Reinterpretation or Reformation? Shi'a Law in the West

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ABSTRACT: Most scholars have focussed on the experience of Sunni Muslims in the West. They often postulate a monolithic Islam that expresses the 'normative Islam'. This paper will outline the salient features that characterise the Shi'a community in the United States of America and will examine some of the recent juridical literature that has emerged from the traditional religious seminaries of Najaf and Qum. Also to be discussed is some of the hermeneutical tools that the jurists have deployed in coming up with novel solutions to the challenges the community has encountered in the West. I contend that when facing new situations that cannot be located in the revelatory sources and do not have legal precedents, jurists can formulate judgments that will best protect the interests of the community while remaining faithful to the Islamic frame of reference.

KEYWORDS: *maslahah*; *taqlid*; *ijtihad*; *mustahdathat* literature; *marja'*; Sistani, Ali Husayni; people of the book; *mujtahid*.

Introduction

The American Twelver Shi'a community is as old as its Sunni counterpart. Starting from the 1870s, Muslims arrived in the United States in a number of distinct waves.[1] The first wave came between 1875 and 1912. Among those who migrated to the United States at this time were Twelver Shi'as who came from South Lebanon.[2] Many of these Shi'as settled in Detroit, Michigan to work in the Ford Motor Company. In addition to Detroit, there was a sizable Shi'a community in Michigan City, Indiana.[3]

By the 1940s, about 200 Sunni and Shi'a families had settled in Detroit.[4] In view of the rapid increase of immigrants from different parts of the world in the early part of the twentieth century, after the first world-war, the United States government closed its borders to all but north-western Europeans under the National Origins Act of 1924. The act effectively separated many immigrants from their homeland and reduced the flow of immigrants to the United States.

The growth in, and the diverse nature of, the Shi'a population in America is a relatively recent phenomenon. In part, this has been a response to changes in American immigration laws. In 1965 President Lyndon Johnson signed an immigration act (called the Hart-Celler Act) repealing the quotas based on national diversity within the United States. The act abolished the earlier law that was based on quotas from specific countries and reversed decades of discrimination, initiating preferential admission of immigrants especially from the third world. This change had dramatic effects on immigration patterns. Immigration from Europe declined, while that from the Middle East and Asia increased.

Other factors have also precipitated increased Shi'a migration to the West. Adverse

socio-political conditions in the Middle East, Pakistan, and India have encouraged many Shi'as to leave their homelands. In addition, the Islamic revolution in Iran, the inimical socio-political conditions in Iraq, civil strife in Pakistan, the formation of Bangladesh from Pakistan, the civil war in Lebanon, adverse socio-economic conditions in East Africa and the establishment of the anti-Shi'a Taliban regime in Afghanistan have all contributed to the increased Shi'a immigration. Thus, like the Sunnis, the Shi'a community in the West now comprises a variety of people from many nations who represent diverse linguistic, national, ethnic, and racial backgrounds.

The increased Shi'a presence and the various challenges the community has encountered in the diaspora has resulted in Shi'as posing numerous questions to their religious leaders, residing in the Middle East. These have ranged from the permissibility of shaking hands with the opposite gender to offering prayers in cities where the sun does not set or rise. Such questions have led contemporary Shi'a jurists to re-examine the pronouncements made by the classical jurists so as to resolve issues that were not stated in traditional Shi'a literature.

This paper will examine some of the recent literature that has emerged from the traditional religious seminaries of Najaf and Qum as Shi'a leaders have sought to respond to the various questions posed by their followers. It will also discuss some of the hermeneutical tools that the jurists have deployed in coming up with novel solutions to the challenges the community has encountered in the West.

Religious Leadership in Shi'ism

At the outset, it is important to comprehend the religious hierarchy in Shi'ism and the impact this has on the community in the West. Shi'a religious leadership is predicated on a highly stratified hierarchical system called the *marja' al-taqlid,* or *marji'iyyah.* The term refers to the most learned juridical authority in the Shi'a community whose rulings on Islamic law are followed by those who acknowledge him as their source of reference, or *marja*'. The followers base their religious practices in accordance with his judicial opinions. The *marja*' is responsible for re-interpreting the relevance of Islamic laws to the modern era, and is imbued with the authority to issue religious edicts thereby empowering him to influence the religious and social lives of his followers all over the world.

The process of following the juridical edicts of the most learned jurist (*a*'*lam*) is called *taqlid* (literally, imitation or emulation).[5] In Shi'a jurisprudence, *taqlid* denotes a commitment to accept and act in accordance with the rulings of the shariah as deduced by a qualified and pious jurist. The concept of *marja*' *al-taqlid* is a corollary of the rational necessity to consult those who are experts in matters pertaining to juridical ordinances. In Shi'ism, acting upon the religious pronouncements of a *marja*' is an obligation imposed on all adherents of the faith, except those who are qualified to formulate and follow their own legal opinions. Hence, matters pertaining to religious practices are defined and regulated by the *maraji*' who become a source of reference on all issues pertaining to Islamic law.[6]

The institution of the *marji'iyyah* has created a sense of loyalty between the *marja*' and one who accepts to follow him, the *muqallid*. This sense of loyalty to the *marja*' is rationalised through a juridical prescription of an ordinary believer to declare her/his intention to follow the *mujtahid* through *taqlid*. The requirement to follow the well-defined and structured religious leadership of the *maraji*', the religious authority which is located in the Middle East, dictates the demeanour of the followers all over the world.

The obligation to follow the religious dictates of the *marja*' has meant that the

interpretations and pronouncements of the *maraji*', formulated in the Muslim lands, are seen as both normative and binding on their followers. Such a structured system of religious leadership and imitation of the most learned is lacking in Sunni Islam where there is no recognised clergy that can claim sole monopoly on the interpretation of religious texts.

Muslim Minorities in non-Muslim Lands

To comprehend the applicability of Islamic law, it is necessary to understand the rulings of traditional Islamic jurisprudence in areas where Muslims live in a minority context. Islamic jurisprudence was formulated when Muslims lived in areas where they constituted the majority population. In the eighth and ninth centuries, Muslim jurists attempted to construct a legal edifice by developing and elaborating a system of shariah law binding on all Muslims. The early legal cases in the Islamic juridical corpus were arrived at through a sense of realism in assessing the relative social and political milieu and its ramifications for the Muslim community. The laws were stated in general terms with a view to revising or correcting ethical-legal judgments in the face of specific contingencies. Jurists also understood the need to modify the generality and rigour of the legal contents of the Qur'an and the Sunnah to cope with the novel circumstances created by the hegemonic gains of the first two centuries of the political history of Islam.

As the Islamic empire expanded and Muslims had to live under non-Muslim rule, classical Muslim jurists came up with various solutions as to how Muslims could live in a minority context. The mediaeval jurists divided the world into the abode of Islam (*dar al-Islam*) and the abode of war (*dar al-harb*). These two phrases highlight the normative foundation of Muslim religious convictions about forming a trans-cultural community of believers who must ultimately subdue and dominate nonbelievers. The territory of Islam signified a political entity that acknowledged and upheld Islamic values and laws. As it purportedly upheld the shariah, this abode was seen as the territory of peace and justice. The ascendancy of Islam and the promulgation of the shariah in this abode was protected by a Muslim government.[7] The enforcement of shariah was important as it regulated and harmonised relations among its constituent elements.

Dar al-harb, on the other hand, was seen as the land of infidels, the epitome of heedlessness and ignorance that posed a threat to the Islamic order. The absence of the shariah in the abode of war was presumed to epitomise injustice and to foster lawlessness and insecurity. *Dar al-harb* denoted a territory in which Islam could not be practiced and Muslims lived under the threats of conflict, oppression, expulsion, or death.[8]

Settlement in the West has necessitated a paradigm shift in the Islamic legal discourse. Muslim jurists have restated their rulings on many issues, ranging from the classical *fiqh* (jurisprudence) of conflict and expansion to that of co-existence with the non-Muslim other. It has to be remembered that Islamic law initially developed in a context in which Islam was the dominant political culture. Muslims were not only the majority, they were also the rulers.

Living in the West has challenged jurists to revise some of the classical formulations. The new situation necessitates a revision of the *fiqh* of majority and a formulation of a new *fiqh* of minority.[9] This type of *fiqh* refers to the revision of certain points of law to accommodate the needs of Muslims living among non-Muslim majorities with special needs that may not be appropriate for other communities.[10] The rules formulated for Muslim minorities has to take into account the relationship between the religious edict and the conditions of the community and the location where it exists. This sense of

realism means that classical formulations are not only challenged but even subject to revision. For example, Hanafi jurists argued that Muslims living in *dar al-harb* can sell alcohol or pork and deal in usury with non-Muslims.[11]

The preceding discussion on the revision of traditional jurisprudence indicates that jurists need to employ hermeneutical tools that allow for substantive reformulation of traditional *fiqh*. The tools that are discussed and elucidated in the sources of Islamic law (*usul al-fiqh*) present a significant amount of flexibility in proposing novel ways of interpreting traditional sources. Stated differently, there is a need to enact laws that are conducive to the welfare of the community even though such laws are not found in earlier texts. Due to such principles, Islamic sacred sources have to be read in different ways. When facing new situations that cannot be located in the revelatory sources and do not have legal precedents, jurists can formulate judgments that will best protect the interests of the community while remaining faithful to the Islamic frame of reference.

Ijtihad *and the Revision of Islamic Law*

For the *maraji'*, the dispersion of their followers in different parts of the world has put pressure on them to search for ways in which they can respond to all the needs of the Shi'a community. The *maraji'* have had to transcend their traditionally recognised function of managing religious donations and of providing guidance limited to the religious realm. The multifarious challenges faced by Shi'a communities around the globe, especially those in the West, have forced the *maraji'* to deduce rulings from the Islamic sources to respond to the widening gap between the religious and secular existence in a non-Muslim milieu.

An important element in this rethinking is *ijtihad*, which is a rational process that attempts to extrapolate juridical injunctions from the revelatory sources. More specifically, *ijtihad* is seen as a jurist's exertion of his mental faculties to arrive at an absolute proof based on the interpretation and application of the authoritative sources of Islamic law: the Qur'an and the Sunnah. The purpose of the exercise is to arrive at a legal injunction that reflects God's will.

According to the contemporary jurist Ayatollah Muhaghegh-Damad, since civil rules are variable, Islamic laws must change accordingly. Thus, in our own times, Islamic legal rulings must be reinterpreted based on the principle of harm and benefits and other principles established in *usul al-fiqh* (the science of inferring juridical rulings from textual and rational sources). Stated differently, there is a need to enact laws that are conducive to the welfare of the community even though such laws are not found in earlier texts. Due to such principles, Islamic sacred sources have to be read in different ways. Thus, for example, based on the principle of *la darar wa la dirar* (there is neither harm nor injury in Islam), an Islamic government can override private ownership. He suggests the need to enact wide-ranging reforms based on the needs of the time.[12]

As an example of the possible re-interpretation of the law, Muhaghegh-Damad states that in the Qur'an we encounter the phrase addressed to men concerning their marital life: 'Live with them in accordance with that which is recognised as good (*al-ma'ruf*)' (4:19). The Qur'an indicates that cohabitation in what is perceived as 'good' is the foundation of Islamic family law and the foundation of individual laws pertaining to the rights of married women. In the past, when social and economic lives were much different and women were confined at home without economic responsibility or the need to earn a living, this Qur'anic phrase had a particular meaning. Muhaghegh-Damad asks,

> Does cohabitation in accordance with that which is recognized as good have the same connotation today? In the past, maintenance (*nafaqah*) that was

> payable to the wife if she was divorced was calculated by the jurists at a very low rate. This rate is contingent on the needs of the time.[13]

Other jurists who have stressed the urgency of *ijtihad* include Ayatollahs Khomeini and Mutahhari (d. 1980), the latter of whom poignantly asked, 'if a living *Mojtahed* does not respond to modern problems, what is the difference between following a living and a dead [religious authority]?'[14]

Jurists who argue for a reinterpretation of Islamic law also maintain that the interpretations of Islamic revelation were interwoven to the specificity of those times and places. Jurists can only pronounce general principles, not rulings that are to be enforced at all times and places. They also argue that hermeneutical principles within *ijtihad* allow for a different understanding of the Islamic message.

Hermeneutical Devices in the Application of Islamic Law

Contemporary Muslim jurists have appropriated various hermeneutical devices, as stated in *usul al-fiqh*, in order to apply Islamic law in modern times. This intellectual undertaking in jurisprudence is linked to identifying general rules as stated in the normative sources and applying them in specific cases.

In Sunni Islam, an important principle in this undertaking is that of *maslahah*, a term which means 'considerations that promote benefit and prevent and remove harm'. This is seen as an independent legal principle that can be applied to almost any situation that is not textually decided, as well as to adapt existing laws to changed circumstances. Consideration of public interest or the common good of the people has been an important principle for Muslim jurists in accommodating new issues. An important element in *maslahah* is that public necessity makes prohibited things permissible.[15]

In Sunni jurisprudence, *maslahah* is linked to *istislah*, a term that refers to seek to promote and secure the common good. *Istislah* is a guiding principle, formulated on the basis of sound opinion, through which its public utility is inferred. These principles are utilised in situations about which the shariah has neither ruled explicitly nor provided any relevant precedents. In other words, in matters on which the law has not ruled, any moral-legal judgment that falls outside the framework of general rules derived from *maslahah* does not have the force of law. The verse 'God commands justice and good deeds' (Q. 27:90) and the tradition 'No harm, no harassment' are rules that flow from the principle of 'common good.'[16] Since both *maslahah* and *istislah* refer to the 'public good', they are 'free' from the required textual proof that would support their validity in jurisprudence.[17] Due to the importance of these principles, they can also be invoked and applied even when an opposing opinion has been stated in the juridical manuals.

For both Sunnis and Shi'as, issues regarding public benefit and circumventing hardship can be derived directly from the Qur'anic injunction: 'God intends ease for you, and he does not want to put you in hardship' (2:185). This directive is further reinforced by the tradition that states, 'The best of your law (*din*) is that which brings ease to the people'. In other words, the principle allows formulating a decision that overrides an established precedent in order to uphold a higher obligation of implementing the ideals of fairness and justice without causing unnecessary hardship to the people involved. The essence of these principles is their adaptability in meeting the exigencies of every time and place on the basis of public interest.[18]

The rule of *la darar wa la dirar fi al-Islam* (there is no harm or injury in Islam) is another important principle that is utilised to deduce new rulings. The significance of this principle is that it serves as a justificatory ruling among jurists who either challenge previous edicts or deduce fresh ones. Another principle that is frequently invoked is that

of *darurah* (necessity). This can be utilised in cases of imminent danger to the life or physical welfare of the community or to the lifting of dietary restrictions when a person's health is jeopardised. In the past, the *fiqh* of *darurah* was employed by Sunni jurists during times of crises such as the Mongol invasion or the coming of the Crusades in Muslim lands. Most of the rulings were on an ad hoc basis and did not reflect a fully refined juridical system. Thus, the laws articulated in these periods fell under the category of legal exception by virtue of necessity. By deploying such principles, jurists gave themselves flexibility in circumventing rules in any given circumstance, even those that may have explicitly stated prohibitions.

In recent times, many questions have been posed to Shi'a jurists regarding rulings for those residing in a minority context. The *maraji*' have articulated and, at times, applied hermeneutical devices in the elucidation of the legal precepts reported from the Imams. The *maraji*' have also composed literature oriented specifically to the conditions of Muslims in the West.

The Responsa and Mustahdathat *Literature*

The *maraji*' have responded to the needs of Shi'a communities that live as minorities by recasting Islamic legal discourse and reconciling Islamic legal categories to the demands of the times. New situations and contingencies have prompted the experts in the field to delve into the sources and to deploy methodological devices so as to enable them to deduce fresh juridical rulings. In their writings, the *maraji*' have articulated the juridical and moral parameters within which the followers are to base their demeanour. At times, they have adjusted these parameters in light of specific circumstances, using principles like *darurah*, *maslahah*, and *haraj*.

Besides their juridical treatises (*risalah 'amaliyyah*), the *maraji"*s fatwas are available online. Their edicts are also transmitted orally or by responses issued by their representatives and offices, which are based in the West and in Qum, Iran. Most *maraji'*, including Ayatollahs Sistani, Fadlullah, Khamenei, Sani'i and Makarim-Shirazi have their own websites where they treat questions dealing with migration to and life in the West.

In addition to the above, a distinct genre of juridical texts called the *mustahdathat* literature has recently emerged from the Shi'a theological centres of Qum (Iran) and Najaf (Iraq). What is novel about these texts is that they evince increasing attempts by the *maraji'* to respond to issues affecting the lives of Shi'as all over the world. The literature is a collection of a *marja"*s responses to questions posed by his followers. For instance, a question was posed to Ayatollah Sistani concerning the direction of prayer from North America, an issue that had divided the Muslim community in North America. In the early 1990s some Muslims prayed facing towards the south-east whereas the majority prayed towards the north-east. Interestingly, Sistani's ruling differs radically from his predecessor, Ayatollah Al-Khu'i.[19]

The growing need to address the concerns of the Shi'a community in the West is further illustrated by the title of another recently published book, *Fiqh lil-Mughtaribin* (*Jurisprudence for Those Residing in the West*) translated as *A Code of Practice for Muslims in the West in Accordance with the Edicts of Ayatullah al-Udhma as-Sayyid 'Ali al-Husaini as-Seestani*. The book is the first attempt at writing Islamic laws for Muslims who have settled in non-Muslim countries. As the author reminds us, '...new problems have emerged and a number of questions arose that have called for answers.'[20]

In this work, such issues as masturbation, homosexuality, and viewing pornographic pictures and films are discussed quite explicitly.[21] 'Abdul Hadi al-Hakim, who has authored this work, reminds us that many of the topics covered in this text have not been

treated in Sistani's juridical treatise, *A Manual of Islamic Laws*. Al-Hakim also states in the preface that he has attempted to make laws accessible to the laity. The emphasis on 'new laws' further corroborates my observation that the *maraji*' have formulated new rulings in response to questions posed by their followers.

The *maraji'* responsa are evident in different genres of juridical literature. Some texts are predicated in the form of a dialogue between two parties; another genre reflects the responsa of the *maraji*' to the various questions posed to them. A third source is composed by the *maraji*' themselves, reflecting their legal opinions. These legal treatises (*al-risalat al-'amaliyyah*), take the form of an enumeration of the *maraji*''s rulings on various issues.

Shi'a scholars have also sensed the need to make Islamic jurisprudence more perspicuous to the lay readers. This is evident in the title of a book, *Jurisprudence Made Easy*. 'Abdul Hadi al-Hakim, who has also authored this text, stresses in the preface that jurisprudence has to be in a language that is 'down to earth' so that the subject can be more accessible to the lay readers.[22] The rulings in the book accord with the fatwas of Ayatollah Sistani. A novel feature of this work is that it is in the form of question and answer between a fictitious father and son who has just attained puberty. The first chapter, for example, is devoted to a dialogue on *taqlid*, the second chapter is titled 'Dialogue on *Najis* (ritually impure) Things.'

The concern to address issues confronting Shi'as in the West is also evident in the title of another work *Ahkam al-Mughtaribin* (*Legal Rulings for Those Living in the West*). The author, al-Sayyid Husayn al-Husayni, juxtaposes and contrasts the views of ten *maraji*' (both recently deceased and contemporary) on important juridical questions. The book comprises 1,500 fatwas from Ayatollahs Khomeini, Al-Khu'i, Muhammad-Rida Gulpaygani, Muhammad 'Ali Al-Araki, Javad Tabrizi, Khamenei, Sistani, Lutf Allah Safi-Gulpaygani, Fadil Lankarani, and Makarim-Shirazi. The text is organised topically, with several *maraji*' contributing legal opinions under each chapter. Again, the chapters of *Ahkam al-Mughtaribin* follow the general format of standard legal manuals, beginning with issues of purity and impurity, and moving from matters of worship (*'ibadat*) to social relations (*mu'amilat*).

An important *mujtahid* worthy of mention at this juncture is Ayatollah Fadhil Milani. Although not a source of emulation (*marja'*) a distinctive feature of Ayatollah Milani is that he has lived in England for over twenty years, hence he is fully conversant with the challenges of living in a minority context. Milani's *Frequently Asked Questions on Islam: Islamic Answers for Modern Problems* demonstrates that he is fully aware of the issues that Muslims encounter in the West. As he states in the foreword to his work,

> People want to buy homes, obtain treatment for infertility, and cope with the problems of everyday life. Muslims are increasingly living and dying in non-Muslim societies, working alongside and marrying non-Muslims. They need answers to the myriad complexities which confront them.[23]

Milani's work is a collection of various questions that were posed to him.

The Influence of Ayatollah Sistani in the West

It is important to comprehend how the *maraji'* have responded to the increased Shi'a presence in non-Muslim countries. After he was recognised as a Grand Ayatollah in 1993, Sistani's rulings were followed by millions of Shi'as throughout the world. Sistani recognised the need to foster closer ties with the Shi'a community, especially in the West. He appointed various financial and religious deputies like Fadhil Sahlani (New

York) and Muhammad al-Baqir Kashmiri (Los Angeles) to act as his representatives in America. This has enabled the Shi'a community to engage in projects that provide religious education and community service. Sistani has also established an office in Los Angeles and has an office in New York (the Al-Khoei Foundation, which was established by Ayatollah Al-Khu'i).

Many of the religious centres in America follow the rulings of Ayatollah Sistani and remit religious taxes (*khumus*) to his office. He has encouraged his followers to utilise the *khumus* to build daily religious-secular schools in addition to places of worship. It is the *khumus* factor that has enabled Shi'a religious leaders like Sistani to direct the religious and socio-economic lives of the Shi'as in America. In addition, he regularly sends his agent, Sayyid Murtaza Kashmiri, to America to monitor the progress and report on the needs of the community.

To facilitate greater access to the Ayatollah, Sistani's office has designed a website[24] where questions can be posed and his new edicts can be accessed. For example, Sistani was asked whether it was permissible to rely on DNA test results that indicate a child was born out of wedlock. Even though there is no authoritative precedence in the normative texts, Sistani says: 'Whosoever shall attain certainty through other means, be it through blood test or any other means, should feel free to act upon it.' Sistani cautions that such a test is not a legitimate means to determining adultery and that the Islamic penal code will not be applicable based solely on DNA results.[25]

As far as Muslim residence in the West is concerned, in the new juridical response literature, *Fiqh Lil-Mughtaribin* and *Al-Mustahdathat* (translated as *Current Legal Issues*), Ayatollah Sistani couches legal norms with a concern to uphold moral and ethical codes. For Sistani, moral imperatives and injunctions apply to Muslims wherever they are. He stresses that Muslims must uphold the highest moral standards, they must faithfully discharge all their contractual obligations and that they may not violate the property of non-Muslims. Muslims, wherever they reside, must uphold Islamic law, serve the public and individual interest of Muslims, and fulfil the pledges or agreements made to a non-Muslim state. If Muslims enter or reside in a territory, they must abide by the laws of the land.[26]

Sistani also states that traffic laws must be obeyed, because non-observance would lead to accidents.[27] No-smoking signs on public transport should be observed if they are considered part of a contract for fare-paying passengers.[28] Sistani encourages Muslims to remain devout and strict in matters pertaining to personal law yet be actively involved in civil and political life. While prohibiting the sale of alcohol or even sitting at a table where alcohol is served, he encourages Muslims to give charity to non-Muslims.[29]

Another *marja'*, Ayatollah Fadlullah, was questioned whether Muslims are required to abide by ethical norms when they live in a non-Muslim country. He was asked:

> Some view the Western institutions as a kind of prey or source of booty from which they must profit to the maximum even if through dishonorable methods such as fraud, forgery and lying; some believe that it is allowable to steal the property of the infidels. How can we draw a positive image of the relationship between the Muslim emigrant with the institutions that offer him confidence and respect and accept what he says? This is seen to reflect badly on all Muslims and not just on the Muslim who violated the law.[30]

In a lengthy response, Fadlullah states:

> Through our study of Islamic morals, we find that they do not suggest that truthfulness is restricted to a Muslim and lying is permissible with the non-Muslim, or that lying to the non-Muslim becomes allowable and telling the truth

only to fellow Muslims is obligatory, for the matter lies not with others, but with the person himself. This is also the case as far as trustworthiness is concerned. We have the hadith: 'Give back the property that you were entrusted with (*al-amanah*) to whoever entrusted you with it even to the killer of the sons of the Prophets!' Imam Zain al-Abidin (a.s.) said: 'If the person who hit Ali with the sword entrusted me with the sword with which he had hit Ali; and I accepted that, I would surely return it to him!' It was also narrated: '(He [who] has) no religion (religious adherence) cannot be trusted (is not trustworthy), even if he fasts and prays.'

Therefore, Islamic morals represent the Islamic values which proceed from the Muslim, whether these morals are related to his individual state or to his relationship with others, for Islam requires the Muslim to respect others except in the event of war because war has a certain moral consideration in all religions and civilizations....Thus, we reject any immoral deed committed against peaceful non-Muslims, in accordance with His saying: *Allah does not forbid you to be kind and just to those who have neither fought against you on account of your religion nor driven you from your homes; Allah loves the just* (60:8). Justice demands that you grant the right that belongs to everyone – Muslim or non-Muslim – hence you cannot deny a non-Muslim his rights with regard to you, or deny him the rights that you enjoy; so you cannot steal his property, or disregard the covenant between you and him, or harm him in any way.[31]

The Purity of the People of the Book

The juridical edicts pronounced by the *maraji'* in the *mustahdathat* literature pertain to diverse issues, ranging from acts of worship to social interactions. Most of these rulings impact Muslims living both in the West and the East. In this section, I will examine their juridical pronouncements on three issues that primarily, but not exclusively, impact Muslims residing in the West. These are: the purity of the people of the book, offering prayers and fasting in areas where the sun does not set or rise, and shaking hands with members of the opposite gender. It should be noted that, in the *mustahdathat* literature among the laity in the West there is no detailed analysis or explication of the mechanisms which enable a jurist to reach his conclusion. In fact, in this literature, most *maraji'* do not discuss how they arrived at their decisions. Although they probably employ the devices outlined above (that is, *haraj* and *la darar wa la dirar*), in the responsa literature which I have examined, we know more on the final pronouncements of the *maraji'* than the process by which these decisions were arrived at.

One of the most difficult rulings for Shi'as in the West to observe is the ruling, enunciated in classical Shi'a literature, that non-Muslims, including the people of the book, are intrinsically impure (*najas*). Shi'a exegetes have interpreted verse 9:28 (Indeed the associators (*mushrikun*) are impure) to assert the intrinsic impurity of non-believers, including the people of the book (*ahl al-kitab*). For many exegetes, anyone who denies the fundamentals of Islamic beliefs (monotheism, prophecy of Muhammad and the afterlife) is classified a non-believer and hence considered impure. This includes Christians and Jews. Thus, Al-Sharif al-Murtada (d. 1044), for example, argues that non-Muslim food is prohibited on the basis of verses 6:118-121 and 9:28.[32] Before the time of Al-Murtada, most scholars did not consider the people of the book as intrinsically impure.[33]

For Al-Murtada, and for many scholars after him, non-Muslim food, including that of

the people of the book, was prohibited due to their impurity. His contemporary, Muhammad ibn Hasan Tusi (d. 1067) also links verse 9:28 with impurity. He further states that Jews and Christians are to be treated as *mushrik*s (associators) due to their beliefs regarding Ezra and Jesus, compromising thereby the strict monotheism of Islam.[34] However, as Ayatollah JannÁti has argued, many Shi'a jurists also argued for the purity of the ahl al-kitab.[35]

Treating the people of the book as non-believers was not restricted to the juridical field, rather, it extended to denying them salvation in the hereafter. Many exegetes of the Qur'an sought to invalidate the claims of previous scriptures so as to circumscribe the ecumenical thrust of verses like 2:62 (which promises salvation to the people of the book) by resorting to various hermeneutical devices. For example, they appealed to the *naskh* (abrogation) principle. Other commentators limited the application of verse 2:62 by assigning the reason for its revelation to a specific group of people. The third approach has been to limit the verse to a strictly legalistic interpretation and the fourth approach has been to restrict the universality of the verse until the coming of Islam (thereafter the verse is said only to apply to those who hold the faith of Islam).[36]

A number of Muslim commentators have used verse 3:85 to argue for the finality and supersession of Islam over all other religions. The verse states that no religion other than Islam is acceptable to God. It has been interpreted in the previous and modern commentaries as abrogating 2:62 which, as noted, offers salvation to the people of the book.

Given the need to interact with and consume food prepared by Christians and Jews in the West, such exclusivist interpretations and rulings are particularly problematic. Even recent *maraji'* like Al-Khu'i had ruled that the people of the book were impure. When I asked Al-Khu'i in 1988 that the Qur'an states that their food may be consumed (5:5), he stated that this refers to dry food like wheat, grain, and barley.[37] If they touch anything with wet hands or on which moisture from their bodies flows, then the product becomes impure. This is because impurity is transferred through moisture.

However, many contemporary jurists have challenged and revised this traditional ruling. Muhsin Al-Hakim (d. 1970), a contemporary of Al-Khu'i, had argued for the purity of the people of the book.[38] According to another, JannÁti, who is based in Qum, 'Non-Muslims of any group (people of the book, polytheists, and atheists) are intrinsically, physically and bodily clean. And if they stay away from things that are considered impure by Muslims, they will not have accidental uncleanness as well.'[39]

Ayatollah Sistani also disagrees with the classification of the people of the book as impure. He states, 'As regards to the people of the book (i.e. Jews and Christians), who do not accept the Prophethood of Prophet Muhammad bin Abdullah (peace be upon him and his progeny) they are commonly considered najas, but it is not improbable that they are pak [ritually pure]. However, it is better to avoid them.'[40]

Sistani also invokes the legal principle 'everything is pure for you unless you know of its impurity' to solidify his argument. He states that a person whose religion is unknown is considered to be pure. He therefore widens the circle of those who might come within the domain of the pure. Likewise, Tabrizi says that Muslims need avoid people of the book only when they have specific knowledge of circumstantial impurity; otherwise, they need not.[41] Along the same lines, Khamenei states that 'the intrinsic impurity of ahl al-kitab is not commonly accepted, rather, we consider them essentially clean.'[42]

Another *marja'*, Ayatollah Fadil Lankarani candidly admits that 'it is problematic, even prohibited – to consider the people of the book as impure.'[43] Muhammad Husayn Fadlullah, whose views are often considered controversial, states that 'associating partners to God (*shirk*) does not and cannot transmit its spiritual filth physically.' In no sense, are unbelievers intrinsically impure. No human being, Fadlullah stresses, 'be they

mushrik, atheist*, kitabi,* Buddhist, or anything else,' may be called impure in and of themselves.'[44]

The issue of the purity of the people of the book has been debated for a long time in Shi'a juridical circles. Jurists like Fadlullah and Makarim-Shirazi consider not only the people of the book but all human beings to be intrinsically pure. Clearly, many contemporary jurists have challenged the erstwhile opinions. The revision of this ruling has greatly facilitated Shi'a interaction with the people of the book, especially when they are in a minority. The revised ruling is also an important example of how jurists have invoked various principles, enunciated in *usul al-fiqh*, to challenge classical legal pronouncements.

Prayers and Fasting in Areas with Long Nights and Days

Another important legal issue for Muslims in the West is that of offering prayers in places where the sun does not rise or set. A number of *maraji'* have been asked the following question:

> In some countries, the sun does not go down (there is no sunset), or, (conversely) – in certain seasons it does not rise for many days or months. On which set of times should a person depend for his prayer and fasting?

We should not conceive the *marji'iyyah* as monolithic. In fact, as I have shown elsewhere, their responsa differ on many legal issues, leading to widespread differences between their followers.[45] Once again, based on the principles of *la darar* and *haraj*, jurists have sought to reduce the difficulties encountered by their followers. Fadlullah and Sistani both advise their followers to follow the times of 'the nearest places that have night and day covering all twenty-four hours.' According to Sistani, they will pray five prayers (*salat*s) according to the times of that closest city.[46] Fadlullah suggests a more lenient solution of arranging one's own schedule for praying the five prayers within a twenty-four hour period. According to Al-Khu'i, if it is possible for the person to migrate 'somewhere where it is possible to pray and fast, this is obligatory for him.' Otherwise, as a precautionary measure, he offers a more liberal suggestion of spreading the five prayers throughout the day.[47] Fadil Lankarani echoes Al-Khui's travel advisory but on the basis of precaution, he comes up with a novel interpretation, recommending that following one's homeland timings as an option.[48]

Juridical pronouncements such as these reflect a departure from traditional Shi'a texts where such issues were not discussed. The *maraji'* have employed hermeneutical devices at their disposal to arrive at rulings that respond to the questions posed by their followers, many of whom live in the West. Not only have the Shi'a scholars formulated new juridical rulings, they have done so at the expense of differing with the views stated by many of their peers.

Rules for fasting in areas which have long days and nights likewise exhibit a range of opinions. Fadlullah recommends that the person make up the fast as *qada'* at some time.[49] In another fatwa, however, Fadlullah says that if daylight lasts eighteen hours or longer, one should fast for 18 hours, but one is permitted to break the fast 'if he is afraid of harm'.[50] Sistani and Al-Khu'i say that it is obligatory that the person move or migrate to another country, but if this is 'impossible', Sistani requires giving *fidyah* (monetary compensation for valid omission of an obligatory religious duty) instead.[51] He also states that if it is possible for him repay (*qada'*) the fast later on by moving to another city he should do so otherwise he should pay the *fidyah*.[52] The *maraji'* have clearly differed whether fasting during the month of Ramadan should be observed in areas which have

excessively long days.

The *maraji'* have had to exercise great care in issuing fatwas on topics that have not been covered in the classical juridical literature. One of the most perplexing issues is that of offering prayers when travelling in space and its relation to movement against or along the earth's rotation. Ayatollah Sistani deals with this in one of his *mustahdathat* works. He states:

> A person travelled aboard an aeroplane [craft], whose speed is equal to that of the earth, heading towards the West from the East. The craft went into orbit around the earth for some time. In such a case, the five prayers should be performed in every twenty-four hour period with the *niyyah of qurba mutlaqah* (The intention for prayer done with a view to seeking nearness to Allah, i.e. without designating whether it is *ada'* or *qada').* As for fasting, it should later be performed as *qada'.*
>
> If the speed of the [space craft] was double that of the earth, the cycle is, naturally, completed in periods of twelve hours. Is it obligatory on the traveller to perform *Subh* prayer at every dawn, *Dhuhr* and *Asr* prayers at every noon time, and *Maghrib* and *Isha* at every sunset?
>
> As a matter of *ihtiyat luzumi,* [one should perform prayers in the manner suggested by the question, i.e. five prayers every twelve hours]. If, for example, the space craft orbited the earth at three-hour intervals or less, evidently it is not obligatory to perform prayers at every dawn, noon, and sunset. As a matter of *ihtiyat,* one should perform prayers at twenty-four hour cycles with the *niyyah* of *al-qurba mutlaqah.* To do so, one should take into consideration the occurrence of *Subh* prayers between two dawns, *Dhuhr* and *Asr* between a noon and a sunset that follows it, and *Maghrib* and *Isha* between a sunset and a midnight that follows it.
>
> To sum up, if the movement of the craft was from the West to the East and its speed was equivalent to that of the earth, evidently prayers should be performed at their prescribed times. Similarly, if its speed was less than that of the earth, or it was much more than that of the earth, such as the cycle is completed every three hours, the rules that should be applied are as discussed in the preceding paragraph.[53]

Articulating these fatwas within the context of juristic discourses and wider Islamic worldview has led jurists to go beyond the pronouncements in the classical legal literature. Given the fact that many of their followers reside in the West, the *maraji'* have had to revise traditional rulings and, at times, come up with fresh rulings based on the needs of their followers on the one hand and, as seen in the case of travelling in space, scientific advancement on the other.

Inter-Gender Hand-shaking

It would be wrong to conceive of the *maraji'* as willing to accommodate all the needs of their followers. Indeed, as I shall demonstrate in this section, the *maraji'* have insisted on the avoidance of hand-shaking with the opposite gender even though this may cause great embarrassment and distress on their followers, especially those residing in the West.

Most Shi'as are aware of the principles that govern a *mujtahid*'s decision. Hence, they frequently invoke these to obtain a favourable ruling. The most popular principles they

invoke are those of *haraj,* or necessity (*darurah*). Jurists have ruled that it is prohibited to shake hands with the opposite gender unless there is a covering, like a piece of cloth or glove, between them. However, this rule becomes very difficult to observe in the West where inter-gender handshaking is the norm. The difficulties encountered by Shi'as is evident from the following question which was posted on the website of the Al-Khoei Foundation, based in New York.

> [Question] A male student in the western countries is applying to university and needs to attend interviews with that university's teachers. When attending these interviews the student needs to greet the teachers with a simple hand shake. If the teacher is female and the student does not shake hand [sic] with her then the student will be discriminated against for his religion and this will jeopardize his chances to be admitted to the university and this will drastically change his life. Is he permitted to have [the question is cut off at this point...]
>
> [Answer] Under circumstances where a problem may arise, light handshake sans any sexual feelings is allowed.[54]

However, Al-Khu'i's actual fatwa is quite different from what is stated on the website. He states:

> Hand-shaking is not permitted (*la yajuz*) unless not doing so would result in corruption (*mafsadah*) and harm (*darar*). It is also okay between a veil (*al-sitr*) and without any misgivings or sexual feelings.[55]

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It is to be noted that the questioner above frames the act contextually and invokes the principles of *haraj* and *darurah*. Inter-gender handshaking is construed as an innocuous necessity that must be undertaken to conform to the normative culture in the West. According to questioners (*mustaftis*), *haraj* is invoked so as to reciprocate an act, which, if not undertaken, would reflect negatively on Muslims and Islam. The questioner emphasises a perceived compulsion in the situation *(idha idtarra al-insan,* i.e., if someone is compelled), innocence of motive (without any misgivings or desire, the fact that it is initiated by the woman in the context of a formal meeting, and the extreme hardship (*haraj shadid*) and the dire consequences not shaking hands would occasion, including insult to the Muslim and disdain of his religion and his testimony to Islam.

Most *mujtahid*s have prohibited inter-gender handshaking. As a matter of fact, Sistani includes women shaking hands with unrelated men in a list of activities that, 'if forced to do by her husband, justifies her leaving him and remaining entitled to full maintenance'.[56] Fadlullah goes so far as to imply that the alleged *haraj* claimed by a questioner is nothing but intentional self-deception. Elsewhere, however, Fadlullah acknowledges the permissibility of shaking hands in 'compelling cases' but not otherwise. Fadlullah is asked, 'Is it permissible to shake hands with a western woman in case of extreme embarrassment or in ordinary situations?' to which he replies:

> Shaking hands with a foreign woman is not allowed but in extremely delicate and inconvenient situations. Moreover, the believer must be very precise in judging the delicacy of a certain situation so that he won't be driven by this permission to become lenient or indulgent as regards his religious commitment.[57]

The tough stance adopted by the *mujtahids* on the issue of hand shaking is seen by the fact that Al-Khu'i and Sistani allow it only when other possibilities – including wearing gloves or not shaking hands at all, fail.[58] Most jurists have opined that it is permissible to shake hands with a member of the opposite gender only under an unusually critical

situation, one that will cause extreme difficulty (*al-haraj al-shadid*) if one refuses to shake hands. Ayatollah Tabrizi goes even further. He states that shaking hands with the opposite gender is not allowed even under extreme circumstances since not touching the opposite gender is among the distinctive markers and an identity of Islam, something that has to be preserved whenever possible.[59]

Conclusion

Islamic law, the shariah*,* occupies a central role in Muslim devotional practices. Indeed, obedience to God is frequently measured by adherence to His law. Muslim jurists see the shariah as a structured, normative praxis; and an amorphous flow of religious experience developed into a fixed pattern of laws, a comprehensive system that governs personal and public demeanour.

Shi'as residing in the West contextualise rules in the Western context, hoping that innovative solutions to the dilemmas they face in secular societies may be found in the legal resources of their tradition. In suggesting, for example, postponing prayer because of practical difficulties caused by employment, questioners (*mustafti*s) do not appeal to humanistic values of Western secularism, but to Islamic legal principles of *qada'* and *haraj.* In suggesting that the no hand-shake rule complicates their lives to a degree that threatens their ability to provide for themselves and their families, their objections are likewise framed in terms of Islamic values of providing for one's family, respect for others, and with concern for the honour of Islam. Offending non-Muslims by not shaking hands with them, for example, it is believed, might reflect badly on Muslims and Islam.[60]

The legal decisions offered by *mujtahid*s, on the other hand, indicate that the interests of the jurists do not lie in facilitating the construction of an assimilated or contextualised identity, but in upholding the moral/legal tradition as developed within Islamic social contexts. The specific rules of behaviour that *mujtahid*s derive are constrained by presuppositions not always shared by questioners*,* who tend to see their place in the West in more practical terms.

*Mujtahid*s see subservience to the shariah as paramount even in non-Muslim countries. The efficacy of the law is in its ability to protect Muslim identity by containing it. The goal of the jurists' endeavour is to interpret and articulate the law of God in details. For them, the Islamic community is to be imbibed by the law, for the shariah is seen as pervasive, dominating every facet of a person's life. The jurists also stress the performance of legal commandments because salvation is deemed to be contingent on realising and implementing the law. Their decisions appear to be directed towards upholding normative values against perceived threats and dangers.

For the Shi'as, the new rulings issued in the seminaries establish parameters within which they can shape their lives in the West. It is essential that the jurists review and revise the law in keeping with the dictates of changing circumstances. Living in a minority context on a permanent basis will require they legislate and issue fatwas that can respond to the demands of living in a secular society on the one hand and yet be faithful to Islamic normative jurisprudence on the other.

Table of Key Transliterated Terms

Term Appearing in Text	Arabic/Persian	Term With Diacritics
a'lam	أعلم	aʕlam
Ada'	أداء	adāʾ
dar al-harb	دار الحرب	dār al-ḥarb

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dar al-Islam	دار الإسلام	dÁr al-islÁm
darurah	ضرورة	ÃarÙrah
fidyah	فدية	fidyah
fiqh	فقه	fiqh
haraj	حرج	Îaraj
‘ibadat	عبادات	ÝibÁdÁt
ijtihad	إجتهاد	ijtihad
istislah	إستصلاح	istiÒlÁÎ
khumus	خمس	khumus
maslahah	مصلحة	maÒlaÎah
marja‘	مرجع	marjaÝ
marja‘ al-taqlid	مرجع التقليد	marjaÝ al-taqlÐd
marji‘iyyah	مرجعيّة	marjiÝiyyah
mujtahid	مجتهد	mujtahid
Mustahdathat	مستحدثات	mustaÎdathÁt
mu‘amilat	معاملات	muÝÁmilÁj
Qada’	قضاء	qaÃÁÞ
risalah ‘amaliyyah	رسالة عمليّة	risÁlah Ýamaliyyah
taqlid	تقليد	taqlÐd
Usul al-fiqh	أصول الفقه	uÒÙl al-fiqh

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[1] Gutbi Ahmed, ‘Muslim Organizations in the United States’, in *The Muslims of America* ed. Yvonne Haddad (New York: Oxford University Press, 1991), 11. Larry Poston, *Islamic Da‘wah in the West* (New York: Oxford University Press, 1992), 27; Yvonne Haddad & Adair Lummis, *Islamic Values in the United States: A Comparative Study* (New York: Oxford University Press, 1987), 13-15.

[2] Yvonne Haddad & Jane Smith, *Mission to America: Five Islamic Sectarian Communities in North America* (Gainesville: University Press of Florida, 1993), 19.

[3] See Liyakat Takim, *Shi‘ism in America* (New York: NYU Press, 2009), ch. 1.

[4] Linda Walbridge, ‘The Shi‘a Mosques and Their Congregations in Dearborn’, in *Muslim Communities in North America* ed. Yvonne Haddad & Jane Smith (Albany: SUNY Press, 1994), 340.

[5] The need to follow the most learned jurist was first stated by Al-Sharif al-Murtada (d. 1044). See ‘Ali ibn al-Husayn al-Murtada, *Al-Dhari‘ah ila Usul al-Shari‘ah* (Tehran: Danishgah Tehran, 1983, 2nd ed. 2 vols.), 2:317.

[6] The view that a stratified and hierarchical leadership is a recent phenomenon in Shi‘ism is refuted by Devin Stewart who finds abundant evidence of strong hierarchical religious leadership in both Shi‘a and Sunni legal establishments in pre-modern times. See Devin Stewart, ‘Islamic Juridical Hierarchies and the Office of Marji‘ al-Taqlid’, in *Shi‘ite Heritage: Essays on Classical and Modern Traditions* ed. Lynda Clarke (Binghamton: Global, 2001), 149. However, according to Ayatollah Taskhiri, a number of Shi‘a scholars who lived after Shahid al-Thani (d. 1558) did not hold a*‘lamiyyah* to be a necessary requirement in following a religious leader. See Ayatollah Muhammad Ali Taskhiri, ‘Supreme Authority (Marji‘yah) in Shi‘ism’, in *Shi‘ite Heritage*, 169. After reviewing arguments for and against following the most learned, Taskhiri concludes, ‘while *taqlid* is certainly necessary, following the most learned is not’ (176.)

[7] William Wininger, ‘*Dar al-Harb* and *Dar al*-Islam’, in *Encyclopedia of Islam in the United States*, ed. Jocelyn Cesari (Westport: Greenwood, 2007, 2 vols.), 170.

[8] Ibid., 171. There are at least six different definitions of *dar al-Islam* in Islamic law. See Jocelyne Cesari, *When Islam and Democracy Meet: Muslims in Europe and in the United States* (New York: Palgrave, 2004), 160.

[9] Taha Jabir al-Alwani, ‘Towards a Fiqh for Minorities: Some Reflections’, in *Muslims’ Place in the American Public Square: Hope, Fears, and Aspirations* ed. Zahid H. Bukhari, Sulayman S. Nyang, Mumtaz Ahmad, and John L. Esposito (Walnut Creek: AltaMira Press, 2004), 4.

[10] Ibid, 11.

[11] Omar Khalidi, 'Living as a Muslim in a Pluralistic Society and State: Theory and Experience', in *Muslims' Place*, 45.
[12] Ayatollah Seyyed Mostafa Muhaghegh-Damad, 'The Role of Time and Social Welfare in the Modification of Legal Rulings', in *Shi'ite Heritage: Essays on Classical and Modern Traditions*, ed. Lynda Clarke (Binghamton: Global, 2001), 218.
[13] Ibid.,
[14] Anonymous (ed.), *Bahthti dar Barih-yi Marja'iyyat va Ruhaniyyat* (Tehran: Intishar, 1341 AH (solar)), 57 in Hamid Dabashi, *Theology of Discontent: The Ideological Foundation of the Islamic Revolution in Iran* (London: New York Press, 1993), 164.
[15] See, for example, the Maliki view on this in N. Coulson, *A History of Islamic Law* (Edinburgh: Edinburgh University Press, 1978), 144.
[16] Abdulaziz Sachedina, *Islamic Biomedical Ethics*: *Principles and Applications* (Oxford: Oxford University Press, 2009), 50.
[17] Ibid., 49.
[18] Ibid., 47.
[19] Imam 'Ali Foundation, *Current Legal Issues According to the Edicts of Ayatullah al-Sayyid 'Ali al-Seestani* (London: Imam 'Ali Foundation, 1997), 25-6.
[20] 'Abdul Hadi al-Hakim, *A Code of Practice for Muslims in the West in Accordance with the Edicts of Ayatullah al-Udhma as-Sayyid Ali al-Husaini as-Seestani*, translated by Sayyid Muhammad Rizvi (London: Imam 'Ali Foundation, 1999), 7-8.
[21] Ibid., 236.
[22] Abdul Hadi al-Hakim, *Jurisprudence Made Easy: According to the Edicts of His Eminence Grand Ayatullah as-Sayyid Ali al-Hussaini as-Seestani*, trans. Najim al-Khafaji (London: Imam Ali Foundation, 1998), 10.
[23] Ayatullah Sayyid Fadhel Milani, *Frequently Asked Questions on Islam*, *Islamic Answers for Modern Problems* (Finland: Islam in English Press, 2001), 7.
[24] http://www.sistani.org
[25] Imam 'Ali Foundation, *Current Legal Issues*, 48.
[26] Ibid., 40**.** Al-Khu'i also rules that it is forbidden (*haram*) to disobey the laws of the land even if one is living in a non-Muslim country. See Sayyid Husayn al-Husayni, *Ahkam al-Mughtaribin* (Tehran: Markaz al-Taba'a wa'l Nashr lil-Majma' al-'Alami li Ahl al-Bayt, 1999), 407.
[27] Al-Husayni, *Ahkam al-Mughtaribin*, 409.
[28] Ibid., 408.
[29] Al-Hakim, *A Code of Practice*, 179.
[30] E-mail from Ayatullah Muhammad Husayn Fadlullah to Riyaz Versi <riyaz@versi.freeserve.co.uk>, 'Jurisprudence for Minorities' (10 November 2005, 12:35).
[31] Ibid.
[32] 'Ali ibn al-Husayn Al-Murtada, *Kitab al-Intisar* (Manshurat al-Sharif al-Radi, Qum, 1971), 89-90.
[33] Linda Darwish, 'Texts of Tensions, Spaces of Empowerment: Migrant Muslims and the Limits of Shi'ite Legal Discourse' (PhD Thesis, Concordia University, 2009), 158.
[34] Muhammad ibn al-Hasan Tusi, *Al-Tibyan fi Tafsir al-Qur'an* V (Beirut: Dar Ihya al-Turath al-'Arabi, n.d., 10 vols.), 234.
[35] Muhammad Ibrahim JannÁti, *Taharat al-Kitabi fi Fatwa al-Sayyid al-Hakim* (Beirut: Dar Adhwa, 1986), 25.
[36] See Mahmoud Ayoub, *The Qur'an and Its Interpreters* I (Albany: State University of New York Press, 1984), 110.
[37] See also Muhammad al-Baqir Al-Majlisi, *Bihar al-Anwar: Al-Jami'a Lidurari Akhbar al-A'immat al-Athar* LXXX (Beirut: Dar al-Ihya al-Turath al-'Arabi, 1983, 110 vols.), 42-3.
[38] JannÁti, *Taharat al-Kitabi*, 22.
[39] See Muhammad Ibrahim JannÁti, 'Selected Rulings' in *The Official Website of Ayatollah Alozma Jannaati*, sect. 1 <http://www.jannaati.com/eng/index.php?page=6>, accessed 26/3/2010. Accidental or circumstantial uncleanliness refers to a thing that becomes unclean when it is touched or affected by an intrinsically impure object like urine or blood.
[40] Ayatullah al-Uzama Syed 'Ali al-Husaini Seestani, *Islamic Laws*: *English Version of Taudhihul Masae'l* (London, 1994), 18.
[41] Al-Husayni, *Ahkam al-Mughtaribin*, 22, no. 12.
[42] Sayyid Ali Khamene'i, *Replies to Inquiries about the Practical Laws of Islam* (Tehran: Islamic Culture and Relations Organization, 1997), 117.
[43] Darwish, 'Texts of Tensions', 171.
[44] Muhammad Husayn Fadlullah, *Al-Nadwa* I (Beirut: Dar al-Malak, 1997), 674.
[45] Liyakat Takim, *Shi'ism in America*, chapter 4.

[46] Abdul Hadi al-Hakim, *A Code of Practice*, 70.
[47] Darwish, 'Texts of Tensions', 227.
[48] Ibid.
[49] Muhammad Husayn Fadlullah, *Islamic Lanterns: Conceptual and Jurisprudence Questions for Natives, Emigrants and Expatriates*, compiled by Adil Al-Qadi and S. Al-Samarra'i (Beirut: Dar al-Malak, 2004), 307.
[50] Darwish, 'Texts of Tensions', 227.
[51] Abdul Hadi al-Hakim, *A Code of Practice*, 84-5.
[52] Ibid., 85.
[53] *Current Legal Issues*, 112-3.
[54] Imam Al-Khoei Benevolent Foundation, 'Q10117', in *Imam Al-Khoei Online Knowledge Base* (21/12/2004) <http://www.al-khoei.org/kb/article.aspx?id=10117>, accessed 26/3/2010.
[55] Al-Husayni, *Ahkam al-Mughtaribin*, 187.
[56] Darwish, 'Texts of Tensions', 238.
[57] Ayatullah al-'Uzma al-Sayyid Muhammad Husayn Fadlullah, *World of Our Youth*. Translated by Khaleel Mohammed (Montreal: Organization for the Advancement of Islamic Learning and Humanitarian Services, 1998), 217.
[58] See Al-Husayni, *Ahkam al-Mughtaribin*, 187-8.
[59] Ibid., 188.
[60] Darwish, 'Texts of Tensions', 328.