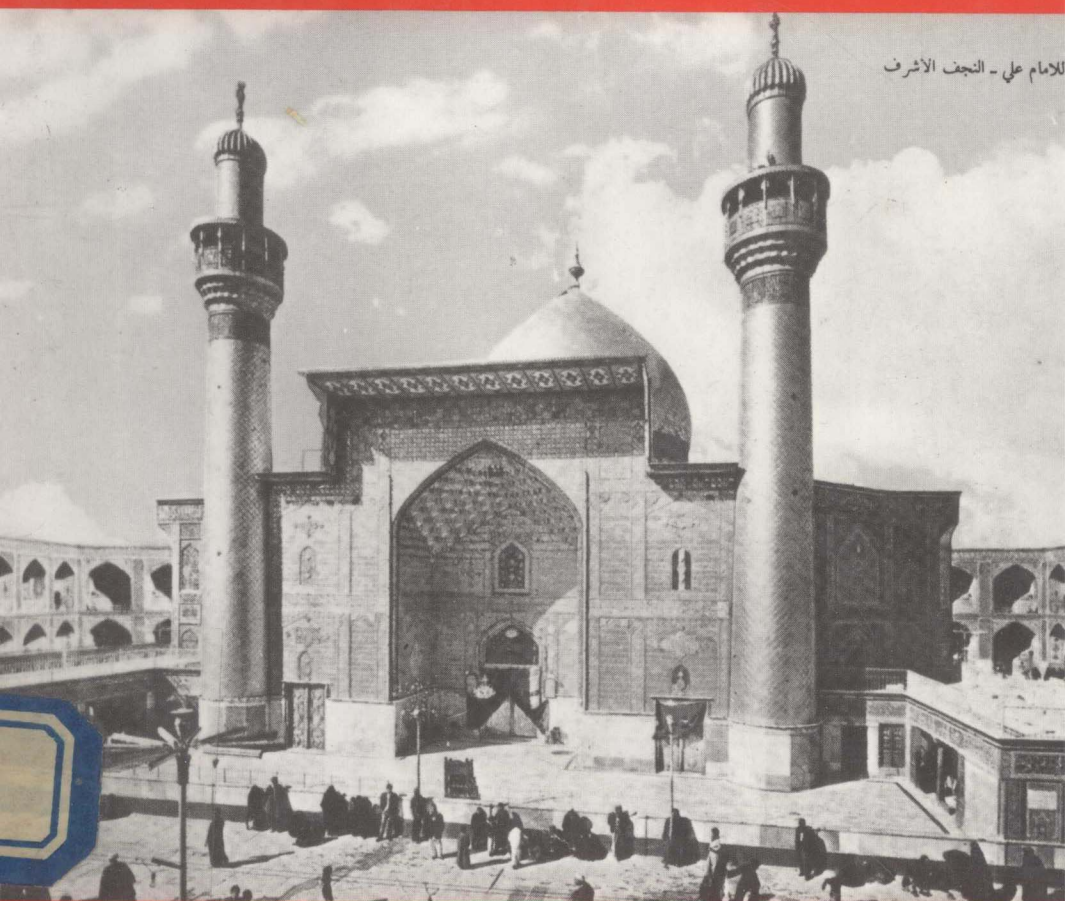


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Chibli Mallat

# The renewal of Islamic law

Muhammad Baqer as-Sadr,  
Najaf and the Shi'i International



# THE RENEWAL OF ISLAMIC LAW

Muhammad Baqer as-Sadr, Najaf and  
the Shi'i International

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## Note on transliteration and dates

### Italic and capitals

I have adopted for Arabic and Persian words the standard transliteration of the *International Journal of Middle Eastern Studies*, but I have omitted the diacritics, except in the bibliography and index. /' / is used for 'ayn and /' / for hamza.

Arabic and Persian words have been italicised throughout, except for usual non-italicised items which are current in English (such as the Qur'an), and institutions like the Iranian Majles (Parliament). In this case, they also begin with a capital. Following Henry Corbin (*En Islam Iranien*, 4 vols., Paris, 1971-2), the word *Imam* is capitalised only in reference to the Twelve *Imams* of the Shi'i tradition.

Also, as in Batatu's standard work on Iraq (*The Old Social Classes and the Revolutionary Movements in Iraq*, Princeton, 1978), we have found it more accurate to write as-Sadr rather than al-Sadr, at-Tabataba'i rather than al-Tabataba'i etc.

### Abbreviations

Q	Qur'an
BSOAS	<i>Bulletin of the School of Oriental and African Studies</i>
IJMES	<i>International Journal of Middle Eastern Studies</i>
SI	<i>Studia Islamica</i> .

### Dates

If a single date is used, reference is to the Gregorian Christian calendar. When a *hijri* (Hegire) date is used, it is followed by the corresponding Gregorian date. No specification is made to Hijri *qamari* (lunar calendar) or to Hijri *shamsi* (solar calendar generally used in modern Iran) since the context is generally sufficient to distinguish the use of each, which is in any case followed by the AD date.

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## General introduction: The law in the Islamic Renaissance and the role of Muhammad Baqer as-Sadr

### *Law as Lingua Franca*

In recent years, a renewed interest in Islam as a worldwide active social phenomenon has appeared. This has resulted in a flurry of works of sundry types on the theme of resurgence, revivalism, re-emergence of political Islam, also dubbed revolutionary Islam, radical Islam, militant Islam, Islamic fundamentalism, or more simply Islamism.<sup>1</sup>

The issue of Islam as a socially turbulent phenomenon was approached by countries and disciplines: history, sociology, anthropology, politics.<sup>2</sup> Questions were being posed in the worried and intrigued West, but they were also being asked in the East, where answers had an immediate political relevance. Naturally, the concerns were different according to the groups' varied interests. The common underlying concern, however, was for stability, or its converse, foiled or successful revolution. Depending on the position of a group in a particular state, fear, concern, or hope alternated.

This research tries to look into the thought of the resurgent Islams behind the first layer of enthusiasm or despair, to determine how the new vindicated outlook was shaped, and to examine whether there were any new ideas in the alternative system at all. In this longer perspective of the history of ideas, ideas could be 'new' only in comparison with earlier outlooks. A comparative, as well as a prospective work was therefore needed. This meant not only asking questions of a chronological type, whether current ideas were new compared to those reformists advocated fifty or a hundred years ago, but also whether the claim of a different strand of thought which was specifically Islamic could be defended before a more universal jury.

One striking feature of the Islamic renewal is the legal form emphasised in its own language. Whether voiced by laymen or religious scholars, the appeal to Islam has directly addressed Islamic law: the *shari'a*. The concern of the Islamist advocates has primarily taken a legalistic form. The '*ulama*'s (plural of '*alim*', or *fuqaha*', plural of *faqih*, jurists) emphasis on the law might not be surprising, since they would in effect be defending their speciality. This is particularly true when the body of the '*ulama* as such is under attack by the rapid changes brought about by the twentieth century. But upholders of revolutionary Islam were not solely scholars of the law, and the reasons for the appeal to the *shari'a* by people who were not essentially trained in classical law are rooted in the special place of the *shari'a* in the tradition.<sup>3</sup>

Certainly Islam has offered as a civilisation areas of extreme sophistication in all walks of life, including scientific and literary disciplines. Yet, strong as the scientific tradition may have been, it has objectively lagged behind the advances of the scientific disciplines in the West. This is not true of the literary disciplines, some of which prove essentially incompatible with a categorisation in terms of progress. Typical of the 'humanities' field is literature: the poetry of al-Mutanabbi, Abu Tammam, Hafiz, and Firdawsī remains unsurpassed. In these fields, there can be no 'advance'.

Other disciplines partake of the two traditions. They are both comparatively static and prone to 'advances' which render preceding research in their field, as in pure science, relatively obsolete. The pertinence of progress in their case is more uncertain. Such is the case of the '*continent histoire*',<sup>4</sup> in which Ibn Khaldun (d. 808/1406) appears as a scientific analyst of the rise and fall of nations. One is reluctant none the less to describe *the Muqaddima* as a 'scientific' text. It belongs to a type of historiography which starts with Ibn Khaldun and flourishes in the nineteenth and twentieth-century histories with major works emphasising economic structures, modes of production and exchange, and long waves.<sup>5</sup> But the language of *the Muqaddima* offers a string of brilliant insights rather than the systematic model of interconnected concepts which distinguish scientific laws.

These remarks may be too general for a precise classification of major disciplines in the Islamic tradition, but they serve the limited purpose in this essay of 'discarding' the work of historians like Tabarī (d.923), Ibn al-Athīr (d.1234), and Ibn Khaldun, in so far as they have resisted the impact of breaks ('*coupures*') and breakthroughs which characterise science.<sup>6</sup>

More specifically in the study of the thought of revolutionary Islam, the relative<sup>7</sup> irrelevance of the historiographic tradition appears mostly in the general lack of reference to that tradition within Islamic movements.

To this caveat it must be added that the question which is important for the currents of Islamic resurgence is not of a diachronic nature. The validity of historical research and the criteria of its scientificity are secondary to the purely 'synchronic' dimension at stake. Synchrony here means the relationship to contemporaneity. In the case of Ibn Khaldun, the whole of *the Muqaddima* appears irrelevant because it fails to answer the basic need of a contemporary movement in search of Islamic legitimacy: how can the modern Islamic polity be shaped? *The Muqaddima*, Maqrīzī's (d.1442) or Tabarī's histories, or the great works of the geographers cannot give ready answers. Muslim historians and geographers can only be precursors. The material they offer is too raw. It needs to be fundamentally reworked to appear relevant for questions of the late twentieth century.

One field, in contrast, where the riches of the Muslim tradition appear inextinguishable, and, at the same time, of immediate relevance for the contemporary Islamic polity is the law.

Ibn Manẓūr (d. 711H/1311 AD), the most famous Arab lexicographer, mentions in his dictionary *Lisān al-ʿArab* under the root '*sh r ʿ*' that '*sharīʿa* is the place from which one descends to water ... and *sharīʿa* in the acception



of Arabs is the law of water (*shur'at al-ma'*) which is the source for drinking which is regulated by people who drink, and allow others to drink, from'.<sup>8</sup> A later classical dictionary is even more specific: '*Ash-shari'a*', writes Zubaydi,

is the descent (*munhadar*) of water for which has also been called what God has decreed (*sharra'a*: legislate, decree) for the people in terms of fasting, prayer, pilgrimage, marriage etc ... Some say it has been called *shari'a* by comparison with the *shari'a* of water in that the one who legislates, in truth and in all probability, quenches [his thirst] and purifies himself, and I mean by quenching what some wise men have said: I used to drink and remained thirsty, but when I knew God I quenched my thirst without drinking.<sup>9</sup>

The connection between *shari'a* as a generic term for Islamic law, and *shari'a* as the path as well as the law of water, is not a coincidence, and the centrality of water in Islam is obvious in the economic as well as ritualistic sense. What is more important however, is that the jurists – the exponents and expounders of the *shari'a* – did not fail to develop, in answer to this centrality, a highly sophisticated system of rules, covering the whole field of what the contemporary world perceives as 'law'.

From a purely religious law, the *shari'a* therefore developed into the common law of the Muslim world, extending its realm to encompass what modern law would identify as statutes, customs, legal deeds, court decisions, arbitration awards, responsa literature known as *fatwas*, etc. With the secular distinctions introduced by the European Enlightenment, the *shari'a* lost ground in the Middle East as a common law with no clearly identifiable separation between the religious and the non-religious, but a strict separation of the two realms remains to date impossible. Yet the religious persons at the centre of the Islamic renewal are more jurisconsults than theologians, a fact of importance for developments in the late twentieth-century Muslim world.

In the process of renewing the *shari'a* by the jurisconsults, developments were rife both in terms of form and substance. In substance, as in Salvador Dali's advice to young painters eager to do something 'new', novelty was secured naturally. A twentieth-century author cannot fail to be 'new'. In form, the tentacles of the modern state invested the area previously reserved for individual jurists. The process of codification, which started haltingly in the *qanunnamehs* of the early Ottoman empire, was established, and the debate over the place and role of the *shari'a* extended to all the artisans of legal literature in the contemporary period: legislators, judges and scholars. The sway of 'classical' Islamic law did however vary widely.

In some areas, the consistency and relevance of classical Islamic law are remarkable. Such is the case of the law of succession, where, but for minor modifications, the law applied at present has kept to the same blueprint elaborated by the early jurists of the first and second centuries.<sup>10</sup>

Other areas of the law have been completely discarded. The most significant example attaches to the law of trade in relation to slaves. Jurists of the classical age have written long sections on the rights of slaves as opposed to the rights of free persons, and the special position of slaves in the law

permeates several fields, including torts, crime, booty in international law, and property.<sup>11</sup>

Less dramatic than slave law, but similar in many ways, has been the whole area relating to the *'ibadat*, the legal dispositions in the classical texts which regulate acts of worship. In a sense, these rules remain untouched by historical change, and the conduct of a *'ibada* like prayer cannot be affected fundamentally by the new age. Under what is now considered as law, these areas are irrelevant. The *'ibadat* have stopped being a legal precinct. Similarly, there is little or no debate as to the regulation of *hajj* (pilgrimage), and even though its importance remains great, as the polemic between Saudi Wahhabis and Iranian Shi'is in recent years indicates,<sup>12</sup> the problem is purely of a political nature. Classical law does not bear on the controversial areas of the *hajj*.

Other areas of the legal spectrum, still, appear of only marginal relevance. Such is the case, in the present world of nation-states, of the whole field of international law, where the dichotomy between *dar al-harb* (war territory) and *dar al-islam* (peace territory) at the heart of the classical theory has become completely marginal.<sup>13</sup> Similarly, classical criminal law appears, but for some exceptions, not to be followed in the majority of the world's Muslim countries.<sup>14</sup>

The Islamic Renaissance feeds on different legal fields. Although a clear-cut distinction can hardly be made in a vast body of literature which claims to be universal, the importance of only a few legal areas has come to the fore in the years of the renewal. Other areas have been left out. Following the taxonomy just described, international law, criminal law, *'ibadat*, torts and civil law generally, have all remained outside the sphere of interest of the Islamic Renaissance. Similarly, currently relevant parts of the classical *shari'a*, such as the family and succession, have on the whole changed very little since the late 1950s, when important reforms took place in most Muslim countries.<sup>15</sup> Two general areas, in contrast, have been opened to careful scrutiny. They are the constitutional part of public law, and the large field opened up by modern economics: labour law, land law in its specific economic dimension, industrial production and relations, and banking.

The Islamic revival has taken place essentially in these domains. Of course, as in all systematic exercises, there have been many forays into other fields outside the law, including Islamic arts and sciences. In the strict legal domain, writings on civil law, on torts<sup>16</sup> and contracts,<sup>17</sup> were published, and criminal and international law were discussed. These areas did not constitute, however, the crux of the Islamic Renaissance, because the upheaval that the world has witnessed in the Middle Eastern intellectual scene has been much more connected with economic and constitutional issues than with more neutral areas of the civil, criminal, or international law disciplines. Recent turmoil has affected primarily constitutional and economic law, and this is where the intellectual legal production has been at its best and most creative. The Renaissance in Islamic law has been prompted in these two fields, as against other areas which have remained untouched by the revival efforts.

Although it is difficult to explain this selective phenomenon, an essential factor that comes to mind is related to the conditions of the revival. At the heart of it, and at the heart of the renewed interest in Islamic thought worldwide, is without doubt the success and durability of the Islamic Revolution in Iran. Without Iran, Islam would have not come centre stage in the same way, and the vast literature accompanying it would not have come so forcefully into being. The Renaissance, with its emphasis on break and change, has come because of the emergence of a State, the Islamic Republic of Iran, where the received tradition had not developed sufficient conceptual tools.<sup>18</sup>

The establishment of the Iranian State has been directly affected by those legal elements which are central to the concerns of the Iranian revolutionaries now in power. Their interest, because of the peculiar nature of the Revolution, bears precisely on the 'Islamic' formation of State agents, in other words on the Constitution. Because they claim their State to be special and exclusive, the first task confronting the Iranian revolutionaries was the peculiarity of the 'Islamic' State. The other fundamental task was the implementation of a discourse of change in the country's economy. The language of the Iranian Revolution has been premised on an idea of justice which needed implementation, and the tool of the implementation was the law.

These are therefore two priorities of the Islamic Revolution: the 'Islamic' way the institutions of the country are formed, and the 'Islamic' way the production and distribution of wealth is carried out.<sup>19</sup> From the outset of the new regime, an overwhelming interest lay in economics and constitutional law. But the field did not come about as a *deus ex machina*. The Iranian Revolution, like all the revolutions in the world in search of authenticity, had to look back to the tradition for precedents.

Good research on the intellectual roots of the Iranian Revolution has already been achieved, and has uncovered two main strands of revolutionary forerunners. These strands can be described under two headings: the *sufi*, and the *faqih*, traditions. On the one hand, the *sufi* tradition is apolitical and emphasises the philosophical-mystical dimensions of Islam. On the other hand, the *faqih* tradition is deeply concerned with the relationship between government and governed, and is rooted in the legal riches of Islamic culture.

The *sufi* tradition, which fed on such works as Muhammad Husayn Tabataba'i (d. 1983) and Henry Corbin (d. 1978), appears best in the existentialism-influenced background of 'Ali Shari'ati (d. 1977). The Shari'ati legacy is probably most alluring in terms of its humanistic appeal, and it has been the focus of much scholarship in the West in the first years after the revolution.<sup>20</sup> As its relevance to the new Iranian State proved increasingly minimal, and however important a rallying point it represented to the disgruntled opponents of the Shah before the revolution, the *faqih* tradition supplanted it. Law was a much better tool to understand the institutionalisation of the new system.

The *faqih* tradition at the root of the Islamic Renaissance is therefore more

appealing from the point of view of the tangible reality of things. As a field where tradition is centuries old, legal scholarship offers an important domain of investigation for the contemporary world.

Yet all the branches of modern law were not equally developed. There is no better example of unequal development than the richness of the field of constitutional law and the virgin territory constituted by economic and financial law.

Theory of government in Islam has ranked high in the concerns of scholars and *'ulama*, and solid work has been produced in this area of modern Islamic thought.<sup>21</sup>

Constitutional theory from an Islamic perspective is important for modern times, particularly in the case of Iran, where the turmoil between 1905 and 1911 was very much enmeshed with the fate of the *mashruti*. The *mashruti*, being the 'Dean of Middle Eastern Constitutions',<sup>22</sup> has been the subject of much scholarship.<sup>23</sup> The constitutional debate has not of course been limited to Iran, but the Iranian events enhanced the received version of government and resource management in a way which shifted the debate to the Shi'i world in an unprecedented manner.<sup>24</sup>

Much work has been produced on government and economics from the legal point of view in Cairo, as well as in the Maghreb. However these works never became truly important, because they never had the chance of finding some practical application from inside the power of a state. It is only retrospectively that Khumaini's *wilayat al-faqih* became significant.<sup>25</sup> Its relevance in effect, and the interest of scholarship in it, were actualised only when its author suddenly seized power. Until 1979, the Iranian leader's reflections on Islamic government represented one pamphlet amongst many others.

But things are not so simple. The dialectic of a text and of an upheaval that claims it as intellectual foreboding and basis does not permit a single answer. The French rhyme of the 1789 Revolution about 'stumbling because it was Voltaire and Rousseau's fault' expresses well the one side of this difficult dialectic.<sup>26</sup> The song claims it was because of the revolutionary thought of the *philosophes* that the revolution took place. But, on the other side of the dialectic, would the Social Contract be anything more than an utopia without Robespierre's actualisation of Jean-Jacques Rousseau?

All other matters remaining equal, the Iranian Revolution offers a similar dialectic. Khumaini's lectures would have passed relatively unnoticed, had Khumaini not come to power in Tehran. But neither would the revolution in Iran have taken the same constitutional form, without the blueprint of the Ayatollah's lectures. It may even be suggested that the revolution in Iran would not have taken place without Khumaini's lectures, the audience which paid attention to them, and the various circles which discussed and elaborated on his theory and tactics.

To carry the comparison with the *philosophes* further, it is suspected that a Rousseau never comes on his own. Who came with Khumaini? This is

where the relevance of Shi'i thought as a whole becomes logically compelling. The action was not restricted to a single individual. Beyond the immediate persona of Khumaini, many protagonists prepared the intellectual terrain, and the case of Shari'ati comes naturally to mind as a prime example. But Shari'ati was no jurist, and the function of Shari'ati's texts was mainly cultural.<sup>27</sup> Khumaini's acolytes stemmed from a different background, which was legal both in its formation and its expression. Hence the relevance of Shi'ism. Khumaini is a Shi'i 'alim, a *mujtahid*. It is in the legal circles in which he and his colleagues were educated that the investigation will yield up the clues to the Iranian constitutional and economic order.

In the Islamic Renaissance as a whole, it is important to bring some perspective to Khumaini by putting him in the wider perspective of the milieu of which he was part. This milieu is rooted in the law colleges of the Shi'i world, most prominent of which was Najaf in the South of Iraq. It is in Najaf that the Islamic legal renewal took place in the 1960s and 1970s. In Najaf, Khumaini himself was one scholar among many.

For a long time, and until he emerged in the light of the Paris exile in the fall of 1978, Khumaini had remained more or less at the periphery. Despite his access to the position of *Ayat Allah* (literally the sign of God, the highest position in the Shi'i legal hierarchy), he was not an innovative jurist by the standards of Shi'i scholarship. Khumaini has little or nothing to say about banking or economics and, even in constitutional law, his main contribution in the Najaf lectures of 1970 was too polemical to offer any significant watershed for the field. Khumaini must be understood as a part, albeit important, of a larger and deeper wave, which is in essence constituted by the 'Shi'i international' formed by the teachers and graduates of the Iranian and Iraqi law colleges.<sup>28</sup>

There was in the Shi'i world a man of much higher intellectual calibre than Khumaini, a man whom Khumaini acclaimed, upon his execution by the Iraqi Ba'th party in April 1980, as 'the prize of Islamic universities':<sup>29</sup> Muhammad Baqer as-Sadr.

### Muhammad Baqer as-Sadr: a bio-bibliographical presentation

A decade ago, it would have probably still been necessary to defend the choice of a 'alim who was completely unknown in the Western world, and who, for a few scholars in the Middle East, merely meant a book, *Iqtisaduna* (*Our Economic System*), and a tragic existence which ended in execution in obscure circumstances in Iraq.

The picture in the late 1980s has radically changed, as the reputation of Sadr, by now well established among his followers currently in exile (mostly in Iran), has crossed the Mediterranean towards Europe and the United States. In 1981, Hanna Batatu had already drawn attention in an article in *The Middle East Journal* in Washington to the importance of Sadr for the underground Shi'i movements in Iraq.<sup>30</sup> In 1984 *Iqtisaduna* was translated, in part, into German, with a long introduction on the Shi'i 'alim by a young

German orientalist.<sup>31</sup> It soon became impossible to ignore his importance in the revival of Islamic political movements, in Iraq, in the Shi'i world, and in the Muslim world at large. A comparative book on the Islamic movements put Sadr centre stage in relation to Iraq.<sup>32</sup> Then acknowledgment came in Israel,<sup>33</sup> and in France, where a well-informed new journal on the Middle Eastern scene consecrated a long dossier to Muhammad Baqer as-Sadr in 1987.<sup>34</sup>

Muhammad Baqer as-Sadr was born, according to his Arab biographers,<sup>35</sup> in 25 Dhu al-Qi'da 1353/1 March 1935 in Kazimiyya, Iraq, to a family famous in the Shi'i world for its learning. His great-grandfather Sadr ad-Din al-'Amili (d. 1264/1847) was brought up in the Southern Lebanese village of Ma'raka, then emigrated to study in Isfahan and Najaf, where he was buried. His grandfather Isma'il was born in Isfahan in 1258/1842, moved in 1280/1863 to Najaf then Samarra', where he is said to have replaced al-Mujaddid ash-Shirazi in the local *hauza* (Circle of Shi'i scholars). He died in Kazimiyya in 1338/1919. His son Haydar, the father of Muhammad Baqer as-Sadr, was born in Samarra' in 1309/1891, and studied under his father and under *Ayat Allah* al-Ha'iri al-Yazdi in Karbala. He died in Kazimiyya in 1356/1937, leaving a wife, two sons and a daughter. Though a relatively well-known *marja'*, he seems to have died penniless. 'The family, until more than a month after [his] death, were still unable to secure their daily bread, *kamu ha'irin fi luqmat al-'aysh*.'<sup>36</sup>

The 'international' scholarly background, and the relative poverty into which Sadr was born, are the two important elements which determined the context of Sadr's upbringing. The economic hardship that the family faced upon the early death of Haydar as-Sadr came to Muhammad Baqer when he was still an infant.<sup>37</sup> Other members of his family looked after his education, and he grew up under the supervision of his uncle on his mother's side,<sup>38</sup> Murtada Al Yasin, and of his older brother, Isma'il (1340/1921-1388/1968).<sup>39</sup>

In Kazimiyya, Muhammad Baqer went to a primary school called Muntada an-Nashr, where, according to reports of schoolmates, he established himself early on as a subject of interest and curiosity to his teachers, 'so much so that some students took to imitating him in his walk, speech and manner of sitting in class'.<sup>40</sup>

Post mortem descriptions are often eulogistic, and must be taken with circumspection. Against the testimonies of these panegyrics, there is unfortunately no material for contrast, since the government in Iraq does not even acknowledge the existence of Sadr, let alone his intellectual or political achievements. One is therefore limited to the texts themselves, and to the hagiographies of students and followers close to the deceased '*alim*. However unlikely this may be, several reports mention, for example, that Sadr wrote a first treatise at age eleven. 'Abd al-Ghani al-Ardabili, quoted in Ha'iri's biography, refers to this book as a treatise on logic.<sup>41</sup> The earliest published work that can be traced dates however from 1955.<sup>42</sup> This study, an analysis on the episode of Fadak and its significance in Shi'i history, shows great

maturity in the young scholar's thoughts in terms of method and substance. The content however betrays a sectarian Shi'i tone which soon disappeared from Sadr's language, until it came back to the fore at the time of the confrontation with the Ba'ath in the late 1970s.<sup>43</sup>

In 1365/1945, the family moved to Najaf, where Sadr would remain for the rest of his life. The importance of Najaf had already been established in the twenties as the city and its 'ulama emerged as the central focus of resistance against the British invasion.<sup>44</sup> A lull followed after a relative defeat against the King in 1924, when major jurists took the route of exile, but most returned a few years later to resume their study and teaching away from political turmoil.

The picture changed radically in the 1950s, as the quietism of the *mujtahids*, instructed by their inability to stand up to the confrontation with Baghdad, received a serious challenge in the years leading to the 1958 Revolution from an unsuspected quarter, the Communists.<sup>45</sup>

The Communist challenge to the 'ulama received the attention of one of the most prominent leaders in Najaf, Muhammad Husayn Kashif al-Ghita'. Kashif al-Ghita' greeted in 1953 the American and British ambassadors in the city with complaints about the Western shortsighted attitude to the Middle East. Western policy, he explained to them, was responsible for the fertile ground left open to the development of Communism. This was due to Western support for the Zionist presence in Palestine, and to the government in Baghdad which allowed the perpetuation of the dire poverty of the people and 'ulama.<sup>46</sup>

Sadr found himself in the midst of a bitter intellectual confrontation between traditional Najaf and the Communists, and his world view was formed with this twofold intellectual background: a Socialist-Communist call prevailing in the whole of the Middle East, which permeated the concern in his writings with the 'social question';<sup>47</sup> and the traditional education of the 'ulama, including the relatively strict structure of their hierarchy.

More will be said below of the classical education in Najaf in the 1950s and 1960s, because of the importance of the colleges in the constitutional system of the Shi'i world, and the analysis of *Iqtisaduna* will show how Sadr tried to counter the communist appeal to redress the 'social balance'. The constitutional section will also try to use significant aspects of Sadr's early and late life as a contrasting example of the Shi'i *mujtahids*' hierarchy. In the remainder of this section, the system offered by Sadr's works will be introduced by a rapid overview of his prolific production, against the developments on the Iraqi scene as perceived from Najaf.

The strict, more traditional dimension of Sadr's works appears in several publications which span his life. Most conspicuous are his books on the jurisprudential discipline of *usul al-fiqh*, of which two samples can be considered. One sample belongs to the early years of Najaf, where Sadr wrote an introduction to the history and main characteristics of the discipline, *al-Ma'alim al-Jadida fil-Usul*.<sup>48</sup> This book, which became widely used for introductory teaching at Najaf, was published in 1385/1964. It remains one

of the more interesting and accessible works in the field.<sup>49</sup> Sadr himself authored more complicated *usul* works. In 1397/1977, the first tome of a series of four volumes on 'ilm (the science of) *al-usul*, which were destined to prepare the students for the higher degree of *bahth al-kharej* (graduate research), appeared in Beirut and Cairo.<sup>50</sup> Sadr suggests that he prepared these works to facilitate the task of students, who were otherwise subject to the 'pressure in the language'<sup>51</sup> of the four basic works in use for over a half century in Najaf.<sup>52</sup> *Al-Ma'alim al-jadida* and the *Durus* series represent the didactic side of Sadr's interest in *usul al-fiqh*. They were intended for the apprentice 'alim who would find the direct approach to the requirements necessary before *bahth al-kharej* too difficult, and to the lay person generally interested in the overview of the discipline. But Sadr also wrote more advanced works in *usul*, some of which were published posthumously. Most of these advanced works were in the form of notes taken by his students. This is the case of Kazim al-Husayni al-Ha'iri, who compiled a first volume of *Mabaheth al-Usul* in 1407/1987,<sup>53</sup> and of one of Sadr's favourite disciples, Mahmud al-Hashimi, who assembled the section of Sadr's lectures on *Ta'arud al-Adilla ash-Shar'iyya* in a book published in 1977.<sup>54</sup>

The works on *usul* being traditionally student compilations of the lecturers' notes, there is little doubt that many of Sadr's classes must have been recorded, and there will probably appear more *usul* works by Sadr in the future. Biographical sources also mention a first volume in a series entitled *Ghayat al-Fikr fi 'Ilm al-Usul* (*The highest thought in the science of usul*),<sup>55</sup> and it is doubtful that the entire works of Sadr in this field, which he started teaching in Najaf on the higher *kharej* level in 1378/1958<sup>56</sup> will ever be completely recovered.

Akin to these difficult works are Sadr's more general investigations in jurisprudence (*fiqh*), and in logic and philosophy.

The interest in these two areas stems from various concerns. The interest in logic was part of the exercise in *usul*, with a more universal dimension which was meant to offer a response to the same discipline in the West. The main work in this domain is Sadr's *al-Usus al-Mantiqiyya lil-Istiqlal*.<sup>57</sup> Sadr tries to take on the field of logic on its own terms, and *al-Usus al-Mantiqiyya* is filled with references to Russell and to mathematical symbols and equations, leading up to the revelation of the 'true objective' of the work: 'to prove ... that the logical bases on which are built all the scientific conclusions derived from observation and experience are the very logical bases on which is built the conclusion on the evidence of a creator and organiser of this world ... This conclusion, as any other scientific conclusion, is inductive in its nature.'<sup>58</sup> This work is actually part of the larger system which Sadr was trying to construct on the basis of Islam, and the dabbling in logic with *al-Usus al-Mantiqiyya*, as well as with other smaller contributions,<sup>59</sup> was perhaps the least successful achievement of the system, for Sadr was not well equipped to take on such arcane discipline. It must be noted none the less that the display of technical terms in Arabic is rather remarkable in a field where even terms-of-art are still in the making.



Sadr is better known for his work on philosophy, *Falsafatuna*, which has recently been translated into English.<sup>60</sup> How much the substance of *Falsafatuna* has enriched the philosophical debate in the Muslim world, and whether the work is up to par with the great philosophers in history, is doubtful. The book bears the imprint of the pressing conditions which produced it. Sadr is said to have completed the research and writing in less than a year.<sup>61</sup> In some passages where the authentic Islamic tradition in philosophy surfaces, however, the book reveals the diversity and originality of Sadr's mind. An example drawn from a parallel adapted by Sadr from Mulla Sadra Shirazi (the famous Iranian philosopher, author of *al-Asfar al-Arba'a*, d. 1640) will give an idea of both the constraints of Sadr's philosophical system and its relative originality.

It is now well established that *Falsafatuna* was written in 1959 in reaction to the growing Communist tide in Iraq, particularly among the more disenfranchised Shi'is.<sup>62</sup> Sadr's first purpose was to stem the tide by offering a better understanding and a closer look at Marxism's own system and terminology. *Falsafatuna* appears as a detailed critique, from an Islamic point of view, of the most sophisticated expression of materialist philosophy available then in the Arab world. An appendix to the first edition of the book reveals Sadr's Marxist sources.<sup>63</sup> For a Shi'i *mujtahid*, the effort is remarkable, but the longer term prospects of a book based on a Stalinist-cum-Politzerian dialectical materialism were doomed. Reading *Falsafatuna* now gives a distinct flavour of a *dépassé* language.

What appears to be more interesting than the struggle over the Engels and Stalin philosophical classics of the 1950s (in their Arabic version) is the use in contrast, from time to time, of the philosophical categories of a thinker of Mulla Sadra's stature.

The use of Mulla Sadra's *haraka jawhariyya* is most patent in the chapter of *Falsafatuna* dealing with 'the movement of development'.<sup>64</sup> This chapter typically opens with two quotes from Stalin and Engels on the superiority of Marxist philosophy (dialectical materialism) in its approach to nature as a developing process of contradictions. The quotation sets dialectical materialism in contrast to the idealist school of philosophy, which considers nature in its fixed, unevolving and unevolved form.

First, Sadr points out the fallacy, in the Marxist approach, of impoverishing the philosophical tradition: '... As if the poor metaphysicist had been shorn of all types of understanding... and came not to feel like anybody else... the ways of change and transformation in the world of nature'.<sup>65</sup>

Greek history, says Sadr, has always been mindful of the concept of development in nature. It was never a question for the philosophical debate among the Greeks whether nature develops or not. The debate, with Zeno on the one hand, and the Aristotelian school on the other, was between the first school's emphasis on stages of transformation which carry the object through several discrete phases, and Aristotle's emphasis on movement as a gradualist realisation of the potentiality of the object. This Aristotelian