors, and other public functions such as the preservation of social order, collection of taxes, and the ratification of treatises with other states and nations.[81] Fourth, the *wilāya* of the Prophet, as the supreme authority, takes precedence over other *wilāyas* in society, and its execution should supersede the execution of other authorities, especially in cases that require the judgment of a judicial authority.[82]

In conclusion, it is clear that some jurists believe that the *wilāya tahsrī'iyya* belongs not only to the Prophet and the Imams, but also to the *awliyā'* of God, his trustees among the believers.[83] These jurists subscribe to the thesis of *wilāyat al-faqīh al-'āmma*. The *'ulama*,[84] who don't subscribe to this thesis, argue that this *wilāya takwīniyya* is the exclusive prerogative of the Imams, and is non-transmittable.[85] *Wilāya tashrī'iyya* is the exclusive sovereignty of the Prophet and Imams over the property and souls of the believers.[86] It can be transferred during the *ghayba* to the *'ulama* through the Imam's general appointment. In this case, the *'ulama*'s authority is established in the judiciary domain[87] and the legal domain, which consists of interpreting legal rules.[88]

As for Muntaziri, he was initially in favor of the establishment of an Islamic government, albeit for a certain time before he withdrew his support of the Islamic Republic regime of Iran and became critical of the absolute powers of Imam Khomeini in 1988. Muntaziri's basis for the Islamic government rests on the concept of *umūr ḥisbiyya*, which, in broad terms, is defined as consisting of issues that do not have a specific supervisor who ensures that they are put into effect, and which God does not wish to be left unattended. Thus, Muntaziri argued that God would not agree to leave vital matters such as the security of the Muslim community and its autonomy unattended.[89]

The Legal Authority of the Imam Around the Ghayba Period

In the pre-*ghayba* period, the Imams' position was that as long as the Imam lived among his followers, the Imam was the ultimate source of religious guidance and legal knowledge. He was the interpreter of Islamic law and the arbiter in disputes.[90] His close associates kept records of his sayings and deeds and were compilers and transmitters with no judgment or interpretive authority of their own. They were discouraged from using their own rational judgment or to question any of the legal or theological provisions and rules of the Imam.[91] However, Modarressi pointed out that in the last phase of the pre-*ghayba* period, the Imams were delegating greater roles and authorities to their associates, representatives, and transmitters of their Traditions. These were mostly in the fields of judgeships and financial administration.[92]

These delegations coincided with structural changes in the Shi'i community and change in the historical conditions. The tension with the regime in power was intensified, and more restrictions were imposed on the movements of the Imam. Moreover, the demographic and geographical expansion of Shi'i followers reduced the field of direct contact between the Imam and his followers. These changes forced the Imam to delegate some responsibilities to his associates and companions, which Kohlberg referred to as growth of local leaderships.[93] He believed that it is around this time that the eighth Imam 'Ali al-Riḍā (d. 818) saw fit to allow his representatives, who lacked direct physical contact with him, to resort to rational and analytical reasoning and the right to independently elaborate the detailed points of the law.[94] Shaykh Al-Mufīd (d. 1022) referred to these *wakīls* (financial agents of the Imam) as *umarā'* (commanders) and *wulāt* (governors).[95] This partial delegation of certain

aspects of legal authority had the benefit of making the transition to the *ghayba* period less traumatizing and disruptive. The Shi'i community under its scholars had already acquired a certain amount of legal autonomy that allowed it to fare relatively well after the abrupt absence of the Imam.[96] This smooth transition also meant that the late pre-*ghayba* state of affairs was not fundamentally different from the early phases of the *ghayba* period.[97]

During the first years of the *ghayba*, the affairs of the Imamate were in the hands of the caretaker of the office of the Imamate, 'Uthmān b. Sa'īd al-'Amrī.[98] He soon confirmed himself to be the deputy of the Imam (*safīr*, *wakīl* or *nā'ib khāṣṣ*) by virtue of the contact he had kept with him. He continued to receive the religious funds and correspondence sent to the Imam as he had done before the *ghayba*.[99] Three other deputies succeeded him, but the fourth deputy appointed no one after him, and thus, the Greater Occultation was inaugurated in 941 CE.[100]

These *safīrs* were both administrators and scholars.[101] They never claimed to have received the Imam's delegation.[102] What was happening on the ground was that they were assuming considerable public responsibilities, disposing of the need for a public appointment or an appointment from the Imam, and without systematizing their role through the establishment of an institution that invested them with formal delegated powers. They tried to salvage a tradition in crisis as its sole remaining guardians.

Developments in Shi'i Political Thought

The belief in the Imam's *ghayba* suppressed the political claims of supporters of the Imamate.[103] This led to an emphasis on the religious aspect of the Imamate and the suspension of claims to temporal power.

According to Amir-Moezzi, the doctrinal separation between the temporal and the spiritual that took place in Shi'ism during the lifetimes of the fifth and sixth Imams (Muḥammad al-Bāqir and Ja'far al-Ṣādiq) consisted of avoiding claims for political leadership and focusing on religious guidance to safeguard Shi'ism. The dominant idea was that the two spheres should not conjoin in one just leader before the end of times.[104]

Therefore, during the lifetimes of the Imams, religious elements superseded governmental claims, particularly in a turbulent age in which pursuit of temporal power could be fatal. Pursuits of temporal power were suspended, but the impetus for political involvement was

not totally eliminated among the members of the Shi'i community. For instance, Ja'far al-Ṣādiq (d. 765), who was the incumbent Imam when the Umayyads were removed from power, was the center of expectations to rise and claim power in the wake of the Abbasid revolution and the overthrow of the Umayyad Caliphate. Many in Iraq expected him to step in and claim the caliphate for himself.[105] Nevertheless, he insisted to the members of his community that he was not the *qā'im* (the leader who would rise and establish the rule of truth and justice), and that there was going to be no changes during his lifetime whereby Shi'a would seize the reins of power.[106] These same expectations resurfaced during the lifetime of the next Imam, Mūsā Al-Kāẓim (d. 799). Many, including Sunnis, considered him to be the legitimate caliph and the *qā'im*.[107] Again, during the lifetime of Imam 'Ali al-Riḍā, expectations that the Imam would make governmental claims were revived.[108] When the Imam did not rise, many in the community changed their expectations and considered the Imam first and foremost the symbol of religious authority.[109]

Evidently, the major tenets of the early theory of the Imamate indicate that the doctrinal elements that reject the pursuit of temporal authority are dominant in orthodox Twelver Shi'i doctrine. The separation between the religious and the temporal is also well established in the fundamental creed of the doctrine during its formative period specifically under the fifth and sixth Imams. This leads us to conclude that the most warranted role that the Imams chose for themselves, despite the diverse expectations of their followers, was the provision of divinely inspired religious and spiritual guidance. The Imam is the only remaining connection of God with human beings, apart from direct revelation, and therefore he is the sole guardian and interpreter of the divine law. Since the tenth century and on into the Timurid age in the late fourteenth century, the Imam was seen as a religious savior. His political and governmental authority was seen as having lapsed.[110]

Amir-Moezzi's assessment of the primarily theological role of the Imamate is accurate, but he did not mention the governmental elements that were present in early Shi'ism during the lifetime of Imam 'Ali. This is because he focused on a period in which the religious elements had prevailed. Early Shi'ism incorporated governmental claims, but these claims were progressively stifled with the Imams until they no longer appeared in their discourses and that of the *'ulama* who guarded their traditions after the start of the *ghayba*. The tendency toward making governmental claims remained only in the expectations of the Imam's

followers who awaited him to claim his rightful role as the caliph and political leader against the unjust Abbasid rulers.

Governmental Authority of the Jurist?

In the aftermath of the *ghayba*, the suspension of the pursuit of temporal power, and the removal of the theoretical authority of the Imam, the transmitters and compilers of the Imami *ḥadīths* became the only guardians of the *sharīʿa* and the Imamate, aiming at protecting and preserving the creed. A pertinent issue was to explore the question of the delegation of the Imam's functions and prerogatives. This section delineates the extent of authority that jurists can claim and hold and whether it can extend into political governance. A starting point of discussion may be presented in the question: Does the authority of the jurist enable him to establish the Imam's government in the latter's absence by virtue of being appointed as his deputy? In the modern period, jurists have revisited the concepts of *niyābat al-faqīh* and *wilāyat al-faqīh al-ʿāmma* and the scope of the jurist's political role.

THE CONCEPT OF *NĀʾIB ʿĀMM AL-FAQĪH*

By the early eleventh century, reason (*ʿaql*) was established as a source in the deduction and inference of legal principles. The process of this rational legal inference became known as *ijtihād* and was based on the Qurʾan, *ḥadīths* (Traditions), *ijmāʿ* (consensus), and *ʿaql* (reason).[111] Through the use of *kalām* reasoning and logic, *ijtihād* utilized a body of rationalist procedures known as *uṣūl al-fiqh* (principles of jurisprudence), which is tied closely with the *uṣūlī* school.[112] *Uṣūl al-fiqh* gradually developed until the *uṣūlī* school prevailed in the nineteenth century.[113] The development of the *uṣūlī* school had tremendous implications for the jurist's role and its expansion into areas where he had not previously claimed authority.

Niyābat al-Faqīh *and Further Developments*

An important consequence of *uṣūlī* jurisprudence was the formulation of the concept of *niyābat al-faqīh* (deputyship of the jurisconsultant or general vicegerency), which delegated to the jurist some of the privileges of the Imam. This section traces the development of this role and asks

whether it led to the assumption of governmental authority by the jurist or remained restricted to legal matters. Scholars differ over this issue, the difference in opinion being based on how they define *niyābat al-faqīh* and *umūr ḥisbiyya* and whether these concepts include governmental functions or are restricted to important and well-defined juridical and legal areas.

The first use of the term of *niyābat al-faqīh* was by Abū'l Ṣalāḥ al-Ḥalabī (d. 1055–1056) who argued that it was restricted to the field of *qaḍā'* (judicial authority) and setting penalties for certain offenses (*ḥudūd*).[114] The concept became further consolidated with the works of al-Muḥaqqiq Jaʿfar b. Ḥasan al-Ḥilli (d. 1277), ʿAllāma Ḥasan b. Yūsuf b. al-Muṭahhar al-Ḥillī (d. 1325), al-Shahīd al-Awwal Shams al-Dīn b. Makkī al-ʿĀmilī (d. 1384), and al-Shahīd al-Thānī Zayn al-Dīn b. ʿAlī b. Aḥmad al-ʿĀmilī (d. 1558).[115] All these jurists discussed the concept of *niyābat al-faqīh* and argued in favor of allocating certain authorities to the jurists in the fields of judicial authority (*qaḍā'*), but differed among themselves over the specific areas in which the jurist could establish this authority. For example, al-Muḥaqqiq al-Ḥillī established *niyābat al-faqīh* in the field of *khums* (a tax belonging to the Imam) and the tax portion of the Imam (*sahm al-Imām*), but was cautious about extending it to include the field of penalties (*ḥudūd*).[116] In contrast, al-Shahīd al-Thānī was opposed to the collection of *khums*, but was in favor of the Friday Prayer and the judicial authority (*qaḍā'*), as he believed in the general appointment of jurists by the Imam to the position of judgeship.[117]

The Safavid Period and Its Relevance to These Concepts

Most notably, the Safavid period witnessed the development of important concepts within the Shiʿi tradition, mostly in the area of political authority. These conceptual developments were linked directly to the rise of the Safavid Empire (r. 1501–1722) and its search for religious legitimacy.[118] ʿAmili *ulama* played a focal role in propagating notions of legal Shiʿism, in significantly contributing to making Shiʿism a mainstream "state-operated religion" with systematized Shiʿi legal notions and norms, and in suppressing the folk and heterodox notions of Shiʿism.[119] Some ʿAmili *ulama*, such as Muḥaqqiq ʿAlī b. ʿAbd al-ʿAli al-Karakī (d. 1533) and Ḥusayn b. ʿAbd al-Ṣamad (d. 1576), were essential in developing juridical notions that provided religious legitimacy to the sovereignty of the Safavid Empire.[120] One view,[121] however, is that ʿAmili

scholars were not significant in the Safavid patronage of Shi'ism, arguing that most Twelver clerics felt uneasy about al-Karakī's association with Safavid monarchs and his development of juridical concepts that expanded the scope of the jurist's authority.[122]

For their part, these *'ulama* saw that by lending legitimacy to the Safavid Empire, there was the opportunity to introduce Shi'i religious norms and thus to transform Shi'ism from a marginal sect to an overtly expressed religion that accommodated a temporal power.[123] The 'Amili *'ulama* distinguished themselves from those of the Iraq and Qatif by their readiness to develop legal concepts on the subject of government and their willingness to support a temporal authority, the Safavid dynasty. What mainly promoted the 'Amilis in the eyes of the Safavid monarchs was their mastery of *ijtihād*, the rational inference of legal precepts.[124] Most noteworthy, al-Karakī, the most notable of the 'Amili clerics in Safavid Persia, was well known for inferring legal opinions by using rationalist methods.[125]

Shah Tahmasb (r. 1524–1576) issued a degree declaring al-Karakī as the deputy of the Imam, extending an exclusive authority to a Shi'i jurist for the first time in Safavid history. This referred to a religious form of deputyship. Al-Karakī utilized this position extensively, modifying legal matters that had political implications,[126] but never went as far as considering the Safavid rule to be the Imam's government.[127] Indeed, al-Karakī had self-designated himself as the deputy of the Imam in his treatise on *kharāj* before Shah Tahmasb conferred upon him this appointment.[128] However, not all *'ulama* approved of this type of association between al-Karakī and other jurists with temporal power. For example, Shaykh Ibrahim al-Qaṭīfī (d. 1539) was opposed to al-Karakī's association of Shi'ism with the temporal power of the Safavid monarchs.[129] Al-Muqaddas al-Ardabīlī was also critical of al-Karakī's efforts to connect Shi'ism with temporal power. Others, such as Shaykh Bahā'ī and Shaykh Zayn al-Dīn, the Second Martyr (al-Shahīd al-Thānī), (d. 1557) also disagreed with the involvement of the *'ulama* in worldly and political affairs.[130]

The material conditions of the 'Amili *'ulama* improved considerably with the patronage of the Safavid monarchs.[131] This raised the issue of accepting gifts from temporal rulers among Shi'i *'ulama*. Al-Karakī accepted gifts from Shah Isma'il I (r. 1502–1524) in the form of land grants and their tax revenues (*kharāj*), permitting, in one of his legal treatises, the receipt of such gifts from the sultan.[132] He also reproached

Ibrahim al-Qaṭīfī around the year 1508 for refusing to accept similar gifts from the Shah.[133]

In the exchange of essays between al-Karakī and al-Qaṭīfī on *kharāj* lands and the legitimacy of accepting gifts from the sultan largely derived from land taxes of *kharāj*, disagreement emerged about the use of the term *niyābat al-faqīh*.[134] Al-Karakī ruled that by the principle of *niyāba ʿāmma* (general deputyship), "the general authority possessed on the Imam's behalf during the Occultation," the jurist who fulfills the qualities of deputyship (*ṣifāt al-niyāba*) could accept gifts, specifically *kharāj*, from the ruler even if the latter is an unjust ruler (*sulṭān jāʾir*) because *kharāj* belongs to the Imam.[135] Al-Qaṭīfī ruled, in his response to al-Karakī's essay on *kharāj*, in 1518, that it is unlawful to receive gifts such as *kharāj* from an unjust ruler because these were taken illegally from their rightful owners.[136] Al-Qaṭīfī also disagreed with the idea that the *faqīh* could be considered the *nāʾib al-Imām*, arguing that the deputyship was terminated in 941, with the beginning of the Greater Occultation.[137] Al-Karakī saw the Safavid Shah as representing a just political authority even if it was not founded by the Hidden Imam, but his practices remained unpopular and marginal among a number of Shiʿi *ʿulama*.[138]

Most importantly, it was in the area of the Friday prayer that ʿAmili *ʿulama* developed juridical concepts that legalized association with temporal power. These *ʿulama* encouraged Safavid monarchs and subjects to perform the Friday prayer for the first time in Shiʿi history as a sign of the legitimacy of Safavid political rule.[139] The most important service al-Karakī lent to the Safavid monarchs was the legitimation of the Friday prayer, which since early Islam has been the ruler's assertion of his authority and legitimacy.[140] Al-Karakī was the first Twelver Shiʿi jurist in the post-*ghayba* period to rule that the Friday prayer was not prohibited, leaving the convention of the prayer an optional matter.[141] Ḥusayn ʿAbd al-Ṣamad, another notable jurist in the Safavid period, went further and declared the Friday prayer obligatory. He convinced the Safavid monarch Shah Tahmasb (r. 1524–1576) that convening the Friday prayer was necessary for the religious legitimacy of the sovereignty of the Safavid Empire, especially *vis-à-vis* the rival and neighboring Sunni Ottoman Empire.[142]

In summary, the Safavid period gave rise to important juridical developments in public affairs and the involvement of Shiʿi *ʿulama* for the first time in matters of the public and political order. Several factors, such as threats from the Ottoman Empire, the search of the Safavids for religious legitimacy for their sovereignty, and the flourishing of the *uṣulī*

school among the 'Amili *'ulama* and their expansion of *ijtihād*, all came together to enhance certain political prerogatives enjoyed by the jurist.

Modern Developments

Rising to prominence during the middle of the eighteenth century, the *uṣūlī* school introduced the concept of *marja'iyya*, an informal structure of juristic authority at the head of which was either a single leader or multiple leaders in the person(s) of the most learned jurist(s) who can command of the laity and lesser jurists the emulation of his legal opinions, i.e., the *marja' al-taqlīd*.[143] The *marja'iyya* introduced the obligation to follow the legal opinions and rules of the most learned jurists of the time.[144] It created an institution of authority and clerical power for the jurists by which they could command the obedience of the general believers in religious-legal matters.[145] With the development of the *marja'iyya*, a strong and autonomous religious establishment was being formed among the Shi'i *'ulama*.[146]

S. A. Arjomand believed that the fall of the Safavids and the hostility of the Qajar rulers (1796–1925)[147] toward the jurists culminated in the strengthening of the *uṣūlī* school during the last decades of the eighteenth century and early nineteenth century outside Iran in the religious city of Najaf in Iraq, site of the shrine and mausoleum of Imam 'Ali.[148] The flourishing of the *uṣūlī* school resulted in the enhancement of the power of the jurists and the consolidation of their autonomy from political rulers.[149] Therefore, these legal developments were concomitant with important political developments in Iran. Arjomand qualified the system under the new dynasty as an interdependent dual structure of authority whereby the affairs of government and administration were assumed by the rulers, while religious authority fell under the jurisdiction of the jurists who administered educational, judicial, and religious affairs.[150]

Most importantly, the political conflicts facing Qajar society in Iran had further implications for the jurists. The Qajar dynasty lacked a central bureaucracy[151] and an army,[152] only to face European colonial intrusions, military defeats,[153] and economic capitulations.[154] These conditions alarmed the jurists over threats posed to the Muslim community and their own stability.[155] They devoted a large part of their legal *fatwās* (juridical opinions) and doctrinal treatises to the treatment of

public affairs and issues of governance. They became more inclined to discuss temporal powers vested in the administration of public affairs and the protection of public order. The major jurists of that age were concerned with the historical dissociation of Shi'i *'ulama* from the temporal powers. This dissociation, historically desired and pursued in light of the Occultation of the Imam, was becoming a burden particularly with the foreign intrusions and threats that were dealt with the sovereignty of Muslim lands. Jurists sought a larger public role that would allow them to provide further religious guidance to the community. Under these social conditions, they wrote treatises aimed at expanding their public role.

The major jurists of this age, Mullah Ahmad Narāqī (d. 1830), Muḥammad Ḥasan b. Muḥammad Bāqir Najafī (d. 1850), and Murtaḍā al-Anṣārī (d. 1864) agreed to extend an assertive public role for the jurist in order to protect Muslims and provide them with adequate governance in the absence of the Imam. These jurists, however, did not reach consensus on the definition of *niyābat al-faqīh*, disagreeing over its limits, scope, and areas of specialization and jurisdiction. Narāqī, for instance, expanded the role of the jurist without using the term *niyābat al-faqīh*, but rather *wilāyat al-faqīh al-'āmma*.[156] His conception of the role of the jurist was so public and comprehensive that he advocated the establishment of Islamic government under the tutelage of the jurist.[157] He argued that the guiding role of the Imamate should not be abandoned during *ghayba* and that it should be assumed by the jurists in the absence of the Imam.[158] Some see Narāqī as claiming himself the successor of the Imam by vesting the jurist with all the authorities of the Imam.[159] However, it is important to note that Narāqī never openly challenged the authority of the Qajar monarch.[160] Opinions such as those of Narāqī have opened the door for jurists to discuss the Imamate in light of the need for the present Imam and this leadership to be realized in the present despite the implications of the *ghayba*.[161]

Najafī, the author of *Jawāhir al-Kalām*, on the other hand, did not go as far as Narāqī in the espousal of the concept of *wilāyat al-faqīh al-'āmma*.[162] He argued that the community needs a *walī amr* (guardian) to address its political, governmental, and administrative affairs, but this role did not need to be occupied by a jurist.[163] Najafī was rather in favor of the expansion of the role of the jurist, specifically in the confirmation of his authority (*wilāya*) in *umūr ḥisbiyya*, judicial authority (*qaḍāʾ*), and financial functions such as *khums* and *zakāt*, but not in political and governmental functions.[164] Anṣārī, the student of Narāqī,[165] and a pioneer

of rationalism, was opposed to the expansion of *wilāyat al-faqīh*. He pre-
ferred restricting it to purely judicial matters, contrary to the opinion of
Narāqī.[166] In sum, Najafī and Anṣārī argued for a broad definition of the
jurist's *wilāya* in various affairs but did not advocate the direct rule of the
jurist.[167] Arguably, in the Qajar period, Anṣārī and Najafī, among other
like-minded jurists, were convinced that the jurist had a general appoint-
ment by the Imam (*wilāya ta‘yīniyya*) in *umūr ḥisbiyya*,[168] but did not
believe that this *wilāya* should include governmental and political func-
tions. However, their expansive definition of *umūr ḥisbiyya* has facilitated
the discussion of the jurist's role in political and public affairs as well as
the qualities that ought to be met by the governor.[169] *Umūr ḥisbiyya*
consist of a juridical area that was never neglected by jurists who deemed
that these matters fell under their authority.[170]

Finally, the last jurist in the above group who contributed to the
development of Shi‘i law (*fiqh*) is Muhammad Ḥusayn al-Nā'īnī (d.
1936). The thesis of al-Nā'īnī, *al-Mashrūṭa*, which he elaborated in his
treatise *Tanbīh al-Umma wa Tanzīh al-Mulla,* was a search for political
leadership during the *ghayba*. He was searching for a leadership that is
bound by a constitutional representative committee of the people and
that is not antithetical to the *shari‘a* in the absence of the infallible
Imam. The ruler had to be restricted by a system of checks and balances,
through a constitution and representative councils of people.[171]

In the nineteenth and twentieth centuries, the developments in
the juristic circles reflected a stronger sense of opposition to tempo-
ral powers. However, no jurist was interested in the establishment of a
government of the jurist. They were interested in potential forms of gov-
ernment such as absolute monarchy and constitutional government in
the protection of Islam which was undergoing serious threats from for-
eign powers. The work of al-Nā'īnī, which discusses a political leadership
bound by a constitution, is, for instance, a political theory that seeks to
reconcile the Occultation of the Imam and the practical need for a form
of government that does not grossly offend the dictates of religion.[172]

It is plausible to argue in this context that despite these nine-
teenth-century jurisprudential developments under the auspices of
the *uṣūlī* school, the authority of jurists remained confined to the reli-
gious-legal sphere. The concern of the jurists for political affairs of Iran
in an age of change, turmoil, and political upheavals does not indicate a
quest for power or devising legal arguments that would arrogate to them

the political and governmental authorities of the Imam. The *wilāya* of the jurist, as they expounded it, never included the right of the jurist to directly govern, with the exception of Narāqī who still did not consider the Qajar Shah as a usurper and therefore did not openly oppose him.[173]

Furthermore, it is arguable that the expansion of the jurists' role was firmly progressing and growing within the juridical and legal areas. This included the Friday Prayer, the collection of *khums* and *zakāt*, the judiciary (*qaḍāʾ*), penalties (*ḥudūd*), and *umūr ḥisbiyya* in its very limited definition. The *wilāya* (authority) of the jurist has been firmly established in these matters. These developments were tied to Iranian social and political history. There is, however, disagreement over the existence, or lack thereof, of the political *wilāya* of the jurist.

Some scholars,[174] who have assessed the expansion of the jurist's role in the late nineteenth century onwards, were led to believe that Shiʻi legal doctrine was developing steadily and firmly from *niyābat al-faqīh* to a general and absolute *wilāyat al-faqīh* in the governmental domain.[175] They saw the development of Shiʻi thought as inevitably heading toward the legitimization of the state and the enthroning of the jurist as its head.[176] These scholars believe that the expansive jurist's role inevitably leads to the establishment of a full governmental *wilāya* of the jurist because they lend the meaning of governmental functions to the legal concepts of *umūr ḥisbiyya*, taxes, *ḥudūd*, and *qaḍāʾ*. Particularly, their definition of *umūr ḥisbiyya* is overly expansive, allowing the inclusion of such functions as the preservation of the general order and the protection of the general interests of Islam.[177]

Abdulaziz Sachedina argued that the legal discussions that expanded the role of the jurist to include the formation of Islamic government were linked to early historical developments in the "Imamate jurisprudence."[178] He tried to prove that the theory of "the comprehensive authority of the jurist" was in the process of formation since the eighth century and took shape in the late ninth century, at the end period of the Imams when the latter were giving the transmitters of their *ḥadīths* tremendous powers.[179] Sachedina's conclusion has been criticized on the basis that it juxtaposed modern Shiʻi views upon the past by Hossein Modarressi who pointed to many *ḥadīths* stating that "nobody stands in the position of the Imam but an Imam," contradicting explicitly the findings of Sachedina.[180]

One view is that until the Qajar period, jurists were able to assume all the judicial and religious authorities and prerogatives of the Imam,[181] except governmental authority.[182] Since Safavid and Qajar times, jurists have declared themselves as general vicegerents of the Imam (*al-nā'ib al-'āmm*), but did not claim "political authority and temporal rule implicit in their vicegerency."[183] Such development had to await Imam Khomeini to take it into "the next logical step."[184] The holders of these opinions see the legal and doctrinal developments of Shi'ism as heading gradually toward the arrogation of political authority onto the jurist. Moreover, it has been argued that the concept of *niyāba 'āmma*[185] holds the seeds for a certain degree of political opposition to governments in power because it lays the grounds for the jurist to gradually assume all Imami prerogatives and claim power for himself in the name of the Imam.[186] A major landmark in Shi'i legal doctrine is the notion that the jurist is the person qualified to implement the *shari'a*, by virtue of his acting as *nā'ib 'āmm* in the absence of the Imam at the head of the government.[187]

Some authors believe that the concept of *niyāba 'āmma* is the theoretical prelude for the later development of *wilāyat al-faqīh al-'āmma*, once the context has become propitious.[188] However, it is arguable that the extension of the privileges of the jurist in order to include involvement in public affairs and governmental authorities is contingent on the definition of the scope of *niyābat al-faqīh al-'āmma*. If the following concepts of: *umūr ḥisbiyya*, taxes, *ḥudūd*, and *qaḍā'* are considered part of administrative functions falling under the jurisdiction of governmental institutions, then *niyābat al-faqīh al-'āmma* could be expanded to include political and governmental privileges for the jurist. Still, the expansion of the jurist's role into governmental and public functions does not equate the Imam's devolvement of his governmental and presidential privileges to the jurist. In conclusion, the definition of *umūr ḥisbiyya*, however large and expansive it could be, does not indicate the complete devolvement of the Imam's authorities, especially the governmental and presidential ones, onto the jurist, in such a manner as Khomeini's construct, *wilāyat al-faqīh al-'āmma*, puts forward.

I argue, however, that the formulation of *wilāyat al-faqīh al-'āmma* depends on how one defines the scope of *niyābat al-faqīh al-'āmma*. If the following concepts, *umūr ḥisbiyya*, taxes, *ḥudūd*, and *qaḍā'*, are considered part of administrative functions falling under the jurisdiction of governmental institutions, then *niyābat al-faqīh al-'āmma* has been expanded to include political privileges for the jurist and could ultimately

lead to the rise of the general *wilāyat al-faqīh al-ʿāmma*. However if *qaḍāʾ*, *ḥudūd*, and taxes are seen as non-governmental functions,[189] then Shiʿi legal doctrine does not devolve political functions onto the jurist. Below are arguments that corroborate this line of thought.

It has been observed that Twelver Shiʿism does not allocate any privilege or prerogative to the jurist, treating him as an ordinary human being who is well versed in the ordinances of the *shariʿa*. He does not share any part in the sovereignty of the Imam.[190] If the Imam's authorities were capable of delegation, they would have been so delegated to the four deputies during the Minor Occultation in the year 874, but since this did not happen, no one else can claim the conferral of the Imam's authorities upon himself.[191] None of the special deputies (*nāʾib khāṣṣ*) attempted to provide interpretations of the law or pass judgments in the name of the Imam.[192] The Imam enjoys the privileges and authorities that he has because he is infallible; however, his infallibility is non-transferable because no fallible human being can claim the complete authority and power prerogatives of the Imam. And since the jurists—who are known to interpret the legal sources—are by definition susceptible to error, their judgment cannot be equal to that of the Imam.[193] This opinion could not be supported by any juridical provision in Shiʿi doctrine that sanctions a deputy to fulfill the functions of the Imam in his absence.[194] The only authority that the Imam is willing to delegate is that of the position of judgeship or judicial authority. The *ḥadīth* of ʿUmar b. Ḥanzala establishes that the Imam provides an *ex ante* appointment of judges, but the actual choice of the person of the judge is not specified by the Imam but rather is carried out by the members of the community and specifically the litigators.[195] Moreover, in Amir- Moezzi's opinion, the politicization of Imamism is the result of a long historical process that started in Iran in the sixteenth century. The modern jurists, who have embraced an activist version of Shiʿi doctrine and imparted it with revolutionary connotations, have been confusing Shiʿi doctrine with modern ideologies of revolutionism and combative militancy.[196]

The concept of *umūr ḥisbiyya* facilitated the legal and doctrinal discussion for the establishment of Islamic government and provided a basis to argue in its favor. Since the definition of *umūr ḥisbiyya* is broad, vague, and amenable to varied interpretations, it is not impossible, in theory, to argue that it covers areas such as security, public health, and education,

namely all matters relating to governance. Such developments, however, did not occur because jurists were cautious to not expand their role beyond what is indisputably proven as falling within their doctrinal tradition. Therefore, they confined *umūr ḥisbiyya* to the supervision of orphans and mentally-ill individuals. Mohsen Kadivar concluded that the concept of *umūr ḥisbiyya*, because of the caution of jurists, did not turn into an institution that gives political power to jurists.[197]

Mohsen Kadivar is a contemporary Iranian scholar and jurist who has been an outspoken advocate of reform in post-revolutionary Iran, where he served a prison sentence from 1998 to 2000, and has been appointed as a professor in the United States since 2008. He studied jurisprudence and the concept of *wilāyat al-faqīh* for a decade under Ayatollah Muntaziri. He has been a vigorous critic of the Islamic Republic regime, *wilāyat al-faqīh*, and religious autocracy, while pursuing the defense of democracy and "objective secularism."[198] His mentor, Ayatollah Muntaziri, was once designated as heir to Imam Khomeini. However, in the post-revolution period, Muntaziri became openly critical of the despotic and oppressive practices of the regime. He officially fell out of favor with Khomeini in 1988 and was placed under house arrest in Qum. His revisionist view of *wilāyat al-faqīh* consisted of an opposition to the absolute nature of "clerical" rule in post-revolutionary Iran. He advocated the separation of powers and was opposed to their concentration in the hands of the guardian-jurist.[199]

Kadivar further argued that the concept of *umūr ḥisbiyya*, despite the caution of jurists not to expand it, contains seeds that are capable of providing theoretical underpinnings for the establishment of Islamic government.[200] There were certain jurists in favor of the establishment of an Islamic government who relied on the concept of *umūr ḥisbiyya* and its expansion to argue that God would not agree to leave vital matters such as the security of the Muslim community, and its autonomy unattended.[201] In sum, it seems that *umūr ḥisbiyya* have historically been restricted to identifiable areas, namely the legal custody over orphaned minors, mentally challenged individuals, and the properties of the absentees. However, vagueness in the definition of *umūr ḥisbiyya* has allowed these areas in temporal affairs to lend themselves in contemporary times to broader readings in which political and governmental implications could be located. This has taken place under the pressure rising from the threats of foreign powers against the welfare, independence, and political stability of Muslim societies.

Kadivar divided the political theories of jurists since the nineteenth century until the contemporary age into two basic groups. There are the jurists, namely Narāqī and Khomeini, who believe in "*wilāyat al-faqīh al-ʿāmma*," a doctrine which can be summarized as the necessity of establishing an Islamic government before the advent of the hidden Imam, and maintaining that it should fall directly under the supervision of the jurist. Proponent jurists of this doctrine have put forth several theses which Kadivar groups under the rubric of "the Direct/Unmediated Divine Authority/Government" (*al-sharʿiyya al-ilāhiyya al-mubāshara*).[202] Secondly, there are the jurists who advocate the establishment of an Islamic government but who believe in delegating a very limited or no role to the jurists and believe that the Muslim community (*umma*) should play a major role in the administration of its own governmental affairs. Kadivar labeled this theory as the "Popular Divine Authority/Government" (*al-sharʿiyya al-ilāhiyya al-shaʿbiyya*).[203] An example of such jurists would be al-Nāʾīnī (d. 1936),[204] Muntaziri (d. 2009)[205] and Shams al-Din (d. 2001).[206] Shams al-Din's thesis of Islamic government, *wilāyat al-umma*, is what prompted Kadivar to place him, along with Muntaziri, among the jurists who advocate an Islamic government. I argue in the subsequent chapters, that Shams al-Din has theoretically elaborated *wilāyat al-umma* in refutation of Khomeini's thesis, but in time shifted his focus increasingly toward the notions of civil government. This shift occurred under the pressures of a specific historical context in Lebanon: the civil war, the rise of Islamism in the form of Hezbollah, the Lebanese sectarian structure, and the Ṭāʾif Agreement, which ended the civil war in 1989 and reshuffled the distribution of power among the Lebanese confessional groups. All these factors conjoined to make him explore notions of civil government and its relations to public religion.

For jurists who believe in *wilāyat al-faqīh al-ʿāmma* (direct divine legislation), *umūr ḥisbiyya* are not used as part of the argument in favor of arrogating to the jurist full political authority. The sovereignty of the jurist in governmental matters exceeds those of his authority over *umūr ḥisbiyya*. His authority establishes itself directly in public affairs of the state and the Muslim community.[207] As for the jurists who believe in *al-sharʿiyya al-ilāhiyya al-shaʿbiyya* (popular divine legitimacy), public functions such as urban planning, tax collection, public administration, and border security preserve and sustain the Islamic state. In sum, all public functions whose observance protects the Islamic state from disorder are

considered fundamental parts of *umūr ḥisbiyya* and should be the pre-rogatives of the head of the Islamic government.[208] This ruler does not necessarily have to be a jurist. For instance, al-Nā'īnī, who argued in favor of the constitution, noted that the preservation of social order is necessary as part of the *umūr ḥisbiyya* that need to be observed,[209] but that sovereignty over this political order has not been delegated in any part to jurists but rather belongs to the community (*umma*) who chooses its own system of government within the bounds of the *sharīʿa*.[210] The *umma*'s sovereignty has not been delegated in any part to the jurist because there is no proof to demonstrate that such delegation is a necessity. The available evidence establishes the authority of the jurist and restricts it to the domain of judicial authority.[211] As we will see in the next chapter, Shams al-Din embraced a very similar position.

Developments Under Khomeini: Wilāyat al-Faqīh al-ʿĀmma al-Muṭlaqa

Ayatollah Ruhollah Musavi Khomeini (d. 1989), who was an Iranian *marjaʿ* and prominent religious leader, led the Islamic Revolution in Iran against the regime of Shah Muhammad Reza Pahlavi in 1979. Khomeini is the author of the thesis of Islamic government known as *wilāyat al-faqīh al-ʿāmma al-muṭlaqa*, which arrogates the absolute powers of the Imam to the guardian-jurist. Khomeini's goal in his political thesis was to expand the prerogatives of the jurist to include the unprecedented right to head the government and subsequently maintain authority over the political system. His unprecedented definition of *wilāya* devolved all the sovereign rights of the infallible Imam onto the most qualified jurist and vested him with the right to rule.[212]

Arjomand located two problematic points that are posed by Khomeini's definition of *wilāyat al-faqīh al-ʿāmma*. First, from a legal point of view, the authority of the jurist that was established in the nineteenth century through the *uṣūlī* school was restricted to judicial affairs and did not include the government, so the mandate cannot be extended from the religious-legal sphere to the political one. Secondly, *wilāyat al-faqīh* and its mandate cannot be vested or restricted to the person of one *faqīh* (supreme jurist) but includes the total of the qualified jurists.[213]

We conclude from the above discussion that many of the *uṣūlī* jurists in the nineteenth and twentieth centuries, who made signifi-cant contributions in the domain of *ijtihād*, have not embraced *wilāyat*

al-faqīh al-ʿāmma or *al-muṭlaqa*. It is only a minority of jurists who have extended, at great pains, the provisions of the Imamate doctrine to make a case for *wilāyat al-faqīh al-ʿāmma*. This leads us to believe that the great majority of jurists conclude that the Imam delegates his judicial authority, but not his governmental authority. This conclusion is established through the *ijtihād* of the *uṣūlī* school, not through the collections of Imami Traditions.[214]

What stood as a barrier against adopting an absolute (*ʿāmma*) version of *wilāyat al-faqīh* in the fashion of Khomeini was the theoretical commitment that jurists professed to the absent infallible Imam. Any appropriation of the Imam's political authority meant violating his authority and his rights and undermining the theory of *ghayba*.[215] Thus, grand jurists who were cautious to preserve the foundational precepts that gave rise to the theory of the Imamate, namely the infallibility of the Imam and the illegitimacy of any government that is not founded by him, did not embrace ideas that departed significantly from the historical understanding of these basic precepts that made up the majority of the Shiʿi corpus of knowledge. For instance, Sayyid Muhsin al-Hakim (d. 1970), a foremost Iraqi-based *marjaʿ*, was opposed to the establishment of an Islamic government in the absence of the hidden Imam. He was even opposed to the convention of the Friday prayer in the absence of the Imam. His activism was manifested in the field of social reform and the propagation of religious guidance in society.[216] Moreover, Sayyid Muhammad Kazim Shariʿatmadari (d. 1986), an important Iranian *marjaʿ*, always expressed strong reservations about Khomeini's thesis of *wilāyat al-faqīh*.[217] Sayyid Abu'l Qasim al-Khu'i (d. 1992), a prominent Iraq-based *marjaʿ*, was opposed to the combination of religion and temporal power.[218]

The historical context in which Khomeini promulgated his thesis deserves some attention. The Shiʿi tradition by this time offered conceptual developments, such as the concept of *niyābat al-faqīh*, which created an open environment to debate the limits of the jurist's authority. This came in the context of the historically specific sociopolitical developments in Iran that allowed the religious establishment to achieve its autonomy *vis-à-vis* the sovereigns of Iran.

Modern Developments in Iran

In the late nineteenth century, relations between the *ʿulama* and the Qajar rulers deteriorated as a result of the political and economic

concessions that the shahs granted to foreign powers. The *'ulama* participated in the protests against the Tobacco concession of 1891–1892 as well as the Constitutional Revolution of 1905.[219] The *fatwā* by Mirza Sayyid Muhammad Hasan Shirazi against the use of tobacco in 1891 ignited a general strike that led the Qajar ruler to annul the concession.[220] Meanwhile, rural and urban social discontent and economic decline among the rural masses was widespread. Important social classes such as the traditional middle class and the urban artisans perceived that the Qajars were interested in strengthening their rule more than in protecting society from foreign powers.[221]

Some years later after the annulment of the Tobacco concession, Iran was ripe for revolution. The social conditions were dominated by misgovernment, injustice, and tyranny.[222] In addition, Iran was undergoing an acute economic crisis that hastened the breakout of the revolution.[223] In 1905, powerful sectors of the Iranian population, the intelligentsia and the traditional middle class, the bazaar merchants, and the *'ulama* coalesced together against a financially bankrupt, administratively ineffective, and militarily incompetent Qajar dynasty.[224] The *'ulama* were threatening to go on strike.[225] Protestors, the majority of whom were from the bazaar, took to the streets. In face of these demonstrations, the Shah gave into the demands of the protestors.[226] A constituent assembly met to draft an electoral law and set up elections to select representatives to the National Assembly.[227] The revolution produced a constitutional monarchy with a National Assembly that opened for the first time in October 1906.[228] Some major *'ulama* in Najaf such as Mullah Kāẓim Khurasānī and Ḥajj Mirzā Ḥossein supported the constitutionalists in Iran while others, such as Shaykh Faḍlu'allah Nūrī, stood against the constitutionalists.[229]

With the rise of the Pahlavi dynasty (r. 1926–1979), social conditions did not improve. Reza Shah (r. 1926–1941) embarked on building an elaborate state structure to strengthen his rule. His son Muhammad Reza Shah (r. 1941–1979) further expanded the state bureaucracy, militarization as well as his court network in order to maintain total control over society.[230] A new repressive intelligence agency, SAVAK, was established.[231] Meanwhile, social development was uneven and the gap between the haves and the have-nots was widening.[232] The Shah tried to preempt a social revolution from the bottom by launching in 1963 the White Revolution. It developed educational and health programs,[233] but revolved mostly around land reforms, limiting landlords to one village while excess land was distributed to sharecroppers.[234] It wiped out

many classes that had supported the monarchy, namely rural notables and the landed class of tribal chiefs.[235] The gap between the rich and the poor kept widening and social inequality was much exacerbated with the oil boom.[236] To top all of this, the Shah was perceived by his people to be a tool of imperialism in an age of anti-imperialism.[237] The Shah alienated the majority of the Iranian population including the tribes, the modern middle class, the secular intelligentsia, the working urban class, the clerics, the bazaar merchants, the landed class, and the rural notables[238]; even quietist and apolitical *'ulama* sided with Khomeini against the Shah.[239] Great social pressures had accumulated to bring about the Islamic Revolution in 1979. In sum, the political reasons that urged Khomeini to embark on the mission of expanding the authority of the jurist in the political field are twofold: The first concern centered around the foreign threats besieging Iran, and the second was the modernization policies of the Shah.[240] There was a growing perception that the monarchs were jeopardizing their country and its national interests in favor of foreign interests. Khomeini was greatly alarmed by this situation in addition to the modernization policies of the Pahlavi regime that invaded the clerical sphere in areas such as the judicial system, the educational system, the administration of *awqāf*, and the codes of dress, especially for women.[241]

Following the Islamic Revolution, an Assembly of Experts was set up with 73 members of whom 55 were jurists to draft a constitution.[242] The constitution was put to a referendum that resulted in giving absolute powers to the clerical establishment. The new constitution terminated the early project of the two liberal supporters of the revolution, Mahdi Bazergan, Iran's first prime minister after the revolution, and Abul-Hasan Bani-Sadr, Iran's first president. They had developed a constitutional draft close to that of the French republic, which allocated considerable powers to the president and people's representatives. This was reversed by article four of the new constitution that gave jurists of the Council of Guardians the authority to suspend not only ordinary laws but also the constitution itself.[243] *Wilāyat al-faqīh* was incorporated in the new constitution while Khomeini went on to set the precedent for the founding of the first Islamic government. Khomeini's other innovation was to establish the authority of one jurist over others when he stated that if a jurist sets up a government the other jurists have to follow him, thus undermining the position of *marjaʿiyya*.[244] Arjomand noted that the natural conclusion of *wilāyat al-faqīh* was to abolish the

position of the *marja'iyya*.[245] From the beginning of the post-revolution phase, there was a dual government: First, there was the Provisional Government by Bazergan, and second, a Revolutionary Council set up by Khomeini.[246] Khomeini arrogated to himself powers that exceeded enormously those of the Shah.[247]

In 1988, concerned about his succession and aware of the problems of successorship, Khomeini sought to make few changes to the position of *al-walī al-faqīh*. Some argue that he separated *al-walī al-faqīh* from *marja'iyya*,[248] and others argue that he did not separate it from *marja'iyya* but redefined the type of person who should serve as the dual position of temporal and spiritual leader.[249] The latter diminished the charismatic authority of *al-walī al-faqīh*,[250] but his institutional powers were enhanced.[251] Khomeini also conducted a purge against a large number of participants in the revolution in order to exterminate any element that was not fully committed to Khomeini's government and institutions. This resulted in alienating Ayatollah Muntaziri, his appointed successor, who, horrified by the bloodbath, withdrew into the seminaries of Qum.[252] It was impossible to choose a *marja'* from outside the government to be *al-walī al-faqīh*, because such a *marja'* could have easily opposed governmental policies.[253] So the choice of successor fell onto a lower ranking *mujtahid*, 'Ali Khamine'i. The appointment of Khamine'i as successor was indicative of Khomeini's decision to separate religious authority from political authority. Khamine'i was never referred to as *marja'*, and many Iranians followed the *marja'iyya* of the Iranian Ayatollah Muhammad Reza Golpaygani, while Shi'i Arabs preferred the *marja'iyya* of Ayatollah Khu'i. Only after Gulypaygani's death, did the Iranian government put forth Khamine'i's *marja'iyya*, a step that faced popular criticism.[254] However, soon the Iranian government changed the law that *al-walī al-faqīh* must be a *marja'* to quell criticism against Khamine'i. The latter declared that he was not positing himself as *marja'* in Iran, but rather the *marja'* for Shi'a outside Iran.[255] Daniel Brumberg argued that the legacy of Khomeini as the head of the Iranian state has been ambivalent, giving way to multiple interpretations. It is pointed out that Khomeini had competing visions of "constitutional rule" and "charismatic rule" that he combined in his notion of juridical authority and government, but which could not be perpetuated in a single successor after his death. The complexity rests with his sense of his own "divinity" immersed in mysticism and a charismatic message,[256] and, at the same

time, his understanding of Islam, which was conditioned by notions of power, expediency, and interest.[257] There were two forms of authority that had combined in the person of Khomeini, but which had to be separated after his death.

Conclusion

Shi'ism unequivocally advocates a form of theocracy (a theocratic rule of the Imam who has his direct appointment from God which was devolved to him directly by the Prophet Muhammad), but it is a theocracy that has been suspended and never put into practice. In the period that falls between the absence of the Imam and his eventual re-appearance, no government can be de jure legitimate and claim the divine legitimacy or authority of the Imam's government. However, the theoretical de jure illegitimacy that Shi'ism accords to the temporal governments of unjust rulers was often translated, in practice, into cooperation with these rulers and governments, which allowed Shi'a to survive and later flourish in favorable times. Due to fluctuating historical circumstances, the doctrine has proposed degrees of responses involving at times mechanisms of pragmatic quietism highly adaptable to specific socio-historical contexts, such as proposing cooperation, when circumstances were propitious, and withdrawal when they were antagonistic. The flexibility and malleability of the Imamate doctrine, referred to as the area of accommodation in Shi'i law, has been noted.[258] It is no surprise that when politically turbulent circumstances in the late nineteenth and twentieth centuries introduced dangerous threats to Muslim societies and when Muslim sovereigns—the Qajar and especially the Pahlavi Shahs—were becoming vulnerable to foreign domination, Shi'i jurists, as the guardians of the law and doctrine, shed the cloak of political caution and stepped forward to take an active role in public affairs. They were not to stand aside and watch helplessly. Their political involvement and theorization did not necessarily mean that they were moving toward the devolvement of the Imam's political powers onto themselves. As we have seen with Mohsen Kadivar, there was a multiplicity of theories put forward with substantive and fundamental differences, and there is no juristic consensus around a Shi'i political theory of government. The next chapter will examine the legal critique, advanced by Shams al-Din, of Khomeini's *wilāyat al-faqīh*, specifically the devolvement and concentration of absolute powers in the hands of the jurist.

Notes

1. *Wilāya* can be translated as authority or sovereignty depending on the context. It will be discussed more thoroughly in a later section of this chapter.
2. Wilfred Madelung, "Shi'ism in the Age of the Rightly-Guided Caliphs," in *Shi'ite Heritage: Essays on Classical and Modern Traditions*, ed. Lynda Clarke (Binghamton and New York: Global Publications, 2001), 15.
3. Wilfred Madelung, *The Succession to Muhammad: A Study of the Early Caliphate* (Cambridge: Cambridge University Press, 1997), 32.
4. Ibid., 29.
5. Ibid., 36.
6. Ibid., 33.
7. Ibid., 31.
8. Ibid., 29.
9. Ibid., 32.
10. Ibid., 31.
11. Ibid.
12. Ibid., 29–30.
13. Ibid., 40.
14. Ibid., 34.
15. Ibid., 33.
16. Ibid., 30.
17. Ibid., 33.
18. Moojan Momen, *An Introduction to Shi'i Islam: The History and Doctrines of Twelver Shi'ism* (Oxford: George Ronald, 1985), 18.
19. Montgomery Watt, "Sidelights on Early Imamate Doctrine," *Studia Islamica* 31 (1970): 288.
20. Momen, *An Introduction to Shi'i Islam: The History and Doctrines of Twelver Shi'ism*, 163.
21. Ibid., 164.
22. Hossein Modarressi, *Crisis and Consolidation in the Formative Period of Shi'ite Islam: Abū Ja'far ibn Qibā al-Rāzī and his Contribution to Imāmite Shi'ite Thought* (Princeton, NJ: Darwin Press, 1993), 87.
23. Said Amir Arjomand, "The Consolation of Theology: Absence of the Imam and Transition from Chilianism to Law in Shi'ism," *The Journal of Religion* 76, no. 4 (1996): 548.
24. Said Amir Arjomand, "Imam Absconditus and the Beginning of a Theology of Occultation: Imami Shi'ism circa 280-90 A.H./900 A.D.," *Journal of the American Oriental Society* 117, no. 1 (1997): 2.
25. Momen, *An Introduction to Shi'i Islam: The History and Doctrines of Twelver Shi'ism*, 168.

26. Jasim Hussain, *The Occultation of the Twelfth Imam: A Historical Background* (Cambridge: The Muhammadi Trust, 1982), 1–3.

27. Mohammad Ali Amir-Moezzi, *The Divine Guide in Early Shiʿism: The Sources of Esotericism in Islam* (Albany: State University of New York Press, 1994), 101; Modarressi, *Crisis and Consolidation in the Formative Period of Shiʿite Islam: Abū Jaʿfar ibn Qibā al-Rāzī and his Contribution to Imāmite Shiʿite Thought*, 60.

28. Modarressi, *Crisis and Consolidation in the Formative Period of Shiʿite Islam: Abū Jaʿfar ibn Qibā al-Rāzī and his Contribution to Imāmite Shiʿite Thought*, 88.

29. Momen, *An Introduction to Shiʿi Islam: The History and Doctrines of Twelver Shiʿism*, 165.

30. Etan Kohlberg, "From Imamiyya to Ithna-ʿAshariyya," *Bulletin of the School of Oriental and African Studies* 39 (1976): 521.

31. Ibid., 523.

32. Ibid., 533.

33. Ibid., 89–91.

34. Norman Calder, "Accommodation and Revolution in Imami Shiʿi Jurisprudence: Khumayni and the Classical Tradition," *Middle Eastern Studies*, no. 18 (1982): 4; Momen, *An Introduction to Shiʿi Islam: The History and Doctrines of Twelver Shiʿism*, 189.

35. Modarressi, *Crisis and Consolidation in the Formative Period of Shiʿite Islam: Abū Jaʿfar ibn Qibā al-Rāzī and His Contribution to Imāmite Shiʿite Thought*, 6.

36. Etan Kohlberg, "Imam and Community in the Pre-Ghayba Period," in *Authority and Politicla Culture*, ed. Said Amir Arjomand (Albany and New York: State University of New York Press, 1988), 25.

37. Momen, *An Introduction to Shiʿi Islam: The History and Doctrines of Twelver Shiʿism*, 147.

38. Ibid.

39. Kohlberg, "Imam and Community in the Pre-Ghayba Period," 25.

40. Ibid., 26; Joseph Eliash, "The Ithnaʾashari-Shiʿi Juristic Theory of Political and Legal Authority," *Studia Islamica* 1969, no. 29 (1969): 23.

41. Momen, *An Introduction to Shiʿi Islam: The History and Doctrines of Twelver Shiʿism*, 152.

42. Kohlberg, "Imam and Community in the Pre-Ghayba Period," 27.

43. Momen, *An Introduction to Shiʿi Islam: The History and Doctrines of Twelver Shiʿism*, 155.

44. Kohlberg, "Imam and Community in the Pre-Ghayba Period," 27.

45. Modarressi, *Crisis and Consolidation in the Formative Period of Shiʿite Islam: Abū Jaʿfar ibn Qibā al-Rāzī and his Contribution to Imāmite Shiʿite Thought*, 8–9.

46. Ibid.
47. Ibid., 7–11.
48. Muhammad Ali Amir-Moezzi, *The Divine Guide in Early Shi'ism: The Sources of Esotericism in Islam*, 5.
49. Ibid., 8.
50. Ibid., 16.
51. Ibid., 19.
52. Muhammad Mahdi Shams al-Din, "The Authenticity of Shi'ism," in *Shi'ite Heritage: Essays on Classical and Modern Traditions*, ed. Lynda Clarke (Binghamton, NY: Global Publications, 2001), 45–46.
53. Muhammad Mahdi Shams al-Din, *Niẓām al-Ḥukm wa al-Idāra Fī al-Islām*, repr., 7th ed. (Beirut: Al-Mu'assasa al-Dawliyya li al-Dirasat wa al-Nashr, 2000), 327.
54. Ibid., 328.
55. Ibid., 329.
56. Ibid., 328.
57. Ibid., 359.
58. Ibid., 347.
59. Ibid.
60. Khalil Rizk, *Al-Wilāya wa al-Ḥakimiyya 'inda al-Shi'a* (Beirut: Dar al-Amir li al-Thaqafa wa al-'Ulum, 1999), 20.
61. Ibid.
62. Ayatollah Husayn 'Ali Muntaziri's work on *wilāya* is cited because he authored the most important work on the legal foundations of Khomeini's thesis *wilāyat al-faqīh*. He provides a comprehensive definition of *wilāya*. Since the next chapter will discuss Shams al-Din's critique of *wilāyat al-faqīh*, it is relevant to see how the proponents of *wilāyat al-faqīh* define the concept of *wilāya*.
63. Husayn 'Ali Muntaziri, *Dirāsāt fī wilāyat al-Faqīh wa-Fiqh al-Dawla al-Islāmiyya*, 2nd ed., 2 vols. (Beirut: al-Dar al-Islāmiyya, 1988), 73.
64. Ibid., 56.
65. Ibid.
66. Ibid., 39–41.
67. Ibid., 41–42.
68. Ibid.
69. Momen, *An Introduction to Shi'i Islam: The History and Doctrines of Twelver Shi'ism*, 15.
70. Muntaziri, *Dirāsāt fī wilāyat al-Faqīh wa-Fiqh al-Dawla al-Islāmiyya*, 74.
71. Rizk, *Al-Wilāya wa al-Ḥakimiyya 'inda al-Shi'a*, 19.
72. Muntaziri, *Dirāsāt fī wilāyat al-Faqīh wa-Fiqh al-Dawla al-Islāmiyya*, 39.
73. Mufid Al-Faqih, *Wilāyat al-Faqīh Fī Madhhab Ahl al-Bayt*, 1st ed. (Beirut: Dar al-Adwa', 2005), 71.

74. Ibid., 39.

75. Rizk, *Al-Wilāya wa al-Ḥakimiyya ʿinda al-Shiʿa*, 25.

76. Yusuf ʿAli's Qurʾan online Translation. http://www.sacred-texts.com/isl/quran/03301.htm.

77. Al-Faqih, *Wilāyat al-Faqīh Fī Madhhab Ahl al-Bayt*, 60; Muntaziri, *Dirāsāt fī wilāyat al-Faqīh wa-Fiqh al-Dawla al-Islāmiyya*, 37.

78. Muntaziri, *Dirāsāt fī wilāyat al-Faqīh wa-Fiqh al-Dawla al-Islāmiyya*, 77.

79. Yusuf ʿAli's Qurʾan Online Translation. http://www.sacred-texts.com/isl/quran/00909.htm.

80. Muntaziri, *Dirāsāt fī wilāyat al-Faqīh wa-Fiqh al-Dawla al-Islāmiyya*, 38.

81. Ibid., 39.

82. Ibid.

83. Rizk, *Al-Wilāya wa al-Ḥakimiyya ʿinda al-Shiʿa*, 26.

84. Such as Shaykh Mufid Faqih whose work is quoted in this section.

85. Al-Faqih, *Wilāyat al-Faqīh Fī Madhhab Ahl al-Bayt*, 55–56.

86. Ibid., 59.

87. Ibid., 87.

88. Ibid., 69.

89. Muntaziri, *Dirāsāt fī wilāyat al-Faqīh wa-Fiqh al-Dawla al-Islāmiyya*, 13.

90. Kohlberg, "Imam and Community in the Pre-Ghayba Period," 34.

91. Ibid.

92. Modarressi, *Crisis and Consolidation in the Formative Period of Shiʿite Islam: Abū Jaʿfar ibn Qibā al-Rāzī and his Contribution to Imāmite Shiʿite Thought*, 93; Kohlberg, "Imam and Community in the Pre-Ghayba Period," 40.

93. Kohlberg, "Imam and Community in the Pre-Ghayba Period," 37.

94. Ibid., 38.

95. Ibid., 40.

96. Ibid.

97. Ibid.

98. Modarressi, *Crisis and Consolidation in the Formative Period of Shiʿite Islam: Abū Jaʿfar ibn Qibā al-Rāzī and His Contribution to Imāmite Shiʿite Thought*.

99. Ibid., 92.

100. Ibid., 93.

101. Kohlberg, "Imam and Community in the Pre-Ghayba Period," 40.

102. Joseph Eliash, "Misconceptions Regarding the Juridical Status of the Iranian 'Ulama'," *International Journal of Middle East Studies* 10, no. 1 (1979): 17.

103. Calder, "Accommodation and Revolution in Imami Shiʾi Jurisprudence: Khumayni and the Classical Tradition," 4; Momen, *An Introduction to Shiʿi Islam: The History and Doctrines of Twelver Shiʿism*, 189.

104. Moezzi, *The Divine Guide in Early Shi'ism: The Sources of Esotericism in Islam*, 68–69.
105. Modarressi, *Crisis and Consolidation in the Formative Period of Shi'ite Islam: Abū Ja'far ibn Qibā al-Rāzī and his Contribution to Imāmite Shi'ite Thought*, 7.
106. Ibid., 8.
107. Ibid., 10.
108. Ibid., 11.
109. Ibid., 9.
110. Momen, *An Introduction to Shi'i Islam: The History and Doctrines of Twelver Shi'ism*, 192.
111. Hossein Modarressi, *An introduction to Shī'ī law: A Bibliographical Study* (London: Ithaca Press, 1984), 4–5.
112. Ibid., 6.
113. Momen, *An Introduction to Shi'i Islam: The History and Doctrines of Twelver Shi'ism*, 186.
114. Ahmad Al-Katib, *Taṭawwur al-Fikr al-Siyāsi al-Shi'i: Min al-Shūrā ila Wilāyat al-Faqīh* (Beirut: Dar al-Jadid, 1998), 368.
115. Momen, *An Introduction to Shi'i Islam: The History and Doctrines of Twelver Shi'ism*, 186–189.
116. Al-Katib, *Taṭawwur al-Fikr al-Siyāsi al-Shi'i: Min al-Shūrā ila Wilāyat al-Faqīh*, 368.
117. Ibid., 384.
118. Rula Jurdi Abisaab, *Converting Persia: Religion and Power in the Safavid Empire* (London: I.B. Tauris, 2004), 2.
119. Ibid., 3.
120. Ibid., 4.
121. Andrew Newman, "The Myth of the Clerical Migration to Safawid Iran: Arab Shi'ite Opposition Ali al-Karaki and Safawid Shi'ism," *Die Welt das Islams* 33 (1993), 67.
122. Ibid., 81.
123. Abisaab, *Converting Persia: Religion and Power in the Safavid Empire*, 9; 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: Chicago University Press, 1984), 134.
124. Abisaab, *Converting Persia: Religion and Power in the Safavid Empire*, 12.
125. Ibid., 15.
126. Ibid., 23.
127. Ibid., 16.
128. Arjomand, *The Shadow of God and the Hidden Imam: Religion, Political Order, and Societal Change in Shi'ite Iran from the Beginning to 1890*, 134.

129. Ibid., 135.
130. Ibid., 206.
131. Abisaab, *Converting Persia: Religion and Power in the Safavid Empire*, 22.
132. Ibid., 12.
133. Ibid., 22.
134. Newman, "The Myth of the Clerical Migration to Safawid Iran: Arab Shi'ite Opposition Ali al-Karaki and Safawid Shi'ism," 85.
135. Ibid.
136. Ibid., 86.
137. Ibid.
138. Abisaab, *Converting Persia: Religion and Power in the Safavid Empire*, 22.
139. Ibid., 9.
140. Ibid., 20.
141. Ibid., 21.
142. Ibid., 140.
143. Ahmad Kazemi Moussavi, "The Institutionalization of Marja'-i Taqlīd in the Nineteenth Century Shi'ite Community," *The Muslim World* 84, no. 3–4 (1994): 286.
144. Ibid., 280.
145. Ibid., 279.
146. Said Amir Arjomand, *The Turban for the Crown: The Islamic Revolution in Iran*, Studies in Middle Eastern History (New York: Oxford University Press, 1988), 14.
147. Ervand Abrahamian, *A History of Modern Iran* (Cambridge and New York: Cambridge University Press, 2008), 9.
148. Arjomand, *The Turban for the Crown: The Islamic Revolution in Iran*, 13.
149. Ibid., 13–14.
150. Ibid., 15.
151. Ervand Abrahamian, *Iran Between Two Revolutions*, Princeton Studies on the Near East (Princeton, NJ: Princeton University Press, 1982), 14.
152. Abrahamian, *A History of Modern Iran*, 12.
153. Ibid., 36.
154. Ibid., 37.
155. Arjomand, *The Turban for the Crown: The Islamic Revolution in Iran*, 15.
156. Al-Katib, *Taṭawwur al-Fikr al-Siyāsi al-Shiʿi: Min al-Shūrā ila Wilāyat al-Faqīh*, 399.
157. Ibid.
158. Ibid., 402.

159. Ahmad Kazemi Moussavi, "The Establishment of the Position of Marja'iyyat-i Taqlīd in the Twelver Shi'i Community," *Iranian Studies* 18 (1985): 40.
160. Ibid., 44.
161. Al-Katib, *Taṭawwur al-Fikr al-Siyāsi al-Shi'i: Min al-Shūrā ila Wilāyat al-Faqīh*, 403.
162. Ibid.
163. Ibid.
164. Mohsen Kadivar, *Naẓariyyāt al-Ḥukm Fī al-Fiqh al-Shi'i* (Beirut: Dar al-Jadid, 2000), 24–25.
165. Ibid., 24.
166. Tawfiq Al-Sayf, *Naẓariyyat al-Sulṭa Fī al-Fiqh al-Shi'i* (Beirut: al-Markaz al-Thaqafi al-'Arabi, 2002), 77.
167. Kadivar, *Naẓariyyāt al-Ḥukm Fī al-Fiqh al-Shi'i*, 30.
168. Briefly defined, *umūr ḥisbiyya* is the legal areas that do not have a specific supervisee but should not be left unattended according to the *shari'a*.
169. Kadivar, *Naẓariyyāt al-Ḥukm Fī al-Fiqh al-Shi'i*, 26.
170. Ibid., 18.
171. Al-Katib, *Taṭawwur al-Fikr al-Siyāsi al-Shi'i: Min al-Shūrā ila Wilāyat al-Faqīh*, 403.
172. Calder, "Accommodation and Revolution in Imami Shi'i Jurisprudence: Khumayni and the Classical Tradition," 8.
173. Moussavi, "The Establishment of the Position of Marja'iyyat-i Taqlīd in the Twelver Shi'i Community," 44.
174. Abdulaziz Sachedina, *The Just Ruler (al-sultān al-'ādil) in Shī'ite Islam: The Comprehensive Authority of the Jurist in Imamite Jurisprudence* (New York: Oxford University Press, 1988); Momen, *An Introduction to Shi'i Islam: The History and Doctrines of Twelver Shi'ism.*
175. Al-Katib, *Taṭawwur al-Fikr al-Siyāsi al-Shi'i: Min al-Shūrā ila Wilāyat al-Faqīh*, 367.
176. Ibid., 407.
177. Ibid., 409.
178. Sachedina, *The Just Ruler (al-sultān al-'ādil) in Shī'ite Islam: The Comprehensive Authority of the Jurist in Imamite Jurisprudence*, 6.
179. Ibid., 46.
180. Hossein Modarressi, "The Just Ruler or the Guardian Jurist: An Attempt to Link Two Different Shi'ite Concepts," *Journal of the American Oriental Society* 111, no. 3 (1991): 552.
181. Momen, *An Introduction to Shi'i Islam: The History and Doctrines of Twelver Shi'ism*, 190.
182. Ibid., 191.
183. Ibid., 196.

184. Ibid.
185. Calder calls *niyāba ʿāmma* "general delegation" and refers to it as theory of clerical authority.
186. Calder, "Accommodation and Revolution in Imami Shi'i Jurisprudence: Khumayni and the Classical Tradition," 5.
187. Ibid., 7.
188. Al-Katib, *Taṭawwur al-Fikr al-Siyāsi al-Shiʿi: Min al-Shūrā ila Wilāyat al-Faqīh*; Calder, "Accommodation and Revolution in Imami Shi'i Jurisprudence: Khumayni and the Classical Tradition"; Momen, *An Introduction to Shiʿi Islam: The History and Doctrines of Twelver Shiʿism*; Sachedina, *The Just Ruler (al-sultān al-ʿādil) in Shīʿite Islam: The Comprehensive Authority of the Jurist in Imamite Jurisprudence*.
189. *Umūr ḥisbiyya* is a rather different matter. If it is expanded to include public issues such as the preservation of the general order, it could lead to the argument in favor of the necessity to establish government, but not necessarily under the tutelage of the jurist. And so it is *umūr ḥisbiyya* as Mohsen Kadivar pointed out and its conceptual fissures that have allowed arguments to surface about the extent of the jurist's role in public and political affairs because its definition was too broad to firmly delineate its domain. Kadivar, *Naẓariyyāt al-Ḥukm Fī al-Fiqh al-Shiʿi*, 49–50.
190. Eliash, "Misconceptions Regarding the Juridical Status of the Iranian 'Ulama'," 26.
191. Ibid., 27.
192. Ibid., 17.
193. Eliash, "The Ithna'ashari-Shi'i Juristic Theory of Political and Legal Authority," 28.
194. Eliash, "Misconceptions Regarding the Juridical Status of the Iranian 'Ulama'," 12.
195. Ibid., 15.
196. Moezzi, *The Divine Guide in Early Shiʿism: The Sources of Esotericism in Islam*, 61–62.
197. Kadivar, *Naẓariyyāt al-Ḥukm Fī al-Fiqh al-Shiʿi*.
198. http://en.kadivar.com/sample-page/.
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214. With the exception of the Tradition of ʿUmar b. Ḥanẓala, which has been interpreted in such a way as to establish the devolvement of judicial authority to the jurist.
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CHAPTER 4

Against the Absolutist Government: Shams al-Din's Critique of Khomeini's Thesis Wilāyat al-Faqīh

INTRODUCTION: SHAMS AL-DIN AND THE ISLAMIC GOVERNMENT

In his book *Niẓām al-Ḥukm wa al-Idāra fī al-Islām*, published in 2000,[1] Shams al-Din delineated the extent and scope of the powers of the Islamic government and specifically defined the qualifications of the leader of this state. He discussed the theoretical underpinnings and the sources of the Islamic government's legitimacy rather than its actual policies and institutional arrangements. He identified two theses in Shi'i political law that have been recognized by contemporary Shi'i jurists as legitimate bases for the foundation of an Islamic government.[2] These two theses are, first, the one that he formulated and named *wilāyat al-umma 'alā nafsihā* (*Umma's* sovereignty upon Itself), and, second, the two versions of *wilāyat al-faqīh al-'āmma al-muṭlaqa* (the Absolute Mandate of the Jurisprudent or the Guardianship of the Jurist). The two versions in fact represent two separate theses because they are construed through two different legal constructs (*ṣīghatān*); one construct is demonstrated through Scriptural evidence in the form of Traditions or report-based verbal proofs (*adilla lafẓiyya*), and another is formed through necessary rational proofs (*adillat al-lā-buddiyya al-'aqliyya*). The proofs based on Scriptural evidence are derived from the Qur'an and the *Aḥādīth* or Traditions of the Imams, most importantly that of 'Umar b. Ḥanẓala. The rational proofs are derived through rational-legal reasoning, positing the necessity to preserve the general order of society.[3]

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The two versions are addressed separately for the purpose of elucidating legal analysis and refutation. All of these theses form the legal grounds for the establishment of an Islamic government whose function hinges on an administrative authority. Hence, administrative authority is the basis for the Islamic state. The legitimacy of administrative authority requires legal construction which is not established through Scriptural evidence, but rather through rational reasoning. Consequently, Shams al-Din did not consider this authority absolute; he tried to restrict it to particular sociopolitical domains where it has legally been established.

A major concern is the administration of public and private affairs of the Muslim *umma*. Shams al-Din believed that the *umma*, not the state, is the core institution of Islam. But to protect the political interests of the *umma* and supervise its public affairs, it is necessary to establish governmental institutions and hence preserve the state. Shams al-Din believed that government is legitimate in the era of Occultation. However, he conceded that historically there was a minority opinion among certain Shi'i jurists that tended to judge any state before the appearance of the Occulted Imam as illegitimate. On the other hand, he stated that the majority of Shi'i jurists recognize the legitimacy of instituting government during the Occultation.[4] These jurists nevertheless agreed that despite the necessity of its foundation, it cannot be the same government that the infallible Imam is destined to found.[5] But what are the constraints on the administrative and governmental powers of this temporary state before the Imam's reappearance? And where do the boundaries of state powers lie? These questions occupy the political thought of Shams al-Din and are interlinked with his critique of the governmental thesis of *wilāyat al-faqīh*. Amid these concerns, the thesis that he conceived, *wilāyat al-umma*, is formulated as a juridical antithesis to Khomeini's *wilāyat al-faqīh*.[6]

What kind of challenges does *wilāyat al-faqīh* pose for a jurist like Shams al-Din? What are the repercussions of unrestricted powers of government? And who bears the brunt of these repercussions? Jurists? Citizens? Or both? I argue that Shams al-Din's concerns and questions about unrestricted powers of government envisaged in the thesis of *wilāyat al-faqīh* stem from what he perceived as threats to the multiple bases of juridical authority in Shi'i Islam, the multiple national identities of Shi'a, and the overall stability of Shi'i citizens in various countries.

Shams al-Din criticized the *wilāyat al-faqīh* thesis in the context of his concern for the necessity of an Islamic government that exercises

restricted, well-defined, and constrained authorities and powers. Despite his criticism of *wilāyat al-faqīh*, he still considered it legally legitimate because it has been constructed by jurists according to the legal (*shar'ī*) principles and rules of argumentation of the *uṣūlī* school.

There are two types of critiques that Shams al-Din leveled against *wilāyat al-faqīh*, a political one and a legal one. Politically, he made a context-based critique of the practical implications of an Islamic state constructed according to *wilāyat al-faqīh*. This consists of a discussion of the perils that a government based on *wilāyat al-faqīh* would raise in terms of investing absolute powers in its hands, and failing to institute separation of powers (legislative, executive, and judiciary). Moreover, he argued that it could face challenges in terms of its claims of universal sovereignty and citizen compliance with its authority.

Legally, he contested the legal proofs used by proponents of *wilāyat al-faqīh*, both rational and Scriptural-based verbal ones, to justify absolute sovereign powers of the guardian-jurist. First, he criticized the interpretation of the Imami Traditions that the protagonists of *wilāyat al-faqīh* make, arguing that the latter infer more authority—in terms of both the limit and the geographical extension of this authority—than these Traditions allow for. Second, he stressed the flaws in the interpretation of these proofs that stipulate the necessity to preserve the general order of society.

Furthermore, when he discussed administrative authority, Shams al-Din's legal arguments were leveled against the absolute authority that the thesis of *wilāyat al-faqīh* allocates to the guardian-jurist. He argued that this thesis does not provide a legal basis for establishing an unrestricted authority at the executive level. It has no legal basis to arrogate powers to the judicial and legislative branches of government. Finally, he tried to infer from the Islamic Scriptures and Traditions a theoretical thesis that he called *wilāyat al-umma*, a concept which aims to protect the *umma* and the *shari'a* without establishing absolute powers in the hands of the government.

The *wilāya*(s) in the *Ghayba*

Questions About the Validity of Proofs for **wilāyat al-faqīh**

Shams al-Din declared that the government of the jurist is not identical to the government of the infallible Imam and cannot be equated

to it. He argued that there are no proofs that the infallible Imam delegates all his rights and duties to his deputy, the guardian-jurist or *al-walī al-faqīh*. Therefore, in the political order set up by *wilāyat al-faqīh*, the guardian-jurist can devolve upon himself only limited authorities of the Imam. More specifically, Shams al-Din elucidated, the deputy's government is invested only with the indisputably ascertained amount (*al-qadr al-mutayaqqin*) of the Imam's authority, which concerns only specific matters delegated to the deputy over which he can exercise sovereignty (*fa lā yuthbat lahā illā al-qadr al-mutayaqqin min al-sulṭa fī al-umūr al-manūb 'an al-Imām fī mumārasatihā, wa i'māl al-wilāya bi-shā'nihā*).[7] Moreover, Shams al-Din's second critique of *wilāyat al-faqīh* is that it fails to establish absolute political authority for the jurist over all Muslims; *al-walī al-faqīh*'s authority is limited to the boundaries of the Islamic state that he governs and cannot be extended to Muslims who live in other countries.

To prove the above two points, Shams al-Din critiqued the interpretation of the proofs used by *wilāyat al-faqīh* to construct the political and administrative deputyship of the guardian-jurist on behalf of the Imam on the grounds that these proofs fail to prove the Imam's delegation of his absolute powers to the jurist. The proofs of *wilāyat al-faqīh* are constructed either through logical reasoning (*al-i'tibār al-'aqlī*) or through Imami report-based Scriptural evidence in the forms of Traditions.[8] The rational proof is made up of the postulate that establishes the incumbency to preserve the general order of society. The Scripture-based proofs are established through textual interpretation and content analysis of relevant Traditions related by the Imams such as that of Maqbūlat 'Umar b. Ḥanẓala and Mashhūrat Khadīja.

Rational proofs or intellect-related proofs (*adilla lubbiyya*) are proofs that are not derived from a linguistic delineation of the meaning of the Traditions (*ghayr lafẓī*), but rather from a host of other sources such as rational reasoning, common sense, and necessary rational proofs (*al-lā-buddiyya al-'aqliyya*), or consensus (*ijmā'*). Therefore, derivation of these proofs is achieved through the perception of the intellect without reliance on Traditions.[9] The rule governing rational proofs is that the evidence (*ḥujja*) that they provide is restricted to the specific limits that it proves and cannot imply generality or absoluteness, and therefore, these rational proofs are not general and absolute, but specific.[10] The scope of their application is restricted only to the indisputable limit of authority (*al-qadr al-mutayaqqin*). Consequently, doubts about the

certitude attained through such rational proofs and their applicability under the differing conditions undermine their validity (*wa kullu mawridin yushakku fī indirājihi fīhi yakūnu khārijan ʿanhu fī maqām al-ʿamal*). Shams al-Din concluded that the indisputable limit of authority that *wilāyat al-faqīh* delegates to the guardian-jurist (*al-walī al-faqīh*) is limited to the boundaries of the Islamic state that he rules over and does not extend to Muslims who live in other states.[11]

In line with this reasoning, Shams al-Din affirmed that the Scripture-based proof contained in ʿUmar b. Ḥanẓala's Tradition fails to establish absolute political authority for the jurist over all Muslims, confirming only an extent of authority that is confined to the group of people who specifically seek the establishment of this authority. Here, Shams al-Din presented a novel interpretation of this Tradition, whose text is as follows:

"Al-Kulaynī reported, on the authority of Muḥammad b. Yaḥya, from Muhammad b. al-Ḥusayn, from Muḥammad b. ʿIsā, from Ṣafwān b. Yaḥyā, from Dāwūd b. al-Ḥusayn, from ʿUmar b. Ḥanẓala who said:

"I asked Abī ʿAbdillah[12] about two men of our companions who had a dispute (*munāzaʿa*) amongst themselves about a loan or an inheritance, and they sought litigation (*taḥākamā*)[13] from a ruler (*sulṭān*) or judges (*quḍāt*). Is this permissible (*ayaḥullu dhalika*)?" He replied: "Whoever sought their judgment/ruling (*taḥākama*) in a lawful or unlawful (*ḥaqq aw bāṭil*) matter has sought the judgment/ruling of an evil tyrant (*ṭāghūt*). And what he judges/rules is obtained illegally (*saḥtan*), even if the judgment/rule was an affirmed and indisputable right (*ḥaqqan thābitan*), because he (the litigant) has taken it through the ruling/judgment (*ḥukm*) of an evil tyrant (*ṭāghūt*), whereas God has ordained him not to believe (*an yakfura*) in him. God has said: "They want to seek the judgment/ruling of the evil tyrant, when they have been ordained not to believe in him." So I said: "What do they do?" He said: "They should seek and examine the one amongst you who has narrated our Traditions (*ḥadīthunā*), examined (*naẓar*) what we permitted (*ḥalālunā*) and what we forbade (*ḥarāmunā*), and learned about (*ʿarifa*) our judgments/regulations (*aḥkāmunā*). So let them accept him (*fa liyarḍū bihi*) as an arbiter (*ḥakaman*), for I have appointed him as a judge/ruler (*jaʿaltuhu ḥākiman*) upon you (*ʿalaykum*). So if he rules according to our judgment/rule[14] (*bi ḥukmina*), and he [the judgment seeker] does not accept it, then he has disdained (*istakhaffa*) the judgment/rule (*ḥukm*) of God. And he has repelled[15] us (*ʿalayna radda*), and he who has repelled us, has repelled God, and he is considered to have practiced idolatry; and the penalty of idolatry applies to him (*ḥadd al-shirk*)."[16]

Shams al-Din explained that this Tradition does not establish absolute authority over all Muslims but confined it to the person who will address the task of establishing a state and instituting an Islamic government (*lā iṭlāqa fīhā min nāḥīyat al-wilāya al-siyāsiyya ʿalā kul al-muslimīn, bal al-ẓāhir ikhtiṣāṣuhā biman taṣadda li īqāmat takwīn al-dawla al-islām-iyya*).[17] Therefore, this Tradition can be used only to establish authority that is limited to those who live in the country where an Islamic state according to *wilāyat al-faqīh* has been instituted.[18]

Shams al-Din elucidated further: The appointment of judgment/ruler is confined to the one who seeks and examines (*naẓar*) this appointment. This is so because the Tradition contains a postulate that reads as follows: "they should seek and examine those amongst you who…" (*yanzurān ilā man kān minkum…*). This postulate is the cause (*ʿilla*) of the next postulate that reads as follows: "for I have appointed him as a judge/ruler upon you" (*fa innī qad jaʿaltuhu ḥākiman*). Therefore, one deduces from this logical structure that the appointment of a judge/ruler, and consequently the establishment of his authority, has been formulated to target a restricted category among Muslims (the ones who seek and examine such appointment) and has not been devised to establish absolute authority over all Muslims or all supporters of the Imam; the judge is not appointed upon all Muslims, but only upon those who seek judgment. If it were not for the postulate of "those who seek judgment," the statement "I appointed him judge/ruler" would not have been made. The appointment, therefore, is made specifically in relation to those who seek this appointment of judge/ruler.[19]

Shams al-Din's interpretation of this Tradition is that the appointment of judge/ruler is confined to those who go and seek rule; it does not apply universally to all Muslims. In contemporary times, Shams al-Din believed that this Tradition can be interpreted to assign authority to the jurist (*faqīh*) only over those who seek his appointment as ruler. It does not apply to those who do not seek it (*fa lā wilāya lahu ʿalayhim fī ḥālat ʿadam al-naẓar*).[20]

Questions About Universal Sovereignty and Citizen Obedience

Shams al-Din believed that in the contemporary period, Muslims—both Shiʿa and Sunnis—base their project of Islamic government on either the thesis of *wilāyat al-faqīh* or the thesis of the Sunni caliphate, according to the stipulations and provisions determined by Sunni theologians

such as al-Māwardī (d. 1058). In his book *Al-Aḥkām al-Sulṭāniyya,* al-Māwardī expounded important points that outlined the Sunni theory of the caliphate.[21] Many of the provisions of this theory were formulated against the Shiʿi Imamate doctrine. The most important provisions that responded to the Imamate doctrine stipulated that the office of the caliphate had to be filled by election conducted by qualified electors even if the electorate consisted of just one person, a principle antithetical to the Shiʿi concept of designation (*naṣṣ*). Another provision stipulated that a duly elected caliph could not be displaced in favor of a worthier candidate. The worthier candidate undoubtedly alluded to the Shiʿi Imams.[22] Al-Māwardī's theory, in general, aimed at legitimizing *Imārat al-Istighlāb* (government by usurpation of power) in opposition to the claims of the Shiʿa who held that the lawful sovereign/caliph could only be one of their twelve infallible Imams. Shams al-Din argued that whether the contemporary project of Islamic government is founded according to the thesis of the Sunni caliphate in its historical model or according to the thesis of *wilāyat al-faqīh* such governments are bound to face challenges to their claims of universal sovereignty and abilities to enforce citizen compliance with their authority.[23]

For instance, the Sunni thesis of a contemporary caliphate will bring forth historical problems, as Shiʿa will refuse to extend legitimacy to it on the grounds that it lacks adherence to the Imamate doctrine of government.[24] Moreover, any thesis derived from the concept of the historical caliphate requires the foundation of one universal Islamic state[25] that includes all Muslims because the legal provisions of the caliphate stipulate the universal unification of the *umma* in one political body.[26] This, however, will undermine the national sovereignty of modern-states with a majority of Muslim citizens because the application of the thesis requires the dismantling of national borders.

Similarly, the thesis of *wilāyat al-faqīh,* Shams al-Din argued, is bound to face the same challenges as the Sunni thesis of Islamic government. Since *wilāyat al-faqīh,* according to its own theoretical construct, claims to be a version (*ʿibāra ukhrā ʿan ṣīghat al-Imāma al-maʿṣūma*) of the infallible Imamate in the *ghayba* era, it requires universal application over all Muslims.[27] Shams al-Din thus insisted that a state that upholds *wilāyat al-faqīh* as its political ideology cannot take the thesis to its natural conclusion by instituting a universal political and religious leadership that commands universal sovereignty over all Muslims and commands their allegiance, loyalty, and obedience. First, it will face challenges to

its claims of universal sovereignty by the order of nation-states. Second, Sunnis may refute such a thesis.[28] And only Shi'a living within the boundaries of the nation-state where *wilāyat al-faqīh* is applied would pledge (or would be able to pledge) allegiance to it, provided that all of them accept this thesis as a legitimate basis for Islamic government, which is a question open to debate. Therefore, in practical terms, *wilāyat al-faqīh* will be restricted to the boundaries of the nation-state in which it was instituted and implemented.[29]

Wilāyat al-Umma

Shams al-Din's ultimate goal was to expound a feasible thesis and system that would fit within the parameters of the current global order, a thesis of Islamic government that does not disrupt the general order of independent nation-states and that avoids any form of absolutist power. These essential conditions are the distinguishing features of Shams al-Din's thesis *wilāyat al-umma*, rendering it vastly different from the thesis of *wilāyat al-faqīh* in that it does not require universal application across the entirety of the Muslim *umma*, but rather aims to institute an Islamic government in an independent country. It does not transgress the de jure borders of the current nation-states and respects their legitimacy.[30]

Components of the Islamic State

The proposed thesis is premised upon three main components that would form the model of the Islamic state: nation (*sha'ib*), law (*qānūn*), and authority (*sulṭa*).[31] The last component is crucial because it establishes the legitimacy of the state and therefore its uncontested sovereignty over its nationals. *Sulṭa* can also be inherently grounded in the law. The law in question is the *sharī'a*, the legal and moral system that governs the life of Muslims and forms the basis of the rules and regulations. Through the *sharī'a,* "the Islamic government rules over political society."[32] Governmental and administrative authority (*sulṭa*), on the other hand, requires legal proofs to be instituted legitimately. It is referred to as (*sulṭa idāriyya*) and is discussed as part of the executive powers of the Islamic government.

Discussion of Administration, Government, and Administrative Authority (*idāra wa sulṭa idāriyya*)

It is legally necessary, in Shams al-Din's view, for a government to exist. This requires administrative authority—the main foundation on which government can be instituted—that would manage the public and political affairs of political society. Shams al-Din's study was an attempt to outline and define legal rules and principles that govern administrative authority in Islam.[33] The significance of these rules rests on the fact that the institutions of government function according to them, and they can check and regulate excesses in power and absoluteness in authority which could verge on tyranny. He discussed administrative authority, its legitimacy and the limitedness of its scope, first on its own terms and, second, both in relation to *wilāyat al-faqīh*, in its two constructs, and to *wilāyat al-umma*. He discussed the practical problems which can emerge from the application of the thesis of *wilāyat al-faqīh*. He aimed to prove two ideas: first, that the legitimacy of administrative authority requires legal proofs to be established, in order to justify the restrictions and commands that it imposes on human behavior and natural resources and, second, that the extent of this authority is neither absolute nor comprehensive but is restricted and regulated through legal mechanisms. He argued that the powers vested in the administrative authority are restricted to the necessary portion of authority required to establish and preserve general order and cannot exceed this amount.

Administrative authority is defined as the mechanisms and rules of command, authorization, restriction, and prohibition through which government manages and administers the public affairs of human beings in political society,[34] and their relationships to and claims over nature.[35] The areas covered by administrative authority fall either in the rubric of public interest (*maṣlaḥa ʿāmma*) of any political society or in what is classified as the area of legislative void[36]; that is, they do not constitute legal matters and fall outside the domain of *taklīf sharʿī* (legal obligation), *taklīf waḍʿī*,[37] and *taklīf ʿaynī* or *taklīf kifāʾī*.[38] These areas are usually governed by the primary principle (*al-aṣl al-awwalī*) that prevents the establishment of any kind of authority (*wilāya*) over human beings except that belonging to God. Therefore, the areas of administrative authority require legal proofs in order to establish the restrictions and commands that they impose on human behavior.

To establish the legitimacy of administrative authority, Shams al-Din provided legal proofs (*dalīl muʿtabar sharʿan*), in the form of four basic legal matters and principles (considerations), that limit the primary principle.[39] Then, he argued against the unlimited nature and absoluteness of this authority and provided proofs that the powers invested in administrative authority are restricted and checked through legal mechanisms that prevent it from exercising absolute powers. Proofs of the legitimacy of administrative authority and proofs against its absoluteness will be discussed below, but first we will examine the primary principles.

Primary Principles in the Issue of Authority Over Humans and Authority Over Nature

In addition to the first primary principle that no human being has authority over another, Shams al-Din highlighted the second primary principle that human beings have unrestricted authorities over natural resources. These principles can be restricted, however, through central legal proofs. The two primary principles are as follows:

1. Since only God has authority and sovereignty (*wilāya*)[40] over human beings, the primary principle on authority over human beings and their affairs delegitimizes any kind of authority and sovereignty except that of God. No one has the right to exercise *wilāya* over others; the only legitimate proven *wilāya* (*thābita*) to be exercised over human beings, in principle, is the *wilāya* of God which is a *wilāya tashrīʿiyya* and *takwīniyya*.[41] The *wilāya* of the Prophet and that of the Imam derive from that of God or have been devolved to them. The proof of this devolvement is a categorical one.
2. The primary principle on authority over nature stipulates that human beings have the right to exercise absolute authority over nature and its resources for the purpose of benefit and profit.

Since the area of administrative authority is not covered by legal rulings (*aḥkām sharʿiyya*) and is not a legal subject, it falls within the area of legislative void which is governed by the two primary principles mentioned above.[42] Therefore, in principle, all administrative commands, prohibitions, and procedures which restrict freedom of human beings, or regulate their relations among themselves and over their properties

are considered illegitimate and require categorical legal proofs in order to become legitimate. These categorical legal proofs are called restrictive proofs (*al-dalīl al-muqayyid* or *dalīl al-taqyyīd*)[43] because they restrict the effects of the primary principles,[44] regulating human behavior and freedom of action and subsuming it under administrative authority. They also establish the prohibition of unchecked human use of natural resources.[45] So what do the restrictive proofs consist of?

Traditions and Proofs that Establish Legitimacy of Administrative Authority

The restrictive proofs that Shams al-Din used to legally infer the legitimacy of administrative authority despite the implications of the two primary principles consist of four jurisprudential considerations:

1. The first consideration is "the legitimacy to found a state and appoint an Islamic government."[46] The Traditions that prove the necessity of this matter do not by themselves demonstrate the legitimacy to practice administrative authority. These Traditions prove two legal requirements in the public sphere: first, the legitimacy to found a state and government and, second, the explication of prerogatives (*salāḥiyyāt*), functions, and scope of governmental authority and jurisdiction.[47] One Tradition by Imam 'Ali al-Riḍā transmitted by al-Qāsim b. al-'alā' in al-Kulaynī's *al-Kāfī* reads: "(Through the force) of the Imam, the execution of the following functions is carried out: prayer, alms, fast, *ḥajj*, *jihād*, charity, the completion of *ḥudūd* (penalties), and rules, and the protection of seaports, sea borders, and land borders," (*bil imāmi tamāmu al-salāt, wa al-zakāt, wa al-siyām, wa al-ḥajj, wa al-jihād, wa tawfīr al-fay', wa al-sadaqāt, wa imḍā' al-ḥudūd, wa al-aḥkām, wa man' al-thughūr, wa al-aṭrāf …*).[48]

These two legal requirements do not demonstrate in themselves the legitimacy of administrative authority, but this legitimacy can be derived, through logical reasoning, from the necessity to administer the public affairs of political society, which can only be done through the exercise of administrative authority.[49] The proof of the necessity to found a government rests on clear mandatory indicators (*dalālāt iltizāmīyya bayīnna*) that executive powers, as part of administrative authority, must be established. These executive powers are related to the management of public affairs such as transportation, roads, health, public hygiene, public schooling, and water provision.[50] Shams al-Din's argument is that no

government and state can be founded without the execution of administrative authority (executive powers) which establish institutions and employ personnel that manage the public affairs of society.[51]

2. The second consideration is *muqaddimāt al-wājib*, which refers to the ability to infer necessary rational judgments (*idrāk al-ʿaql wa ḥukmihi*).[52] Administrative authority can be rationally justified as a set of mechanisms and institutions that organizes lawfully the affairs of political society through setting rules of commands and prohibitions. The rational necessity to establish administrative authority liberates the latter from the implications of the primary principles.[53]

3. The third consideration is the necessity to preserve the general order of society. This is one of the most important areas of legal obligations. It is a *kifā'ī*[54] obligation assumed by one or some community members who act on behalf of the community as a whole.[55] If no one assumes the role of preserving this order, the consequent legal offense (*ithm*) falls collectively on the community.[56] The duty of safeguarding the public affairs of society does not require legal authorization from jurists.[57] Thus, various organizations can appoint experts and form committees for this purpose such as municipalities, agencies, and directories.[58] This proof demonstrates the legitimacy to establish social institutions that take care of the collective needs of members of society.[59]

4. The fourth consideration is the obligation to conduct *al-umūr al-ḥisbiyya* or *ḥisba*. Shams al-Din defined *ḥisba* as a mechanism that organizes public and social affairs and matters necessary for the preservation of the general order and social harmony that cannot be left without a governmental authority to supervise and administer them because this causes detrimental social effects. In general, the affairs of *ḥisba* pertain to the "commanding of good and prohibition of evil" (*al-amr bi al-maʿrūf wa al-nahī ʿan al-munkar*). *Umūr ḥisbiyya* is also the obligation to supervise the lawful procedure of commercial transactions in the market as well as the exacting of state taxes.[60] It is a communal arrangement that goes beyond mere social, legal, and administrative organization; it encompasses the moral and doctrinal ethos of a society, or its moral creed.[61]

Furthermore, *ḥisba* functions are regarded as an integral part of the community's self-rule and are not derived from the political sovereignty of the jurist (*wilāyat al-faqīh*).[62] Therefore, legal affairs that do not have a specific authority to administer them are the responsibility of the general Muslim community whose members, the just believers of the *umma*

(*'udūl al-mu'minīn*),[63] can see to their administration.[64] However, some specific legal cases of *ḥisba* fall under the legal supervision of jurists who traditionally assume many of the legal obligations for the community. Domains that fall under the legal jurisdiction of the jurist are the legal custody over orphaned minors, mentally challenged individuals, and the properties of the absentees.[65] Finally, Shams al-Din stated that the obligation to manage the social and public affairs that fall under *ḥisba* proves the necessity of establishing administrative authority that would be able to supervise these affairs.

Shams al-Din concluded that the four legal considerations or restrictive proofs mentioned above establish the legitimacy of administrative authority. The regulating institutions and mechanisms of the administrative authority impose restrictions on the two primary principles. Therefore, the proofs that establish the administrative authority restrict the implications of the two primary principles.[66] Next, Shams al-Din questioned the extent and scope of the administrative authority.

Restricted Powers of Administrative Authority

Although administrative authority is legally mandatory, its powers are not absolute, unrestricted, and unlimited. They are confined to a limited and measured scope required to preserve the general order and cannot exceed this limit.[67] Any administrative authority that exceeds the limits of its indisputable scope is illegitimate.[68] The legal proofs that establish the legitimacy of administrative powers also concomitantly establish restrictions against its absoluteness. This is so because these legal proofs are reason-based/rational/intellectual indicants (*adilla lubbiyya*) that are not derived from the textual sources, that is the Imami Shiʿi Traditions, but from rational reasoning. According to Shams al-Din, the authoritative proofs (*ḥujja*) that these indicants provide do not extend generality or absoluteness.[69] Rational proofs that are not supported by textual evidence do not carry universal weight and must be restricted in application.[70] The indisputable limit is defined by what is required to preserve the order of society, its coherence, and development.[71] It is the ascertained and indisputable limit (*al-qadr al-mutayaqqin*) required for the preservation of the general order. Any authority that exceeds the necessary limit for the preservation of order requires further legal proofs to establish its legitimacy.[72] Therefore, Shams al-Din emphasized that any authority exceeding the limit required to preserve the general order

is illegitimate; hence, the legitimacy of commanding and prohibiting procedures that are defined by the administrative authority is limited to minimum interference in the affairs of human beings and society.[73]

Shams al-Din emphasized the necessity to keep the interference of administrative authority in the affairs of society to a minimum in order to prohibit tyranny and absoluteness in rule and governmental authority. This restriction is also important for the prevention of the inflation of bureaucracy and the consequent inefficiencies. Moreover, I will show that it is important because it prepares the legal grounds for argumentation against *wilāyat al-faqīh* and the rebuttal of the absoluteness of authority that *wilāyat al-faqīh* attempts to establish. In the following section, Shams al-Din used the above argument about the restrictiveness of administrative authority to critique the thesis of *wilāyat al-faqīh.*

Administrative Authority According to the Theses of Wilāya

Administrative authority is the legal tool in the hands of the government to command citizen compliance by its laws and to manage the public affairs of society. Restricted administrative authority is legally legitimate, while absolute authority is legally illegitimate and unjustified.[74] With the establishment of this legal premise, Shams al-Din moved to examine the scope of the authority of the jurist according to the thesis of *wilāyat al-faqīh*. He contrasted the requisite (*muqtaḍā*) of the rational proofs that establish the legitimacy of administrative authority with the requisites of the proofs that establish *wilāyat al-faqīh*.[75] What is the scope of authority that the legal proofs of *wilāyat al-faqīh* establish? Is it absolute? Is the reasoning of this thesis legally valid? Why does he refute it?

Shams al-Din noted that *wilāyat al-faqīh* invests absolute authority in the guardian-jurist by virtue of the devolvement of the privileges, unrestricted authorities, and duties of the Imam's office upon his deputy, the guardian-jurist.[76] The devolvement of this authority is established through the two previously mentioned rational and Scriptural-based verbal proofs. He found the investment of absolute authority in the hands of the guardian-jurist problematic. First, he stated that the proofs that the founders of *wilāyat al-faqīh* rely on to construct their political thesis do not and cannot legislate any new (political) institution or right that fall outside *taklīf sharʿī*, neither can these proofs legislate for matters other than the matters for which they provide indisputable evidence. Moreover, to believe in the absoluteness of the sovereign authority

of the jurist, who is naturally a fallible human being, is to fundamentally rebut (*'adam baqā' ay mawridin li al-aṣl al-awwalī bi 'adam wilāyat aḥad 'alā aḥad*) the primary principle that allocates sovereignty to God alone and prohibits the sovereignty of one human being over another.[77]

Second, Shams al-Din investigated the rational proofs that *wilāyat al-faqīh* is based on. These proofs cannot, he asserted, establish absoluteness in authority, since rational proofs are limited by their nature to prove only what is necessary to establish in certain cases (*huwa dalīl lubbī fī mawridihi, wa huwa iqāmat al-sulṭa al-siyāsiyya*), which in this case is the preservation of the general order in society. Therefore, Shams al-Din refuted the establishment of the absolute authority of the guardian-jurist, because the rational proofs used to establish the thesis of *wilāyat al-faqīh* do not provide the necessary legal basis to legislate such absolute powers.[78]

Furthermore, Shams al-Din addressed the Scriptural evidence-based proofs. These proofs, he said, provided that one accepts their validity, establish only the full sovereignty and absolute authority of the jurist specifically in the domain of executive power. This proof, hence, cannot completely abrogate the primary principle, as does the proof that establishes the full sovereignty (*wilāya muṭlaqā*) of the Prophet and the infallible Imam.[79]

Finally, Shams al-Din concluded this discussion by stating that the belief in the absoluteness of *wilāyat al-faqīh* over any human being and any human behavior causes the abrogation of the effect of the primary principle (*'adam baqā' ay mawrid li- al-aṣl al-awwalī*) in the domain of political authority and administration. The abrogation of this principle means the establishment of unchecked and unrestricted authority (*wilāya*) over human beings, the outcome of which will be various forms of tyranny, the worst of which would be political tyranny (*tasalluṭ siyāsī*).[80]

Now if Shams al-Din refutes the absolute authority that *wilāyat al-faqīh* allocates to the jurists, then what kind of *wilāya* does he recognize? What is the extent of authority that a jurist can enjoy? And if the jurist is not the candidate to be invested with the political authority of the Imam, then who is? And what are the authorities that the Islamic government can command?

The argumentation against the proofs of *wilāyat al-faqīh* has paved the way for Shams al-Din to address his thesis, *wilāyat al-umma*. According to this concept of government, he stated that the first

characteristic that defines the state is the function of legislation that is vested in the nation through representatives, jurists, and lay experts[81] to whom the nation delegates its legislative powers.[82] Legislation is confined to the areas where no previous legislation has been produced, or what is referred to in Islamic jurisprudence as the area of legislative void (*minṭaqat al-farāgh al-tashrīʿī*). This includes the administrative and governmental areas.[83] These areas are governed by the primary principle. Therefore, any authority that these establish should not exceed the indisputable limit that is permitted in order to preserve and protect the prosperity and cohesion of society; any authority that is not proven to be required in order to preserve the general order is, therefore, not permitted because it is governed by the primary principle.[84]

In sum, the thesis of *wilāyat al-faqīh* does not convey any role to the *umma*[85] but instead concentrates all political powers in the hands of the guardian-jurist. *Wilāyat al-umma*, contrarily, allocates a central role to the *umma*, while giving a limited one to the jurists.[86] However, what Shams al-Din called a limited role to the jurist is the legislative power through the practice of *ijtihād*, which is a powerful authority.[87] He, moreover, did not discuss the repercussions of placing such important legislative powers in the hands of the jurists.

The Separation of Powers in Shiʿi Islam According to the Theses of Wilāya

Shams al-Din discussed the relations among the various formal powers—legislative executive, judiciary—that the modern state consists of. He examined the boundaries between the legislative, judiciary, and executive powers and the authority that is vested to administer them. In the pre-*ghayba* period, according to the Imamate doctrine, all three powers are invested in the Imam. The most important power is legislation, which is the exclusive prerogative of the Imam and a continuation of Prophethood, save for the reception of revelation (which ceased with the death of the Prophet). Aside from this latter exception, the Imam, in all matters, holds the same powers and prerogatives as did the Prophet.[88]

During the *ghayba* period, however, the situation changes. Islamic government becomes different from the Imam's rule and should thus exercise separation of powers. The administrative authority should be invested with executive powers only, while the judiciary and the

legislative powers remain in the hands of councils of experts whose domains should be independent and autonomous.[89]

After Shams al-Din argued in favor of the necessity of separation of powers, he addressed this question in reference to *wilāyat al-faqīh* and *wilāyat al-umma*. This question provided him with a platform to advance further critiques of the thesis of *wilāyat al-faqīh* and establish the thesis of *wilāyat al-umma*. He explored the position of *wilāyat al-faqīh* on the separation of powers and discussed the dangers entailed in the concentration of powers in the hands of one authority.

The proponents of *wilāyat al-faqīh* argued that the guardian-jurist is to enjoy full authority as the head of the Islamic government in the three domains: the executive, the legislative, and the judiciary. Proponents of *wilāyat al-faqīh* inferred this delegation of powers based on their interpretation of the Tradition-based proof that underpins *wilāyat al-faqīh*, namely Maqbūlat 'Umar b. Ḥanẓala, which is used to demonstrate the devolvement and transfer of all authorities of the Imam onto the guardian-jurist and their absolute concentration in the latter's person.[90] But as discussed before, this Tradition is interpreted by Shams al-Din as establishing a limited *wilāya*, effective only in the executive field.

Shams al-Din, however, refuted these proofs[91] and believed that they indicate only a limited *wilāya* in the executive realm. He insisted that any power exceeding the executive one will breach the provisions of the primary principle of no human sovereignty over another human. Furthermore, this proof cannot enjoy the same authority as the proof of the *wilāya* of the Prophet and the Imam because the proof of the *wilāya* of the Prophet and the Imam is imperative and categorical (*qaṭʿī*), whereas the one on the authority of the jurist is speculative (*ẓannī*)[92] and the proof does not clearly state the absolute transfer of the status of the Imam to the jurist; this transfer is rather inferred. Furthermore, Shams al-Din scrutinized the chain of transmission (*sanad*) of the Tradition of 'Umar b. Ḥanẓala and deemed its status to be conjectural (*ẓannī*), if not weak.[93]

In the same line, the Lebanese jurist Muhammad Jawad Mughniyya (d. 1979) believed that the right to command political obedience belongs exclusively to the infallible Imam, who exclusively holds temporal and spiritual authority. Mughniyya based his opinion on the works of Shaykh Murtaḍā al-Anṣārī (d. 1864) and Mirza Ḥusayn al-Nāʾīnī (d. 1927), who saw the role of the *faqīh* as being vested in the public diffusion of legal rulings and proselytization (*tablīgh*). The *faqīh*

possesses *wilāya;* however, his jurisdiction is much more restricted than that of the Imam.[94] Shams al-Din believed that it is preferable for the government to be Islamic, but its Islamic identity does not require the direct rule of jurists. Instead, jurists can supervise the laws that govern the state and ensure that these laws conform to the injunctions of the *sharīʿa*.[95]

Now considering the rational proof, Shams al-Din argued that even if these indicants provide an authoritative proof (*ḥujja*), it does not establish more authority than what is necessary for the preservation of the general order. The rational proof cannot abrogate the primary principle, but can restrict it within the limit that is necessary to preserve the general order. Any authority exceeding this limit will require further proof. Therefore, it is impossible to infer from this proof the concentration of powers in the person of the guardian-jurist. In fact, the preservation of order is better served when there is separation of the legislative, executive, and judiciary powers.[96] According to the above discussion, the guardian-jurist, as the head of the administrative authority, enjoys only executive powers.[97] Administrators do not have any legislative prerogatives and cannot legislate in any domain.

The Executive and Legislative Authorities

Shams al-Din contested the type of administrative authority implied in the thesis of *wilāyat al-faqīh*, arguing that it should not carry legislative power, for the latter is in abeyance during the period of *ghayba*.[98] In lieu of legislative authority, Muslims have jurists who interpret the legal corpus and enunciate legal opinions (*fatāwā*), through the exercise of *ijtihād*.[99] Shams al-Din referred to their role as legislative reference or legislative authority (*marjaʿiyya sharʿiyya*).[100] By *ijtihād*, Shams al-Din did not mean the function of legislating laws as in the modern Western positivist sense of legislation, but a form of logical reasoning that is conducted to infer legal rules from the sources of Shiʿi law.[101] It is through *ijtihād* that it is possible to infer legal rulings for innovative and accidental matters that fall in the field of legislative void.[102] Shams al-Din recommended delegating the task of *ijtihād* to a council of expert jurists rather than to a single jurist, in order to infer legal rules related to governance in the modern state.[103]

Therefore, since the administrative authority is totally separate from the legislative authority, the former cannot legislate. Administration is vested with the power to merely execute the laws promulgated by the

legislative authority.[104] Similarly, the personnel in charge of the administrative authority cannot legislate but rather must observe and implement the rules set by the legislative authority.[105] *Wilāyat al-faqīh*, however, combines the executive power with the legislative power in a single combined authority. And the guardian-jurist is the head of both the legislative and executive authorities simultaneously.[106] Shams al-Din identified a conflict of power for the jurist, whose function is to infer legal rulings about new matters falling in the area of legislative void and who acts simultaneously as the head of the executive power.

In his critique of *wilāyat al-faqīh*, Shams al-Din focused on the conflict of power that it creates between the executive and legislative branches of government and their respective authorities. What does the guardian-jurist do when his role as jurist, vested with the authority of legislation, conflicts with his concomitant position at the head of the executive branch that is separate from the legislative branch? In this situation, it is impossible to identify any mechanism left to restrict the absolute powers vested in the government of the guardian-jurist.

Shams al-Din concluded that this conflict can only be resolved by prohibiting the guardian-jurist from holding the two positions and assuming its authorities. Therefore, the guardian-jurist should not be allowed to infer his own legal opinions and execute them through the administrative authority. In a case where the jurist is the head of the administrative branch, he would have to abide by the legal opinions produced by the experts and jurists of the legislative branch.[107] The guardian-jurist's legislative authority in relation to issues of administration is suspended as long as he heads the administrative authority and holds executive power. This is in order to prevent the development of absolutist powers and to ensure that abuses of power are checked and regulated.[108]

The Judicial Authority

According to the thesis of *wilāyat al-faqīh*, as Shams al-Din saw it, the separation of powers should be the norm because he could not find any proof in the construct of *wilāyat al-faqīh* that allocates legislative and judiciary powers to the guardian-jurist. Hence, the guardian-jurist enjoys solely the executive power, which is again limited through the effect of the primary principle. Shams al-Din expounded further that the judicial branch (*qaḍā'*) is totally independent from the two other authorities and does not fall under the jurisdiction of the ruler, the guardian-jurist.[109]

He advanced a different interpretation of the Tradition-based evidence used to prove *wilāyat al-faqīh*, i.e., Maqbūlat ‘Umar b. Ḥanẓala and Mashhūrat Abī Khadīja. He interpreted these Traditions as indicating that judicial authority falls under the prerogatives and rights of the *umma*, not the guardian-jurist. The appointment of a judge from among the jurists is the prerogative of litigants, and by extension the *umma*.[110] This is so because according to the Imamate doctrine the head of the state, the infallible Imam, appoints judges when he is present and is exercising the functions of his office. The appointment that the Imam exercises is of two natures: one that is specific and designates the person of the judge and another that is general and defines the qualifications pertaining to the office of judgeship.[111] General appointment (*naṣb ‘āmm*) means that the Imam either appoints specifically a judge, or determines the qualifications, conditions, and requirements that should be present in the judge (*al-wājid li al-shurūṭ al-mu‘tabara fīhi*) who will exercise this authority. The general appointment takes place among jurists who fulfill the sum of requirements (*naṣb ‘āmm fī niṭāq al-fuqahā’ al-jāmi‘īn li al-sharā’iṭ*).[112]

With the Occultation of the Imam, Shams al-Din argued, judicial authority falls under the authority of the *umma*; the appointment of judges, therefore, is a right of the *umma* and is to be carried out through election and consultation (*shūrā*).[113] The infallible Imam has laid out the conditions and requirements needed during *ghayba* in the candidates occupying this office through the mechanism of general appointment based on election and consultation.[114] In this light, Shams al-Din interpreted the two Traditions—Maqbūlat ‘Umar b. Ḥanẓala and Mashhūrat Abī Khadīja—as proving that the matter of appointing and selecting a judge is the exclusive right of the legislators. Therefore, it is the exclusive prerogative of the people to choose a judge from the pool of jurists who meet the qualifications for judgeship as defined by the Imam through the latter's general appointment.[115]

The ruler cannot appoint judges, even if he happens to be the guardian-jurist.[116] *Wilāyat al-faqīh* cannot assume authority (*tawallī*) over affairs that fall under the jurisdiction of the *umma*[117]; nor does it have the authority to legislate legal rulings (*laysat musharri‘a li al-aḥkām*). Rather, the authority or mandate (*wilāya*) of the guardian-jurist is established only for those matters that fall under his authority, i.e., executive powers.

Accordingly, the guardian-jurist's function is not to appoint judges but only to validate their appointment from the pool of jurists who are qualified, based on their qualifications and knowledge, to occupy judicial offices. This is the principle that has been established by rational proofs, a principle that belies the claim—central to the thesis of *wilāyat al-faqīh*—that the judge is appointed to office by the guardian-jurist.[118] Theoretically, judges in the Islamic government are selected through general appointment by the Imam if they fulfill the requirements for judgeship.[119] If the guardian-jurist validates the general appointment of judges, this does not make judges subordinate to his executive power. Rather, judges preserve their independence.

Finally, according to the thesis of *wilāyat al-umma* the separation of the three powers is clearer.[120] Shams al-Din argued that judicial power falls within the affairs of the *umma* (*sha'n min shu'ūn al-umma*) in the absence of the Prophet and the Imam.[121] To confirm the implications of this statement, he used the Qur'anic verse from *Sūrat al-Nisā'* (4:58) (*Inna Allah ya'mrukum an tariddū al-amānāt ilā ahlihā, wa idhā ḥakmtum bayna al-nās an taḥkumū bil-'adl*) (Allah doth command you to render back your Trusts to those to whom they are due; And when ye judge between man and man, that ye judge with justice).[122]

Shams al-Din stated that the first command in the verse addresses people in general and recommends that they return trusts (property/dues) to their owners: (*Inna Allah ya'murukum an tariddū al-amānāt ilā ahlihā*). It is a general obligation that applies to all members of the *umma* in general and is not specifically confined to the guardian-jurist.[123] The second command impels people to litigate among themselves with justice (*wa idhā ḥakmtum bayna al-nās an taḥkumū bil-'adl*). Since the second command is in subordinating conjunction with (*ma'ṭūfa*) the first command, then Shams al-Din inferred that it is addressed generally to the *umma* and commands it to take in charge the judicial authority when the Imam is not present to assume the functions of his Imamate; the conclusion being that judicial authority is in no way the prerogative of the guardian-jurist.[124]

CONCLUSION

It is most noteworthy that Shams al-Din expended much effort to argue that an Islamic government is legitimate according to the tenets of the Imamate doctrine despite his acknowledgment that there was no

consensus around this point among jurists. Arguably, his preoccupation with the theory of government is rooted in two dynamics: the threats that he perceived in Khomeini, and his reliance on the Lebanese state to minimize the threats posed by Hezbollah against his public position and the institution he headed: the Islamic Shi'i Supreme Council.

Qasim Zaman argued that Khomeini viewed Islamic law as a means rather than an end in itself toward constructing a society where justice prevails. The law hence is subordinate to what Khomeini's Islamic government perceives as the ultimate interests of Islam, even if the latter are not in line with the traditional interpretations of the *shari'a*.[125] Toward this end, Khomeini went as far as allowing the state to suspend the law. In his 1988 statements, he removed the distinction between the authority of the state and that of the guardian-jurist. This conflation, Zaman pointed out, raises serious fears among Sunni jurists that the state, under the guise of upholding Islam, might make Islam subservient to its temporal and earthly goals. It is plausible to argue that Shi'i jurists have similar fears, if not more acute ones, resting on the notion that Khomeini's conflation of state and *wilāyat al-faqīh* might completely erode not only the *'ulama*'s role of interpreting Islam but also the autonomy that Islam and its legal and moral traditions ever held. Shams al-Din perceived *wilāyat al-faqīh* to present threats to the multiple basis of juridical authority in Shi'i Islam. For Shi'i *'ulama*, positioned outside the state apparatus of Khomeini the threats are not only fears of marginalization but of total erosion.

Shams al-Din's approach to the state is informed by tensions within his own conception of politics, the nature of an Islamic state, and the influence of Khomeini's thesis and the Islamization of the Iranian Revolution. His fear of who will command the state and the repercussions that an absolutist form of governance might have on the class of *'ulama* and their tradition prompted him to explore legal arguments that would achieve two ends. On the one hand, he wanted to preserve some autonomy for the *'ulama* and protect their tradition from disintegration, and on the other hand, he wanted to contribute to the debates surrounding state legitimacy, nature, and goals, so that the *'ulama*'s voice is both asserted and heard. In other words, he realized that quietism and apolitical withdrawal would cause more damage to the *'ulama*'s class position and their discourses, than engagement with debates on the state, its goals, and utility. His active participation in theoretical debates on the state was utilitarian in the sense that it was designed to

ward off potential marginalization. Specifically, he was not going to leave the battlefield and announce defeat in the face of Khomeini's domination of the state in contemporary Shi'i political thought.

Moreover, once he found himself functioning publicly in the Lebanese context, the state served a utilitarian goal for him. He occupied a public office as the head of the Islamic Shi'i Supreme Council, a body that draws part of its legitimacy from the official recognition of the Lebanese state, and he occupied the role of being the official representative of the religious leadership of Lebanese Shi'a, at least in terms of government recognition. These functions made him reliant on the legitimacy that the state conferred on his position. It shielded him, with the legitimacy it conferred upon his role and office, from the delegitimizing discourse of Hezbollah. It also contributed indirectly to the protection of legal plurality among Shi'i jurists as opposed to subservience to one supreme jurist. If he had opted for quietism, in a context where pro-Khomeini Islamists were gradually occupying the Shi'i public sphere, he would have become subservient to *wilāyat al-faqīh*'s institution in Iran. Quietism, as practiced by Ayatollah al-Khu'i under the repressive *Ba'th* regime of Saddam Hussein in the 1980s and 1990s, may have been a suitable method to preserve a role for Shi'i institutions. In Lebanon, this did not work. Critical engagement with *wilāyat al-faqīh* and the carving out of a distinct role separate from that of Hezbollah ensured better viability to a Shi'i jurist like Shams al-Din who refused to be subservient to *wilāyat al-faqīh* and by extension to Iran's policies and Iran's allies in Lebanon. In short, the ramifications of *wilāyat al-faqīh* in Lebanon rendered the Islamic Shi'i Supreme Council obsolete and useless.

The next chapter will discuss further how the fears of *wilāyat al-faqīh* and its absolute powers prompted Shams al-Din to search in the Shi'i Imami legal heritage for legitimating arguments to justify or permit cooperation with unjust temporal powers, i.e., modern secular governments. His main preoccupation was to find other ways that would prevent, if not actively fight, the subservience of Lebanese Shi'a and by extension, Arab Shi'a to the hegemony of *wilāyat al-faqīh* as defined by the Iranian state. The distinction he made between Iranian Shi'a and Arab Shi'a and the different positions they occupy as citizens are clear in a statement he made concerning the necessity for Arab Shi'a to integrate in their states in which he argued that his recommendation did not extend to Iranian Shi'a because they belonged to a powerful state that protected their national interests, which is not the case for Arab Shi'a.[126]

His contributions to the debates on Islamic government and later on civil government were conducted under the acceptance of the hegemony of modern concepts of the nation-state whose authority is inescapable and defines normative interactions between the Shi'a and their respective countries. As a trained Muslim jurist, he could at best cloak his discussion in an Islamic garb, hence producing his thesis *wilāyat al-umma* in which separation of powers is similar to the separation found in liberal democracies between the executive and legislative branches of government, and in which *shūrā* is conceived as the Islamic counterpart of parliamentary democracy.

The above-delineated tensions lead one to question the extent of Shams al-Din's commitment to the idea of an Islamic government. If *wilāyat al-faqīh* had never become part of the Iranian constitution and the guardian-jurist had not headed the Iranian state, and if Hezbollah had not adopted Khomeini's thesis and attempted to institute it in Lebanon, bringing a novel Shi'i discourse that is directly tied to the Iranian state, one wonders if Shams al-Din would have gone as far as elaborating an Islamic thesis to counter that of Khomeini. It is also plausible to question to what extent *wilāyat al-umma* is different from his concept of civil government in Lebanon.

Notes

1. This book was first written in Najaf in 1955; however, Shams al-Din revised it and added many modifications and arguments to it while in Lebanon, and republished it in Beirut in 2000.
2. In his book, Shams al-Din refers to them as three theses. One is *wilāyat al-umma* and the other two are the two versions of *wilāyat al-faqīh*, each of which is constructed according to a separate set of legal proofs.
3. Shams al-Din, *Niẓām al-Ḥukm wa al-Idāra Fī al-Islām*, 409.
4. Ibid., 391.
5. Ibid., 409.
6. Shams al-Din's discussion of *wilāyat al-umma*, which appeared in his book *Niẓām al-Ḥukm*, is very brief and confined to few pages that do not delve in the legal proofs of this thesis; his work specifically devoted to *wilāyat al-umma* was never published as the manuscript was destroyed during the war in Lebanon between 1975 and 1990.
7. Shams al-Din, *Niẓām al-Ḥukm wa al-Idāra Fī al-Islām*.
8. Ibid.
9. Ibid., 445–446.

10. Ibid., 446.
11. Ibid., 418.
12. Imam Ja'far al-Ṣādiq (translator's note).
13. The verb (*taḥākama*) is derived from the pattern of (*tafāʿala*), and the three-letter root of the verb is (*ḥ k m*) or ح ك م. This Arabic root means, in *al-Munijd* Dictionary and *Lisān al-ʿArab* Lexicon, to take in charge, have authority, or to settle, rule, decide, and arbiter (translator's note).
14. This could also be translated as legal opinion or a set of decisions and regulations (translator's note).
15. Meaning to apostatize (translator's note).
16. *Uṣūl al-Kāfī* 1/67, the part on *Ikhtilāf al-Ḥadīth*, *ḥadīth* 10, and its branches 7/412, and the part on the "Abominableness of Seeking Judgment with Unjust Judges," Book of Judgment, *ḥadīth*, 5, and *Wasāʾil* 18/98. Part 11 from the parts of: Qualities of Judges, *ḥadīth* 1.
17. Shams al-Din, *Niẓām al-Ḥukm wa al-Idāra Fī al-Islām*, 418.
18. Ibid.
19. Ibid., 419.
20. Ibid.
21. Hamilton A.R. Gibb, *Studies on the Civilization of Islam* (Boston: Beacon Press, 1962).
22. Ibid.
23. Shams al-Din, *Niẓām al-Ḥukm wa al-Idāra Fī al-Islām*, 412.
24. Ibid., 412–413.
25. Ibid., 413.
26. Ibid., 415.
27. Ibid., 417.
28. Ibid.
29. Ibid.
30. Ibid., 420.
31. Ibid., 391.
32. Ibid., 393.
33. He stated that the area of administrative authority in Islam has not attracted the scholarly interests of jurists and therefore suffers from scarcity of studies.
34. Shams al-Din, *Niẓām al-Ḥukm wa al-Idāra Fī al-Islām*, 429.
35. Ibid., 430.
36. Ibid.
37. Muhammad Baqir al-Sadr defines *al-ḥukm al-sharʿī* as the rule that corresponds directly to the acts of man and guides his conduct in all the aspects of his life, be it personal, social, family-related, or worship-related such as the command prohibiting alcohol consumption. The *ḥukm wadʿī* is the rule that legislates for legal states that influences indirectly

the life and acts of man such as the rules that organize marital life and obligations. Muhammad Baqir Al-Sadr, *Durūs Fī ʿIlm al-Uṣūl* (Beirut: Dar al-Kitab al-Lubnani, 1978), 67.

38. Shams al-Din, *Niẓām al-Ḥukm wa al-Idāra Fī al-Islām*, 429.
39. Ibid., 437.
40. *Wilāya* is the Islamic term for authority which is referred to in secular terminology as *sulṭa*.
41. Shams al-Din, *Niẓām al-Ḥukm wa al-Idāra Fī al-Islām*, 431.
42. Ibid., 448.
43. Ibid., 445.
44. Ibid., 437.
45. Ibid., 444.
46. Ibid., 437.
47. Ibid.
48. Ibid., 438.
49. Ibid., 437.
50. Ibid., 438.
51. Ibid., 439.
52. Ibid.
53. Ibid., 440.
54. *Kifāʾī* refers to a mandatory religious obligation that can be fulfilled by one member of the pious community on behalf of the rest who are thereafter exempted from it.
55. Shams al-Din, *Niẓām al-Ḥukm wa al-Idāra Fī al-Islām*, 440.
56. Ibid.
57. Ibid., 441.
58. Ibid.
59. Ibid.
60. Muhsin Al-Haydari, *Wilāyat Al-Faqīh: Tārīkhuha Wa Mabāniha* (Beirut: Dar al-Walaʾ, 2004), 226.
61. Shams al-Din, *Niẓām al-Ḥukm wa al-Idāra Fī al-Islām*, 470.
62. Ibid., 442.
63. Ibid., 443.
64. Ibid., 442.
65. Ibid.
66. Ibid., 444.
67. Ibid., 445–447.
68. Ibid., 445.
69. Ibid., 446.
70. Ibid.
71. Ibid., 449.
72. Ibid., 446.

73. Ibid., 447.
74. Ibid., 445.
75. Ibid.
76. Ibid., 447.
77. Ibid.
78. Ibid.
79. Ibid.
80. Ibid., 449.
81. Shams al-Din did not give further explanation of the legislative experts but since he distinguished them from the jurists, one presumes that they would be experts in lay specializations.
82. Shams al-Din, *Niẓām al-Ḥukm wa al-Idāra Fī al-Islām*, 410.
83. Ibid., 448.
84. Ibid.
85. Shams al-Din does not define *umma*, but it is plausible that he is referring to the sum of Muslims living within the borders of a state in which *wilāyat al-faqīh* is implemented.
86. Shams al-Din, *Niẓām al-Ḥukm wa al-Idāra Fī al-Islām*, 409.
87. Ibid., 410.
88. Ibid., 476.
89. Ibid., 473.
90. Ibid., 477.
91. Ibid., 478.
92. Ibid.
93. Ibid.
94. Muhammad Jawad Mughniyya, *Al-Khumanyī wa al-Dawla al-Isāmiyya* (Beirut: Dar al-'ilm li al-malayin 1970), 59.
95. Ibid., 71.
96. Shams al-Din, *Niẓām al-Ḥukm wa al-Idāra Fī al-Islām*, 478.
97. Ibid.
98. Ibid., 476.
99. Ibid., 483.
100. Ibid., 479.
101. Ibid., 483.
102. Ibid., 455.
103. Ibid.
104. Ibid., 473.
105. Ibid., 455.
106. Ibid., 458.
107. Ibid., 480.
108. Ibid., 457–458.

109. Muhammad Mahdi Shams al-Din, *Fī al-Ijtimā' al-Siyāsī al-Islāmī*, 2nd ed. (Beirut: Al-Mu'assasa al-Dawliyya li al-Dirasat wa al-Nashr, 1999), 122.
110. Ibid., 120.
111. Ibid.
112. Shams al-Din, *Niẓām al-Ḥukm wa al-Idāra Fī al-Islām*, 118.
113. Shams al-Din, *Fī al-Ijtimā' al-Siyāsī al-Islāmī*, 119–120.
114. Ibid.
115. Ibid., 120.
116. Ibid., 119.
117. Ibid.
118. Shams al-Din, *Niẓām al-Ḥukm wa al-Idāra Fī al-Islām*, 481.
119. Ibid.
120. Ibid., 482–483.
121. Shams al-Din, *Fī al-Ijtimā' al-Siyāsī al-Islāmī*, 119.
122. Yusuf 'Ali's online Qur'an Translation: http://www.harunyahya.com/Quran_translation/Quran_translation4.php.
123. Shams al-Din, *Fī al-Ijtimā' al-Siyāsī al-Islāmī*, 119.
124. Ibid.
125. Zaman, *The Ulama in Contemporary Islam: Custodians of Change*, 105–107.
126. Saoud Al-Mawla, "Naṣṣ Ḥiwār Qadīm li Shabāb Hezbollah ma' al-Shaykh Shams al-Din." http://saoudelmawla.blogspot.com/.

(Im)Permissibility of Cooperation with Unjust Rulers and Modern Governments in Shi'i Doctrine

INTRODUCTION: SHAMS AL-DIN'S POLITICAL THOUGHT

This chapter examines the interweaving of several themes in the thought of Shams al-Din, namely national integration in modern states, the condition of the Shi'a living in diverse societies, and the Shi'i doctrinal position on the approach to de facto temporal authorities. Shams al-Din infused classical Shi'i political doctrine with a spirit of pragmatism, advancing legal arguments based on his contemporary political concerns and practical choices.

A cornerstone of Shams al-Din's thought during the mid-1990s, and in the specific context of Lebanese Shi'a, is his argument in favor of the legitimacy of the state and its institutions, regardless of the type of governmental authority it holds or of its underpinning ideology. As long as it meets the "basic requirements of justice," it would be legitimate. Consequently, his acknowledgment of state legitimacy emphasizes national integration and the inclusion of all groups comprising the citizenry, including religious minority groups. This chapter attempts to explain why integration is central to Shams al-Din's thought, and why he downplayed the effects of the discrimination to which Shi'a are often subjected in the Arab states where they form part of the population. His pragmatism is evident in his warnings against any projects of dissent with which Islamists, both Sunnis and Shi'a, might challenge the authority of incumbent governments.

This chapter also analyzes Shams al-Din's position on integration in the mid-1990s, a historical juncture characterized by radical Islamist mobilization of Shiʿa against conformity with the time-honored constitution of the Lebanese state. The secondary sources describe this political visibility of the Shiʿa in the aftermath of the Islamic Revolution in Iran, and its manifestation in Arab countries where there is a considerable Shiʿi population, as their attempt to gain decision making power.[1] This phenomenon has occurred against a backdrop of anti-Shiʿi sentiment in the region, widespread among Arab officials and fuelled by some radical Sunni Islamist movements.

The first part of this chapter consists of a legal discussion of governmental legitimacy in Shiʿi doctrine, including its approach to a government by unjust rulers. The second part addresses Shams al-Din's assessment of the political condition of Shiʿi citizens in Arab countries and the prospects they face. Shams al-Din ultimately interwove these two separate themes to buttress the principle of national integration (*indimāj*) of Shiʿi minority populations and their affiliation with the modern state.

The Imams' positions, embedded in their Traditions, constitute the foundations of Shiʿi doctrine on temporal authority. Shams al-Din applied the positions of the Imams to the contemporary political conditions of Shiʿi populations, readapting the Imams' teachings to the modern age, and particularly to modern political language and institutions.

I argue that Shams al-Din's political opinions revolve around his professed concern for the safety and stability of his religious community. To this end, he issued a set of recommendations aimed at providing Shiʿa with the means to ensure their collective safety and safeguard their social interests. I call this ensemble of recommendations "Shams al-Din's principle of integration," a principle with both legal and political implications. The principle's legal basis is a set of arguments that Shams al-Din directly tied to the Imamate doctrine. Through his attempts to find solutions for complicated contemporary political problems, Shams al-Din consistently grounded himself in the Imami Traditions and juridical milieu of Imamism, exhibiting meticulous care to maintain conceptual continuity with the Imamate tradition.

The State and Unjust Rulers (*Ḥukkām al-Jawr*)

Origins of the State

In addressing the modern period, Shams al-Din mostly used the term "state" to denote the structure of de facto political and administrative authority that classical Islamic tradition refers to as government or *ḥukūma*. For the purpose of this chapter, I will use the term "state" when discussing legitimate political authority in the modern period and "government" when discussing the concept in classical doctrine.

Shams al-Din's discussion of government and the mandatory nature of its formation lie in two axioms, a universal one and an Islamic one. The universal axiom holds that any society requires the formation of a state, stemming from the necessity to maintain order and preserve social cohesion.[2] State formation naturally and intuitively flows from the necessities and basic requirements of human social organization.[3] The Islamic axiom is located in the necessity for a government to administer the affairs of society. Governmental authority is therefore required for the maintenance of order (*niẓām*), which human beings and societies need and which God has ordained (*sharra'a*) in many Qur'anic verses as a necessary frame for the organization of societal relations.[4]

Shams al-Din tried to demonstrate that the institution of government is an Islamic given (*min al-musallamāt fī al-sharī'a al-islāmiyya*)[5] through the use of Scriptural sources as legal proofs, including Qur'anic verses, Prophetic Traditions and Imami Traditions that recommend the formation of political society and government. The following are representative examples.

Sūrat al-Anbiyā' 21 (105–109)[6]:

Before this We wrote in the Psalms, after the Message (given to Moses): 'My servants righteous, shall inherit the Earth.' Verily in this (Qur'an) is a Message for people who would (truly) worship Allah. We sent thee not, but as a Mercy for all creatures. Say: 'What has come to me by inspiration is that your Allah is One Allah. Will ye therefore bow to His Will (in Islam)' But if they turn back, Say: 'I have proclaimed the Message to you all alike and in truth; but I know not whether that which ye are promised is near or far.'[7]

For Shams al-Din, the above verses are an explicit indication that the political conditions of Muslims will not remain static in Mecca. The verses promise that Muslims in the future will have a government and authority (*dawlatan wa sulṭānan*). Toward the same end, Shams al-Din also quoted the following Qur'anic verses from *Sūrat al-Shūrā* 42 (36–43)[8]:

> Whatever ye are given (here) is (but) a convenience of this life: but that which is with Allah is better and more lasting: (it is) for those who believe and put their trust in their Lord: Those who avoid the greater crimes and shameful deeds, and, when they are angry even then forgive; Those who hearken to their Lord, and establish regular Prayer; who (conduct) their affairs by mutual Consultation; who spend out of what We bestow on them for Sustenance; And those who, when an oppressive wrong is inflicted on them, (are not cowed but) help and defend themselves. The recompense for an injury is an injury equal thereto (in degree): but if a person forgives and makes reconciliation, his reward is due from Allah. For (Allah) loveth not those who do wrong. But indeed if any do help and defend themselves after a wrong (done) to them, against such there is no cause of blame. The blame is only against those who oppress men and wrong-doing and insolently transgress beyond bounds through the land, defying right and justice: for such there will be a penalty grievous. But indeed if any show patience and forgive, that would truly be an exercise of courageous will and resolution in the conduct of affairs.[9]

Shams al-Din argued that these verses introduced the earliest forms of legislation for political society and government. For instance, the verses related to self-defense and the rebuttals of aggression were the earliest legislations about *jihād*. Other verses organize the administration of public affairs around the principle of *shūrā*. They also contain a section on fiscal expenditure which is one of the earliest legal pronouncements on financial duties and obligations.[10]

Other Qur'anic verses from which Shams al-Din inferred the legal obligation to institute Islamic government are the following verses of *Sūrat al-Naḥl* 16 (41–42)[11]:

> To those who leave their homes in the cause of Allah, after suffering oppression – We will assuredly give a goodly home in this world; but truly the reward of the Hereafter will be greater. If they only realized (this)! (They are) those who preserve in patience, and put their trust on their Lord.[12]

Shams al-Din read, in the above verses, a promise from God to change the lot of Muslims, notably in the political sphere and especially because this verse has been revealed in relation to the Prophet's lifetime when Muslim emigrants (*al-muhājirūn*) to Ethiopia while other Muslims in Mecca were confronted by the aggression and attacks of pagan members of Quraysh. The Emigration of Muslims to Ethiopia was a direct result of the political persecution that they endured in Mecca.

To corroborate his belief in the mandatory duty to institute government, Shams al-Din further maintained that the question of government was embedded in Prophetic Traditions from the first years of Qur'anic revelation in Mecca. The *ḥadīth al-dār*,[13] for example, is taken as proof that the Prophet deployed the foundations of a political entity since those times. This *ḥadīth* has been reported in *Tārīkh al-Ṭabarī* and is dated back to the third year following the revelation to the Prophet in Mecca. The Prophet ordered 'Ali to make food and invite the members of the 'Abd al-Muṭṭalib clan. The *ḥadīth* consists of a long speech that the Prophet delivered to his kin in which he declared: "Oh sons of 'Abd al-Muṭṭalib! By God, I do not know of any young man among the Arabs who brought to his people [a Message] better than what I have brought you. Indeed, I have brought what is best in life and in the Hereafter. God has ordained me to summon you to it. So who amongst you will support me in this task by being my brother, my trustee, and my successor?"

The most important Imami Tradition is a report narrated by al-Faḍl b. Shādhān on the authority of Imam 'Alī al-Riḍā. Shams al-Din believed it to be the most comprehensive Tradition on the fundamental legal obligation to find government and political authority (*mas'ālat al-ḥukm*).[14] Part of this Tradition reads as follows:

One fellow asked: "Why did God appoint guardians (*ulī al-amr*) and command obedience to them?" He was answered: "For many reasons: People have restrictions (*waqafū 'alā ḥaddin maḥdūd*), and have been commanded not to transgress these restrictions (*wa umirū an lā yataḥaddū tilka al-ḥudūd*) because this (such transgression) would entail their decay (*limā fīhi min fasādihim*). This state of affairs (restrain from transgressing restrictions), however, would not have been confirmed and put in place (*lam yakun uthbita dhālik wa lā yaqūmu*) unless God appointed on top of them a guardian who patiently treats them (*ya'khudhūhum bi al-waqt*), and prohibits them from transgressing what has been forbidden to them.

So God appoints upon them a guardian who would prohibit them from committing the wrong (*fasād*), and who would implement the due punishments (*yuqīmu fīhim al-ḥudūd*) and the legal rules (*al-aḥkām*)."

The Tradition continues:

We do not find any sect or community that survived and lived if not for a guardian or a ruler (*illā bi qayyimin wa ra'īsin*); for they necessarily need him in the matters of religion and the world. And it is not permissible in God's will for people to be denied what He knows they necessarily need (*fa lam yajiz fī ḥikmat al-ḥakīm an yatruka al-khalqa mimmā ya'lamu annahu lā budda lahum minhu*), and what is essential for directing them on the right path (*wa lā qawāma lahum illā bihi*), with which help to fight their enemies, divide war booties (*wa yaqsimūna bihi fay'ahum*), hold their people together (*wa yuqīmūn bihi jam'atahum*), and restrain the unjust from inflicting injustices on others (*wa yumna'u ẓālimahum min maẓlūmihim*).[15]

Finally, in his discussion of the state, Shams al-Din emphasized that the politico-Islamic imperative toward state formation is not accompanied by a blueprint specifying the state's administrative functions, role, and institutions. These areas are open to doctrinal-legal discussions.[16] That the Prophet did not explicitly define the contours of government, Shams al-Din specified, can be attributed to the political conditions of the time, which were unpropitious for publicizing the foundation of a polity.[17]

Having established the mandatory existence of government throughout the ages, as a response to the most intuitive human need for social organization, Shams al-Din nevertheless could not locate any stipulation within the *shari'a* that the state is required to be Islamic. For Shams al-Din, there exists a legal necessity to found a government but there is no legal necessity to found an Islamic government.[18] This position gives rise to the following questions: What is his position on non-Islamic governments and states? What is his position on an Islamic government deemed illegitimate by Shi'i jurists for failing to adhere to the traditional Shi'i requirements for an authentically Islamic government, namely a government founded and headed by an Imam from the *Ahl al-Bayt* and appointed through *naṣṣ* (divinely inspired designation, either directly by God or one of the preceding Imams)? And, finally, can Shi'a cooperate with these governments or should they boycott them? Shams al-Din addressed these questions in his book *Fī al-Ijtimā' al-Siyāsī*.

It is important to underline a vital consequence of Shams al-Din's conclusion that the *shari'a* does not mandate the formation of an explicitly Islamic government. The absence of any legal requirement for an Islamic government enables Shams al-Din to navigate through an array of approaches to governments and not only the legitimate government of the Imam, while creating space for pragmatic politics. Under such a legal framework, national integration and accommodation to various modern states become both possible and commendable. Shams al-Din located several legal proofs in Traditions and Scriptures to prove the permissibility of cooperation with unjust governments, provided this cooperation meets certain requirements of the *shari'a*. As we will see in the next chapter, these Scripture-based legal proofs allowed him to extend permissibility to modern times and apply it to modern nation-states, sanctioning, for example, his cooperation with the Lebanese state, notwithstanding many injustices it causes to its citizens, which he discussed at length.

Approach to Unjust Rulers (Ḥukkām al-Jawr)

Shams al-Din located two sets of Traditions: One set that prohibits cooperation and another set that permits it. Discussing both, he concluded that both positions are not absolute, but that the Traditions in favor of permissibility of cooperation are stronger. He argued that a relationship of practical cooperation with the non-Imami government and unjust rulers, for practical and pragmatic reasons, was possible and permissible.[19]

One set of these Traditions prohibits cooperation with unjust rulers, while another set permits cooperation. Both positions, prohibition and permissibility of cooperation with unjust rulers, are established in two separate areas: One area that relates to service in the apparatus of the temporal powers, such as the military, the judiciary, and administration, and another that relates to conducting commercial transactions with temporal powers.[20] Discussing these two positions, he concluded that cooperation is permissible for the purpose of fulfilling the provisions of the *shari'a*, notwithstanding the few exceptional cases in which impermissibility becomes legally binding. The *shari'a* provisions mandate the preservation of Muslim lives, the unity of the Islamic *umma*, the defense of its political society, and finally the preservation of the social order at any cost; all are duties that sanction cooperation with the incumbent ruler.

Having established the illegitimacy of governments which usurped the Imam's rights, Shams al-Din confirmed that dealing with them is impermissible.[21] This impermissibility encompasses the political sphere, including service in the civil and military apparatus of temporal governments, and in the economic sphere,[22] including conducting commercial transactions with government agents.[23] There are many Traditions that explicate and recommend this position.[24] One of these Traditions is a report by Sulaymān al-Jaʿfarī narrated on the authority of Imam ʿAlī al-Riḍā. He said: "I asked Abu al-Ḥasan al-Riḍā: "What is your opinion about the governance (*ʿamāl*) of the sultan?" He said: "Oh Sulaymān! Joining their service, assisting them, or endeavoring to fulfill their needs is akin to apostasy (*ʿadīl al-kufr*). Looking forward to them/considering them on purpose (*al-naẓar ilayhim ʿalā al-ʿamd*) is a major sin that incurs [admission to] hell."[25]

Shams al-Din then moved to discuss Traditions on the authority of the Imams which permit cooperation with unjust rulers on both the administrative and commercial levels. An important Tradition that explicates this position is that of Hind al-Sarrāj related on the authority of the fifth Imam Muḥammad al-Bāqir[26]:

> "I told Abū Jaʿfar: I used to carry weapons to the people of Syria and sell these to them, but when God introduced me to this matter (meaning Shiʿism and the embrace of the doctrine of *ahl al-bayt*), I grew upset with this behavior and said: "I will not carry weapons to my enemies!" So he replied: "keep carrying weapons to them and sell these to them, for God through them restrains our enemies and your enemies [the Byzantines], so sell these [weapons] to them, but if war was to fall between us and them, then don't carry these to them; for whoever carries weapons to our enemies, assist them in their struggle against us and is an apostate (*mushrik*)."[27]

This Tradition explicitly demonstrates that cooperation with the governments of unjust rulers is permissible where certain conditions are met and when certain circumstances prevail. The most important criterion for the legitimacy of cooperation is justice, or lack thereof, in the ruler's political conduct. Moreover, cooperation is permissible only in as much as it promotes the security of the *umma* by preserving social order and protecting the Muslim community against foreign invasions. Cooperation with rulers is legitimate where it is conducive to the protection of the Muslim community. If rulers commit injustices, cooperation

with them becomes illegitimate.[28] Consequently, the permissibility of cooperation is limited; it is restricted to the extent necessary to serve the interests of the Muslim community and ensure the security of Muslim lands. It is also limited to the safeguarding of the Shiʿi population and its Imams. Therefore, it is impermissible to cooperate with unjust governments or unjust rulers when they plan campaigns of persecution and attack against the Shiʿa, particularly the Imams, such as was the case of some Abbasid Caliphs.[29]

Shams al-Din argued that the Imams, in formulating their policy toward unjust rulers, bore in mind not only the particular interests of the Shiʿa, but also the comprehensive interests of the Islamic *umma*.[30] They conducted themselves not as leaders of a particular faction, but as representatives of and successors to the Prophet, having taken up his posthumous mantle for the leadership of Islam.[31] It is in keeping with this belief that the Imams sanctioned cooperation with unjust rulers, provided these rulers were not directly involved in the persecution of Muslims, particularly the Imams and their followers.

Finally, other than concerns about safeguarding the unity of the *umma* and the preservation of the social order, some classical jurists have argued that the legal obligation of *taqiyya* (dissimulation) necessitates cooperation with unjust governments. For instance, the traditionist (Akhbārī) jurist Muhammad al-Ḥurr al-ʿĀmilī (d. 1692) legalized cooperation with unjust rulers only insofar as the requirements of *taqiyya* go. Shams al-Din, however, disagreed with him, noting that the Imami Traditions legalizing cooperation were a response not to the social requirements of dissimulation, but to the need to preserve the social order, as well as the unity and cohesion of the *umma*.[32]

In light of this wealth of Traditions allowing a wide spectrum of approaches, what position takes precedence: permissibility of cooperation with unjust rulers or impermissibility? Shams al-Din explained that neither is absolute, each being restricted by a set of conditions. Impermissibility applies under certain circumstances but permissibility is allowed only where cooperation does not breach the principles underlying the Imams' authorization of cooperation in the first place.[33]

The provisions of the Traditions that dictate the approach to unjust rulers are as follows:

1. In principle, the authority of unjust governments and rulers is illegitimate.[34]

2. It is prohibited to acknowledge the legitimacy of unjust rulers.[35]
3. It has been established that it is impermissible to commit an injustice against anyone.[36]
4. It is obligatory to preserve the social order, as established by both Scriptural proofs (the Qur'an and the Traditions) and rational reasoning.[37]
5. As established through rational reasoning, it is obligatory to preserve the unity of the Muslim *umma* and protect it from disintegration and internal strife.[38]
6. All actions are, in principle, permissible according to the principles of the *shari'a*; subsequent restrictions and prohibitions, however, limit this initial permissibility.[39]
7. The Traditions that focus on prevention, restriction, and prohibition are neither related to acts of worship (*'ibādāt*) nor related to *ghayba*.[40]

Based on the above provisions, Shams al-Din inferred that the main principle governing relations with unjust rulers is the legitimacy of cooperation. He argued that cooperation is permissible for the following reasons:

1. The *shari'a* mandates the protection of both the social order and the lives of Muslims.
2. The preservation of the unity of the Muslim *umma* is mandatory.[41]
3. The preservation of Islamic political society is mandatory.[42]
4. The preservation of the social order is mandatory.[43]
5. The protection of opposition groups from persecution and oppression is mandatory.[44]

As for the prohibition of cooperation with unjust rulers, it has been established only in particular cases serving as an exception to the initial rule of permissibility. Prohibition has been established in three specific cases[45]:

1. Cooperation is impermissible when it entails admitting the legitimacy of the ruler's government or his person.[46]
2. Cooperation is impermissible if it entails committing injustice or aggression against others, and if the cooperator is complicit in the perpetration of such injustices or aggression.[47]

3. Cooperation with unjust rulers is forbidden for persons who are weak in character or who both profess weak commitment to their religion and neither practice nor observe the ordinances of their religion. The Imami Traditions explicitly recommend that people who exhibit such characteristics not be permitted to work for an unjust government.[48]

To summarize, the position of Shi'i doctrine on the approach to unjust rulers, as expressed in the Imami Traditions, is twofold, comprising both a theoretical and a practical aspect. The theoretical position commands delegitimization of the temporal authority of an unjust ruler whose government is conceived of as a usurpation of the lawful right of the Imams of the *Ahl al-Bayt*. But theoretical delegitimization does not necessarily translate into absolute prohibition of association or cooperation with unjust rulers. Thus, the practical position legalizes cooperation with unjust rulers despite theoretical delegitimization,[49] to the degree that is required to ensure the three main considerations mentioned above, namely the preservation of order, protection of the *umma* from disintegration and foreign conquest, and the preservation of the unity of Muslims.[50]

This twofold position thus has the advantage of preserving the unity of the *umma* and protecting the general order from disintegration, while also safeguarding the particular interests of the Shi'a if they happen to be opposed to an incumbent regime. Thus, Shi'a may cooperate with the incumbent regime without conferring legitimacy upon it, while maintaining loyalty to the Imams, and honoring the latter's legal recommendations in terms of worship rituals and commercial transactions.[51] Moreover, this position is unanimous in the three historical phases of the Shi'a: the phase of the presence of the Imams, the phase of the *ghayba*, and the modern phase that witnessed the rise of the modern secular state. It is also the position preached by the Imams and the position deduced by jurists since the time of the eleventh Imam Ḥasan al-'Askarī, through the Minor Occultation and later the Greater Occultation. In allowing the permissibility of cooperating with unjust rulers, Shams al-Din argued, the early jurists advocated a position identical to that of the Imams.[52] This was the position of al-Shaykh al-Mufīd (d. 1022) and of al-Shaykh al-Ṭūsī (d. 1067).[53] It applies to the period of the Major Occultation in 941 CE onward until the end of the Ottoman Empire. The modern period captures Shams al-Din's attention because it witnessed fundamental changes

that had further implications on state legitimacy. The most important of these changes was the disintegration of Islamic rule vested in the historical caliphate and the rise of non-Islamic states.

The Modern Period: Islamic and Non-Islamic Rule?

Shams al-Din discussed two interconnected issues[54]: The legitimacy of secular modern governments and the foundations of Islamic government in the modern period. The second issue is highly significant given the quest of many contemporary Islamist movements for the establishment of what they label as "Islamic government." Islamist approaches toward constructing an "Islamic government" took the form of theoretical discussions as well as practical suggestions about how to institute such a polity and ways to participate in the existing political process.

Regarding the first issue of modern secular states, there is consensus between Sunni and Shi'i jurists on the necessity to accommodate any (unjust) government that preserves the general order of Muslim societies and hence safeguards Muslim lives. Practical considerations prompt jurists to concede legitimacy to non-Islamic rulers and governments, to the limited degree necessary to ensure the preservation of order for the *umma*. Such recognition, moreover, leads to the conditional or restricted legitimation of cooperation with these governments, to preserve the general order.[55]

The second issue is concerned with the foundation of Islamic government in the modern period which Shams al-Din discussed in relation to both Shi'i and Sunni law. Sunni jurists and thinkers in general stress that the Scriptures support an obligation to establish Islamic governments at all times, including the modern era. In their views about the theoretical foundations of such a government, Sunni jurists differ from their counterparts in Shi'ism, who decree that the only legitimate government is that of the hidden Imam. In contrast, Sunnis believe that the principle of *shūrā* (consultation) is a legitimate means to elect a ruler at all times. Two forms of *shūrā* exist in Sunni law: one that is confined to those who possess authority and a general one. The classical restrictive form, referred to by Sunni jurists as *shūrat ahl al ḥall wa al-'aqd* (the consultation of those who "unite and bind," namely authoritative leaders), is imprecise; jurists disagree on both its definition and meaning. The other form of *shūrā* is a general one, akin to a general referendum (*istftā' 'āmm*).[56] For the Shi'a, on the other hand, it is impossible to

elect, choose, or appoint a ruler in the place of the lawful hidden Imam. Shi'i jurists reject *shūrā* as a lawful means to establish the legitimacy of an elected or appointed leader. Moreover, the Shi'a disagree with Sunni jurists over the interpretation of the Qur'anic verses relating to *shūrā*. The ruler, regardless of the means that bring him to power, cannot be legitimate because legitimacy belongs solely to the hidden Imam.[57]

Despite the Shi'i legal and doctrinal position supporting the legitimacy of the Imam's government, there is disagreement over the establishment of Islamic government. Some believe that the establishment of Islamic government is absolutely illegitimate in the absence of the Imam. This is because the foundation of Islamic government requires absolute *wilāya*, and the management of funds and finances of the *umma*,[58] while the jurists who fulfill the requirements of *fatwā* have a very limited *wilāya* in only very well-delineated juridical matters.[59] This conviction was dominant among the early Shi'i jurists.[60] In the twentieth century and onward, however, not all Shi'i jurists agree with this position. A number of them believe in the obligation to found an Islamic government in the era of Occultation and base their views on the theoretical justification for *wilāyat al-faqīh*.[61] The jurists living during the modern phase of the *ghayba*, who do not believe in instituting Islamic government on the basis of *wilāyat al-faqīh*, fall into two categories. They either withdraw from the political arena and remain aloof toward the state, or offer a practical model of engagement with the state based on minimal cooperation as preached by the Imams in the classical era. The latter acknowledge cooperation with the secular unjust government, without accepting its theoretical legitimacy. This is the same political position which Shams al-Din embraced and recommended for the modern period. He argued that his position gains legal justification and support from classical Shi'i arguments and legal proofs inferred from the Imami Traditions.

Shams al-Din implied that the Shi'i and Sunni jurists' positions about governments and their legitimacy are not radically different. They both acknowledge the de facto state authority in power. The only difference between the two is that the Shi'a recognize as theoretically legitimate only the authority of the Imam who is in Occultation. The Sunnis, however, legitimize the temporal authority regardless of both the identity of the ruler or the means by which he came to power.

Shams al-Din presented two legal readings on the foundation of government that are not mutually exclusive. On one occasion, he declared

that there are no explicit injunctions in the *shari‘a* requesting govern-ments to be Islamic in nature.[62] Elsewhere, he wrote that the provisions of the *shari‘a* make the implementation of certain governmental and administrative functions mandatory, such as the establishment of judici-ary authority, its smooth operation, the implementation of *ḥudūd* (penal-ties), and the collection of taxes and dispensation of public funds, among others. All of the above functions of the *shari‘a* are natural institutions of government and an integral part of the management of public life and public affairs. The functions commanded by the *shari‘a*, therefore, are organic functions of any government, whether Islamic in nature or not.[63] The conclusion to be drawn from these two positions is that it is manda-tory, according to the *shari‘a*, to observe governmental functions, and not to neglect them under any circumstance. However, it is not manda-tory to implement these functions within the framework of an Islamic state. Any state with an efficient institutional apparatus can fulfill the nec-essary governmental functions.

The Integration of Shi‘a in Modern States: General Narratives and Their Background

We now turn to Shams al-Din's association of the legal permissibility of cooperation with secular (unjust) governments in the modern period with the political prospects of Shi‘i populations. This section highlights his pragmatic approach to political circumstances, which he vocalized through a set of recommendations urging Shi‘a to nationally integrate into their states, in accordance with the traditional legacy of their Imams, which permitted cooperation with unjust rulers. His principle of national integration (*indimāj*), he argued, ensured Shi‘a's safety.

Since the 1980s, Shi‘a have increasingly espoused political activism as a solution to questions of political and social rights. The account of their political activism was woven into narratives about their political marginal-ity and economic grievances in many Arab states. Shams al-Din, for his part, expressed in the mid-1990s deep concern about the narratives por-traying Shi‘a as a distinct entity in their societies, whether these narratives were put forward by the Shi‘a themselves or by non-Shi‘i Arabs. He was worried about prevalent narratives by non-Shi‘a about Shi‘a' disloyalty to their respective nations, which, these claims alleged, were made manifest through their Shi‘a's radical ideas and actions.[64] He was also disturbed by some Shi‘i political movements, that portrayed Shi‘a as a distinct

social and political entity set apart from the societies in which they lived, having a separate sociopolitical cause, and separate aspirations.

Shams al-Din also objected to the prevalent presentation of the Shiʿa in local and international media outlets as well as official Arab media. These media outlets portrayed Arab Shiʿa as culturally and politically distinct from their Arab milieu or as seeking "autonomy" from their countries.[65] He criticized this relatively new "Shiʿi-centered narrative," which he encountered during one trip to the United States and Canada in 1997.[66] Shams al-Din debunked the view that the Shiʿa were a separate religious or political "community" alien to the Arab states in which they live.[67] In a parallel line, he challenged the view, which has been advanced since the 1990s and slightly earlier, that Shiʿism is a Persian phenomenon or a religious expression of ethnic conflict between the Persians and Islam.[68] Recently, this narrative about the "unruly" and "disloyal" Shiʿa has intensified, only to cast a contentious image of the Shiʿa as isolated, subversive, or revolutionary.[69] He attributed this image to the official campaigns of some Arab states and rejected their discourse about the lack of Shiʿa's loyalty to their respective nation-states and countries of citizenship.[70] It is possible that Shams al-Din was referring to states which felt destabilized by the rise of the Islamic Revolution in Iran such as Iraq under Saddam Hussein and Saudi Arabia. The present-day Saudi and the Saddam era Iraqi regimes, for instance, have marginalized their Shiʿi citizens, implementing policies of political and economic discrimination against them.[71]

Shams al-Din argued that two causes have led to these narratives about Shiʿism as a sectarian and exclusionary movement, causing some Arab Shiʿa to see themselves in these terms. The first cause is the cumulative effect of the historical discrimination to which the Shiʿa have been subjected under various Islamic dynasties, as well as under the policies of modern states. The second cause is the dramatic effect of the Islamic Revolution in Iran on the political mobilization of Arab Shiʿa, who have long been denied the full privileges of citizenship and political representation in their respective states. Shams al-Din explained that historically Shiʿa have been forced to withdraw from society when accused of blasphemy. They also voluntarily isolated themselves from the public sphere, fearing retaliation if they publicly asserted their doctrinal beliefs. Besieged on both the political and doctrinal fronts, Shiʿa were forced to strategically withdraw in order to ensure their own safety and survival, as well as to safeguard their beliefs.[72] In Lebanon, specifically, Shams al-Din

explained that the Shi'a in the South were marginalized during the Ottoman era, a trend that persisted until the French Mandate. Afterward, the Shi'a began manifesting an identity of their own, one that developed so slowly that its formulation was virtually invisible. The Shi'i economic presence was almost non-existent, as was their representation in public administration, and they lacked a significant say in the decision making process. The situation improved slightly after independence as the Shi'a acquired certain basic rights, as well as representation in parliament.[73] However, the Lebanese Shi'a, in the period that succeeded independence in 1943, suffered double marginalization, economic underdevelopment, and administrative underrepresentation.[74] Political disenfranchisement was embodied mostly in the concentration of power and decision making in the loci of the Maronite presidency and the Sunni premiership.[75] The Shi'a were not granted the opportunity to shape the emerging nation-states in the Arab world and the Islamic one at large, resulting at times in both self-imposed withdrawal and isolation.[76] They were accused of religious and national disloyalty and of creating new religious alliances beyond the borders of the Arab world.[77]

Having discussed political discrimination as the first cause for the Shi'a' particularism, Shams al-Din identified the second cause as the influence of the Islamic Revolution of Iran on the Shi'a worldwide. Post-revolutionary Iran has been involved in supporting Shi'i political and social movements in Arab states such as Saudi Arabia and Bahrain[78] and has logistically and financially supported the rise of Shi'i movements professing loyalty to Khomeini's *wilāyat al-faqīh*[79] and endorsing an Islamic state modeled on that of the Iranian regime. Shams al-Din believed that this Iran-sponsored activism within certain Shi'i movements might lead to further deterioration of Shi'a's political conditions because it aggravates the existing mistrust of certain Arab governments toward their own Shi'i populations.

He further maintained that the Iranian influence was often accompanied by acts of violence that linked Arab Shi'a to it.[80] Another issue that Shams al-Din took with the Iranian regime was its attempt to forcefully proselytize Shi'ism among other Muslims around the world. He condemned these efforts and cautioned Arab states that the Shi'a and Shi'ism should not be punished if active political cells were discovered in their territories. If Arab states suspected Iran to be behind these activities, then he recommended that they denounce its acts rather than force all Shi'a to bear the brunt of unwanted Iran-sponsored activism.[81]

Moreover, he criticized the tendency to see Iran as the official international leader of all the Shi‘a around the world. He acceded that Iran is a prominent Shi‘i country and supported the Islamic Revolution as the people's expression of a return to Islam, and their embrace of an Islamic identity.[82] However, he did not approve of Iran's aspirations to monopolize political and religious leadership in the region.[83] He also admonished the Shi‘a that it would be dangerous to accept Iran's leadership, because it would legitimate other states within the region that patronized religious groups operating beyond their national territories. Such a situation would ultimately work against Iran in the long run.[84] Again in keeping with his cautious political nature and his tendency to refrain from making direct political statements, Shams al-Din did not specify the "other states" to which he referred. It is highly arguable, however, that his cautionary remarks about state attempts to patronize religious minorities abroad, in response to Iranian regional intervention, refer to Saudi Arabia. Saudi Arabia has the potential to patronize Sunni groups in the Arab world, creating tensions between Saudi-sponsored Sunni movements and Iranian-sponsored Shi‘i movements, and has done so since the 1950s in the form of Saudi Salafism, popularly known as Wahhabism.[85]

In response to these prevalent narratives about and by Shi‘i Arabs, Shams al-Din asserted the Arabness of the Shi‘a and their inclusiveness within their own countries of citizenship. He spelled out his concerns as well as his understanding of the Shi‘i condition in the Arab world and particularly in Lebanon through two discourses: a descriptive one and a prescriptive one.[86] He offered recommendations by virtue of the authority vested in him as president of the Islamic Shi‘i Supreme Council, the official representative body of the Shi‘i confessional group in Lebanon, and as a well-known religious figure and *mujtahid* beyond the borders of his country Lebanon.

The Descriptive and Prescriptive Discourses

The descriptive discourse consisted of an account of Shams al-Din's reading of the Shi‘a's political status in their respective societies. His account was an attempt to redress their "prejudiced" portrayal as being foreign and aloof from their own societies and to simultaneously dispel the popular image that they were dissenters plotting to establish "autonomy" or break away from their respective states. Shams al-Din's descriptive discourse stressed Shi‘a's historical inclusiveness as full members of the

social matrix of their societies and denied the existence of distinctive identity markers. Shams al-Din underscored that all Shi'a, whether Arab, Afghan, or Indian, were not separate from the societies in which they lived and did not have specific differentiating characteristics; rather, they were part and parcel of their own societies, integrated into the networks and relationships that formed the very social matrix of their respective countries.[87] His descriptive discourse stated that Arab Shi'a do not have any independent political project or enterprise of their own either in Lebanon or any other Arab country. They do not entertain illusions about the possibility of pursuing self-autonomy within the nation-state in which they live and do not wish to assume the liabilities ensuing from such a project. In summary, the Shi'a are an integral part of the nation-state in which they are citizens.[88]

Shams al-Din forcefully refuted as false and slanderous narratives that allege that the Shi'a have an independent political agenda, distinct political aspirations, and an inclination toward revolutionary, Khomeini-style action. To this end, he did not stop at the descriptive discourse but deployed a prescriptive discourse that imparted to the Shi'a a pragmatic blueprint. This blueprint, in the form of guiding recommendations, consisted of what he believed to be the best approach for the Shi'a in relation to their respective states and societies. It urged them to achieve integration (*indimāj*) in the societies in which they live[89] and urged them to profess loyalty (*muwālāt*) to their respective states when severe conditions of political persecution did not exist, or discrimination was mild. Where political circumstances were adversarial, Shams al-Din's advice to the Shi'a was to refrain from challenging the authority of the state and shun involvement in subversive activities.

For example, Shams al-Din encouraged the Shi'a to pursue integration in politically unpropitious circumstances, where the Shi'a were not accorded political rights commensurate with the size of their population or with their comparatively advanced level of political mobilization. Integration, he held, should be pursued even where the dominant political culture failed to accommodate legitimate Shi'i demands, since only through such relentless pacifist insistence would the Shi'a reap long-term concrete benefits. To that end, he urged them to compromise on the precise short-term gains to be obtained from their respective governments. Integration should be pursued in a gradual and pragmatic way. While pressing aggressively for change was risky, gradual pursuit of reforms would redress Shi'i underrepresentation and lack of privilege

without undue upheaval. He called upon them to seek integration by cooperating with the citizenry of their respective nations, in particular by eschewing an independent agenda that fails to consider other citizens' interests. Shams al-Din, however, did not call upon the Shi'a to accept severely unbalanced representation or the disadvantageous distribution of resources. He specified that the pursuit of integration under adverse circumstances should not entail yielding to injustice.[90]

Shams al-Din paid particular attention to the predicament of Shi'i minorities who live in states that are unsympathetic to legitimate Shi'i demands for equal citizenship, national representation, and access to resources. In his address to a Shi'i delegation of Saudi Arabia,[91] he recommended the following: "The circumstances of the contemporary times are similar to those of the lifetime of the Imams.[92] Therefore, the Shi'a should try to achieve two goals that make up their fundamental rights: firstly, to ensure that their basic civil and social rights are secured and safeguarded, and secondly, to make sure their interests are protected from transgression." He declared to the Saudi delegation: "I recommend what is possible circumstantially. And this is in line with the legacy of the Imams to their followers."[93] Through these statements, he meant that Arab Shi'a should attempt to gain civil and social rights, making sure that they have access, for instance, to equal education, healthcare, and employment opportunities. Basic civil rights and social justice take primacy over any other goal. These statements also meant that he recommended civil ways to acquire social rights when the state did not use open means of violence.

In conclusion, Shams al-Din both acknowledged and adopted the Shi'i account of historical discrimination but did not instrumentalize it for the purpose of political mobilization or endorsing revolutionary activism to bring about change. Rather, he tried to dilute its effects. He encouraged the Shi'a to set aside the "shackles of the past" and take advantage of modern changes in their political circumstances, now that the obstacles created by discrimination had been partially lifted and real opportunities for integration were within reach.

A final assessment of Shams al-Din indicates that he adopted a pragmatist course in his recommendations to the Shi'a that is identical to the classical course taken by minorities who live in adverse milieus and opt for both quietism and the pacification of incumbent temporal authorities. It is a safe course for minorities in order to protect their livelihoods and their interests. He was aware of the doctrinal differences between Shi'a

and other Muslims and of the discrimination to which Shiʻa are subjected. In his view, however, these conditions should not constitute an obstacle to national integration. Inclusiveness may be a hard goal to achieve, but the Shiʻa should not renounce it and fall prey to easy calls of revolution and subversion. And they should not align themselves with foreign states, even Shiʻi Islamic ones like Iran, if such an alliance is struck at the detriment of their loyalty to their own states. The Shiʻa may reap short-term benefits from alignment with foreign powers. If geostrategic relationships are reshuffled, however, and the support of Iran dwindles, the price paid by the Shiʻa will be very high; their own states may turn against them.

CONCLUSION

Shams al-Din's ideas covered broad legal areas and contemporary political analysis, which are deeply permeated by a central theme: bringing Shiʻi legal proofs to bear on modern pragmatic politics. He repeatedly argued that his political recommendations to the Shiʻa were little more than reminders, merely reiterating the legacy of the Imams to their followers—namely quietism and reconciliation with temporal powers in order to safeguard Shiʻi doctrine, and protect Shiʻi lives. His legal analysis is driven by his concern for the current affairs of the Shiʻa. He tried to use his role as a religious authority and as the head of an official Shiʻi religious institution to chart a roadmap of national integration for the Shiʻa and conformity to the state. Although his legacy was portrayed as defeatist by his opponents and as co-opted and sycophantic to temporal authorities by militant Shiʻi movements, he relentlessly withstood these accusations, maintaining that his legacy was the most authentic representation of the Shiʻi legal corpus of the Imams. He engaged in defining two intersecting Shiʻi-centered themes; the political legacy of the Imams and its interpretation, and the political prospects of the contemporary Shiʻa whom he struggled to press toward pragmatic integrative choices. His paths toward this goal were twofold: contestation of the representation of Shiʻa in Lebanon and paternalistic recommendations to the Shiʻa in the Islamic world. In the end, he left a compelling legacy for Shiʻi citizens, charting a roadmap of national integration in the nation-state, circumventing obstacles of discrimination and distrust, and tolerating inadequate rights in the hope that conditions would improve, because this is "the only possible course under the circumstances" as he constantly reiterated in his writings and discourse.

Notes

1. Examples of such works are: Yitzhak Nakash, *Reaching for Power: The shi'a in the Modern Arab World* (Princeton, NJ: Princeton University Press, 2006); Seyyed Vali Reza Nasr, *The Shia Revival: How Conflicts Within Islam Will Shape the Future*, 1st ed. (New York: Norton, 2006).
2. Shams al-Din, *Fī al-Ijtimā' al-Siyāsī al-Islāmī*, 67.
3. Ibid., 79.
4. Ibid., 72.
5. Ibid., 75.
6. Yusuf 'Ali's Qur'an online translation: http://www.hyahya.org/Quran_translation/Quran_translation21.php.
7. Shams al-Din, *Fī al-Ijtimā' al-Siyāsī al-Islāmī*, 81.
8. Yusuf 'Ali's Qur'an online translation: http://www.sacred-texts.com/isl/quran/04204.htm.
9. Shams al-Din, *Fī al-Ijtimā' al-Siyāsī al-Islāmī*, 82–83.
10. Ibid., 83.
11. Yusuf 'Ali's Qur'an online translation: http://www.sacred-texts.com/isl/quran/01606.htm.
12. Shams al-Din, *Fī al-Ijtimā' al-Siyāsī al-Islāmī*, 82.
13. Ibid., 85.
14. Ibid., 76–77.
15. Ibid., 77.
16. Ibid., 74.
17. Ibid., 86.
18. Ibid., 14.
19. Ibid., 201.
20. Ibid.
21. Ibid.
22. Ibid., 202.
23. Ibid., 203.
24. Ibid., 202–203.
25. Ibid., 203.
26. Ibid., 206–209.
27. Ibid., 210.
28. Ibid.
29. Ibid.
30. Ibid., 212.
31. Ibid.
32. Ibid., 219.
33. Ibid., 223.
34. Ibid., 228.

35. Ibid.
36. Ibid.
37. Ibid., 229.
38. Ibid.
39. Ibid.
40. Ibid.
41. Ibid., 241.
42. Ibid., 243.
43. Ibid., 244.
44. Ibid., 246.
45. Ibid., 230.
46. Ibid.
47. Ibid., 231–232.
48. Ibid., 232.
49. Ibid., 251.
50. Ibid., 251–255.
51. Ibid., 257.
52. Ibid., 258.
53. Ibid., 252.
54. Ibid., 260.
55. Ibid., 261.
56. Ibid., 262–263.
57. Ibid., 264.
58. Ibid.
59. Ibid., 265.
60. Ibid.
61. Ibid.
62. Ibid., 14.
63. Ibid., 262.
64. Muhammad Mahdi Shams al-Din, *Lubnān al-Kayān wa al-Maʿna* (Beirut: Imam Shamsuddin Foundation for Dialogue, 2005), 118.
65. Muhammad Mahdi Shams al-Din, *Waṣāyā* (Beirut: Dar al-Nahar 2002).
66. Shams al-Din, *Lubnān al-Kayān wa al-Maʿna*, 119.
67. Ibid.
68. Shams al-Din, "The Authenticity of Shiʿism," 47.
69. Shams al-Din, *Lubnān al-Kayān wa al-Maʿna*, 118–119.
70. Ibid., 118.
71. Graham E. Fuller and Rend Rahim Francke, *The Arab Shiʿa: The Forgotten Muslims* (Basingstoke: Macmillan, 1999), 34.
72. Shams al-Din, *Lubnān al-Kayān wa al-Maʿna*, 143.
73. Shams al-Din, *Waṣāyā*, 32.
74. Ibid., 33.

75. Ibid., 35.
76. Shams al-Din, *Lubnān al-Kayān wa al-Maʿna*, 118.
77. Ibid.
78. Laurence Louër, *Transnational Shia Politics: Religious and Political Networks in the Gulf*, Series in Comparative Politics and International Studies (New York and Paris: Columbia University Press; In association with the Centre d'Etudes et de Recherches Internationales, 2008), 211.
79. Augustus R. Norton, *Hezbollah: A Short History*, Princeton Studies in Muslim Politics (Princeton: Princeton University Press, 2007), 34.
80. Muḥammad Mahdī Shamseddin, *Lubnān al-Kayān wa al-Maʿnā* (Beirut: Imam Shamsuddin Foundation for Dialogue, 2005), 119.
81. Ibid., 127.
82. Muhammad Mahdi Shams al-Din, *Al-Umma, wa al-Dawla, wa al-Ḥaraka al-Islāmiyya* (Beirut: Islamic Shiʿite Supreme Council, 1994), 67.
83. Shams al-Din, *Lubnān al-Kayān wa al-Maʿna*, 122.
84. Ibid.
85. David Commins, *The Wahhabi Mission and Saudi Arabia* (New York: I.B. Tauris, 2006); Michael Farquhar, *Circuits of Faith: Migration, Education, and the Wahhabi Mission* (Stanford: Stanford University Press, 2017).
86. Hassan Mneimneh, "The Arab Reception of Vilayat-e-Faqih," *Current Trends in Islamist Ideology* 8 (2009): 49.
87. Shams al-Din, *Lubnān al-Kayān wa al-Maʿna*.
88. Ibid., 112.
89. Shams al-Din, *Waṣāyā*, 28.
90. Shams al-Din, *Lubnān al-Kayān wa al-Maʿna*, 149.
91. This interview is not dated, but appeared in a book published in 1994. Shams al-Din, *Al-Umma, wa al-Dawla, wa al-Ḥaraka al-Islāmiyya*, 168.
92. Ibid., 169.
93. Ibid., 170.

Shams al-Din and Sectarianism in Lebanon

History of Lebanese Sectarianism

The question of officially institutionalized sectarianism in Lebanon has given birth to an enormous body of literature by local and Western historians and intellectuals who have addressed the intricacies and flaws of this form of government and division of power. Reflecting diverse ideological convictions, subsequent historiography has analyzed the question of the national identity of modern Lebanon, issues of national integration, and the viability of the state. This chapter examines a number of narratives in the historiography surrounding the historical genesis of Lebanese sectarianism, its repercussions on the viability of the state, and impact on national integration and citizenship. This discussion will provide the background to Shams al-Din's critical approach to the question of sectarianism in Lebanon, and its development in the midst of the Lebanese civil war between 1975 and 1991. Such background is necessary to bring out the full meaning and significance of Shams al-Din's position on the issue of sectarianism.

Many historians concur that the origins of the Lebanese Republic and the social roots of sectarianism lie in the *mutaṣarrifiyya* of 1861 in Mount Lebanon. Due to the intersection of internal and external political factors, Mount Lebanon witnessed violent clashes between the Druze and the Maronites in 1841 that led the Ottoman authorities, with the help of European intervention, to establish an administrative arrangement called the *qāyim-maqāmiyya* in which territorial districts were

divided along religious lines. Another outbreak of violence in 1860 resulted in the institution of another administrative arrangement called the *mutaṣarrifiyya* (Règlement Organique).

The governor of Mount Lebanon, under the *mutaṣarrifiyya*, appointed by the Ottomans, but approved by Europeans, had to be Christian. The distribution of seats in the council of the *mutaṣarrifiyya* also favored Christians by allocating the largest number to representatives of Christian sects: Four seats were granted to the Maronites, two to the Catholics, and two to the Greek Orthodox. On the Muslim side, one seat went to the Sunnis, one to the Shi'a, and three to the Druze.[1] The *mutaṣarrifiyya* introduced the notion of a "privileged religious community" at the top of the sectarian hierarchy,[2] thus ensuring Maronite (Catholic) Christian hegemony over other sects. This formed the foundation for the power-sharing formula in modern Lebanon.[3]

Sectarianism was further reinforced in the 1920s with the edicts of the French mandatory authorities that institutionalized eighteen sects as "religious communities," most of which enjoyed recognition in public law.[4] The development of the sectarian structure reached its apogee with the independence of Lebanon[5] and the reinforcement of sectarianism through Article 95 in the Constitution of 1926.[6] This article stipulated that, provisionally and for the sake of justice, equity, and concord, the religious communities would be equally represented in public employment and in cabinet posts without prejudice or harm to state interests.[7]

In the middle of the nineteenth century, several social forces combined to produce the sectarian violence of the 1840s and 1860s in Mount Lebanon. The Egyptian campaign in Syria in 1831 under the leadership of Ibrahim Pasha, the son of the Egyptian ruler Muhammad 'Ali Pasha, was a paramount factor in the eruption of violence.[8] Ibrahim Pasha imposed many draconian policies in the form of corvée labor and conscription.[9] To this was added his violent means of subduing the ensuing rebellions, as well as his mobilization of Christian villagers to quell the dissent of Druze villagers.[10] These developments occurred in the context of the Ottoman reforms, known as the *tanẓīmāt* instituted in 1839 that came as a response to tremendous European pressures assailing the Ottoman Empire. The Ottoman and European discourses on reforms were appropriated and reinterpreted by an array of local actors who, each in their own way, imparted them with a specific understanding. The Druze understood them as the restoration of their landlord privileges and rights,[11] whereas Maronite peasants saw them as a rupture

of the control of Druze notables and were supported in this belief by the Maronite Church that pushed for a Maronite principality. It is this context that gave rise to the 1841 sectarian massacres.[12]

In Ussama Makdisi's reading, sectarianism is the process by which religion becomes intermingled with social and political relations and is utilized as a primary marker of modern political identity.[13] It is a form of knowledge that was born out of the nineteenth-century colonial encounter, in the context of European hegemony, when European and Ottoman discourses of reform of the nineteenth century were received by local elite and non-elite actors. These, being local assertive agents, appropriated the discourses of reform and reproduced sectarian knowledge that endowed them with the tools to reinterpret their history and their social order.[14]

In 1841, the restoration of the pre-Egyptian social order was no longer possible. For one, the Ottoman Empire was in constant flux due to the effects of the *tanẓīmāt* and was beleaguered by the colonial interventions of European powers. In the new order, restoration politics meant, rather than a coalition of notables across religious lines as previously existed, an open-ended struggle for a definition of the community and control of land. The new order gave a new meaning to religion and politics, inaugurating a new phase of sectarian politics.[15] The massacres of 1841 created and further entrenched sectarian identities.

After these massacres, the Maronite and Druze local elites, competing for power, tried to achieve a monopoly on politics and regain lost power.[16] Both appealed to the Ottoman and European powers, professing loyalty to them.[17] They manipulated the desires of both Ottomans and Europeans to reestablish order by presenting themselves as the spokespersons of the religious communities,[18] thus setting in place the "sectarianization" of politics.

A second outbreak of sectarian violence led to the establishment of the *mutaṣarrifiyya* of Mount Lebanon in 1861, installing an autonomous government with a Christian governor.[19] The *mutaṣarrifiyya* attempted to create religiously homogenous units,[20] "[forcing] on the inhabitants a single public identity, where one's sect defined one's involvement in the public sphere and one's ability to be appointed to office."[21] A new culture of sectarianism resulted in a rupture with the past[22] characterized by the intrusion of a sectarian consciousness into all aspects of modern life, law, education, and later the state.[23]

In his account of Mount Lebanon's history investigating the seeds of sectarianism, Samir Khalaf promoted the idea that Lebanese sectarianism is a traditional "primordial" sentiment, which reflects a failure to modernize. He believed, in direct contrast to Makdisi, that sectarianism has communal pre-modern roots and that modernization does not play any role in producing sectarianism. He romanticized the culture of Mount Lebanon as a haven for religious minorities living autonomously in their mountain and enjoying communal harmony. He traced the disruption of the internal "harmony" and "culture of tolerance" of Mount Lebanon in 1841 to Egyptian and Ottoman intervention.[24] The Egyptian occupation, for instance, headed by Ibrahim Pasha, pitted Maronite and Druze religious groups against each other, instigating mutual hostilities,[25] while the centralized policies of the Ottoman authorities were aimed against the privileged autonomous status of Mount Lebanon.[26] On their part, the reforms of the *tanzīmāt* disrupted the harmony of Mount Lebanon by introducing secular reforms that threatened the interests of the Muslims.[27] The *qāyim-maqāmiyya*, which emerged in the aftermath of the 1841 massacres aggravated religious cleavages.[28]

Khalaf noted that the peasants reacted to these sweeping changes in Mount Lebanon by developing a collective class consciousness that challenged the archaic system of feudalism.[29] He argued that the peasant movement was characterized by an endorsement of the principles of democracy, populist leadership, egalitarian representation of the masses, and social equality against a system defined by relations of bondage, hierarchical stratification, and vassalage.[30] What transformed the highly organized peasant protests, into communal wars and "civil violence" consisted of two factors, one external and one internal: The external consisted of the foreign intervention of Egyptians and Ottomans, and the internal was the local authority of the feudal lords who clung desperately to their privileges and hence radicalized the peasants.

Khalaf's scholarship subscribes to a Libanist (Lebanese nationalist) narrative about the birth of the modern Lebanese Republic because of his depiction of Mount Lebanon as characterized from the earliest times by a sectarian and pluralistic constitution inherently embedded in the local culture: an endemic and latent phenomenon. It is also a right-wing nationalist narrative because he explained the transformation of sectarianism into communal violence as resulting from foreign intervention by the Ottomans and Egyptians.[31]

Kamal Salibi[32] considered the *mutaṣarrifiyya* of Mount Lebanon the proper milieu for the genesis of the Lebanese state and its modern political culture. It was the first territory to enjoy a semi-autonomous administration within Greater Syria.[33] Salibi was critical of the national myth, promoted by the Christian Libanist elites, which proclaimed an early self-awareness that the Lebanese were a people with a territory distinct from Syria.[34]

Salibi envisioned a symbiosis of two distinct cultures, one in Beirut with a Sunni and Greek Orthodox population and one in Mount Lebanon, with a Maronite and Druze population. The subtle interaction between these two contradictory yet complementary "cultural" cores, the liberal urban Levantine traditions flourishing in Beirut, and the political heritage hailing from the tribal and manorial dynasties of Mount Lebanon shaped the identity of modern Lebanon in the nineteenth century and justified its later independence.[35] In Mount Lebanon, the Christians controlled a vibrant economy of silk production that linked them to Beirut, which was a port city open to commerce with Europe and home to a substantial Sunni population. Beirut in particular benefitted from the Christian's entrepreneurial sense and educational privileges which they attained through the missionary schools.[36] In sum, mercantile expertise in Beirut and Mount Lebanon's political traditions, lent Lebanon a social order unique in the region.[37] All this transpired under the auspices of strong European influences, which Salibi described as subtle and constructive, having gradually shaped the social atmosphere of Mount Lebanon.[38]

Kamal Salibi's emphasis on the two defining pores of modern Lebanon, Mount Lebanon and Beirut, contributed to the assumption that the rest of the territories which formed Grand Liban in 1920 were simply annexed and added to Grand Liban for practical reasons, as was the case with the Shi'a of Jabal 'Amil or South Lebanon. This is further compounded by his view that an essentially separate culture and material relations existed in the South. On the latter, Salibi wrote: "No effort of imagination could convincingly depict them as part of general Lebanese heritage."[39] These views prevailed in Lebanese scholarship on modern Lebanon, consolidating the national narrative enshrined in the National Pact that the kernel of Lebanon's liberal adventurism emanated from Christian agency and the collaboration between rural Mount Lebanon and urban Beirut.

A Marxist refutation of the Lebanese nationalist ideology and the sectarian system has been provided by Mahdi 'Amil, an ideologue of the Lebanese Communist Party. According to 'Amil, the state is not a neutral entity which can arbitrate among the sects during incidents of conflict. The state itself is invested in sectarianism.[40] It is a hegemonic apparatus for the bourgeoisie and can only confirm the hegemony of one sect over others.[41]

Mahdi 'Amil conceived of sectarianism as a colonial bourgeois feature of the modern state. Sects, he contested, are not pre-modern, immutable, or traditional social entities.[42] Rather, the state legally constructs sects and endows them with political existence and status.[43] It institutionalizes them and utilizes them as instruments of rule.[44] In this structure, the state and the sect are existentially connected since the sects are the ideological apparatus of the state.[45] Historical conditions tied to colonial capitalism allowed the Lebanese bourgeois state to shape itself as a sectarian state.[46] The latter subordinates the working classes by monopolizing their political representation and by positioning them at the bottom of the sect hierarchy.[47] In this way, the dominant bourgeois class in Lebanon controls the state with the tools of political sectarianism.[48] For 'Amil, the sectarian system is not dominated by the Christian Maronite sect, but rather the bourgeois class that happens to be predominantly Christian. Thus, sectarianism was a tool in the hands of the bourgeoisie to exclude the working classes from political representation and access to power.

'Amil wrote his analysis of the sectarian system in the mid-1980s when the independence and sovereignty of Lebanon were threatened by the Israeli occupation of a major part of the country's territory, bolstered by the collaboration between right-wing Libanists and the Israeli occupiers.[49] At the time, the country was subject to new geographical-political divisions and cantonization.[50] Hence, 'Amil saw the sectarian system as having implicated Lebanon in a crisis that may be irreversible.[51] He concluded that the sectarian system would always strive to reproduce itself and perpetuate these fundamental problems: jeopardizing Lebanon's independence and inhibiting equality among citizens and democratic representation.[52] The system cannot be reformed, he stated; it has to be abolished.[53]

Another reading of sectarianism, which departs significantly from optimistic Libanist narratives, was put forth by Georges Corm. Corm located the roots of sectarianism in foreign intervention, both Ottoman

and European. Like Khalaf, he believed that the mid-nineteenth-century violence in Mount Lebanon stemmed from foreign meddling. Yet, unlike Samir Khalaf, he argued that sectarianism is a modern phenomenon and not an inherent characteristic of the local culture of Lebanon.[54] Contrary to this thesis, Corm asserted that the sects in Lebanon are not ethnic or tribal "communities," as in the anthropological sense; rather, they are religious denominations. More specifically, the sectarian culture was shaped by Ottoman reforms, the *tanzīmāt*, the *qāyim-maqāmiyya* in 1842, and the *mutaṣarrifiyya* in 1861. These arrangements were enacted under European tutelage and fulfilled European aims to create strong Christian allies in the Middle East. Lebanese Christians were used as a tool by European powers in pursuit of their colonial interests. The sectarian system, Corm stated, was seen by the Christian elites, as a main vehicle for the modernization of Lebanon. However, it was a major obstacle to the development of secular democracy.[55] It institutionalized a sectarian hierarchy in which the various sects or confessional groups were represented, accordingly furnishing the Christian sects with greater representation than the Muslim ones. The French colonial authorities enshrined sectarianism in the Lebanese Constitution of 1926 by institutionalizing eighteen confessional groups.[56] In addition to Article 95 of the Constitution, mentioned above, other articles also reinforced the autonomy of the communities. Article 9, for example, granted personal status law to each religious community while Article 10 protected the independence of sectarian educational institutions. There was also the law of December 19, 1967 (no: 72/76) organizing the affairs of the Shi'i community.[57]

For his part, Lebanese thinker Nassif Nassar,[58] approaching the history of Lebanon from a staunchly secular perspective, advanced the argument that this system is inherently antithetical to democracy.[59] Nassar differentiated an earlier "religious sectarianism" rooted in Near Eastern culture, from the contemporary political and administrative sectarianism (*ṭa'ifyya siyāsiyya*) that characterized the Lebanese state.[60] The latter became the means through which the colonial powers, the Ottomans, and local feudal lords instigated divisions among the sects. The colonial powers transformed it from religious sectarianism to an ideological justification for the administration, namely, political sectarianism.[61]

His work suggests that sectarian power distribution enshrined in the Constitution and the National Pact and practiced by politicians and state officials disrupts the relation between state and citizen and obstructs

democracy. The Lebanese citizen is obligated legally to be part of a sect in order to acquire the status of citizen and the privileges that stem from it. Moreover, the sect, in mediating between the citizen and the state, prevents equal representation for all citizens. The electoral law, for example, allocates to every sect a proportional number of parliamentary seats.[62]

Nassar argued that the sectarian-based distribution of parliamentary seats, cabinet appointments, and employment in state bureaucracy do not enjoy a secure basis in the constitution, because Article 95, upon which the foundations of sectarianism rest, has a temporary nature. Therefore, the sectarian-based distribution of state offices can only be justified by the culture of sectarianism that is perpetuated by an alliance of social classes that benefit from sectarianism. Indeed, he mentioned Article 7 of the Constitution, which states that all Lebanese are equal before the law and enjoy the same civic and political rights and have the same duties and obligations.[63] Moreover, Article 12 specifies that "each Lebanese citizen has the right to occupy public offices indiscriminately and based on merit solely."[64] Both Articles 7 and 12 thus contradict Article 95 and can override it because the latter has a temporary nature.[65] However, this has not yet happened because of the alliances of social classes, traditional leaders, and feudal lords, whose interests dwell in the perpetuation of sectarianism.[66]

In addition to the distribution of parliamentary and cabinet seats and posts in the state bureaucracy and civil service, the sectarian principle also regulates personal status law.[67] According to Nassar, the association between sectarian interest and personal status laws (family law) creates several problems. It reinforces divisions among citizens by virtue of applying different personal status laws to citizens of the same state. And it also denies a citizen's right to dissolve his association with a given religious sect and, by extension, his/her religious identity. Secularists have argued that the adoption of separate law codes for each confessional group eventually weakens the authority of the state.[68]

Ahmad Beydoun, writing from a secular leftist perspective, argued that the nationalist discourse of "communal coexistence" among the sects is actually an attempt to dissimulate Maronite hegemony, which was sanctioned under Grand Liban.[69] Beydoun argued that a sect's narrative on origins aims to obstruct other sects from appropriating the history of the country.[70] The sects instill in their members a civic and legal identity beyond the markers with which religions endow their members;

becoming an official political affiliation allowing them to partition the resources of the state among themselves. This civic role of the sects almost suffocates the state's ability to address its citizens equally. The state is forced to address them only as members of official sects.[71] These sects are thus allowed to exercise hegemonic influence on the state[72]; transforming it into a space in which divisions and conflicts are played out.

Sectarianism in Post-independence Lebanon

The sectarian culture that developed in the nineteenth century has exerted tremendous influence on the form of governance in the post-independence era. So what kind of state does Lebanon presently have? How do its institutions regulate power and relations among the various social forces and particularly the official sects? During the sixties, Michael Hudson identified a host of challenges facing the Lebanese system and forming serious impediments to modernization. He "predicted" that the Lebanese political system would not be able to sustain development or maintain social order. Governmental and administrative affairs were managed through what Hudson termed parochial structures, and forms of traditional pluralism that prevented political modernization. In addition, the Lebanese system has been subject to increasing pressure to deliver social and economic justice to the rural masses and working classes.

Traditional pluralism, according to Hudson, is based on political cliques consisting of local leaders, old notable families, landlords, and entrepreneurial families with strong ties to clerics, and interrelated through economic alliances.[73] The cliques formed the ruling establishment and wielded considerable authority, using the administration of public affairs to advance their own interests,[74] while mobilizing large networks of supporters.[75] The ruling establishment operated within the parameters of sectarian divisions and rivalries.[76] Confessional representation in the state was one way to ward off "fears" of marginalization among religious minorities,[77] resulting in the distribution of parliamentary seats along sectarian lines.[78] Steeped in communal struggles and sectarian competitions, the traditional leaders promoted their interests at the expense of national development.[79] For example, the executive branch of the government, rather than promulgating national policies, ensured sectarian presentation through balancing the allocation of administrative posts among sects. The legislature too promoted

the self-interest of the members of the political clique rather than public interest.[80] In order to cope with civil and political conflicts, the government tried to "balance" off sectarian demands while it institutionalized sectarianism.

Even if sectarianism has been able to survive and grow in modern organizations, it prevented an effective implementation of rationalized mechanisms of governance in the form of regulations, adjudication, and development.[81] Moreover, sectarianism rendered the country susceptible to foreign interventions and manipulations.[82] It reinforced the autonomy of sectarian groups and increased their power over the state. Under these circumstances, the state was rendered weak, a weakness that breeds a culture of political liberalism. Hudson suggested that this situation explains the congruency that exists between state liberalism, traditional pluralism, and "parochial" (sectarian) structures.[83]

Overall, at the brink of the Lebanese civil war in 1975, the Lebanese system appeared to be incapable of coping with the strains exerted by social mobilization, demographic growth, urbanization, and rural deterioration. The government faced increasing demands for an equitable distribution of wealth, income redistribution, and fair political representation of the population.[84] The system was caught in a dilemma between the necessity to adjust itself to the rising social forces and the perils of collapse if it allowed the traditional balance of power to be dislocated.[85]

Looking at sectarianism from a social perspective, rather than Hudson's political one, and analyzing the Shi'a specifically, it has been argued that sectarianism and (Lebanese) nationalism are not entirely separate from each other. Roschanack Shaery-Eisenlohr has argued that sectarianism and loyalty to the state are not antithetical. She saw many of the social, political, and religious activities of Lebanese Shi'a, since the 1960s, as promoting a sectarian identity. These growing and expanding signs of a sectarian identity among Lebanese Shi'a, she argued, are compatible with Lebanese nationalism. Centered around the articulation of a Shi'i identity, these practices have helped the marginalized Shi'a, "alongside transnational Shi'ite relations between Iran and Lebanon," to position themselves in the center of Lebanese national narratives.[86] It has also been argued that sectarianism in Lebanon can also function as remedy to the problems that it creates. In particular reference to the Shi'a, Max Weiss argued that Lebanese Shi'a had become sectarian before the advent of Musa al-Sadr, the emergence of Amal Movement, and Hezbollah.[87]

The Islamic Shiʻi Supreme Council, headed by Imam Musa al-Sadr, is said to have seen a positive aspect in sectarianism, in which members of each sect strive to empower and "reform the affairs of their people." The proponent of this argument deemed Imam Musa al-Sadr in favor of "just sectarianism," (*al-ṭāʾifiyya al-ʻādila*), which was established by the founders of the National Pact. Through gradual and implicit processes, affiliations embedded in the social matrix, the Shiʻa were inevitably led to construct themselves as a sect because sectarianism was imposed on them as part of a modern Lebanese identity.[88]

The National Pact

The National Pact of 1943 was a power distribution arrangement among the major sects, concluded under French rule and represented by the Christian Maronite president Bishara al-Khuri and the Muslim Sunni Prime Minister Riad al-Sulh. Although the National Pact was a tacit gentlemen's agreement that was not officially included in the constitution, it instituted proportional representation and distribution of political offices by sect, setting the norm for the future distribution of governmental offices. It allocated the presidency to the Maronites and the office of the prime minister to the Sunnis, while the speakership of the parliament went to the Shiʻa. It also reserved key political and military positions in the state bureaucracy for Maronites.[89] The representation of Christians and Muslims in the parliament was kept at a ratio of 6 to 5, respectively, in order to provide guarantees to the Christians.

Christians were anxious to establish national validity for the emergence of Lebanon as a state independent from Syria. In order to meet this aim, they sought, with French backing, to win over Muslim support for the idea of an independent Lebanon.[90] Indeed, unless Muslims accorded their approval to the independence of Lebanon as a nation-state, the legitimacy of the Lebanese Republic as a state remained in question.[91] Muslims' eagerness to terminate French rule was couched in Arabist terms, which raised the concerns of Christians, who saw in this vision either an inclination for unification with Syria,[92] or the hegemony of an Islamic vision.[93] On the other hand, from the Muslim Arab nationalist view, it was unacceptable to accord independence to a French-created Lebanese Republic as a nation-state independent from Syria, since this was seen as a colonial plot to divide the Arab world.[94]

Therefore, given this polarization of Muslims and Christians, in which Muslims leaned toward unification with Syria and Christians pursued independence under the tutelage of the French, the achievement of the National Pact was to secure an agreement between these two contradictory visions, consecrating Lebanon as an independent state but within a larger Arab entity[95] and reaching a compromise over the question of Lebanon's identity. In exchange for the Muslims' abandonment of the idea of Arab unity, the Christians had to agree to relinquish French rule and future protection for the new Lebanese state. The National Pact came to be known as the "agreement of the two negations."[96]

A realistic view of the National Pact depicts it as an institution on the basis of which the Lebanese state has been allowed to survive by creating a modus vivendi among the various sects and the divisive ideologies and loyalties of different stakeholders. It is the solution that the Lebanese agreed on in order to cope with the challenges of national integration,[97] and which constituted a pragmatic approach to *realpolitik*.[98] A more critical view of the National Pact argues that it consolidated the power of the religious communities, largely institutionalizing the dual dominance of two sects, the Sunnis and the Maronite,[99] at the expense of the autonomy of state institutions.[100] Others have viewed it in overtly positive terms as a modernizing and secularizing institution; giving rise to a modern functional system that rationalized the confessional and communal affiliations of the population of Lebanon.[101] Kamal Salibi viewed the National Pact positively but blamed Lebanese conflicts on its essentially "tribal" society that lacked the civic sense to make it succeed.[102] To be sure, the modus vivendi was unable to withstand the pressures from the social and economic disparities combined with the Israeli attacks against South Lebanon and the Palestinian organizations that operated militarily in Lebanese territory. The modus vivendi struck by the National Pact finally succumbed to an outbreak of violence and hostilities in the 1975 civil war.

During the civil war, attempts to find settlements and solutions to end the war were formulated by both right-wing and left-wing parties. Some of these attempts reflected the dominant ideas circulating in that era. One of these formulations was an initiative taken by Kamal Jumblat, a main Druze chief, founder of the Progressive Socialist Party, and a prominent leader in the left-wing alliance of the National Movement that was allied with the Palestinian Liberation Organization (PLO). Jumblat attributed the outbreak of violence to the sectarian and monopolistic

aspect of the system, the feudal and entrepreneurial alliances that concentrated wealth in the hands of a few and which created deep economic disparities and political crises. On August 18, 1975, he announced a comprehensive program of reforms to end the crisis, in which he proposed abolishing sectarian distribution of power and substituting it with a total secularization of the system in which a strict separation of religion and state would be enacted. Democratization of the system would be achieved by modifying the electoral laws and making Lebanon one electoral constituency to ensure wider popular representation. The program also recommended economic reforms that would curtail some of the more extreme capitalist practices of the system in order to alleviate the harsh living conditions of the working classes.[103] However, in 1976, in response to the reforming document proposed by President Sulayman Franjiyah, Kamal Jumblat issued a lenient statement in which he supported most of the propositions put forth by this initiative. He acceded to the fifty-fifty division of seats in the parliament among Christians and Muslims and the continued election of a Maronite president though without turning this practice into a constitutional custom. He also recommended that the sectarian distribution of leadership of the republic, cabinet, and parliament, among the three sects be referred to as a tacit agreement rather than a custom, as the Franjiyah Document specified. Jumblat also welcomed the abolition of sectarian-based distribution of public employment except for leadership positions for which, he confirmed, merit-based criteria for appointment ought to be matched with a balanced distribution among all sects.[104]

Not all formulations were as accommodating and conciliatory as that of Kamal Jumblat. Indeed, more radical proposals were advanced by the right-wing "Lebanese Front," which responded to the propositions of the leftist forces in the edicts of its Zogharta Meeting of January 1978 by restating its support for the sectarian system. The Front stressed the thesis of political pluralism, voicing an inclination for self-autonomy, especially in the spheres of education and finance, and a preference for a federal system in which a Christian canton would be the only viable way for Christian-Muslim geographical coexistence in one country.[105] Right-wing Christian forces considered any discussion about reforms of the sectarian system an implicit attempt to institute hegemony by the majority sect over Christians who were becoming a minority group in Lebanon. In response to calls for majority rule voiced by leftists and Muslims, they too insisted on federalism as a solution to the crisis.

In sum, sectarianism has been a feature of the political system since the nineteenth century, through institutional arrangements imposed by the Ottomans and Europeans, and their consequent appropriation by local agents, as Makdisi demonstrated. And it has since been entrenched in the local cultural "behavior" while constantly evolving into new forms and penetrating new political institutions. This sectarian culture also shaped the self-definition of various confessional groups and informed their collective political behaviors *vis-à-vis* the state and other confessional groups.

Modern Lebanon may not be a religious state, but neither is it a fully secular state. The form of government in Lebanon is best described by the term coined by Georges Corm, "sectocracie," to define the position of religious sects in the power arrangements of the system. In Lebanon, it is not religious institutions that wield power, but religious sects that do so through their representatives in the power structure. In this context, cooperation of the state with official religious authorities becomes a de facto practice in politics, giving some power to religious authorities over public affairs. State institutions are part of this sectarian arrangement and hence contribute to its perpetuation; simultaneously, they are subordinate to the power of the sects. And indeed, the state is weakened by the informal powers that the sects wield.

The state in Lebanon is secular in the sense that it has a constitution that does not refer to any religious scriptures as a source of legislation. It encompasses many secular institutions, such as the army, the parliament, the council of ministers, and the judiciary, that are not subordinate to any religious authority. However, there are also many institutions that are anti-secular. The most important one is the personal and family law courts that are administered by religious authorities sanctioned by the state. As Nassif Nassar has demonstrated, these religious institutions prevent the state from being fully secular and hence democratic. Such arrangements, allowing religious authorities to wield power over citizens, help to prevent the equal representation of citizens in the state structure. The distribution of key governmental offices and parliamentary seats on a sectarian basis also raises challenges to equality in rights among citizens.

Contrary to the arguments of Kamal Salibi and Samir Khalaf, however, it can be said that the actual resistance to full secularization stems from both Christian and Muslim religious authorities who have consistently opposed any attempt by civil organizations to liberate personal and family law courts from their supervision and control. In that sense,

George Corm accurately argued that both Christian and Muslim authorities are hostile to secularizing policies. Their religious establishments have resisted making concessions on the front of personal status laws and religious courts.[106]

Arguably, the state in Lebanon is partially religious and partially secular because Lebanese citizens have been articulated as confessional subjects, while the voice of secular citizens has been marginalized politically. Not only that, the Lebanese state was constructed with a primacy of the Christian subject. Moreover, religious authorities are not completely removed from political power. The religious leaders stand before civil powers as the formal heads and official representatives of their respective confessional groups. They organize communal affairs and apply their religious laws on personal status matters in confessional courts that are recognized by the state. Moreover, citizenship in Lebanon is established through compulsory sect affiliation. Officers in the state bureaucracy are first members of confessional groups before they are civil servants. This situation might lead certain civil servants to advance sectarian interests over national interests, creating conflict between the two.

This examination of the sectarian and secular dimensions of the Lebanese state as well as the hegemony of the Maronite elite over major institutions of the state provides the background to understand the context that gave rise to the political notions of Muhammad Mahdi Shams al-Din, as head of the Islamic Shi'i Supreme Council from 1994 to 2001. His main concern was securing the place of the Shi'a within the sectarian system and guiding their relations with the state. I will present the shift he made from advocating a radical break with the system, formulated at the peak of the civil war and the 1982 Israeli invasion, to a reformist approach formulated in the mid-1990s.

Shams al-Din and Lebanese Sectarianism

In the middle of the 1980s, at the peak of an intractable civil war, Shams al-Din, took up an uncompromising stance that called for the abolition of the country's sectarian system. He rejected the foundations of the National Pact, and hence the sectarian principles that had informed national politics since independence in 1943. He argued that sectarianism undermined the principle of equality among Lebanese citizens, giving rise to unequal distribution of state resources to people in diverse regions of Lebanon and discrimination on the basis of sect.

The major problem inherent in sectarianism, he argued, was that it obstructed the process of nation-building. It prevented the formation of a unified nation by creating societal fragmentation, a multiplicity of conflicting national agendas, and most importantly, inequalities that threatened civil peace and social harmony. In pinpointing the major faults of the sectarian system, he called for its replacement with "Consultative Majority-Based Democracy" (*al-Dīmuqrātiyya al-ʿAdadiyya al-Qāʾima ʿalā Mabdaʾ al-Shūrā*) that would underpin the process of Lebanese nation-building and develop new foundations for power distribution.[107]

Shams al-Din also shed light on the official narratives and foundational myths that underpinned modern Lebanon, justified its raison d'être, and legitimized its sectarian basis. He identified four such narratives, the first of which portrays Lebanon as the national haven for the Maronites in Greater Syria.[108] The second defines Mount Lebanon, the main homeland of the Maronites and the Druze as being geographically located at the heart of the new republic, with the rest of the regions being mere territorial annexations to the core.[109] The third represents Lebanon as a home for all citizens who participate equally in the political process through the National Pact.[110] And finally, the fourth narrative depicts modern Lebanon as respecting the political norms that its founding fathers imagined it to have, a nation characterized by the norms of political liberalism, an open economy, and parliamentary democracy.[111]

Shams al-Din grappled with these narratives, which carried with them contradictions and undermined the constitutionally inalienable right of equality by virtue of citizenship. Whereas emphasis on equality among citizens is explicitly stated in the Lebanese Constitution, these narratives furnish the basis for systematic inequality among the Lebanese. For example, the narrative portraying Lebanon as the homeland and haven for the Maronites—and therefore, justifying their political centrality in the emergent nation—contradicts the constitutional principle that Lebanon offers equal citizenship rights and privileges to all of its people regardless of sect.[112]

For Shams al-Din, it is impossible for Lebanese citizens to enjoy equal status and the privileges of citizenship given these national narratives that position the Maronite sect, to the exclusion of all other sects, at the core of what forms the Lebanese national identity.[113] The same goes for the centrality that the territories of Mount Lebanon enjoy in these national narratives. The core of the national identity of the new republic revolved around Mount Lebanon, with the other territories serving only to ensure

the economic viability of the new state. Again, the centrality accorded to Mount Lebanon in the national narratives problematizes the constitutional principle of equality. It positioned remaining sects and regions in an unequal power relationship with the Maronite "core" of Lebanon in which they find themselves at a greatly disadvantaged position. Maronites, moreover, enjoy a discursive hegemony in which their historical narrative becomes the official one, stifling other narratives. They also enjoy political hegemony over the rest of the religious sects, reserving for themselves the key positions in the state apparatus. With all this, the state still does not recognize the inherent inequality enshrined in these constructed narratives.[114]

An investigation into the distribution of the highest governmental positions—the presidency of the republic, the premiership (head of the cabinet), and the office of speaker of parliament—reveals the true reach of the sectarian principle in governing the country, as well as the proportional power each sect is entitled to. The sectarian distribution of these "three main presidencies" (*al-ri'āsāt al-thalāth*) impedes efficient governance. It interferes with the process of effective and functional administration. This is so because each of the three senior officials represents the interests of their own religious sect rather than the national interest and the collective common good. Drafting consensual national policies under this system is obstructed as the interactions of the president, prime minster, and parliament speaker are reduced to mere communal rivalries in which they compete with one another over a limited pool of state resources.[115] This also implicates them in a type of mutual extortion in which cooperation among officials is contingent upon the services and concessions they provide to each other in return as quid pro quo.[116] Along similar lines, the electoral system, in its current and past forms, based on small regional electoral units, creates divisions in the national and social matrix of the Lebanese population. The electoral system was construed in such a way as to reflect the sectarian distribution of power, specifically as it was provided for in the National Pact. The electoral system of Lebanon, including the cyclic amendments to fit the interests of politicians in power, enhanced the consolidation of sectarian ties to the detriment of broader national ties.[117]

The second issue, hinging on the centrality of the Maronites in power, is the unbalanced distribution of state resources, and administrative positions and official posts to the members of other sects. When the distribution of posts and positions is grounded in sectarian affiliation,

equal representation among citizens cannot be fulfilled. Disparities are bound to occur. Notwithstanding the official discourse about the equality among all the Lebanese citizens, Shams al-Din noted that the criteria for government employment are not merit-based, but prioritize the hiring of members of the dominant sectarian groups.[118] This leads citizens to resort to political networks of nepotism, cronyism, and clientelism that undermine national solidarity. Citizens also forge ties and networks based solely on the criterion of common religious affiliation and compete with members of rival networks over resource allocation.[119] This also leads to unrest among the disadvantaged classes and to feelings of marginalization and persecution.

Shams al-Din stated that the Maronites are the only group to enjoy full entitlement and access to political rights and privileges at the expense of the others. The rest of the sects are entitled to lesser privileges or, in other words, to partial citizenship depending on their rank in the hierarchy of Lebanese sectarianism. Thus, he maintained that it is impossible to guarantee equality in a sectarian system because this system, by definition, establishes inequality at the national and personal levels.[120]

He also criticized the dominant Maronite discourse about the need for security and guarantees (*ḍamānāt*) to protect their "existence" and rights, given their self-perceived vulnerability as a religious minority in the Arab Muslim world. The only guarantee acceptable for them appears to be the perpetuation of the sectarian system.[121] He dismissed these "fears," noting that it reflected the assumption that Muslim loyalty to Lebanon is "deficient," hence the Maronites' need for "guarantees" in the form of control over governmental institutions.

The Maronite discourse on guarantees has attracted counter-arguments from the other sects. This was perhaps bound to happen in a scenario of political instability and regional upheaval, especially, when Israel launched its broad-scale attack against Lebanon in 1982, killing many civilians and decimating the national infrastructure. In the wake of the Israeli invasion, the right-wing Maronite rapprochement with the Israeli occupying forces disturbed Muslim leaders and civilians. For Shams al-Din, these actions facilitated, logistically and morally, Israeli retaliation against the anti-Israeli national resistance movement that was launched by many local civilians in South Lebanon to counter the invasion.[122] This collaboration with Israeli officials amounted to treason against Lebanon, the principle of coexistence among sects, and a betrayal of the victims of this invasion. As such it discredited the Maronite discourse of guaranteed

protection for Christians. For Shams al-Din, it destroyed any reservation that Shi'i Muslim leaders had about openly attacking the Lebanese sectarian system.[123]

The third issue raised by Shams al-Din stressed the challenge that sectarianism posited to equal citizenship. Shams al-Din reiterated the views of leftists, and Arab and Syrian nationalists against sectarianism. He declared that the official sectarian culture made the sect the necessary criterion of membership in the Lebanese state rather than only an individual's citizenship, as is the political norm in world democracies.[124] Membership in a religious sect, as a preliminary affiliation, ensures indirect membership in the citizenry of the state.[125] This is the peculiar nature of "Lebanese democracy." And although the system set in place in 1926, the year in which Lebanon was declared a modern republic, was a parliamentary-based democracy, this democracy has since become dysfunctional and unable to confer the benefits of democratic representation impartially on all of its citizens.

Between Abolition of the System and Its Reform

In 1984, Shams al-Din declared that the sectarian system could not be reformed; it had to be abolished. He called for the replacement of the sectarian system with a political program that he advanced: "Consultative Majority-Based Democracy."[126] This "Consultative Democracy" would provide equality in citizenship rights to all Lebanese. Any citizen, regardless of his sectarian affiliation, is entitled to run for the presidency, premiership, and speaker of parliament of the republic.[127] Moreover, the president of the republic should be elected directly by the people through national elections in the form of a referendum. The prime minister should be elected directly by the parliament and should appoint members of his cabinet. The latter should be approved by parliamentary vote. He advocated the following changes: It should be illegal to combine the position of cabinet member and parliament member; the independent judicial authority should audit the finances of the high-ranking officers and members of their families prior to and after their terms of office in order to ensure financial transparency and to prevent abuse of power.[128] Shams al-Din suggested the following changes for the legislative branch: elections should be held on the national level as one electoral unit; a congress should be established; and a national referendum on important national issues should be held.[129]

It is noteworthy that all the above demands underlined a need for the empowerment of factions that were marginalized under the incumbent system of sectarianism, empowering people through direct voting rights and Muslims by redistributing sectarian allocations. For example, the demand for an expansion of the authority of the cabinet and its head, the prime minister, would lead to changes that would empower Muslims further and redefine the hegemony of Christians over the state. The call for direct popular elections nationally, a staple of presidential elections in major world democracies, would result in a more vocal representation for Muslims. It would also introduce administrative reforms that would put an end to manipulation of power among cliques that had been accustomed to a voice in both the parliament and the cabinet, thus, combining legislative and executive power.

Perhaps the most relevant factor behind this adamant denunciation of sectarianism as a failed form of government was the fundamental threat posed by the 1982 Israeli invasion to Lebanon. It was under these harrowing circumstances of existential fear for the survival of Lebanon as a unified state, and out of concern for the security of land and people from the decimation and confiscation caused by the invading Israeli army, that Shams al-Din formulated his refutation of the sectarian system of Lebanon on the basis that it privileged a Maronite leadership that could not be trusted on sovereign and national issues. Several of its leading members were willing to collaborate with the Israeli aggressors while some of them had even advanced programs for the federalization and even partition of Lebanon. The extermination of the sectarian system in Lebanon was necessary because its continuation would ensure that Maronite political hegemony posed a threat to Muslims, especially the Shi'i residents of South Lebanon. Under Maronite hegemony, it had been impossible to unify all sects around a national movement to deter Israeli occupation.[130] Shams al-Din's program, "Consultative Majority-Based Democracy" aimed at providing a national leadership capable of repelling Israeli aggressions and drafting a national policy that protected the interests of Lebanon, especially South Lebanon, from annexation by Israel. It also supported the viability and success of resistance against Israeli occupation. He argued that the core of loyalty to Lebanon resided in popular and military resistance against Israeli occupation and its schemes for hegemony over Lebanon. He actually stated that his thesis of "Consultative Majority-Based Democracy" was a cornerstone to resisting the Israeli project of occupation.[131]

Formulating this thesis of "Consultative Democracy" as part of a resistance project against Israeli occupation underlines Shams al-Din's shift toward more intransigence *vis-à-vis* the Lebanese officials who were collaborating openly with Israeli occupation forces at a time when the southern population of Lebanon was being subject to arbitrary arrests, detentions, and torture by Israeli authorities and their collaborating Lebanese allies. It is noteworthy that two years prior to the formulation of this political manifesto, Shams al-Din had publicly supported the works and goals of the National Salvation Committee presided over by the former president, Elias Sarkis, that included major political actors and aimed to negotiate with the Israelis a possible withdrawal. In light of the failure to drive the Israelis out, and the de facto collaboration of Lebanese politicians with the foreign occupying forces, it seems Shams al-Din felt pressured to take a firmer stance. He must also have felt the pressure coming from the more radical Shi'i Islamist militants who had left *Amal* in 1982 or came from other groups who together would later form Hezbollah. These Shi'i militants were adamantly opposed to the policies of the ISSC under Shams al-Din and believed that he was not sufficiently opposed to the Lebanese government to lead this Shi'i institution.

The "consultative democracy" thesis may have indicated a certain radicalization in the political thought of Shams al-Din in comparison with the much more flexible and pragmatic position that he would eventually take at the end of the Lebanese civil war in 1990 when he decided to support the Ṭā'if Agreement. Shams al-Din firmly supported the settlement, known as the Ṭā'if Agreement, arguing that it was the best available solution for an intractable and bloody civil conflict that threated the very foundations of the country. This settlement, discussed below, indirectly consolidated the sectarian system by reinforcing the sect-based distribution of power, albeit with a certain measure of power-shifting from one sect to another that aimed to introduce more equity. Compared to the Islamist scene in Lebanon at this time, however, Shams al-Din's position was quite moderate. The wider Islamist scene, in which Hezbollah was expanding, was much more radicalized. Hundreds of young and junior *'ulama*, who had come back from Iraq, and were former members in the dissolved *Da'wā* Party or members of the Society of *'Ulama* and fervent supporters of Khomeini's Islamic Revolution in Iran totally rejected the political system of Lebanon. They openly voiced their opposition to the Lebanese Republic and their goal of establishing an Islamic government that would replace the current "illegitimate Maronite republic."

A key figure in formulating this revolutionary Islamic view was Sayyid Muhammad Hasan Fadlallah, who shared with Hezbollah and other revolutionary Lebanese Shi'i Islamists the view that the Lebanese Republic under its current governing system was illegitimate. It is noteworthy that both the leadership of Hezbollah and Sayyid Fadlallah rejected the Ṭā'if Agreement upon its formulation.

Shams al-Din reacted strongly against some right-wing Christian propositions that had been circulating at this time. A faction in the "Lebanese Front," the Maronite Monastic Organization (*al-Rahbāniyya al-Mārūniyya,*) had adopted a very radical and extreme position in disseminating propaganda for a "Christian State" in Lebanon in 1983. To achieve this polity, they demanded a return to the boundaries of Mount Lebanon under the arrangement of the *mutaṣarrīfiyya* in 1862. The rearrangement of this territory implied the separation of Sidon, Tripoli, and the *Biqāʿ* governorate from the newly proposed smaller Lebanon. In addition to this territorial rearrangement, the Maronite organization wanted to redefine the strategic interests of Lebanon, insisting on normalization with Israel through a peace treaty that would ally the two countries, and insisting on rejecting Arab identity for Lebanon.[132] These proposals for the division of Lebanon posed immense threats to Muslims, especially the Shi'a living in South Lebanon who would have faced the possibility of losing their land if ever the Israeli invasion of Lebanon should succeed in evicting them from their territories, with these lands being annexed to Israel permanently.

Shams al-Din's rejection of the sectarian system did not however long outlast the crises of the 1980s. The conditions of the mid-1980s, a period in which Lebanon was decimated by consecutive internal wars eventually gave way to a new and more stable political reality. In 1989, the Lebanese war was brought to an end under the auspices of the Ṭā'if Agreement. Shams al-Din was one of the supporters of this agreement, believing that it offered the best solution available to the Lebanese tragedy and end the intractable civil conflict. Endorsement of the Ṭā'if Agreement entailed important changes in his approach to sectarianism, mainly a softening of his views and exploration of ways to accommodate it.

The Ṭā'if Agreement

The Ṭā'if Agreement was the political instrument that ended the civil war in Lebanon. It was the outcome of a series of tedious meetings between sixty-five deputies out of the seventy-three surviving members of the

Lebanese parliament.[133] It was held in the Saudi city of Ṭā'if under the official auspices of Saudi Arabia, Algeria, and Morocco in September 1989.[134] The agreement was concluded under two important contradictory forces, uniform international support juxtaposed against mistrust by the local political elite.[135] While the Ṭā'if Agreement failed to satisfy the full demands of any of the warring factions in Lebanon, it garnered the minimal consent of the major Lebanese factions, as well as the unprecedented unanimous support of the international community and the Arab League.

Scholars who have studied the Ṭā'if Agreement concur that, while it did not introduce a blueprint for the de-sectarianization of politics in Lebanon, it did propose the de-sectarianization of politics as a long-term goal. In practice, it has been concurrently observed that the Ṭā'if Agreement has further institutionalized and reinforced sectarianism, albeit with modifications that ensured a more equitable sectarian representation.[136]

The Ṭā'if Agreement largely reinstated the clauses of the National Pact, mostly in its focus on sectarian compromise and inter-communal coexistence and cooperation.[137] The main change was that the oral agreement of the National Pact became incorporated into the constitution as a written document.[138] The agreement did, nevertheless, introduce constitutional change. While it maintained the status quo of sectarian politics, it reshuffled the power balance among Christians and Muslims in such a way as to introduce a component of communal balance.[139] It did introduce a more equitable distribution of power within the sectarian power-sharing formula.[140]

One of the primary constitutional reforms was the rearrangement of power distribution among the three key governmental positions, or the tripartite presidencies (*al-ri'āsāt al-thalāth*). The powers of the presidency of the republic were reduced, while the powers of the prime minister and the speaker of the parliament were increased. The Ṭā'if Agreement granted the speaker of the parliament a four-year instead of a one-year term.[141] In general, many of the powers of the president were transferred to the cabinet.[142] Lastly, the agreement changed the proportion of Christian and Muslim representation in the chamber of deputies from the 6:5 ratio that favored Christians by one seat to a fifty-fifty representation of Christians and Muslims.[143]

Some important flaws have been noted in the Ṭā'if Agreement. Constitutional institutions were not consolidated and, sectarian

alignments and rivalries were aggravated, reaching unprecedented levels in the post-Ṭā'if era.[144] For example, applicants for public positions still needed to disclose their sectarian affiliation, as well as obtain the approval of the leader(s) of the sect in question. Finally, this system raises institutional obstacles against merit-based employment, since public appointments are regulated by a rigid predetermined quota distribution, mostly supervised by the political representatives of each sect.[145] These practices were already well-established before the breakout of the war, but, after the Ṭā'if Agreement, they were applied to an even greater degree, planting deep roots. Moreover, Ṭā'if has institutionalized a government by troika through the redefinition of constitutional powers among the three most prominent governmental positions, whose output has been characterized by a great deal of inefficiency and corruption.[146] Each head of the troika, acted as the representative of his own confessional group,[147] plotting against the others in a bid for more power and more resources.

The post-Ṭā'if order has been deplored as an era characterized by deep irregularities, mishaps, and corruption. More representation of the rich in the government and parliament has been noted to the extent that one can even speak of an oligarchy of the rich.[148] This has been accompanied by deficient public policy-making[149] and a very weak party system.[150] The marginalization of the Maronites and the traditional elite establishment has also been underscored.[151] Regionally, Israeli occupation in the South, with its constant military attacks against the civilian population, persisted after the agreement, wreaking havoc on the political and economic stability of the country. Foreign intervention increased notably, leading to extraordinary concessions in sovereignty in favor of Syria, which gained much more political leverage in the years that followed.[152]

The second republic, ushered in by the Ṭā'if Agreement, did not effect a transformation from "consociational sectarian agreement" to "constitutional institutions" in pursuit of the declared aim of de-sectarianization of politics. It appeared rather to lead to the formation of a confederation of sects (*al-mazāhib al-ittiḥādiyya*).[153] The public institutions became sectarian positions that reflected the power and political weight of each sect.[154] Moreover, the high public offices at the head of the constitutional institutions—the presidency, the speakership of parliament, and the prime minister as head of the cabinet—as well as subordinate public positions were and still are used to increase leverage

for the holders of these positions within their respective sectarian groups. Institutional positions have been used, with alarmingly increasing intensity, to consolidate the sectarian leadership of high-ranking civil servants.[155]

In conclusion, Ṭā'if was conceived by many as a step forward. However, due to its structural flaws and its incomplete and distorted application, it failed to institute stable and democratic governance in Lebanon. The sectarian identities, maintained by the agreement and consolidated by its flawed application, undermined the formation of a binding national identity.[156]

In order to understand Shams al-Din's reversal in approving the Ṭā'if Agreement after having discredited the sectarian system in his mid-1980s "Consultative Democracy" thesis, it is necessary to examine retrospectively the treatises and documents that he had issued or advocated with the outbreak of the war, when he served as the vice-president of Sayyid Musa al-Sadr, who headed the Islamic Shi'i Supreme Council. All these documents, in their promulgation of a vision of a reformed sectarian system, resonate substantially with the provisions enclosed in the Ṭā'if Agreement.

Historical Documents of Settlement Proposals

Four important documents reflect Shams al-Din's positions on reform and settlement of the institutional crisis of Lebanon. The first of these is the Constitutional Document of 1976 (*al-Wathīqa al-Dustūriyya*) formulated by President Sulayman Franjiyah. Another important document is the 1977 Document (*Waraqat al-Majlis*) issued by the Islamic Shi'i Supreme Council. The third one is the Ten Islamic Principles (*al-Thawābit al-Islāmiyya*) of 1983 issued in tandem with the Sunni grand mufti in Lebanon Shaykh Hasan Khalid. Finally, there is also the official document launching national resistance against the Israeli invasion of Lebanon issued by Shams al-Din during *'Ashūra'* in 1983.[157] The positions enclosed in these documents were all either endorsed explicitly by Sayyid Musa al-Sadr or reflected the principles founded by him and were supported by the official statements and policies of the Islamic Shi'i Supreme Council.

President Sulayman Franjiyah's "Constitutional Document" (*al-Wathīqa al-Dustūriyya*), issued on February 14, 1976, was a blueprint for an array of reforms that aimed to assuage the social divisions

and sectarian tensions that the system had engendered and which had intensified since the outbreak of the civil war. It confirmed the distribution of the three main presidencies, (those of the republic, the cabinet of ministers and the parliament) among the Maronites, Sunnis, and Shi'a respectively, calling for the preservation of this "custom" of power distribution. It proposed a fifty-fifty representation of Christians and Muslims in the parliament, the expansion of the authority of the prime minister *vis-à-vis* the presidency of the republic, and the abolition of sectarian-based public employment with the exception of the chief positions.[158] It also called for the reinforcement of the army to strengthen a national defense agenda. The document, moreover, recommended several plans to mitigate the aggravated social divisions and promote social justice policies for all regions and the entire population. This included the institution of a development council for egalitarian social and economic planning, decentralization and fiscal and administrative reforms, as well as the expansion of free public education.[159] These goals were conceived of as a road map to consolidate the national profile of the population and aimed at achieving national unity. They were also aimed at reforming the weaknesses of the National Pact by replacing the two "negations" implicit in its foundation: "renunciation of European tutelage and relinquishment of Arab unity," by two affirmations: affirmation of the Arab identity of Lebanon and affirmation of full and national allegiance to the Lebanese state.[160] This document sought to reform the sectarian system, without abolishing it, by confining sectarian power distribution to only the highest echelons of government while mitigating the severe socioeconomic cleavages.

The Shi'i Council was actively involved in these initiatives. Indeed, it took a pioneering role in promulgating and advancing settlement proposals for the civil war. In its attempts to articulate a vision for the settlement of the Lebanese crisis, it also issued two documents that reflected its understanding of the roots of the conflicts and the reforms it suggested. "*Waraqat al-Majlis al Islāmī al-Shi'i al-a'lā*," issued on 27 November 1975, and was a document formulated by Musa al-Sadr and Muhammad Mahdi Shams al-Din that advanced a settlement proposal to end the civil war. The two demanded fundamental reforms for the Lebanese system to preserve the unity of Lebanon and terminate the military clashes. The document was an avant-garde step toward an Islamic recognition of the ultimate sovereignty and independence of Lebanon. It was later to be included in the Document of Islamic Principles of 1983,

which spoke for all the country's Islamic religious authorities including the Sunnis and the Druze.[161]

This document stressed social issues as the main catalyst for the outbreak of violence. It deplored the economic marginalization that peripheral and rural areas of Lebanon suffered. Government institutions were simply absent in many of these regions, especially South Lebanon where it seemed, as the document asserted, the state had renounced its sovereignty. The eschewal by the state of its duties was combined with an aggravated level of power abuses, clientelism, and administrative corruption. The solution to the administrative and social mismanagements, the document proposed, was the abolition of political sectarianism, and introduction of political reform.[162] The latter proposed reforming the bases on which the distribution of power rested, and the launching of a national and comprehensive development plan that aimed at reducing social and economic divisions. The mechanism to initiate this process would be to abrogate Article 95 of the Constitution, which stipulated a sectarian distribution of public employment. Rather, the Shi'i Council Document proposed merit-based employment.[163] It also proposed reshuffling the functions and prerogatives of the presidential, legislative, and executive powers.[164] Foremost was the demand to increase the number of parliament seats to 120 while equally distributing the seats between Muslims and Christians.[165] It postulated the election of the prime minister by the legislative authority rather than his appointment by the president, and the centering of executive authority solely in the cabinet, excluding the president of the republic.[166] In addition, the document offered an array of proposals for social reforms that would address the severe gaps and improve the living conditions of the population.

The second document, issued by the Shi'i Council in May 11, 1977, proposing further solutions to the crisis, was released two years after the outbreak of the civil war. It reflected an unprecedented move toward resolving the Lebanese crisis. The document reiterated the Shi'i Council's recognition of the sovereignty and independence of Lebanon as the final homeland for its people (*Lubnān waṭan nihā'ī li abnā'ihi*).[167]

The endorsement of "Lebanon as a final homeland" for the Lebanese emerged from a series of private discussions between Shams al-Din and Musa al-Sadr in preparation for the issuance of the Constitutional Treaty of 1976 during Franjiyah's term. This document, which resulted from heated debates, spurred the surprise of Muslims more than that of Christians.[168] It was restated as part of the National Reconciliation

Document of 1976 (*Waraqat al-Wifāq al-Waṭanī*).[169] The slogan "Lebanon is the final homeland for its inhabitants" signaled a formal acceptance of the status quo by the highest Shiʻi clerical leadership in Lebanon. It was crucial for Shams al-Din to emphasize that this slogan was not a variation on a theme that initially fit a Christian project of hegemony, responding primarily to the needs of Lebanon's Christians.

He preferred to see it as the result of a foundational work that he and al-Sadr had initiated. However, under the unpropitious circumstances of the divisive war in Lebanon and the immense destruction caused by Israeli military invasion and occupation, any serious proposal for reform to settle the Lebanese crisis was put on hold. Thus, this initiative too was prevented from developing into a nationwide thesis (mostly through the traumatizing loss of Musa al-Sadr on a trip to Libya in August 1978). The statement that "Lebanon is the final homeland" of all Lebanese citizens fairly represented a Lebanese Muslim consensus that has been agreed upon and repeatedly asserted on several occasions, some solely of a Shiʻi nature and others generally Islamic. It was later adopted as one of the Ten Islamic Principles in the document issued by the country's Islamic authorities in 1983, known as the Islamic Principles Statement of 1983 (*Bayān al-Thawābit al-Islāmiyya*).[170] *Al-Thawābit al-Islāmiyya* was an important prelude to the promulgation of the Ṭā'if Agreement, whose importance lies in the fact that it terminated the violent clashes, preserving Lebanon as a sovereign country, despite the negative details it contained such as the preservation of sectarianism.[171]

The endorsement of "Lebanon as a final homeland" in 1977 by Musa al-Sadr without insisting on reform as a condition indicated that al-Sadr and Sham al-Din implicitly accepted sectarianism. This may have been the result of their recognition of the political and social transformations of Shiʻi youth. That decade witnessed an immense expansion of the Shiʻi left, which caused a real challenge to the clerical leadership of al-Sadr. The leftist organizations were having immense success in recruiting Shiʻi youth and acquiring the support of educated revolutionary young Shiʻa who were strongly disillusioned with the sectarian Lebanese system, the socioeconomic disparities that it sustained, and its conservative stance on the Palestinian question and resistance to Israel. Neither al-Sadr nor Shams al-Din was happy to see so many disenfranchised Shiʻi youth join the leftist movement. They felt that they were losing these young Shiʻa to the leftist and secular parties that seemed to offer a stronger and more assertive platform to voice their social and economic grievances.

The leftist and secular moods of a large part of the Shi'i youth jeopard-
ized the institutions of al-Sadr and weakened his clerical leadership as
well as undermined his social base. One of the alternatives for al-Sadr to
strengthen his leadership was the recognition of the sectarian system as a
modus vivendi and working within its framework in order to bargain for
more rights for Shi'a. It appears that such acquiescence to sectarianism
pointed to a willingness to bargain for more rights for Shi'a from within
the system, instead of opposing it radically and calling for its abolition as
Shi'i leftist parties did. Arguably, al-Sadr and Shams al-Din saw that the
best answer for resolving Shi'i problems was through integration in the
sectarian system of Lebanon rather than radically opposing and seeking
to supplant it entirely. Al-Sadr reached this decision despite his theoret-
ical and principled disapproval of sectarianism and his awareness of the
disparities and marginalization it created for many groups, including the
Shi'a. He may have sought to pressure the sectarian system from within
in order to extract more government positions and more resources for
the Shi'a, thus integrating them in a system that thus far had disenfran-
chised them economically and politically, and wrote them off its national
narratives. He may have also speculated that inscribing the Shi'a within
the sectarian system, by acquiring some rights for them from within, also
helped to enlarge his Shi'i base of support.

The Islamic Principles (*al-Thawābit al-Islāmiyya*) of September
21, 1983, officially issued by the Office of the Mufti of Lebanon (Dār
al-Fatwā) reiterated the content of the document of the Shi'i Council,
but represented a wider spectrum of Islamic authorities.[172] The Islamic
embrace of the principle of "Lebanon as a final homeland" to its inhabit-
ants was to be an important cornerstone in the rapprochement between
Christian and Islamic views over the identity of Lebanon, since it granted
to Christians an explicit recognition of Lebanon as an independent and
sovereign state.[173]

Another important development promulgated by this Islamic doc-
ument was the condemnation of all foreign military forces present on
Lebanese soil including Syrian forces. It connoted also a reduction in
the previously fervent support for the military activities of the Palestinian
organizations.[174] Particularly, this document was distinct because it dis-
sociated the official Islamic authorities from the propositions of militant
Islamist movements that called for the establishment of Islamic rule in
Lebanon, as was advocated by Shaykh Sa'id Sha'ban, for instance.[175]
This document heralded a fundamental change in the perception

of the Islamic religious establishment. It launched a pioneering acceptance of the sovereignty of Lebanon without any compromises to accommodate the interests of the Palestinian resistance groups or Syrian interests in Lebanon.

Shams al-Din also launched a movement for civil resistance against Israeli occupation in 1983. He warned about the dangers that this invasion entailed for the sovereignty of Lebanon and the conditions in its southern part. In summer of 1983, he delivered a speech commemorating the martyrs who perished in the notorious Ansar Prison erected by the occupying Israeli army in the South. He warned that Israel's strategy was to cut off the South and annex it to Israel in anticipation for the division of Lebanon into minuscule sectarian cantons, after evicting the population.[176]

In response to these divisive schemes, Shams al-Din called for "popular civil resistance," (*al-muqāwama al-shaʿbiyya al-madaniyya*), the cornerstone of which was to use all popular civil and military methods to abort Israeli strategies.[177] He urged the people of the South to refuse to evacuate the area, encouraging its inhabitants to endure the most extreme and severe living conditions.[178] He denounced draconian Israeli policies that forcibly evicted people from their homes and severely curtailed their ability to travel by imposing difficult-to-obtain entry permits on the southern population, while subjugating it to military checkpoints under dehumanizing conditions. He also called for civil disobedience, calling upon the Lebanese, from officials to ordinary citizens, to boycott the Israelis and refuse to conduct any talks or transactions with them.[179]

Shams al-Din also urged inhabitants of South Lebanon to persevere in their legitimate struggle against Israeli brutality. Residing in the South and not yielding to Israeli terror was an Islamic legal obligation (*min al-wājibāt al-sharʿiyya al-kifāʾiyya*). He asked rhetorically: What can Israel do? Turn all Southern Lebanon into Ansar Prison?[180] Kill the entire population?[181] He called for demonstrations and protests, urging popular gatherings in Lebanon to appeal to international public opinion, calling them to join cause with the global movements that were protesting internationally against the proliferation of nuclear weapons.[182] Popular civil resistance was the obligation of people, he stressed, but the Lebanese state had to assume the extremely critical responsibility to support the livelihood of its southern citizens by providing them with services and the means of subsistence to survive.[183]

Shams al-Din's position on the question of resistance against Israeli occupation consisted of three aspects. The first aspect was political resistance, which could only be underpinned by national unification in Lebanon, and the absolute support of the state and all parties in Lebanon for this resistance. The second aspect, which formed the core of the effort, was the survival and resistance (*ṣumūd al-ahālī*) of civilians in South Lebanon. The third aspect was military action (*al-ʿamal al-musallaḥ*), which could never be complete or truly efficient unless it was reinforced by unified national support and popular resistance.[184]

CONCLUSION: SHAMS AL-DIN ON ṬĀIF, INSTITUTIONAL REFORM, AND SECTARIAN POWER-SHARING

In the wake of the peace settlement of the Ṭā'if Agreement, and particularly in the mid-1990s, important transformations underscored Shams al-Din's understanding of the question of sectarianism, leading him to revisit Lebanon's political identity and the overarching thesis of national reconciliation and sectarian coexistence. His discourse on Lebanon underwent significant changes in time, following the formulation of his program of "Consultative Majority-Based Democracy" in the mid-1980s, that called for the reduction of the privileges of the Maronites and dropped his earlier refutation of the sectarian system in the years following the Ṭā'if Agreement. Revisiting many of the stances he formulated in the midst of the civil war and under the conditions of the Israeli threat to Lebanon, he publicly endorsed the Ṭā'if Agreement, stating that the sectarian power-sharing arrangements instituted by the agreement, but whose roots date back to the National Pact, are conclusive and definite and form consensual constitutional bases for Lebanon. His endorsement of the Ṭā'if Agreement was essentially an approval of the sectarian system. This is so since many of its provisions explicitly consolidated sectarian practices and enshrined them in the constitution. So what caused this transformation in Shams al-Din's position and was this transformation an absolute endorsement of the sectarian formula of power-sharing enclosed in the Ṭā'if Agreement, or was it a conditional acceptance?

Three important shifts in Lebanese politics and one important shift among the Shiʿi population occurred in the period between the 1980s and 1990s. First, the alarming economic crisis and collapse of civil

cohesion following inter-sectarian and intra-sectarian violence and massacres may have forced Shams al-Din to accept the Ṭā'if Agreement. Second, the threats of partitioning Lebanon and annexing South Lebanon to Israel, although still present, were no longer as pronounced as they were in the mid-1980s. For the first time since the foundation of Lebanon, Lebanese officials including the two presidents of the Republic, Elias Hrawi and Emile Lahoud, and the Prime Minister Rafic Hariri, lent their full support to the resistance movement against Israeli occupation, giving it the official legitimacy that had been mostly absent prior to the Ṭā'if Agreement. The support may have been solely verbal, lacking actual tangible reinforcements, but for the first time support for the anti-occupation military resistance became integrated in the official discourse of the state.[185] Third, in the years from 1988 to 1990, violent clashes took place between the two Shi'i armed parties, Hezbollah and *Amal* Movement, in Shi'i-populated areas in South Lebanon and Beirut, ravaging the Shi'i population and causing disastrous effects on lives and properties in what came to be known as "the war of the enemy-brothers."

Shams al-Din's reconciliatory attitude toward right-wing Christian leaders in postwar Lebanon was tied to their reduced status and power under the Ṭā'if arrangements.[186] He became convinced, in light of the power shifts and war losses, that Lebanon could only achieve legitimate, balanced, and functional governance with the full and equal participation of both Christians and Muslims.[187] He even went to the extent of urging Muslims to extend guarantees to Christians regarding coexistence, cooperation and mutual reliance and dependence.[188] This cooperation with Christians underlined Shams al-Din's need for inter-sectarian alliances in order to balance out the rise of Hezbollah and the competition it posited for his religious leadership within Lebanese Shi'i society.

However, most importantly, Shams al-Din was driven to accept the Ṭā'if Agreement because of the impact of the crucial sociopolitical transformations that had shaped the Shi'i population, especially Shi'i youth. The victory of the Islamic Revolution in Iran in 1979 gained enormous momentum and wide support in many parts of the Muslim world. The Shi'i scene in Lebanon was very enthusiastic about Khomeini's victory. This signaled the rise of an enormous rival to the Shi'i Council and the Shi'i *Amal* Movement in the form of Hezbollah. Since the early 1990s, Hezbollah became a visible player in Lebanon and continued to grow considerably. The rivalry between the Shi'i Council and Hezbollah was

over the representation of Lebanese Shiʻa. It also underlined ideological and strategic differences that made them part ways significantly. In fact, Shams al-Din had been the disciple of Iraqi *marjaʻ* Sayyid Muhsin al-Hakim who never showed any sympathies to Khomeini. Al-Hakim's disciples in Najaf note that he had even refrained from supporting Khomeini in the wake of the revolution.[189] Shams al-Din, cautious and worried about the ramification of Khomeini's revolution in Iran, never expressed fully-fledged support. He only lent it partial principled approval, as an Islamic movement in the face of "Western imperialist hegemony." But in reality, Shams al-Din had to confront a massive threat to his religious leadership posited by the expansion of Hezbollah that was closely tied ideologically to the Islamic leadership of Iran.

The rise of Hezbollah came in the context of earlier Shiʻi mobilization, radicalization, and social protests against oppression and state neglect. This political activism was expressed along sectarian, secular, and leftist lines.[190] The rise of Hezbollah, therefore, came as a continuation of a "Shiʻi-based radicalism that had been earlier expressed in non-sectarian terms."[191] The more Hezbollah recruited youthful supporters, the more Shams al-Din's role as religious authority was threatened and undermined. Indeed, the *ḥawza* (religious seminary), "Maʻhah al-Shahīd al-Awwal," founded and supervised by Shams al-Din had to close down in 1996 because of shrinking enrollment, while the Hezbollah *ḥawzas* were attracting the majority of seminary students.[192] Hezbollah *ḥawzas* and other social and philanthropic organizations addressed very effectively Shiʻi grievances, which resulted from forced rural-urban migration caused by constant Israeli attacks, and social and economic underdevelopment aggravated by systematic state neglect.[193] The contribution of Hezbollah-run organizations to the alleviation of Shiʻa's economic grievances, the *ḥawzas*'s remaking, and the validation of religious education helped the Shiʻa move from marginalization to social recognition and empowerment.[194] The expansion of Hezbollah also threatened Shams al-Din's position at the head of the Islamic Shiʻi Supreme Council, as the legitimacy of representing the Shiʻa was tilting in favor of Hezbollah, at least on the popular level, if not the official one. This forced Shams al-Din to forge alliances with non-Shiʻi political actors to garner the state's support for his public role and for the legitimacy of the Islamic Shiʻi Supreme Council. It is within this context of shifting Shiʻi youth loyalty to Hezbollah, that Shams al-Din lent his support to the Ṭāʼif Agreement, accepting its sectarian arrangements, albeit with reservations.

By the end of the 1980s and the beginning of the 1990s, Shams al-Din was experiencing ideological and political disagreements with the leadership of Hezbollah; differences in their respective perceptions of solutions and settlements for Lebanon were rising to the surface. In a meeting that took place between him and the leadership of Hezbollah, Shams al-Din, discussing political collaboration with Hezbollah, inquired about the "reference authority" (*al-marjaʿiyya*) that would adjudicate in cases of disagreement between him and the leadership of the Party. The representatives of Hezbollah replied that this authority would lie with *al-walī al-faqīh*, Khomeini and his successor, as the leaders of the Islamic Revolution in Iran. To that, Shams al-Din inquired: "Who would act as a substitute authority if *al-walī al-faqīh* was absent?" They replied that it would be the president of the Islamic Republic of Iran. Again, Shams al-Din inquired what would happen if the president of the Republic of Iran was unavailable; they said it would be the Iranian ambassador in Damascus. Upon hearing this, Shams al-Din informed his interlocutors that their paths could never meet.[195]

This account, whether anecdotal or factual, is narrated by the entourage of Shams al-Din to underline the beginning of his disagreements with Hezbollah, when both parties realized that their visions for Lebanon parted ways significantly. It emphasized the choice that Shams al-Din had made: his refusal to subordinate his political program to the authority of the Iranian leadership. Shams al-Din saw the dangers of imposing the Iranian model on other Shiʿi societies and the rigid approach which Khomeini's supporters may take in applying this model in Lebanon. Different facets of this problem were delineated by Lebanese and Iranian Islamists themselves, namely, Sayyid Muhammad Husayn Fadlallah, Ayatollah Husayn ʿAli Muntaziri, and Mohsen Kadivar.

Distancing himself from Hezbollah also resonated deeply with his doctrinal positions on the thesis of *wilāyat al-faqīh* in which he refuted the absolute authority that the guardian jurist, *al-walī al-faqīh*, arrogated to himself in the name of the Imamate doctrine. Distancing himself from Hezbollah also meant that he needed from now on to subscribe to a form of Lebanese nationalism that protected his office and role from the popularity and power of Hezbollah. This led him to align himself with the Lebanese state and to forge inter-sectarian alliances.

The provisions in the Ṭāʾif Agreement echoed the amendments proposed in the Document of the Shiʿi Council in 1977, the proposals of

al-Wathīqa al-Dustūriyya of Franjiyah, the provisions of the Ten Islamic Principles issued in 1983, and some proposals contained in Shams al-Din's program of "Consultative Majority-Based Democracy." All these documents and treaties were attempts at forging grounds of conciliation that united Muslims and Christians, while exacting concessions from both parties. But unlike all these documents, the Ṭā'if Agreement, perhaps because of the unanimous international and Arab support it received, was the first and only agreement that won the approval of mainstream Christian leaders, represented by the majority of the Christian deputies in the parliament. Hence, it was the first time that the gist of the reforms proposed by Shams al-Din for the settlement of the Lebanese conflict had found a minimum of consensus among Muslim and Christian authorities. Shams al-Din may have realized that extremist theses for the political system of Lebanon, whether they be the establishment of an Islamic state in Lebanon or the creation of a Christian federal state that undermined the unity of Lebanon, were impossible. They only fed extremism and led to the partition of the state, which eventually would have left South Lebanon at the mercy of Israeli annexation. He came to the realization that the protection of South Lebanon, the unity of Lebanon as a nation-state, and the termination of devastating violence could be achieved only through accepting the status quo, establishing an alliance with the state, and forging inter-sectarian alliances.

Aligning himself with the Lebanese state and accepting the Ṭā'if Agreement conferred upon Shams al-Din a number of benefits. The support that the Shi'i Council received from the state was crucial to protecting this institution and granting it a public voice. Another benefit may have been the receipt of guarantees that the state would preserve the religious courts and obstruct the creation of civil courts for personal status matters, creating civil courts being one of the most important demands voiced by leftist thinkers and activists, many of whom were Shi'a. So supporting the state proved to be a beneficial strategy that protected Shams al-Din's leadership from both Hezbollah's threats to his religious leadership, and the leftists' threats to religious courts.

However, despite his endorsement of Ṭā'if, Shams al-Din did not embrace it wholeheartedly, qualifying it as "the agreement of necessity and the agreement of need." He still entertained reservations about the sectarian power-sharing formula of Ṭā'if. His acceptance of the agreement was therefore conditioned by the necessity of introducing reforms that mitigated the intensity of sectarian divisions.[196]

At this stage, he sustained two simultaneous discourses: On the one hand, he refused to forfeit his theoretical rebuttal of sectarianism, but, from a perspective of *realpolitik*, he stated that it is commendable to suspend discussing sectarianism in public debate and to postpone the project of its abolition to an unspecified date in the future. In the post-Ṭā'if period, with the institutionalization of sectarianism, talk of de-sectarianization, among Lebanese politicians in power, was a weapon with which sects scared each other, threatening others with cancelation of their acquired political privileges on sectarian bases. In this context, talk of de-sectarianization, among Lebanese politicians, such as Berri, the Shi'i Speaker of the Parliament and the head of *Amal* Movement, indicated a process that is radically different from what leftist thinkers and activists have been calling for. Rather than removing the sectarian criterion from public life and instituting a fully-fledged secularization of politics, talk of de-sectarianization was meant to threaten other sects' privileges by threatening to take them away or transfer them to another sect. In this, ironically, Nabih Berri parted ways with the de-sectarianization that leftists and secularists have been calling for in recent decades.

Shams al-Din suggested, while acceding to the preservation of the thesis of sectarianism, (for lack of finding a better one), that it be rationalized, and overseen and that criteria be introduced to ensure more justice and equitable representation through mechanisms of constraint, because sectarianism posited several threats to the continued existence of the Lebanese polity.[197] Coexistence with sectarianism conferred some benefits. It provided shields against the popularity of Hezbollah among Shi'i youth. It granted the Shi'i Council official legitimacy and the support of the state institutions, thus carving out a political status for Shams al-Din and the Shi'i institution that he presided over. Moreover, his alignment with the state provided him with leverage with which to resist the leftist campaign to institute secular courts for family and personal status law. Therefore, Shams al-Din made a pragmatic choice to accept the status quo, for which he was able to construct a political and doctrinal justification. The political justification was couched in terms of the collective interest of Shi'i citizens in the Arab world, which recommended that they cooperate with the state rather than collectively and openly challenge it. The doctrinal justification was his explication of the Imami Shi'i approach toward "unjust" governments and the permissibility of cooperation with them.

NOTES

1. Georges Corm, *Le Liban Contemporain: Histoire et Société* (Paris: La Découverte, 2003), 82.
2. Ibid.
3. Ibid., 92.
4. Georges Corm, *Contribution à L'Étude des Sociétés Multiconfessionnelles: Effets Socio-Juridiques et Politiques du Pluralisme Religieux* (Paris: Librairie Générale de Droit et de Jurisprudence, 1971), 277.
5. Ibid.
6. Corm, *Le Liban Contemporain: Histoire et Société*, 91.
7. Ibid.
8. Ussama Makdisi, *The Culture of Sectarianism* (Berkeley: University of California Press, 2000), 51.
9. Ibid., 53.
10. Ibid., 56.
11. Ibid., 63.
12. Ibid.
13. Ibid., 7.
14. Ibid., 8.
15. Ibid., 66.
16. Ibid., 77.
17. Ibid., 75.
18. Ibid., 77.
19. Ibid., 159.
20. Ibid., 162.
21. Ibid.
22. Ibid., 160.
23. Ibid., 163.
24. Samir Khalaf, *Civil and Uncivil Violence in Lebanon: A History of the Internationalization of Communal Contact* (New York: Columbia University Press, 2002), 86.
25. Ibid., 85.
26. Ibid., 86.
27. Ibid., 88.
28. Ibid., 89.
29. Makdisi, *The Culture of Sectarianism*, 97.
30. Khalaf, *Civil and Uncivil Violence in Lebanon: A History of the Internationalization of Communal Contact*, 164.
31. Ibid., 279.
32. According to Salibi, the Emirate of Mount Lebanon under the Shihāb dynasty did not form a country on its own terms, but was only a

precursor to the *mutaṣarrifiyya*, which was in turn a precursor to the Republic of Lebanon.

33. Kamal Salibi, *A House of Many Mansions* (London: I.B. Tauris, 1988), 69.
34. He dismissed the idea of modern Lebanon as Phoenicia resurrected (p. 171), as well as the idea conceiving of the Druze Emir of Mount Lebanon, Fakhreddin al-Maʿnī, as the founder of modern Lebanon (p. 169).
35. Salibi, *A House of Many Mansions*, 163.
36. Ibid., 164.
37. Ibid.
38. Ibid., 165.
39. Ibid., 206.
40. Mahdi ʿAmil, *Fī al-Dawla al-Ṭāʾifiyya*, 3rd ed. (Beirut: Dar al-Farabi, 1986).
41. Ibid., 26.
42. Ibid., 20.
43. Ibid., 29.
44. Ibid., 21.
45. Ibid., 145.
46. Ibid., 83.
47. Ibid., 124.
48. Ibid., 83.
49. Ibid., 61.
50. Ibid., 112.
51. Ibid., 101.
52. Ibid., 67.
53. Ibid., 101.
54. Corm, *Le Liban Contemporain: Histoire et Société*, 26–30.
55. Ibid., 52.
56. Corm, *Contribution à L'Étude des Sociétés Multiconfessionnelles: Effets Socio-Juridiques et Politiques du Pluralisme Religieux*, 277.
57. Corm, *Le Liban Contemporain: Histoire et Société*, 90.
58. Nassif Nassar, *Naḥw Mujtamaʿ Jadīd: Muqadimāt Asāsiyya fī Naqd al-Mujtamaʿ al-Ṭāʾifī* (Beirut: Dar al-Taliʾa, 1970).
59. Nassar located the origins of sectarianism in Near Eastern culture since the Middle Ages. This period, he noted, was characterized by the domination of religious institutions over people and the creation of strong religious loyalties that substituted other social ties. This account lacks historicity and reduces developments in the present to practices in the past, 105.

60. Nassar, *Naḥw Mujtamaʿ Jadīd: Muqadimāt Asāsiyya fī Naqd al-Mujtamaʿ al-Ṭāʾifī*, 104.
61. Ibid., 106.
62. Ibid., 109.
63. Ibid.
64. Ibid., 114.
65. Ibid.
66. Ibid., 110.
67. Ibid., 117.
68. Ibid.
69. Ahmad Beydoun, *Identité Confessionnelle et Temps Social chez les Historiens Libanais Contemporains* (Beirut: Université Libanaise, 1984), 580.
70. Ibid., 298.
71. Ibid., 334.
72. Ibid., 335.
73. Michael Hudson, *The Precarious Republic* (New York: Random House, 1968), 126.
74. Ibid., 6.
75. Ibid., 19.
76. Ibid., 18.
77. Ibid., 92.
78. Ibid., 39.
79. Ibid., 8.
80. Ibid., 88.
81. Ibid., 87.
82. Ibid., 116.
83. Ibid., 33.
84. Ibid., 1.
85. Ibid., 12.
86. Roschanack Shaery-Eisenlohr, *Shi'ite Lebanon: Transnational Religion and the Making of National Identities* (New York: Columbia University Press, 2008).
87. Max Weiss, *In the Shadow of Sectarianism: Law, Shi'ism, and the Making of Modern Lebanon* (Harvard University Press, 2010), 3.
88. Ibid., 5.
89. Salibi, *A House of Many Mansions*, 186.
90. Ibid., 32.
91. Ibid.
92. Ibid., 185.
93. Ibid., 214.
94. Ibid., 28.
95. Ibid., 186.

96. Corm, *Le Liban Contemporain: Histoire et Société*; Salibi, *A House of Many Mansions.*

97. Hudson, *The Precarious Republic*, 47.

98. Farid El-Khazen, *The Communal Act of National Identities: The Making and Politics of 1943 National Pact* (Oxford: Centre for Lebanese Studies, 1991), 5.

99. Corm, *Le Liban Contemporain: Histoire et Société*, 97.

100. Ibid., 98.

101. Khalaf, *Civil and Uncivil Violence in Lebanon: A History of the Internationalization of Communal Contact*, 274.

102. Ibid., 192.

103. Ra'uf Sinno, *Ḥarb Lubnān 1990–1975: Tafakkuk al-Dawla wa Taṣaddu' al-Mujtamaʿ*, 2 vols., vol. 1 (Beirut: Arab Scientific Publishers, 2008), 572.

104. Imad Younes, *Silsilat al-Wathā'iq al-Asāsiyya li al-Azma al-Lubnāniyya 1973 …*, vol. 4 (Beirut: Copyrights reserved to the author, 1985), 266.

105. Sinno, *Ḥarb Lubnān 1990–1975: Tafakkuk al-Dawla wa Taṣaddu' al-Mujtamaʿ*, vol. 1, 575.

106. Corm, *Contribution à L'Étude des Sociétés Multiconfessionnelles: Effets Socio-Juridiques et Politiques du Pluralisme Religieux*, 277.

107. Muhammad Mahdi Shams al-Din, *Al-Malāmiḥ al-ʿĀmma al-Yawm Li Lubnān Fī al-Niẓām al-Ṭā'ifī al-Ḥālī wa Niẓām al-Dīmuqrātiyya al-ʿAdadiyya al-Qā'ima ʿAlā Mabda' al-Shūrā* (Beirut: Special edition published by the personal bureau of Muhammad Mahdi Shams al-Din, 1985).

108. Ibid., 5.

109. Ibid., 6.

110. Ibid., 6–7.

111. Ibid., 7.

112. Ibid., 8.

113. Ibid., 16.

114. Ibid., 39.

115. Ibid., 24.

116. Ibid., 18.

117. Ibid., 16.

118. Ibid.

119. Ibid.

120. Ibid., 41.

121. Ibid., 43.

122. Ibid., 45.

123. Ibid.

124. Ibid., 39.

125. Ibid., 13.
126. Ibid., 30.
127. Ibid., 47.
128. Ibid., 48.
129. Ibid., 49.
130. Musa, *Al-Shaykh Muhammad Mahdi Shams al-Din bayn Wahj al-Islām wa Jalīd al-Madhāhib*, 97.
131. Ibid., 102.
132. Sinno, *Ḥarb Lubnān 1990–1975: Tafakkuk al-Dawla wa Taṣaddu' al-Mujtama'*, vol. 1, 593.
133. Said Salman, *Lubnān wa al-Ṭā'if* (Beirut: Dar Azal Wikalat al-Matbu'at al-Lubnaniyya, 1990), 24.
134. Ibid., 12.
135. Ibid., 3.
136. Michael Hudson, "Lebanon After Ta'if: Another Reform Opportunity Lost?" *Arab Studies Quarterly* 21 (1999): 33.
137. Augustus R. Norton, "Lebanon After Ta'if: Is Civil War Over?" *Middle East Journal* 45, no. 5 (1991): 461.
138. Hassan Krayem, "The Lebanese Civil War and the Taif Agreement," in *Conflict Resolution in the Arab World: Selected Essays* (Beirut: Digital Documentation Center AUB, 1997).
139. Hudson, "Lebanon After Ta'if: Another Reform Opportunity Lost?" 35.
140. Krayem, "The Lebanese Civil War and the Taif Agreement."
141. Norton, "Lebanon After Ta'if: Is Civil War Over?" 462.
142. Ibid., 463.
143. Salman, *Lubnān wa al-Ṭā'if*.
144. Nawwaf Salam, *Ab'ad min al-Ṭā'if: Maqālāt fī al-Dawla wa al-iṣlāḥ* (Beirut: Dar al-Jadid, 1998), 20.
145. Ibid., 47.
146. Hudson, "Lebanon After Ta'if: Another Reform Opportunity Lost?" 31.
147. Marie-Joelle Zahar, "Power-Sharing in Lebanon: Foreign Protectors, Domestic Peace, and Democratic Failure," in *Sustainable Peace: Power and Democracy After Civil Wars*, ed. Philip Roeder (New York: Cornell University Press, 2005), 233.
148. Hudson, "Lebanon After Ta'if: Another Reform Opportunity Lost?" 30.
149. Ibid., 32.
150. Ibid., 31.
151. Ibid.
152. Ibid., 30.
153. Salam, *Ab'ad min al-Ṭā'if: Maqālāt fī al-Dawla wa al-iṣlāḥ*, 20.
154. Ibid., 21.
155. Ibid.

156. Krayem, "The Lebanese Civil War and the Taif Agreement."

157. Shams al-Din, *Lubnān al-Kayān wa al-Maʿna*, 115.

158. Younes, *Silsilat al-Wathāʾiq al-Asāsiyya li al-Azma al-Lubnāniyya 1973 …*, vol. 4, 233.

159. Ibid., 234.

160. Ibid., 236.

161. Sinno, *Ḥarb Lubnān 1990–1975: Tafakkuk al-Dawla wa Taṣadduʿ al-Mujtamaʿ*, vol. 1, 600.

162. Younes, *Silsilat al-Wathāʾiq al-Asāsiyya li al-Azma al-Lubnāniyya 1973 …*, vol. 4, 227.

163. Ibid., 229.

164. Ibid., 228.

165. Ibid., 227.

166. Ibid., 228.

167. Hani Fahs, *Al-Imāmām Al-Ṣadr wa Shams al-Dīn: Zākira Li Ghadina* (Beirut: Dar al-Mada, 2008), 336.

168. Shams al-Din, *Lubnān: al-Kayān wa al-Dawr*, 28.

169. Ibid., 30.

170. Ibid., 29.

171. Ibid.

172. Sinno, *Ḥarb Lubnān 1990–1975: Tafakkuk al-Dawla wa Taṣadduʿ al-Mujtamaʿ*, vol. 1, 604.

173. Ibid., 605.

174. Ibid.

175. Ibid., 600.

176. Muhammad Mahdi Shams al-Din, *Mawāqif wa Taʾmmulāt fī Qaḍāya al-Fikr wa al-Siyāsa* (Beirut: Dar al-Zahra', 1985), 100.

177. Saud Al-Mawla, "Al-ʿunf al-Musallaḥ wa al-Ḥarakāt al-Islāmiyya al-Muʿāṣira," in *Shahādāt wa Qirāʾāt fī jihād al-Imām al-Rāḥil wa Ijtihādihi* (Beirut: Imam M.M. Shamsuddin Foundtion for Dialogue, 2004), 12.

178. Shams al-Din, *Mawāqif wa Taʾmmulāt fī Qaḍāya al-Fikr wa al-Siyāsa*, 106.

179. Ibid., 106–107.

180. Ansar Prison was a detention camp in South Lebanon in which Israeli forces detained and tortured Lebanese and Palestinian civilians.

181. Shams al-Din, *Mawāqif wa Taʾmmulāt fī Qaḍāya al-Fikr wa al-Siyāsa*, 107.

182. Ibid., 108.

183. Ibid., 111.

184. Al-Mawla, "Al-ʿunf al-Musallaḥ wa al-Ḥarakāt al-Islāmiyya al-Muʿāṣira," 13.

185. Karim Muruwwah, *Naḥwa Jumhūriyya Thālitha* (Beirut: Dar al-Farabi, 2001), Chapter 1.
186. Hudson, "Lebanon After Ta'if: Another Reform Opportunity Lost?" 30–33.
187. Shams al-Din, *Lubnān: al-Kayān wa al-Dawr*, 17.
188. Ibid., 73.
189. Ra'uf, *Al-'Amal al-Islāmī fī al-'Irāq: Bayn al-Marja'iyya wa al-Ḥizbiyya*, 40.
190. Rula Jurdi Abisaab, "The Cleric as Organic Intellectual: Revolutionary Shi'ism in the Lebanese *Hawzas*," in *Distant Relations: Iran and Lebanon in the Last 500 Years*, ed. Houchang E. Chehabi (I.B. Tauris, 2006), 239.
191. Ibid., 240.
192. Ibid., 243.
193. Ibid., 241–242.
194. Ibid., 257.
195. This anecdote was narrated to the author, in the summer of 2009 in Beirut, by a clerical member of the Islamic Shi'i Supreme Council who prefers to keep his identity anonymous.
196. Shams al-Din, *Lubnān: al-Kayān wa al-Dawr*, 32.
197. Shams al-Din, *Lubnān al-Kayān wa al-Ma'na*, 97.

Where Islam Stands in Civil Government

INTRODUCTION

The previous chapters established that Shams al-Din pragmatically accepted the official sectarianism of Lebanon as it had been articulated in the Ṭāif Agreement, despite his theoretical refutation of a sectarian power-sharing structure and the practices of sectarian politics. Concurrently, he called upon Shi'i citizens around the Arab world to integrate themselves within their respective nation-states, and to abandon political arguments and goals that would lead to separation from their own societies' and politics and national political identities.

The consequences of these positions for Shams al-Din's thinking concerning the Lebanese nation-state and its governmental structure were manifold. This chapter explores Shams al-Din's attempts to find alternatives to a fully laicized nation-state through a political program aimed at diluting the pernicious effect of the sectarian structure and the divisive sectarian politics plaguing Lebanese institutions. At the same time, he tried to secure a positive role for religious institutions and a public voice for religious discourses. He explored the possibility of mitigating the impediments created by sectarianism, which he believed ran contrary to fair and equal citizenship. He propounded a form of government that would manage the sectarian tensions of the religiously diverse society of Lebanon, without atomizing religion and religious institutions. As a religious leader, he was indeed interested in preserving those institutions, which coalesced around religion, such as the Islamic Shi'i Supreme Council.

In order to achieve this goal, Shams al-Din had to appropriate concepts about public space, public religion, civil society, pluralism, and diversity. Most useful for his purposes was the concept of *al-dawla al-madaniyya*, or civil government, which included a conceptual division between political and civil society. He also had recourse to the concept of *mujtamaʿ ahlī*, which roughly translates as civil society, notwithstanding the cultural specificities arising from the Muslim historical context that the Arabic term connotes. The term *ahlī* is derived from the term *ahl* which means kin, family, or members of groups linked together through communal ties or a shared space.[1] It denotes a sub-state associational life distinct from the Western concept of the private sphere.[2] The term *mujtamaʿ ahlī* was used in the context of discussions about civil society in the Arab world and the amenability of Islam with democracy in the early 1990s.[3] Shams al-Din may have used the term *mujtamaʿ ahlī* instead of *mujtamaʿ madanī* (the usual term used to render the meaning of civil society) to avoid reference to voluntary associations and secular organizations or parties, which are distinguished from kin-based or sect-based associations. Perhaps, the concept of *mujtamaʿ ahlī* helped Shams al-Din to redefine and locate the role of religion in society, and to separate religion from sectarianism, suggesting that the two share fewer attributes than is commonly believed.

THE LEBANESE NATION-STATE: SECULAR, RELIGIOUS, AND SECTARIAN

In Shams al-Din's view, the current state in Lebanon is an amalgam of three models, being partly secular, partly religious, and partly sectarian.[4] The fusion of selected characteristics from these three models produces the peculiar political institutions and norms of modern Lebanon. The Lebanese state is secular because it does not endorse any state religion[5] and because it enacts positive civil laws that derive neither legitimacy nor substance from sacred Scriptures, inasmuch as they are promulgated and ratified by a popularly elected parliament.[6] The legislators, notwithstanding their confessional affiliations, act as secular figures exercising secular authority, without reference to Scriptures. Their religious affiliation does not, in principle, have any impact on the content of their legislation.[7] Lebanon is also a sectarian state, as is confirmed by Article 95 of the Constitution, which distributes public offices proportionally according

to the representation of confessional groups; the sects are treated as a form of political party rather than solely religious denominations (a feature that also enhances its secularist proclivity).[8] The sectarianism of the Lebanese state is further confirmed by the way it recognizes and organizes membership in its political community through belonging to official religious sects.[9] The general tendency to conflate sectarian affiliation with religion gives the false impression that the Lebanese state is predominantly religious.[10] Shams al-Din, for one, had no such illusion, but he did acknowledge that Lebanon possesses a specific religious feature, namely, the confessional personal status courts that are recognized by the state, but administered by religious authorities. These courts are governed by their corresponding religious personal status laws, rather than by civil laws.[11] This characteristic led Shams al-Din to call Lebanon *dawla ʿalmāniyya muʾmina* (a pious secular state).[12]

Realizing the problematic relationship between sectarianism and religion and the conflation of the two, Shams al-Din, toward the end of his career in the mid-1990s, began grappling with the idea that it was imperative to keep religion away from politics. Beset by a system of fused models where secular forms of government were mixed arbitrarily with sectarian and religious forms, the Lebanese state was creating unequal and uneven forms of citizen representation because of the institutional and political disparities that sectarianism creates. Religious identities seemed to fuel political conflict and to fragment political society along religious lines more than ever. Shams al-Din deplored the lack of a unified Lebanese national identity, complaining that when Lebanese Shiʿi citizens died in Israeli attacks in South Lebanon, the Patriarch of the Maronite Church and other non-Shiʿi religious leaders would express their condolences to him as if the deceased citizens were the nationals of a foreign country.[13]

This realization led him to conclude that the problem in Lebanon did not lie in the secular or theocratic nature of its government, but in the inability to construct a civil government, *al-dawla al-madaniyya*,[14] that would keep religion away from politics.[15] He warned that Lebanon could not tolerate a religious state, whether Islamic or Christian, considering the dangers entailed by such form of government.[16] In response to the proposals circulating for a complete secularization of the state, or alternatively for the foundation of a theocratic state in the form of an Islamic government, he instead proposed a new model that he called civil government, *al-dawla al-madaniyya*. The civil government that

he proposed does not draw its legitimacy from religion and thus can be described as a government that is not characterized by or connected to any religious tradition; its legitimacy is drawn from positive laws.[17] What Shams al-Din conceived of as civil government—a political system in which the separation of state and religion is strictly observed—could very well be described as a secular state, however, he refused to call it secular because his understanding of secularism consisted of the total rejection and erosion of religion in all spheres of both state and society,[18] as in the case of the laicized French state. This type of secularism was antithetical to his fundamental beliefs. As his understanding of secularism was based on the premise that it was totally laic, the only conception he could have of a secular state was one in which religion was not allowed to play any role in society and was bound to erode slowly into oblivion.[19] He took issue with the European models of secularism in Europe, especially the laicism of the French Revolution, which seems to be his only standard for understanding secularism.[20] In this example, the government removes religion and all religious Scriptures as a source of legislation, seeing popular sovereignty as the only possible source.[21] The state accordingly legislates in all areas including personal law matters such as marriage, divorce, inheritance, and child custody, following the dictates of civil law.[22] This form of secularism seemed very dangerous from his perspective as it did not leave any role for religion in society, not even in the realm of education and personal status affairs.[23] Shams al-Din wrote his book, "*Al-ʿAlmāniyya*" in 1980, rebutting secularism, ten years after his return from Iraq, where he had encountered strong leftist secular movements. The conditions he experienced in Lebanon were not much different. He also witnessed, during the 1970s, a strong secular movement in the form of the leftist parties and liberal organizations. This book in many ways expressed years of ideological struggle against growing popular secular leftist movements in both Iraq and Lebanon. The book was part of an orchestrated effort led by Shiʿi *ʿulama* to produce a coherent refutation of secularism and the threat it posed to both the role of "religion" in society, and the extent of the jurists' authority and influence in the public sphere.

Personal status questions were central for Shams al-Din and other *ʿulama* because they fell within the realm of family law in which parts of the *shariʿa* have been "preserved," albeit in the form of modern religious legal codes. He maintained that marriage, divorce, child custody, inheritance, etc., should not be regulated by secular civil laws by the state.

Rather, they should be regulated by religious laws through courts inde-pendent of the state.[24] This is the major reason why Shams al-Din and also the Sunni Mufti of Lebanon were opposed to secularization; they understood it as the application of secular civil laws in the area of fam-ily law, the main domain of personal status laws[25]; and this is where the utmost danger of secularism dwelled.

It has been suggested that Shams al-Din was in search of "religious secularism," seeking a model in which the state permits a particular but limited place for religion in its secularized apparatus. This model prevailed in the nineteenth-century United States, as construed by the Establishment Clause in the First Amendment of the United States Constitution. The Establishment Clause, constituting the basis of the argument for the separation of church and state, reads: "Congress shall make no law respecting an establishment of religion." This clause forbids the establishment of a national religion by the Congress, and the impo-sition of certain religious views or laws by the state; however, it does not remove religious views completely from public debate.[26]

The Establishment Clause, a cornerstone of American constitution-alism and political philosophy, is designed to invite to public debate as many denominational and religious perspectives as may exist in society. It claims to invite everyone to freely participate in public debate so as to create competing communal interests and thereby prevent one commu-nity from dominating the others. This seemed an adequate way to guar-antee religious freedom in civil society[27] and to prevent the hegemony of one party or one perspective over the rest.[28]

It is arguable that Shams al-Din's concern for safeguarding religion from state encroachment is not far from the social reality reflected in the Establishment Clause in the United States. However, he may have sub-scribed to a narrow interpretation of secularism, viewing it as a force that eradicates religion from the public sphere rather than an institution that separates religion from governmental affairs. He did not explore other forms of secularization around the world. Yet, for a jurist like him, secu-larization remains somewhat irreconcilable with the *shari'a* even if he was willing to oversee the management of one area only, namely, personal status laws such as marriage, divorce, child custody, and inheritance.

Jose Casanova expounded on the recent phenomenon of the rise of public religions in the 1980s, and their efflorescent involvement in civil society.[29] Referring to this phenomenon as the deprivatization of reli-gion, he defined it as the entrance of religion into "the undifferentiated

public sphere of civil society," this after renouncing its assigned place in the private realm, in order to contribute to the debate on public issues and redraw the boundaries between the private and the public.[30] Deprivatization of religion, Casanova noted, challenges the seculari-zation theory closely tied to liberal democracies. He explored the view that privatization of religion in the personal realm is a precondition of modernity[31]; ultimately challenging the view that religion transgresses the boundaries between the public and private spheres and thereby threatens individual liberties.[32] Casanova called for re-examining the role of religion in the public sphere, as he believed that the distinction made between the private and public realms in the liberal tradition is inadequate for understanding the phenomenon of the deprivatization of religion.[33]

Casanova's view offers us an alternative model for public Islam in modern society. We cannot surmise what Shams al-Din's reaction to such a model could have been but it is clear that he entertained the possibility of collaboration between the cleric as a man of religion and the modern nation-state in Lebanon. In other words, he will conform to the secular rubric of the state only if the latter safeguards the role of clerical leaders in shaping matters of religious worship and family law.

Understanding secularism to mean the privatization and erosion of religion, Shams al-Din rejected it, suggesting that the concept of civil government, *al-dawla al-madaniyya*, was more suitable to his overarch-ing concern of protecting personal status laws and public religious dis-courses. His concept of *al-dawla al-madaniyya* advocated a model of government that maintains separation between religion and government and yet allowed for some autonomy of religious-based family law from the state's civil legislation. His rejection of secularism was reinforced fur-ther by the argument of a number of secular Lebanese intellectuals who maintained that the most reasonable way to redress the defects of the sectarian system was the complete laicization of society. This would nat-urally include, among others, the codification of civil laws in areas of per-sonal status.

We discussed in the previous chapter the arguments of Nassif Nassar and Georges Corm on the benefits of secularizing personal status laws that were advanced in the midst of the Lebanese civil war. Their objec-tive was, ostensibly, to ensure equality of Lebanese citizens before the law and to reinforce national unity. Against such positions, Shams al-Din argued that confining personal status laws to religious jurisdiction did

not undermine state secularism, but rather provided a check on the arbitrary powers of the state and restricted its absolute authority, especially in personal and private matters of citizens.[34] He also argued that the majority of Lebanese citizens, both Muslim and Christian, identified themselves as religious subjects whose beliefs required that they abide by the laws of their religious traditions.[35] He described all supporters of secularism in its varied liberal and leftist versions as "atheists" who demand recourse to civil law in matters such as marriage, child custody, and inheritance.[36] He also believed that civil personal status laws were designed to facilitate religiously mixed marriages, which in his opinion complicated the religious identities of the offspring of these marriages, and should not therefore be facilitated or encouraged.[37] Needless to say, his understanding of the nature and manifestation of secularism and atheism was basic. He was adamant about opposing civil marriage and its legalization in Lebanon until the end of his life in 2001. In as much as legal secularization entailed the abandonment of *shari'a*-derived family law, the removal of clerical authority from the state's legislative, judicial, and executive processes, contradicted the worldview, function, and social interests of a jurist like Shams al-Din. Secularism threatened the last bastion in society that remained under the jurisdiction of jurists.

What Civil Government for Lebanon?

To introduce civil government to Lebanon and institute a civil state instead of the sectarian-secular one currently in place, Shams al-Din took the Ṭā'if Agreement[38] as a starting point toward building more transparent, competent, and autonomous state institutions through the introduction of administrative and governmental reforms.[39] Such reforms, he believed, would eventually give rise to civil government in Lebanon. In a civil government system, power would be equally divided between Christians and Muslims but in a way that would keep "religion" from having any direct interference in state affairs.[40] Furthermore, governmental institutions, such as the presidency, parliament, the judiciary, and others, would have to be nonreligious institutions and the religion of the staff operating them would be of total irrelevance to the tasks they would be performing.[41]

In sum, the main characteristic of Shams al-Din's conception of *al-dawla al-madaniyya* was the "exclusion of religion" from the realm of government. In view of the civil debate on the separation of government

and religion, what does this discourse entail and how does it shape the worldview of a Muslim jurist? And how does such a position on religion cohere with Shams al-Din's earlier propositions on the thesis of *wilāyat al-umma* as a model for modern Islamic governance?

Shams al-Din stated that a state without religion does not mean citizens without religion.[42] In his conception, religion resides among the people (*al-nās*), or in society. He also used the terms the "people" and the "*umma*" almost interchangeably, saying that it is the people or the *umma* that protects and preserves religion, not the state. The state ought to protect the choices of people.[43] The state then must ensure an environment of religious freedom and refrain from encroaching on religious institutions or trying to control them.

To be sure, despite Shams al-Din's declarations against a notion of "total secularism" expressed in the mid-1980s, he clearly conformed and accepted certain accommodations between Islam and a secular context. This development occurred in the 1990s at a time when the dominance of Khomeini's Islamist thought in Shi'i milieus threatened, according to Shams al-Din, the integrity of the nationalist Lebanese identity of the Shi'a. By the mid-1990s, he had been persuaded that Islam could thrive in a nonreligious state or a secular context, as he called it.[44] He stressed the compatibility between civil government and a certain form of public Islam, which must be distinguished from political Islam. He argued that such an arrangement rested on dividing Islamic law into two component parts: *fiqh 'āmm*, or public law, and *fiqh al-afrād*, which is the legal corpus that addresses individual acts of worship and piety. *Fiqh al-afrād*, as acts of worship, can permeate the civil realm of society independently of governmental intervention and the rules of public administration.[45] A secular state or even a laic one can simultaneously uphold or include a great deal of societal piety and religiousness, as was the case of the peoples who inhabited the Muslim former republics of the Soviet Union.[46] *Fiqh 'āmm* on the other hand is the branch of *fiqh* related to government and its functions and addresses the sources of legitimacy for the governmental authority and the administration in the areas of defense, economy, social welfare, and foreign affairs.[47] *Fiqh al-afrād* takes primacy however because it carries in essence the spirit of the *shari'a* and was developed in Madina under Prophet Muhammad. Indeed, when the Prophet was ruling Madina, he did not specify the contours, functions, and institutions of government.[48] The succeeding temporal Islamic dynasties implemented *fiqh 'āmm* in the form of rules that organized the

judiciary, the army, and taxation, but *fiqh al-afrād* was not observed. It was the *umma* autonomously and outside the realm of these governments that carried out and observed these important requirements of *fiqh al-afrād*. *Fiqh ʿāmm* is thus subordinate in relation to *fiqh al-afrād* because it is historically specific, and lacking in details,[49] having been formulated in a context quite different from the contemporary one.[50] Moreover, it suffers from many lacunas in terms of the structure of government, posing a major challenge to anyone relying on it to found a modern Islamic state.[51]

The rules of *fiqh al-afrād* are by contrast *tawqīfī* (immutable and sacrosanct). They are bound by the sacred Scriptures and, being text-bound, they are not amenable to *ijtihād*. The rules of *fiqh ʿāmm*, on the other hand, are not *tawqīfī* and can be subject to *ijtihād*. Shams al-Din speculated that ninety percent of jurisprudence is public (*ʿāmm*), hence not related to individual acts of worship, making *fiqh ʿāmm* equivalent to positive law so long as the philosophical background of *fiqh ʿāmm* remains anchored in the *shariʿa*.[52] Therefore, Shams al-Din concluded that even though Islam theoretically possesses the concepts adequate to found a government, it could always forego this project and still thrive and flourish as a religion in a secular context.[53] In sum, he believed that as long as *fiqh al-afrād* is completely observed and upheld by the *umma*, the major requirement of the *shariʿa* has been observed.

Given the popularity of an "Islamic State" among young Shiʿi Muslims following the 1979 Islamic Revolution in Iran, Shams al-Din felt compelled to examine the notion and reality of an Islamic government. He advanced two interconnected readings of such a government and justified them on the basis of juridical arguments and proofs. On one occasion, he declared that there are no explicit injunctions in the *shariʿa* that governments must be Islamic in nature. Elsewhere, he wrote that the provisions of the *shariʿa* require the mandatory implementation of certain governmental and administrative functions, such as the establishment of a judicial authority and its smooth operation, the implementation of *ḥudūd*, the collection of taxes and the just dispensation of public funds. All of the above functions of the *shariʿa* are natural institutions of government and an integral part of the management of public life and political society. The administrative functions commanded by the *shariʿa*, therefore, are organic functions of any government, whether Islamic or not. The conclusion to be drawn from these two positions is that it is mandatory, according to the *shariʿa*, to ensure the proper functions

of government and not to neglect these under any circumstances. However, it is not mandatory to form an Islamic state where these functions are implemented. Any state with an efficient institutional apparatus can fulfill the necessary governmental functions.

Elsewhere, Shams al-Din argued that the question of government does not constitute an independent topic in the *shari'a*, and that no branch of Islamic law is specialized in legislation on government.[54] Rules and injunctions on this topic are embedded in different parts of the *shari'a*, to the extent that they permeate all of its rules and principles.[55] This point does not contradict his earlier statement that the *shari'a* ordained the observation of certain administrative and governmental functions without the necessity of instituting an Islamic government. Nor does it override his explanation of the temporal and historically specific nature of *fiqh 'āmm*. Actually, it corroborates his argument that the government is not central to the observation of Islamic law, and that the *shari'a* can be fully observed and implemented without the establishment of an Islamic government. Any government that meets the requirements of justice is acceptable, in the sense that Muslims are allowed to cooperate with it, even if it lacks the legitimacy of the Imam's government. Moreover, Shams al-Din had already stated that it is *fiqh al-afrād* that embodies the spirit of the *shari'a*. This view allowed him to develop a discourse on the necessity of civil government in Lebanon while preserving his role and interests as a Muslim jurist and public political leader in Lebanon.

As he focused on the concept of civil government in the post-Ṭā'if environment of the mid-1990s, Shams al-Din concomitantly argued that the state was in any case a temporal project in the *shari'a*.[56] For under civil government, there is a differentiation between the governmental realm and the religious realm, preventing the two from overlapping[57] and that the religious realm should fall within the bounds of the *umma*. The *umma*, Shams al-Din argued, is the paramount institution of Islam, superseding in significance and centrality the government, which is a secular project of non-pietistic dimensions. The *umma* is the repository of religion and its sacred rites, customs, and traditions, sustaining and protecting the religious legacy. Drawing on historical illustrations from Islamic societies, Shams al-Din pointed to the conflicting relationship between the *umma* and the temporal governments of Islamic dynasties[58] and concluded that the two entities have historically been separate from each other, governed by contentious relations. Governments

have traditionally attempted to monopolize the control and official representation of religion. The *umma*, on the other hand, enabled by jurists who represent its interests, has resisted government encroachments, preventing the state from taking hold of the religious realm. Having established that in the past the religious realm has been shielded and protected from temporal governments by the *umma*, Shams al-Din argued that the separation of the governmental and religious realms in modern times is commendable. He argued that this separation allows religion to flourish socially without the interference of the state. Needless to say, the modern separation rests in fact on the state's ability to relocate religion in a privatized space. But Shams al-Din may be referring to an ideal situation where the public realm of religion remains autonomous from the state. The state, according to him, is important only in reference to the functions that it fulfills, especially the preservation of order. It is a temporal project, which means that it is not a sacred function of the *shari'a*.[59]

For Shams al-Din, the distinction between the religious and governmental realms does not mean that religion will not have a role in the public sphere or will not try to influence the policies of the state.[60] Even fully secular states, he argued, cannot avoid the involvement of religious movements in the affairs of state and society. A civil state can tolerate and accommodate religious movements or religious leaders that are involved in public affairs.[61] Even in staunchly secular states, he argued, religious leaders still play a significant role in both state and society within the institutional frame of a civil government.[62] He believed that religious leaders should have an opinion about important national issues that are directly pertinent to people's concerns. He did not believe that such involvement contradicted his thesis advocating the necessity of civil government.[63] That said, religious leaders should not be involved in the administrative processes and mechanisms of the state, especially in the details of governance, nor should they be mediating on behalf of members of their sect to press for the allocation of more resources or public positions for them.[64]

In retrospect, Sham al-Din wanted an expansion in the role of religion and spiritual-legal guidance through the *shari'a* in the public sphere but he rejected political Islam and notions of Islamic governance aimed at replacing the modern national rubric of the state. Nonetheless, religious involvement in the public sphere has discursive connections with the state, political society, and civil society.[65]

In the mid-1990s, Shams al-Din came to argue that religion brought its own conceptions of justice, public interest, morality, and the common good into the deliberations in the public sphere around themes of domestic economy, international relations, and trade. In the course of his juristic career, Shams al-Din had indeed supported many causes espoused by disadvantaged Shiʿa and voiced critical views on international and public affairs, the global order and relations between Western powers and developing nations. He tried to articulate an Islamic view of the global world order, denouncing Western economic and cultural hegemony and the subordination of developing nations by Western governments.[66] He also argued that his role as jurist was to infer and explicate legal rulings that defined how Muslims should deal with the new global order to protect their interests against Western encroachment.[67] For example, he considered the UN Security Council a very important step toward the maintenance of international peace and human rights. However, it had failed to ensure international justice because its internal veto system, which needed fundamental reform, was monopolized by a few Western powers.[68] He noted that he accepted the terms "political modernity" and "democracy," but took issue with the *realpolitik* approach of Western powers which fail to apply their democratic values to the rest of the world, imposing on them exploitive economic policies.[69] He also rebuked global economic expansion that depleted natural resources and abused the environment in search of economic profit.[70] He condemned the universal hegemony of the values of materialism, extravagant consumerism, and extreme individualism. For instance, he was horrified by the consumerist culture that extolled opulence in the form of five-star hotels and overpriced gadgets and cosmetics.[71] In this respect, Sham al-Din felt that raising public awareness and stressing the ethical and moral values of Islam would fulfill the role of religion in the public sphere.

Within the framework of distinguishing between the governmental and religious realms, Shams al-Din explored the concepts of *mujtamaʿ siyāsī* (political society) and *mujtamaʿ ahlī*, which is roughly translated as civil society. He argued that society as a whole is made up of several spheres, some of which are public and deal with governmental issues, hence falling within the orbit of political society, while others are totally autonomous of government intervention and lie within the bounds of civil society. At times, he used "political society" and the "state" interchangeably, yet political society in his usage seemed to denote public

institutions, civil laws, and the bureaucratic structure of the state. It does not exhibit or sustain religious diversity nor does it have a religious identity because it runs the risk of undermining the unity of the nation, leading to its fragmentation. The institutions of the state such as the presidency, the parliament, the government bureaucracy, the administrative personnel, and the judiciary are all nonreligious institutions and should not therefore manifest any religious identity. *Ahlī* or civil society, on the other hand, is where religion dwells. It sustains and expresses the religious diversity that is constituted in the configuration of confessional groups in Lebanon.[72] Civil society is the depository of religion and contains the cultural repertoire and a range of human activities.[73] Civil society is not concerned with the organization, arrangement, or institutional structure of government. As such, *ahlī* society, in Shams al-Din's understanding, denoted a form of associational life that is conducted independently from the realm of the state and outside the scope of its authority. It fulfills many social and communitarian functions and appears to have been integral to Islamic societies of the pre-modern period through an array of traditions and relations shaped by merchant guilds and artisanal crafters in cities. They also included tribal and family associations in rural area, and Sufi orders, providing social support networks, and various communal services.[74]

Overall, Shams al-Din's position consisted of three points: The state should not have a religious identity. The state should not interfere in the *ahlī* society, nor should it legislate in matters of personal status (which normally fall under the jurisdiction of religious law), and religion should not interfere directly in the governmental or administrative affairs of the state, but concentrate its efforts within the *ahlī* society. Shams al-Din wanted religion to be vibrant in civil society by informing the moral views of society and providing its ethical foundations; all within a governmental structure that allowed a vibrant and assertive public role for religion and refrained from imposing its civil laws on personal status matters. He understood very well that the vibrancy that he conceived for religion in society could not thrive in authoritarian states. This could only be achieved in a state where civil society was strong and where personal status laws were left to the spiritual and clerical guides of society, namely, the jurists.

The question arising here is, to what extent is Shams al-Din's view of clear-cut boundaries between the two realms realistic? Is his recourse to the concepts of civil government and *ahlī* society, and his location of

religion in the latter sphere, successful? He seems to have disregarded the intermeshing of the governmental with the societal in the matter of religious courts adjudicating personal status law. The latter blurs the differences between the religious and governmental realms, making them encroach on each other's spheres. Therefore, Shams al-Din's advocacy for a civil government in which politics and the religious realm are separated does not resolve the central problems he set out to address with respect to the place of religion in modern Islamic society, its relations to the state, and most importantly the relationship of the *shari'a*, or what remained of it (personal status law), to the state.

TA'ADDUDIYYA (PLURALISM) VERSUS TANAWWU' (DIVERSITY)

Shams al-Din devoted great attention to the challenges confronting citizenship, equality, and democracy in Lebanon and the problems of sectarianism and the national identity of the country. He responded by differentiating between two concepts: *ta'addudiyya* (pluralism) and *tanawwu'* (diversity). His position was that the thesis of pluralism, embedded in the Lebanese nationalist and right-wing narratives, is not an accurate diagnosis of the nature of Lebanese society. The social mosaic of Lebanon consists of religious diversity (*tanawwu'*) but cannot be imagined to constitute pluralism in all its ethnic and linguistic dimensions, such as one finds in other countries.[75] For Lebanon, the thesis of pluralism (*ta'addudiyya*) has led to many misconceptions and misrepresentations, providing the ideological background justifying the perpetuation of Christian political privileges, and, in times of crisis, facilitating the rise of projects of partition and federal arrangements.[76] The discourse on pluralism undermined, in his view, national solidarity, which was essential to binding Lebanese together and to aiding the process of nation-building. On the other hand, his political program for Lebanon revolved around the need for the state to be unified politically,[77] which translates into a requirement for the political elite and the governmental institutions to articulate coherent national policies and forego projects of sectarian hegemony or territorial partition. Toward this end, and in order to neutralize the detrimental political repercussions of the pluralism discourse in Lebanon, he conceptually differentiated between pluralism (*ta'addudiyya*) and diversity (*tanawwu'*).

Shams al-Din was mainly concerned with religious rather than political diversity. He thus focused on the two largest religious groups,

Christians and Muslims, and the internal diversity within each camp. Lebanon is not made up of several minorities; it is made up of two large religious groups that make up one unified political society.[78] Moreover, the diversity, in its religious dimension, exists only at the level of the *ahlī* society.[79] As Shams al-Din argued, in the administrative affairs of the state, the religious affiliation of a civil servant should not inform his governmental functions. The diversity of the Lebanese people is characterized by several factors. First, the population that inhabited Lebanon historically was multiethnic in nature, the population has since been assimilated under an overarching Arab identity such that ethnic markers have dissipated and no longer inform the identity of the members of religious sects.[80] Second, the members of religious sects are geographically scattered across all regions of Lebanon, forming inter-religious cohabitation at a national level.[81] Third, within each religious sect, there is a great deal of political and social diversity, despite the common religious affiliations, which is mostly expressed in terms of pronounced internal ideological differences.[82] Shams al-Din's observation of the Lebanese population underscores a reality that is obscured by the official Lebanese sectarian system. This system imposed formal identity-defining divisions on the Lebanese population by assigning a sectarian affiliation to each citizen, while obfuscating the reality of these divisions. In fact, far from being organic forms of local social organization, these divisions have been constructed by political authority to manage the affairs of the population. Thus, Shams al-Din's observations problematize the divisions imposed by the sectarian system, shedding light on how they blur the more natural diversity of the population of Lebanon.

In assessing the de facto diversity of the population in Lebanon, Shams al-Din concluded that none of the religious sects can claim to possess ethnic, ideological, or territorial homogeneity.[83] And based on this heterogeneous reality, the thesis of pluralism (*ta'addudiyya*) is proven to be untenable. The threat of treating religious diversity as pluralism, in the post-1943 context, is the potential fragmentation of political society and even the fueling of political divisions. Such a portrayal of diversity must be absolutely avoided as it can lead to new federations or, worse, galvanize movements for partition and, ultimately, the breakup of the state.[84] The thesis of pluralism also legitimizes the sectarian bases of the Lebanese system, and buttresses the hegemony of one sect over others. In short, the sectarian system, officially sanctioned by the nationalist ideology of pluralism and the premise that Lebanon is a haven

for minorities, has led to the institution of Maronite hegemony and thus the alienation and marginalization of other sects.

Shams al-Din viewed pluralism as a discourse sustaining discrimination and inequalities among citizens, and threatening to cause separation and federalism whenever sectarian privileges were destabilized. His preoccupation with the political unity of the nation and the necessity to preserve it from disintegration explains the negative perception he maintained toward this concept. I do not think Shams al-Din was opposed to the concept of pluralism so much as he was opposed to any concept that he suspected would facilitate the goals of a separatist agenda. It is plausible to argue then that Shams al-Din did not explore all features and realities tied to pluralism, having confined himself to looking mainly at one aspect of it, namely, its threats to the integrity of the state and the nation. Indeed, he did not seem to be acquainted with the relevance of pluralism to debates in civil society.

CONCLUSION

It is clear that Shams al-Din advanced many theses and arguments about governance and the modern state throughout the various stages of his career. Among these were: Islamic government according to the thesis of *wilāyat al-umma*, the necessity of government or specifically an administrative authority according to the *shariʿa* at all times, the temporality of government in the *shariʿa*, and the preeminence of the *umma*, rather than government, in the *shariʿa*. And finally, in regard to Lebanon, Shams al-Din advocated the thesis of "Consultative Majority-Based Democracy" in 1984 only to withdraw it in 1989 in favor of the Ṭā'if Agreement. In the aftermath of his acceptance of this agreement, he propounded the concept of *al-dawla al-madaniyya* based on the separation between the religious and governmental realms.

While it was possible to construct a clear general picture of Shams al-Din's views on religion, governance, and the modern state through multiple works he authored between the 1970s and 1990s, it is also difficult to find one coherent project properly fitted in a set of consistent ideas in the heterogeneous legal and political literature he produced. It is vital to understand that Shams al-Din's political thought was shaped in relationship to two major ideological currents that developed over the course of his career. The first current was the Islamist trend he supported in an earlier phase of his life in Iraq in the 1960s and upon his return

to Lebanon in the early 1970s. In this phase, he expressed commitment to a form of political Islam that was mobilized to counter secular leftist propositions. From this perspective, Islam was seen as an all-encompassing and overarching model that provided all the necessary institutions to build a state-society system, or an integrated form of state-society. There was no need for Islam to accommodate any Western ideology. Actually, in this period he disregarded concepts deriving from the Enlightenment's universalistic values about secularism, separation of state and religion, popular sovereignty, and civil government.

The second current, slowly and gradually taking shape in the mid-1970s, was a propensity for civil forms of governance. Within the institutional framework of the Islamic Shi'i Supreme Council in Lebanon and through his relationship with Imam Musa al-Sadr until 1978, his views started to change. By the end of the civil war and the signing of the Ṭāif Agreement, Shams al-Din expressed his acceptance of sectarianism, power-sharing politics, and religious diversity in Lebanon under the modern rubric of the state. Together, with Imam Musa al-Sadr, he stood to preserve the status quo of the state against leftist Shi'i programs of secularization. In the process, he stressed the necessity of compromising with other sects and communities to preserve the fragile regime of Lebanon. When Hezbollah's Islamists and Sayyid Muhammad Husayn Fadlallah dominated Shi'i milieus during the 1990s, Shams al-Din became more protective of the nation-state. It is in this context that his leanings for civil Islam appeared; this was an Islam capable of participating in democratic mechanisms of elections and an Islam that accommodated public diversity and political assertion of non-Muslim groups, namely the Christians. This accommodationist approach was accompanied, in the latest phase of his career, by a theoretical discourse on civil public Islam based on the differentiation between the governmental and religious realms, within the framework of *al-dawla al-madaniyya*.

Throughout his career in Lebanon, he moved from political Islam to a publicly active civil Islam shaping institutions of popular representation, civil society, citizenship rights, diversity, and equality. He argued, during the 1990s, that an Islamic government was not necessarily the best solution for Muslim societies, nor was it the best framework for religion to flourish. Religion flourishes best in the civil realm of society.

On this basis, Shams al-Din argued for the integration of Shi'a into the state structure, urging them to let go of separatist agendas or agendas that separated them politically from the rest of the population.

His discourse on integration was the result of a combination of factors. In the 1990s, he cultivated favorable relations with the Lebanese authorities. This cooperation with the Lebanese state provided him with a considerable political role in the public sphere and protected the Islamic Shi'i Supreme Council, which he headed, from the challenges of a rival Islamist movement, Hezbollah. Moreover, his later theoretical conception of the state as a temporal and profane project—not mandated by *fiqh al-afrād* or ordained by immutable and sacrosanct (*tawqīfī*) rules— allowed him to pragmatically accept the state and adopt a cooperative approach toward it. This was the approach he took to the Lebanese state, despite the serious theoretical reservations he had about its sectarian structure. He still believed that it was possible to cooperate with it in order to ensure the security and well-being of its Muslim Shi'i citizens. He stretched this argument to apply to all states with Shi'i citizens, except for the Iraqi state under Saddam Hussein due to its brutality and tyranny against its citizens.

We observe from the dominant themes of his writings, speeches, and interviews in the 1990s that his enthusiasm for his thesis of Islamic government, *wilāyat al-umma*, had abated by then as he shifted his interests to civil forms of governance. He did not state that he renounced the thesis of *wilāyat al-umma*; however, he rarely mentioned it in his writings and speeches in the post-Ṭā'if period. This leaves the impression that his attachment to this thesis was primarily intellectual—an exercise in theoretical juristic debates. It is obvious from his later years that *wilāyat al-umma* did not inform his views on his own religious leadership and active public role as a jurist. This shift in his thought gave space for a civil form of Islam where religion is maintained by society or the *umma* rather than by government. The latter, he argued, is irrelevant to the survival, growth, and rootedness of Islam in the social matrix. Civil Islam consisted of a religious discourse that is both vital and vocal in the public arena participating in public debates such as those over civil marriage or the necessity of keeping personal status courts under the jurisdiction of *ʿulama*. He insisted that many of the problems plaguing the country could be resolved within the framework of a civil government. This position was reinforced in connection with the rival influence of Islamist movements, namely Hezbollah, and their swift rise in popularity which contested his role at the head of the Islamic Shi'i Supreme Council, as well as his ability to speak in the name of the Lebanese Shi'a. The concept of civil government was also useful for diverting the focus

of Islamist militants away from direct control of the state and toward social activism in society. It also helped in assuaging the fears of Christians and in dissuading them from potential secession.

To be sure, Shams al-Din had to formulate his thought in connection to diverse audiences inside and outside of Lebanon. One of these was the West, which was spreading potent views about privatizing religion and suppressing it under the state's authority. Another was the leftist secularists. Shams al-Din treated the secular leftist scholars and political activists as one monolithic group that undermined Islamic "tradition" and attacked all forms of religious expression. He considered the views of this "group" threatening to Islam. Then, there were also the militant Islamists with their vague ideas on government, failed political projects, and unilinear conception of Islamic tradition, Islamic history, and the *shari'a*. Among the militant Islamists, Hezbollah particularly contested his leadership of the Shi'i Council and disagreed with him on ideological points.

Shams al-Din needed to develop a coherent political project that competed with various forms of Islamism and secularism. That is why his conception of the state turned out to be so multilayered and multifaceted but at times contradictory. For example, his thesis of *wilāyat al-umma*, formulated mostly in response to Islamists advocating the establishment of an Islamic state, proposed political institutions that met the requirements of the *shari'a* and formulated laws in accordance with the provisions of the *shari'a*. It also entailed the development of the concept of *shūrā* into an Islamic institution that echoed democratic parliaments. He supported modern political functions, such as legislation, separation of powers, and popular representation. *Wilāyat al-umma* was also meant to refute Khomeini's thesis of *wilāyat al-faqīh*. Unlike Khomeini, he focused on the necessity of separating powers in government, separating the religious and secular domains, and devising institutional mechanisms that restrict the absolute powers of government.

Weaving the discourses of Shams al-Din into one project, I have argued in this work that he took a pragmatic approach to the state, as evident in his writings as well as his public practices *vis-à-vis* the Lebanese state. He appeared in the eyes of many of his antagonists as a pacifist jurist, co-opted by the state, calling for uncritical subordination to its authorities. I argue here that despite Shams al-Din's tendency to protect his personal interests as a jurist, presenting him as a co-opted politician does not do justice to the complex way in which he engaged

with the state and with modern ideas of governance. He tried to adopt a compromising and accommodationist attitude toward governmental structures, despite his views that they were dysfunctional in the Lebanese context. He did so in order to preserve civil peace in Lebanon, maintain the general order, and prevent secession and partition. His approval of the Ṭā'if Agreement, despite the latter's reinforcement of sectarianism, appeared to be pragmatic. It was motivated by his concern for civil peace in Lebanon. Ṭā'if was not a satisfactory agreement on its own, leaving many areas unresolved, vague, and subject to dispute by many Lebanese factions. However, in his view, it provided the only grounds on which the major Lebanese disputants could meet and protect the Lebanese state from complete disintegration.

In the course of developing his idea of civil government, he was at the same time constructing an idea of civil Islam. Of course, he never used the latter term, believing that Islam was one unitary tradition that cannot be conceived of as producing several traditions—civil, uncivil, or militant. However, in his later elaborations on religion's place within *mujtama'* *ahlī*, and the importance of nourishing its religious institutions and discourses he contributed to the formulation of what is seen in the current academic literature as a civil form of Islam. It is in this form of civil Islam that Shams al-Din contributed to the debate on Islam's compatibility with democracy and civil forms of governance. His legacy, which his opponents consider a failure, lay in his ability to shift from a commitment to political Islam, to a civil public Islam in society. As such, *fiqh* *'āmm* was open to change through *ijtihād* and was not central to the *shari'a*, whose requirements are fulfilled through *fiqh al-afrād*. It is then possible to implement governmental and administrative functions by any government that meets the requirements of justice, and not necessarily only an Islamic one.

NOTES

1. Browers, *Democracy and Civil Society in Arab Political Thought: Transcultural Possibilities*, 100.
2. Ibid., 101.
3. A conference entitled "Civil Society in the Arab World and Its Role in the Realization of Democracy," organized by the Center for Arab Unity Studies, was held in Beirut in 1992, during which the prospects of civil society in the contemporary Arab world as well as historical autonomous

forms of associational life in Islamic societies were discussed. This confer-
ence was discussed by Michaelle Browers in *Democracy and Civil Society
in Arab Political Thought*, 97.

4. Shams al-Din, *Lubnān: al-Kayān wa al-Dawr*, 104.

5. Ibid., 108.

6. Ibid., 105–106.

7. *Al-ʿAlmāniyya: Taḥlīl wa Naqd Li al-ʿAlmāniyya Muḥtawan wa Tārīkhan*
(Beirut: Dar al-Tawjih al-Islami, 1980), 187.

8. Ibid., 194.

9. Ibid., 187.

10. *Lubnān: al-Kayān wa al-Dawr*, 46–47.

11. *Al-ʿAlmāniyya: Taḥlīl wa Naqd Li al-ʿAlmāniyya Muḥtawan wa Tārīkhan*,
188.

12. Ibid., 186.

13. *Lubnān: al-Kayān wa al-Dawr*, 109.

14. *Dawla madaniyya* is a slogan that has been widely used in the Arab rev-
olutions of 2011 in diverse places such as Egypt, Syria, and Yemen. It
denotes a non-military government as well as a nonreligious government
as shown in the slogan: "*la islamiyya la ʿaskariyya, madaniyya, madani-
yya*!" (Neither Islamic, nor militaristic but civil [government]).

15. Shams al-Din, *Lubnān al-Kayān wa al-Maʿna*, 98.

16. Ibid., 95.

17. *Lubnān: al-Kayān wa al-Dawr*, 105.

18. Ibid., 32.

19. *Lubnān al-Kayān wa al-Maʿna*, 94.

20. *Lubnān: al-Kayān wa al-Dawr*, 32.

21. *Al-ʿAlmāniyya: Taḥlīl wa Naqd Li al-ʿAlmāniyya Muḥtawan wa Tārīkhan*,
130.

22. Ibid., 129.

23. Ibid., 72–85.

24. *Lubnān al-Kayān wa al-Maʿna*, 99.

25. David Grafton, "The 'Religious Secularism' of Lebanon and the United
States: A Discussion Between Lebanon's Secular Debate and Madison's
'Principles of Pluralism'," *The American Journal of Islamic Social Sciences*
19, no. 3: 42.

26. Ibid., 50.

27. Ibid., 52.

28. Ibid., 51.

29. Casanova, *Public Religions in the Modern World*, 20.

30. Ibid., 66.

31. Ibid., 211.

32. Ibid., 220.

33. Ibid., 211.
34. Shams al-Din, *Al-ʿAlmāniyya: Taḥlīl wa Naqd Li al-ʿAlmāniyya Muḥtawan wa Tārīkhan*, 205–206.
35. Ibid., 209.
36. Ibid.
37. Ibid., 215.
38. The Ṭāʾif Agreement promulgated in 1989 ended the civil war and aimed at restoring the Lebanese state and reconstructing the country after the war. It stipulated an equal distribution of parliamentary seats and government positions between Muslim and Christian sects.
39. Shams al-Din, *Lubnān: al-Kayān wa al-Dawr*, 114.
40. Ibid., 115.
41. Ibid., 96.
42. *Lubnān al-Kayān wa al-Maʿna*, 96.
43. *Lubnān: al-Kayān wa al-Dawr*, 32.
44. "Ḥiwār Ḥawl al-Shūrā wa al-Dīmuqrāṭiyya," *Minbar al-Hiwar* 34 (1994): 11.
45. Ibid.
46. Ibid.
47. Ibid., 12.
48. *Fī al-Ijtimāʾ al-Siyāsī al-Islāmī*, 9.
49. "Ḥiwār Ḥawl al-Shūrā wa al-Dīmuqrāṭiyya," 13.
50. Ibid., 15.
51. Ibid., 14.
52. Ibid., 13.
53. Ibid., 14.
54. *Fī al-Ijtimāʾ al-Siyāsī al-Islāmī*, 20.
55. "Ḥiwār Ḥawl al-Shūrā wa al-Dīmuqrāṭiyya," 17.
56. *Al-Umma, wa al-Dawla, wa al-Ḥaraka al-Islāmiyya*, 22.
57. *Lubnān: al-Kayān wa al-Dawr*, 45.
58. *Al-Umma, wa al-Dawla, wa al-Ḥaraka al-Islāmiyya*, 28.
59. Ibid., 21.
60. *Lubnān: al-Kayān wa al-Dawr*, 45.
61. Ibid.
62. Ibid., 46.
63. *Lubnān al-Kayān wa al-Maʿna*, 33.
64. Ibid.
65. Casanova, *Public Religions in the Modern World*, 61.
66. Muhammad Mahdi Shams al-Din, *Al-Islām wa al-Gharb* (Beirut: Imam M.M. Shamsuddin Foundation for Dialogue and Marafie Foundation, 2004), 11.
67. Ibid.

68. Ibid., 15.
69. Ibid., 74.
70. Ibid., 120.
71. Ibid., 28.
72. *Lubnān: al-Kayān wa al-Dawr*, 16.
73. *Lubnān al-Kayān wa al-Ma'na*, 96.
74. Wajih Kawtharani, *Mashrū' Al-Nuhūḍ al-'Arabī: Azmat al-Intiqāl Min al-Ijtimā' al-Sulṭānī ilā al-Ijtimā' al-Waṭanī* (Beirut: Dar al-Tali'a, 1995), 86–87.
75. Shams al-Din, *Al-Malāmiḥ al-'Āmma al-Yawm Li Lubnān Fī al-Niẓām al-Ṭā'ifī al-Ḥālī wa Niẓām al-Dīmuqrātiyya al-'Adadiyya al-Qā'ima 'Alā Mabda' al-Shūrā*, 12.
76. Ibid.
77. *Lubnān: al-Kayān wa al-Dawr*, 49.
78. Ibid., 59.
79. Ibid., 61.
80. *Al-Malāmiḥ al-'Āmma al-Yawm Li Lubnān Fī al-Niẓām al-Ṭā'ifī al-Ḥālī wa Niẓām al-Dīmuqrātiyya al-'Adadiyya al-Qā'ima 'Alā Mabda' al-Shūrā*, 10.
81. Ibid., 11.
82. Ibid., 9.
83. Ibid., 11.
84. *Lubnān: al-Kayān wa al-Dawr*, 24.

CHAPTER 8

Conclusion

This work analyzed the political thought of Muhammad Mahdi Shams al-Din mainly on the issue of government and governmental authority. It particularly examined his approach in conceptualizing and reformulating the notion of government in two contexts: first within the legal Islamic tradition, and later within the possibilities and constraints of a multi-confessional nation-state that theoretically was capable of accommodating what he deemed were the needs of an Islamic society. A fundamental concern in Shams al-Din's thought, in the later phase of his career was to find ways for Islam to coexist and thrive within multi-confessional nation-states: He was preoccupied with forms of government that would be suitable for modern Muslim-majority societies living under the secular jurisdiction of modern nation-states, with a particular attention to Shi'i populations living as a minority or within a multi-confessional society. His intellectual concerns intersected with his political career, which culminated in holding a high official religious position, and thus brought him in contact and collaboration with state officials, and had him involved in policy-making and legislation. In that sense, his thought was a by-product of intellectual engagement steeped in the realities and constrains of political responsibilities that come with public office.

This study clarified how Shams al-Din's thought on government was reexamined, impacted, shaped, and reformulated by the multilayered political context of Lebanon, its civil war, and the changing sectarian system that underwent major revisions under the Ṭā'if Agreement

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which ended the civil war in 1989. This political context was complicated further by Israeli attacks against South Lebanon during the 1970s and 1980s, and the enormous repercussions of the Islamic Revolution of Iran of 1979 on Shi'i populations in the Arab world. The interplay of these influential political factors contributed significantly to the formulation of Shi'i modern thought in Lebanon and across the Arab and Persian Shi'i world. Therefore, the study particularly addressed how this complex political context shaped his thought over four decades, all the way from Najaf in Iraq to Lebanon, and therein his ensuing political career, first in collaboration with Musa al-Sadr, and then on his own at the head of the Islamic Shi'i Supreme Council. This journey led him to revisit his treatise on Islamic government, revising it, and adapting it to the political developments and the social transformations of the Shi'a of Lebanon. Shams al-Din during the 1980s was still hesitant between nationalist allegiance to Lebanon and Islamic-regional allegiances in the wake of the Israeli invasion of South Lebanon and the rise of military resistance against it. This earlier position by Shams al-Din was to evolve at the beginning of 1990s. It would be totally revised in the wake of the Ṭā'if Agreement, which reshuffled the power distribution in Lebanon and inaugurated a new political era. Arguably, analyzing the evolution of Shams al-Din's thought sheds light on the evolution of Shi'i political thought in the second half of the twentieth century.

Shams al-Din deployed intellectual and political resourcefulness in his understanding and interpretation of Shi'i Imamate classical traditions, a fact that enabled him to have a great leeway in formulating Shi'i Islamic law in many areas, but specifically in public law in regard to governmental authority. Part of doing so was to take recourse to fundamental arguments in classical Shi'i law formulated during the classical Islamic era. This implied going back to the legal corpus of Imam Ja'afar al-Sadiq, the Sixth Imam, and a main figure in the foundation of Shi'i law, and locating arguments about the legality and permissibility to cooperate with unjust rulers, which could be translated in modern times into permissibility of holding public office and collaborating with modern nation-states. As it is known in the Shi'i doctrine, any government that is not the government of the Twelver Imam, is an illegitimate government. However, mechanisms of coexisting and cooperating with it have been devised during the classical period. Most importantly, we see this with the legacy of the Shi'i Imams, especially Imams Ja'afar al-Sadiq and Musa al-Kazim, whose accommodating approaches to temporal governments

have been discussed in this work. Therefore, Shams al-Din used his knowledge of the traditions of the Imamate doctrine in order to formulate Islamic legal arguments that validate his conceptions of a government that is compatible with the exigencies and constrains of the modern nation-state and yet does not contradict Islamic precepts. His legal discussions emphasized the flexibility of Shi'i Islamic law and also testified to the malleability of Shi'ism over time. It also demonstrated how Shi'i Islamic law has often showed malleability and adaptation to rising political conditions and constrains and has been able to find middle grounds between the theoretical rejection of the temporal governments and ways to cooperate with them and lend them de facto legitimacy. His work also underlined the significant influence that can be wielded by *'ulama*, as opposed to lay Islamists, and their superior knowledge of Islamic law and the scripturalist traditions, which allows them to put forward theories of government that engage with current political development, and respond to the exigencies and constraints of nation-states and local politics.

The study followed the transformations of Shams al-Din's thought that innovatively examined various forms of governments within Islamic traditions, but more interestingly, in the post-Ṭā'if period, outside the Islamic tradition, while using Islamic arguments to reach his conclusions. This intellectual endeavor started with the exploration of various theses of Islamic government, including a thorough and comprehensive legal and political critique of Khomeini's *wilāyat al-faqīh* and a formulation of a counter-thesis that he named *wilāyat al-umma*, utilizing and engaging the same arguments deployed by Khomeini within the *uṣūlī* Shi'i tradition, but reaching different conclusions. This Shi'i juristic project aimed at protecting Islam from the encroachments of modern political institutions and secular laws, by either conceiving forms of governments that would protect it, or at best would not threaten its space.

As for the overall argument of the book, I argued that Shams al-Din put forward the most comprehensive critique of Khomeini's thesis, *wilāyat al-faqīh*, in the Arabic language, a critique that emanated from deep concerns he had about the potential threats that this thesis and the Iranian state apparatus under it could have on the Shi'a in general and Shi'i jurists in particular. This critique was to develop, in time, toward the exploration of non-Islamic governmental models in which Islam could thrive and be protected. The book contextualized this intellectual development by exploring how his position as a religious authority outside the realm of Iran was threatened by the tremendously shaking forces

created by Iran's Islamic Revolution of 1979 and its ripple effect on all Shi'i religious authorities, outside Iran and within, as was the case of independent jurists (such as Ayatollah Muntaziri, the former appointed successor to Khomeini who was put under house arrest, and previously the case of Ayatollah Shari'atmadari who was also put under house arrest, in addition to the imprisonment or self-imposed exile of other Iranian jurists or Islamic intellectuals under the Islamic Republic of Iran). In addition, this perceived threat coming from the Islamic Republic of Iran was combined with the rise of militant Islamist forces inside Lebanon that competed with him over the allegiance and loyalty of Shi'i youth and eventually won.

This work analyzed the impact of these events on the transnational and local Shi'i scenes that led to the formulation of the most comprehensive critique of *wilāyat al-faqīh*, both through legal arguments and political ones. It also analyzes how the Shi'i Islamist scene in Lebanon, its transnational alliances, as well as its militancy, which was couched in an idealist rhetoric, and its ability to appeal massively to the youth, came together to form a superb challenge to the traditional jurist. The work touched upon Hezbollah and the massive challenge that this party posited to Shams al-Din, a jurist dissociated from modern political parties, and who headed a public religious office acknowledged by the Lebanese state. The challenge of Hezbollah to Shams al-Din intensified when the former started to compete with him over the leadership of ISSC. In response, such a jurist, Shams al-Din, had to respond innovatively and resourcefully, interpreting the Islamic Imamate traditions and putting them to use in the modern context, in order to devise arguments aimed at protecting the tradition he represents.

Discussing the period of the 1990s was fundamental for this work as this period marked the fundamental shift in Shams al-Din's thought—when he made a significant intellectual shift that is likely to be seen as a compromise in favor of a non-Islamic governmental authority. The dominant theme in his writings during the 1990s is the discussion of a government that is not Islamic in nature but respectful of a religious society, which he designated as *al-dawla al-madaniyya*. In this respect, Shams al-Din appropriated innovatively concepts from the Islamic legal tradition to build his theses. He used the legal distinction between *fiqh 'āmm* and *fiqh khāṣṣ*. His emphasis on the relevance of *umma*, and civil *ahlī* society as a frame for the *shari'a* made it possible to defend *al-dawla al-madaniyya*, which allows religion to flourish without having

the need for governmental powers to implement religious ordinances and laws. It is important to note that it is around this time that the Shi'i youth became alienated from his political vision, which seemed cut off from their concerns, especially in South Lebanon where they were engaged in resistance against Israeli occupation and saw increasingly the resistance movement of Hezbollah to represent their aspirations and to meet their needs. And so while Shi'i youth was implicated in militant activities spearheaded by Hezbollah, Shams al-Din was already thinking ahead about what governmental authority would be best suited for the Shi'a of Lebanon in this multi-confessional pluralist yet divided society.

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