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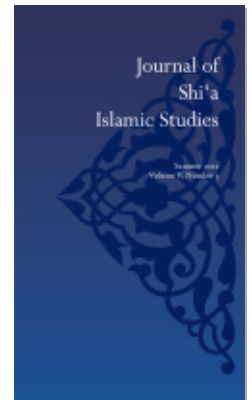
Baqir al-Sadr and the Islamic State: A Theory for 'Islamic Democracy'

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## Baqir al-Sadr and the Islamic State: A Theory for 'Islamic Democracy'

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**ABSTRACT:** Ayatollah Muhammad Baqir al-Sadr, one the most innovative Islamic thinkers of the last century, is renowned for his academic contributions to Islamic economics, jurisprudence, philosophy, politics, and theology, and for his activism against Saddam's tyrannical Ba'athist regime which ultimately cost him his life on 8 April 1980. Despite his pre-eminence, Sadr's political thought has been understudied and his conception of the 'Islamic state' is widely misunderstood. This article seeks to help fill this gap by analysing the key texts in which Sadr expounds his views on the Islamic state, placing each text in its politico-historical context. In the process, the article critiques the current literature, arguing that Sadr's thought is neither authoritarian nor liberal-democratic, but rather it is a type of constitutional democracy meriting the description 'Islamic democracy'.

**KEYWORDS:** democracy; political thought; Islamic state; guardianship of the jurist (*wilayat al-faqih*); al-Sadr, Muhammad Baqir.

Because you are a power;  
Because you are a revolution;  
Because you are the secret to a nation's awakening;  
You will remain for us,  
You are alive for us.<sup>1</sup>

### *Introduction*

Ayatollah Muhammad Baqir al-Sadr, the 'prize' of the *hawzat al-'ilmiyyah* (Islamic seminary) of Najaf, is amongst the leading Islamic

thinkers of the last century.<sup>2</sup> Sadr was born on 25 Dhu al-Qa'dah 1353 / 28 February 1935, in Kazimiyyah, Iraq. In the forty-five years of his life, which ultimately ended tragically in execution on 8 April 1980, Sadr made noteworthy contributions to Islamic theology, philosophy, politics, economics, and jurisprudence, many of which are renowned for their originality.<sup>3</sup> Sadr was also an avid reformer and activist, advocating innovative institutional reforms in the *hawzah*, and pioneering the creation and establishment of the Islamic Da'wah Party (IDP), the first Shi'a Islamic political party in Iraq, in 1957.<sup>4</sup>

Sadr's 'Islamic state' and his perspective on political action are some of the most controversial aspects of his thought. Both academics and politicians<sup>5</sup> have argued over the nature of Sadr's political system, because it is here that Sadr's core ideas and theories on man, society, liberty, history, the law, and the reforms of the *marji'iyyah* (the highest religious authority of Shi'a Islam) are expressed and applied to the real world. The debate regarding Sadr's political system therefore is a debate about the relevance of Sadr to the real world and the very essence of his contribution.

Surprisingly, however, much of this debate has taken place with only cursory reference to Sadr's writings. Even academic articles such as those authored by Sayyid Muhammad Baqir al-Hakim,<sup>6</sup> Dr. Sama Hadad,<sup>7</sup> and Dr. Talib Aziz,<sup>8</sup> fail to grapple with all the available texts and the tensions that exist between them.<sup>9</sup> In this article, I strive to address such shortcomings by rooting my interpretation of Sadr's political thought on careful analysis and contextualisation of the relevant primary documents currently available.<sup>10</sup> A methodological focus on primary texts, I argue, will yield important insights and clarify many misunderstandings. This is not to say that comparison of Sadr's ideas with other leading Shi'a and Sunni thinkers who were contemporary to Sadr, including Sayyid Qutb and Sayyid Musa al-Sadr, would not be fruitful. However, such comparisons are outside the scope of this article, and can serve as the basis for important future additions to existing academic literature on twentieth-century Islamic political thought.

Three texts are of key focus in this paper: *al-Usus al-Islamiyyah li-Hizb al-Da'wah* (*The Islamic Principles of the Islamic Da'wah Party*),<sup>11</sup> written in 1958 and intended as the constitution for the party; *Lambat Fiqhiyyah Tambidiyyah 'an Mashru' Dustur al-Jumhuriyyat al-Islamiyyah fi Iran* (*Provisional Jurisprudential Glimpse at the Constitutional Project for the Islamic Republic in Iran*),<sup>12</sup> a letter response to a query from Lebanese

scholars penned 4 February 1979 in the context of the revolutionary upheaval of Ayatollah Ruhollah Khomeini's return to Tehran; and *Khilafat al-Insan wa Shahdat al-Anbiya'* (*Man as the Trustee of God, Prophets as the Witnesses*), a pamphlet outlining Sadr's political system, written 15 March 1979 and representing Sadr's most mature contribution on the subject.<sup>13</sup> These three texts are the only ones currently available that deal exclusively with the Islamic state; that they span Sadr's lifetime – from his early writings, till his very last – enables us to trace the development of Sadr's thought across two decades.

By analysing and contextualising these texts in sections 1-3 of this article, I will proceed to show that current interpretations of Sadr's political thought as authoritarian, liberal-democratic, or as alternating from democratic to authoritarian,<sup>14</sup> are all inadequate. Instead, I proceed to argue in section 4 that Sadr's thought is best read as 'Islamic-democratic', some limitations of which I discuss in section 5.

### 1) *Analysis of Usus*

Published for secret circulation in 1958 for members of the IDP, and intended as the constitution of the party, *Usus* reveals the democratic nature of Sadr's 'early' writings. In this work, Sadr identifies the Islamic State as one that 'makes Islam its legislative source' and is built on 'Islamic principles and values.'<sup>15</sup> This Islamic state has four main responsibilities, as follows:<sup>16</sup>

1. 'Reveal' the *ahkam thabitah* (fixed laws) which are the building blocks of the shariah (Islamic law),<sup>17</sup> and are explicit and specific. *Ahkam* include laws that govern prayer, the hajj and *zakat* (religious tax).<sup>18</sup>
2. Set *ta'alim* ('instructions') which are the legislation that form the 'detailed policy of a state', and are discretionary, meaning they have not been specifically ordained by the shariah. Examples of *ta'alim* include a country's export and import laws, or its laws regulating the registration of local businesses. Such *ta'alim* operate within *mantiqat al-faragh* (sphere of space), an integral part of Sadr's system of shariah which allows for its constant modernization in accordance with societal changes and human development.<sup>19</sup>
3. Implement and defend the constitution, and the *ahkam* and *ta'alim* drawn from it.
4. Resolve disputes between the citizenry themselves and between the

citizenry and governing authorities.

Sadr describes three types of Islamic states: 'infallible', 'fallible', and 'deviating-fallible'.<sup>20</sup> The 'infallible state' is a theoretical construct: an ideal state in which all legislation enacted is derived and applied correctly from Islam. This ideal state can only be implemented with an 'infallible' person as its leader;<sup>21</sup> even then, it is never fully realizable: an Islamic society and state will have its imperfections, and must continually strive to grow and improve, with justice, equality, freedom and other such noble values only fully realisable in the hereafter.<sup>22</sup>

### The Fallible State

The second type of Islamic state, and the most relevant for contemporary society, is the 'fallible state', which Muslim citizens are obliged to obey within the remit of its authority as defined by the law. Under this state, some legislation and some enactments may contradict the actual Islamic teachings, but this contradiction results from a lack of understanding of the true Islamic ruling or stance on behalf of the government. In such circumstances, it is the duty of the 'knowledgeable amongst Muslims to explain to the state what it does not know', and if the authorities do not alter their views accordingly, 'out of good intentions', then these knowledgeable Muslim citizens are obliged to obey the law in 'matters of unity', otherwise, they are free to abstain from following the law and/or follow their opinion.<sup>23</sup>

Here, 'matters of unity' refers to the application of the shariah, which for Sadr has two aspects: law that requires unity in application, and law that does not. An example of the latter includes marriage law, where there is no harm in applying different jurisprudential opinions. A Catholic Christian couple living in the Islamic state can, and should, be allowed to marry in a church in the presence of a priest and this marriage is deemed legally viable. In contrast, on an issue such as the legality of a war, only one jurisprudential opinion can be followed by the state even if jurists disagree amongst themselves. A government, in deciding to go to war, applies the opinion that this decision is legal. It cannot be the case that both jurisprudential opinions (legal and not legal), be applied in this one decision. This is why such issues are considered 'matters of unity'.

Sadr's 'fallible state' is based on two key principles: '*hukm al-shura*' (rule of consultation) or '*hukm al-ummah*'<sup>24</sup> or (rule of the people) and

the principle of the separation of powers.

Sadr draws the Islamic legal basis for the *hukm al-shura* from Qur'an 42:38: 'And those who answer the call of their Lord and establish worship, and who conduct their affairs by mutual Consultation, and who spend of what We have bestowed on them.' This verse describes the principle of working by *shura* as an important and praiseworthy characteristic of the believers. This is so, Sadr notes, in aspects that form *mantiqat al-faragh* and does not apply where fixed laws are present.

Sadr's belief in *shura* is based on his emphasis on the rational side of man, outlined in his other works. Briefly, according to Sadr, God created man from two elements: clay and a breath of divine spirit (Qur'an, 15:28-29). Expressed in another way, man is both a materialistic being and an immaterial or spiritual being.<sup>25</sup> In his materialistic nature, man depends on his senses for satisfying such physical needs as hunger, thirst, and sexual desire. His spiritual nature, on the other hand, is 'the playground for mental and intellectual activity',<sup>26</sup> in which he is able to develop beyond his materialistic needs and to control his base desires, to discover the essence of his existence, and ultimately to know his Lord. It is due to this second side of existence of man that God conferred to him the responsibility of 'trustee on Earth' (Qur'an, 2:30; 6:165; 27:62). Sadr uses the story of creation as re-told by the Qur'an as the theological basis for man's right to self-rule (see 2:30-39).

The separation of powers is an important enabler for this right. Whereas Prophet Muhammad, Sadr explains, fulfilled the tasks of revealing the *ahkam*, governing, and resolving people's disputes and organising the judiciary, he did this assuming the roles of Prophet, ruler and chief justice all in one, because he was assigned by God to do the former, and because his infallibility, knowledge, wisdom and popularity amongst the people allowed him to fulfil the other tasks. In the 'fallible state', this combination of roles is no longer permitted. Since the state is run by fallible men and women, the various roles are separated to minimise the potential for corruption and authoritarianism.

Hence, on the judiciary, Sadr leaves the right to appoint justices and to isolate them in the hands of the chief justice, and not the government. The state can neither confer to, nor deny, any individual the right to practice as a justice,<sup>27</sup> and is obliged to provide the necessary resources for the independent training of justices.<sup>28</sup>

How exactly does the *shura* system of rule look like and operate? In *Usus*, Sadr does not provide any further elaborations. But he does make the following important claim:

It is right for the *ummah* to establish a government that fulfils its functions of implementing the *ahkam* of shariah and of setting and executing the *ta'alim* that emanate from it, and to choose for this government its *shakl* (appearance/structure), and the limits of its authority that can best serve the interests of Islam and the *ummah*, and on this basis any *shakl* of *shura* rule is regarded as correct so long as it fits within the confines of shariah.<sup>29</sup>

In other words, Sadr holds that it is the people's right to choose the specific structure of their state and to legislate on any matter of policy in any way they see fit, so long as in so doing, they do not contradict any of the *ahkam* and so long as they follow the consultation method.

Parallels between constitutional democracy and this '*shura*' system are self-evident. Rule by *shura* can legitimately be exercised through the electorate electing representatives on their behalf who, in the legislature, debate amongst themselves, and in consultation with the electorate, decide on matters of policy. The constitution serves to limit the ability of these legislators to act in any way they wish, since it embodies fundamental principles, such as the right to freedom of expression, which cannot be contradicted by a majority vote.

## The Deviating-Fallible State

The third type of Islamic state for Sadr is one that once qualified as a 'fallible state' but over time deviates from applying the shariah and fulfilling its obligations and duties, choosing instead to follow a private wish or an arbitrary opinion. Under such circumstances, citizens are obliged to 'isolate the ruling authority' and reinstate the legitimate 'fallible state'. If citizens are unable to do this, then they should resort to preventing the ruling elite from further deviations through 'enjoining the good and forbidding evil'.<sup>30</sup> If in turn these efforts lead to no positive result, the deviating authority is considered illegitimate and can no longer solicit the obligation of its citizens, except in exceptional circumstances such as a foreign invasion by an anti-Islamic force (which, if it were to succeed, would result in even more damage to Islam and the Muslim society than the deviation of the state).<sup>31</sup>

Importantly, in elaborating on what it may mean for an Islamic state to deviate from its 'fallible' form to a 'corrupt fallible' form, Sadr gives the example of a dangerous tendency towards personal or arbitrary rule.

In Sadr's articulation in *Usus*, Islamic governance is about 'consultation' and the right of people to choose government and make policy, rather than any authoritarian or autocratic form. If an Islamic government were to move toward personal/arbitrary rule, it begins to lose its legitimacy gradually. If it continues to move in this direction and becomes despotic, rebuffing its citizens' efforts to bring it back to consultative, representative government, then this state is no longer considered 'Islamic', and its Muslim citizens are no longer obliged to follow its laws, and are urged to organise and work to bring it down.

Furthermore, in *Usus*, Sadr highlights his belief in a bottom-up implementation of the Islamic system, and the important role the party plays in this:

It is clear that the process of choosing the structure of rule and the government according to these criteria requires an awareness of the *ummah* of Islam on the one hand, and an awareness of the domestic and international situation on the other.<sup>32</sup>

If this awareness is not present, then it becomes the task of the IDP (the first Iraq-specific reference in *Usus*), or we can say more generally, the Islamic political party, to educate the masses, propose a structure for the Islamic state, and work to see this structure implemented.<sup>33</sup>

## 2) *Analysis of Lamhah*

If *Usus* lays the groundwork for a constitutional democracy, then at first glance, *Lamhah*, an 180-page letter, seemingly indicates a profound transformation in Sadr's ideas towards a more authoritarian system.

Whereas there is not a single mention of the *marji'iyah* in *Usus*, discussion of the *marji'iyah*, and the grand jurist<sup>34</sup> has a prominent role in *Lamhah*. Whilst the people have the right to elect the head of the executive (the president), this is only so after his nomination is approved by the grand jurist. The *marji'iyah* is conferred the responsibility to create the high court overseeing the executive and legislature, and a 'Court of the Oppressed' to resolve grievances of the citizens, and the authority to approve or disapprove laws enacted by the legislature aimed at filling *mantiqat al-faragh*. The grand jurist is granted the status of head of state, and senior head of the army. Moreover, in *Lamhah*, Sadr makes no mention of the role of the Islamic political party. The tasks of educating the masses, spreading the message of



Islam, and so forth, instead seem to be passed on to the *marji'yyah*.

The martyred Muhammad Baqir al-Hakim, among others, has argued that the enhanced powers for the jurists *Lambah* seems to offer is synonymous with Ayatollah Khomeini's *wilayat al-faqih*, a theory which gave absolute authority to the jurist, in all three organs of the state: the executive, legislative, and judiciary.<sup>35</sup> However, through contextualising the text and reading it more closely, I will argue that such readings neglect key points Sadr made subtly in *Lambah*. Once these points are clarified and grasped, *Lambah*, I maintain, ends up challenging Khomeini's ideas rather than affirming them.

### Contextualising the Letter

It is essential to understand the purpose, style and context in which *Lambah* was written. As noted in the introduction, *Lambah* was written 4 February 1979, that is, only a month after Khomeini's historic return to Tehran to be greeted by the Iranian masses on 7 January 1979, and a week before the final collapse of the Pahlavi dynasty on February 11.<sup>36</sup> Three points are of significance here.

First, one should not underestimate the huge sense of optimism the revolution in Iran incited within the Muslim world, particularly for Shi'a Muslims who had endured centuries of minority status and isolation from politics. Khomeini's revolution promised to end all that, propelling Shi'ism to the world stage, and with its rhetoric of freedom, dignity, and 'true' Islam, it inspired many in the region. Sadr was not immune to this emotionally-charged atmosphere, and approximately a third of *Lambah* is a eulogy of this 'great victory'.

Second, it is important to keep in mind that the query Sadr received was specific to Iran and its constitution, and his response is thus an application of some of his ideas to the Iranian context. Given the notion of an Islamic state in Iran was only made possible thanks to the leadership of Khomeini, himself a *marja'*, it would have been impossible for Sadr to ignore Khomeini and the *marji'yyah* in this new state that is being created. This is particularly so given Khomeini's belief in *wilayat al-faqih*. Crucially in 1979, Khomeini's theory of *wilayat al-faqih* was still in an embryonic form.<sup>37</sup> Thus, rather than openly criticise Khomeini's thought, it made much more sense for Sadr to influence the direction of the Iranian revolution by providing a blueprint that could be utilised in writing the Iranian constitution and that could translate Khomeini's ideas in an altered fashion. A closer reading of

*Lambah* reveals this is exactly what Sadr may have tried to do.

Finally, Sadr too would have been careful to observe within the *marji'iyah* the etiquette of unity, particularly relevant in these years when Iraqi scholars were at the peak of their activism against Saddam Hussein, and may have looked to their colleagues in Iran for support. In *Lambah* therefore, Sadr masks his different views in diplomatic language so as to preserve the appearance of a united *marji'iyah* front against the despots.

## The Legislature

Despite heralding Ayatollah Khomeini as '*imam*' for leading the revolution, and giving the role of the *marji'iyah* an emphasis it had not been awarded in *Usus*, Sadr goes on to severely limit the role of the grand jurist and the *marji'iyah* in a way that is clearly at odds with Khomeini's *wilayat al-faqih*.

Sadr utilises his distinction between *ahkam* and *ta'alim* to give the legislature, a body directly elected by the people, the right to fill *mantiqat al-faragh*. This is very important, since most aspects of politics fall in the realm of *mantiqat al-faragh* according to Sadr. In other words, as long as they do not contradict the *ahkam* of Islam, Iranians have the right to legislate as they wish on matters of education, health, and so forth. In contrast, Khomeini granted this authority to the jurists. To make this proposition more amenable, Sadr says that the *marji'iyah* has the authority to approve/disapprove this type of legislation. But, examined more closely still, to speak of the *marji'iyah* is in fact misleading if it is understood in the traditional sense. What Sadr actually proposes is the creation of a council...

...composed of one hundred educated spiritualists, and a number of leading '*ulama* and their representatives, and a number of leading preachers, authors, and Islamic intellectuals, and at least ten qualified jurists, and it is in this council that the *marji'iyah* carries out its activities.<sup>38</sup>

Sadr's emphasis in this quotation on the need to have a council composed of not only '*ulama* and jurists, but also 'one hundred educated spiritualists',<sup>39</sup> as well as intellectuals and thinkers, should not be ignored. This council, upon inspection, seems much more in the mould of an Iranian equivalent to Britain's House of Lords than it is with the traditional *marji'iyah*. Sadr is pushing more towards a

bicameral legislature than a system of dominance of the *'ulama* as the Iranian system has come to be seen.

### ***Shura* and the Grand Jurist**

In *Lambah*, Sadr affirms that the *ummah* have been given the responsibility by God to take charge of its affairs. He affirms also the importance of guaranteeing the rights and liberties of all Iranian citizens, including non-Muslims.<sup>40</sup> As I argued while analysing *Usus*, these are key themes consistent with constitutional democracy, and we find them repeated once more here.

Significantly, Sadr once again bases people's right to self-rule on the *shura* principle he had advocated in *Usus*.<sup>41</sup> This time, however, he combines it with the *marji'iyah*'s role of supervision (*shahadah*), based on the tradition from the twelfth Shi'a Imam which says, 'As for the events which occur, return to [resolve] them to those who narrate our traditions, for they are my plea before you, and I am God's plea.'<sup>42</sup> Sadr is here using the same tradition which many proponents of *wilayat al-faqih* used to justify absolute rule of the jurist, to give legitimacy to the right of the *marji'iyah* to supervise the people, rather than rule over them.<sup>43</sup> Thus *Lambah* here offers a direct challenge to Khomeini's views.

The people's role features again in the selection of the grand jurist. To assume the role of grand jurist, Sadr argues that in addition to the usual qualifications (legal, spiritual, and to which Sadr adds administrative and leadership skills), one needs to have been nominated from the council outlined above, and have the overwhelming support of *imams*, preachers, scholars, and so forth nationwide. If this is not the case, (e.g. due to there being several qualified candidates), a referendum should be held in which the people decide.<sup>44</sup>

The idea of subjecting the choice of grand jurist to consensus/referendum is one absolutely rejected by proponents of *wilayat al-faqih* who argue instead that the choice of grand jurist cannot be put in the hands of the people. That appointment is conferred by God, and that it is the task of the Council of Experts to 'discover' the identity of the qualified person destined to be handed the role of the 'Imam's representative.'<sup>45</sup> Sadr here is not questioning Khomeini's right to lead Iranians, since, as noted above, he had already recognised him as Iran's *imam*. What he is instead crucially doing is laying the foundation for a constitutional system in which the Iranian public and the Iranian intellectual elite play a central role in the choice of Khomeini's successors.

Sadr warns against the politicisation of the *marji'yyah*. He emphasises the condition that for the grand jurist: 'his *marji'yyah* needs to have come about truly from the *ummah* in the natural way followed historically.'<sup>46</sup> In other words, the process by which jurists and scholars are elevated to the various ranks within the *marji'yyah*, particularly the most senior ranks, should not be politicised. The separation of powers principle ought to be respected.

Such warnings are consistent with Sadr's other writings on the reform of the *marji'yyah* and the efforts he made to see such reforms realised in Najaf in the 1970s. Sadr was opposed to the traditional individual-based *marji'yyah* of Khomeini and others, and wanted to transform it into an 'objective one'. This was essentially an effort at institutionalisation and modernisation. Instead of the duties of the *marji'yyah* being fulfilled by the individual *marja'* and an informal 'court' of colleagues and representatives, Sadr wanted this role to be performed through a set of institutions (what he calls 'committees') and a '*marji'yyah* council' in which all relevant issues are discussed, and decisions arrived at through the *shura* principle. In short, Sadr's 'objective *marji'yyah*' is one that is institutionalised, and whose processes are transparent, and whose leadership is collective, inclusive and collaborative.<sup>47</sup>

Taken into account, these points discredit the claim that *Lamhab* represented an intellectual shift from Sadr to a position of supporting an authoritarian Islamic state in which ultimate authority and power are conferred to one man, the grand jurist, through the roles of head of state and senior head of the army. Sadr, it seems, places severe restraints on the role of Khomeini in the emerging Islamic state in Iran despite his centrality in leading the 1979 Revolution. Moreover, understood properly, the limited powers that Sadr ascribes to the Islamic organs of the state are conferred not to the grand jurist as such, but rather to a *marji'yyah* that Sadr envisioned as a collective decision-making institution, rather than an individual-centred body.

Perhaps it is because of this reality that Sadr sought in *Lamhab* to express his ideas in a way that is as diplomatic and supportive of Khomeini as possible. And it is this intellectual challenge to Khomeini that perhaps helps us understand some of the reasons behind Khomeini's refusal to publicly recognise Sadr as a *marja'* during Sadr's lifetime.<sup>48</sup> When properly understood, therefore, *Lamhab* cannot be regarded as embodying any significant transformation in Sadr's 'Islamic state' to authoritarianism. This becomes more apparent when we

analyse *Khilafat al-Insan*, written little more than a month after *Lambah*, and can be regarded as a 'corrective' of the latter.

### 3) *Analysis of Khilafat al-Insan*

In *Khilafat al-Insan*, a pamphlet published 15 March 1979, Sadr presents his most mature contribution to the debate on the Islamic political system. Here, Sadr clarifies any misconceptions about his letter *Lambah* (which had been translated into Persian and widely distributed in Iran), as if he realised that it had been misread by many as a defence of Khomeini's *wilayat al-faqih*.

Immediately, a reader will note the contrasting linguistic style. Here is a return to the rhetoric-free, logical and lucid writing upon which Sadr's reputation had been built. There is no reference to Khomeini or the Iranian Revolution. Instead, in *Khilafat al-Insan* Sadr meant to make the case, through academic writing, for his vision of the Islamic political system.

### Reiterating Key Concepts

Sadr once again traces the origins of the state to the Prophets, but this time goes a step further to the story of the creation of man itself. Whereas God had previously ruled the universe by direct orders, and had created servants such as angels to do as He commanded them, God envisaged a new form of rule for Earth when he created man. Man would be given desires and reason, freedom and guidance, and made God's trustee on Earth. However, men yielding to their desires over time began to create artificial barriers between themselves, and the unjust 'pharaonic society' emerged. Through assigning prophets and sending divine messages, God sought to bring people back on the true path of prosperity and progress. This abridged account of the origins of man, according to Sadr, includes two crucial aspects. The first is the right of self-rule God conferred to man, which Sadr calls the 'line of *khilafah*' as his trustee on Earth. The second, coupled to the first, is the 'line of *shabadah*': guidance manifested in the selection of a long line of prophets (from Adam, through to Noah, Abraham, Ishmael, etc. and ending with Muhammad), aiding man's march towards infinite progress.

The right of *khilafah* was 'conferred to all of humanity'<sup>49</sup> and it is 'a

movement that does not stop, because it is directed towards the infinite (i.e. God).<sup>50</sup> In the Islamic state, it is realised through adopting the *shura* principle, a democratic system, and an active citizenry involved in as far as possible in all the decisions affecting it.

However, this right of self-rule is a 'trust' and a heavy responsibility. Thus, those who refuse to acknowledge it as such, or who misuse it, lose their legitimate right to it. On the other hand, this responsibility confirms that 'man is a free being, since without choice and freedom, there is no meaning to responsibility.'<sup>51</sup>

Here, elements of Sadr's long-held core beliefs come together. His belief in the rationality of man, mentioned earlier, is one aspect. Liberty is another aspect. Sadr had written in prior works that the fulfilment of 'negative' liberty, 'which liberates man from the domination of others and breaks the restrictions and chains that shackle man'<sup>52</sup> was one of the great objectives of divine messages.<sup>53</sup> Yet, for Sadr, it is not enough: true liberation could only exist if people were free 'from servitude to the base desires which reside within'.<sup>54</sup> Sadr's concept of liberty thus encompassed both 'negative' and 'positive' elements. In the political system found in *Khilafat al-Insan*, it is both of these elements that are provided for through guaranteeing citizens' freedoms and self-rule, and creating an advisory institution to impress upon people the importance of transcending a materialist living.

Sadr's return to these ideas is of key significance because it represents an affirmation of his original belief in man and progress, and in the importance of liberty and self-rule. In *Usus*, Sadr is content to translate these concepts into a political system that is based simply on democracy, but in *Khilafat al-Insan* he sets out to fill the gaps in his initial theory.

### **The Two Lines of Authority: *Khilafah* and *Shahadah***

The main gap in *Usus* lies in the absence of any elaboration on how the fixed elements of law and the fundamental values of Islam are to be protected, without which his system can no longer be called 'Islamic.' In *Khilafat al-Insan*, this gap is filled by the principle of *shahadah*. In the absence of an infallible, this role is chiefly the responsibility of the *marji'iyah*.<sup>55</sup>

Sadr explains this by first identifying crucial differences between a prophet and a grand jurist that proponents of *wilayat al-faqih* fail to make.

Firstly, a prophet is a carrier of the message by God's choice, whereas a grand jurist is: 'a human being who earned this through human effort and long struggle and piety...and a wise Islamic awareness of the realities of the day...that enables him to bear witness to it.'<sup>56</sup>

Whereas God grants legitimacy to the individual assigned as a prophet, in the 'fallible state' legitimacy is granted to the *marji'yyah* as an institution, rather than the grand jurist as a person. Consequently, 'the *marja'* himself needs a witness on his role and an objective standard (to measure him by).'<sup>57</sup> It is this belief that motivates Sadr in his efforts to modernise the *marji'yyah* and make it an 'objective' institution with standardised and transparent procedures. Since it is the people who confer the legitimacy from the institution to the individual jurist through choosing to recognise him as such and following his jurisdictional opinions, then it is the people who act as witnesses over the grand jurist when he assumes his duties.

The conditions the aspiring grand jurist must fulfil are: 'justice and moderation', commanding knowledge of Islam, awareness of the realities of the day, and 'personal competence and abilities' (e.g. wisdom, patience etc.).<sup>58</sup> Since the grand jurist is a fallible person, it is theoretically possible for him to deviate (although unlikely given his attachment and devotion to Islam). Thus, it is theoretically possible for the people to withdraw a particular grand jurist's status if he is no longer perceived fit for the responsibility.<sup>59</sup>

In fact, if Sadr's logic is followed through, *shahadah* is a duty that needs to be fulfilled by all Muslim citizens of the Islamic state, albeit on a much smaller-scale than the *marji'yyah*. This is based on the aforementioned principle of 'enjoining the good, and forbidding evil' (Qur'an, 9:71). What gives the *marji'yyah* primary responsibility for this task is arguably the simple fact that it is a professional institution, entered by those Muslims most dedicated and gifted to study Islamic teachings and law, and who display the most praiseworthy personal characteristics during their long tenure in the *hawzah* (for example, piety and modesty). The greatest proportion of *shahadah* is thus the responsibility of those most qualified in society to play this role.

In an Islamic society ruled by a fallible Islamic government, *shahadah* is practiced in different ways. First, leading Islamic jurists and experts play a role in ensuring the drafting of legislation through their presence in the upper chamber (and if elected, in the lower chamber too). Second, Islamic jurists, through the judiciary, play a role in conferring legitimacy to laws passed by the government. As outlined in

*Usus*, the judiciary has the right to judge legislation to be illegitimate and the proposed bill can no longer become law. This process is similar to the kind of judicial process that takes place in the USA with the Supreme Court acting as the defender of the US constitution. Third, jurists and the *marji'yyah* at large, issue advice and 'intervene' (e.g. through fatwas) in the way of preventing certain calamities from occurring. Finally, the *marji'yyah*, scholars, spiritualists, and others all play an active role in society through, for instance, teaching and welfare projects, an active, indirect form of *shahadah*. In other words, the *marji'yyah* acts as an important civil society institution, working for the betterment of society.

As constituents of the Islamic society, members of the *marji'yyah* also have a role in *khilafah* under an Islamic state just like ordinary citizens. However, crucially here, their opinions are respected, but hold no superior weight than other opinions voiced by other citizens. A jurist in the city of Najaf may criticise the local government for raising taxes, but that opinion does not force the local government to change its policy, it is simply regarded as an opinion of one citizen of Najaf.

### ***Khilafah and Shahadah in Times of Crisis***

In times and places where there exists a Muslim society that is ruled by a despot, then these rules of applying *khilafah* and *shahadah* change. With the people denied their right to self-rule, *khilafah* is transferred to the grand jurist who combines this with his right to *shahadah* as the Prophet once did, only in this state of crisis. Under these exceptional circumstances, Sadr leaves the *marji'yyah* responsible for leading the resistance against despotism. If the people, led by the grand jurist succeed in toppling the despot, then the two lines of *khilafah* and *shahadah* are once more separated, and the *marji'yyah* returns to its role of supervision.

Furthermore, it is theoretically possible for an Islamic society ruled by an Islamic state to undergo a period of crisis as well. As Sadr outlined in *Usus*, the 'fallible state' errs due to misinterpretation, but if it begins to deviate from Islam and to undermine its basic values and principles then it can be said to enter a crisis mode of its own, and here the *marji'yyah* is conferred some authority to intervene. If a democratic government turns despotic, then the grand jurist once more becomes the focal point of leadership, combining the roles of *khilafah* and *shahadah* in order to lead the people to liberation from despotism.



Here, it is useful to keep in mind the context of the Middle East, a region plagued by regime instability and absolutism. Sadr's theorising here can be understood as a reaction to this: the 'emergency powers' conferred to the *marji'yyah* are there to protect a fragile democratic system from being overthrown by anti-democracy forces plotting to establish their own authoritarian personal rule.

#### 4) *Assessing Sadr's Political System*

Analysing and contextualising Sadr's key political texts above has discredited readings of Sadr's system as authoritarian, or as having transformed from democratic to authoritarian. Yet, the opposite liberal-democratic thesis too has been found wanting. Sadr, in *Lamhah*, makes the following interesting comment:

Islamic theory rejects monarchy as well as the various forms of dictatorial government...and proposes a form of government which contains all the positive aspects of the democratic system with differences that add to its [i.e. democracy's] structure objectivity and a guarantee against deviation...<sup>60</sup>

In other words, Sadr here is not content with Western democracy as he understands it. Rather, Sadr's Islamic state demands that guarantees are put in place to ensure that the fixed laws and essential values of Islam are not undermined in any way. This requires, in theory, some constitutional mechanism, and a role of *shahadah* for the *marji'yyah*.

Sadr sets out to distinguish between *khilafah* and Western democracy in the following way:

Western democratic regimes...are not restricted by an objective standard in their rule, and all you need is a majority to agree on something, even if this is contradictory to the people's interests and dignity generally, or contradictory to the interests and dignity of a section of the populace (a minority)...in contrast to this, the rule of the populace based on *khilafah* is a responsible rule, and the populace is bound to implementing justice, and rejecting injustice and despotism.<sup>61</sup>

Sadr, I argue here, can be legitimately criticised for misunderstanding democracy. Given that he spent most of his youthful life researching

Marxism and refuting its ideals, he had had arguably less exposure to the political theory behind Western democracy.<sup>62</sup> Whenever he criticises democracy in his political writings, as in the above quotation, he is in fact rejecting the idea of absolute majority power, with its implications of contradicting minority rights or carrying out other injustices. For Sadr, this is not permissible, because such values form the essence of Islam and the pursuit of them forms the very essence of human progress and advance towards God, the Absolute.

Western democracy is of course not based simply on 'majority rule', but rather, on upholding a set of core values and principles (such as freedom, justice, equality, human rights, and minority rights) that cannot be over-run by a majority opinion. Moreover, Sadr believes, it is no coincidence that these essential values upholding constitutional democracy are the very same that he regards as the essence of Islam. This is because God has made these ideals to be universal. Also, the historical origins of these constitutional values in Europe can be traced back to Christianity, a religion similar to Islamic in many ways.<sup>63</sup> Thus, despite Sadr's criticism of democracy, his writings actually support the system of constitutional democracy in several important ways.

### Sadr's 'Islamic Democracy'

When analysed closely, I argue that in its normal circumstances, Sadr's Islamic state is essentially a type of constitutional democracy. To see how this is the case, it is useful to summarise the various legitimate roles Sadr confers to the *marji'iyah* under various conditions. Table 1 offers such a summary based on the analysis already made of the three key texts.

	Islamic Society	Islamic State	Crisis Mode	<i>Marji'iyah's</i> Role
Mode 1	YES	NO	YES	<i>khilafah</i> & <i>shahadah</i>
Mode 2	YES	YES	NO	<i>shahadah</i> : non-intervention
Mode 3	YES	YES	YES	<i>shahadah</i> : intervention

Table 1. A summary of the various modes of legitimate involvement of the *marji'iyah*.

Mode 1: despotic non-Islamic state. Mode 2: 'fallible' Islamic state in normal circumstances. Mode 3: 'fallible' Islamic state in crises.

In mode 1, an Islamic society is ruled by a despotic non-Islamic state. Under such circumstances, the *marji'iyah* is conferred authority for

both the lines of *khilafah* and *shahadah*, since the people are not able to practice their right of self-rule. The following telling comment Sadr makes in 1972 reveals that the reason for this reallocation of responsibility is prudential rather than ideological:

When we live in a democratic country which believes in respecting its people and their views...one can assume that any party can...attempt to mobilise the society to its side and drive it to adopt its political positions. However, the condition in [a place like] Iraq is not as such. At any moment the oppressive authority feels the existence of an organised Islamic party functioning according to such [planned] stages to make Islam the rule, [that authority] starts killing, deporting, imprisoning, torturing the activists...before they fully achieve the goal of making the *ummah* sympathise with it [Islamic party], and motivate her to its side.<sup>64</sup>

It is from political developments in Iraq and Iran that we can see Sadr's reasoning behind identifying the *marji'iyah* as the most capable to assume the role of leadership of opposition to tyranny. Sadr had helped found the IDP in Iraq, but despite amassing country-wide popular support, the party was unable to resist Saddam's brutal crackdowns.<sup>65</sup> Moreover, a political party such as the IDP suffers from certain weaknesses that the theoretical *marji'iyah* that Sadr conceived does not. Drawing on support from Shi'a faithful worldwide, the *marji'iyah* boasts significant institutional, popular and financial resources unmatched by other local civil society institutions existing under dictatorship. The *marji'iyah* moreover holds a moral authority that is unparalleled, since as Sadr outlines, it leads interventions in order to liberate the oppressed masses, rather than assume governance once freedom is won.

This is the condition outlined in mode 2, where the transformation to a 'fallible' Islamic state has occurred, and the state is in a condition of peace. In such normal circumstances, the role of *khilafah* is the people's and the role of *shahadah* is practiced by the *marji'iyah* in a non-interventionist format: the grand jurist falls to the background, bearing witness on developments, issuing advice and encouragement to ensure the continuation of peace and prosperity, and playing the role of ceremonial head of state, with similar functions to those fulfilled by the British monarch. The *marji'iyah* meanwhile acts as a centre of advice and guidance, and through the *hawzah* as a centre for teaching Islamic

studies and jurisprudence. Graduates of the *hawzah*, qualifying in Islamic jurisprudence, may serve in the judiciary body of the state, or, if distinguished enough, as part of the upper chamber of the legislature.

Finally, in mode 3, the 'fallible' Islamic state has deviated from the essential principles and *ahkam* of Islam. Whilst *khilafah* remains for the people, the *marji'iyah*'s role of *shahadah* takes a more active 'interventionist' slant. The grand jurist can intervene, for instance, by issuing a fatwa prohibiting/warning the ruling authorities from continuing in this deviating path. If the ruling authorities continue their defiance and begin to destroy the democratic structure of the state, then the state here quickly loses its 'Islamic' identity, and the role of leading the opposition movement to the new despots becomes the responsibility of the grand jurist. This 'crisis mode' is arguably a creation of the experiences of failed liberation movements in the Middle East. Sadr provides for emergency powers to defend the fallible state against a military coup or other authoritarian political development. Modes 2 and 3 can be combined to give the structure to Sadr's Islamic state represented in fig. 1.

<p><b>Head of State:</b> The grand jurist. Operates internally as part of a '<i>marji'iyah</i> council'. In 'crisis mode' – significant emergency powers, combining <i>khilafah</i> with <i>shahadah</i>. In 'non-crisis mode' – ceremonial role as head of state, effective role of <i>shahadah</i> as head of <i>marji'iyah</i>.</p> <p><b>Executive:</b> Preferably presidential format, elected directly from the people.</p> <p><b>Legislative:</b> Bicameral.</p> <p>Lower Chamber – powers to initiate legislation, create policy, fill <i>mantiqat al-faragh</i> etc. Elected from the people in whichever electoral law they see fit. Key role for Islamic political parties here.</p> <p>Upper Chamber – acts as a check to the powers of the lower chamber, ensuring no bills proposed contradict the fixed principles and laws of Islam</p> <p><b>Judiciary:</b> Resolves citizens' complaints, Supreme Court resolves disputes between the executive and legislative, local government etc.</p> <p><b>Marji'iyah:</b> Active civil society institution, giving advice to people, revealing the <i>ahkam</i>, centre for teaching Islamic studies and jurisprudence, from which emerges the grand jurist.</p>
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Figure 1. The structure of Sadr's Islamic state

As illustrated in fig. 2, the Islamic state envisaged by Sadr emerges from the grass-roots up and cannot be imposed from above. It requires an active and devout Muslim citizenry who form the basis for the state, a modernised and collective *marji'iyah* that can outline the Islamic state's *ahkam*, and active political parties, NGOs, and academics who work together to formulate the state's *ta'alim*.

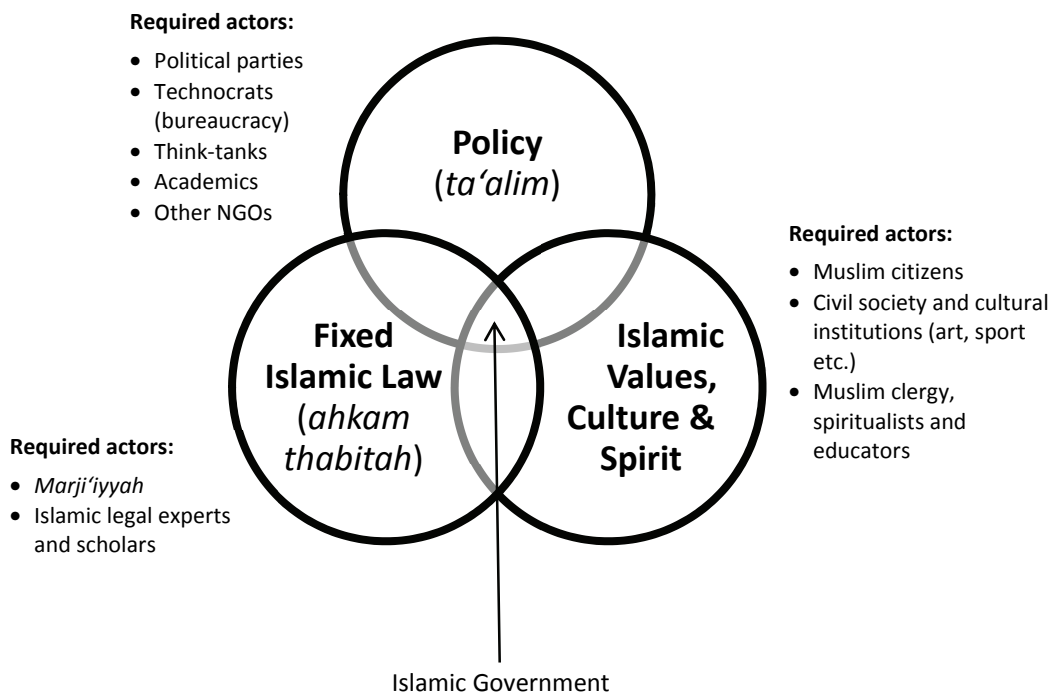


Figure 2. Required ingredients for the Islamic government according to Sadr.

### 5) Limitations of Sadr's System

Sadr's fallible Islamic state uniquely trusts and empowers both the people and democratic governance on the one hand, and the *marji'iyah* on the other. But herein emerges a major limitation of his political system.

I have shown how Sadr's political system is based on the *khilafah/shahadah* distinction, which itself is based partly on the distinction between the fixed principles and laws of Islam, and *mantiqat*

*al-faragh*. One key question thus arises: what are the fixed principles and laws of Islam upon which the borders of *mantiqat al-faragh* emerge? Problems in defining the fixed principles and laws of Islam arguably make it extremely difficult, if not impossible, to mark out in exact terms what lies within the legitimate sphere of activity of the *marji'iyah* and what lies outside it. Disputes therefore can emerge regarding the potential for the *marji'iyah* to over-step its authority.

Against this criticism, it is worth considering the political role of the Supreme Court in the United States. The remit of the US Supreme Court's activity is not found in a clear and detailed document, and instead its role depends on a combination of factors, including: the composition of the court; the nature of disputed issues; the public's expectations of the Court; and the stance of the executive. This invariably results in differences in Court activity under the tenure of different chief justices. Thus, according to Archibald Cox, whilst the overall contribution to public policy under the Hughes Court (1930-1941) for instance was largely negative, under the Warren Court (1953-1969), the Supreme Court ignited a legal and social revolution in race relations in the case of *Brown v. Board of Education, Topeka* (1954), when it ruled that 'separate' was 'inherently unequal', resulting in the birth of 'desegregation' policy.<sup>66</sup> Just as it is impossible to mark out specifically areas where the Supreme Court cannot reach, it is equally impossible to separate completely the two lines of authority *khilafah* and *shahadah* set by Sadr.

A second key question, arguably of greater weight, can also be posed of Sadr's political system. I have described how in times of crisis, Sadr's *marji'iyah* gains enhanced authority and is burdened with additional responsibilities, including at its extreme, leading the resistance against a despot. But beyond the extreme case of fighting tyranny which Sadr had in mind given Iraqis' struggle against Saddam at the time, what other kinds of security, political or economic crises legitimate the intervention of the *marji'iyah*? Does an economic depression that results in millions of people falling into unemployment and poverty provide the necessary justification for the *marji'iyah* to issue binding edicts for a government to implement? If a 'fallible Islamic state' run by a legitimate and democratic government is as at war with a foreign enemy that is defeating the Islamic state, threatening the political system in its entirety, can the *marji'iyah* intervene, and if so, what is the limit to its power and authority? Questions like these which seek to clarify the scope and mechanisms for the fulfilment of *khilafah* and

*shahadah* are not addressed by Sadr.

Sadr may have deliberately left the *khilafah/shahadah* mechanisms for people to work out for themselves. Trusting in mankind's rationality, the intentions and motivations of those belonging to Sadr's 'Islamic Society', and the integrity of the *marji'iyyah* might well have been sufficient for Sadr. Is this too idealistic? Arguably so. Alternatively, it may well be the case that Sadr was not able to detail a practical application of his theory which could respond to questions such as the two raised here owing to his untimely death. Recall that *Khilafat al-Insan* was published 15 March 1979: the year that subsequently followed was dominated by political struggle in Iraq in which Sadr was a major opposition leader, ending with Sadr's arrest, torture and execution under direct orders from Saddam Hussein in April 1980.

Does this gap in Sadr's political system invalidate his theory? I argue not. But it does lend credence to the argument that it is incomplete. And yet, envisioning Sadr's system in practice is not impossible. Indeed, an interesting application of Sadr's idea of *shahadah* can perhaps be seen in the political role being played by Ayatollah Sistani in Iraq since 2003. Sistani has neither followed the so-called 'quietist approach' of such grand jurists as Ayatollah Khu'i (Iraq's grand jurist 1971-1992)<sup>67</sup> or the model of direct involvement advocated by Khomeini in Iran. Instead, Sistani has intervened at key junctures, for instance, demanding in June 2003 that Iraq's constitutional framers be elected, rather than appointed by US officials and members of the Governing Council, itself a creation of the US.<sup>68</sup> On the other hand, he has refused to play more of an active political role on matters such as government policy or party competition.<sup>69</sup> Moreover, what influence he has yielded has been democratic: Iraqis are free to follow his opinions or to defy them, there being no legal constraints forcing them to choose one over the other.

## Conclusion

When we place Sadr's state structure (based on the principles of *khilafah* and *shahadah*), his belief in the role of the political party, and his bottom-up approach to building the Islamic state, alongside his belief in human progress, and his emphasis on liberty, equality and justice, the different elements of his 'Islamic Democracy' become apparent. Two aspects make this an 'Islamic' democracy, distinguishing it from

the secular form championed in the West: it is built by religious people, who will therefore elect to pass laws conforming to Islamic laws and values, and it incorporates a mechanism of *shahadah*, democratically chosen by its constituents, but which nevertheless serves to constrain them by blocking any deviation from the essential values of Islam and its *ahkam*.

Sadr's political theory and the state structure contained within it is, then, a truly significant leap in Shi'a Islamic political thought. It has its gaps and weaknesses that other scholars may be able to address in future. But even as it stands, Sadr's valuable contribution refutes commonly-held claims that Islam and democracy are fundamentally antithetical, and lays a broad vision in which freedom and self-governance are central to a modern Islamic state in an age of 'Islamic democracy'.

### *Table of Key Transliterated Terms*

Term Appearing in Text	Arabic	Term With Diacritics
Ahkam	أحكام	Aḥkāṁ
Hawzah	حوزة	Ḥawzah
Hukm	حكم	Ḥukm
Khilafah	خلافة	Khilāfah
Mantiqat al-faragh	منطقة الفراغ	Manṭiqat al-farāgh
Marja'	مرجع	Marja'
Marji'iyyah	مرجعية	Marji'iyyah
Shahadah	شهادة	Shahadah
Shakl	شكل	Shakl
Shura	شورى	Shūrā
Ta'alim	تعاليم	Ta'ālīm
Ummah	أمة	Ummah

### *Notes*

<sup>1</sup> Quotation translated from poem by the late Ayatollah Muhammad Husayn Fadlallah, first published in *al-Jihad*, no. 181, 8 April 1985 – a special edition that commemorated the fifth anniversary of Sadr's death.

<sup>2</sup> The description of Sadr as the 'prize' of the *hawzah* was posthumously applied by Khomeini, who was a colleague of Sadr during his exile years in Najaf.



<sup>3</sup> Particularly innovative works include Muhammad Baqir al-Sadr, *Iqtisaduna* (*Our Economics*), (Markaz al-Abhath wa al-Dirasat al-Takhasusiyyah lil-Shahid al-Sadr, 2003) and *al-Bank al-La Rabwi fi al-Islam* (*Usury-Free Banks in Islam*) (Beirut: Dar al-Taaruf, 1980) which laid the foundations for the development of Islamic banking and finance.

<sup>4</sup> For more on the IDP's history, see the party's official website in English: <<http://islamicdawaparty.com>>.

<sup>5</sup> Sadr's ideas find some practical application in the Iraqi party he pioneered, the IDP, which since Saddam's fall in 2003 has produced both of Iraq's first two elected prime ministers, Ibrahim al-Jaafari and incumbent Nouri al-Maliki. Al-Jaafari has since quit the IDP, forming his own party, the Reform Movement.

<sup>6</sup> E.g. Ayatollah Sayyid Muhammad Baqir al-Hakim, 'al-Shahid Muhammad Baqir al-Sadr's theory of political action', in *al-Minhaj* XVII (June-July 2000).

<sup>7</sup> E.g. Sama Hadad, *The Development of Shi'i Islamic Political Theory* (Baghdad: Baghdad Institute for Public Policy Research, March 2006).

<sup>8</sup> E.g. Talib M. Aziz, *The Islamic Political Theory of Muhammad Baqir al-Sadr of Iraq* (PhD thesis, University of Utah, 1991).

<sup>9</sup> In his article, al-Hakim makes very few actual references to Sadr's texts, particularly of *al-Usus* and *Khilafat al-Insan* despite his knowledge of them. Aziz too makes no mention of *al-Usus*, but this is most likely because he was not aware of it/had access to it during his research. In contrast to these two scholars, Hadad relies primarily on *Khilafah* and on principles outlined in *Usus*, but glosses over seemingly authoritarian statements found in *Lambah*.

<sup>10</sup> I utilise these documents, as well as other cited works by Sadr, in their original Arabic form, as few works have been translated and many of the translations that do exist are inaccurate. Quotations from the texts in this article are thus approximate translations that I have made and which the reader can verify through returning to the referenced Arabic documents cited.

<sup>11</sup> Muhammad Baqir Al-Sadr, *al-Usus al-Islamiyyah li-Hizb al-Da'wah* (*The Islamic Principles of the Islamic Da'wah Party*), in Muhammad al-Husayni, *Muhammad Baqir al-Sadr: A Life of Achievement, Thought of Brilliance* (Dar al-Mujtahid al-Bayda, 2005).

<sup>12</sup> Re-published in *al-Islam Yaqud al-Hayat* (*Islam Guides Life*) (Majma' al-Thaqalayn al-'Ilmi, 2003).

<sup>13</sup> These three texts will be quoted hereinafter as *Usus*, *Lambah*, and *Khilafat al-Insan* respectively.

<sup>14</sup> Aziz contends Sadr's thought is consistently authoritarian, but this position will be shown to be untenable through reading *Usus* and *Khilafat al-Insan*. Hadad argues the opposite to read a liberal-democratic thesis, without addressing seemingly contradictory elements in *Lambah* and in *Khilafat al-Insan*. Hakim, by claiming that Sadr changed his mind from initially opposing to later supporting Ayatollah Khomeini's theory of *wilayat al-faqih*, ends up sharing Aziz's assessment, but the evidence he provides for the change is not rooted in texts but rather interpretation of events. A more nuanced version of the 'changed' thesis is found in Muhsin Kadivar, *Nadhiriyat al-Hukm fi al-Fiqh al-Shi'ah* (*Theories of Rule in Shi'a Jurisprudence*) (Beirut: Dar al-Jadid, 2000), the Arabic translation of the Persian *Nadharīyib-ba-yi Dulat dar Fiqh-i Shi'ib*. Kadivar argues that Sadr actually changed his mind twice, moving from democratic to authoritarian to partially democratic.

<sup>15</sup> Al-Sadr, *al-Usus*, 699.

<sup>16</sup> Ibid., 704-705.

<sup>17</sup> Sadr uses the verb 'reveal' in two ways. Because he believes Islamic laws, values, and morals encompass all aspects of life, Sadr considers it the task of scholars to 'discover' and thus 'reveal' the true teachings of God. Once discovered, these teachings then need to be revealed to the masses – that is publicised and explained.

<sup>18</sup> In the Shi'a school, these are based on four sources: the Qur'an, Sunnah (narrations of the actions and words of the Prophet and Imams), consensus opinion of scholars, and the human intellect.

<sup>19</sup> Al-Sadr, *Iqtisaduna*, 370-371, 443-444.

<sup>20</sup> Al-Sadr, *al-Usus*, 699-700.

<sup>21</sup> Shi'a Muslims believe that prophets such as Abraham, Moses, and Muhammad, and the twelve Imams that followed Prophet Muhammad were all 'infallible', that is, free from sin.

<sup>22</sup> In his theory on history, Sadr argues that humans learn from history, and their overall movement throughout history is upward, even if setbacks and delays do occur. Ultimately, however, only with the Day of Judgement, can true justice and freedom be served.

<sup>23</sup> Ibid., 700.

<sup>24</sup> Ibid., 706.

<sup>25</sup> See: Muhammad Baqir al-Sadr, Socio-Political Lecture Series, Re-published in *al-Madrasat al-Qur'aniyyah (The Qur'an School)* (Dar al-Tawheed, n.d.) 141-142. A translated version of this is available as *Trends of History in the Qur'an* (Karachi: Islamic Seminary Publications, n.d.) available online at: <<http://www.al-islam.org/trends/>> see also Muhammad Baqir al-Sadr, *Our Philosophy*, trans. Shams Inati (Qum: Ansariyan Publications, 2000), 278.

<sup>26</sup> Ibid., 278.

<sup>27</sup> Aspirants for the role of justices need to attain the proper legal training, and be recognised as 'just', a requirement which can be likened to the requirement in Western democracies that justices be individuals recognised as morally upright citizens with no criminal record.

<sup>28</sup> Al-Sadr, *al-Usus*, 711-712.

<sup>29</sup> Ibid., 706.

<sup>30</sup> See Qur'an 9:71. For further elaboration on this principle, see Michael Cook, *Commanding Right and Forbidding Wrong in Islamic Thought* (Cambridge & New York: Cambridge University Press, 2000).

<sup>31</sup> Al-Sadr, *al-Usus*, 700.

<sup>32</sup> Ibid., 707.

<sup>33</sup> Ibid., 707.

<sup>34</sup> 'Grand jurist' refers to the Head of the *marji'iyyah*, who plays a lead political role in Imam Khomeini's *wilayat al-faqih*. How Sadr envisions the role of the Grand Jurist will be explained in the sections that follow.

<sup>35</sup> For a fuller understanding of *wilayat al-faqih*, read Khomeini's '1970 Najaf' in Hamid Algar, *Islam and Revolution 1: Writings and Declarations of Imam Khomeini* (Berkeley: Mizan Press, 1981).

<sup>36</sup> See *Britannica Online* entry: <<http://www.britannica.com/eb/article-9045329/Ruhollah-Khomeini>>, accessed July 2012; Charles Kurzman, *The Unthinkable Revolution in Iran* (Harvard University Press, 2004), 111.

<sup>37</sup> Chibli Mallat, *The Renewal of Islamic Law: Muhammad Baqir As-Sadr, Najaf and the Shi'i International* (Cambridge: Cambridge University Press, 1993), 61.

<sup>38</sup> Al-Sadr, *al-Islam Yaqud al-Hayat*, 34.

<sup>39</sup> 'One hundred' spiritualists is an arbitrary but significantly large number, accommodating the Sufism tradition popular in Iran

<sup>40</sup> Al-Sadr, *al-Islam Yaqud al-Hayat*, 35-36.

<sup>41</sup> Ibid., p. 38.

<sup>42</sup> Ibid., p. 37-38.

<sup>43</sup> Al-Sadr, *al-Usus*, 333-335.

<sup>44</sup> Al-Sadr, *al-Islam Yaqud al-Hayat*, 35.

<sup>45</sup> See e.g. Kadivar, *Nadhiriyat al-Hukm*, 99-100.

<sup>46</sup> Ibid., 35.

<sup>47</sup> See Aziz, *Islamic Political Theory*, 293-301 for further details of Sadr's proposed reforms, and Keiko Sakai, 'Modernity and Tradition in The Islamic Movements in Iraq: Continuity and Discontinuity In the Role of the Ulama', in *Arab Studies Quarterly* (Winter 2001) for analysis of how these reforms were and were not implemented

<sup>48</sup> Mallat, *Renewal of Islamic Law*, 50-54; Hadad, 'Development of Shi'i Islamic Political Theory', 4.

<sup>49</sup> Al-Sadr, *al-Islam Yaqud al-Hayat*, 162.

<sup>50</sup> Ibid., 169.

<sup>51</sup> Ibid., 166.

<sup>52</sup> Muhammad Baqir al-Sadr, 'al-Insan al-Mu'asir wa al-Mushkilat al-Ijtima'iyah' (Modern Man and the Social Problem), in *al-Madrasat al-Islamiyyah* (Dar al-Zahra, 1985).

<sup>53</sup> Sadr cites Qur'an, 7:157 to substantiate this claim.

<sup>54</sup> Al-Sadr, *al-Madrasat al-Islamiyyah*, 114.

<sup>55</sup> Al-Sadr, *al-Islam Yaqud al-Hayat*, 171-172.

<sup>56</sup> Ibid., 173-174.

<sup>57</sup> Ibid., 175.

<sup>58</sup> Ibid., 176-177.

<sup>59</sup> This addition in fact found itself in the Iranian Constitution, article 111, although advocates of *wilayat al-faqih* have tried to interpret its application differently to how Sadr does here.

<sup>60</sup> Al-Sadr, *al-Islam Yaqud al-Hayat*, 39-40.

<sup>61</sup> Ibid., 165-166.

<sup>62</sup> Sadr in his earlier writings was also preoccupied with critiquing capitalism as he understood it, but I consider that a distinct and separate subject, more associated with questions of political economy than the political system itself.

<sup>63</sup> The historical origins of human rights and the link between the evolution of these concepts and religion is a matter of much academic debate, see for instance: John Witte, Jr. & M. Christian Green (eds.), *Religion and Human Rights: An Introduction* (Oxford & New York: Oxford University Press, December 2011); Micheline R. Ishay, *The History of Human Rights: From Ancient Times to the Globalization Era* (Berkeley: University of California Press, 2004); Charles Villa-Vicencio, 'Christianity and Human Rights', in *Journal of Law and Religion* XIV, no. 2 (1999-2000), 579-600; and 'From Hammurabi to the Patriot Act: A History of Human Rights', in *Random History.com* (posted 11 December 2010) <<http://www.randomhistory.com/history-of-human-rights.html>>, last accessed 1 July 2012.

<sup>64</sup> Aziz, *Islamic Political Theory*, 289.

<sup>65</sup> For more on the IDP's history of popular opposition, including Saddam's repression of the party, see for instance, Rodger Shanahan, 'Shi'a Political Development in Iraq: The Case of the Islamic Da'wa Party', in *Third World Quarterly* XXV (2004), no. 5; Rodger Shanahan, 'The Islamic Da'wa Party: Past Development and Future Prospects', in *Middle East Review of International Affairs* VIII (2004), no. 2; Yamao Dai, 'Transformation of the Islamic Da'wa Party in Iraq: From the Revolutionary Period to the Diaspora Era', in *Asian and African Area Studies* (March 2008); and Faleh A. Jabar, *The Shi'ite Movement in Iraq* (London: Saqi Books, 2003).

<sup>66</sup> See Archibald Cox, *The Role of the Supreme Court in American Government* (Oxford: Oxford University Press, 1976) for a fuller analysis.

<sup>67</sup> For more on the 'quietist' tradition, see Moojan Momen, *An Introduction to Shi'i Islam* (New Haven: Yale University Press, 1985).

<sup>68</sup> Sharon Otterman, 'Background, Iraq: Grand Ayatollah Ali al-Sistani', in *Council on Foreign Relations* (1 September 2004) <<http://www.cfr.org/iraq/iraq-grand-ayatollah-ali-al-sistani/p7636>>, last accessed 1 July 2012; and Loveday Morris, 'Ayatollah Sistani Lends a Quiet Guiding Voice to Iraq', in *The National* (6 March 2010) <<https://kx.accenture.com/Organizations/Pages/Resources.aspx>>, last accessed 1 July 2012.

<sup>69</sup> Steven Lee Myers, 'Iraq's Top Cleric Refuses to Influence Elections', in *The New York Times* (2 March 2010) <<http://www.nytimes.com/2010/03/03/world/middleeast/03sistani.html>>, last accessed 1 July 2012.