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The American University in Cairo
School of Global Affairs and Public Policy

**The Role of the Hawza of Najaf and Ayatollah Ali al-Sistani in Restructuring the
Iraqi Governance System in Post-Ba'athist Iraq**

A thesis submitted to

Department of Public Policy and Administration

In partial fulfillment of the requirements for the degree of Master of Public Policy and
Administration

By

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B.Sc. in Computer Science

Under the supervision of

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May 2010

Abstract

The American University in Cairo

Thesis title: The Role of the Hawza of Najaf and Ayatollah Ali al-Sistani in Restructuring the Iraqi Governance System in Post-Ba'athist Iraq

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Supervisor: Dr. Jennifer Bremer

The role of the Shi'i religious establishment in the Iraqi transition since 2003 has been the subject of considerable research. To have clearer insight, the present research places this topic within the context of two critical frameworks: the doctrinal and structural aspect of the jurist's guardianship and the religious-political potentials of the conflict between the Iranian *walayat al-faqih* and Ayatollah al-Sistani's neo-quietist approach. In addition, it sheds light on al-Sistani's influence over three areas: the constitution-making process, rule of law, and the issue of having clerics running in elections. The analysis presented in this paper examines how this Ayatollah's views could affect the ideology and practice of Iraqi Shi'i political movements regarding the role of religion in the state. It analyses the role of the religious networks in shaping the prospective outcomes of this hidden dispute between the Iranian Supreme Leader, Ali Khamenei, and the Shi'i supreme marja', Ali al-Sistani.

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Chapter One

Introduction and Summary of the Analysis

This research is intended to shed light on the Shi'i religious establishment in Iraq, called Hawza, as per its influence over the process of restructuring the governance system in the country since the US-led invasion in 2003 and focus particularly in the period 2003-2005 in which the political framework had been set up. Because the topic is likely to be new to many non-Shi'i readers, and maybe to some Shi'is as well, the present research will encompass a relatively elaborate review of three major areas; the Shi'i doctrinal principles related to state and governance, the structures and functions of the Hawza, and the role of the Shi'i seminary in Iraqi modern history.

In chapter two, the research will examine the doctrinal and structural aspects of Shi'ism concerning the relationship between the state and the clergy. Actually, adopting the principle of the divine designation of the Prophet's successors by the Shi'a has led to a vacuum in leadership legitimacy after the disappearance of the twelfth Imam, al-Mahdi. The Shi'i jurists were divided over this issue into two groups: firstly, those who believe that the guardianship of the Hidden Imam cannot be extended to jurists specifically his political authorities and, secondly, the group which believes that jurists, with specific competencies, can, or must, practice some, or all, aspects of this absolute guardianship. The latter's theory is relatively new in the Shi'i doctrine although it has roots in the Shi'i jurisprudence because it was firstly developed by Ayatollah Khomeini in early 1970s.

The Hawza of Najaf is the oldest one in the Shi'a Islam. Through time, it developed a religious and academic hierarchy according to which the seminary and the related institutions operate. The supremacy of this Hawza in the Shi'i world has not been consistent as it lost the leading status several time to other seminaries in Iraq,

such as Karbala and Hilla, or Iran, such as Isfahan and Qum. This had been mainly caused by the conflict between the Ottomans and the Safavids, or the Qajaris subsequently.

The most distinction feature of Najaf Hawza and Shi'i seminaries generally, is its financial independence from the state due to the revenues of Khums, the Shi'i religious tax.

The political role of Najaf Hawza in Iraq will be discussed and analyzed in Chapter three. The Hawza of Najaf played a central role in the 1920 revolution against the British in which few Grand Ayatollahs formed a trans-sectarian alliance with Sunni and Shi'i tribesmen. The subsequent Hashemite Kingdom established in Iraq had witness marginalizing the Shi'i Hawza, and the Shi'a in general, as the emerging Sunni elite sought to preserve their control over the new state. This situation had been worsened by the rejectionist approach that adopted by some Ayatollahs toward establishing the newborn state's institutions by the British. This jeopardized having the Shi'is integrated in the Iraqi society and led to the conflict between the two parties, Iraqi Shi'is and the government in 1935.

As late as the monarchical era, many Shi'i political organizations have been founded and many of them were led, supervised, or affiliated to some Najaf jurists. The young Grand Ayatollah Muhammad Baqir al-Sadr was the most distinguished jurist in this regard. He was the Da'wa Party's jurist and believed on a kind of *walayāt al-faqih* differing from that of Ayatollah Khomeini.

The emergence of the absolute guardianship of the jurist in the Islamic Republic of Iran and the mass oppressive campaign against the activist Shi'is in Iraq by the regime of Ba'ath along with the Iraqi-Iranian war had contributed to the decline of Najaf status and the rise of Qum. In addition, these factors put pressures on the Iraqi

Shi'i movements, which sought refuge in Iran, to adopt the Khomeini style of governance that led some organization to split over the issue.

Najaf Hawza's supremacy tends to be restored in post-2003 Iraq due to the emergence of Ayatollah al-Sistani who has the largest number of followers in the Shi'i world. Besides, the Hawza of Qum is losing its dependency as the Iranian regime succeeded in politicizing all its aspects a matter that limited the Ayatollahs' spiritual leadership. Consequently, more Shi'i political organizations is following, at least politically, the approach of al-Sistani regarding abandoning the aim of the Islamic State based on the absolute guardianship of the jurist.

After establishing a reasonable relevant knowledge in Chapter 2 and 3, the paper will focus in Chapter 4 on examining the role of Ayatollah al-Sistani in the post-invasion era concerning setting the democratic framework in Iraq. In addition, it will examine the relationship between the clergy and the Shi'i political organizations and whether these connections are contributing to transform these organizations' manifestos regarding the role of Islam in state. Al-Sistani emerged as the supreme marja in Najaf gradually in the 1990s out of complex circumstances in which three prominent Grand Ayatollahs were assassinated and many accused Saddam's regime of the crimes. In the postwar era, al-Sistani has promoted his marji'iyah through acting as the non-sectarian defender of the Iraqi national interests. The tone of his fatwas regarding the political process avoided any implicit or explicit sectarian indication.

The period from the invasion in 2003 until the ratification of the Constitution in the late 2005 witnessed most of his interventions. This stage witnessed a conflict of wills between the most two significant players in Iraq then; the US-led authority, the CPA and al-Sistani. While al-Sistani won in forcing the CPA to abandon the plan of writing the constitution by a non-elected council, the CPA managed to transfer some

principles from the TAL into the permanent constitution. After approving the constitution, al-Sistani's political fatwas substantially decreased.

Some scholars consider al-Sistani's approach regarding the jurist's guardianship is basically concerned with the societal system more than political affairs. His relative withdrawal from the political arena after 2005 may indicate a return to the conventional method of the 'occasional interventions' that was practiced by many prominent marjas in the past.

The last chapter of this paper is a two-part analysis. The first section uses three case studies to examine the influence of Ayatollah Ali al-Sistani over the Iraqi transition. Those three areas are constitution-making process, rule of law, and clerics as candidates in elections. The section highlights the inconsistent influence of the Ayatollah. Whereas his influence was decisive in abandoning the caucus system in forming the constitutional assembly, for instance, the impact of his positions regarding signing the Agreement of Political Process and issuing the Transitional Administrative Law were relatively ineffective. The second section of Chapter Five represents an analysis of the prospects of the conflict between the neo-quietist approach of al-Sistani and *walayat al-faqih* of the Iranian Supreme Leader Khamenei. The outcomes of this conflict depend on many factors such as the strength and sustainability of al-Sistani's religious network and that of al-Khoei Foundation, the health of al-Sistani himself, and the potential transformations of the Shi'i political parties regarding *walayat al-faqih*. Post-al-Sistani era is also examined in that context.

Along with this explanatory review, the research will try to address the developments of the principle of jurist's guardianship that falls in the center of the relationship between jurists and state. In addition, it will explore the relationships and competition between the two prominent Hawzas of Najaf and Qum, how this has

affected the political orientations of Najaf clerics in general and those of Ayatollah Sistani in particular, and how these effects have in turn impacted the Shi'i and Iraqi political developments.

Hence, the research question for the present research is:

What is the role of the Hawza of Najaf and Ayatollah al-Sistani on restructuring the Iraqi governance system in post-Baathis Iraq?

The role of religion in governance

In establishing and maintaining governance systems in the Middle East, religious actors have exerted significant influence. The region consists, mainly, of Muslim Majority States (MMS) and has experienced considerable influence by Islamic personalities and organizations over state structures and functions. Along with the emergence of political Islamism within the Sunni doctrine during the twentieth century, Shi'i doctrine has witnessed substantial developments in the relation between the state and the *umma*, literally the nation, and between the state and the clergy. The establishment of the Islamic Republic of Iran in 1979 represented a peak in these developments and has led scholars to conduct extensive academic work to research its causes and effects. Less attention has been paid to the role of Iraq-based Ayatollahs in governance systems.

Post-2003 Iraq has provided a new and special context in which the Hawza, the Shi'i learning center, of Najaf has played vital roles in public policy-making and politics. Its role in the period following the US-led invasion reflected the activist approach that it had practiced in the last century. Among the clerics of Najaf, Grand Ayatollah Ali al-Sistani stands as one of the most, if not the most, influential Islamic figures in post-Saddam Iraq (Beeman, 2003). His positions, *fatwas*, announcements, and opinions have been of considerable importance to the country's politics.

Disregarding the special sociopolitical conditions of Iraq, a study of Sistani's interventions in establishing the Iraqi governance system would provide an important contribution to improve our knowledge regarding how Islam, particularly Shi'ism, can shape states and governance in the Middle East.

Chapter Two

The Structures and Functions of the Hawza of Najaf

The Hawza represents the religious establishment in the Shi'i Islam equivalent to the Azhar in the Sunna Islam though with some distinctions. The first Hawza was established in Najaf, Iraq, in the eleventh century and still operates. Unlike the Azhar, the Hawza, in general, has managed to preserve its independency from the state due to several factors that will be explained shortly. However, the emergence of the Islamic Republic of Iran has impacted the independency of the Iranian Hawzas. To understand how the Hawza operates, how the supreme jurist emerges, and, more importantly, how the Hawza interacts with governments, the Shi'i doctrine will be described before proceeding to survey its structure, leadership, and finance.

The State in Shi'i Doctrine

The relation with the ruler is positioned in the center of the Shi'i doctrine because the sect was established based on a political dispute over the legitimate Caliph after the demise of Prophet Muhammad in 11 A.H., 632 CE (Farzaneh, 2008). Some of the Prophet's companions asserted that Ali Bin Abi Talib, Muhammad's cousin and son-in-law, was designated to be his successor in Hajjat al-Wadaa', literally the last pilgrimage, in Ghadir Khum, which the Prophet pursued a few months before his demise. This group of companions was called, later on, 'the Shi'a of Ali' and the word Shi'a means the followers or partisans (el-Labbad, 2008, 19). Hence, many scholars argue that Shi'ism is initially a political movement more than a theological creed:

The fact that Ali did not succeed the Prophet after his death, and was [later on] faced with the Umayyad rebellion questioning the legitimacy of his rule, served to formalize the schism in Islam... Shiism is essentially a political movement both in its perspectives and aims. The religious theological differences between the Shii school of thought and those of Orthodox Islam [Sunnism] are minor, and will be totally ignored except for one major issue which has served as the

fundamental basis of the movement ever since its inception in the first century of Islam. (Kelidar, 1983)

Accordingly, the Shi'a School advocates the principle of *Imama*, and therefore they are called Imamiya, which means that a legitimate Caliph should be designated by God or the Prophet (Kelidar, 1983). Thus, the mainstream of Shi'a Islam believes that the Prophet designated twelve Imams, beginning with his cousin Ali and ending with Imam al-Mahdi, to be his successors; hence those Shi'is are called the Twelvers to distinguish them from the other Shi'i creeds like the Zaidiya concentrated in Yemen. In contrast, the initial Sunni theory of Caliphate is based on two means of succession: i) the Shoura principle, which means making consultations among *ahl elhal wa al-aqd*¹ to choose the caliph, and ii) assuming power by force. (El-Sousi et al, 2005).

Adopting the principle of divine designation led Shi'a to extend the guardianship of the Prophet over Muslim communities to the twelve Imams, while Sunnis believe that such a guardianship had been transferred to the caliphs (Akhavi, 1996) and then extended, in modern history, to any Muslim ruler assuming the power. The twelfth Imam, Muhammad Ibn al-Hassan, disappeared in mysterious circumstances in 873 and the Shi'is believe that he will reappear one day to spread justice and peace worldwide. They call him the Hidden Imam and designate the time since his disappearance as the Major Occultation, *al-ghayba al-kubra*. This occultation left a substantial vacuum in Shi'i jurisprudence regarding the rulers' legitimacy and the divine guardianship. Most of the Shi'i clerics have continued to subscribe to the guardianship of the Hidden Imam, believing in his exclusive legitimacy to practice leadership, and, consequently, they limited the role of jurists only to socio-religious affairs, avoiding any involvement in public affairs (el-Labbad, 2008).

In 1471, a Shi'i cleric named Muhammad Bin Makki, who lived in what is now

Lebanon, developed what he called *niyabat al-foqahaa' al-aamma*, literally the general deputizing, or vicegerency, of jurists, in which Makki asserted that some of the Hidden Imam's authorities, such as leading Friday prayers and organizing judicial systems, can be practiced by jurists on behalf of him. According to this theory, the community of sages, *al-fuqahaa'*, collectively acts as the Imam's deputy.

This theory did not find its way into practice until the founding of the Safavid kingdom in Iran, which declared Shi'ism as the official creed of the country in 1501. Under the rule of the Safavids, Shi'i jurists were transformed from an opposition, oppressed group into a recognized and even privileged class. In that era, "those Shi'i sages buckled down to come up with what is likely to benefit the 'newborn Shi'i state' and support the legitimacy of the Safavid government." Shi'i seminaries, or Hawzas, first flourished during this era (el-Labbad, 2008, 92).

The second conceptual development in jurists' public role came from the hands of the Iranian jurisprudent Sheikh Ahmed Naraaqi (d. 1867), who used the term *wilayat al-faqih*, the guardianship of jurist, for the first time in his book *awaed al-ayaam*. He extended jurists' authorities well beyond the two areas mentioned by Makki and, furthermore, he urged clerics to assume administrative positions asserting that "All [authorities] that had been to the Prophet and the Imam are transferred to the jurist" (el-Labbad, 2008).

Naraqi's student, Shaykh Murtadha al-Ansari, is responsible for the third development, that of *taqlid*, the emulation, according to which every devout Shi'i must choose a jurist to emulate. This principle extended the theory of the general guardianship of jurists (el-Labbad, 2008). He and his followers described this guardianship as 'general' because they could not find valid evidence, or reasonable interpretation, that names jurists as the designated deputies of the Hidden Imam.

Through centuries of interactions between Shi'i jurists and governments, the former developed many versions of the guardianship of jurists. Following are the more important ones:

1. **The general guardianship of all jurists.** Among the leading Iranian advocates were Ahmed Naraaqi, Grand Ayatollah Burujordi (died in Qum in 1961) and Grand Ayatollah Goulbygani (died in Qum in 1993). Those prominent scholars grant the guardianship to all jurists collectively rather than to a specific one but such guardianship encompass only particular authorities to organize Friday prayers and judicial systems. Most traditional jurists in the Shi'i Hawzas support this theory.
2. **The guardianship of the jurists' council.** Ayatollah Muhammad Shirazi (lived in Karbala and died in Qum in 2001) called for the establishment of a council comprising the highest ranked jurists and practicing guardianship over public and religious affairs. Khomani and al-Shirazi are considered the two fathers of the day absolute guardianship of the jurist though with some differences in details.
3. **The absolute guardianship of the jurist.** This theory came into practice in Iran under Ayatollah Rohullah Khomani. It argues that the most competent jurist has the guardianship over all religious and non-religious affairs of Muslim communities. This theory has not been developed only under Ayatollah Khomani, but has taken several centuries and several developments of other jurists. Ayatollah Khomani built on their previous judgments to articulate the final version. In 1987 and 1988, Khomani further extremely developed his theory empowering "the supreme jurist to suspend primary principles of the faith on behalf of a virtual unlimited

political prerogative" (Akhavi, 1996).

4. **The guardianship limited by public elections.** The theoretician of this principle is Ayatollah Hussein Ali Muntazari (died in Qum in 2009), who adopted the absolute guardianship of the jurist, that of Khomaieni, but called for a limitation of the Supreme Leader's authorities by the elected bodies.
5. **Institutional (or constitutional) state under the oversight of jurists.** Ayatollah Hussein Na'iyini (died in Najaf in 1936) developed, among others, a competing theory that condemned the absolute guardianship and called for a constitutional state operated under the supervision of jurists' representatives without allowing clerics to rule the people but rather employing the Islamic principle of *hisbah*, a calling of someone to account (Akhavi, 1996). He supported the constitutional revolution in Iran in 1906.
6. **Caliphate of people under the supervision of jurists.** This theory was founded mainly by Ayatollah Muhammad Baqir al-Sadr, who was executed by Saddam's regime in 1980 and is the father-in-law of Muqtada al-Sadr. He called for the political rights of people to be independent from jurists' interventions, given that the *umma* caliphate is practiced based on two poles: Shoura (consultation) and the guardianship of believers over each other. Each individual's choice of the object for emulation, according to him, is achieved via the traditional mechanisms rather than general elections, although he was a determined advocate of institutionalizing the Hawza of Najaf. Mallat states that the Iranian 1979 constitution was significantly influenced by the writings of al-Sadr (Akhavi, 1996)
7. **The Islamic state elected by people.** A model that has mostly been

developed by Lebanese jurists, such as Ayatollah Muhammad Jawad Mughnia (d. 1979) and Ayatollah Muhammad Mahdi Shams-el-Deen (d. 2001). They tried to close the conceptual distance between the major Islamic principles and the modern concept of the nation-state. Mughnia argues that the purpose of the Islamic state is not to establish jurists controlling government but, instead, they themselves should obey the government as long as it is elected and respects the *Shariy'a* (el-Labbad, 2008, 101-103).

The Hawza of Najaf – a historical background

The city of Najaf lies about 160 kilometers to the south of Baghdad. Its existence dates back to the era of Harun al-Rashid, the famous Abbasid Caliph, who ordered a dome to be built over Imam Ali's grave in about 170 A.H (786-87). This encouraged Shi'is to come and settle in the area (Litvak, 1998). Economically, Najaf, in its earlier phases, lacked sustainable revenues as its main resources came from burials for pious Shi'is and some trade activities;

Outside Najaf stretches Wadi al-Salam [valley of peace] which serves as a huge graveyard for pious Shi'is who wish to be buried near Ali's tomb.... Najaf's location on the old trade route from Basra to Baghdad and the pilgrimage route to the Hijaz compensated for its barren earth and the shortage of water." (Litvak, 1998)

The term 'Hawza' refers to the seminary in which the Shi'i jurisprudence is taught. Along with this function, it represents the spiritual and religious leadership of Shi'i communities, which enabled it to sustain sociopolitical influence over them. The Najaf Hawza is considered to be the oldest Hawza in the history of Shi'a Islam, having been established in about 448 A. H (1056 A.D.) by Sheikh Muhammad b. al-Hassan al-Tusi. Sheikh al-Tusi was born in Iran but immigrated later to Baghdad where he completed his religious study to become eventually the highest Shi'i cleric

there.

The occupation of Baghdad by the Sunni Seljuks in 1055 triggered unprecedented sectarian strife, in which the house and the significant library of Shaykh al-Tusi were burned. Prior to this devastating event, al-Tusi had lived forty years in Baghdad in which he was the highest Shi'i authority and so he has been called *Shaykh al-Ta'ifa*, the Sheikh of the Creed. In addition, his lectures were attended by students from different Islamic sects in recognition of his sophisticated scientific capabilities. His prominence was recognized by the Abbasid Caliph, al-Qa'im Bi Amr Allah, who was attending his *majlis* (lecture place), and had granted him *Kursee al-Kalaam*, chair of religious debate. The most important contribution of al-Tusi was his studies to establish *al-Ijtihad*, independent judgment, by which a jurist can use his own rational approach to extract the meaning from the religious texts and develop his own edicts (Fakhr el-Deen, 2005). Seljuks forbade using this approach, forcing jurists and the people to pick one of four specific sects, namely Hanafi, Shafi'I, Maliki, and Hanbali, to follow in religious learning and affairs (al-Qizweeni, 2005; Nakash, 1993).

After the burning of his house, al-Tusi decided to flee Baghdad in 1056, immigrating to Najaf to be near the holy shrine of Imam Ali, where he established a Shi'i learning academy named *al-Hawza al-ilmiya*, or more briefly Hawza. The established Hawza comprised about three thousand students but the presence of al-Tusi was vital to the continuity of religious education because he has been considered one of the founders of the new Shi'i jurisprudence based on a rational approach and Aristotelian logical principles. After his death, twelve years later in 1068, the Najaf Hawza experienced a decline, though education continued. Some relate this decline to the rigidity of Najafi clerics' methodologies, as they adhered closely to al-Tusi's views, considering it their undisputable source of

jurisprudence and effectively setting aside *ijtihad* (al-Qizweeni, 2005; Nakash, 1993, 239). Fakhr el-Deen, however, argues that such a decline was not evident and claims that education in Najaf Hawza after the demise of al-Tusi remained very active and sophisticated (Fakhr el-Deen, 2005, 370).

In any case, Najaf lost prominence during this period relative to another Iraqi Shi'i Hawza, that of Hilla. It has been argued that the locations of Najaf and Hilla were an important factor behind such a movement, as the former is located in a dry desert while the latter is on the banks of the Euphrates (al-Qizweeni, 2005).

The emergence of the Safavid Empire as a strong Shi'i state in Iran in 1501 has been cited as a development that promoted Shi'i religious education in general and the Hawzas of Najaf and Karbala in particular.

Until the sixteenth century, however, Shi'i madrasas were built in Iraq in large numbers only after the rise of the Safavids in Iran in 1501. The transformation of Iran into a Shi'i state, and the growing Iranian interest in the shrine cities (including two brief periods of Safavid rule over Iraq), greatly benefited the shrine cities [Karbala and Najaf]. (Nakash, 1994, 239)

Meanwhile, Isfahan, the Safavid capital, relatively overshadowed the status of Najaf and nearby Karbala as the leading Shi'i center of seminaries (Nakash, 1994). The increasing Safavid interest in Najaf and Karbala was among the strategic policies that they employed in their long conflict with the Ottomans. It has been argued that both the Ottomans and Safavids sought to employ sectarian strife in their struggle to confront each other (Litvak, 1998). Consequently, Iraq had become a battlefield for the two rival empires, a situation that had an adverse impact on its economic well-being and political stability. Najaf and Karbala fell twice under the occupation of Safavids, during the periods 1508-1533 and 1622-1638, which resulted in some building works, but the Safavids generally supported the leading status of Isfahan and Mashhad (Litvak, 1998).

Under the Ottoman rule, Iraq suffered poor economical conditions:

Economically, Iraq was one of the least developed areas of the Ottoman Empire. The weakness of the central government and the breakdown of the irrigation system confined agriculture to the vicinity of the cities. The country also suffered from major outbreaks of plague and cholera. (Litvak, 1998, 16)

The collapse of the Safavid Empire after the fall of Isfahan in 1722 led to immigration of large numbers of Persian *ulama* to the shrine cities of Iraq, specifically Najaf and Karbala. In addition, the prominent Shi'i seminaries in Iran had experienced considerable decline during the eighteenth century, and thus the center of Shi'i learning once again shifted to Karbala and then to Najaf. Another factor that contributed to this rise was the weakness of the Ottoman-Mamluk rule in Baghdad, which offered Najaf and Karbala clerics much space to build more centers (Litvak, 1998). Nakash argues that, "It was only from the mid-eighteenth century that the shrine cities in Iraq emerged as the focal point of Shi'i scholarship." (Nakash, 1994) Litvak summarizes the factors that mark the eighteenth century as a turning point for the Iraqi Hawzas:

Growing pilgrimage and improved supply of water provided the necessary financial and physical infrastructure for learning. Finally, the reemergence of Usulism [rationale approaches] supplied the *ulama* with doctrinal tools to exercise a greater and more active religious and communal role. (Litvak, 1998, 18)

In general, the rise and decline of Hawzas belong to several factors that Nakash lists here:

The fluctuations [rise and decline] reflected changes in water supply and security, developments within the Shi'i legal system and jurisprudence, the place of residence of the preeminent *mujtahid*, the flow of funds and students, and the policies of both Sunni and Shi'i governments. (Nakash, 1994, 240)

The Najaf Hawza has frequently experienced such fluctuations in its influence, due to the unstable nature of these factors and the persistent competition among Shi'i seminaries over supremacy. In that context, the supremacy of Shi'i scholarship shifted

among Najaf, Karbala, Hilla, and Samarra in Iraq and Isfahan, Mashhad, and Qum in Iran (Nakash, 1994). The nineteenth century, however, had witnessed substantial reemergence in the supremacy of the Najaf Hawza which was, unlike Karbala, more secure from the Wahhabi² attacks and less pressured by the Ottomans, but both cities enjoyed the relative stability that resulted from the Ottoman-Persian peace treaty of Erzurum signed in 1823 (Nakash, 1994; Litvak, 1998). In addition, the conversion of the southern Iraq tribes to the Shi'i faith broadened the popular base of the Hawza of Najaf (Sindawi, 2007).

In terms of demography, certain distinctions between the two holy cities merit comment:

Karbala was the larger of the two towns, with a population of about 50,000 persons in the early 1900s, most of whom were Iranian pilgrims and immigrants. Najaf, with a population of about 30,000 by the early 1900s, remained a predominantly Arab town with a strong tribal imprint on its society and culture. (Litvak, 1998, 17)

According to Nakash, Najaf had retained the leading status in Shi'i learning until the middle of the twentieth century, when the supremacy was transferred to Qom due to the political and socioeconomic developments that took place in both Iraq and Iran (to which further discussion will be devoted shortly). By the end of the nineteenth century, there were from ten to fifteen thousand students enrolled in Najaf madrasas (Nakash, 1994).

The end of the nineteenth century also witnessed a significant political intervention by the Shi'i clerical establishment when Shaykh Muhammad Hassan al-Shirazi issued his famous fatwa³ prohibiting the planting, trading, and consumption of tobacco. This move had important political implications because it directly confronted the contract signed by the Qajaris, the dynasty that succeeded the Safavids and ruled Iran from 1796 till 1925, and a British company, which gave the latter a fifty-year

exclusive right to trade in Iranian tobacco for a relatively low price. Two months after the fatwa's issuance, the contract was cancelled (Mousavi, 1985).

In addition to the tobacco's edict, the Constitutional Revolution in Iran marked a new trend of political involvement by Shi'i jurists to which some scholars link the current interventions of Ayatollah al-Sistani in Iraq. With the beginning of the twentieth century, the position of *marji'iyat al-taqlid*, the source of emulation, was clearly established in the Shi'a world. In Iran, the political weight of Ayatollahs was substantial, as reflected during the Constitutional Revolution in 1906 of which Ayatollah al-Sistani's grandfather was an activist... brought on in part by the high level of corruption of the Qajari shahs and their perceived tendency to give foreign businessmen significant franchises for cheap returns. This policy had jeopardized the Iranian merchants' business from which clerics' major revenues came through the Fifth (shi'a tithing practice). El-Labbad states several factors that led to the heavy clerical intervention in this revolution:

There are many factors led to the political tendency of [the Iranian] jurists at the end of the nineteenth century and the beginning of the twentieth century. In addition to the financial independence of clergy from the state, due to the Fifth and Zakah taxes, the permission given to jurists to make their own independent judgments, Ijtihad, and the assumption of judicial positions by clerics, it was the place of the highest marji', al-Shirizi, in Najaf al-Ashraf not in any Iranian town that made him out of the Qajari shah's reach. (el-Labbad, 2005, 50)

The role of Najaf-based jurists was evidently critical in the movement. Support for the revolution was a polarizing issue within the Hawza of Najaf in which two currents emerged. While Ayatollah al-Khurasani and his followers offered unconditional support to the revolution, issuing an edict that prohibited the trading of anti-Muslim states' goods (el-Labbad, 2005), Ayatollah al-Yazdi publicly opposed the movement due to his quietest approach (Sidnawi, 2007). The revolution succeeded in forcing Mudhaffar al-Deen Shah to issue a new constitution establishing a parliament,

part of which was dedicated to the clerical class to ensure the conformity of laws with the Islamic *Shariy'a*, besides giving clerics wider authorities in judicial and civil systems (el-Labbad, 2005).

The Tobacco Movement (1891-92) and the constitutional Revolution highlighted not only the substantial political influence of the Shi'i religious establishment but also the strong alliance between clergy and the Iranian Bazaar businessmen (el-Labbad, 2005)

The hierarchy and structure of Najaf Hawza

The independence of Najaf Hawza from the state represents its major structural feature:

The power of the madrasas of Najaf, Shi'i sources assert, lay in the success of the institutions in retaining their independent Islamic identity over a period of thirteen centuries. Unlike the famous Egyptian madrasa of al-Azhar or any other Sunni madrasa, those of Najaf did not lose their political and financial independence. Rejecting government funds, they relied on private contributions and religious taxes, which assured the financial and political independence of the madrasas as well as their intellectual freedom. (Nakash, 1994, 243)

The central principle in the Shi'i religious and academic hierarchy is the concept of emulation (*taqlid*) according to which each devout Shi'i (*Muqallid*) should emulate a leading cleric (*Muqallad*) who reaches, in his jurisprudent study, the level of independent judgment (*Ijtihad*) and is then called *Mujtahid* and becomes a recognized source of emulation. As a result, the Shi'i community has been divided into two classes: emulators who are ordinary Shi'is and marjas or *mujtahids* whom the former must emulate. In consequence, each Twelver Shi'i must "choose a cleric whom he emulates, whose advice he seeks, and who serves as a link between the believer and the twelfth Imam, the 'concealed' Mahdi" (Sindawi, 2007).

The theory of emulation is relatively new in Shi'a history as it dates back to the time of Shaykh Murtadha al-Ansari who died in 1864 and was the first Shi'i *mujtahid*

stating this theory (el-Labbad, 2005). The theory was born out of the violent conflict between the two schools of the Shi'a jurisprudence; Usulism and Akhbarism, a struggle ultimately won by the former. The Akhbari School does not recognize the theory of emulation nor the independent judgment, emphasizing instead the direct extraction of edicts from traditions because Akhbari leading clerics believe that the divine texts cannot be interpreted by human reasoning. Although the large majority of today's Shi'a are Usuli, there are some Akhbari communities in eastern Saudi Arabia and India. Elsewhere, there is a clear sensitivity in Shi'i madrasas and in the Najaf Hawza in particular regarding discussion of Akhbari theories or publishing of its books, let alone teaching its principles.

Under the system of emulation, the *marja's* is supported by a network of representatives who serve as the connection between the jurist and his emulators. Those representatives are classified according to their assigned functions into: Hawza teachers, Wakils (agents), and *Mu'tamads* (authorized representatives) who cover all areas where the *marja* has considerable numbers of emulators. There are three major functions of such a network: collecting religious taxes, answering the subject community's questions about the faith, and establishing and managing the institutions affiliated to the *marja*.

As described by Sindawi, in the learning system of Hawzas, there are three levels of study that students go through:

The first stage is preliminaries (*al-muqaddamat*) Studies at this stage are usually of an individual nature, although occasionally more than one student takes part, the students making up a small circle. The teacher at this stage is a more advanced student. This stage may last between three and five years, depending on the student's aptitude. The subjects taught at this stage are morphology, syntax, rhetoric, basic concepts of logic, as well as Arabic language and literature. Optional subjects include mathematics and astronomy. At this stage the student learns from certain textbooks, and only rarely goes beyond them. (Sindawi, 2007,9)

The second stage is divided into two parts: The ‘surfaces of jurisprudence’ (*sutuh al-fiqh*) and the ‘upper surfaces’ (*al-sutuh al-ulya*). At this stage the subjects include jurisprudence, introductory philosophy, astronomy, Qur’an exegesis, among others. The stage can last between four and five years. Generally the study is done individually, or at times in a small circle. Students can choose the lessons they attend, and even the textbooks they use. They are not supervised, but are expected to show self-discipline. At this stage, as in the following two, students enjoy the right to criticize their teachers and to debate with them. The extent of this right depends on the student’s abilities. Its purpose is to hone the student’s powers of observation. (Sindawi, 2007, 11)

[The] third stage marks the beginning of a student’s ability to undertake independent judgement (*ijtihad*), and is the equivalent of graduate studies at the university... The teacher knows his lessons by heart, quoting from memory all the traditions relevant to the subject without the need for a textbook. This is why this stage is known as ‘outside research’ (*bahth kharij*): it is conducted apart from the textbooks... Good students who manage to do their ‘outside research’ well and become proficient in philosophy and other subjects may also spend some time writing and teaching... The in-depth studies at this stage, the freedom to criticize the opinions of others and the right to debate any proposition, whatever its source, give the students confidence in their own opinions and prepare them to become sources of emulation (*maraji taqlid*). This stage can last anywhere between three and five years, and then may be further extended for another five to seven years, and then again for periods of up to seven years each. Depending on a student’s readiness and maturity, it may even last for an entire lifetime. (Sindawi, 2007, 11)

Students receive titles according to their stage and how many years they devoted to study. The highest three level in Hawza are:

1. *Hujjat al-Islam wal-muslimin* (Proof of Islam and Muslims): a title given to those students who have completed their outside research and gained the *Ijtihad* level.

2. Ayatollah (sign of God): given exclusively to those who acquire the highest level of *Ijtihad* and, consequently, have the authority to issue fatwas and assume positions within the Hawza leadership (Sindawi, 2007). The approximate period of study to reach this level of *Ijtihad* is twenty-five years.

3. Grand Ayatollah: given only to the greatest *marjas*, namely *marja taqleed*, which means the source of emulation, whose fatwas are accepted among considerable numbers of Shi’is worldwide. Those elite scholars usually teach the Outside Research stage in one of the famous Hawzas such as Najaf, Qum, or Karbala. Their rulings are

published in the form of 'treatises'. (Sindawi, 2007)

The first two titles are academic titles gained via an unofficial certification, *ijaza*, issued by the student's mentor or teacher who should be a *mujtahid* himself. Acquiring the title of Grand Ayatollah is a more complex process. Theoretically, Shi'i pious should emulate the *mujtahid* who has the *a'alamiy* meaning that he is 'the most learned *mujtahid*' (Mousavi, 1985, 6). If an Ayatollah has the majority of the Hawza teachers referring to him as the most learned Ayatollah, Shi'i faithful should emulate him and, consequently, he assumes the *marji'iyat*, becoming a *marja* taqlid, and is then called Grand Ayatollah. In Najaf, for example, there are now three Grand Ayatollahs which is considered a small number comparing to Qum which resides more than ten Grand Ayatollahs.

The systems of emulation, Wakil networks, and learning structures still follow old-fashion methods of administration, a matter that led many prominent, reformist jurists to launch several initiatives to institutionalize the Hawza. Among those clerics were Shaykh Muhammad Redha al-Mudhaffar, who founded Muntada al-Nashr schools in 1930s, and Ayatollah Muhammad Baqir al-Sadr, who helped establishing the college of Usul al-Din in 1964. Such attempts have faced extraordinary resistance by the traditional elite of Najaf Hawza, which portrayed the initiatives as a westernization attempt.

How a Grand Ayatollah becomes the supreme *marja*

The process of becoming a Grand Ayatollah, or being a *marja*, depends on many academic and nonacademic factors. Academically, he has to prove his excellence in essential religious topics, which can be demonstrated via three indicators: the number of *Ijtihad* certificates he has earned and the rank of those who licensed him; the number of students he teaches, and the academic value of his writings. The number of

a *mujtahid*'s teachers and students is not, however, only a matter of learning as it is usually the economic ability of that Ayatollah to pay stipends for his students as well as his patronage networks that establish his academic and social reputations within the subject community. Maintaining such an economic ability depends on two main sources of revenues, that of the Fifth (*Khums*), and the donations of shrines' pilgrims (Sindawi, 2007; Mousavi, 1985).

It is noteworthy that these religious-educational ranks have been occasionally misused by the Ayatollahs' regime in Iran. The Supreme Leader Ali Khamana'ei, for instance, held the title of *Hujjat el-Islam wal-Muslimeen* when the revolution broke out but since then his colleagues in the Islamic government began to call him Ayatollah Khamana'ei while the major *marjas* of Qum, such as Grand Ayatollahs Gulbygani, Mar'ashi Najafi, and al-Iraqi, still call him Hujjat el-Islam. Traditional Ayatollahs in Qum and Najaf perceived such attempts as a serious threat to politicize the well-established system of hierarchy⁴ (el-Labbad, 2005).

Regarding the determination of the supreme *marja* in the world, it is argued that such a matter depends, in addition to the factors above, on which Hawza is the residence of each competitive *mujtahid*. Cole states that:

The clerics of Najaf in particular enjoy great prestige in Iraq and throughout the Shi'ite world, and in the twentieth century outside Iran the convention has been that the most senior grand ayatollah in Najaf is the chief legal and religious authority for lay Shi'ites. (Cole, 2003, 6)

On the other hand, because the Shi'i Hawza's history frequently witnessed the emergence of two contemporary *marjas* in two different shrine cities, the task of identifying the highest *marja* and the leading Hawza of the Shi'a worldwide is difficult. In most cases, having two prominent seminaries at the same time prevented either from claiming supremacy (Mousavi, 1985). Besides, the fact that Ayatollahs who assume such a position are usually old men makes the task much more complex,

because just when the supremacy of a *marja* becomes well-established within the religious community, he may be lost (el-Labbad, 2005).

After the death of Grand Ayatollah Muhsin al-Hakim (of Najaf) in 1970, Grand Ayatollah Abol-Qasim al-Kho'ei (of Najaf) assumed the *marji'iyat* and was considered the highest *marja* for the Shi'a worldwide until his death in 1992. Meanwhile, Gulbygani was considered the highest *marja* in Iran. Since the demise of al-Kho'ei and the leading Qumi *marjas*, Gulbygani, Mar'ashi Najafi, and al-Iraqi, the regime in Tehran has been trying to establish the *marji'iyat* of Khamana'ei in Iran and worldwide but it has failed to do so despite the huge resources devoted⁵ (el-Labbad, 2005). Since 2003, Khamana'ei has established several madrasas in Najaf and Karbala trying to establish his reputation as a *marja* in these two prominent Hawzas.

The finance of the Hawza of Najaf

In addition to the system of emulation, the *marjas'* authority and independency have been promoted by the Khums, literally the fifth, which represents "a tax paid by Shi'ites on their annual income to their 'sources of emulation' and *mujtahidun*" (Sindawi, 2007). The tax value equals one-fifth of the annual income surplus⁶ of households (el-Labbad, 2008). In the Sunni doctrine, the Khums is considered as an exclusive right to the Prophet whose death ended the legitimate collecting of this religious tax while the Shi'i school of theology argues that this right was extended to Ahl al-Bait, the family of the Prophet, and their descendents, as they are prohibited from receiving al-Zakat to save their dignity.

Among the Hawza's financial resources, the Khums represents the major one. It is divided into two equal parts: *Sahm al-Sada*, the share of the Prophet's descendents, and *Sahm al-Imam*, the share of Imam al-Mahdi. While an emulator has the option to hand the former to indigents or the *marja's* Wakil, he/she has to deliver the latter to

his source of emulation because it is dedicated to maintain the religious establishments and its civil organization for which the *marja* is responsible (Khalaji, 2006).

Organizationally, the bureaucratic apparatus of a jurist is responsible for collecting the Khums and spending it on the specified categories of beneficiaries under the supervision of the *marja*. This process lacks both transparency and accountability. Because the *marjas* of Hawza used to rely on their relatives in managing their offices, many accused the latter of being unjust in spending those funds or using them to promote the *marja*'s socio-religious position (Kelidar, 1983).

This independence has its disadvantages. Unlike Sunni madrasas, Shi'i Hawzas in Iraq lack significant *awqaf* (religious endowments), critical to sustainably managing them because of the discrimination they had suffered. The lack of having Iraqi benefactors led Najaf Hawza to rely on Iranian merchants and officials to support them by building madrasas and other related institutions (Nakash, 1994). Another reason for Najaf's financial limitations was the confiscation policy that the Ba'ath regime, and previous governments, implemented on the Shi'i endowments. On the other hand, the Iranian Hawzas of Qum and Mashhad enjoyed the privilege of having substantial endowments. Nevertheless, after the Islamic revolution, the regime has confiscated some endowments belonging to those Ayatollahs who criticized the Supreme Leader or did not recognize his absolute guardianship (Khalaji, 2006). Apart from these resources, Najaf Hawza, like other shrine cities' seminaries, benefited from the donations the pilgrims of Imam Ali's shrine offer.

Chapter Three

The Political Role of Najaf Hawza in Iraq

It has been described in the previous chapter how the Shi'a have grown in the Muslim society as an opposition current more than a social community. This contributed, later on, to make the Hawza the head of this opposition movement or, at least, the rulers have dealt with on that base. Consequently, the Hawza has had a political role to play whether it sought to or not. In the modern Iraq, this role of Najaf Hawza has been further critical due to the discrimination the Iraqi Shi'a suffered from in the newborn state, the competition with the emerging Hawza of Qum and its activist approach, and the interaction with the Shi'i political parties. These three aspects will be researched throughout this chapter.

The Hawza of Najaf and Modern Iraq

Iraq has a diverse demography in which ethnic and sectarian identities overlap. The Arab, Kurd, and Turkmen are the three major ethnic groups while Sunni and Shi'a are the main Islamic sectarian groups. Iraq is an overwhelmingly Islamic country though Christianity is the second religious group (Luizard, 1995). There are many minority groups, however, including, in addition to the Turkmen, the Assyrians and other Christians, the Fayli Kurds, the Shabaks, the Sabaeans, and Yazidians, which represent either ethnic, or ethnic-religious, minorities. Most sources put the Shi'a in the lead with 60% of the whole Iraqi population while Sunni Arab and Kurds predominate among the rest (Eyadat, 2009).

After the defeat of the Ottoman Empire in World War I, Britain occupied the three Ottoman *Wilayat*, or provinces, of Basra, Baghdad, and Mosul and merged them into the new state of Iraq. This state was under the direct control and administration

of the occupiers (Ismael & Ismael, 2005 and Noorbaksh, 2008). The social structure of the country had been overwhelmingly based on a tribal hierarchy that had gained strength over the centuries whenever the Ottoman occupation, and its central authorities were weak (Noorbaksh, 2008, 54). Sectarian divisions also were clear because most Shi'is and Sunnis were living separate lives until the 1950s, albeit there was more mixing of the sects in some cities. However, Munson argues that:

Despite the longstanding sectarian division of Islam, sectarian identities in Iraq are not old and immobile. Many of Iraq's Shi'a are relatively recent converts. As nomadic Arabs settled around the southern Shi'a cities of Iraq in the last century and a half, many converted from Sunni to Shi'a. (Munson, 2009, 18)

Sunnis and Shi'is of Iraq had perceived their Ottoman rulers differently. While the Sunni Arabs in Iraq were closely tied to the Ottomans, who were Sunnis themselves, their Shi'i counterparts considered the Ottoman caliphate as usurpation, leading them to avoid public schools and government service (Munson, 2009, 19). Moreover, in pursuing their mandate-ship over Iraq, the British failed to address inter-sectarian integration. In this regard, Munson states:

The colonial administration chose the urban Sunnis who had staffed the local institutions of the Ottoman Empire as they preferred drivers of modernization, shunning Shi'a clerics as impediments to progress... the new Iraqi Army was also almost exclusively made up of former officers of the Ottoman Army, the majority of whom were Sunni. Sunni dominance in the Iraqi government was a fact established from the earliest days of its existence. (Munson, 2009, 19)

When the twentieth century began, the Najaf Hawza enjoyed religious and political supremacy over the Shi'i centers in the South:

By the twentieth century, the power of *mujtahids* and students in the city posed a serious challenge to the Qajar and Ottoman governments, as well as to the growing British interests in Iraq and Iran. Najaf became a major player in Iranian politics, a development which culminated during the Constitutional Revolution... the city emerged as a force attempting to lead a jihad movement against the growing European penetration of Muslim territories, and it played a dominant role in instigating the 1920 revolt in Iraq. (Nakash, 1994, 247)

This leading status, however, began to deteriorate in 1908, two years after the

breakdown of the Constitutional Revolution. The relationship between students and *mujtahids* was affected by the dispute over the stand towards the revolution; while students supported deeper reforms in Iran, the Ayatollahs' support was only to ensure the conformity of law with the *shariy'a*. In addition, after having their demands regarding taxes and tariffs realized by the Qajari Shah, the Bazaaris felt that they no longer needed the support of jurists whether in Iran or in Najaf. As a result, they decreased their contribution to the *mujtahids*. In addition, the number of Imam Ali shrine pilgrims had considerably dropped, leaving students with lower allowances (Nakash, 1994).

In 1920, Shiite and Sunni tribal sheiks of Iraq launched the Eshreen (literally, the twenty) Revolution as a liberation war against the British rule that had just been established. The revolt was motivated by the fatwas of prominent Shi'ite clerics and other factors such as "The oppressive nature of colonial occupation⁷ in addition to increased taxes — and the British reluctance to honor their commitment to end occupation." (Noorbaksh, 2008, 54) Shi'i leading clerics were divided regarding the stand towards the British Mandate according to their quietest-activist approaches. Ayatollahs Muhammad Taqi al-Shirazi, Shaykh el-*Shariy'a* al-Asfahani, and Mahdi al-Khalisi, as activists, called for armed resistance against the British. In contrast, Ayatollah Kazim al-Yazdi, the leading *marja* in Najaf, refused to become involved in the matter, saying to tribal leaders who approached him that he knew nothing about politics (Kelidar, 1983, 9). As leading *marjas*, they faced a situation in which they could not accept the British Mandates nor exploit the end of the anti-Shi'i Ottoman occupation to call for a religious state. Regarding the project of Ayatollah al-Shirazi, Kelidar argues:

He advocated the establishment of a Muslim Arab kingdom for which the second son of Sharif Husain, Abdullah [the later king of Jordan], was proposed as ruler.

Al-Shirazi wrote to Sharif Husain in Mecca on the subject and sent delegates to consult with him on the matter. The fact that Abdullah was the scion of Al al-Bayt was an important consideration for the Shiis, as it was for his younger brother Faisal when he became king in 1921. The alliance between the religious *mujtahids*, the tribal chiefs, and the notables of the towns against the mandatory authorities made the rebellion of 1920 possible. (Kelidar, 1983, 9)

Responding to these complex circumstances, the British "organized an elected parliamentary system and constitutional monarchy" (Ismael & Ismael, 2005, 611) and brought Faisal Ibn Al-Hussein, a descendent of Prophet Mohamed and son of the Sharif of Mecca Hussein Bin Ali, in 1921 to be the first Hashemite monarch in Iraq. He ruled until his death in 1933. Under the rule of the Hashemites, the leading Shi'a Ayatollahs articulated two major stands. The first was that of Ayatollah Hussein al-Na'iyini, an Iranian-born *marja* lived in Najaf, while the other represented the position of Ayatollah al-Khalisi, an Iraqi *Marja'*. Abbas Kelidar articulates the former's position by stating:

It is true that a leading *mujtahid*, Shaykh Husain al-Na'iyini, pronounced in favour of a constitutional representative government when examining the Constitutional Revolution of Iran in 1906. His treatise defined the rights and duties of the state and its subjects, the nature and extent of the role of the *mujtahids* and the delegates in the parliamentary deliberations to ensure the compatibility of parliamentary laws with the basic tenets of Islam, and on the ways of avoiding tyranny in the absence of the Imam's rule. (Kelidar, 1983, 9)

On the other hand, Ayatollah al-Khalisi, along with other *marjas*, issued a fatwa prohibiting the believers from dealing with the government taking into account that the British Mandate still continued. This step further undermined the already weak representation of the Shi'a in public institutions. Moreover, it led to tribal protests to which the government responded by exiling those Ayatollahs to Iran under the charge that they were originally from Iran (Kelidar, 1983, 9)

Although some educated Shi'ite Iraqis were occasionally appointed to high ranking political positions, the Shi'a had been politically isolated since 1920. After leading the liberalizing revolution against British occupiers, they found themselves

marginalized in political life (Noorbaksh, 2008). Their initial actions may have worsened this situation as they "boycotted the election under British occupation [in 1922] and the domination of the government apparatus by a Sunni monarchy. They also boycotted the constitution that was written with the aid of the British occupiers, leading to their total isolation from decision making and influence in politics and government for the remainder of the twentieth century." (Noorbaksh, 2008, 59) Shi'ite marginalization was so apparent that the Sunni king, Faysal I, wrote in 1933 that:

"Shiite *ulama* have no connection with the government and are at present estranged from it, particularly in as much as they see the Sunni *ulama* in possession of funds and properties of which they are deprived, and envy, notably among the religious classes, is something well known." (Noorbaksh, 2008, 59)

In addition, the ruling Sunni elite spared no effort to ensure their supremacy over the Shi'i majority to the extent that some southern Shi'i sheikhs began feeling they were a minority (Nakash, 1994). By issuing the law of citizenship in 1925, many Shi'is in Southern Iraq was excluded from holding the new Iraqi nationality because the law awarded it only to those who already held the Ottoman cards. Taking to account that the Shi'is used to claim the Iranian nationality to avoid the Ottoman conscription, they were left unable to assume the Iraqi nationality and, thus, any government posts (Kelidar, 1983)

In addition to the citizenship law, the National Defense Act proposed by the parliament in 1927 had deepened the sectarian tensions when Shi'is perceived it as another attempt to establish a Sunni-dominant army. Besides tribal figures, Ayatollah Muhammad Hussein Kashif al-Ghitaa opposed it. Because of the absence of a united Shi'i leadership, the bill was passed later on in 1932 in the era of King Ghazi after ignoring all Kashif al-Ghitaa's calls and letters. In 1935, some Shi'i tribes in Rumaitha and Nassiriya in the south revolted in a response to arresting one of the Ayatollah's representatives, an uprising to which the government of Yasin al-Hashimi reacted by

sending military planes and bombing those tribes' villages. The event underscored the deep sectarian dispute and undermined the reputation of the Najafi Ayatollahs whom the Shi'i politician of Baghdad accused of mismanaging the crisis (Nakash, 1994).

In 1958, the Hashemite monarchy was overthrown in a military coup led by the Free Officers headed by Abd el-Karim Qasim, who announced the republic of Iraq (Noorbaksh, 2008). This event had led to a series of coups and uprisings which basically represented the ideological conflicts of the late 20th Century, such as Arabism, Communism, Kurdish activism, Ba'athism, and Islamism.

Iran was not neutral in these developments. Abbas Kelidar believes that Iran, under the Shahs and the Ayatollahs, has exploited the resentments of the Iraqi Shi'is towards the sectarian-based discrimination against them by the central government to bolster Irani efforts to control the Gulf or to have a larger share in Shat el-Arab, the main port in the region:

Iran under the Shah or the rule of the ayatollahs has sought to destabilize the politics of Iraq, Lebanon, and the Gulf States through the politicization and the radicalization of sectarian sentiment. These attempts, coupled with the nature and history of Arab nationalism, have precipitated the polarization of society in these states. The appearance of such organizations as Amal in Lebanon and al-Da'wa in Iraq, is but a symptom of this polarization, which has ruined many years of useful bridge-building to obtain national integration in society and politics. (Kelidar, 1983, 15)

Shi'ite clerics had primarily spent the period between 1958 and 1968 interacting with the government according to its position towards the communists and pan-Arabists. The then emerging Communist Party was a serious threat to the Shi'ite clergy as its ideology was spreading even inside their headquarters, Najaf and Karbala. Responding to the flourishing atheist movement, the Shi'ite *ulama* were divided into two groups, the traditional, quietest clerics and the reformist, activist *ulama*. The latter founded the *Jama'at al-Ulama*. This group had temporarily maintained a good relationship with the regime of General Abd el-Kareem Qasim

(1958-63) but the two parties fell out when Grand Ayatollah Muhsin al-Hakim issued his anti-communist fatwa (Aziz, 1993)

Within that atmosphere, the young Ayatollah Mohamed Baqir al-Sadr represented the anti-communism activists and reformist clerics in the Hawza of Najaf. He published his two prominent books, *Falsafatuny* (our philosophy), and *Iqtisadony* (our economic system), in which he argued that Islam represented a third road, along with Capitalism and Communism, that could address the philosophical, economical, and political dilemmas of human societies (Mallat, 1988). Al-Sadr was the spiritual leader of the Da'wa Party, which was established by a group of Shi'ite intellectuals in their struggle against the dominant secular movements, Arabism and communism (Aziz, 1980; Noorbaksh, 2008). Aziz stated the agenda of the Da'wa Party as follows:

The aim of the Da'wa was to organize dedicated Muslim believers with the goal of seizing power and establishing an Islamic state. To achieve that goal it would indoctrinate revolutionaries, fight the corrupt regime, and establish an Islamic state; then it would go on to implement Islamic laws and export the Islamic revolution to the rest of the world. (Aziz, 1993, 209)

On the other hand, Ayatollah Muhsin al-Hakim, father of Muhammed Baqir al-Hakim, represented the traditional cleric who does not get involved in political affairs. He did, however, issue a famous fatwa which "identified communism with atheism and forbade Muslims from joining the Communist party or helping its cause. [This] embarrassed the Qasim government and forced General Qasim to abandon the Iraqi Communist party" (Aziz, 1993). He also refused to meet General Qasim unless the latter canceled the civil-rights law as he believed that it violated Islamic teachings (Aziz, 1993). The period of 1964-1968 was considered as the "golden era" for the Shi'ite politics for several reasons:

First because the Ba'thist-Arif regime felt indebted to the Shi'i religious establishment for its help in discrediting and ousting Qasim's regime, and second, because the new regime gained legitimacy from the Shi'i leaders who supported their crackdown on Communist forces in the country (ironically, most of those

prosecuted were also Shi'i). (Aziz, 1993, 211)

As late as 1960s, Jama'at el-Ulama, supported by al-Sadr, had continued to expand in terms of functions and structures. They also organized a group of militant clerics in Najaf where they were exposed to a police crackdown in 1969. Mallat summarizes the structure and functions of their main networks, which were located in Najaf and Karbala, saying:

A whole network of Islamic social and educational institutions was organised to provide various services, such as 'the dispensary of the Holy Koran', an Islamic club, a marriage committee ..., and a film centre. Islamic schools enjoyed, of course, priority... These schools were meant to prepare the new generation, educated 'Islamically', 'to enter the ranks of religious men', and to work on graduating 'intellectuals with a sane educational background'. The school structure is said to reach 'more than 2,000 male and female students. (Mallat, 1988, 22)

In 1968, a small group of right-wing Ba'athists led by Ahmed Hassan Al-Bakr managed a successful coup and assumed power, which they held until the Ba'athist defeat by the US-led coalition in 2003. Saddam Hussein had removed el-Bakr in 1979 in an internal coup and ruled the country until his overthrow by the US. This regime immediately began to undermine the Najaf Hawza authority, which it perceived as an intolerable internal threat to its Arabist, secular agenda:

Its [the Ba'ath regime] first step toward limiting the Shi'is power was to curtail their religious activities; this included the closing of the Jawadayn elementary and high schools and the Usul al-Din College in Baghdad, confiscating the land and funds set aside for building Kufa [religious] University, shutting down the *Risalat al-Islam* (the only religious journal the government allowed to be published at that time), prohibiting the *mawakib al-talaba* [students' processions] in Karbala. (Aziz, 1993)

During 1970s, Najaf was not only the spiritual capital of the Shi'a world, but also the heart of its revolutionary movements. Two leading revolutionary Ayatollahs were residing there, Rohullah al-Khomaini, expelled from Iran, and Mohammed Baqir al-Sadr. Their transnational religious movement included *ulama* from Iraq, Iran, and Lebanon and was under the supervision of Ayatollah Mahdi al-Hakim, brother of

Muhammed Baqir al-Hakim (Mallat, 1988). The conflict between al-Sadr and the Ba'ath regime reached a peak in 1977 when the government banned the annual Shi'ite commemorations of Imam Hussein. After issuing a fatwa that prevented the faithful from joining the Ba'ath Party and publicly supported the Islamic revolution of Iran, al-Sadr was detained but released one day later when large demonstrations by his followers broke out in Iraq's southern and central cities. The regime then launched a large campaign of arrests and executions against al-Sadr's students, al-Da'wa party members, and all activist Shi'ite clerics and intellectuals. The campaign left the Shi'ite religious network weak enabling the regime to detain al-Sadr and his sister, Amina, on April 5, 1980, and execute them three days later (Aziz, 1993).

After the defeat of Saddam's forces in Kuwait, the Shi'ites attempted an uprising in March 1991 but the uprising was exposed to brutal oppression by the regime's republican guards and put down. Although the revolt was initiated by popular protests, some clerics became involved in ruling some regions. The eminent *marja* of Najaf at the time, Grand Ayatollah al-Kho'ie, issued an announcement in which he established a nine-member committee to restore order and maintain public services. Kho'ie's son, Abdel-Majid (later killed in Najaf on April 2003 by a mob linked to Muqtada al-Sadr), was a member of the board. The religious orientation of the uprising was one of the factors that led the US to give a green light to the regime to crush the revolt, although President Bush had urged the Iraqi people and army to overthrow the Saddam regime (Depra, 2005). The head of the Supreme Council for the Islamic Revolution, Ayatollah M. Baqir al-Hakim, broadcasted speeches on radio from Iran urging people to continue fighting the regime but did not enter the 'liberated' south to lead the movement.

Three months later, a group of leading Shi'i figures met the American Secretary

of State James Baker. Abd el-Majeed el-Khoi was one of the prominent personalities in that group. They handed the Americans a document that articulated the demand and perception of the Iraqi Shi'a regarding the future governance system of Iraq and the relation with the US government. The document calls for an "Islamic Arab democratic state" that would not entail implementing the Iranian style of *welayat el-faqih* but rather ensuring the conformity of laws with major Islamic principles. It emphasizes also that most Shi'is worldwide, including the Iranians, follows Ayatollah Khoi rather than the Iranian clerics (el-Rubay'ee, 2007).

Contention between Najaf and Qum

There was a hidden factor that led to the decline of the Najaf madrasas as the leading Shi'i learning center in the twentieth century. It is related to the long, gradual process of 'persianizing' the Hawza, i.e., making it more Persian. The immigration movement of Iranian clerics into Najaf, which began in the eighteenth century and continued in the nineteenth century, affected the Arab culture, identity, and language of the Hawza. By the end of eighteenth century, the Arab students and *marjas* became a minority within the religious community.

This critical shift has weakened the former ability of the Hawza to deliver Iraqi intellectuals and literary figures who "could direct intellectual and mental development of their society." (Nakash, 1994, 257) It created a gap between the Hawza and the community of Najaf and another gap between Najaf and Baghdad, "hindering the potential social and intellectual exchange between Sunnis and Shi'is in Iraq"(Nakash, 1994). The emergent Persian spirit of the Hawza made it lose its former leading status "as a major center of intellectual and literary activity in the Arab world." (Nakash, 1994, 257) In terms of language, Arab students in higher levels need academic instructions from teachers who use Persian in their classes.

Parallel to this decline in Najaf's supremacy in Iraq, Qum was experiencing a flowering in Iran especially during the *marji'iyat* of Ayatollah Burujordi in the 1940s and 50s, during which there was not a well-identified supreme *marja* in Najaf. Although based in Qum, Burujordi was the major funder of the Najaf, Karbala, and Samarra madrasas in Iraq, which adversely affected the supremacy of Najaf in the Shi'i world (Nakash, 1994). When Burujordi died in 1961, Shah Muhammad Riza of Iran sent a letter of condolence to Grand Ayatollah Muhsin al-Hakim in Najaf in an attempt to promote the Najaf supremacy over that of Qum, which was resisting the Iranian Shah's disputable reforms.

The subsequent decade, the 1960s, witnessed a relative return in Najaf's leading status under the *marji'iyat* of al-Hakim, considered then the highest Shi'i *marja* worldwide. But his death in 1970 and the rise of the Ba'ath rule in Iraq caused the Hawza to suffer unprecedented suppression and decline in the Shi'i world. By 1985, the number of Najaf's students, *mujtahids*, and other learning functionaries was about 150 as a result to the policy of deportation and the flow of clerics from Najaf to Qum (Nakash, 1994)

On the other hand, Qum maintained its leading status under the rule of Ayatollahs who made the supremacy of Qum a high priority objective. The Qumi Ayatollahs, unlike Najafis in prior eras, paid more attention to promoting preaching activities and establishing more publications to keep the ordinary Shi'is in a close relationship with the clergy (Nakash, 1994)

In terms of theocracy, many scholars believe that Najaf represents the quietist approach while Qum tends to favor the guardianship of jurist:

This current of thought [quietism] has always been dominant in Najaf. The Iranian ayatollah Khomeini, who lived in this city from 1965 to 1978 and supported the opposite thesis, was completely isolated. The thesis of Khomeini, which he embodied in 1979 with his theocratic revolution in Iran, was that "only

a good society can create good believers." And he granted to the clerics the political power necessary to establish the perfect society. Khomeini and Sistani, on the contrary, held that "only good citizens can create a good society." And they rejected any idea of theocracy. (Magister, 2004)

Some scholars believe that the Shi'i seminaries in both Iraq and Iran are experiencing a decline due to two opposite forces:

The decline of *marji'iyat*, which is related to the waning of the Shiite seminary's independence, is essentially caused by two facts: the anti-Shiite policy of Saddam Hussein in Iraq, and the emergence of a Shiite clerical government in Iran. Both in opposite ways succeeded in destroying the seminary and the authority that comes from it—the first by suppressing it directly and hostilely, and the second by depriving it of its independence and transforming the seminary from a semi-independent semi-civil institution into an affiliate of the political authority. (Khalaji, 2006, 36)

Moreover, Khalaji predicts the end of the Shi'i traditional *marji'iyat* in the post-Sistani era claiming that *Walayat al-faqih* doctrine would dominate the Shi'i scene exploiting the huge resources of Iran:

Khamenei is now the master of the Shiite network in the region. Even Sistani as the greatest *marja* of the Shiite world has no great power to make any dramatic change in politics or on social grounds. Developments in Iraq have shown that Sistani has been incapable of preventing the Shiite political groups from entering into a sectarian war. (Khalaji, 2006, 36)

Mustafa el-Labbad argues, however, that the reemergence of the Hawza of Najaf under the leadership of Ayatollah al-Sistani would threaten the position of Iran as the political representative of the Shi'a in the future (el-Labbad, 2005). Another factor in that regard is the diminishing independency of the Hawza of Qum under the rule of Tehran's Ayatollahs. The Islamic Republic's leadership, especially Khamenei, has maintained a policy that made Qum's religious establishment financially and organizationally dependent on the state in which

The establishment became totally dependent on the government's financial resources, social authority, networking, organization, and political status... Clerics receive hefty regular stipends from the government, and many ayatollahs have exclusive privileges for numerous profit-making transactions. The government has modernized and bureaucratized the clerical establishment by creating the Center for Seminary Management, which is under direct supervision

of Khamenei and is in full control of clerical finances, the seminary's educational system, and the political direction of the establishment. Even Iraq's Grand Ayatollah Ali al-Sistani, along with other influential Shiite leaders, allegedly runs his offices [in Iran] within the framework of the Center (Khalaji, 2009)

Djavadi, in turn, believes that this heavy control over the Iranian seminaries has harmed the establishment's independence;

Most of the influential and popular marjas, such as Grand Ayatollahs Mohammad Kazem Shariatmadari and Hossein Ali Montazeri, were put under house arrest or forced into passivity. Under the new system, more than 200,000 mullahs became receivers of government salaries and benefits — and were therefore largely silenced. This was an unprecedented development in Iranian history, during which Shi'ite clerics were always dependent solely on voluntary religious donations. (Djavadi, 2010)

He also refers to the fanatic ideology which they use in justifying such interventions;

This new system was formulated with this statement: “Under the open sky, the only just position is that of the supreme leader.” This simplistic ideology was pronounced by Ahmad Khatami, an ultraconservative member of the Assembly of Experts that elects or fires the supreme leader. Another member of the same body, Mohammad Taghi Mesbah Yazdi, reportedly issued a fatwa before last June's presidential election, saying that it is permissible to “change” or manipulate election results to prevent the victory of the enemies of the supreme leadership.

The Hawza of Najaf and the Shi'i political organizations

The Shi'i struggle to gain political rights in the twentieth century Iraq has generated several political parties and organizations that have consistently had a degree of affiliation with the Hawza's Ayatollahs. Some Shi'i clerics and intellectuals established such organizations to deal with the Sunni-dominated, central government. Following the current more significant parties and movements:

During the 1940s and 50s, many Shi'i organizations were established representing this wing of activist clerics and intellectuals. For example, there were Munazamat al-Shabab al-Muslim, Muslim Youth Organization, (1940s), al-Ja'fari Party (1950s), and al-Shabab al-Aqa'ideyeen (1950s). Many prominent members of these movements joined the Da'wa Party when it was established in 1950s. Al-Da'wa al-Islamiya Party

is considered one of the most significant political parties in the Iraqi Shi'i scene because many Shi'i political movements were founded by ex-members in the Da'wa Party such as SCIRI, Hizbollah, and Amal Movement (Dai, 2008).

1. Al-Da'wa al-Islamiya Party, the Islamic Call Party

Since its founding in 1957, the Da'wa party has passed through three turning points that contributed to its evolution toward an embrace of Iraqi nationalism without abandoning its basis in Islamic doctrine;

firstly, it shifted from a reformist Islamic organization to a revolutionary movement in the mid-1970s because of the complex influences of oppression, restriction by regulation, and segmentation of the leadership; secondly, it had to evacuate from Iraq to Iran after the Iranian revolution 1979 because of severe oppression by the Ba'athist regime; thirdly, it distanced itself from the Iranian authority in the late 1980s. (Dai, 2008, 1)

The comprehensive suppression campaign of the Ba'ath regime discussed previously left the most prominent Shi'i party, al-Da'wa, shattered, with the majority of its cadres either executed or exiled in Iran, Syria, or the UK. This situation led to several splintering processes within the party's structure from which many of the present organizations emerged. The major split happened in Iran in 1984 in which some of the party's members refused the attempts of the Ayatollah's regime to control it and left Iran for Syria and London to preserve the independence of the party, while others joined the ISCI (Kemp, 2005). Having adopted the election as an organizational system, the party held its assembly in 1988 in which it abolished its former *al-majlis al-fiqhi*, the Jurisprudence Council, which had consisted of senior jurists close to the Iranian regime such as Kazim al-Ha'iri and Mehdi al-Asafi. This conflict between the party's clerics and non-clerics reflected a struggle for survival against the Iranian hegemony. The abandoning of the pro-Irani ulama helped the party to maintain a national agenda in the 1990s (Dai, 2005). The party had to pay the price of this step which was reflected in leaving Iran and seeking new exile bases in Syria

and the UK. On the other hand, the new independent approach helped the party to maintain a national identity in the 1990s apart from the foreign agendas (Dai, 2005).

The party witnessed several splinters in exile. One of these was the al-Da'wa Party – Tanzeem al-Iraq (the Iraqi Branch). The group is mainly centered in Basra and its main distinctive feature is its clear rejection of Khomeini's *Walayat al-faqih* (Cole, 2003). This party is now part of al-Maliki's State of Law coalition.

Although it boycotted the Iraqi opposition conferences organized by the US in late 2002 and on April 28, 2003 in London and Nassiriya respectively on the basis of its Islamist orientation, al-Da'wa eventually chose to pragmatically engage in the US-led political transition, joining the Iraqi Governing Council (Cole, 2003). Unlike ISCI and the Sadrists, the party does not maintain a large militia. Nor does it have the formers' capability to mobilize popular support (Duss & Juul, 2009). One important development of al-Da'wa's approach was adoption of a national agenda prior to the Iraqi provincial elections on January 2009, which the al-Da'wa-led coalition won:

The most prominent change, however, has been Da'wa's embrace of a nationalist platform for its provincial campaigns. Maliki's [the current secretary of the party] decision to name the Da'wa's coalition "State of Law" reflects a shift in emphasis from religious identification and Islamist social politics to bread-and-butter issues such as basic public services and security. This also reflects a sense of the growing disenchantment voters have with the religious party-controlled government's inability to provide basic services. (Duss & Juul, 2009)

Another move in this direction was al-Maliki's split from the United Iraqi Alliance, the Shi'i list which won in the 2005 elections. This nationalist tendency, however, has not guaranteed his coalition a majority or plurality in the parliament that will result from the March 2010 elections (still in dispute at this writing).

The party's present manifesto is not clear as to its stance on the guardianship of the jurist, previously one of its central principles. What is obvious is the reluctance of the party to publicly and practically advocate *walayat al-faqih*.

A senior party source ... claimed that "[al-Da'wa] shall accept everything that the public will accept even if they choose a perfectly non-Islamic regime. If they do not choose Islam, this means that they are not prepared for it. If Islam is imposed, it will become an Islamic dictatorship and this would alienate the public." This may in part be a response influenced by the experience of post-revolutionary political rule in neighboring Iran, but is more likely recognition of the fact that there is a diversity in the communal makeup of the Iraqi polity that precludes the adoption of political Islam as the state ideology at present. (Shanahan, 2004)

2. Munazzamat al-Amal al-Islami, the Islamic Task Organization,

This movement was initiated in early 1970s although it was not formally established until 1979. Grand Ayatollah Mahdi al-Shirazi, the theoretician of Shoura al-foqahaa (jurists' council), was its first leading jurist.

In the early 1970s he and his brother Hasan (assassinated in Lebanon in 1980) formed their own organization, *al-'Amal al-Islami*, as a result of disagreement with Da'wa over an issue of leadership of the party and political tactics. When al-Shirazi announced his marja'iyya in 1970, Muhammad Taqi al-Mudrisi and Hadi al-Mudrisi headed al-'Amal, while Shirazi assumed the role of spiritual leader of the organization. (Aziz, 1993)

The organization was part of the UIA, the Shi'i block, in the Iraqi Parliament of 2005-2009, holding only a few seats.

3. The Islamic Supreme Council of Iraq (ISCI, formerly SCIRI)

The ISCI is a Shi'i organization that was established in Tehran in 1982. Khomeini's regime encouraged a few Iraqi expatriate clerics and politicians to form the ISCI with the aim of toppling Saddam's regime. In 1984, Ayatollah Muhammad Baqir al-Hakim was appointed to lead the organization. The organization has a paramilitary branch called the Badr brigades (Noorbaksh, 2008; Cole, 2003). The core ideology of this organization has been its belief in the unilateral, absolute guardianship of the Iranian Supreme Leader. This led al-Hakim in 1990s to propose federalism to tackle the dual loyalties to Iraq and Iran according to which Iraq, Lebanon, Palestine and any other to-be Islamic state would be a federation affiliated to the Iranian Jurist Guardian (Visser, 2008).

After 23 years of Iranian exile, al-Hakim returned to his home city of Najaf on May 2003. Supported by the Iranian government, and backed by his religious legitimacy as an Ayatollah, he was "positioning himself as a contender for Shi'ite religious leadership in Iraq" (Nakash, 2003). He approached Sistani "in hope of uniting against the threat of the exclusivist and powerful Sadr Movement" (Cole, 2003). His efforts were cut by his assassination in a huge bombing near the Shrine of Imam Ali in Najaf in August 2003.

There are many similarities between the ISCI and Lebanon's Hizbollah. Both follow the Iranian Guardian Jurist recognizing his 'worldly guardianship' while maintaining paramilitary branches. In addition, both parties, like the Muslim Brothers, temporarily postponed the goal of establishing the Islamic state in order to meet their own national needs and requirements (al-Sayf, 2006). Although the ISCI's leaders frequently announce that its military branch, the Badr Brigade, has been transformed into a civil organization, many believe that it still keeps its armed structures. Besides, large numbers of Badr's officers have been recruited in the new Iraqi Army and police forces.

4. The Sadrists

This movement was informally initiated during the 1990s by Ayatollah Muhammad Sadiq al-Sadr who is called al-Sadr II. After the fall of Baghdad in 2003, the movement emerged as an armed political movement with a young leadership. Although he is not Ayatollah, Muqtada al-Sadr inherited the loyalty of his father's followers who consisted mainly of poor, uneducated Shi'is.

Today, the Sadrists have a foothold in Iraq anywhere there are "recently urbanized, economically disadvantaged, socially marginalized, and politically disenfranchised Shiites. (Duss & Juul, 2009)

This structure led the movement to maintain a xenophobic, exclusivist approach.

Their antagonism to the secular middle class values of the Iraqi political and economic elite is often extreme, and has sometimes been expressed in the form of firebombing cinema houses and liquor shops, or at least threatening owners in an effort to make them close... it is hostile [also] to other Shi'ite religious forces. (Cole, 2003)

The Sadrist movement emphasizes the Iraqi origin of their organization, a feature that attracted many Shi'i Iraqis, especially those who felt uncomfortable with the Persian domination in the Hawza.

Al-Sadr has been the key figure to raise the issue of "foreign origin" of several key Shiite clerics in Iraq, including Sistani (Iranian origin), Muhammad Ishaq Fayyad (Afghan), and Bashir Najafi (Pakistani). These charges are significant in that they represent a major effort to promote a "nativist" approach to Shiite politics in Iraq that casts doubts on the appropriateness of religious leaders not of Iraqi blood. (Kemp, 2005, 4)

The major source of power in the Sadrist arsenal is their paramilitary al-Mahdi Army, which undertook two major armed conflicts with the American troops in Najaf during 2004. Although the militia suffered devastating losses during these assaults, it still enjoys large numbers of organized and stand-by members;

The Mahdi Army is thought to have nearly 60,000 members. Many Mahdi Army members also have infiltrated Iraq's security forces, particularly the local police and military rank-and-file. Despite this successful penetration, the Mahdi Army does not have "control" over official Iraqi security forces to the same degree that ISCI's [previously SCIRI] Badr Organization militia might. (Duss & Juul, 2009)

Although they were within the rejectionist alliance which boycotted the constitutional assembly elections in January 2005, the Sadrists participated in the subsequent poll in December of the same year within the Shi'i UIA list, winning 29 seats (Duss & Juul, 2009). This about-face shift resulted from several factors, one of which was the influence of Ayatollah al-Sistani who sought to close the gap with this popular movement. Unlike other Ayatollahs in Najaf, al-Sistani has not publicly denounced Muqtada's actions but tried occasionally to approach him and convince him to adopt the 'political resistance' strategy adopted by other Shi'i factions such as the al-Da'wa and the ISCI.

Subsequent developments led Muqtada to withdraw from the UIA list and from the al-Maliki government, which in 2008 launched a mass military campaign against al-Mahdi Army in Baghdad, Basra, and Amarah. Although it was substantially degraded, the Sadrists "will remain, however, a serious potential threat to Iraq's long-term stability if the movement is not sufficiently integrated into Iraq's governing structure." (Duss & Juul, 2009)

Muqtada al-Sadr, like his father, is a determinant advocate of *Walayat al-faqih* theory within a framework that preserves Iraqi nationalism.

Muqtada told him [the reporter] that he believes in the Khomeinist theory of the rule of the jurisprudent, but that the supreme jurisprudent of Iraq would be a different person than the supreme jurisprudent of Iran. (Cole, 2003)

Muqtada sought religious accreditation by considering Ayatollah Kazim al-Ha'iri, a Qum-based disciple of al-Sadr I whom al-Sadr II nominated to succeed him, as the jurist of the movement while the latter appointed him as his highest rank Wakil in Iraq. This relationship was short-lived, as the two fell out in 2007. This further encouraged Muqtada to continue his religious education in Iran in order to attain the *Ijtihad* which would provide him with the theological legitimacy to lead the movement. By conducting his higher studies in Iran, Muqtada, however, has undermined the Iraqi identity of his movement and its political independence.

5. Al-Fadhila Party

Basra is the stronghold of this party which was founded after the war of 2003 by Ayatollah Muhammed al-Ya'qoubi. The party follows the ideology of al-Ya'qoubi's mentor Muhammad Sadiq al-Sadr (al-Sadr II) but does not recognize the leadership of his son Muqtada (Duss & Juul, 2009) which cause tensions, and sometimes clashes, with the Mahdi Army. The party experienced an overwhelming loss in the 2009 local elections. It advocates the establishment of the 'southern region' as a federal entity:

Fadhila's major political objective is the creation of a three-province "southern region" incorporating Basra, Maysan, and Dhi Qar provinces. The idea of a "southern region" has percolated for decades and receives considerable support in Basra, but the idea places the party at odds with ISCI's desire for a nine-province "Shiastan" region. (Duss & Juul, 2009, 4)

Al-Ya'qoobi believes that al-Fadhila Party should commit to the political process and elections but this democratic means represents the exception rather than the rule because the ultimate goal, according to him, is having the guardianship of the jurist over the state.

The guardianship of jurists in The Shi'i political parties' manifestos

The Saudi Shi'i activist and expert Tawfeeq al-Sayf classifies the present Shi'i political movements in the Middle East according to their *Walayat al-faqih* orientation into three groups:

- A. Those parties that believe in *walayat al-faqih* and affiliate to the Iranian Jurist Guardian Ali Khamana'i such as the group of Hizbollah in Lebanon and the Gulf and the ISCI in Iraq.
- B. Those movements that believe in a supervision-based role of the jurist on the grounds of the absolute guardianship theory or the conventional commitment to the *marji'iyat* but that do not affiliate to the Iranian Jurist Guardian, such as Munazzamat al-Amal al-Islami, al-Fadhila Party, the Sadrist Current, and the Bahranian Jabhat al-Amal al-Islami.
- C. Those organizations that are committed to the Shi'i religious framework without giving a specific role to jurists such as the al-Da'wa Party in Iraq and Jam'iyat al-Wifaaq al-Watani in Bahrain (al-Sayf, 2006)

The Shi'i reformist movement in Saudi Arabia can be considered as an example of how some religious Shi'i parties could adopt a national agenda. Established in

1979, the movement followed Ayatollah Muhammad al-Shirazi who was one of the theorists of *walayat al-faqih*. It had been called the Organization of the Islamic Revolution in the 1980s and adopted a revolutionary agenda. In the 1990s, its leaders have decided to follow more realistic approach by negotiating with the Saudi authorities to establish a reconciliation pact. When al-Shirazi died in 2002, the leaders of the movement chose to follow Ayatollah al-Sistani who does not recognize the absolute guardianship of the jurist and, since then, it maintained a more national approach that distanced itself from foreign agendas (al-Sayf, 2006).

Party's jurist	Jurist guardianship		Leadership type		Organizational orientation		
	Absolute	Shoura/ Elections	Clerical	Non-clerical	Revolutionary	Political/ democrat	
Al-Sadr I Shirazi		Da'wa	Da'wa		Da'wa		70s
	MAI		MAI		MAI		
Iran SL	SCIRI		SCIRI		SCIRI		80s
	Hizbolla		Hizbolla		Hizbolla		
Shirazi	MAI		MAI		MAI		
	SRM				SRM		
Al-Ha'iri	Da'wa		Dawa		Dawa		
Iran SL	SCIRI		SCIRI		SCIRI		90s
	Hizbolla		Hizbolla			Hizbolla	
Shirazi	MAI			MAI	MAI		
		SRM				SRM	
(Fadlallah)		Da'wa		Da'wa		Dawa	
Al-Sadr II	Sadrists		Sadrists		Sadrists		
Iran SL	SCIRI		SCIRI			SCIRI	'00 - '05
	Hizbolla		Hizbolla			Hizbolla	
Mudarrisi	MAI			MAI		MAI	
Ya'qoobi	Fadhila			Fadhila		SRM	
Al-Ha'iri (al-Sistani)	Sadrists		Sadrists		Sadrists		
		SRM					
		Da'wa		Da'wa		Dawa	
Iran SL	SCIRI		SCIRI			SCIRI	2006 - now
	Hizbolla		Hizbolla			Hizbolla	
Mudarrisi	MAI			MAI		MAI	
Ya'qoobi	Fadhila			Fadhila		SRM	
Muqtada(?) (al-Sistani)	Sadrists		Sadrists		Sadrists	Sadrists	
		SRM				SRM	
		Da'wa		Da'wa		Dawa	
	- Hizbollah (82): many founder members came from Da'wa; (90s): abandoning the aim of the Islamic state. - SRM (90s): Reconciliation with Saudi regime; ('00): adopting Sistani's views		- Da'wa (88): abolishing the Jurists Council (Hairi & Asafi) & fleeing Iran to Syria & UK. - Sadrists (2006-): the emergence of non-clerical young politicians		- Ba'ath era (-1992): most parties are revolutionary. - Hizbollah (90s): involving in political system and abandoning using force internally (except in 2008 Beirut clashes)		

Table (1): the Shi'i political parties' positions and transformations

Chapter Four

Al-Sistani and His Influence over the Iraqi Transition

After examining the political role of Najaf Hawza in the previous chapter, the current section will shed light on the influence Ayatollah al-Sistani has exerted over the Iraqi politics focusing on the post-invasion era because he emerged as a key player in the critical Iraqi transition. To have clear insight about that, the chapter will initially introduce a biography to al-Sistani and elaborate on the post-khoi era in which al-Sistani's *marji'ya* was established. Afterward, a brief description of the post-invasion governance in Iraq will be laid.

Ayatollah Ali Al-Sistani's biography

Grand Ayatollah Sayid Ali Al-Husseini Al-Sistani was born in the holy city of Mashhad, in the northeast of Iran, on August 4, 1930, into a family known for its religious scholars. The family originated in Sistan, in the southeastern province in Iran. He began his religious education to be *Mujtahid* by enrolling at 11 in a seminary for the preliminaries level. After finishing the second level of *Sotouh*, he moved, in 1948, to Qum to join the prominent Shi'ite seminary, the Hawza of Qum, to pursue the *bahth al-kharij* (Noorbaksh, 2008; Khalaji, 2006; and www.sistani.org)

After spending three years in Qum, Al-Sistani migrated to Najaf in 1951 where he attended the lectures of Ayatollah Abol-Qasim el-Khoi (1899-1992), who was considered "a prominent religious scholar and *mujtahid*, [and] one of the highest-ranking religious authorities in the world of Shiite Islam." (Noorbaksh, 2008) A decade later, he was certified as *mujtahid* by Ayatollah Khoi and Ayatollah Hussein Al-Hilli, another leading *Marja*. In the same year, 1961, he left Najaf and returned to

his hometown Mashhad to settle there but for unknown reasons he left one year later returning back to Najaf. Some argue that this return was in response to an order from Sistani's mentor, Ayatollah el-Khoi (Noorbaksh, 2008; Khalaji, 2006; www.sistani.org).

Upon his return to Najaf, Ayatollah Sistani began researching and teaching Islamic jurisprudence. In about 1964, he began giving lectures in *Bahth Al-Kharij*. To date, he has taught these high jurisprudence courses for forty-five years. In 1987, Ayatollah Khoi assigned him to lead the prayers in Al-Khadra Mosque in Najaf where Khoi used to pray. Many then considered the move as an indication he "intended to groom Sistani for succession to Khoi" (Noorbaksh, 2008, 59).

Ayatollah al-Sistani and the Hawza of Najaf in post-Kho'i era

When Ayatollah Khoi passed away in Najaf in 1992, Ayatollah Abdel-A'ala al-Savzivari had assumed the *marji'iyat* for a short period until his suspicious death in 1993. Afterward, four Ayatollahs were candidates to succeed him as *Marja al-a'ala*, the supreme source of emulation: Ali al-Sistani, Murtadha Burujurdi, Ali al-Gharawi, and Muhammad Muhammad Sadiq al-Sadr, father of Muqtada al-Sadr. Although many *khubaraa'*, those who completed the outsider research, referred to him as the eminent *marja*, Sistani's religious leadership was not widely accepted in Najaf until Al-Sadr's assassination by the Saddam regime in 1998 (Khaliji, 2006, 8; Noorbaksh, 2008). The relationship between the two Ayatollahs was not steady because it reflected the new-old conflict in the Hawza of Najaf between the activist Arab jurists and the quietist Iranians clerics. It highlighted another dimension of dispute, regarding the relation with the state, whereby Sistani represented the quietest cleric while al-Sadr represented the activist one. Al-Sadr had made use of the anti-Iranian orientation of Saddam's regime to soften the heavy control of Iranian transnational networks over

the leadership and institutions in Najaf (Sa'eed, 2009). He created the two terms of *al-Hawza al-natiqa*, the speaking Hawza, and *al-Hawza al-sakita*, the silent Hawza which reflected the longstanding dispute concerning the limits of jurists' guardianship. His son, Muqtada, raised the slogan of the speaking Hawza when he emerged in the postwar era.

After the death of al-Savsivari, there were some indications that the regime was not in favor of Sistani's *marjayat* and preferred a friendly Iraqi *marja*. In 1993, the government shut down Khadra Mosque, where Sistani was leading prayers. In 1998, it launched a series of assassination attempts, in which two of Najaf's Iranian Grand Ayatollahs, Burujordi and al-Gharawi, were killed. In June of the same year, Sistani survived an unsuccessful assassination attempt in which two of his office employees were killed (Cole, 2003, 550). As a result, Sistani stopped teaching and barred casual visitors until 2003. Since the demise of Grand Ayatollah Kho'ie, the Iranian and Iraqi regimes had thus both tried to undermine the historical prominence of Najaf, but for different objectives (el-Labbad, 2008).

Ayatollah al-Sadr II (a term Shi'is use to distinguish Muhammad Sadiq al-Sadr from his cousin Muhammad Baqir al-Sadr, often called al-Sadr I), had occasionally criticized Sistani in public for his 'silent' approach, considering that the only valid stand for a *mujtahid* is to "speak out against tyranny". The dispute was so polarizing that it provoked a deep split in the Shi'a community in Iraq which would, eventually, lead to the emergence of Muqtada al-Sadr's movement (Cole, 2003)

After the assassination of al-Sadr II, the *marji'iyat* of Sistani became more recognized among the Iraqi Shi'is. Ayatollah Sistani has, according to his assistant Shahrestani, more than 2000 religious representatives worldwide. In addition, he has the support of Khoi's network of religious foundations and institutions, which is

administered by Kho'ie's sons and sons-in-law, who themselves initially supported Sistani to be their father's successor. Kho'ie's network was "the most established and expansive religious network in the world" (Khalaji, 2006,9).

Regarding Sistani's popularity in the communities of Shi'ites around the world, many argue that he is "the most-followed *marja* in the Shi'ite world" (Khalaji, 2006, 7). Besides, Sistani's office in Qum is the largest one in the holy city in terms of "financial capability and ownership of multiple institutions" while the offices of the other Najaf Ayatollahs in Qum are small ones (Khalaji, 2006, 7). Some clerical resources estimate that about 80% of devout Shi'is follow Ayatollah Sistani (Khalaji, 2006).

In Iran, the Ayatollah's son-in-law Shahrestani⁽⁸⁾ handles the complex task of balancing Sistani's position and interests with those of the Iranian Supreme Leader Ali Khamanai. The latter also claims that he is a *marja*, although most clerics have dismissed that claim (el-Labbad, 2008). After the demise of Ayatollah Khoi, who was considered the supreme *marja* of the Shi'is worldwide, Khamana'ei tried to assume this universal religious position or at least to prevent another Najaf-based cleric from taking it. To achieve this goal, the Irani association of Hawza teachers, a pro-government organization, issued in 1994 a list of seven *marjas*, Khamana'ei included, requiring the Shi'is to emulate one of them. None of Najaf clerics were mentioned in the statement although some of them have followers in Iran (el-Labbad, 2008).

In Iraq, Sistani lives in a modest home near the Shrine of Imam Ali in Najaf where he is visited by clerics, Wakils (his representatives), ordinary people, and officials. In the street where Sistani lives, the Iranian government has bought many houses "in the name of various individuals over the last three years, permitting Iranian ministry of intelligence and Revolutionary Guard members to surround Sistani's

street" (Khalaji, 2006). Concerning managing Ayatollah Sistani's institutions in Najaf,

Mahdi Khalaji states:

His office in Najaf is headed by his son Muhammad Reza Sistani, but observers believe that Muhammad Reza is not an important consultant to his father. He does his job as a head of Ali Sistani's administration in Najaf, but in political issues, Mohammad Reza does not have much influence on his father. Sistani's main consultants in political issues are Javad Shahrestani, his son-in-law in Qom; Hamid al-Khaffaf, his only official spokesman and his only nonclerical representative in Beirut; Murteza Kashmiri, his son-in-law in London; Muhammad Reza, as his main mediator to the Iraqi government; and Ahmad Safi and Dr. Hossein Shahrestani [the current Iraqi Minister of Oil]." (Khalaji, 2006, 12)

Some scholars consider al-Sistani's religious network to be the largest Shi'i transnational organization in Iraq:

the grand ayatollah oversees a loyal body of activists, students, ministers, representatives, and wakils (agents) who operate and administer his vast, multimillion-dollar transnational network of seminaries, mosques, and welfare-based organizations from India to Nigeria, from London to New York, and from Qom to Najaf, arguably representing the most organized religious association in post-Ba'athist Iraq.(Rahimi, 2007)

Besides al-Sistani, there are several mujtahids, Ayatollahs, in Najaf Hawza but there are only two Grand Ayatollahs who are Ayatollah al-Fayaadh and al-Hakim. Both have friendly relationship with Ayatollah al-Sistani and they occasionally meet to discuss major developments.

1- Ayatollah Muhammad Is'haaq al-Fayaadh.

He is from Afghani origin and holds a Pakistani nationality while his family resides in the Pakistani province of Baluchistan. He is considered one of the prominent disciples of the former G. A. al-Khoe'i and many believe he is the highest Ayatollah, after al-Sistani, measured in terms of purely academic standards. At the same time, because the supreme marja in Najaf has always been either Iranian or Iraqi, al-Fayaadh's chances to assume the marji'iyat in post-al-Sistani era are weak (Khalaji, 2005; IKC, 2009).

Al-Sadr II advised his followers to emulate al-Fayaadh after him but when Muqtada al-Sadr approached him after the assassination of his father, Ayatollah al-Fayaadh refused to be the jurist of the Sadrists, urging Muqtada to abandon politics and focus instead on his classes in the Hawza (from the writer's personal observation). In the post-invasion era, most of Ayatollah al-Fayaadh's positions were conformed to that of al-Sistani (www.alfayadh.com).

2- Ayatollah Muhammad Sa'eed al-Hakim.

He is from the family of al-Hakim which has religious and political influence over Iraq. He has strong a relationship with Ammar al-Hakim and his ISCI party. Although he is not an advocate of the absolute guardianship of jurist, his relatives' involvement in political and economic activities affected his religious authority. He is said to be emulated by about 5% of the Iraqi Shi'i devotees. However, he is the only Arab Grand Ayatollah in Najaf seminary and, unlike the other two Grand Ayatollahs al-Sistani and al-Fayaadh, can deliver his communications in clear Arabic.

The guardianship of jurist in al-Sistani's views

As discussed previously, Shi'i scholars are divided into two groups in the debate of the role of jurists in public affairs. Traditional Ayatollahs, such as Khoi, Muhsin al-Hakim, and Muhammed Kazim al-Yazdi, advocated a limited role for *marjas* in public life whereby a jurist has a specified guardianship only over maintaining the religious judiciary, managing endowments, and taking care of orphans with limited, occasional interventions. On the other hand, reformist and activist clerics argue that *marjas'* guardianship is practiced over a wide range of communal and governing affairs, meaning that the *marja* who has specific scholarly and political qualifications has a guardianship over the state and society. Ayatollah Khomeini is the *marja* who brought the second theory, the absolute guardianship of jurist, into full practice,

establishing the Islamic Republic of Iran. Ayatollahs Khomeini and Khomeini's approaches represent the most extreme articulations in the Shi'i scholar community on the two sides of the debate. Many Ayatollahs, though believing in the guardianship of jurist, argue that such a guardianship is not absolute or it is practiced collectively by all the Shi'i *marjas* at any given time, as the Qum-based Gulbaygani said, or by a board of Ayatollahs, as argued by Ayatollah Muhammad al-Shirazi (el-Labbad, 2008).

Ayatollah Sistani's views regarding the role of religion in state cannot be easily classified. In this regard, Noorbaksh comments that:

Sistani's seclusion from politics, particularly in the 1990s and the decades of Baathist totalitarian rule, has added to the mystery of, and confusion over, his views on the relationship between religion and state. During these years, his bayan (communiqués) were directed primarily to Shiite communities outside Iraq and dealt mostly with religious questions remote from the scope of politics... His silence on the domestic politics of Iraq and the relationship between Islam and the state created a misperception, leading some to label him as "quietist".(Noorbaksh, 2008,60)

Noorbaksh believes that "with a close examination of his life, one can understand that Sistani is anything but passive or quietist when it comes to the current state of politics in Iraq." He cites as evidence the Najaf meeting that accommodated Sistani with Abdol-Aziz Sachedina, a reformist scholar on Shi'a Islam, in which the Ayatollah insisted on the primacy of the *marja* on matters related to the religion and politics of Muslim society. This opinion indicates that this Ayatollah is far from being a passive or quietist *marja* (Noorbaksh, 2008; Allawi, 2007).

Ali Allawi, the former Iraqi Minister of Defense and Finance, argues that, differing from Ayatollah Khomeini, Sistani adopted a 'third road' between quietism and *Walayat al-Faqih* as applied in Iran:

Sistani emerges as someone who is vitally concerned with the role of Islam in state and society, and one who does not advocate a benign negligence or avoidance of all things to do with the state or government. (Allawi, 2007, 209)

Noorbaksh emphasizes this argument as he concludes that "he [Sistani] favors the

direct influence of the clergy over the state, with the intention that this institution of power and enforcement could protect religion and the Islamic identity of the community of the faithful... So far, what we know about Sistani is that he is in favor of a different version of *velayat-e faqih* in Iraq, one that mostly oversees but does not directly participate in the running of a government." (Noorbaksh, 2008, 61)

We have to distinguish here between 'the direct influence' and 'the direct participation' of the clergy in the state that Noorbaksh mentions. So, both Ali Allawi and Noorbaksh, and most scholars, deny that the Grand Ayatollah Sistani is in favor of a direct role of clerics in the state.

Other scholars argue that al-Sistani's approach conforms with that of former Shi'i *Marjas* who chose to pursue 'occasional interventions' to preserve the welfare of the Muslim community, citing as examples Ayatollah Burujordi of Qum, Muhsin al-Hakim of Najaf, and even the tobacco fatwa of al-Shirazi in 1891, none of which prevented those *mujtahids* from continuing their spiritual leadership of the community. Most of al-Sistani's interventions in Iraqi political affairs, according to this opinion, were during the period of 2003-2004, during which the political framework was being set, and since then he has returned to maintaining traditional clerical tasks with very few political announcements (Visser, 2006).

It is an approach that is neither completely quietist nor bureaucratic in the extreme. Instead, it rests on charismatic (but often low-key and subtle) power and the ability of the leading Shiite clerics to interfere at selected junctures, ... These junctures are not chosen randomly; they tend to materialise if the *mujtahid* monopoly of Usuli Shiism is under threat, or if local intervention can serve to promote the career of a traditionalist cleric without detracting from his standing in the wider international world of Shiism. Conversely, should clerical involvement in politics directly pose risks to the integrity of religious precincts (like those of Najaf), or to the more basic religious role of the clergy, the *ulama* may well opt to stay quiet for that reason. (Visser, 2006)

On the other hand, some observers considered al-Sistani's calls for the *Shariy'a* to be the principal source of legislation as an indication of his willingness to impose

religious guardianship over the society. Rahimi opposes this argument stating that:

Because Sistani approved the constitution in October 2005, he has already given consent to article 2 of the charter of the constitution, which not only explicitly recognizes Islam as a source of legislation but also prohibits passing laws that violate the principles of democracy in terms of individual rights and freedoms. For many, article 2 is a contradiction in terms. But for Sistani, the article actually articulates the most legitimate form of political authority. (Rahimi, 2007, 11)

Rahimi goes on to argue that al-Sistani is an advocate of an Islamic democracy in which democratic liberties serve Islam's objectives;

According to the school of thought to which the grand ayatollah adheres, the principles of democracy, such as political participation, competition, accountability, and accessibility, not only do not contradict Islam but, in fact, reinforce it. As he participated in the constitution-making process by calling for a directly and popularly elected constitution drafting council in November 2003, Sistani feels that the constitution is a way to reaffirm popular sovereignty, reflective of Islamic norms of virtue and justice. (Rahimi, 2007, 11)

Rahimi then tries to distinguish al-Sistani's approach from that of the Islamists, arguing that:

It is crucial not to confuse the Islamist conception of the constitution with Sistani's constitutional notion of Islamic democracy: whereas the Islamists seek to bring the state into total conformity with an Islamic legal system, Sistani aims to accommodate Islamic law along with other legal norms of various social and political significances in daily life. (Rahimi, 2007, 11)

This may contradict, to some extent, with the thesis of Reidar Visser who refers to a transnational policy behind the Ayatollah's actions:

While the Iraqi clergy has no intention of following the Khomeinist model of direct involvement in governance, it is nevertheless unwilling to abdicate all authority related to political matters. Iraq's Shiite clergy seeks to exercise power over Iraqi politics from outside the system to both exercise a veto power above the law of the land and to preserve its claim to a pan-Shia system that transcends the borders of modern states. This stance makes the Iraqi Shiite clergy, paradoxically, both deeply invested in the current state system and a non-state player par excellence. (Visser, 2009, 1)

To support his argument, Visser mentions three positions of al-Sistani in post-constitution era, which demonstrate the quietist approach, to highlight al-Sistani's quest to act as a decisive non-state player;

First, in April 2006, an interventionist strain in Sistani's communication appeared

once more, as he signaled to the incoming Iraqi prime minister, Nuri al-Maliki, that the ulama would “keep an eye” on and “monitor” the performance of the government. Second, after a subsequent meeting in September 2006, the leading Shiite cleric expressed concern about the security situation and the failure to create an Iraqi army on a truly national basis. Third, after an even longer interval of silence, Sistani once more emerged in the Iraqi political debate in November of 2008, as the Iraqi parliament was discussing the Status of Forces Agreement (SOFA) with the United States.

The last stand, according to Visser, is the most critical one. Al-Sistani's bayan stated two criteria for the passage of the agreement in the Council of Representatives, neither of which conforms to the Constitution, which the Ayatollah himself endorsed. It also reflects how this "non-state player had intervened in state politics with the expectation that he would be listened to regardless of what the constitution said." (Visser, 2009)

Visser then compares and contrasts the decisive role of the Iraqi Shi'i clergy with that of Iran in the context of the recent Iranian political development:

when some Iranian oppositionists dream of a ‘Sistani alternative’ in their own domestic politics, featuring a pliant, ritual-oriented clergy—a vision that came to the fore once more after the disputed June 2009 presidential elections—such oppositionists engage in a high degree of wishful thinking. Rather, today Iraqi Islamists claim that the Iraq-based clergy exercises a stronger influence over Iraqi politics than their Iranian counterparts, precisely because they remain outside of institutions when they enter politics. (Visser, 2009, 8)

The governance of Iraq in post-invasion era

The occupation of Iraq by the US-led coalition in 2003 has brought about crucial challenges to the country's governance. It initiated an unprecedented vacuum in governing legitimacy, power monopoly, and institutional structures. After toppling Saddam's regime, the US government and its allies established the Coalition Provisional Authority (CPA) as the entity responsible for governing Iraq and setting its political framework. The CPA ruled Iraq from May 2003 until June 2004, headed by Paul Bremer III, a senior American Ambassador (Kurrild-Klitgaard, 2004, 14).

On May 16, 2003, Bremer issued CPA order No.1 according to which he disbanded the Ba'ath Party (Hassan, 2007). In the same month, Bremer issued his order No.2, dissolving the Iraqi army, the Ministry of Defense, the Ministry of Interior, the Ministry of Media, and all security agencies which supported Saddam's regime (Hassan, 2007). This step provoked, especially later on, substantial criticism from some Iraqis and American experts, who claimed that it contributed to the subsequent widespread violence.

In July 2003, US established the Iraqi Governing Council (IGC), which consisted of 25 appointees selected from among Iraqi politicians, most of whom were émigrés during the rule of the Ba'ath regime. This step was a response to the urgent need to have an Iraqi political body at least nominally charged with the governance of the country. However, the IGC barely represented an advisory council to the CPA (Papagiani, 2007, 260). The suggestions of the UN to widen the IGC by including representatives from non-exile personalities, including greater Sunni representation, were ignored by the CPA.

The most significant, and controversial, outcome of the IGC-CPA partnership was the Agreement of Political Process signed on November 15, 2003, which later led to the formulation of the Transitional Administrative Law (TAL). This agreement drew up the framework within which Iraq's new democratic structure would be established leading up to approval of a new Constitution. In fact, the CPA was the real architect of the TAL as "the final draft was entirely unavailable until the actual signing, and was thus exposed to no criticism until the five Shi'ite members of the Governing Council threatened not to sign the document." (Papagiani, 2007, 261)

In June 2004, the CPA handed over the authority to an interim government appointed by the CPA, with some input from the IGC and the UN. The new

government was headed by Dr. Ayad Allawi, an ex-Ba'athist and Shi'ite politician long resident outside the country (Hassan, 2007). Along with the interim government, the Transitional National Assembly (TNA) was formed and its members selected based on a caucus system. Both the Interim Government of Allawi and the TNA were assigned to administer the country and maintain the institutions required for the election of the constitutional assembly, but without authority to sign security pacts or any other strategic mandates.

In 2005, Iraq held two national elections and a referendum over the constitution. Many scholars believe that the transition process was not sufficiently inclusive and pluralistic whether in formulating the IGC, writing the TAL, forming the Interim Government and the Transitional National Assembly, or drafting the constitution. The main factor that had led to such an outcome was the desire of the CPA to control the process and conclude it within a short timetable (Arato, 2004; Papagiani, 2005).

On January 30, 2005, the election of the National Assembly was held. Boycotted by most Sunni Arabs, the elections resulted in a parliament controlled by the United Iraqi Alliance (a Shi'a bloc), which formed a governmental coalition. Under a strict timetable, the parliament's Constitutional Committee drafted a constitution on which a referendum was organized on October 14, 2005. Although two Sunni provinces voted against it by two-thirds majority, the constitution has been adopted. Accordingly, another national election was held on December 15 in the same year but to elect four-year parliament. The same Shi'i-led alliance won the vote but without having the absolute majority (Hassan, 2007; Papagiani, 2007).

Sistani's *marji'iyat* in post-war Iraq

After the toppling of the Ba'ath regime in 2003, Ayatollah Sistani emerged as a central player in the new Iraq. His religious legitimacy in Shi'ite communities, along

with his sophisticated network, has given him an exceptional capability to mobilize Shi'ite communities. His transnational religious network⁹ represents an independent and integrated governance system that not only administers the clergy-related affairs but extends to provide services that the state usually performs.

Since the fall of Saddam, the Sistani network has emerged as the most organized transnational civic institution in Iraq, with offices not only throughout Iraq, but also in Afghanistan, Azerbaijan, Bahrain, Britain, Georgia, India, Iran, Kuwait, Lebanon, Pakistan, Saudi Arabia, Syria, Turkey, and the United States... The seminary students [in Iran] supported by Sistani's center are well paid and are even offered a health insurance plan that covers their families during the period of their studies. (Rahimi, 2007, 7)

As noted above, this transnational network is funded mainly by the *khums* as well as other financial resources, such as endowments and merchants' and pilgrimages' donations.

Noorbaksh refers to other factors that led to the ability of Ayatollah Sistani to lead Iraqi Shi'is:

The only remaining leader capable of bringing all Iraqis into the fold was Ayatollah Ali Sistani. He could deliver for a community [of Shi'a] that had been under-represented, isolated and discriminated against in the government and politics of Iraq from the time of the British occupation of the country. (Noorbaksh, 2008, 58)

When the US-led coalition overthrew the Saddam regime, most Iraqi Shiites were "facing a historical opportunity, and challenge, to transform Iraqi history in their own favor." (Noorbaksh, 2008, 60) They saw in Sistani their wise leader who would guide them through this critical stage.

Politically, many scholars and commentators argue that Ayatollah has been "the most powerful person" (Arato, 2004) in Iraq at least in the Shi'ite community. With the assassination of Ayatollah Baqir Al-Hakim and the decline in Muqtada Al-Sadr's popularity, this conclusion became even stronger.

Al-Sistani's emergence in the post-Ba'ath era, gave some hope to the Najafi

clerics to restore the leading status that Najaf had lost to Qum. The religious establishment that the Ayatollah supervises is said to be large enough to realize this objective:

With an approximate income of \$ US 5 million a month in form of donations from countries like India, Iran, Lebanon and Pakistan, the Najaf-based Sistani organization is growing with the ongoing transition of the Iraqi government. Accordingly, as more pilgrims make their way to the holy cities, the Ayatollah's income is also likely to grow. For the most part, Sistani remains as the preeminent and best financed of the major Ayatollahs remaining in the city of Najaf, and, by extension, in Iraq. (Rahimi, 2005)

The influence of Ayatollah Sistani over the Constitution-making process

The first step of the CPA in shaping Iraq's future democratic roadmap was the establishment of the Iraqi Governing Council (IGC) which consisted of 25 members appointed by Paul Bremer based on sectarian background. The council basically represented a consultant board to the head of the CPA (Papiagani, 2007). Ayatollah Sistani adopted a 'no comment' policy toward this vitally important American action (www.sistani.org).

When the CPA declared its plans to form a constitutional assembly based on a caucus system, Ayatollah issued his fatwa denouncing the step and requiring fully representative elections. Moreover, part of the CPA's plan was to "rely on a group of American experts to draft the Iraqi constitution." (Papagiani, 2007, 260) Sistani's fatwa spelled out his opposition to this approach:

These [occupation] authorities do not have the authority to appoint the members of the constitution writing council. There is no guarantee that this council will produce a constitution that responds to the paramount interests of the Iraqi people and expresses its national identity of which Islam and noble social values are basic components. The [constitution writing] proposal is fundamentally unacceptable. There must be general elections in which each eligible Iraqi can choose his representative in a constituent assembly for writing the constitution. This is to be followed by a general referendum on the constitution approved by the constituent assembly. All believers must demand the realization of this important issue and participate in completing the task in the best manner.

(www.sistani.org; translated in Arato, 2004, 1)

This fatwa, or edict, was issued in June 25, 2003. In the subsequent months, the office of Sistani in Najaf answered several written interviews by leading American and European journals in a step that was unusual taking into account his 'anti-media' policy. The Grand Ayatollah repeated the same demand in all these interviews, adding that the United Nations is the only "legitimate non-Iraqi body that could expedite a democratic election" (Noorbaksh, 2008). According to Babak Rahimi, the Grand Ayatollah resisted the caucus system for two reasons:

First and foremost, according to Sistani, the caucuses system was not built around a "one man, one vote" paradigm that would immediately empower ordinary Iraqis to participate directly in the election of official representatives. Second, the non-popular electoral system, regulated and organized by a foreign occupying force, would make the transition process illegitimate and even "treasonable" in the eyes of both the religious establishment and ordinary Iraqis. Sistani viewed direct popular elections "with an acceptable level of transparency and legitimacy" as essential to forming a democratic Iraq; a caucuses system would only lead to the transfer from one illegitimate government to another. (Rahimi, 2007, 8-9)

In November 15, 2003, the CPA and IGC signed the "Agreement on Political Process," which represented a road map towards approving a permanent constitution but without abandoning the caucus system as a means of forming the transitional assembly that would presumably hand over sovereignty to the elected constitutional assembly. Andrew Arato described this agreement as being imposed in "a coup-like fashion"; along with its insistence on the caucus method, the agreement gave "all the crucial tasks, and not only ultimate authority, to the two contracting parties themselves [CPA and IGC]. The task of creating the un-amendable body of rules, variously referred to as the 'fundamental law' or the interim constitution or the 'transitional administrative law,' was given to the current IGC itself, 'in close consultation with the CPA.'" (Arato, 2004, 2)

After a few days, Ayatollah Sistani issued an announcement denouncing the

agreement and repeating his original demand to have a freely-elected constitutional council as "the only acceptable entity to which sovereignty could be transferred by the CPA." (Arato, 2004, 3)

After many attempts by the CPA and the IGC to compromise on the demands of Sistani, or work around them, the Ayatollah urged his followers to protest against the caucus-based American plan and to ask for immediate elections. The clerics of the Hawza began disseminating the opinions of Sistani mainly through religious forums and mosques, organizing a Shi'ite front against the American plans. Consequently, tens of thousands of Shi'ite Iraqis came out onto the streets of Basra, Najaf, Baghdad, and other Shi'ite-majority cities for five days supporting the fatwa and demanding direct elections (Nasr, 2006; Rahimi, 2007).

After being convinced by the UN officials that it would be impossible to conduct immediate elections, Ayatollah Sistani agreed to put off such elections until late 2004. Eventually, the CPA and IGC gave in to his call for general elections to select the constitutional assembly (Rahimi, 2007). However, they came up with a twist under which they, the CPA and IGC, would issue the Transitional Administrative Law (TAL), which represented a de facto temporary constitution that was also intended to be a blueprint to the permanent constitution. The grand Ayatollah immediately issued an announcement condemning the TAL because it was issued by an un-elected assembly and requiring the to-be elected assembly not to be constrained by this TAL.

The major shift in the initial plan of the CPA in response to Sistani's pressure was to move the task of drafting the Constitution from a caucus-based constitutional convention to a directly elected constitutional assembly. The security situation and the pressure of Ayatollah Sistani were significant factors behind this policy change. Arato argues that:

Under the impact of the expanding military insurgency, the Coalition Provisional Authority came to understand that it could not simultaneously take on both the armed Sunnis [that] its destruction of the Iraqi state [had] forced underground and the immense masses that would rally to the call of the leading Shi'ite clerics of Najaf (Arato, 2004, 1).

Besides, Shi'ite members in the IGC did not want to fall out with Ayatollah Sistani. In addition, the CPA faced a critical challenge that "Either it accepted an elected body that might not prove amenable to its pressures, or it had to face the possibility of rejection of the constitution if it were produced by an appointed group." (Allawi, 2007, 211)

On the other hand, the CPA and IGC had succeeded in imposing a set of rules on the permanent Constitution through limiting it by particular conditions embedded in the TAL, opposing Sistani's demand that the elected constitutional assembly be free of any pre-requirements. One article that was publicly denounced by Sistani was the veto that was given to the Kurds ⁽¹⁰⁾ in the process of ratifying and amending the constitution (Papagiani, 2007).

The role of *Shariy'a* in the Constitution

Ayatollah Sistani's opinion regarding the role of *Shariy'a* in the Iraqi constitution falls in the center of the heated debate about the relation between Islam and the state. Although many had described him as an apolitical, quietest cleric, the Grand Ayatollah has shown a distinctive approach since 2003. Answering a question by Antony Shadeed, a *Washington Post* reporter, about the Ayatollah's opinion regarding the position of Islam in the constitution, he stated that "Islam is the religion of the majority in Iraq, and if the constitution is written by those whom Iraqis elected, it would definitely respect Islam's values and its paramount teachings" (www.sistani.org).

The interpretations of Sistani's fatwas in this regard vary from one scholar to

another. Peter Kurrild-Klitgaard argues that the Grand Ayatollah is "preferring an explicitly Islamic state but with clerics remaining outside politics (Ali al-Sistani), [rather than] preferring a more Iran-style theocracy (ISCI)" (Kurrild-Klitgaard, 2004, 17). He supported his argument by stating that,

While Grand Ayatollah al-Sistani has said that the constitution should guarantee individual liberties, it was with the caveat that such have to be consistent "with the religious facts and the social values of the Iraqi people." (Kurrild-Klitgaard, 2004, 17)

But advocating an 'Islamic state' was not evidently clear in Sistani's announcements and fatwas. Practically, the Ayatollah has not protested the approved Constitution but, rather, urged his followers to approve it (Noorbaksh, 2008) which was what in fact happened in October 2005. The Iraqi Constitution cannot be said to facilitate an 'Islamic state' as argued by Kurrild-Klitgaard because Article 2 stated that *Shariy'a* is a source of legislation and that prohibits issuing any law that contradicts with democratic principles (Rahimi, 2007). This fact is in stark contradiction with Noorbaksh's conclusion that Ayatollah Sistani "favors the direct influence of the clergy over the state" (Noorbaksh, 2008, 61).

Rahimi, in turn, argues that Ayatollah Sistani, like his father, is an advocate of a "democratic Shi'ite tradition" that belongs to the Constitutional Revolution of Iran (1906-1911); the same tradition that was articulated by the reformist movement of Khatami, the former Iranian president (Rahimi, 2007).

Allawi believes, in accordance with Kurrild-Klitgaard, that Sistani is substantially concerned with the role of religion, Islam, in both state and society but in the sense that the state is vital for protecting Islam; however, he argues that this is "a far cry from demanding the direct rule of the *ulema* as a precondition to ensuring the Islamic identity of the country" (Allawi, 2007, 209). So, he argues that the Ayatollah's approach is more sophisticated than the crude classifications of 'activist' and 'quietest'

clerics.

On the other hand, the approval of 2005 Constitution by al-Sistani, cast some suspicions about the Grand Ayatollah's intentions as the document poses critical threats to the unity of the country and the sectarian tensions (Visser, 2006). Endorsing the Constitution may have been the best of the worse due to the complex situation Iraq had been through. Grand Ayatollah Al-Fayadh, the other marja in Najaf, admitted in his fatwa, in which he called for approving the constitution, that the draft does not sufficiently reflect Iraq's "Islamic position and its outstanding religious civilization" but, he added, it guarantees the minimum level of the Iraqi people's ambitions. In addition, al-Fayadh stated that this document was the best possible outcome in the international and regional context (www.alfayadh.com).

Chapter Five

Case studies and Prospects for the Future

In this chapter, an analysis of al-Sistani's influence over the Iraqi transition will be laid in three case studies; constitution-making process, rule of law, and clerics as electoral candidates. In the first case study, the research will examine the relevant events in chronological order. The second case will be analyzed in the period before Samarra bombings and that after them. The impact of Ayatollah al-Sistani's fatwas that prohibit clerics from assuming political positions will be examined in the third case.

In addition to the case studies, the present research will analyze the prospects of the doctrinal and political conflict between the Iranian *walayat al-faqih* and the neo-quietist approach of Grand Ayatollah al-Sistani.

The role and influence of Ayatollah al-Sistani over the transition

I. Constitution-Making process

The Constitution-making process may be seen as comprised of the major political decisions, orders, and procedures that led to the approval of the permanent Constitution in October 2005. Below is a chronological series of the related political developments:

1. The founding of the Iraqi Governing Council (IGC)

The position of Ayatollah al-Sistani

He neither recognized the council nor denounced it but rather followed a no-comment-policy in answering the media's related questions (al-Khaffaf, 2006, Doc 20/1 & 2; Doc 21/1; Doc 22/1, Doc 27/3, Doc 41/5). However, he once emphasized that the IGC must only administer the country's day-to-day affairs as per security and

services and prepare for the Constitutional Assembly's election demanded by al-Sistani without becoming involved in setting any strategic agreement or decision (Al-Khaffaf, 2006, Doc 41/5).

Analysis of the positions of the relevant players:

Iran

The government of Iran had immediately recognized the IGC as a legitimate Iraqi authority, which was an initial pragmatic step to engage more in Iraqi affairs irrespective of the American control over the whole process. Taking into account that most of the Shi'i organizations represented in the IGC (such as ISCI and al-Da'wa) have good relations with Tehran, the Iranian engagement provides decisive influence over the Iraqi transition through which the Tehran Ayatollahs envisaged furthering many goals such as balancing the American influence in the short-run and establishing a subordinate Shi'i federation in southern Iraq.

Many factors may have been considered by Ayatollah al-Sistani and led him to silence about the establishing of the IGC, which contrasted with his calls for having a freely elected assembly. One factor is the immediate recognition by Iran. Sistani's huge network of institutions, seminaries, and residential compounds in Iran have been under the authority of the Supreme Leader and thus any conflict between the two leading clerics, Khamanai and Sistani, over the situation in Iraq would inevitably threaten Sistani's interests in Iran, a situation that would jeopardize his then-emerging worldly *marji'iyat*.

IGC members

They had behaved as a completely legitimate and sovereign authority although they lacked both qualities. Moreover, they signed two critical agreements, the APP and TAL; both are strategic and affected the elected constitutional assembly and the

to-be Constitution.

The CPA

In principle, this step went against the repeated demands of al-Sistani to have a freely elected assembly but in practice it established a Shi'i-majority council of governance for the first time in Iraq for centuries. In addition, the CPA ensured that Islamist Shi'i figures close to the Ayatollah would participate in the IGC. In particular, the ISCI under the leadership of Ayatollah al-Hakim was then an ally to al-Sistani especially after the latter's announcement that the absolute guardianship of jurist cannot be implemented in Iraq. In addition, the emergence of al-Sadr movement urged the Grand Ayatollah to ally with al-Hakim as a moderate, reasonable leader to balance al-Sadr's radical power. These facts may have contributed to al-Sistani's silence policy towards the CPA's step.

UNAMI (the UN mission in Iraq)

The role of Sergio De Milo, the UNAMI's Head, was essential in giving the IGC some real authority, more than the advisory one that Bremer envisaged, and as having the right to appoint and oversee a 25-member cabinet, although the latter reported ultimately to Paul Bremer.

2. The Agreement of Political Process (APP), (signed by the CPA and IGC in Nov. 15, 2003)

The position of Ayatollah al-Sistani

The Ayatollah expressed two reservations over the APP. Firstly, it stipulated the issuance of the Transitional Administrative Law by the IGC and CPA which does not give it the legitimacy; so, it must be ratified by the elected assembly to be legitimate. Secondly, the embedded mechanism of the caucus system to establish the Constitutional Assembly does not guarantee having a fully representative parliament, which can be realized only through free elections (al-Khaffaf, 2006, Doc 43 and 46).

Analyzing the positions of the relevant players

The CPA

The CPA officials expected that al-Sistani would be satisfied because in the APP they abandoned their initial plan of drafting the constitution by a caucus-based assembly in consultations with an American expert body. However, the Grand Ayatollah recognized that the Fundamental Law, the APP's name of the to-be TAL, would be the base to the permanent Constitution. It is noteworthy, though, that the Ayatollah al-Sistani did not denounce the plan as a whole but rather spelled out two reservations. In addition, he did not make an immediate announcement but instead the reservations were recorded in written interviews with the *Washington Post's* reporters about ten days after issuing the agreement. In general, this agreement signaled a major shift in the US-led CPA's policy in Iraq from the initial plan of having a group of Iraqi experts, supported by American advisors, drafting the constitution into adopting a mechanism according to which a directly elected assembly would draft the Constitution. The influence of Ayatollah al-Sistani's position was quite clear in this transformation of the plans of the CPA.

The IGC members

The Shi'i members of the IGC, besides Jalal Talabani, acted as messengers, and to some extent intermediaries, between the CPA head Paul Bremer and Ayatollah al-Sistani in the period prior to the signing of the APP because the latter was not meeting any American officials at that time. Some of those mediators were not accurate, deliberately or not, in communicating the Ayatollah's views to Bremer and the reverse. This opinion was expressed by Paul Bremer and the office of Ayatollah al-Sistani. However, this does not adequately interpret the continued dispute between the two major parties, al-Sistani and the CPA, because it was not a matter of poor

communication but rather an issue of a strategic conflict over the shape of the prospective constitution and governance system.

3. The signing of the Transitional Administrative Law (TAL)

The position of Ayatollah al-Sistani

The Grand Ayatollah denounced the TAL on several occasions, arguing that it would put many obstacles in the road to having a permanent constitution that would preserve Iraq's unity and Iraqis' rights (al-Khaffaf, 2006, Doc 57). He also pronounced that the law will restrict the authority of the upcoming National Assembly to issue what it sees appropriate to the Iraqi interests or, that is, an elected body would be restricted by an unelected council's decisions, a situation that would make the elections meaningless or nearly so. Moreover, al-Sistani threatened to boycott the UN mission in Iraq if the Security Council mentioned the TAL in its next resolution about Iraq (al-Khaffaf, 2006, Doc 58). Considering the style of al-Sistani's previous announcements, the tone of his statements about the TAL was aggressive and challenging. Most of his previous pronouncements were in response to his followers' questions or that of the media while his pronouncements about the TAL were self-initiated. He may have felt that the CPA was moving around his major demand of a free elected Constitutional Assembly which, I believe, was the case.

The CPA

Rather than having a semi-appointed Constitutional Assembly depending on caucuses, the CPA managed to fix, in advance, a set of rules, the TAL, which would be the blueprint to the permanent Constitution. Bremer came up with this twist in which he apparently realized al-Sistani's demand of having a constitution written by an elected body but in practice he drew up the framework for such an assembly.

The IGC members

Although some of the Shi'i members of the IGC worked hard to convince the other members and the CPA to change some articles in the initial draft that were opposed by Ayatollah al-Sistani and succeeded in some, they finally signed the document although they knew it was still at odds with al-Sistani's opinions. Al-Sistani, in turn, did not denounce those members for that but rather condemned the law. Ayatollah al-Sistani asked those Shi'i members to send a letter to the UN General Secretary asking him to send a delegation to Iraq in early 2004 to investigate the possibility of organizing general elections. The letter was sent without consulting the head of the CPA which was then against giving the UN any significant role in Iraq. When the delegation came and met with Iraqi political and social figures, including al-Sistani, the CPA and the Association of Muslim Scholars refused the idea of organizing early elections. So, the delegation proposed in its report to hold the elections in late 2004 without suggesting, as required by al-Sistani, an alternative method to the CPA's caucus system.

The Kurds in the IGC were trying to fix their demands regarding the authorities of the federal government, the issue of Kirkuk, and the veto of the three Kurdish provinces in the referendum of the permanent constitution. The *marji'iyat* of Najaf opposed giving them the claimed veto and refused their proposal to base the federal system on geographic-ethnic aspects. Although this contributed to omitting an ethnic basis for Iraqi federalism from the TAL, the Kurds managed to get the final draft to provide for their veto and the supremacy of the regional authority over that of the central government, besides founding a sectarian presidential council despite al-Sistani's efforts.

The issuing of the TAL reflected a limited influence of Ayatollah al-Sistani over the CPA. However, the Grand Ayatollah managed to prevent the UN and the Security Council from recognizing the TAL.

4. The formation of the Iraqi Interim Government (IIG)

The Position of Ayatollah al-Sistani

The bayan of the marja' al-Sistani emphasized that, based on the stand toward the TAL, the new Interim Government lacked popular legitimacy because its formation did not rest on an electoral process. However, the Ayatollah set forth three conditions to be realized by the interim government had it wanted to obtain such legitimacy: convincing the UN Security Council to issue a resolution that brings the power back to the Iraqis in all fields, providing security and services, and preparing for the upcoming general elections (al-Khaffaf, 2006, Doc 64). During the negotiations among the CPA, the UN delegation headed by Lakhdar Brahimi, and the IGC, to appoint the new interim Prime Minister, the marji'iyat of Najaf was occasionally consulted. When they proposed nominating Ayad Allawi to the post, the Ayatollah Sistani stated that he "would not object if Ayad Allawi was the UN team's final choice" (Allawi, 2007).

One important factor that led al-Sistani to such a conditional endorsement to the interim government was the emergence of the Sadrists' Mahdi Army as a dominant power in many Shi'i cities, including Najaf. The marji'iyat felt such a situation would jeopardize its leadership within the Shi'i community taking into account that those same armed elements were among the mobs that surrounded the four Grand Ayatollahs' offices in the early days of the invasion, ordering them to leave Iraq. This made the quick formation of the Iraqi interim government a priority for al-Sistani and his colleagues in Najaf because they could then support the Iraqi armed forces to

restore order in the holy city as they could not order the militiamen to hand over the city to the occupying forces.

The UN mission

Ayatollah al-Sistani was an advocate of giving a greater role to the UN in Iraq contrary to the CPA's initial plans. In the early period of 2004, the US administration came to conclude that such a role was essential to transfer the authority into a relatively legitimate Iraqi government. The Americans thus accepted the demand of Ayatollah al-Sistani to have the UN arbitrate the dispute over holding an early election. When Brahimi came to Iraq, he was faced though by a categorical rejection of early elections by the CPA officials and then suggested in his report to hold the elections in the beginning of 2004 as a middle ground between that of the CPA and al-Sistani. This had shaken the demands of al-Sistani forcing him to give up his previous calls and rely on just a guaranteed free election that would lead to a constitutional assembly. However, the efforts of al-Sistani to get the US administration committed to hold this election at this date was considered by many as a victory to the marji'iyat as it resulted in a constitution that would be written by an elected body.

The CPA

The CPA had a major role in forming the IIG as it was its last procedure before transferring the authority and dissolving itself. By that stage, some sort of mechanism to communicate with the office of al-Sistani had been developed through which the CPA could figure out exactly what the clergy wanted. So, regular consultations about the governmental posts had been carried out in which the Grand Ayatollah al-Sistani set the required characteristics for the prime minister and ministers in general without nominating specific personalities.

5. The elections of the Constitutional Assembly, January 2005

The only statement made by al-Sistani's office in Najaf about the January elections was ordering the followers to register their name in the electoral records. However, the role of the Ayatollah extended to set up a committee of his aides, headed by Hussein al-Shahristani, to form the United Iraqi Alliance (UIA) or the Shi'i list. In addition, two of his prominent Wakils, al-Safy and al-Karbala'i, were members in the list. This clear intervention, in addition to the emerging sectarian strife, reportedly led to the winning of the UIA of a majority in the elections.

Although the UIA contained few Sunni figures, it signaled a change in the anti-sectarian positions of the Grand Ayatollah al-Sistani. The step jeopardized the chances of the liberal Shi'i politicians, most of whom had joined Allawi's al-Iraqiya list, to get a considerable share in the to-be parliament in favor of the Islamist organizations. Had al-Sistani avoided such an intervention, the proportional representation system of the elections would have led to having multiple Shi'i blocs, none of which would have a majority, and thus to many disputes.

In addition, Ayatollah al-Sistani's intervention in forming the UIA revealed the intentions behind his previous statements. When he was asked about the place of Islam in the constitution, he replied that as long as the constitution drafters are Muslims, tacitly Islamists, the document would respect the Islamist paramount principles. As he had helped those Islamists to reach and dominate the Constitutional Assembly, he would be able to convey his state-related views.

The Shi'i rival groups

The crisis of Najaf, the armed conflict between the Mahdi Army and the IIG, which broke out in August 2004, resulted in several new facts regarding the relationship among the rival Shi'i groups. The central role of Ayatollah al-Sistani in arbitrating and resolving the conflict has promoted his influence within the Shi'i arena

and more importantly over the Sadrist Movement. This influence forced the Shi'i groups, especially the ISCI, to transform their position from supporting the IIG's plan to attack the Najaf-based Sadrist forces into adopting a somewhat neutral stand. It seemed that Ayatollah al-Sistani concluded that leaving those rival Shi'i groups alone in the upcoming January elections would result in not only weakening of the Shi'i electoral powers but also threatening the security situation in the Shi'a cities and especially the shrine cities. Although Muqtada al-Sadr announced that his movement would not participate in this election, several moderate Sadrist figures were convinced to join the UIA list, adopting the 'peaceful resistance' agenda that tacitly was run by al-Sistani's *marji'iyat*. This marked the entering of al-Sadr under the *marji'iyat's* umbrella.

The US authorities in Iraq

The landslide win of the Islamist UIA in this election was a shocking reality to the US plans in Iraq. Their influence appeared inferior to that of al-Sistani as they had counted on the secular list of Ayad Allawi, which barely got 40 seats out of 275 in the Constitutional Assembly, much less than the 148 seats of the UIA. Many thought then that Ayatollah al-Sistani would impose an Islamic constitution but he actually did not.

6. Drafting and approving the permanent Constitution

Ayatollah al-Sistani's position

The stage of drafting the constitution represented an opportunity to examine Ayatollah al-Sistani's intentions regarding the future role of Shariy'a in the new Iraqi state. It was mentioned previously that the TAL stipulated that Islam is 'a source of legislation' rather than 'the main source of legislation' as required by Ayatollah al-Sistani. These efforts contrasted with the calls for a more secularist constitution by some liberal politicians, especially the Kurds, and the US administration. There were

two dilemmas involved: how to balance the role of Islam and that of democracy and the sectarian differences within Shariy'a itself. The final draft addresses these issues by stipulating that Islam is the official religion of the state and that no law can be approved that violates the commonly agreed principles of Islam. This formula was a response to the *marji'iyat's* vital concern of having a modern state that does not violate Islamic principles. On the other hand, it separates Shariy'a, as such, from a direct role in the state's apparatus and the practice of the legislative, administrative, and judicial functions of the state.

The influence of the hawza of Najaf was clear in two other issues. The Constitution's introduction recognizes the *marji'iyat's* position in Iraq by stipulating that the Iraqi people practicing the democratic processes responding "to the calls of our religious leaderships ... and our great marjas". In addition, it grants the holy shrines a special status according to which the state should secure and promote them.

When asked in 2004 about the greatest danger that Iraq was facing, Ayatollah stated that it was the danger of suppressing the Iraqi cultural identity in which Islam holds the center. The outcome of the hawza's intervention or influence over the process of drafting the constitution has, to some extent, tackled this concern.

Although Ayatollah al-Sistani did not issue an official announcement supporting the final draft, other than urging citizens to record their names in the electoral records, most the media indicated that the Grand Ayatollah endorsed the document depending on source close to the marja.

The UIA

Most parties of the UIA campaigned in the Shi'i cities to ratify the proposed constitution. The networks of the ISCI, in particular, consisting of clerics, hawza

students, mosques' Imams, and tribesmen, had a critical role in convincing people that the Ayatollah had endorsed the draft.

It is noteworthy also that the ISCI had pursued extraordinary efforts to extend the principle of federalism to be applicable in other regions in Iraq and particularly in the Shi'i south. Although there have been some Shi'i politicians and intellectuals advocating establishing a region in the south, the ISCI adoption of federalism had some distinctions. Unlike the other advocates of Shi'i regions who generally campaign for three-province regions, the Middle Euphrates and the Basra-Nassiriya-Amarah regions, the ISCI advocated for a nine-province region extending from Basra to Baghdad. Bearing in mind the transnational affiliation of the organization to the Iranian jurist guardian, the ISCI was, as I believe, envisaging the implementation of the absolute guardian of jurist in the proposed Shi'i region. This has been worrying to many Shi'is who tend to refuse the Iranian style of theocracy due to two major factors: the influence of the anti-absolute guardianship Ayatollah al-Sistani and recent political developments in Iran itself. Hence, the ISCI's calls for the Shi'i federalist region have not found an echo in the Iraqi Shi'a.

Ayatollah al-Sistani in turn has been extremely careful in his statements when asked about federalism in Iraq as he indicated that it is up to Iraqis to decide on the matter. He definitely was concerned over Iranian intentions regarding federalism in Iraq as the ISCI has been the closest Iraqi Shi'i organization to the Iranian government.

From this case study, it is evident that al-Sistani is fully knowledgeable of the consequences of the positions that Ayatollahs took under the British Mandate and the Hashemite monarchy such as boycotting the transition initially and asking for the restoration of direct British control ultimately. His steps indicated that the marja' has

made a thorough, pragmatic assessment of the Mandate era and, accordingly, envisages establishing a Shi'i civil society affiliated to a *marji'iyat* that oversees the government's policies to ensure their conformity with the Shariy'a.

II. The rule of law

1. Public order and properties

After the fall of the Ba'ath regime, a governance vacuum emerged. Ayatollah Sistani issued many fatwas calling on Iraqis to respect and preserve the government ownership over its properties, describing them as 'the properties of the people' and asking his followers to return looted public property. In an announcement issued in April 14, 2003, the office of Ayatollah Sistani in Najaf stated that "He emphasizes the duty of preserving people[‘s] lives, public properties, and public order besides abandoning sectarian conflicts" (www.sistani.org).

In addition, he denounced retaliation actions against ex-Ba'ath members requiring victims' relatives to wait until security should be restored and courts again operated (www.sistani.org; Allawi, 2007, 210).

Looting struck Baghdad but other governorates did not witness such a surge. It is unknown whether Baghdad Shi'ite districts, where Sistani has numerous followers, experienced less or more looting cases than did other districts. Concerning the revenge-based killings against Ba'ath Party members, comparing the level of retaliatory actions in 2003 to those happened during the uprising of March 1991, the former must be seen as comparatively less widespread. This is true for the killings carried out by the relatives of the regime's victims as individual actions, but does not apply to the organized killings after the fall of Baghdad in 2003 of which the ISCI's Badr Brigade stands accused. This view is derived from the writer's personal

experience as a witness to all these events.

When Muqtada Al-Sadr installed his Islamic courts in a bid to extend his religious authority and to dictate public conduct (by, for example, requiring even Christian women to wear veils), Sistani "[i]ssued a statement saying that the Najaf establishment had not called for forcible veiling." (Cale, 2003, 19) In a written interview with the *New York Times*, the Ayatollah answered a question about certain *Shariy'a*-based courts in Najaf by saying that they have nothing to do with his *marja'iyat* and that they are managed by "some incompetent clerics" (www.sistani.org).

On the other hand, al-Sistani's influence was limited in other areas. He prohibited, for instance, building houses on public lands, but shanty towns have been spreading rapidly in middle and southern Iraq. This may have been a matter of pressing economic needs especially in the poor housing sector in Iraq.

2. Sectarian tensions

The influence of Ayatollah al-Sistani in calming the Sunni-Shi'i tensions had been evident in the era prior to bombing the Samarra shrines but since then it tended to decline. The postwar era marked the mass bombings of the Shi'i gatherings which were mainly claimed by al-Qaida in Iraq and its extreme Iraqi Sunni allies. In addition, those organizations had controlled the roads connecting Baghdad with the southern shrine cities in which large numbers of Iraqi Shi'i pilgrimages were killed for sectarian motives. Many Shi'i factions, figures, and tribal sheikhs approached the hawza and particularly al-Sistani asking him to issue a fatwa permitting them to react to such attacks. He refused to do so ordering them to let the government deal with this situation within the legal framework. During this period, from April 2003 until 2005, Muqtada al-Sadr had maintained good relations with the Sunni rejectionists,

especially the Association of Muslim Scholars, a matter that kept the Mahdi Army away from retaliation actions.

This exercise of Shi'i self-restraint towards these attacks reached an end when the holy shrine of the tenth and eleventh Imam of the Shi'a in Samarra was bombed. Al-Sistani's statement in the occasion called the Shi'i devotes to use 'peaceful means' to condemn the action and ordered them to avoid any action leading to sectarian strife. The latter call, however, has not been binding as Shi'i armed groups swept to the Sunni-dominated neighborhoods pursuing a broad campaign of killings, kidnappings, and bombings. The vast majority of these actions were run by elements affiliated to the al-Mahdi Army who nonetheless seemed uncommitted to the directions of their leader, Muqtada al-Sadr, to avoid killing the Sunni civilians. In general, the members of al-Sadr's militia tended to ignore the directives of Ayatollah al-Sistani including his repeated calls to stop these sectarian murders.

III. Clerics as candidates

On April 20, 2003, about ten days after the fall of the Saddam regime, Ayatollah Sistani declared a fatwa that warned clerics against direct involvement in politics by assuming political offices. He urged them, instead, to offer general guidance to the public (Noorbaksh, 2008, 62; www.sistani.org). This seems contradictory to the fact that two leading representatives of Sistani ran and won in the first elections for the Constitutional Assembly in January 2005. Al-Safy and al-Karbala'i were on the Shi'ite list of the United Iraqi Alliance. The office of Ayatollah Sistani in Najaf justified the step as to ensure the conformity of the Constitution with Islamic core principles.

It can be said that most clerics who were already involved directly in politics at time of the fatwa above were mainly members of the ISCI and the Da'wa party, and in the former in particular. The higher stratum of politicians in ISCI has mostly consisted

of clerics with turbans¹¹. They chose to disregard the edict at the time it was issued as well as in the subsequent elections. Their counterparts in Al-Da'wa party also ignored the fatwa.

This disregarding of al-Sistani's related fatwas is justifiable from a jurisprudence viewpoint. Most the senior members of the Shi'i political organizations do not emulate Ayatollah al-Sistani but rather follow deceased senior jurists such as al-Sadr II or Khomeini. A devout Shi'i could not emulate a deceased marja but he/she could *continue* emulating the source of emulation after the latter's death, especially if the emulator believes that the dead jurist is superior in jurisprudence to the living ones. Meanwhile, they must emulate a living marja in unprecedented, or new, cases about which the deceased jurist has no fatwa. Accordingly, many senior members in the ISCI are believed to emulate Ayatollah Khomeini while the junior ones emulate Khamane'i whereas the senior members of the Da'wa Party emulate al-Sadr II and some of the party's junior members follow Ayatollah Muhammad Husein Fadhlallah (Lebanon). Sadrists, in turn, emulate al-Sadr I.

This privilege is applied on the personal level. Thus, the party as a whole could not continue considering its previous marja as the current jurist of the party but must follow a living one.

The actual religious effect of the Ayatollah al-Sistani's fatwa was mainly on preventing some ambitious clerics in the Hawza of Najaf from joining those two Shi'ite parties, ISCI and Al-Da'wa. In addition, these fatwas must be applied, in theory, on those junior members in the ISCI who emulate Khamana'i because the latter's learning level is below that of Ayatollah al-Sistani by any standard. However, as was early explained, the theory of Khomeini about the absolute guardianship of the jurist violated this established doctrinal principle by granting the Jurist Guardian the

supreme religious authority binding on all aspects of life even if that Jurist is well below the others in terms of academic learning.

Prospects for the conflict between al-Sistani's neo-quietist approach and Khamana'i's Walayat al-Faqih

Behind the scene in the Shi'i arena in Iraq and the Middle East there is a struggle between two theories regarding the relationship between the state and jurists. The Iranian Supreme Leader represents the absolute guardianship of the jurist theory while Ayatollah al-Sistani is the major representative of the opposite theory advocating a 'neo-quietist' approach and the partial guardianship of the jurist.

Economically, the Khamana'i faction has control over the huge resources of the Iranian state and a transnational network of seminaries, mosques, charities, and other kinds of socioeconomic institutions, whereas Ayatollah al-Sistani is dependent on the Khums revenues beside his own transnational religious network of institutions.

In Iraq, many factors will shape the outcome of this unannounced conflict. One important factor is the very same struggle to build a stable, united, and prosperous Iraqi state, a condition that would jeopardize the Iranian plan of having decisive influence in Iraq and would suppress the ISCI's project of establishing a pro-Khamana'i federation in southern and middle Iraq. ISCI's leaders stopped talking about their Middle and South Region after their defeat in the 2009 provincial elections, at which time the party conducted a comprehensive reassessment to its agenda, but, as usual, the results of this significant internal dialog have not been declared.

Concerning this political revision, one may put forward two competing hypotheses. First, it can be argued that the ISCI has shelved the federation project until friendly environment emerges, i.e., they may try to revisit the plan later on if the

security situation in Iraq deteriorates to the extent that the Shi'i community becomes more convinced of the project. The project falls in the center of their strategy which envisages realizing their old-new mission of the Islamic state even within a federation in Iraq. It is hard to say that such a plan has nothing to do with the Iranian regime, as the ISCI is known to be Iran's main proxy in Iraq.

The second possibility is that the reassessment mentioned above has led the ISCI's leaders to adopt a more holistic and pragmatic approach regarding core issues such as the relationship with Iran, *Walayat al-faqih*, and the Arab identity of Iraq. Some strategic adjustment may have been adopted in some of these areas, but if so such an adjustments' impact on practice would be gradual and take much time to be noticed. The results of the last public elections of 2010's showed another substantial loss in ISCI's share in parliament (from 35 seats out of 275 in the previous parliament to only 17 out of the 325 seats in the current one). This would further urge this party to modify its manifesto, perhaps moving further away from Khamana'i and closer to al-Sistani's way of thinking. In that case, Iran could well shift its current support for the ISCI to the latter's rival; Muqtada al-Sadr and his followers. This, I think, is exactly what makes ISCI's leaders reluctant to announce any basic adjustment in its *walayat al-faqih* agenda.

The struggle between al-Sistani and Khamana'i to influence the Iraqi Shi'i parties is vital to determining the ultimate winner of the whole doctrinal confrontation. In this regard, the Iranian Jurist Guardian relies on his regime's capability in maneuvering and mobilizing huge resources that enable him to act as a major moderator in these parties' struggle for power and hegemony in Iraq. Grand Ayatollah al-Sistani seems to depend, in this regard, on the gradual development of the political process in Iraq over which he has a strong influence. So, he is presumably relying on elections as a tool to

keep the Shi'i parties from adopting the agenda of the Iranian government and its ideology because, as said by Max Weber, state and politics are the most effective tools of secularization. Thus, these parties' involvement in politics would encourage them to gradually abandon their universalistic ideology of the absolute guardianship of the jurist and to focus more on bread and butter politics.

Another determinant of the competition between al-Sistani and Khamana'i is the usage of the transnational religious networks. In this regard, there are three major networks. In addition to Khamana'i's networks, there are al-Khoei Foundation and the informal network of al-Sistani himself. The latter two are already allied, to some extent, because al-Khoei's sons, the foundation's administrators, are said to have supported the supremacy of al-Sistani over other marjas in Najaf in the 1990s, while Ayatollah al-Sistani confirmed their continuity in managing the foundation. The foundation is known for its anti-*walayat al-faqih* position and the hostility between it and the Iranian Islamic regime is well-known as well. Taking into account the worldly activities of the al-Khoei foundation, its role in promoting the quietist marji'ya in the Shi'i world is critical, especially if these efforts were coupled with additional support deriving from the emerging popularity of Grand Ayatollah al-Sistani.

Taking into account al-Sistani's advanced age, one must recognize that al-Sistani's death or disability would pose a threat to the traditional Shi'i marji'ya and the orthodox doctrine of the jurist's partial guardianship in favor of that of the absolute guardianship and Khamana'i's *marji'ya*. Such a situation would likely move the Shi'i supreme marji'ya into Qum due the organizational and academic weakness of the other Najaf-based marjas. However, the influence of al-Khoei Foundation and that of al-Sistani's network should be decisive in determining the next marja. Insuring a quietist marja in the position of Najaf supreme marja would be critical to preserving

al-Sistani's school of thought but Khamana'i would heavily intervene in this contention. One probable action of the Iranian Jurist Guardian would be urging Ayatollah Kadhem al-Ha'iri, the Sadrist's previous jurist and a disciple of al-Sadr I, to move back to Najaf and promoting his supremacy in its Hawza. This Ayatollah has been very close to the Iranian regime as explained previously. However, this emergence would be resisted for the quietist orientation of Najaf Hawza.

Although such a situation will be quite unpredictable, those Najafi clerics who oppose the Khomainsi style of governance, whose number is considerable, would struggle to secure the sufficient number of academic recommendations required to raise their preferred candidate to the level of supremacy. In that quest, the potential role of al-Khoei Foundation and al-Sistani's network would be vital as they would provide the necessary financial and organizational support for that class of clerics to prevail and thus to block moves to establish jurist guardianship in Iraq.

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End Notes

- (1) *Ahl al hal wa al-aqd* is a group of devoted, wise, just, and leading figures of a Muslim community (el-Sousi et al, 2005)
- (2) The founders of the Saudi state had launched several military campaign against Najaf and Karbala in late nineteenth century and early twentieth century.
- (3) The fatwa reads: "the use of tobacco is *haraam* [forbidden] now, and considered as confronting the Imam of the time [al-Mahdi]." (el-Labbad, 2005, 47)
- (4) The three *marjas*, among others, have been politically and economically pressed by the regime when Khamanei was appointed as the Supreme Leader in 1989 to recognize him as an Ayatollah but they, though, called him in their separate congratulating letters only Hujjat el-Islam wal-Muslimeen (el-Labbad, 2005).
- (5) In 1993, Ayatollah Mishkini, a pro-regime jurist, handed the Qumi *marjas* a letter signed by several pro-government clerics ordering them to recognize Khamanei's religious leadership. They responded aggressively accusing those who signed the letter of being fuqahaa' al-sulta, the jurists of the regime, and condemning the attempt describing it as an 'unprecedented action' in the history of Hawzas (el-Labbad).
- (6) This equates to one-fifth of a person's goods and money calculated on an annual basis after a fixed allowance for living expenses is deducted.
- (7) The revolution was brutally oppressed by British forces that used "blanket bombing of villages as the original 'shock and awe' doctrine, which eight decades later the US military adopted." (Ismael & Ismael, 2005, 611).
- (8) Sistani's son-in-law Jawad Shahrestani has made outstanding efforts to extend his father-in-law's popularity in Qum seminary through the Al-Bayt Institute for Revival of Shi'ite Heritage. Located in Qum, this foundation has the ultimate objective of not only publishing religious books and old manuscripts, but also spreading the name of Sistani in the competitive climate of Qum. These attempts to promote Sistani's name were resisted because "When Qom's influential clerics figured out that Sistani was trying to present himself as a *marja*, they campaigned against him." Eventually, Shahrestani managed to overcome these campaigns by his "wise and diplomatic measures" (Khaliji, 2006, 8). There are two factions that prepared the religious Shi'ite communities to accept the *marja'iyat* of Sistani, one in Najaf and one in Qum, which represent the two main seminaries in modern Shi'a Islam.
- (9) "This huge foundation is represented and operated by thousands of wakils, or officially approved agents, around the world. The wakil system is a complex network of agents who interact on a daily basis via phone and the Internet to monitor and administer the ayatollah's financial infrastructure. Sistani's network comprises thousands of members and activists who operate a vast network of social services—ranging from schools (madrasas) to pious endowments, from hospitals to libraries—and who interact to administer his funds and represent his views in a number of cities around the world." (Rahimi, 2007, 6)
- (10) The Article 61c in the TAL mentions that "if three provinces vote against the constitution in the national referendum by two thirds or more, the draft will not be adopted." (Papagiani, 2007) this article was transferred into the Constitution approved in October 2005.
- (11) It is customary for a student in a hawza to wear a turban especially after the preliminaries. The turban should be white, and the student is then called Shaykh, except for those descended from the Hashimite clan, to which the Prophet and his cousin Ali belong, who wear black turbans and are called Sayyid, literally Sir (Sindawi, 2007). It is usual also that the higher the learning level a cleric reaches, the larger his turban is likely to be.