

# Struggling with Political Limitation: Shaykh al-Mufīd's Approach to Shi'ī Juristic Authority

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**ABSTRACT:** In this paper, I investigate how Shaykh al-Mufīd approached juristic authority or delegacy in early Shi'ī thought in the fourth/tenth century. I explore Shi'ī juristic authority in light of the doctrine of deputyship to suggest that deputyship and therefore the juristic authority that is based upon it were apolitical in Mufīd's approach. There is no clear evidence in Mufīd's writings that he regarded the jurists as possessing both the power to judge in the community and to administer the affairs of its members – that is to be a political leader. Deputyship for Mufīd is limited to judgeship.

**KEYWORDS:** deputyship, juristic authority, al-Shaykh al-Mufīd, Shi'ism, *niyābah*, *sultān al-Islām*

## *Introduction*

The fourth/tenth century Shi'ī theologian and jurist al-Shaykh al-Mufīd (d. 413/1022) discusses juristic authority in his main works.<sup>1</sup> Because of his influence in Shi'ī intellectual history, al-Mufīd is an ideal case for exploring the quest for juristic authority and the nature of leadership in early Shi'ī community. As a theologian, Mufīd played a significant role in the consolidation of Shi'ī post-occultation theology, in which the doctrine of occultation is a central point. As a jurist, Mufīd was also a religious leader of the Shi'ī community of his time. He represents a turning point in the transition from the traditionalist school of Qum – the main figures of which were al-Kulaynī (d. 329/941) and Shaykh al-Ṣadūq (d. 381/991) – to the rationalist school of Baghdad, of which he was the main representative.

I argue that in the period Mufīd lived and for some time after, deputyship, leadership, or juristic authority remained apolitical. Despite progress in establishing itself as a sect with its own intellectual heritage, the Twelver Shi‘i community suffered from straitened political circumstances. The minority status of Shi‘ism and lack of access to political power influenced views of politics and reduced the ambit of deputyship to non-political affairs. Moreover, it is understandable that, in the earliest period of the occultation, a majority of Shi‘i scholars favoured the apoliticality of deputyship due to a sense that claiming political authority would trespass on the Imam’s exclusive right.

Thus, for Mufīd, the deputyship of the jurists during the occultation is not political. He left silent the vital subject of political leadership in the Shi‘i community during the *ghaybah*. He did not consider the jurists as political leaders or authorities during that period. Mufid just gives jurists judicial authority, and he mentions two categories of jurists (*al-fuqahā’* or *ḥukām*) and amirs (*al-umarā’*) as the Imam’s appointees who have the authority to enforce *ḥudūd*; in the meantime, the amirs are responsible for administrative, political affairs too. State-building is part of the mission of a political leader; at least, Mufid should have discussed it theoretically. Mufīd neither produced an intellectual basis for a Shi‘i state or emirate led by the Shi‘i jurists, nor did he himself act politically, as a jurist.<sup>2</sup> In the first part of his chief legal treatise *al-Muqni‘ah*, he addresses only topics of religious law such as purity (*ṭahārah*), daily prayers, fasting, religious taxes, and the pilgrimage to Mecca.<sup>3</sup> Public matters such as the state or the army are not addressed. Although delegation by the Imam was a known concept, Mufīd does not employ the conceptual term *niyābah* and uses the concrete word *nā’ib* (deputy) only four times in his extant writings. These words are also rarely used by others, and not at all by al-Shaykh al-Ṣadūq, Mufid’s illustrious predecessor and teacher. Mufid does speak of deputization in administration of the Qur’anic legal punishments or *ḥudūd*, likely because their application would have stood as a symbol of the continued existence of Shi‘i law. Apparently in response to the community’s lack of political power, he also justifies the co-operation of Shi‘i jurists and amirs with ‘unjust’ (i.e. non-Shi‘i rulers). His justification for Shi‘i scholars working as functionaries for the ‘Abbāsid caliphs and other Sunni political powers was taken up by other scholars after him, who essentially repeated his view.<sup>4</sup> It is reasonable to suppose that the belief in the near return of the Twelfth

Imam, the Mahdī, was a factor in limiting deputyship and pushing it toward a quite narrow range of functions. Since the Shi'is expected the Imam to return very soon, there was no need to discuss putting political arrangements in place during the Imam's absence.

In Mufid's time, the 'Abbāsid caliphs dominated the political system and applied Sunni law, while the sons of Abū Shujā' Daylamī, the Shi'ī Buwayhid dynasty,<sup>5</sup> were in their service, holding the title of Commander of the Commanders (*amīr al-umarā'*), a military title with executive power. The Hamdānids in the northern part of Iraq were another Shi'ī dynasty working for the 'Abbāsid caliphs. Thus circumstances were relatively favourable for the Twelver Shi'ī community, and the Shi'ī-Sunni relationship was also relatively stable. The Būyid dynasty promoted Shi'ī religious ceremonies such as Ashura, which took place in public space in Baghdad, the centre of the Sunni caliphate, in 352/962,<sup>6</sup> and 'Eid al-Ghadīr<sup>7</sup> commemorating 'Alī's imamate. The Būyids did not, however, play sectarian politics against the majority Sunni population. As for Mufid's relations with the Būyids, they were mostly friendly, though he was at one point exiled from Baghdad by them because of Sunni-Shi'ī unrest.

Mufid stands as a leading theologian and jurist not only in his time, but long after. His main book in law is *al-Muqni'ah*. The *Muqni'ah* was expanded and commented upon by Shaykh al-Ṭūsī (460/1068), Mufid's prominent pupil, under the title *Tahdhīb al-Aḥkām*, which became one of the main four Shi'ī legal sources. From a political perspective, Mufid is an apolitical representative of early Shi'ī thought, though in the twentieth century, there was an attempt to redefine him as the pioneer of the guardianship of the jurist.

### *Contemporary politicization of the image of Mufid*

I contend that juristic authority – deputyship or *niyābah* – was originally not political, and only became so gradually and rather late – that is, only in the eighteenth century under the Qājārs. There has been a drive, however, to portray deputyship as political so that it may serve as a basis for the modern doctrine of guardianship of the jurist or *wilāyat al-faqīh*. For instance, in 1413/1992, a 'Millennium International Congress' on Shaykh Mufid was held by the seminary school of Qum, Iran, following

which his extant works were (re-) published along with several articles submitted to the Congress. The Congress, unfortunately, was an effort to politicize Mufid, specifically to cast him as a proponent of Ayatollah Khomeini's theory of *wilāyat al-faqīh*. The politicization of Mufid continued after the Millennium International Congress. Abū al-Faḍl Shākūrī, the author of a long preface to Ayatollah Muntazirī's *Dirāsāt fī Wilāyat al-Faqīh wa al-Dawlah al-Islāmiyyah*, asserts that Mufid had been active in politics and society. Shākūrī says that Mufid's writings address the theory as well as the necessity of establishing a Shi'ī state. He claims that Mufid made it obligatory for Shi'īs to support a political system or government created by qualified jurists. Shākūrī also claims that Mufid forbade any collaboration with 'erring kings' and oppressive powers (unjust sultans), though his writings show quite the opposite. For Shākūrī, Mufid's legal opinions and views on politics represent a propitious development in Shi'ī jurisprudence, in contrast to the views of his teacher Shaykh Ṣadūq.<sup>8</sup>

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

Shākūrī quotes a lengthy passage from the Kitāb al-Ḥudūd (the chapter on Qur'anic punishments) of Mufid's *Muqni'ah* and then comments as follows:

It is individually incumbent (*wājib 'aynī*) upon one who has obtained power (*ghalabah yāfi*) and become caliph and amir, as well as anyone appointed by such a person, to administer the Qur'anic punishments (*ḥudūd*), enforce the shari'ah, encourage good and forbid the evil [...].<sup>9</sup>

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

Aḥmad Ādharī Qummī is even more eager than Shākūrī to politicize deputyship. He states with apparent certainty that Mufid is the first jurist to introduce the theory of guardianship, especially in his *Muqni'ah*, and adds that he tried to strengthen the intellectual basis for it.<sup>10</sup> He does not, however, tell us where this is stated in the *Muqni'ah* or any other of Mufid's writings. Ādharī Qummī cites prayer leadership on the two 'Eids, prayers for rain, and prayers in the event of a lunar or solar eclipse as evidence that Mufid propounded *niyābah*.<sup>11</sup> Apart from these being quite minor functions, the jurists are actually asked, in Mufid's telling, to lead the prayer as a general duty of a religious figure, but not as something delegated by the Imam. From Mufid's view on enjoining good and forbidding evil, the execution of legal penalties, and the necessity of paying alms (*zakāt*) to the Shi'i jurists, Ādharī Qummī, astonishingly, infers 'absolute guardianship of the jurist' (*wilāyat-i muṭlaqah-i faqīh*) from al-Mufid's works.<sup>12</sup> His argument is that absolute power or *sultān* in the above-mentioned cases refers to the Prophet and the Imams; and since during the occultation, the jurists function as the deputy of the Imam, their authority is absolute.<sup>13</sup> Ādharī Qummī does not stop there, for, based again supposedly on Mufid, he takes the jurists to actually themselves be the '*sultān al-Islam*'.

It is not my goal here to respond to Ādharī Qummī's or Shākūrī's understandings of Shaykh Mufid; rather I only wish to show how his works have been subject to distortion and misunderstanding. Before proceeding to the main topic, I will present an overview of some key terms and concepts necessary to continue.

### *Key terms and concepts*

The Arabic terms *sulṭān*, *nā'ib*, *ḥākim*, amir, *wālī*, *nāzīr*, and *āmil* are key to understanding *niyābah*. Their meanings have developed and changed from Mufid's time to now. These shifts are significant enough that they have facilitated quite different interpretations. As always with dense juristic and theological texts, it is necessary to pay close attention to Arabic usage. Therefore in this article, I will analyse how these terms were used in Mufid's time.

*Nā'ib*, the general sense of which is 'representative' or 'deputy', refers specifically to the person to whom the Imam deputizes his functions during his occultation. In his chief legal work *Muqni'ah*, Mufid uses *nā'ib* five times. In this early period, however, *nā'ib* was meant in a general and not in the specialized, technical sense we see later of deputyship of the Imam. Ṣadūq does not use the term at all in his four-volume legal compendium, *Man Lā Yaḥḍuruhu al-Faqīh* or in his *al-Muqni'*.<sup>14</sup> In *al-Fuṣūl al-Mukhtārah*, Mufid calls 'Alī the Prophet's *nā'ib* in speaking about 'Alī's great faith and virtues, but not to refer to him as a *nā'ib* in a technical sense.<sup>15</sup>

The term *sulṭān* is used frequently in the *Muqni'ah*. It is usually used in a general, non-technical meaning to refer to the person who governs the community with comprehensive power or sovereignty, or the sovereign himself. In some places, it refers to the Shi'i Imams. In others, it is used to speak of the head of the community acting as the judge.<sup>16</sup> It also appears in compound forms such as 'just *sulṭān*' or 'right *sulṭān*',<sup>17</sup> 'unjust *sulṭān*',<sup>18</sup> '*sulṭān al-zulmah*' (ruler of darkness),<sup>19</sup> '*sulṭān al-zamān*' (ruler of the time),<sup>20</sup> '*sulṭān al-dalāl*',<sup>21</sup> and '*sulṭān al-Islām*'.<sup>22</sup> Mufid calls the Imam *sulṭān* (obviously not referring to injustice, darkness, or misguidance). The Imam is the *sulṭān al-Islām*, appointed by God. Mufid uses the terms *umarā'* and *ḥukkām* for political, judicial, or military delegates of the Imams. Who exactly are these personalities? By the 'Abbāsīd period (in which Mufid lived), 'amir' had a wide meaning. *Umarā'*, the plural of amir, encompassed commanders, governors, princes, leaders, advisors, and counsellors.<sup>23</sup> Prior to the Umayyads, amir was equivalent to *āmil*, 'functionary', including tax-collectors.<sup>24</sup> Levy suggests that in the lifetime of the Prophet, the *āmil* (whose responsibility it was to collect alms-taxes) was separate from that of the amir; however, they were sent together to newly occupied territories.<sup>25</sup> 'Amir' also, of course, meant a

military commander. Under the caliphate, the title 'was bestowed on an *ʿāmil* (delegate) appointed with the approval of the caliph'.<sup>26</sup> In 'Abbāsīd times, political connotations were added to the military notion, so that 'amir' came to mean both a high ranking civil and military official. 'Amir' thus became the habitual title of a governor, ruler, or provincial military official holding political and military power together.

The term *ḥākim* in Mufid's usage refers to an appointee of an Imams. Generally, it means 'sovereign', 'judge', or 'governor';<sup>27</sup> thus it seems vaguer than amir. *Ḥākim* in Mufid's *Muqni'ah* means 'judge'. Mufid does call the *ḥākim* the appointee of the *sulṭān al-Islam*, that is to say, the Imams. 'The *sulṭān al-Islam* appointed by God – namely the guiding Imams from the family of Muḥammad – and the amirs and *ḥākims* whom they have appointed have the responsibility to execute the Qur'anic punishments.'<sup>28</sup> However, following the statement just quoted, Mufid clearly specifies that the jurist's authority is limited to judgeship. Thus we must conclude that the jurists' *ḥukūmah*, like that of the amir's emirate which is also mentioned here, is only part of that of the Imam. Only the Imam combines the two and is the *sulṭān al-Islam*.

The term *sulṭān* is used in a general, non-technical sense also in Mufid's *Kitāb al-Irshād*, where it refers to the holder of the highest level of power in a state, or the power itself.<sup>29</sup> In the *Irshād*, we see the phrases *sulṭān al-ṣā'b*,<sup>30</sup> 'unjust ruler', and *sulṭān al-risālah*,<sup>31</sup> meaning the Prophet. There is one instance in the *Irshād* where *sulṭān* denotes the Imam in its Imamī sense,<sup>32</sup> but on other occasions, Mufid uses the expressions *sulṭān al-zamān* (*sulṭān* of the time) in a general sense – for instance in reference to an 'Abbāsīd caliph who might be identified either as al-Muhtadī or al-Mu'tamid.<sup>33</sup>

Does Mufid use the term *sulṭān* for the jurist? He defines the Imams as *sulṭān al-Islam* and then states that the amirs and *ḥākims* appointed by the Imams have the same authority for execution of the Qur'anic punishments. It is the Shi'ī jurists who judge on behalf of the Imams for these punishments.<sup>34</sup> So it does not mean that the jurist is a sovereign also holding political and military power.

The term *nāzir* (literally, 'supervisor') or *nāzir fi umūr al-muslimīn*<sup>35</sup> ('supervisor of the Muslims' affairs') refers to the sovereign person or judge; *nāzir* in its general, non-technical meaning can be both judicial and political. However, in the section on Qur'anic punishments of Mufid's *Muqni'ah*, it takes on the specific meaning of judgment in relation to

the jurists<sup>36</sup> and has a political meaning only for amirs.<sup>37</sup> Shaykh Ṭūsī in his *Nihāyah* also terms the Imam *nāẓir fi umūr al-muslimīn*. He explains that when the Imam is not present, the just and knowledgeable Imamī jurists play his role in the case of someone dying without an executor for his will by appointing the executor for him.<sup>38</sup> This is clearly a judicial function, and a rather narrow one at that. Kamali asserts that the *mujtabid* is competent in both judicial affairs and supervising ‘the affairs of the Muslims’. In reference to Mufīd, Sayyid Murtaḍā, Ṭūsī, and the leading *mujtabid* Shaykh Anṣārī (d. 1281/1864), Kamali says that ‘[...] a fully qualified *mujtabid* (one qualified to exercise independent reasoning) is a representative (*nā’ib*) of the Imam regarding judgement and administration of the people affairs’.<sup>39</sup> Kamali’s statement, I would assert, applies to the later moments of *niyābah*, and not to the period subject to discussion here. There is no clear evidence in Mufīd’s writings that he regarded the jurists as possessing both the power to judge in the community and to administer the affairs of its members. There is no doubt that he considered the first valid; but for the second, which is crucial to the issue of politics, much clearer evidence is required.

### *The Imam’s amirs, hākims, and wālīs*

Shi‘i legal literature in Mufīd’s time does not present specifically Shi‘i definitions of the terms *hākim*, *wālī*, or amir. They are used in a manner very close to that seen in Sunni literature. This is probably why Sourdél translates *wulāt* as ‘agents’ rather than giving it a political sense.<sup>40</sup> In the Sunni political hierarchy in the early centuries of Islam, authority was transferred from the Prophet to the caliphs, with the sultan gaining power afterwards. Amirs included a variety of figures with lesser powers than the caliphs, from princes in the caliphal family to provincial governors and military commanders. Bernard Lewis places ‘sultan’ beneath ‘amir’, dating its official appearance to the year 428/1037 under the Great Seljuqs.<sup>41</sup> I would assert, however, that before the Seljuqs, the Ghaznavids, who were contemporary to Mufīd, called themselves ‘sultans’ and held the titles ‘amir’ and ‘sultan’ simultaneously.

Despite the parallel vocabulary, the Shi‘i reality was very different from that of the Sunnis. In Mufīd’s time, the model of political hierarchy seen among the Sunnis did not exist. Mufīd nevertheless uses the terms



sultan, amir, *ḥākim*, *nāzir*, and *wulāt*. Unlike in the Sunni construction, he defines the Imams as ‘sultans of Islam’ – that is to say, the main authority, equal to the caliph for the Sunnis. The Imam’s source of authority is God, because he is appointed by Him. Mufīd says, ‘The Imams of Guidance are sultans of Islam, appointed by God, and the amirs and *ḥākims* they appoint are responsible for enforcing punishments (*ḥudūd*).’<sup>42</sup>

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

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

### *The jurists and judgeship*

In Mufīd’s theology, all power belongs to God, the Prophet, and the Imams, one after the other. Though the Imam has disappeared, he still is the holder of supreme power. The Imam does, however, delegate judicial power. Although Mufīd does not use the term *niyābah* in his *Muqni‘ah*, the general concept of deputyship is present when he discusses the question of the jurists taking charge of judicial affairs involving Qur’anic punishments (*iqāmat al-ḥudūd*).<sup>43</sup> Why are judicial affairs the subject of delegation? Traditions according to which the jurists were granted authority to judge belong to a time when the Imams were not only distant from political leadership, but also extremely reluctant to

mount any political claims. In a situation in which there was a lack of actual power, delegation of most powers was irrational. What was left was legal rulings and judgeship. Emphasis on these was pivotal for the Shi'ī community, for it kept the unofficial Shi'ī judiciary system alive and helped to preserve the identity of a politically marginalized community. The Qur'anic punishments in particular are mentioned because, as I have already suggested, their operation stood as a symbol of the continued existence of Shi'ī law. Unlike private law, they also suggested real power, which the jurists and their system of law were, in reality, deprived of. Mufid's detailed discussion of the *ḥudūd* should be understood in light of these realities.

Mufid's view is that the Imam has granted the Shi'ī jurists authority to apply the Qur'anic punishments, if possible. The Qur'anic punishments include the amputation of the hand for thieves, lashing for adulterers, and retaliation for murderers. The responsibility is, in technical terms, *farḍ 'alā al-kifāyah* – a duty that, even if it does not have to be carried out by all members of the community, must be carried out by someone; as well as *farḍ 'alā al-tā'ah*, a duty that can be carried out by a few, for instance some or one of the jurists, but only if it does not involve danger to one's life, property, or religion. Thus administration of the punishments ceases to be obligatory for the jurists if they fear the unjust ruler or threats from other groups.<sup>44</sup> Mufid calls on the Shi'ī jurists to apply the Qur'anic punishments at least among their family members and servants, and then expand them to their relatives and other community groups, as far as conditions, especially safety, allow.

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

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

as long as he (the jurist) does not exceed the limits of faith and does not obey the 'sultan of darkness/misguidance' when he acts against God's orders.<sup>45</sup>

This statement conveys important information. We see that working for an unjust ruler if asked and even obedience to such a ruler is obligatory, at least as far as accepting a judgeship goes. In addition, Mufid makes it obligatory for other Shi'is to support such jurists whenever they need aid and as long as they follow the 'truth' (*ḥaqq*, i.e. Shi'i law). If the jurists do not fulfil these conditions, support is forbidden.<sup>46</sup> Mufid is quite concerned about how to justify working for an unjust ruler, in light of the apparent prohibition in Shi'i thought. According to Mufid, if a Shi'i jurist working in a non-Shi'i judicial system judges on the basis of Shi'i law, his cooperation with the unjust system is allowed or even necessary. He stresses that neither the Shi'i jurists nor those who are appointed by the oppressive sultan are allowed to judge against the permanent principles of Shi'ism, save in a time of great pressure when it might be necessary to practice dissimulation (*taqiyyah*) for fear of losing faith or life. Even at such a time, however, deliberate shedding of Shi'i blood is not in any way permissible.<sup>47</sup> Clearly, serving Shi'i interests is the reason for permissibility of working with an unjust ruler.

Thus, to review, the doctrine of *niyābah* for Mufid is limited to judgeship. He explicitly says that the Imams granted Shi'i jurists the authority to judge. The scholars must carry out all responsibilities given to judges in Shi'i law. Mufid says much the same in his *Amālī*: 'Whenever God wishes good for His servants, He has righteous individuals govern them, jurists judge among them, and places property in the hands of the generous.'<sup>48</sup>

Although Mufid permits the Shi'i jurist to play a role as a political authority if he is appointed to such a position by an unjust ruler, he only talks about this in connection with authority over Sunnis.<sup>49</sup> Possibly, this rather odd omission of Shi'is might be due to *taqiyyah*, i.e. strategic dissimulation. Mufid is silent on the jurist's political authority over Shi'is because he does not want to put himself or the community in a dangerous position with the 'Abbāsids by suggesting that the jurist could have independent political power. Even, however, if we admit that Mufid permits the jurists to possess political leadership – for which we really do not have solid evidence – he never represents it as a monopolistic and

obligatory 'guardianship' (*wilāyah*) of the jurists. So once again, we must conclude that deputyship for Mufid is limited to judgeship, and that its actual functioning during his time was rather narrow.

### *The jurists and leadership of the Friday prayer*

Leadership of the Friday prayer has been much debated by Shi'ī scholars. There has been a connection in Islam overall between leadership of the Friday prayer and political power, as the Prophet, the rightly-guided caliphs, and Umayyad and the 'Abbāsīd caliphs led the prayer. In Shi'ism, leading the congregational Friday prayer has been the exclusive task and right of the Imam, the spiritual and political leader. What then is the situation in the absence of the Imam?

Mufid was born seven or nine years after the beginning of the greater occultation in 329/941, so his views throw light on how the Friday prayer was treated among the early Shi'ī community. Let us first, however, see what the historical sources can tell us. History records observance of the congregational Friday prayer before and after Mufid's time. According to al-Khatīb al-Baghdādī (463/1071), the Shi'īs of Baghdad had a mosque for Friday prayer in Burāthā; the mosque was destroyed by the 'Abbāsīd caliph al-Muqtadir when it was reported to him that the congregants were cursing the Prophet's companions and disobeying the ruling caliph. In 324/936, Amir Bajkam Mākānī, Commander of the Commanders in Baghdad, ordered the mosque rebuilt, and the caliph al-Rādī's name was inscribed upon it.<sup>50</sup> The mosque was rebuilt by 329/940 and Friday prayer was held there until 450/1058.<sup>51</sup> Ibn Athīr (630/1233) reveals that the congregational Friday prayer continued in Burāthā during the Shi'ī-Sunni clashes occurring in Baghdad in 349/960 even while it was halted in other mosques in areas in which Shi'īs were a majority.<sup>52</sup>

In short, the prayer did take place, despite the dominant theoretical view dictating that leading the Friday prayer is the exclusive right of the Imam. Who, we may ask, led the prayers, and what was the position of Shi'ī scholars? It was very probably the Shi'ī ulema themselves who led the prayer, due to lack of any Shi'ī political leader, though we do not have firm information on this, or any indication whether Mufid participated.

Mufid begins his discussion of the Friday prayer in his *Muqni'ah* by saying that it is obligatory (*wājib*) and should be held in congregation.<sup>53</sup>

The obligation, however, depends on the presence of the Imam. Mufid does not say clearly if that means the infallible Imam such that the prayer becomes obligatory only during his presence, or any imam, that is to say, a generic prayer leader. When Mufid talks about the physical and moral qualities of an imam leading the Friday prayer, saying that such a person must be pious, a non-slave, of legitimate birth, an adult, and so on,<sup>54</sup> it does seem evident that he is referring to a fallible (ordinary or generic) imam. Nor does he list among the attributes of the Imam the quality of being a jurist or *faqīh*, as he says in the case of judgeship. This leads one to conclude that the Friday congregational prayer in Mufid's view does not depend on the infallible Imam leading it. Some Shi'ī scholars after Mufid say that the prayer during the occultation is not licit, while others say that it is permissible but not obligatory. It appears that Mufid, as opposed to some of his successors, considered the Friday prayer obligatory during the occultation, with the only condition being the presence of a qualified imam (of any kind) and at least four other persons to form the congregation. Otherwise, it would become merely permissible. Thus, it seems, prayer leadership is not one of a jurist's deputized duties.

Mufid's students Sallār al-Daylamī (448/1056)<sup>55</sup> and al-Murtaḍā<sup>56</sup> say that the Friday prayer is obligatory only when the Imam or his (specific) appointee is present, and not during the occultation as Mufid says. It seems that it may even be prohibited during the occultation in their view. In his *al-Nihāyah*, Ṭūsī (460/1068) expresses the same opinion about prayer before the occultation, but he also says that all kinds of prayer – thus presumably including Friday prayer – are permitted and may be led by the jurist during the occultation.<sup>57</sup> Mufid, in contrast, limits the role of the scholars and jurists in prayer to daily prayers, the 'Eid prayers, prayers during the eclipses of the sun and moon, and the prayer for rain.<sup>58</sup>

The argument of Bayhom-Daou<sup>59</sup> and some other modern scholars that Mufid held that the Shi'ī jurists could serve as leaders of Friday prayer because they were granted that authority by the Imam is not clearly understandable. This can also be seen by referring to Mufid's students Daylamī and al-Murtaḍā. Mufid maintains that the Imams delegated their judicial authority to the jurists, and nothing more. He does not, unfortunately, say why he excludes Friday prayer from the list of different prayers given above.

### *Deputyship and jihad*

Shi'is did not participate actively in jihad, perhaps due to their political marginalization. This may be why Mufid does not pay much attention to jihad, even though the concept of jihad weighed heavily on the minds of early and mediaeval Muslims. In the *Muqni'ah*, jihad is mentioned only eleven times as a noun and three times as a verb.<sup>60</sup> Mufid does not allocate an independent section of the *Muqni'ah* to jihad, as became the practice after him. He instead puts it in a section on commanding good and forbidding evil and Qur'anic punishments. Even here, one can find the word 'jihad' only three times: once in the title of the book, and twice in the body of the text.<sup>61</sup> In his *al-Fuṣūl al-'Asharah*, in answer to objections raised by opponents of the Shi'is about the disappearance of the Imam, Mufid does say that religious duties and principles, including jihad, do not cease during the Imam's absence but are fulfilled by his *wulāt*, *'āmil*s, and amirs.<sup>62</sup> He does not, however, provide substantial information about who these figures might be and how they could carry out jihad from within a non-Shi'i system.

Mufid does not discuss jihad because it was declared by the political authority, while the Shi'i Imam was not present and had not designated a political deputy. Nevertheless, jihad in the sense of war against *kuffār* does occur once in the *Muqni'ah*. This concerns the jurist engaging in jihad when he works for an unjust sultan,<sup>63</sup> which was a reality in the time of Mufid since the 'Abbāsids were still fighting against non-Muslims. On one occasion, the word jihad is also used to describe fighting against non-Shi'i Muslims, whom Mufid calls 'misguided and wrongly acting' (*ahl al-ḍalāl wa al-khilāf*). He calls this type of jihad 'grand' (*a'zam*) jihad. Jihad in this case means the jurist using his position under the unjust ruler to harm non-Shi'is.<sup>64</sup> The key point, in any case, is that jihad is not among the responsibilities granted the Shi'i jurist, in Mufid's view.

### *Commanding good and forbidding evil*

Mufid affirms that commanding good and forbidding evil are compulsory. They take two forms. The first is commanding good and forbidding evil by word or tongue. This is a collective duty. Wrongdoers violating the shari'ah need to be admonished by some individuals, not

by all members of the community. Using force against those who violate the law, the second level, is part of the duty of the sultan. Commanding good and forbidding evil become individually incumbent upon whoever has been appointed or permitted by the sultan to perform that task.<sup>65</sup> Note that it is not clear what Mufid means by the sultan<sup>66</sup> here, whether the Imam or any dominant power. What is clear is that it is not the responsibility of the jurist.

This is the material found in Mufid's *Awā'il*. In his *Muqni'ah*, he lists three levels of commanding good and forbidding evil: by heart, tongue, and finally the hand, i.e., force. As in the *Awā'il*, he stresses that carrying out this duty is obligatory for all Shi'is – whom he calls *ahl al-imān* or 'people of true belief' – if they are able to do so. Those with little or no power are responsible for commanding good and forbidding evil through words and force, but without wounding or killing. If, however, such persons may suffer harm as a result, they should command and forbid only with their hearts, by showing displeasure. The third level, use of force involving killing or wounding, is exclusive to the sultan.<sup>67</sup> Once again, it is not clear what Mufid means by the term 'sultan' – whether the Imam or any dominant power. And again we see that the one responsible for commanding good and forbidding evil through force is not the jurist – except, of course, like others in his capacity as an ordinary Muslim, where there is no fear of harm. Even if one assumes that by sultan of the time Mufid means the Shi'i Imam, we cannot consequently infer that this becomes the jurist during the occultation.

### *Deputyship and religious taxes*

Religious taxes, especially the *khums* or one-fifth tax, have a significant place in Shi'ism. During the occultation, it fell to the scholars not only to interpret the texts concerning religious taxes, but also, for the most part, to practically manage them.<sup>68</sup>

One cannot, however, infer that it was intended that the jurists be heads of state simply because they received these taxes. Mufid affirms that the alms-tax (*zakāt*) must be given over to the jurists, but not because of political leadership. He says that the alms first go to the Prophet; then to his successor, the Imam; and then in the absence of the Imam to his appointed delegates (*sufarā'*, i.e. the Imam's representatives during the

minor occultation); and finally to trustworthy Shi‘i jurists when there is no such delegate. Certainly Mufid views the jurists as a distinct group placed over others in the Shi‘i community; but this special position comes not from deputyship, but knowledge, as he says that the tax should be given to the jurists since they ‘know better than others where to spend *zakāt*’.<sup>69</sup>

Based on statements from Mufid and later scholars, Bayhom-Daou concludes that early Shi‘i jurists regarded themselves as the representatives of tax donors, rather than of the Imam.<sup>70</sup> I have already established that the jurists were not the Imam’s delegates in the management of *khums*; I must add that the notion that they were deputized by donors of *zakāt* is also not supported by available evidence. I repeat: Mufid makes payment of *zakāt* to the jurists mandatory not on the basis of any delegated power, whether from the Imam or those paying tax, but for the simple reason that they know best how to spend it. They do not have a formal position or function, but merely, in effect, provide a service.

Mufid defines *khums* as an obligatory (*wājib*) tax, levied on all types of properties and income accruing to Shi‘is, whether through ordinary economic efforts or military action.<sup>71</sup> The way the *khums* was to be collected and distributed deserves our attention, since this speaks to the jurists’ authority and helps us to know if such functions were part of a deputyship. Mufid mentions several approaches to administration of *khums* in the absence of the Imam. These are: discontinuing it, since the Imam is not present; distributing it among descendants of the Prophet and also poor Shi‘is in general; burying it so that it can be given to the Imam when he returns;<sup>72</sup> keeping it aside to be delivered to the Imam upon his return; and finally, as in the present dominant legal view, dividing it into two shares, one of which is to go to the Imam and the other to the needy among the Prophet’s offspring.<sup>73</sup> Ibn Idrīs al-Ḥillī (d. 598/1202) cites a ruling of Mufid that shows that he favoured the last approach. According to Ibn Idrīs, Mufid replied to a community member asking about whom he should deliver his *khums* to that it should be divided into two portions, half for the needy among Muḥammad’s descendants (specifically, orphans, the poor, and needy travellers), and half for the Imam. The donor according to Mufid is responsible for delivering the first portion and also for giving the Imam’s share to the Imam himself, if he is able to reach him. If the Imam is not to be found, the donor should ask a trustworthy person to deliver the tax to the Imam on his



behalf.<sup>74</sup> Thus according to both Mufīd's *Muqni'ab* and Ibn Idrīs's *Kitāb al-Sarā'ir*, Shi'ī authorities do not play a role in managing the *khums*. Payment and delivery of the tax is the duty of the donor.

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

One who is appointed by iniquitous (*fāsiq*) persons (i.e., rulers) for administering societies and territories must help and protect the Shi'īs and pay *khums* on all properties and booty he gains through his governorship. Otherwise, his working for that non-Shi'ī ruler is not permissible.<sup>75</sup>

This case is discussed in detail below. Let us think here about who the 'one appointed' might be. There are two possibilities: the appointee is either a jurist, or an amir, a commander. Appointing a jurist for non-judicial positions was not current practice in the period we are talking about, so that is unlikely, leading us to conclude that the appointee being discussed is in reality an amir. In what capacity did this personality pay his taxes? Here again there are two possibilities. One may say that the donor is the person in authority himself, that is, he is to pay *khums* from his own income earned from working as the agent of the state.<sup>76</sup> It is more logical, however, to imagine the donor of *khums* not as real person but rather a legal one. What is meant is that that, as in early Islam, the person in authority is obliged to collect *khums* from his subjects (whether Shi'ī or Sunni) and send it to the seat of the caliphate. Otherwise, the statement is redundant, since all Shi'īs in their personal capacity have to pay their *khums*. Thus we may conclude that gathering and distributing *khums* here is the responsibility not of someone functioning as a jurist, but a political authority. The personality concerned may indeed be a jurist, but his work for the ruler is nevertheless in the capacity of an amir.

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

Mufīd also briefly discusses the land tax (*kharāj*). The whole discussion

is related to the period of the Imams' presence during which they are the religio-political leaders of the community. *Kharāj* according to Mufid is of several kinds. While the cultivated lands of those who accepted Islam voluntarily belong to the original owners, uncultivated lands are public property, to be given by the Imam to persons willing to cultivate them and return one tenth or one-twentieth of the income to the Imam. Land conquered by force belongs to the Muslims in general, and those who contract with the Imam to develop it give the Imam half, two thirds, or one third of the produce. Non-Muslims who submit to the Imam keep their land and pay the poll-tax (*jizyah*), to be specified by the Imam. According to Mufid, lands gifted to the Imam or lands from which the inhabitants have fled belong absolutely to the person of the Imam.<sup>77</sup> Mufid draws on 'Ali's example to show how *kharāj* should be managed. Despite this detailed account of what should theoretically happen during the time the Imams are present, Mufid is completely silent about *kharāj* during the occultation and possible role of the ulema. Clearly in this as in the previous cases, religious taxes were not part of juristic authority derived from deputyship.

### *Deputyship from an unjust ruler is deputyship from the Imam*

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

Shi'i treatment of the problem differed widely, ranging from prohibition on any type of collaboration with an unjust state (including a Shi'i one), to permission for some degree of contact, to making it obligatory. Mufid has his own view. He not only permits working for and being delegated by a non-Shi'i government, but also in some circumstances deems cooperation necessary. He brings up the issue both in relation to law and politics (*imārah*). His judicial views are discussed above in connection with judgeship. His approach to politics is as follows:

And the Imamī who commands the people and has been appointed outwardly (*zāhir*) by an unjust ruler to work for him is in reality (*ḥaqīqah*) the amir on behalf of the Imam, and not on behalf of the ruler of 'the people of darkness or misguidance', because he has been permitted by the Imam.<sup>78</sup>

Mufīd touches briefly on forms of cooperation with 'unjust' political systems in his theological work *Awā'il*. For Mufīd, lending aid to the unjust system in the right instance is permissible and sometimes obligatory; although it is not permitted if one willingly or deliberately assists in oppression and aggression.<sup>79</sup> Such cooperation, however, is allowed only with the permission of the 'Imam of the time', and under certain conditions such as helping the Shi'ī community, judging according to Shi'ī law, and so on.<sup>80</sup> Now, since cooperation with an unjust ruler is legitimated by the Imam, the authority of a Shi'ī scholar or jurist working for a ruler is as authentic as the authority of those who are appointed by the Imam to work in the Shi'ī community. Both, in effect, are appointed by the Imam. It is, however, necessary to keep in mind that the jurists working in the community function only as judges or persons performing religious rituals. They are not given political duties and do not lead the community in non-religious affairs.

As mentioned above, textual and historical evidence tells us that Mufīd also envisioned non-jurists holding office. As for textual evidence, Mufīd uses the phrase *tadbīr al-'ibād wa al-bilād* (administration of people and territories),<sup>81</sup> a clear reference to administrative and political positions. The holders of such positions were not Shi'ī scholars. That is to say, they were not Shi'ī scholars if the reference to 'administration of peoples and territories' refers to those functions over the Shi'ī community. If what is referred to is administration over all the Muslims as a functionary of a Sunni ruler, the office-holder could be a jurist. The matter is complicated by the equivocality of words and terms in Mufīd's time, when specialized technical vocabulary was not much developed in Shi'ī or, for that matter, Sunni legal literature. We do, in any case, have historical evidence: we know that in Mufīd's time, two groups of Shi'īs worked for the 'Abbāsīd caliphs, those being the jurists and the amirs.

Having established that the office holders Mufīd talks about include jurists and non-jurists, we must ask how in his view the Imam would give permission for the latter. It will be useful here to examine al-Murtaḍā's

approach toward the same issue. As we have seen, al-Sharīf al-Murtaḍā was the leading figure in the Shi‘i community in his time and an outstanding pupil of Mufīd who worked, like his father and elder brother before him, for the ‘Abbāsīd caliph as judge and *naqīb* (head of the descendants of the Prophet). Kazemi demonstrates that two other Shi‘i jurists, Abū al-Faṭḥ al-Karājakī and Ibn al-Barrāj (al-Murtaḍā’s students) also worked as judges for Sunni governments, so this was not an unusual situation.<sup>82</sup> al-Murtaḍā, in fact, wrote a treatise on the subject, entitled *Mas’alat fi al-Amal ma’a al-Sultān* (On Working for the Government),<sup>83</sup> two years after his teacher’s death.

It is evident from comparing the views of Mufīd and al-Murtaḍā that their basic idea is similar: working for an illegitimate rulership is permissible and even obligatory, with the permission of the Imam. Al-Murtaḍā, however, argues the issue more fully. He categorizes the ruler (and consequently, rulership) into two kinds: legitimate and just (*mubīqq ‘ādil*) or illegitimate, unjust, and usurpatory (*mubṭil, zālim, mutaghallib*).<sup>84</sup> For al-Murtaḍā, working for a just ruler is permissible and even obligatory (*wājib*) in some cases, such as when it would be in the interests of the Shi‘i community, and is thus beyond question. Working for an illegitimate or unjust ruler, however, may be obligatory, permissible, an object of caution (*mahdhūr*), evil (*qabīḥ*), or forbidden. Holding office on behalf of a ruler who is a usurper is obligatory when the office holder either knows or strongly supposes (*ẓann*) that he will be capable of upholding the right (*iqāmat al-ḥaqq*), rejecting falsehood, ordering good and forbidding evil. It is permissible when the jurist fears for his personal wealth if he rejects the position. It is an object of caution if one is forced to accept the office and believes he will be killed if he does not accept. It will, on the other hand, be evil to accept the office if holding it is a cause of evil or the office-holder uses his office for his own worldly interests. Accepting the appointment is, exactly as Mufīd says, forbidden if it involves assisting an unjust ruler to disobey God.<sup>85</sup>

As a rationalist, al-Murtaḍā cites both rational and legal (*shar‘ī* and *‘aqli*) proofs for his position.<sup>86</sup> For instance, he cites ‘Alī’s caliphate as an example of being accepted by an unjust group (i.e. the various factions and persons who were in his favour following the murder of ‘Uthmān), adding that there are other many cases in which scholars and pious men have accepted positions under an illegitimate ruler. The rational justification, which appears to be more important for al-Murtaḍā’s

argument than the legal proof, concerns the interests Shi'is derive from having one of their own in office.

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

### *Analysis and conclusion*

In Mufid's perspective of the doctrine of deputyship or juristic authority, the doctrine is clearly apolitical. Mufid leaves no doubt that Shi'i jurists are delegated by the Imam to judge and to execute the Qur'anic punishments, but deputyship does not extend beyond that. This very limited construction reflects the political circumstances of the Shi'i community in Mufid's time. The Shi'is were living as a minority under the Sunni 'Abbāsids, even though the Buwayhids and Twelver Shi'i Hamdānids had gained power as well. In addition to political limitations, deputyship was subject to theoretical limitations resulting from a conviction that any worldly power other than that of the Imams was illegitimate and that the Hidden Imam would return soon in any case. Due to these limitations, the jurists, though they were supposedly delegates of the Imam, were reluctant to play a political role even in religious duties.

Even though Mufid says that the Friday congregational prayer is obligatory, he does not include it among the various prayers led by the Shi'i jurists. He does not say why this is so, but one can infer that a specific ground or qualification of the jurist for holding the Friday prayer is absent, though present for the other prayers. If we look at the history of the Friday prayer, it is clear that the leader of this prayer has

had a relationship with political power.<sup>87</sup> The Prophet Muḥammad instituted Friday prayers in Medina when he first gained political power, and holders or representatives of power among the first four caliphs, the Umayyads, and the ‘Abbāsids also used to lead the prayer. The Imams were both the religious and political leaders of the Shi‘is, even if they could not, with the exception of ‘Alī, actually exercise political power. Thus it is possible that Mufīd does not consider that leadership of the Friday prayer falls to the Shi‘i jurists because, for him, they are not politically the delegates of the Imam.<sup>88</sup>

As for the *khums*, Mufīd, as explained above, believes that leading Shi‘is (whether jurists or not) who work for unjust rulers are to collect the *khums* tax. Let us now ask why that right or obligation falls to those persons and who distributes the funds. For Mufīd, the *khums* is divided into two parts: one belonging to the Imam, and the other reserved for needy descendants of the Prophet. Taxpayers are allowed to distribute the funds in person to the needy, but Mufīd does not tell us how the Imam’s share is to be delivered. It seems that in his view, no one has the right to spend the share of the political and religious leader of the community, the Imam. Nevertheless, Mufīd makes it clear that a Shi‘i figure functioning in the non-Shi‘i system must collect and pay the *khums*. Such a person has no more privileges than his counterpart within the Shi‘i community, except for his connection to the dominant political power. Even in the case of the jurist with connections to political power, Mufīd does not give any information about the agent who manages the tax; he does not make it clear if he collects *khums* for himself to manage it, for another jurist, or even for the state. He also does not explain if the agent is to spend the Imam’s share, bury it, or hand it over to a trustworthy person to give it to the Imam whenever he appears. As in the case of the Friday prayer, it is probable that Mufīd refrains from addressing these details because of the connection between tax collection and political power. If tax collection were part of the jurists’ duties, Mufīd would have addressed the topic of jurists not possessing political power gathering the *khums* from their brethren. It is therefore actually not important if the Shi‘i figure holding office on behalf of the illegitimate ruler is a jurist, amir, or some other figure. The significant point is that the collection and administration of *khums* is not part of delegation (deputyship) at this time. Delegation is limited to judgeship, while *khums* is not a juristic function.

Jihad presents a parallel case. Mufīd includes jihad among the tasks

of a Shi'ī jurist functioning within a non-Shi'ī judicial system, but he does not mention it when discussing the tasks of judges not possessing political power and working within the Shi'ī community.

Commanding good and forbidding evil is another parallel case. The Shi'ī jurists do not have the power to command good and forbid evil with force because they do not have any political power. Their responsibility in commanding good and forbidding evil is just the same as that of other Muslims. From the point of view of religious expertise they would have been the most appropriate persons to engage in that duty; but, first, they did not possess power, which is 'a requirement in the fulfilment of this crucial obligation in the public interest',<sup>89</sup> and second, the obligation itself is not incumbent on every individual.

Mufīd discussed the cooperation of Shi'ī scholars with unjust rulers in response to practical and theoretical limitations faced by Shi'ism. He looks for ways right might co-exist with wrong. To treat this problem, he takes both a macro- and micro-analytical view. On the macro level, seen in his theological works, he looks at the Sunni system overall and condemns it not only as unjust and false, but non-salvific.<sup>90</sup> In the *Awā'il*, for instance, he divides the Abodes (*dār*) into three: *dār al-ḥarb* (Abode of War), *dār al-Islām* (Abode of Islam), and *dār al-īmān* (Abode of True Belief).<sup>91</sup> As Lambton writes, *dār al-īmān* 'comprised those places in which the true faith, i.e. Ithnā 'Asharī Shi'ism, prevailed, whereas the *dār al-islām* consisted of those places where Islam other than Ithnā 'Asharī Shi'ism was followed.'<sup>92</sup> In his juridical work, on the other hand, Mufīd works at the micro level where right can potentially co-exist with wrong. From a micro perspective, the non-Shi'ī political system, while not pure overall, represents a combination of aggression and justice, giving Shi'ī scholars the opportunity to choose just aspects and leave the wrong aside in assisting their community.

How is justice to be distinguished from injustice? As I have explained, it is necessary to distinguish between two types of agents undertaking responsibilities in the so-called unjust system, the jurists (*fuqahā'*) and amirs (*umarā'*). Mufīd, it seems, left it to the jurists themselves to distinguish justice from injustice. The criteria for doing so are related to Shi'ism, since Shi'ism itself is considered to be 'right' (*ḥaqq*). The most important criteria are the ability to judge in accordance with Shi'ī law, to look out for the interests of the community, and to prevent the shedding of Shi'ī blood.<sup>93</sup> A jurist acting in the capacity of an amir applies the

same criteria. Mufid is silent, however, about the case of an amir who is not also a jurist.

Why did Mufid take the trouble to formulate such elaborate justifications for working for an unjust ruler? The answer is found in the nature of delegation as perceived in that period. Delegation in Mufid's view is limited to the law, without venturing into politics or military affairs. This very limited notion left the Shi'is struggling with their political defeat. Living without any political power whatsoever was difficult and harmful. The only way out of this dilemma was to find a way to politically reconcile with the dominant system, which was done by Mufid under the rubric of 'working for the sultan'. This solution as detailed by Mufid secured the Shi'is' interests from one side, and avoided contradicting Shi'i theology and the Shi'i worldview on the other. Mufid's theory of 'working for the sultan' does not represent accommodation, as some have asserted, but the opposite: the least compromise with politics possible, carefully fenced in by theory.

As we have seen, a Shi'i holder of office on behalf of an illegitimate ruler could be either a jurist or amir. Though there were no Shi'i amirs after the 'Abbāsīd dynasty was extinguished, the Shi'i Buyids and Hamdānids were contemporary with Mufid. One would think that Mufid would be interested in the sovereignty of such amirs since for him, the jurist holding office on behalf of an unjust ruler is a step toward enforcing the ordinances of Shi'i law. He asks the community to follow and support the office holder in order to enhance his legitimacy. Al-Murtaḍā is very clearly interested in power. He says that without power, the obligatory enforcement of shari'ah – for instance, enjoining good and forbidding evil – is not possible. Power, according to al-Murtaḍā, is consequently obligatory (*wājib*) because it is the means or is the premise of enforcement of shari'ah.<sup>94</sup>

Nonetheless, neither Mufid nor al-Murtaḍā talks of building a Shi'i sovereign power led by Shi'is, whether jurists or amirs. They did not regard the Buyids or Hamdānids as constituting such a power, since their legitimacy was derived from the 'Abbāsīd caliphs. The term 'just sultan', with whom cooperation is permissible or obligatory according to Mufid and al-Murtaḍā,<sup>95</sup> means the Imam and no one else; it refers neither to the jurists nor the Shi'i amirs, because although amirs working for the 'Abbāsīds theoretically had the Imam's permission, they were not heads of state, so technically they were not called 'sultans' in Mufid's



definition of the term. And the jurists were not 'just sultans' because the authority granted to them was limited to judgeship, so they could not be heads of state.

Thus it appears that the idea of working for an unjust ruler formulated by Mufīd and further developed by his student al-Murtaḍā is a response to severe limitations on delegation or deputyship in its early phase. The goal was to prevent the ordinances of the shari'ah (in the Shi'i version, of course) from being suspended. Because of the importance of this goal, the case of the unjust ruler continued to be discussed after Mufīd and was followed in practice by many others. The idea of working for an unjust ruler has had a profound and lasting influence on Shi'i thought, for it raised this question in the minds of the jurists: if working with a Sunni sultan can be in the interests of Shi'ism and permitted by the Imam, might perhaps cooperating with a Shi'i sultan or even establishing a jurist-run state be the best choice?

In conclusion, Twelver Shi'is between the fourth and fifth/eleventh and twelfth centuries constituted a mostly apolitical community living under 'Abbāsīd rule. Some Shi'i amirs gained political and military power, but they were formally in the service of the 'Abbāsīds. The Twelver Shi'i religious authorities remained out of the political structure, occupying themselves instead with teaching and writing. It should be remembered, however, that the Imamate itself was not apolitical. This is why Mufīd uses the term *sultān al-Islām* to describe the Imam. He is indeed the sultan, the sovereign power, with his sovereignty coming from none other than God.

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

This explains why the jurists do not, in the view of al-Shaykh Mufīd, play many roles during the absence of the Imam. Their chief duties are purely religious, such as interpretation of the texts and teaching or preaching; and they are, like other members of the community, not

permitted to enjoin good and forbid evil through force. The management of *khums* is not in the hands of the jurists in Mufid's view, a very great difference from the later moment of *niyābah* when it is understood by some to be a state tax needing to be administrated by an Islamic government. Mufid's full opinion on the Friday congregational prayer, which is also conventionally linked to politics, remains unclear. What is evident at least is that delegacy in his view does not include leadership of the Friday prayer, although he does not say why he excludes that prayer from the list of those that can be led by the jurists.

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

Mufid's interpretation of *niyābah* has had two contradictory results in Shi'i thought. On the one hand, he provided a privatized, apolitical interpretation of Shi'ism and consequently deputyship, an interpretation that lasted a very long time. His influence has been tremendous. He focused on private affairs such as prayers, fasting, alms, and commercial law, while refraining from addressing public matters such as the state or the army. As a consequence, the Shi'i ulema neither theorized nor claimed political authority through deputyship in the early centuries of the greater occultation. On the other hand, Mufid's thought also opened the way for a political interpretation of deputyship many centuries later. He justified working for a non-Shi'i political system using an atomistic approach, making it equivalent, when the terms were fulfilled, to working for the Imam himself. When the jurists found themselves in a better, less politically constricted situation, his formulation opened the way to them considering collaboration with a non-Shi'i system or even establishing a state themselves. After Mufid, many prominent figures such as al-Murtaḍā, Naṣīr al-Dīn al-Ṭūsī, 'Allāmah Ḥillī, and Karakī and others under the Safavids associated with the state recognized and

cooperated with state authority. Those who refused the idea that one can work with an 'unjust' ruler belonged mostly to the quietist stream of the tradition, save some in modern Iran such as Ayatollah Khomeini who rejected working for those in power in order to establish a state themselves. Even Ayatollah Khomeini's arguments for establishing an Islamic state are quite similar to those of Mufid justifying working for an oppressive ruler. In Ayatollah Khomeini's view, an Islamic state is needed for religious laws to be enforced and Muslim interests to be secured, while for Mufid, the same considerations permit the jurists to collaborate with those he considers to be 'oppressors'. What made figures subsequent to Mufid, including Ayatollah Khomeini, different from him was the different contexts in which they lived.

In brief, in his works, Mufid has clarified issues regarding the authority of Shi'i jurists and amirs. First, during the presence of the Imam, his appointees are his legitimate delegates, that is the jurists and amirs. Second, when there is a dominant non-Shi'i state, the jurists judge among the Shi'is and can work for an unjust ruler. Third, the Shi'i amirs can work for a non-Shi'i political system while the legitimacy of their work steams from the Imam's permission, like the case of the jurists. Forth, Mufid remains silent on the question of establishing an independent rulership by Shi'i jurists, and whether or not it would be considered legitimate. While the jurists and the amirs are equally legitimate appointees of the Imam for enforcing Qur'anic punishments (*ḥudūd*), questions remain. During the occultation, did Shi'i scholars only focus on delegacy and the legitimate authority of the jurists in the judicial field, or politics as well? Why did they exclude the amirs, given that they had been introduced as the Imam's representative regarding administration of the people affairs? These are areas of much-needed research.

## Notes

<sup>1</sup> Known as al-Shaykh al-Mufid, Muḥammad ibn Muḥammad ibn al-Nu'mān al-'Ukbarī also acquired the appellation 'al-Baghdādī', and was also called Ibn al-Mu'allim since his father was a teacher. He was born around 336/948 which is a more accurate dating of Mufid's birth, according to al-Najāshī, Mufid's student. See *Kitāb al-Rijāl* ([Tehran]: Markaz-i Nashr-i Islāmī, 1407/1986), 402-3. Shaykh al-Ṭūsī fixes the birth date at 338/950. See Muḥammad ibn al-Ḥasan Ṭūsī, *al-Fibrīst* (Mu'assasat Nashr Faqāhat, 1417 [1997]), 238. Ibn Nadīm, a contemporary of Mufid, has the same view as

al-Ṭūsī; see Muḥammad ibn Ishāq Ibn al-Nadīm, *al-Fibrīst*, ed. Riḍā Tajaddud ([Iran]: Riḍā Tajaddud, 1350/[1971]), 248.

<sup>2</sup> At the beginning of his chief jurisprudential work *al-Muqni'ah*, Mufid says that he compiled that book in response to the order of a 'great amir' in order to provide a guide for the people (27). It is said that the 'amir' referred to was Abū Naṣr Aḥmad Bahā' al-Dawlah, son of 'Aḍad al-Dawlah, (d. 403/1012). There is, however, no real evidence for this, or for Mufid's political intention.

<sup>3</sup> Muḥammad ibn Muḥammad ibn Nu'mān al-Mufid, *al-Muqni'ah* (Qum: al-Nashr al-Islāmī, 1410 [1991]), 34.

<sup>4</sup> For instance, Sharif al-Murtaḍā, an outstanding pupil of Mufid who worked for the Abbasids as a judge and the head of the corporation of the Prophet's descendants (*niqābah*), wrote a separate treatise on the permissibility of collaboration with supposedly illegitimate rulers.

<sup>5</sup> Whether the Buwayhids were Zaydī or Twelver is a matter of debate. Thus modern historians often call them simply "Alawī", i.e. followers of 'Alī.

<sup>6</sup> Abū al-Faraj 'Abd al-Raḥmān ibn 'Alī ibn al-Jawzī, *al-Muntaẓam fī Tawārīkh al-Mulūk wa al-Umam* XIV, ed. Muḥammad 'Abd al-Qādir 'Aṭā and Muṣṭafā 'Abd al-Qādir 'Aṭā (Beirut: Dār al-Kutub al-'Ilmiyah, 1992 [1412]), 150.

<sup>7</sup> Aun Hasan Ali, 'Imāmīte Rationalism in the Buyid Era' [MA thesis] (McGill University, 2007), 50.

<sup>8</sup> Ḥusayn 'Alī Muntaẓirī, *Mabānī-yi Fiqhī-yi Hukūmat-i Islāmī: Dawlat va Hukūmat*, tr. and ed. Maḥmūd Ṣalawātī I (Tehran: Intishārat-i Sarā'ī, 1379 [2000]), 32.

<sup>9</sup> *Ibid.*, 33.

<sup>10</sup> Aḥmad Ādharī Qummī, 'Wilāyat-i Faqīh az Nigāh-i Shaykh Mufid', in *'Ulūm-i Insānī Majmū'ah Maqālāt Congarīh Shaykh Mufid* IV (1371/1992), 46. Ādha'ī Qummī was the director of the congress on Mufid.

<sup>11</sup> *Ibid.*, 52.

<sup>12</sup> Ādharī Qummī was one of the main exponents and architects of the absolute *wilāyat al-faqīh* early on, and then he changed his position. He kept the theory itself but denied the absolute authority of Iranian present supreme leader, Ayatollah Khāmene'ī. However, there is no evidence supporting any change in Qummī's position concerning his interpretation of al-Mufid's works about the absolute guardianship of the jurist.

<sup>13</sup> *Ibid.*, 55.

<sup>14</sup> Muḥammad ibn 'Alī ibn Babawayh (al-Ṣadūq), *al-Muqni'*, ed. Lajnat al-Taḥqīq li-Mu'assasat al-Imām al-Hādī (Qum: Mu'assasat al-Imām al-Hādī, 1415/1994); Ibn Bābawayh, *Man Lā Yaḥduruhu al-Faqīh*, ed. 'Alī Akbar al-Ghaffārī (Qum: Jami'at Mudarrisīn al-Ḥawzah al-'Ilmiyyah, 1363 AH (solar)/1983).

<sup>15</sup> Muḥammad ibn Muḥammad ibn Nu'mān al-Mufid, *Fuṣūl al-Mukhtārah*, ed. al-Sayyīd Mīr Sharīfī (Beirut: Dār al-Mufid, 1414/1993), 278.

<sup>16</sup> al-Mufid, *al-Muqni'ah*, 220, 386, 614, 616, 652, 736, 739, 749, 781, 787, 788, 791, 792, 795, 800, 804, 805, 826, 842.

<sup>17</sup> *Ibid.*, 613, 649, 675, 676, 740.

<sup>18</sup> *Ibid.*, 349, 706, 740, 810, 811.

<sup>19</sup> *Ibid.*, 706.

<sup>20</sup> *Ibid.*, 537, 809.

<sup>21</sup> *Ibid.*, 810, 811.

<sup>22</sup> *Ibid.*, 648, 649, 810, 811.

<sup>23</sup> See, Nādiyā Bargnīsī, 'Amīr', in *Dā'irat al-Ma'ārif-i Buzurg-i Islāmī* <<http://www.cgic.org.ir/fa/publication/entryview/4742>>. Accessed July 2013; C. E. Bosworth, 'Amir', in *Encyclopaedia Iranica* <<http://www.iranicaonline.org/articles/amir-commander-governor-prince-in-arabic>>. Accessed July 2013; A. A. Duri, 'Amir', in *Encyclopedia of Islam I* (London: Luzac & Co., 1960), 438-439; Hibba Eltigani Abugideiri, 'Amir', in *The Oxford Encyclopedia of the Islamic World I*, ed. J. Esposito (New York: Oxford University Press, 2009), 137; Cyril Glassé, *The New Encyclopedia of Islam*, 3rd ed. (Lanham, Maryland: Rowman & Littlefield, 2008), 50. Lewis says that when the position of authority was hereditary, such as in the 'Abbāsīd dynasty, the prince was called amir. Bernard Lewis, *The Political Language of Islam* (Chicago: University of Chicago Press, 1988), 50.

<sup>24</sup> Nādiyā Bargnīsī, 'Amir'.

<sup>25</sup> Reuben Levy, *The Social Structure of Islam* (Cambridge: Cambridge University Press, 1969), 355.

<sup>26</sup> Hibba Eltigani Abugideiri, 'Amir', 137.

<sup>27</sup> Geneviève Gobillot, 'Al-Ḥakīm', in *The Oxford Encyclopedia of the Islamic World II*, ed. J. Esposito, 362-3.

<sup>28</sup> al-Mufid, *al-Muqni'ah*, 810.

<sup>29</sup> al-Mufid, *Kitāb al-Irshād I* (Qum: Dār Mufīd), 14, 166, 242, 245, 291, 309, 320; vol. II, 120, 121, 182, 369.

<sup>30</sup> Ibid. I, 281.

<sup>31</sup> Ibid. I, 249.

<sup>32</sup> Ibid. II, 342.

<sup>33</sup> Ibid. II, 336, 337.

<sup>34</sup> al-Mufid, *al-Muqni'ah*, 810.

<sup>35</sup> Ibid., 669, 673, 675.

<sup>36</sup> Ibid., 810.

<sup>37</sup> Ibid., 812.

<sup>38</sup> Muḥammad ibn al-Ḥasan Ṭūsī, *al-Nibāyah* (Qum: Intishārāt Quds Muḥammadi), 607.

<sup>39</sup> Mohammad Hashim Kamali, 'Law and Society: The Interpretation of Revelation and Reason in the Shariah', *The Oxford History of Islam*, ed. John L. Esposito (New York: Oxford University Press, 1999), 116-117. The author has called those three Shi'i figures *mujtabids*, although in their time the use of this title was not current. He also mentions the date of death of Mufid as 1044 and that of al-Murtaḍā as 1060. The correct dates are 1022 and 1044.

<sup>40</sup> See Dominique Sourdel, *L'Imāmisme Vu par le Cheikh al-Mufīd* (Paris: Librairie Orientaliste Paul Geuthner, 1974), 61.

<sup>41</sup> Bernard Lewis, *The Political Language of Islam*, 52-53.

<sup>42</sup> al-Mufid, *al-Muqni'ah*, 810.

<sup>43</sup> Ibid., 810, 811. If we go back to Ṣadūq, we will see that he asks the Shi'is not to refer to non-Shi'i jurists for judgement of litigation. Instead, they are ordered to refer to a Shi'i man (*rajul*) with some legal knowledge – not, as Mufid says, jurists. There is no doubt that for Ṣadūq, *ḥukm* means 'judgeship' and *ḥākīm* is equal to 'judge (*qāḍī*)'. See *Man Lā Yaḥduruhu al-Faqīh III*, edited by 'Alī Akbar Ghaffārī (Qum: Mu'assasat al-Nashr al-Islāmī, 1363 AH (solar) /1984), 3.

<sup>44</sup> al-Mufid, *al-Muqni'ah*, 810.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid., 811.

<sup>48</sup> al-Mufid, *Kitab al-Amālī* (Qum: al-Maṭbaʿah al-Islāmiyah, 1403 AH [1982]), 97. Here Mufid distinguishes between those who govern and those who judge. He emphasizes that the best society is that in which the jurists judge (not where they govern or rule as statesmen).

<sup>49</sup> al-Mufid, *al-Muqniʿah*, 810-12.

<sup>50</sup> Abū Bakr Aḥmad ibn ʿAlī al-Khāṭib al-Baghdādī, *Tārīkh Baghdād aw Madīnat al-Salām* (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1417 AH/1997), 123-124.

<sup>51</sup> Yāqūt ibn ʿAbd Allāh al-Ḥamawī, *Muʿjam al-Buldān* II (Beirut: Dār Iḥyāʾ al-Turāth al-ʿArabī, 1399/1979), 362-363. Yāqūt holds that it was al-Rādī who ordered the mosque be demolished, not al-Muqtadir.

<sup>52</sup> ʿIzz al-Dīn ibn al-Athīr, *Tārīkh Kāmil*, tr. Ḥamīd Riḍā Āzhīr XII (Tehran: Intishārāt-i Asāṭīr, 1383 AH (solar) [2004]), 5074.

<sup>53</sup> al-Mufid, *al-Muqniʿah*, 163. The Qurʾanic foundation for the necessity (*wujūb*) of assembling for prayer is the ninth verse of Surat al-Jumʿah of the Qurʾan, which says: ‘O believers! When the call to prayer is proclaimed on Friday, hasten earnestly to the remembrance of Allah and leave off business. That is best for you if you knew.’

<sup>54</sup> Ibid., 163-4. These qualities include being a non-slave, an adult, of legitimate birth, free from vitiligo and leprosy, Muslim, Shiʿi, and observing the prayers at the proper times.

<sup>55</sup> Ḥamzah ibn ʿAbd al-ʿAzīz Sallār, *al-Marāsīm al-ʿAlawīyyah fī al-Aḥkām al-Nabawīyah*, ed. al-Sayyid Muḥsin al-Amīnī (Qum: al-Muʿawiniyyah al-Thaqāfiyyah lil-Majmaʿ al-ʿĀlamī li-Ahl al-Bayt, 1414 AH/1993), 77. On page 264, Sallār adds that Shiʿi jurists can lead ʿEid prayers and prayers for rain, but not Friday prayers.

<sup>56</sup> al-Murtaḍā says that the Friday prayer is valid only when led by a just Imām or his appointee, so during the occultation, people should perform the midday instead of the Friday prayer. See ʿAlī ibn al-Ḥusayn Sharīf al-Murtaḍā, *Rasāʾil al-Sharīf al-Murtaḍā* I, ed. al-Sayyid Aḥmad al-Ḥusaynī (Qum: Dār al-Qurʾān al-Karīm, 1405 AH/1985), 272.

<sup>57</sup> Ṭūsī, *al-Nihāyah*, 103, 302. Ibn Idrīs al-Ḥillī criticizes al-Ṭūsī and supports al-Murtaḍā and Sallār. For more information about Ibn Idrīs’ view, see Muḥammad ibn Aḥmad ibn Idrīs Ḥillī, *Kitāb al-Sarāʾir al-Ḥawī li-Taḥrīr al-Fatāwī* I (Qum: al-Nashr al-Islāmī, 1410 [1991]), 290-292.

<sup>58</sup> al-Mufid, *al-Muqniʿah*, 811.

<sup>59</sup> Tamima Bayhom-Daou, *Shaykh Mufid* (Oxford: Oneworld, 2005), 127. The author has not provided any reference for this claim.

<sup>60</sup> Mufid, *al-Muqniʿah*, 231, 241 (two times), 288, 469 (noun and verb), 477 (noun and verb), 483 (noun and verb), 808, 810, 812.

<sup>61</sup> Ibid., 808, 810, 812.

<sup>62</sup> al-Mufid, *al-Fuṣūl al-ʿAsharah fī al-Ghaybah*, ed. Shaykh Fāris Ḥassūn (Qum: al-Muʿtamar al-ʿĀlamī li-ʿAlfiyyat al-Shaykh al-Mufid, 1413 [1992]), 105-106.

<sup>63</sup> Mufid, *al-Muqniʿah*, 810.

<sup>64</sup> Ibid., 812.

<sup>65</sup> Muḥammad ibn Muḥammad ibn Nuʿmān al-Mufid, *Arwāʾil al-Maqālāt*, edited by al-Shaykh Ibrāhīm al-Anṣārī ([Iran]: al-Muʿtamar al-ʿĀlamī li-ʿAlfiyyat al-Shaykh al-Mufid, 1413 AH [1992]), 119.

<sup>66</sup> It is very probable the term has a general meaning, i.e. sovereignty. Thus

McDermott's definition of the term as 'the *de facto* holder of power' seems reasonable. Martin James McDermott, *The Theology of al-Shaikh al-Mufīd: Its Relation to the Imamite Traditionists and to the Baghdad Mutazilites* ([Chicago]: Chicago University Press, 1971), 279.

<sup>67</sup> al-Mufīd, *al-Muqni'ah*, 809-810.

<sup>68</sup> 'Mostly' in that the donors can manage it, or at least half of it, themselves as well.

<sup>69</sup> al-Mufīd, *Al-Muqni'ah*, 252. While referring zakat to the jurists is a status advantage for them, it is not significant, for Mufīd does not order the Shi'is to pay their *khums* or *kharāj* to the jurists. During the *ghaybah*, zakat – unlike the *khums* – has not played a significant economic role, among the Shi'is. So paying zakat to the jurists does not imply that it has a political sense.

<sup>70</sup> Tamima Bayhom-Daou, *Shaykh Mufīd*, 128.

<sup>71</sup> al-Mufīd, *al-Muqni'ah*, 276.

<sup>72</sup> Burying is justified on the basis of a tradition saying that the earth will display its treasures when the Mahdī returns. See, al-Mufīd, *al-Muqni'ah*, 285-286.

<sup>73</sup> al-Mufīd, *al-Muqni'ah*, 285-288; al-Ṭūsī, *Tabdhīb*, 147-148.

<sup>74</sup> Ibn Idrīs al-Ḥilli, *Kitāb al-Sarā'ir al-Ḥawī li-Taḥrīr al-Fatāwā* I, 504-505.

<sup>75</sup> al-Mufīd, *al-Muqni'ah*, 811-812.

<sup>76</sup> Muntazirī, *Mabānī-i Fiqhī*, 34.

<sup>77</sup> al-Mufīd, *al-Muqni'ah*, 274-5.

<sup>78</sup> *Ibid.*, 812.

<sup>79</sup> al-Mufīd, *Arwā'il al-Maqālāt*, 120.

<sup>80</sup> *Ibid.*, 120.

<sup>81</sup> al-Mufīd, *al-Muqni'ah*, 811.

<sup>82</sup> Ahmad Kazemī Moussavi, *Religious Authority in Shiite Islam: From the Office of Mufti to the Institution of Marja'* (Kuala Lumpur: International Institute of Islamic Thought and Civilization, 1996), 67.

<sup>83</sup> 'Alī ibn al-Ḥusayn al-Sharīf al-Murtaḍā, *Rasā'il al-Sharīf al-Murtaḍā* II, ed. al-Sayyid Aḥmad al-Ḥusaynī (Qum: Dār al-Qur'ān al-Karīm, 1405/1985), 89-97; Wilferd Madelung, 'A Treatise of the Sharīf al-Murtaḍā on the Legality of Working for the Government', in *Bulletin of the School of Oriental and African Studies* XLIII, no. 1 (1980), 18-31. Ja'fariyān also has discussed this treatise in his *Ṣafaviyyih dar 'Arṣib-yi Dīn, Farhang va Siyāsāt*, vol. 1 (Qum: Pizhūhishkadīh Ḥawzih va Dānīshgāh, 1379 AH (solar)/2000), 116-117.

<sup>84</sup> al-Sharīf al-Murtaḍā, *Rasā'il*, 89; Wilferd Madelung, 'A Treatise of the Sharīf al-Murtaḍā on the Legality of Working for the Government', 24.

<sup>85</sup> al-Sharīf al-Murtaḍā, *Rasā'il*, 90-94.

<sup>86</sup> *Ibid.*, 91-92.

<sup>87</sup> In contemporary Iran, the leader of the Friday prayer is exclusively appointed by the Supreme Leader, or else he leads the prayer himself.

<sup>88</sup> There is, however, another possibility that must be admitted. It may be that Mufīd, despite the historical connection of the Friday prayer to political power, did not believe that it had any political colour and simply did not consider it to be one of the duties delegated to the jurists by the Imām.

<sup>89</sup> Abdulaziz Abdullhusein Sachedina, *The Just Ruler in Shi'ite Islam: The Comprehensive Authority of the Jurist in Imamite Jurisprudence* (New York: Oxford: Oxford University Press, 1988), 104.

<sup>90</sup> al-Mufid, *Awā'il al-Maqālāt*, 44. Here Shaykh Mufid holds the view that according to the Imāmīs, one who rejects the imamate of one of the Imams has denied God's ordinances; thus, s/he is an infidel and consequently is in Hell permanently.

<sup>91</sup> Ibid., 94.

<sup>92</sup> Ann K. S. Lambton, 'A Nineteenth Century View of Jihād', in *Studia Islamica*, no. 32 (1970), 181-182.

<sup>93</sup> a-Mufid, *al-Muqni'ah*, 811, 812.

<sup>94</sup> al-Sharīf al-Murtaḍā, *Rasā'il*, 90, 93.

<sup>95</sup> Madelung believes that the expression 'rightful and just ruler' is undefined in al-Murtaḍā's treatise (Madelung, 'A Treatise of the Sharīf al-Murtaḍā on the Legality of Working for the Government', 30). While Murtaḍā does not define it in the source cited, it is clear in light of other theological texts that it means the Imam. It seems that after Mufid's time, the term found a broader meaning. Rasūl Ja'fariyān holds a similar view; see his 'Şafaviyyih dar 'Arşih-yi Dīn', 113-114, 117.