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THESIS ACCEPTED IN SATISFACTION OF THE  
REQUIREMENTS FOR THE DEGREE OF  
DOCTOR OF PHILOSOPHY

ON..... 7 April 2000 .....

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### **Addenda**

p. xiii, line 14 should read: *hadith* (plural: *ahadith*): refers to the sayings attributed to the Prophet Muhammad. In the Shi'i interpretation, it also includes the sayings of the Twelve Infallible Imams that succeeded him.

p. xiv, line 8 should read: *Summa*: in the Sunni tradition, represents the collection of reports of the words and acts of the Prophet Muhammad and the four Righteous Caliphs that followed him.

p. 15, 2nd paragraph should start: Among the Sunni schools, whereas...

**Monash University**

**The Islamic Debate over  
Land Reform in Iran (1979-1988)**

**by**

**Khadija Viviane Frings-Hessami**

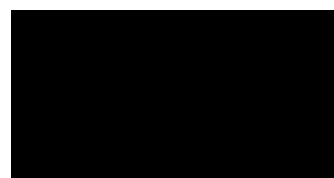
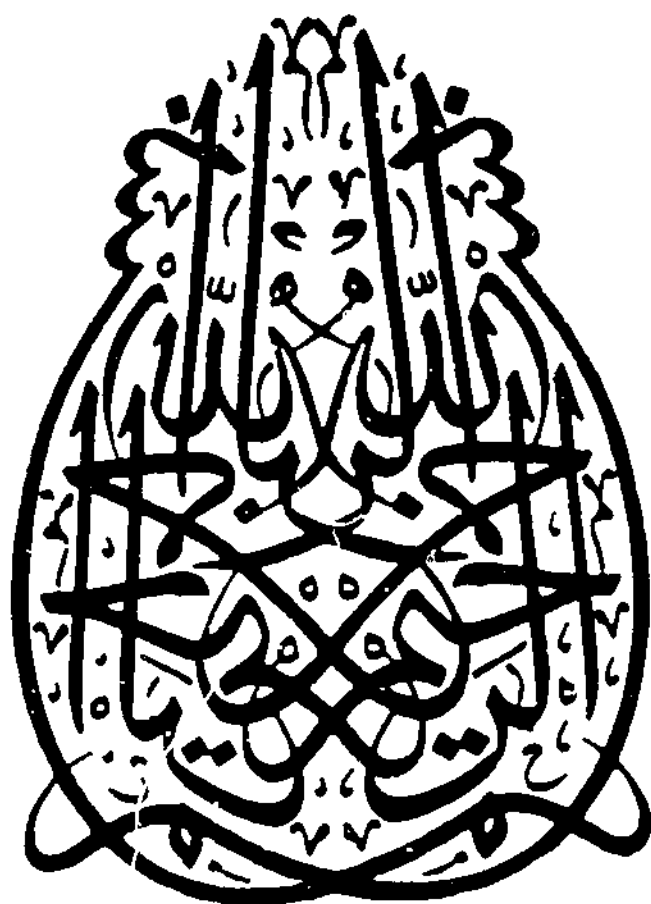
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Calligraphy by Abbas Manzuri (Courtesy of Scarlett Richards)



To Akbar and to Kazem who was born in the middle of this thesis,

به اکبر و کاظم

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## Summary

The issue of land reform divided the Islamists in power in Iran in the 1980s into two broad factions: a radical faction advocating a sweeping programme of land distribution and a conservative faction holding fast to the concept of the sanctity of private property. The issue was able to evolve into a controversial one because Ayatollah Khomeini did not pronounce himself on it and avoided taking sides. It was debated in various forums from the Revolutionary Council to the daily press and specialised journals.

This thesis concentrates on the debates on land reform in the *Majles*, the Islamic Consultative Assembly, between 1981 and 1986 which, up to now, have received little attention in the literature about contemporary Iran. The *Majles* had to operate within some constraints and limits, in particular its members had to accept the doctrine of the *velayat-e faqih* (governance of the Islamic jurist) which was at the basis of the Constitution. Nevertheless, it functioned as a forum for discussion of many important social and economic issues between the various political camps and interest groups within the Islamic state. Land reform is one of the issues which led to passionate debates between the partisans of laissez-faire policies and those who favoured a widespread intervention of the state in socio-economic matters.

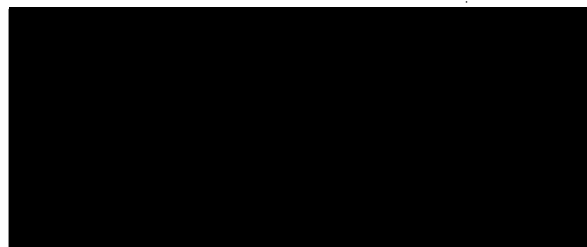
Inspired by their progressive interpretation of Islamic law and their desire to establish Islamic justice in the Iranian countryside, the radical members of the ruling clergy advocated a redistribution of the estates of the large landowners. They argued that feudalism and the exploitation of the hard-working peasants were against the spirit of Islam. However, when confronted with the well-enshrined principle of the sanctity of private property, the only device they found in Islamic law to overcome this obstacle was the principle of *zarurat* which permits one to ignore primary Islamic ordinances in situations of overriding necessity. Legislation was adopted on this ground in December 1982. But the Council of Guardians of the Constitution was not convinced by their argumentation and rejected the land reform law as contrary to the *Shari'a* and to the Constitution. Subsequently, the radicals only obtained the passing of legislation affecting dead lands and the lands which had been occupied by peasants since 1979. The bill dealing with the lands left uncultivated by their owners was blocked by the Council of

Guardians and only became law in 1988 after it was approved by the Council to Determine the Interests of the State on the basis of *maslahat*, the interests of the state.

The picture of Iran which emerges from the present study is at variance with that of a fundamentalist state since the government did not try to enforce a literal interpretation of Islamic law and restore all the lands into their legal status according to the *Shari'a*, but tried to reconcile Islamic law with the needs of a contemporary society. Moreover, the vitality of the debates among the Islamist factions provides evidence for the possibility of a pluralistic debate in an Islamic society.

### Statement

I declare that this thesis contains no material which has been accepted for the award of any other degree or diploma in any university or other institution, and I affirm that to the best of my knowledge, the thesis contains no material previously published or written by another person, except where due reference is made in the text of the thesis.



## Acknowledgments

Reflecting on my experiences of the last ten years since I graduated with a B.A. in History from the University of Liège (Belgium), I wish to thank all the persons who have encouraged me to pursue my research interests, interests which made me travel to the *end of the world* in search of the best place to complete a doctoral degree. In particular, Dr. Wu-Beyens from the Catholic University of Louvain (Belgium), Dr. C.W. Watson and Dr. Richard Vokes from the University of Kent (U.K.), and Professor David Chandler from Monash University deserve a mention, as well as my parents who financed my studies in England and my travels throughout Europe, South-East Asia and Australia. Although the original research project on Cambodia for which I came to Australia was completed and finally published as a book in 1997, my research interests shifted after I converted to Islam in 1993. As a result, I started working on this thesis in 1996. From January 1997 to June 1999, my work was supported by an Australian Postgraduate Award from the Commonwealth Government of Australia.

I am grateful to Dr. Colin Rubenstein for supervising the elaboration of this thesis. Within the Department of Politics of Monash University, I also wish to thank Dr. Dennis Woodward, Professor David Goldsworthy, Dr. Susan Blackburn and Dr. Andrew Perry for their encouragements. My fellow student Dr. Kavoos Mohannak provided much useful information before my trip to Iran in April-May 1996, as well as some insightful comments on my work afterwards. The staff from the Document Delivery Service of Monash library assisted me in locating and obtaining many relevant materials from libraries throughout Australia as well as from Iran.

During my trip to Iran, Mr Patrick Gibbons from the Australian Embassy provided me with helpful information on how to conduct my research in that country. The staff of the library of the Organisation of Planning and Budget and of the library of the Ministry of Islamic Guidance were very kind and helpful and gave me unlimited access to the documents in their possession. Moreover, the owners of several Islamic bookshops in Tehran, Mashhad and Isfahan patiently searched through piles of second-hand books to locate the out-of-print books that I needed for my research.

Finally, I am indebted to my husband, Dr. Mir-Akbar Hessami, a native Farsi-speaker and a Shi'a from Afghanistan, for helping me to learn Farsi and to translate Farsi



documents, for facilitating my contacts with Iranian officials during our trip to Iran, and for his support and assistance in looking after our young son during the writing of this thesis.

### Note on the Transliteration System and on the Iranian Calendar

Throughout this thesis, Islamic terms are quoted in their Arabic form, except those, such as *velayat-e faqih* (governance of the Islamic jurist) that are mostly used in their Farsi (Persian) form. The transliteration method used for these terms, as well as for Arabic names, is a simplified version of the system most commonly used for Arabic without the diacritical marks. It is somewhat different from that used for Farsi words and Iranian names, which corresponds to the Iranian (Tehran's) pronunciation.

For example, the letters ذ, ظ, and ح are all pronounced z in Farsi whereas they mark different sounds in Arabic and are indicated as z for the first two (the second should be z with a dot under it), dh for the third one and d for the fourth one. The consonant و is pronounced w in Arabic and v in Farsi, while ه at the end of a word is rendered as -a for Arabic words and -eh for Farsi words. The *kasra* (dash under a letter to indicate a short vowel) is transcribed as i in Arabic and e in Farsi. As a consequence, the same Arabic name may be pronounced and written differently depending on whether it is that of an Arab or an Iranian. For example, **كازم** will be transcribed as Kazim for the Seventh Shi'i Imam and Kazem for the many Iranians named after him. Also as a result of the simplified transliteration system used, no difference is made between short and long vowels.

Whereas the Muslim calendar is a lunar calendar which starts from the *Hijra*, the migration of the Prophet Muhammad and his followers from Mecca to Medina in 622, Iran uses a solar calendar which starts from the same date, with new year's day falling on 21 March. Therefore, to translate a date from the Iranian calendar, one only needs to add 621 years.

### Glossary of Farsi and Arabic Terms

- 'alim* (plural: *'ulama*): learned man, especially used for clerics
- 'ulama*: plural of *'alim*
- ahadith*: plural of *hadith*
- anfal*: properties of the Islamic state
- anwatan*: lands conquered by force in the process of the Muslim expansion
- awqaf*: plural of *waqf*
- Band-e jim*: Clause C of the April 1980 Land Reform Law dealing with the distribution of the estates of the large landlords
- fatwa* (plural: *fatawa*): opinion given on a religious matter by a *mujtahid*
- faqih* (plural: *fuqaha*): Islamic jurist
- fiqh*: Islamic jurisprudence
- fuqaha*: plural of *faqih*
- hadith* (plural: *ahadith*): saying attributed to the Prophet Muhammad
- halal*: allowed
- haram*: forbidden
- ijara*: rental contract
- ijma'*: consensus among the Muslim jurists on a particular legal issue
- ijtihad*: highest-level of education among the Shi'i clergy which enables its recipient (*mujtahid*) to issue his own judgments and interpretations of religious matters
- Jihad-e Sazandegi*: Holy War for Reconstruction
- khoshneshin*: villagers without rights on land
- khums*: Islamic Shi'i tax fixed at 20 % payable on certain categories of goods and income
- Majles-e shura-ye Islami*: Islamic Consultative Assembly
- Maraji' at-taqlid*: plural of *Marja' at-taqlid*
- Marja' at-taqlid* (Farsi: *Marja'-e taqlid*): Source of Emulation, title referring to the most eminent *mujtahidin*, whose opinion must be followed by the other faithful
- mawat*: dead lands
- mosha'*: term referring to a property jointly owned by several owners
- mostaz'afin*: the downtrodden
- mujtahid*: cleric endowed with *ijtihad*

*muzalid*: emulator, term referring to a faithful Shi'i who follows the opinion of a *mujtahid*

*muzara'a*: sharecropping contract

*qiyas*: analogical deduction

*rial*: Iranian currency

*Shar'i*: related to the *Shari'a*

*Shari'a*: Islamic law

*Sunna*: collection of the reports of the words and acts of the Prophet Muhammad

*toman*: Iranian currency account unit equivalent to ten *rial*

*vali-ye amr* (Arabic: *wali ul-amr*): ruler, head of state

*vali-ye faqih*: ruling Islamic jurist

*velayat-e faqih*: governance of the Islamic jurist

*waqf* (plural: *awqaf*): religious endowment

*zakat*: Islamic tax payable on certain categories of property and wealth, whose proceeds go to the poor

*zarurat* (Arabic: *darura*): overriding necessity

## Introduction

The Islamic Republic of Iran is the only Muslim country which has attempted to administer a land reform under an Islamic government, and therefore constitutes a unique case to study the influence exerted and constraints imposed by Islam on land reform proposals in an Islamic country. A land reform programme had previously been implemented in the 1960s under the monarchical government of Mohammed Reza Pahlavi, but his was not an Islamic government. On the contrary, it was despised by most of the Shi'i clergy for its secular and Western tendencies.

In any case, up to the time of the 1978-79 Revolution, the Shi'i clergy considered that until the return of the Twelfth "Infallible" Imam all governments are illegitimate and may only be tolerated. The Twelfth Imam was the last of a line of descendants of the Prophet Muhammad through his daughter Fatima and cousin and son-in-law Ali, whom the Shi'as recognise as his legitimate successors. He is believed to have gone into a state of "occultation" in 874<sup>1</sup> to escape persecution and is expected to return shortly before the Day of Judgement to bring justice to the world. In the meantime, the clergy, the '*ulama*' (plural of '*alim*', learned man) came to view themselves as the intermediary between the Shi'i community and the Twelfth Imam, and thus the leaders of the community. However, throughout history, they had to accommodate the state institutions to preserve their own existence and interests and they generally restricted their role to that of moral guide of the society<sup>2</sup>.

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<sup>1</sup> The Eleventh Imam, Hassan al-Askari, died in 874. His son Muhammad, who had never been seen in public before, appeared for the first time on the day of his funerals, then went into a state of "occultation". Until 941, he was communicating with his followers through the intermediary of four successive agents. This was the Lesser Occultation, which was followed by the period of Greater Occultation during which the Hidden Imam did not have an agent any longer.

<sup>2</sup> Maziar Behrooz, "The Islamic State and the Crisis of Marja'iyat", *Comparative Studies of South Asia, Africa and the Middle East*, vol. 16, 1996, n. 2, p. 94; Moojan

The highest-level of education among the Shi'i clergy is that of *ijtihad* which enables the *mujtahid* (plural: *mujtahidin*) to issue his own judgments and interpretations of religious matters (*fatwa*). The most eminent *mujtahidin* are recognised to be *Marja' at-taqlid* (plural of *Marja' at-taqlid*, Farsi: *Marja'-e taqlid*) or Sources of Emulation. The faithful Shi'i *muqalid* (emulator) is free to choose which one he or she wants to follow. At times, a *Marja'* who is recognised by everyone to be the *Marja' al-kull* (Universal *Marja'*) may emerge. The last person prestigious enough to hold that position was Grand Ayatollah Hossein Borujerdi of Qom who died in 1961<sup>3</sup>.

Breaking with the Shi'i traditions which consider all government as illegitimate during the period of Occultation, the doctrine of the *velayat-e faqih* (governance of the Islamic jurist) developed by Grand Ayatollah Ruhollah Musavi-Khomeini and his followers in the 1970s postulates that the best form of government until the return of the Twelfth Imam is one overseen by a competent Shi'i jurist (*faqih*) who would guarantee the enforcement of the Islamic law (*Shari'a*). This concept was enshrined in the Constitution of the Islamic Republic of Iran after the Islamist groups took control of the state institutions. Khomeini, who was the indisputable leader of the 1978-79 Revolution as well as a *Marja' at-taqlid*, was recognised as the Ruling Jurist (*vali-ye faqih*) or Revolutionary Guide (*rahbar-e enqelab*) and was vested with executive powers. Other important positions in the state were reserved to Shi'i clerics, in particular the five positions on the High Judicial Council and half of the seats on the Council of Guardians

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Momen, *An Introduction to Shi'i Islam*, New Haven and London, Yale University Press, 1985, p. 189-196.

<sup>3</sup> In more recent times, especially after the 1978-79 Revolution, the prefixed designations of Ayatollah ("sign of God") and Grand Ayatollah (*Ayatollah al-Uzma*, "the greatest sign of God") came to be used for *mujtahidin* and *Marja' at-taqlid* respectively, while aspiring *mujtahidin* were referred to with the title of Hojjatolislam ("proof of Islam") (Momen, *An Introduction to Shi'i Islam*, p. 206). However, these are not clear-cut categories so that the same individual may sometimes be called Ayatollah and sometimes Hojjatolislam, and all the Ayatollahs do not have the same prestige.

charged with checking the compatibility of all legislation passed by the *Majles*, the Islamic Consultative Assembly, with the Constitution as well as with Islamic Law. The First *Majles* which was elected in the Spring of 1980 was constituted with nearly fifty percent of clerical members. Therefore, the institutions which were set up after the 1978-79 Revolution were not only Islamic in form, but were in great part manned by clerics.

For a variety of reasons, the issue of land reform assumed great importance in the first years after the establishment of the Islamic Republic. Since the reforms which were implemented by the government of the Shah in the 1960s and 1970s had not succeeded in solving the rural problems and in making the country self-sufficient in basic agricultural products, there was much talk in the revolutionary circles in 1978-79 about the need for a new land reform. All revolutionary groups criticised the Shah's neglect of agriculture and blamed his land reform for the poor performance of the agricultural sector, although many of them had little understanding of agriculture and its problems, and they had few positive measures to propose<sup>4</sup>.

In 1979, more than half of the population still lived in the villages and a large proportion of the peasants did not own enough land to assure their livelihood. Agriculture had been neglected under the Shah, sacrificed to his elusive dream of creating a great civilisation through the Westernisation and industrialisation of the country. As a result, the agricultural sector performed poorly and the country had to import large amounts of foodstuffs. Due to the international isolation of the Islamic Republic of Iran in the 1980s, with the United States trade embargo and the start of the Iran-Iraq war in September 1980, the problem of self-sufficiency became a crucial problem to be addressed by the Islamic government. However, all the rural and agricultural problems could not be solved by a programme of land distribution. There was simply not enough cultivable land to be distributed among the needy peasants.

Many revolutionary groups were conscious of this, but their calls for land reform were not motivated by economic factors, but rather by political and ideological reasons. The idea of agrarian reform figured high in the agenda of the various Marxist and leftist

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<sup>4</sup> Keith McLachlan, *The Neglected Garden: The Politics and Ecology of Agriculture in Iran*, London, Tauris, 1988, p. 190-191, and note 9, p. 286.

parties which had taken it up from Marxist and Third-Worldist literature without having made a proper assessment of its suitability to the Iranian conditions. On the other hand, all Islamist groups advocated the implementation of Islamic law regarding land ownership and therefore the expropriation of properties acquired through unlawful means. Some Islamic books published before the Revolution asserted that the lands should be restored to their original status at the time of the Islamic expansion in the Seventh Century, which in the case of most of the lands of Iran implied that they were common property, not susceptible to private appropriation. However, this idea was impractical after thirteen centuries and was only raised after the Revolution by extremists among the Islamists in power in the Islamic Republic. Nevertheless, an important faction among the ruling Islamists adopted the idea of land reform. Undoubtedly, they acted partly out of self-interest in order to disarm the secular left of a powerful weapon and to win the support of the poor peasantry which constituted a large segment of the population and provided most of the troops fighting in the war against Iraq. But they were also motivated by their desire to establish social justice and their progressive interpretation of Islam which they saw as serving the interests of the *mostaz'afin*, the downtrodden.

The issue of land reform divided the Islamist groups in power in the Islamic Republic of Iran into two broad factions: a radical faction advocating a sweeping programme of land distribution and measures to help the poor peasants, and a conservative faction holding fast to the concept of the sanctity of private property. The subject and its Islamic implications were debated in various forums from the Revolutionary Council to the daily press and specialised journals. Although the discussions of the Revolutionary Council and the other revolutionary organs which took up the issue were conducted behind closed door, the *Majles* is an important institution of the Islamic Republic where the different Islamist factions had the opportunity to express



their opinions openly and publicly since its proceedings were not only published, but also broadcast live on radio<sup>5</sup>.

The fact that this question attracted the interest of the clerics can be partly explained by the fact that land and agricultural questions figure prominently in Islamic sources. In his book on the *Fundamental Lines of Islamic Economics*, Ayatollah Nasser Mokarem-Shirazi reports a *hadith* (saying) from the Prophet Mohammed which relates that when he was asked what was the best deed, he answered "cultivation". He also quotes Imam Sadiq, the Sixth Shi'i Imam, as saying that the peasants are "the treasures of God on earth" and that on the Day of Judgement, they will be in the best place and in the closest rank to God<sup>6</sup>. Moreover, Islamic jurisprudence includes a large body of regulations on land ownership, land tenure, land taxes and land transactions although they did not provide clear answers to the modern problems confronting Iranian agriculture in 1979. Nevertheless, as Bakhshash has pointed out, the existence of this body of regulations made the Islamic jurists more concerned by the issue of land reform than by others such as the nationalisation of large industries<sup>7</sup>.

The question of land reform was able to evolve into a controversial one because Ayatollah Khomeini did not pronounce himself on it and avoided taking sides in the debates. In 1980, he delegated his authority to three influential clerics, Ayatollahs Montazeri, Meshkini and Beheshti, who gave their approval to a radical land reform law which was adopted by the Revolutionary Council in April 1980. But when the implementation of the law encountered staunch resistance from senior '*ulama*' and led to

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<sup>5</sup> Bahman Baktiari, *Parliamentary Politics in Revolutionary Iran: The Institutionalization of Factional Politics*, Gainesville, University Press of Florida, 1996, p. x.

<sup>6</sup> Ayatollah Nasser Mokarem-Shirazi, *Khotut-e asli-ye eqtesad-e Islami (Neh gharbi, neh sharqi)* (*Fundamental Lines of Islamic Economics [Neither Western Nor Eastern]*), Qom, Hadaf, 1360 [1981], p. 162-163.

<sup>7</sup> Shaul Bakhshash, *The Reign of the Ayatollahs: Iran and the Islamic Revolution*, New York, Basic Books, 1984, p. 195-196.

violent conflicts in the countryside, he decreed the suspension of his controversial clauses and left it to the *Majles* to pass legislation to resolve the problems.

In the 1980s, the *Majles* functioned as a forum for discussions between the various political camps and interest groups within the Islamic state. Land reform is one of the issues which led to passionate debates between the partisans of laissez-faire policies and those who favoured a widespread intervention of the state in socio-economic matters. The analysis of these debates illustrates how the same Islamic sources can be interpreted differently to justify different policies. Moreover, a close observation of the debates also provides much useful information about factional politics in the Islamic Republic of Iran, about the power struggles that have taken place within the regime, and about the functioning and relative powers of the state institutions.

The present thesis will concentrate on the debates on land reform in the *Majles* between 1981 and 1986 which, up to now, have received little attention in the literature about contemporary Iran. Several authors have given an overview of the question of land reform in the Islamic Republic of Iran, but most of them have focused on the first two years after the Revolution and none of them has analysed the debates in the *Majles* in details. The main contributions are: Shaul Bakhash, *The Reign of the Ayatollahs*<sup>8</sup> which deals with the period up to January 1983, Ahmad Ashraf, "State and Agrarian Relations Before and After the Iranian Revolution"<sup>9</sup>, and Asghar Schirazi, *Islamic Development Policy*<sup>10</sup>. The latter looks at some of the Islamic arguments in the debates, but he

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<sup>8</sup> *Ibidem*, especially Chapter 8.

<sup>9</sup> Published in *Peasant Politics in the Modern Middle East*, ed. by Farhad Kazemi and John Waterbury, Gainesville, University Press of Florida, 1991, p. 277-311.

<sup>10</sup> Schirazi, *Islamic Development Policy: The Agrarian Question in Iran*, translated from the German by P.J. Ziess-Lawrence, Boulder, Lynne Rienner Publishers, 1993, especially Chapters 8 and 9. Other less important contributions include: McLachlan, *The Neglected Garden*, p. 203-213; Aodolali Lahsaeizadeh, *Contemporary Rural Iran*, Aldershot (England) and Brookfield (Vermont, USA), Ashgate, 1993 (Chapter 14), previously published as "Post-Revolutionary Land Distribution in Iran", *Land Reform, Land Settlement and Cooperatives*, FAO, n. 1/2, 1988, p. 25-38; M.

sometimes juxtaposes quotations from the different protagonists without paying attention to the chronology<sup>11</sup>. Shaul Bakhash, "The Politics of Land, Law, and Social Justice in Iran"<sup>12</sup> analyses the debates in the *Majles* in October 1986 on a bill dealing with the situation of lands which had been occupied after the Revolution. This is a good analysis, based on the Proceedings of the *Majles*, but it deals with only a small part of the subject, when attempts at legislating a comprehensive land reform had been abandoned.

The thesis is divided in two parts. The first part provides the theoretical background for the study of land reform in the Islamic Republic of Iran from an Islamic point of view. It consists of two chapters: the first one looks at the Islamic sources on land ownership and land tenure, and the second deals with the notion of Islamic economics and its main points in the work of Iranian and Shi'i authors both before and after the Revolution. In particular, it presents their views on the issues of ownership, of land tenure, and on the role of the state in the economy.

The second part of the thesis analyses the debates on land reform in Iran. As a prelude to the study of the issue in the Islamic Republic, Chapter 3 describes the land reform which was implemented in the 1960s, its impact on Iranian agriculture and on the

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Haghighy, "Agrarian Reform Problem in Post-Revolutionary Iran", *Middle Eastern Studies*, vol. 26, n. 1, January 1990, p. 36-43; and Bernard Hourcade, "The Land Question and Islamic Revolution in Iran", translated from the French by Afshin Matin-Asgari, *South Asia Bulletin*, vol. 13, n. 1-2, 1993, p. 134-146.

<sup>11</sup> See for example p. 216. It must be noted that the English translation of this book contains many errors in dates and references, at least some of which cannot be due to the translator (for example notes 39 and 40, p. 230 which give a date of 11 December 1960 instead of 1982, or 20 Azar 1360 in the Iranian calendar). In *The Constitution of Iran: Politics and the State in the Islamic Republic* (translated by John O'Kane, London, I.B. Tauris, 1997), Schirazi further analyses some Islamic arguments used in the political debates of the 1980s, but he does not elaborate on the debates about land reform.

<sup>12</sup> Published in *Iran's Revolution: The Search for a Consensus*, ed. by R.K. Ramazani, Bloomington and Indianapolis, Indiana University Press, 1990, p. 27-47.

peasantry, and the criticisms raised by its opponents, in particular the reactions of the Shi'i clergy towards it. Chapter 4 follows up with a presentation of the context for land reform in 1979. It describes the new institutions which were set up in 1979, analyses the reactions of the peasantry towards the new regime, and assesses whether or not there was a need for a new land reform, before examining the agricultural policies of the Provisional Government and of its Minister of Agriculture Mohammed Ali Izadi until its fall in November 1979 after the take-over of the United States embassy.

Chapter 5 analyses the radical project of land reform elaborated by Reza Isfahani who was appointed Deputy Minister of Agriculture in charge of land reform after the fall of the liberal government of Mehdi Bazargan, and that which was finally adopted after several revisions by the Revolutionary Council in April 1980, its implementation, the reactions towards it, and the reasons for the suspension of its clauses dealing with the lands of the large landowners in November 1980. Then, the following two chapters concentrate on the role played by the *Majles* which from 1981 was entrusted with solving the issue. Chapter 6 looks at the composition and power of the *Majles* before analysing the different projects of land reform which were submitted to the attention of its Agricultural Commission and the discussions in plenary sessions of a Bill on the Transfer and Rejuvenation of Agricultural Lands in March and November-December 1982. Chapter 7 explains why the Council of Guardians rejected this bill as contrary to the Constitution and to Islamic Law, and how the *Majles* attempted to address its objections and came up with amendments to the December 1982 Bill which were debated in plenary session in May 1985 and approved by a majority of two-thirds of the representatives, but were also rejected by the Council of Guardians. After that, the radical representatives in the *Majles* renounced their attempts at drafting a comprehensive land reform law and concentrated their attention on resolving the issues which were the least controversial and the most pressing: the cases of the dead lands and the lands "under temporary cultivation" respectively. The last section of Chapter 7 analyses a bill which was aimed at solving the cases of the lands which had been occupied by peasants since 1979-80, which was discussed by the *Majles* in October 1986 and passed into law. Finally, the last chapter looks at the role played by a new institution set up in February 1988 in order to solve the deadlocks between the *Majles* and the Council of Guardians, the Council to Determine the Interests of the State Order. This

council passed in August 1988 a law nationalising the lands left uncultivated by their owners, but it did not touch on the more controversial issue of distribution of large estates. This last law put an end to the debates on land reform in the Islamic Republic of Iran. From then on, the government started to adopt more liberal policies and tried to attract large private investors to invest in agricultural ventures.

The first part of the thesis is based on Iranian books in Farsi on Islamic law and Islamic economics which the author obtained from Iran during a one-month trip in May-June 1996, and on secondary sources in English.

Besides the Proceedings of the *Majles* (obtained from Iran), other important sources for the second part of the thesis are: the newspaper *Ettela'at* (*The News*) (the only Iranian daily newspaper available in Australia) and the specialised journal *Keshavarz-e emroz/Barzgar* (*Today's Peasant/The Cultivator*)<sup>13</sup> (which the author consulted in Tehran), and compilations of legal texts<sup>14</sup> (obtained from Iran).

Although limited and careful use was made of Iranian newspapers, some remarks must be made about the freedom of the press in the Islamic Republic of Iran. Soon after the Revolution, the clerical leadership set out to threaten and intimidate the newspapers which were too critical of the regime they wanted to establish<sup>15</sup>. After the closure of

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<sup>13</sup> From its seventeenth issue, the journal changed its name from *Keshavarz-e emroz* to *Barzgar*.

<sup>14</sup> In particular Sayyed Mohammed Naimi, *Qamin-e eslahat-e arzi ba akherin eslahat va elhaqat* (*The Laws of Land Reform, with the Latest Reforms and Appendices*), Tehran, Monavvar, 1374 [1995]; and Jalaluddin Madani, *Huquq-e asasi dar Jomhuri-ye Islami-ye Iran* (*Fundamental Laws in the Islamic Republic of Iran*), vol. 4: *Qovveh-ye moqanneneh-ye Shura-ye Negahban* (*Legislative Power of the Council of Guardians*), Tehran, Voice and Vision Organisation of the Islamic Republic of Iran, 1366 [1987] for the text of the resolutions of the Council of Guardians.

<sup>15</sup> Ali Rahnema and Farhad Nomani, *The Secular Miracle: Religion, Politics and Economic Policy in Iran*, London and New Jersey, Zed Books, 1990, p. 176. On the press in the Islamic Republic of Iran, see also Annabelle Sreberny-Mohammadi and

*Ayandegan (The Futures)*, the most popular newspaper in the country which was leaning towards the left and had criticised the way the elections for the Assembly of Experts charged to draft the Constitution had been conducted, as well as 72 other opposition newspapers in August 1979, the remaining newspapers proved more docile and homogeneous<sup>16</sup>. The first half of 1981 witnessed another wave of attacks against the freedom of the press with the closure of the People's *Mujahidin's* newspaper, *Mojahed*, and of other newspapers sympathetic to their cause in March, then the ban on the publication of Bani Sadr's newspaper, *Engelab-e Islami (Islamic Revolution)*, Bazargan's newspaper, *Mizan (The Balance)*, and the National Front's organ, *Jabheh-e melli (National Front)* in May<sup>17</sup>. Thenceforth, only publications which supported the government and accepted the concept of *velayat-e faqih* were tolerated. Nevertheless, within these limits, the press was free to expose divergent opinions on some topics. Until 1986, the daily newspapers were largely controlled by radical Islamists who gave a free hand to the supporters of land reform to express the economic, social and Islamic arguments in favour of it. Before *Resalat (The Message)* came out of press in 1986, the conservatives had few opportunities to defend their opinions in the daily press. However, their argumentation was very simple to expose compared to that of the radicals since it corresponded to the commonly-held belief that Islamic law respects and protects private property, which everybody was aware of even if they had few opportunities to explain it.

The two periodical publications which were used in writing this thesis represent two sides of the political spectrum. *Ettela'at*, one of the government-controlled newspapers under the previous regime, had stopped publication for two months in November-December 1978. When, it resumed publication on 7 January 1979, it aligned itself with the cause of the Revolution. Although it was critical of some of the new regime's policies, it kept its criticisms to a level acceptable to the clerical leadership and was not subjected to a violent take-over. Nevertheless, in mid-1979, a senior cleric,

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Ali Mohammadi, *Small Media, Big Revolution: Communication, Culture and the Iranian Revolution*, Minneapolis, University of Minnesota Press, 1994, p. 163-177.

<sup>16</sup> Rahnama and Nomani, *The Secular Miracle*, p. 181.

<sup>17</sup> *Ibidem*, p. 182.

Hojjatolislam Sayyed Mahmud Do'a'i (who became a member of the *Majles* in August 1981) assumed control over it and the newspaper started reflecting the views of the Revolutionary Council<sup>18</sup>. In the 1980s, its editorial staff was dominated by radicals who favoured the adoption of land reform.

On the other hand, *Keshavarz-e emroz*, a weekly publication specialising in agricultural matters, became the rallying point of a group of economists and agro-economists who supported the cause of the commercial farmers and were opposed to land reform<sup>19</sup>. However, from 1981, the journal had to moderate its criticisms in order not to be accused of supporting the "feudals"<sup>20</sup>.

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<sup>18</sup> Sreberny-Mohammadi and Mohammadi, *Small Media, Big Revolution*, p. 168.

<sup>19</sup> Ashraf, "State and Agrarian relations", p. 296.

<sup>20</sup> Barzgar, n. 109, 15 *Esfand* 1360 [6 March 1982], p. 3.



**Part I**

**Theoretical Background**



## Chapter 1: Islamic Law on Land Ownership and Land Tenure

### 1. The Sources of Islamic Law

The laws of Islam contained in the *Shari'a* are considered by the Muslims to be divinely ordained through revelation. They are deemed to be valid for all times and places. They are therefore binding and incumbent upon all believers and men cannot promulgate laws that infringe on these divine edicts. It is only in the areas in which no clear stipulations have been made that men can exert their legislative power, but on the condition that they do not contradict the *Shari'a*.

The *Shari'a*, as a moral code, classifies all human acts into five categories: *wajeb* (obligatory), *mustaheb* (recommended), *ja'iz* (neutral or permitted), *makruh* (reprobated) and *haram* (prohibited). The *faqih*, specialist of jurisprudence, determines to which category a particular action or behaviour belongs by looking for indications in the vast corpus of Islamic jurisprudence (*fiqh*).

The development of different Islamic schools is rooted in differences of opinions on what should be considered as the legitimate sources of jurisprudence<sup>1</sup>. The four principal schools of Sunni jurisprudence, the Hanafis, Malikis, Shafi'is and Hanbalis, uphold the validity of four sources: the *Qur'an*, the *Sunna* or tradition of the Prophet Muhammad, *ijma'* or consensus and *qiyas* or analogy. The Shi'as accept the first three of these sources, but replace *qiyas* by '*aql* or reason.

The *Qur'an* is the first and most important source of law for all the Muslims. All that was revealed to the Prophet Muhammad by the angel Jibriel and subsequently assembled in the *Qur'an* is viewed as the direct word of God. The text of the *Qur'an* in the recension compiled by the Third Caliph, Uthman, is accepted by both Sunnis and Shi'as. The *Qur'an* deals with theological issues, the bases of the faith, religious practices and the system of rewards and punishments in the hereafter, but also with the

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<sup>1</sup> See Farhad Nomani and Ali Rahnema, *Islamic Economic Systems*, London and New Jersey, Zed Books, 1994, p. 2-20.

social and economic organisation of the Islamic community. Its 6,666 verses can be divided into two categories: the obvious and the veiled. The meaning of the former is so clear that the reader understands them immediately, whereas the latter take the form of allegories and only the "men of understanding" will be able to decipher them (3:7). The task of interpreting these verses requires a profound knowledge of the *Qur'an* and of the circumstances in which each particular verse was revealed. This has led to the emergence of different and often conflicting opinions among Islamic theologians.

The *Sunna* is constituted by the *ahadith* (plural of *hadith*) which are reports of words or acts of the Prophet Muhammad. It is regarded by all schools of Islamic law as the most important source of jurisprudence after the *Qur'an*, which it explains and complements. According to the Shi'i jurists, it also includes the words and actions of the twelve Infallible Imams who succeeded the Prophet and are thought to have been endowed with the ability of elucidating the hidden meaning of the *Qur'an*. After the Prophet's death, fabricated *ahadith* started proliferating as everybody was trying to validate his claim or position by attributing it to the Prophet. With time passing, it became more difficult to distinguish in the mass of reported sayings the authentic traditions, and techniques had to be developed to sort them out. The main technique was to follow the chain of transmitters (*isnad*) up to the Prophet himself and to check on the character and honesty of each transmitter. Distinctions were made between four categories of *ahadith*: *sahih* (correct), *hasan* (good), *muwaththaq* (trustworthy) and *za'if* (weak)<sup>2</sup>.

The different schools of jurisprudence do not accept as authentic the same *ahadith*. In particular, the Shi'as only acknowledge those which can be traced back to one of the Infallible Imams and reject those which are attributed to the Companions of the Prophet since they consider that the Companions indicted themselves when they accepted the caliphate of Abu Bakr. They recognise four collections of *ahadith* as canonical: *Al-Kafi fi 'ilm ud-din* (*The Sufficient in the Science of Religion*) by Muhammad al-Kulayni (who died in 939), *Man la yahduruhu* (*He who has no jurist*

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<sup>2</sup> Moojan Momen, *An Introduction to Shi'i Islam: The History and Doctrines of Twelver Shi'ism*, New Haven and London, Yale University Press, 1985, p. 174.

*present*) by Muhammad Ibn Babuya (d. 991), and *Tahdhib al-ahkam* (*The Rectification of Judgements*) and *Al-Istibsar* (*The Perspicacious*) both by Shaykh Muhammad at-Tusi (also known as Shaykh'ut-Taifa, d. 1067)<sup>3</sup>.

Whereas Abu Hanifa, (d. 767), the founder of the Hanafi school and a contemporary of some of the Companions of the Prophet, was extremely selective in accepting the validity of traditions, Malik Ibn Anas (d. 796) accepted several traditions that were reported by only one narrator. Moreover, Muhammad Ibn Idris al-Shafi'i (d. 820) maintained that the *Sunna* constituted a source of jurisprudence as important as the *Qur'an* and that the *Qur'an* cannot abrogate a tradition. Furthermore, Ahmad Ibn Hanbal (d. 857) based his verdicts primarily on the *Sunna* of the Prophet and collected more than forty thousands *ahadith*, including some discontinuous ones. He is known as the father of the *ahl al-hadith*, jurists who place heavy emphasis on the *ahadith* and reject any application of reason as a source of law<sup>4</sup>.

*Ijma'* is the consensus among the Muslim jurists at a particular time on a particular legal issue. Its validity as a source of jurisprudence is based on the reported *hadith* of the Prophet: "My followers will not agree on an error or on what is wrong". However, the different schools of Islam do not agree on how the consensus must be reached and on who must be part of it. The Malikis maintain that *ijma'* is only valid if it is reached by the inhabitants of Medina, whereas the Hanbalis limit its application to the consensus of the Companions of the Prophet. The Shafi'is claim that *ijma'* implies the agreement of the entire community and must be based on well-established traditions. On the other hand, the Hanafis consider that consensus can be reached by the public agreement of all the jurists or through the silence of the others once the opinion of one jurist has become public knowledge<sup>5</sup>. In modern times, some Islamic jurists have given a great importance to *ijma'* as a tool of Islamic jurisprudence and presented it as the

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<sup>3</sup> *Ibidem*.

<sup>4</sup> Nomani and Rahnema, *Islamic Economic Systems*, p. 6-7.

<sup>5</sup> *Ibidem*, p. 7-8.

mechanism for the adaptation of Islamic law to evolving circumstances and changing conditions<sup>6</sup>.

The Shi'as, for their part, define consensus as the agreement of the Shi'i jurists on an injunction, but, contrary to the Sunnis, they do not consider it as a source of legislation as important as the *Qur'an* and the *Sunna*. They relegate it to a position of secondary importance since they believe that the consensus of jurists is not free of the possibility of error<sup>7</sup>.

These three sources of law were insufficient to answer all the questions confronting the various Islamic communities. In the diversified Islamic empire which emerged after the Muslim conquests, the Islamic jurists had to deal with economic and social structures unknown in the Arabia of the time of the Prophet Muhammad. Faced with the absence of solutions in the primary sources, they had to rely on their own rational judgement. *Qiyas*, or analogical deduction constitutes the fourth source of law for the Sunnis. It is a process of deduction through which the jurist bases his argument on the logic used in the *Qur'an* or in a text of the *Sunna* and applies the same logic to solve another problem. It implies the use of reason by the jurists. Abu Hanifa gave great importance to *qiyas* as a source of law and to the exercise of free thought by the jurists, accepting the validity of judgements based on what the jurist believed to be in the spirit of and beneficial to the general objectives of Islam. This type of ruling is usually believed to be based on public interest and on the welfare of the Muslim community. Imam Malik also accepted the validity of rulings based on what the jurists considered to be the "public good" of the Islamic community and replaced strict analogy by the wisdom of the jurist in his pursuit of the public interest. Once the application of human reason in legislation was implicitly endorsed by Sunni jurists, the door was opened to greater reliance on the general spirit of Islam than on the precise primary texts. The Hanafis call their method *istihsan*, juristic equity or juristic preference based on the principle of fairness and conscience, whereas the Malikis rely on *al masalah al mursalah*, which means social benefit or public interest. Imam Shafi'i tried to limit the application of *qiyas* to

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<sup>6</sup> See *Ibidem*, p. 8.

<sup>7</sup> *Ibidem*, p. 8-9.

deductions firmly rooted in the primary sources and insisted on their conformity with the spirit, general rules and principles of the *Shari'a*. But, he also had to develop a mechanism to address new problems and adopted *istidlal*, or the process of seeking guidance from the sources, which he also based on the satisfaction of public interest. Imam Hanbal resorted to *qiyas* only as last resort, when not even weak or discontinuous traditions could provide a solution to a problem. He based his rulings on *istislah* or the legal process of ruling on the basis of furthering public welfare. The rulings on new problems are the work of the *mufti*, specialist of law who can give an authoritative opinion (*fatwa*) on points of doctrine<sup>8</sup>.

The Shi'as, for their part, advocate the free use of *'aql* or reason to deduce solutions from the primary sources when the *Qur'an* and the *Sunna* cannot provide a solution to a problem. The process whereby a jurist arrives at an appropriate ruling through the use of reason and the principles of jurisprudence contained in the *Shari'a* is called *ijtihad*, and the jurist who utilises it: a *mujtahid*. The Shi'as see *qiyas* as only one particular form of *ijtihad*. In the earlier centuries of Islam, the Sunnis also accepted *ijtihad* as a mechanism for deducing Islamic rulings, but, towards the end of the ninth century, "the door of *ijtihad*" was reportedly closed<sup>9</sup>, whereas the Shi'as continued to use it. The latter argue that, while Islam has revealed general principals, the elaboration of laws dealing with matters specific to a particular time and place has been left for the

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<sup>8</sup> *Ibidem*, p. 12-14. See also Nicolas P. Aghnides, *Mohammedan Theories of Finance with an Introduction to Mohammedan law and a Bibliography*, reprint, New York, AMS Press, 1969 [1916], p. 67-93.

<sup>9</sup> Joseph Schacht, "The Schools of Law and Later Developments", in *Law in the Middle East*, ed. by Majid Khadduri and Herbert J. Liebesny, vol. 1: *Origin and Development of Islamic Law*, Washington, The Middle East Institute, 1955, p. 73; Nomani and Rahnema, *Islamic Economic Systems*, p. 15-16. However, some scholars have contested whether the door of *ijtihad* was ever closed. See Wael B. Hallaq, "Was the Gate of Ijtihad Closed?", *International Journal of Middle East Studies*, vol. 16, 1984, p. 3-41; and Aghnides, *Mohammedan Theories of Finance*, p. 123-124.

*fuqaha* (plural of *faqih*) to deduce from the primary sources through *ijtihad*<sup>10</sup>. The Shi'as, therefore, have, in theory, a wider latitude of interpretation of the *Shari'a* than the Sunnis. However, in practice, their freedom is significantly limited by the jurisprudential traditions of the great *mujtahidin* of the past from which they must not deviate if they do not want to be charged of heresy<sup>11</sup>.

A distinction is sometimes made in Islamic law between primary and secondary ordinances (*ahkam*). The primary ordinances are contained in the most important sources (the *Qur'an* and the *Sunna*), they are fixed and eternal. On the other hand, the secondary ordinances are deduced from less important sources (*ijma'*, *qiyas*, *aql* and *ijtihad*). They may contradict the primary ordinances. However, they can supersede them only in exceptional circumstances, which create conditions of overriding necessity and emergency (*zarurat wa izterar*). They, therefore, have to be temporary measures, which will be discarded as soon as the exceptional circumstances have come to an end.

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<sup>10</sup> On the issue of *ijtihad*, the Shi'i school divided itself into two groups: the *akhbari* and the *usuli*. In the beginning of the seventeenth century, Mulla Muhammad-Amin Astarabadi led a movement opposed to *ijtihad* and religious rulings based on reason and rational thought. He advocated the use of the traditions (*akhbar*) of the Prophet and the Infallible Imams as the principal source of jurisprudence and rejected the recourse to *ijma'* and *'aql*. His followers are called *akhbari*. At the end of the eighteenth century, their positions were challenged by Vahid Behbahani who revived the use of *ijtihad* and founded the *usuli* (principles) school of Shi'i jurisprudence, which became dominant in Iran and Iraq. According to that school, every *mujtahid* must make up his own view by personal investigation of the sources of the *Shari'a* and he may not imitate the opinion of another *mujtahid* (Momen, *An Introduction to Shi'i Islam*, p. 127-128, 222-224).

<sup>11</sup> Agnides, *Mohammedan Theories of Finance*, p. 30; Sohrab Behdad, "Appendix: Fundamentals of Islamic Jurisprudence", in *Islamic Economic Alternatives: Critical Perspectives and New Directions*, ed. by K.S. Jomo, Basingstoke and London, Macmillan, 1992, p. 189.

## 2. Islamic Law on Land Ownership

Islamic jurists distinguish between three types of ownership: private, public (or common) and state ownership. The difference between public ownership and state ownership is that the former is the common property of the Islamic community as a whole, whereas the latter consists of those properties which the *Qur'an* described as belonging to "God and the Prophet" and which are administered by the head of the Islamic state in his capacity of head of state. As a consequence of this difference, the benefits drawn from the two types of property are not to be used the same way and for the same beneficiaries. In the case of public properties, the head of state is required to use the taxes levied on them for the common good of the Muslim community as a whole, such as for the creation of hospitals or the provision of education facilities. On the other hand, the revenue from state properties can be used to serve the interests of the state or those of individuals whom the head of state deems in need of particular assistance<sup>12</sup>. Although all Islamic jurists concur on the existence of these three types of property, they do not agree on what constitute each type.

In his study on *Land in Islamic Jurisprudence*, Sayyed Hossein Modarressi-Tabataba'i, a theologian from Qom Seminary, presents the following definitions<sup>13</sup>:

Private property is composed of:

- all the lands whose owners embraced Islam voluntarily;
- the lands of *sulh* (peace) of which the owners were guaranteed the ownership by a peace agreement;
- the dead lands which have been settled by people coming to live on them.

The public properties which belong to the Islamic community are:

- all the lands of which the Islamic army came into possession through warfare;

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<sup>12</sup> Muhammad Baqir Sadr, *Iqtisaduna: Our Economics*, transl. from Arabic, vol. 2, part 1, Tehran, World Organization for Islamic Services, 1983, p. 106-107.

<sup>13</sup> Sayyed Hossein Modarressi-Tabataba'i, *Zamin dar fiqh-e Islami (Land in Islamic Jurisprudence)*, Tehran, Office of Islamic Cultural Publications, vol. 1, 1362 [1983], p. 92-93.



- all the lands whose ownership had been given to the Muslim community by a peace treaty.

The state properties, or *anfal*, lands which belong to the Islamic state are:

- all the original dead lands;
- all the lands whose population is natural, such as pastures, forests and seashores;
- all the lands without an owner, which include the new lands, such as newly formed islands;
- all the lands which, without war, came into possession of the Islamic army, most commonly the lands whose owners abandoned before the onset of war and those which were surrendered by their inhabitants (These lands are also designated as *fay*);
- the lands which the Islamic army came into possession of in wars waged without the permission of the Imam;
- the feudal estates and the private properties of the kings of the conquered territories.

### *Anfal*

There is no agreement among the contemporary *fuqaha* on what constitutes *anfal*<sup>14</sup>. Shaikh Ali Tehrani and Hojjatolislam Sayyed Muhammad Khamene'i (an elder

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<sup>14</sup> The Islamic concept of *anfal* is based on what has become known as the "verse of *anfal*" (8:1) which states that "*anfal* belongs to God and the Apostle". It is generally translated as "spoils of war". It comes from the Arabic root *naḥala* which means "to do more than what is required by duty or obligation", as it refers to what was given to the Prophet in his position of leader of the community, in addition to the shares of the Banu Hashim (Sayyed Mehdi Sane'i, "*Anfal (amval-e khas-e Imam alaiyah as-salam)*" "*(Anfal [the special property of the Imam, peace be upon him])*", in *Majmu'ah-ye maqalat-e farsi-ye avalin majma'-e barrasiha-ye eqtesad-e Islami (A Collection of Persians Articles: The First Islamic Economic Research Conference)*,



brother of Ali Khamene'i) add to the above-mentioned list of state properties: the properties taken by the Imam before the division of the spoils of war (*ghanima*), the presents from people to the Imamate, heirless legacies, and mines. Khamene'i notes that there are controversies about mines and that different categories are distinguished<sup>15</sup>. Sayyed Jamaluddin Musavi-Isfahani also adds heirless legacies and mines, but he does not mention the properties which do not have an owner. However, he includes all the *mawat* (dead) lands, even those which have previously been cultivated<sup>16</sup>. Sayyed Mehdi Sane'i also includes heirless legacies, mines, and the *mawat* lands which have been previously cultivated on the condition that they do not have an owner<sup>17</sup>.

All the *fuqaha* agree that the *mawat* lands which do not have a known owner and those whose owner deserted them are parts of *anfal*. But, for the accidental *mawat* whose owner is known, there is not an agreement. Some believe that they are all part of *anfal*. Others, including Shaykh Tusi (a leading Shi'i jurist of the 11th century) and Muhaqqiq al-Hilli (d. 1277), believe that they remain the property of their first owner. Yet others, such as Allama Hilli (d. 1325) and Shahid al-Awwal (the First Martyr, Shamsuddin Ibn Makki al-'Amili al-Jizzini, d. 1384 in Damascus) say that if the possession of the land was derived from reclamation, the lands become part of *anfal*, but

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ed. by Muhammad Wai'zzadeh-Khorasani, [Mashhad], Astan Quds Razavi Islamic Research Foundation, 1369 [1990], p. 274).

<sup>15</sup> Ali Tehrani, *Eqtesad-e Islami (Islamic Economics)*, Mashhad, *Jamadi al-awwal* 1394 [1974], p. 96-97; Hojjatolislam Sayyed Mohammed Khamene'i, "Malekiyat-e omumi", in *Majmu'ah-ye maqalat-e farsi...*, p. 192-205. Mohammed Khamene'i became a representative of Mashhad in the *Majles* in 1980.

<sup>16</sup> Sayyed Jamaluddin Musavi-Isfahani, *Molahezati piramun-e payamha-ye eqtesadi-ye Qur'an (Observations on the Economic Messages of the Qur'an)*, [Tehran?], Office of Islamic Cultural Publications, 1368 [1989], p. 251.

<sup>17</sup> Sane'i, "Anfal", p. 276-281; see also Ayatollah Sayyed Mahmud Taleqani, *Islam va malekiyat (Islam and Ownership)*, n.p.n.d., p. 153-154.

if possession has been acquired through another way, such as inheritance or purchase, the lands remain the property of their owners<sup>18</sup>.

### Land Reclamation (*ihya'*)

In Islamic traditions, reviving land and putting it to productive use is emphasised as desirable and meritorious (*mustaheb*)<sup>19</sup>. In Islamic law, reclamation starts with *tahjir*, literally "to put up stones", through which a person signifies his claim on a particular plot of land. This can be done by such methods as putting up stones or digging a canal or trench around it, building a small wall, or drawing up barbed wires. This does not confer a right of ownership, but a right of allocation (*ikhhtesas*) and of taking possession (*tamalluk*), which give the claimant priority of reclamation and the power to prevent others from doing it. This is a weak right of possession. Accordingly, if, after accomplishing *tahjir*, the claimant does not hasten to revive the land and, without acceptable excuse, leaves it idle, an Islamic judge can command him to revive the land. If he does not proceed to do it, he will lose his rights on the land, which will be available to be reclaimed by somebody else. Reclamation itself, *ihya'*, confers a better title on the land<sup>20</sup>. Ayatollah Taleqani quotes a *hadith* from the Prophet according to which: "Whoever comes to live on [and cultivate] a dead land on which no Muslim has a right obtains rights on that land and it is his. Whoever builds a wall around a plot of land, that land is his. The common lands (which have not been possessed in the past) belong to God and His Apostle, then they may be given by me to you. The uncultivated lands among these belong to God and His Apostle, then to you, oh Muslims!"<sup>21</sup>.

The question of whether the reclamer of a dead land gains ownership of that land or only a right of use is a subject of controversy among the *fuqaha*. Some believe that

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<sup>18</sup> Khamene'i, "*Malekiyat-e omumi*", p. 193-194.

<sup>19</sup> Ayatollah Ali Meshkini, *Zamin va anche dar an ast (Land and What is on it)*, Tehran, Yasser Publications, n.d., p. 94.

<sup>20</sup> *Ibidem*, p. 100-102; Modarressi-Tabataba'i, *Zamin dar fiqh-e Islami*, vol. 2, p. 100; see also Taleqani, *Islam va malekiyat*, p. 152.

<sup>21</sup> *Ibidem*, p. 153-154.

the reviver only gets a right of allocation and priority of use on the plot of land that he has reclaimed out of *anfal* and that it remains the property of the Imam. In that case, he does not have the right to sell the essence of the land (*asl*), but only the use of it and his innovations on it. According to Ayatollah Ali Meshkini reclamation confers a right of priority and precedence (*avaliyat va ahqiyat*) and temporary ownership (*malekiyat-e movaqqat*), while the permanent and complete ownership of the originally dead lands rests with the Imam in his office of head of state. The possessors of the lands have nevertheless the rights to sell, rent, lend or give away the land as if it was their property<sup>22</sup>.

For reclamation to confer this sort of rights, it must fulfil two conditions. First, the reviver must have the intention of taking possession of the land and of administering it. For example, if somebody transform a dead land into a garden with the intention of making it a shaded place for the wayfarers, or if a traveller dig a well to use it temporarily, they do not become the owner of that land or well. Second, the land does not belong to somebody else<sup>23</sup>. Khamene'i adds that the land must not be part of the special lands of worship or a state reserve (*himan*)<sup>24</sup>.

Muhammad Baqir Sadr, a prominent Iraqi Shi'i *mujtahid* from Najaf, makes a distinction between publicly-owned lands on which an individual cannot acquire rights whatever work he has done on them and state-owned lands on which an individual can obtain a special (*khas*) individual right if he reclaims them. However, they remain the property of the Imam while their revivers are only entitled to their usufruct (*intifa'* in Arabic, *barehbardari* in Farsi) and are required to pay a tax proportional to the benefits they reap from the lands. This tax, which Sadr compares to a rent paid to the state as

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<sup>22</sup> Meshkini, *Zamin*, p. 32-36, 40-42.

<sup>23</sup> *Ibidem*, p. 98-99.

<sup>24</sup> Hojjatolislam Sayyed Muhammad Khamene'i, *Iqta' va huquq-e taqsim-e arazi-ye dawlati (Iqta' and the Right of Distribution of State Lands)*, [Tehran], Kayhan Publications, 1371 [1992], p. 79.

owner of the land, is called *tasq*<sup>25</sup>. He adds that everybody can reclaim state lands without having to obtain a licence from the *vali-e amr* (ruler, head of state). However, the ruler has the right to put limit on the lands which can be reclaimed if he thinks that it is in the public interest to do so<sup>26</sup>.

Sadr claims that his opinion on this matter was shared by Shi'i jurists, such as Shaykh Tusi, but also by non-Shi'i *fuqaha*, among others Abu Hanifa, the founder of the Hanafi school. Yet, he admits that the principle was not adhered to in practice and "was dispensed with by way of exceptions"<sup>27</sup>. Indeed, throughout Islamic history, individuals have received full ownership rights including the rights of sale, transfer and inheritance on state lands that they had reclaimed and also on state lands granted to them by the state<sup>28</sup>.

Moreover, both Malik Ibn Abbas and al-Shafi'i, the founders of the Maliki and Shafi'i schools, believed that the reviver of a dead land acquires ownership of that land, although they did not agree on whether or not the permission of the Imam was necessary. Malik claimed that it was the customary practice of the Hijaz and that the Prophet and the Caliph Umar enforced it. He asserted that if the land was in the desert or far from villages, the permission of the Imam was not necessary for reclaiming it, but that it was required if the land was near a cultivated area. However, Shafi'i did not think that authorisation from the state was necessary, an individual acquiring private property rights on a dead land by investing his capital and efforts in its restoration. On the other hand, Abu Hanifa held that authorisation from the Imam was a prerequisite in all cases. During the caliphate of Umar, the condition was imposed that the person who delimits a

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<sup>25</sup> Sadr, *Iqtisaduna*, vol. 2, part 1, p. 108-111; *Eqtesad-e ma*, vol. 2, transl. in Farsi by Abdol Ali Ispahbudi, reed., Mashhad, *Jihad-e Sazandegi* (Holy War for Reconstruction), 1360 [1981], p. 84-85.

<sup>26</sup> *Iqtisaduna*, vol. 2, 1, p. 113-114.

<sup>27</sup> *Ibidem*, p. 111-112.

<sup>28</sup> Nomani and Rahnema, *Islamic Economic Systems*, p. 70.

parcel of dead land to claim it for himself must begin to cultivate it within three years, if not the land could be claimed by somebody else<sup>29</sup>.

According to Modarressi-Tabataba'i, the view that the revivers obtain absolute rights of ownership is the most prevalent among Shi'i *fuqaha*, especially among recent scholars, although they make it conditional to obtaining the permission of the Infallible Imam if he is present<sup>30</sup>.

Another important question is to determine the status of a plot of land which is abandoned by its owner/possessor. The Shi'i *fuqaha* have presented different opinions on this matter. Some assert that it is not permissible to reclaim the land without the permission of its previous owner. Others claim that it is permissible to reclaim it and obtain a right of priority of use, but that ownership remains with the previous owner and that it is necessary to pay him a rent. Another group believe that it is compulsory for the previous owner either to give permission to someone else to use the land or to do it himself. If he refuses to do either of these, the judge can give the permission, and, if there is no judge accessible, one can reclaim the land without the owner's permission, although a *due* (*tasq*) must be paid to him<sup>31</sup>.

Ayatollah Meshkini distinguishes five different cases<sup>32</sup>:

- lands which became somebody's property through reclamation and cultivation;
- lands which became somebody's property through inheritance, purchase, gift, etc.;
- lands which were previously national property (*mulk-e mellat*), such as the lands conquered by force;

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<sup>29</sup> Ziaul Haque, *Landlord and Peasant in Early Islam: A Study of the Legal Doctrine of Muzara'a or Sharecropping*, reprint, Delhi, Idarah-i Adabiyat-i Delli, 1985, p. 248-249, 262-263.

<sup>30</sup> Modarressi-Tabataba'i, *Zamin dar fiqh-e Islami*, vol. 2, p. 97-98.

<sup>31</sup> Meshkini, *Zamin*, p. 59-60.

<sup>32</sup> *Ibidem*, p. 54.

- lands which were previously *waqf* (religious endowment, plural: *awqaf*) with a special or community purpose, such as *awqaf* for children or dedicated to the poor; and
- lands which were previously a contractual *waqf* or *waqf* with a special purpose such as for a mosque, school, cemetery, *ta'zieh* religious performances, and the propagation of religion.

For the lands of the first two categories, he says that it is clear that it is permissible for everybody to reclaim them three years after their owner has abandoned them. To prove his assertion, he refers to traditions from Imam Sadiq (the Sixth Shi'i Imam) and Imam Kazim (the Seventh Imam). In particular, a tradition reports Imam Kazim as saying that: "Land is the property of God who has entrusted it to His slaves. If somebody leaves a plot of land unattended for three consecutive years, it will be taken away from him and given to somebody else"<sup>33</sup>. He also mentions a tradition reported by Sulayman Ibn Khalid which quotes Imam Sadiq as saying that the person who reclaims an abandoned land needs the permission of the previous master of the land and must pay a due to him. But he gives it less credit than to the others<sup>34</sup>.

For the lands of the third category, the traditions from the Imams show clearly that they belong to all Muslims, but they do not answer the question as to what would happen if these lands become waste lands. Therefore, Meshkini concludes that caution must be exerted on this matter and that it should be left undecided<sup>35</sup>.

About the lands of the fourth and fifth types, numerous traditions from the Imams state that it is forbidden to transfer, sell or inherit a *waqf*, that if somebody does it, he will incur the curse of God, and that a *waqf* must remain a *waqf* for ever and be used in accordance with the wishes of the persons who bequeathed it. However, Meshkini believes that these rules apply only as long as the land is cared for as a *waqf*. If it is

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<sup>33</sup> *Ibidem*, p. 54-58. These traditions are also quoted in Taleqani, *Islam va malekiyat*, p. 155-156.

<sup>34</sup> Meshkini, *Zamin*, p. 58.

<sup>35</sup> *Ibidem*, p. 61-64.

abandoned by its custodians and trustees, it comes out of the protected category and is subject to the principles of reclamation. He only makes an exception for the case of mosques which cannot be diverted to another function<sup>36</sup>.

*Iqta'*, the attribution of a plot of land (*qati'ah* or *aqta'*) to somebody by the head of state is another way of transforming state property into private property. In Shi'i *fiqh*, it is restricted to *mawat* lands and confers to the recipient a right of priority in using the land<sup>37</sup>. In the early period of Islamic history, the lands granted to individuals as their private estates came from the dead lands. The lands given by the Prophet, by the Caliphs Abu Bakr and Umar, and by Imam Ali were all dead lands. This was done on a limited scale and the grants were conditional. The lands were given to people who could develop them. If they were left uncultivated for a period of three years, they could be taken back and given to somebody else<sup>38</sup>.

Muhammad Khamene'i distinguishes two types of *iqta'*: of possession (*tamlík*) and of exploitation (*istighlal*), and asserts that for a land to be susceptible to be given in *iqta'*, it must not be in the possession of someone else, a cultivated land, a state reserve (*himan*) or part of the special lands of worship, must not have been given by the Imam to somebody else and must not have been subject to *tahjir*<sup>39</sup>.

During Islamic history, another type of *iqta'* developed. It took the form of grants of inhabited lands to soldiers and civil servants who were entitled to collect taxes on them and keep them for themselves in lieu of payment for their service to the government. These lands, however, remained the property of their previous owners<sup>40</sup>.

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<sup>36</sup> *Ibidem*, p. 64-66.

<sup>37</sup> Modarresi-Tabataba'i, *Zamin dar fiqh-e Islami*, vol. 1, p. 154; Khamene'i, *Iqta'*, p. 23-25.

<sup>38</sup> Haque, *Landlord and Peasant*, p. 258-259, 265.

<sup>39</sup> Khamene'i, *Iqta'*, p. 21-23, 79.

<sup>40</sup> Abdella Abdou, "Lands and Contractual Arrangements in Medieval Islamic Thought", in *The Peasant in Economic Thought: 'A Perfect Republic'*, ed. by Evelyn L. Forget

Therefore, this type of *iqta'* was not a transfer of ownership rights, but only a fiscal concession.

### *Anwatan*

*Anwatan*, "the lands conquered by force", is another important category to examine because most of the lands of Iran — as well as most of the lands of Iraq, Syria, and Egypt — are considered to be part of it<sup>41</sup>.

At the time of the conquest of Iraq and Egypt, the Caliph Umar consulted the Companions of the Prophet on the question of how to dispose of the conquered lands. Some were of the opinion that they should be divided, but others, including Imam Ali, Uthman, the Third Caliph, Talha and Mu'adh Ibn Jabal advised against this<sup>42</sup>. Imam Ali argued that this would concentrate the common wealth of the community in the hands of a few, thus privatising what was the common property of all present and future Muslims, the produce of which had to be used for the general good of the community<sup>43</sup>. Umar then ruled that those newly conquered territories could not be distributed among the warriors. Instead, he chose to immobilise these lands and make them a common *fay'* (*fay' 'amma*), a sort of inalienable state mortmain held in trust for the welfare of the Muslim community. He left them in the hands of the people who were cultivating them in exchange for the payment of a tax called *kharaj*.

A motive of this policy was financial. It provided higher revenues to the state than if the lands had been divided among the conquerors, since in this case they would have been required to pay *'ushr* which was fixed at ten percent of the produce for unirrigated land and five percent for irrigated land, whereas *kharaj* was one third, or

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and Richard A. Lobdell, Aldershot (England) and Brookfield (USA), Edward Elgar, 1995, p. 124.

<sup>41</sup> Taleqani, *Islam va malekiyat*, p. 159-160; Sadr, *Iqtisaduna*, vol. 2, part 1, p. 86.

<sup>42</sup> Haque, *Landlord and Peasant*, p. 188; Sadr, *Iqtisaduna*, vol. 2, part 1, p. 89.

<sup>43</sup> Nomani and Rahnema, *Islamic Economic Systems*, p. 69.



more often one half of the produce. This income was partly used to pay pensions to the soldiers. Another part went to the poor, the orphans and the wayfarers<sup>44</sup>.

Umar prohibited purchase of these lands by Muslims. If a *dhimmi* (non-Muslim subject) converted to Islam, his land would remain part of the common *fay* and be subjected to *kharaj* although he would not be required to pay the poll tax, *jizya*, required of the non-Muslim subjects, any more<sup>45</sup>.

The view which came to be adopted by many Sunni scholars, is that *anwatan* lands are a *waqf* for the Muslims and belong to the entire community<sup>46</sup>. In Shi'i *fiqh*, many traditions from the Imams say that these lands belong to all the Muslims: "those who are now, those who will become Muslim later, and those who are not born yet". On the basis of these traditions, the vast majority of Shi'i *fuqaha* believe that *anwatan* lands belong to all the Muslims<sup>47</sup>. But, they do not assimilate them to *awqaf*<sup>48</sup>. They perceive these lands as the public property (*malekiyat al-'amma*, 'ommi in Farsi) of the whole of the Muslim nation and they think that the Imam, in his capacity of head of state, manages them and looks after them, and that a specific tax, called *kharaj*, must be paid to the nation (*umma* in Arabic, *mellat* in Farsi) by those who utilise them<sup>49</sup>. The only exception among the recent Shi'i scholars is Muhammad Husayn al-Kashaf ul-Ghita (d. 1954) who said that *anwatan* lands are the complete and entire property of their possessors and are not different from other lands except that their owners pay *kharaj* as tax<sup>50</sup>.

In Shi'i *fiqh*, *anwatan* comprises only the lands which were cultivated at the time of conquest. The dead lands among the lands conquered by force became part of *anfal*,

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<sup>44</sup> Haque, *Landlord and Peasant*, p. 189, 245, 296.

<sup>45</sup> *Ibidem*, p. 216-217.

<sup>46</sup> Modarressi-Tabataba'i, *Zamin dar fiqh-e Islami*, vol. 1, p. 142.

<sup>47</sup> *Ibidem*, p. 143-144; Sadr, *Iqtisaduna*, vol. 2, part 1, p. 87.

<sup>48</sup> Modarressi-Tabataba'i, *Zamin dar fiqh-e Islami*, vol. 1, p. 143-144.

<sup>49</sup> Sadr, *Iqtisaduna*, vol. 2, part 1, p. 92-93; and *Eqtesad-e ma*, vol. 2, p. 73.

<sup>50</sup> Modarressi-Tabataba'i, *Zamin dar fiqh-e Islami*, vol. 1, p. 145.

like all other dead lands<sup>51</sup>. However, the lands, which were cultivated at the time of conquest and subsequently become waste lands, are not part of *anfal*, they remain the common property of all the Muslims. Therefore, it is not permitted to appropriate them through reclamation<sup>52</sup>.

Modarressi-Tabataba'i explains that there is an inclination in Shi'i *fiqh* to consider that the ownership of a plot of land is determined by its condition at the time of conquest and that its status is not susceptible to change. On the other hand, he asserts that the Sunnis generally take into account the contemporary situation of the lands and base their principles on this. So they believe that a dead land which is reclaimed belongs to its reviver, even if it was previously under the laws of common ownership<sup>53</sup>.

Most of the Shi'i *fuqaha* also believe that, among the lands conquered by force, the lands whose population is natural, as well as all the lands without an owner, are part of *anfal* and belong to the Imam<sup>54</sup>. Muhammad Baqir Sadr, however, believes that they are the common property of the Muslim community<sup>55</sup>.

The *Shari'a* stipulates that nobody can acquire ownership of *anwatan* lands and that the possessors of this type of land can only enjoy a right of usufruct (*intifa'* in Arabic, *barehbardari* in Farsi)<sup>56</sup>. The farmers who cultivate them have the right to utilise them and get the usufruct from them. Sadr compares their right on the lands to a right of tenure and *kharaj* to a rent<sup>57</sup>. He believes that, since these lands are held in trust for the good of the community as a whole, they are not transferable through inheritance, sale,

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<sup>51</sup> *Ibidem*, p. 117; Sadr, *Iqtisaduna*, vol. 2, part 1, p. 103-104.

<sup>52</sup> Modarressi-Tabataba'i, *Zamin dar fiqh-e Islami*, vol. 1, p. 148-149; Sadr, *Iqtisaduna*, vol. 2, part 1, p. 99; *Eqtesad-e ma*, vol. 2, p. 77-78.

<sup>53</sup> Modarressi-Tabataba'i, *Zamin dar fiqh-e Islami*, vol. 1, p. 150.

<sup>54</sup> *Ibidem*, p. 151.

<sup>55</sup> Sadr, *Iqtisaduna*, vol. 2, part 1, p. 115.

<sup>56</sup> Meshkini, *Zamin*, p. 70.

<sup>57</sup> Sadr, *Iqtisaduna*, vol. 2, part 1, p. 98-99, *Eqtesad-e ma*, vol. 2, p. 77.

gift or tenancy lease and he refers for this point to Shaykh Tusi and to Malik Ibn Anas<sup>58</sup>. But, according to Modarressi-Tabataba'i, in Shi'i *fiqh*, the transfer of the right of use of *amwatan* lands is allowed according to several traditions from Imam Sadiq<sup>59</sup>.

However, the Sunni *fuqaha* believe that Muslims cannot buy and sell *amwatan* lands. They use different arguments to justify this position. Some argue that the public Islamic interest necessitates that these lands be left with the native inhabitants who know the land well. Others point to the fact that giving the Muslims lands to cultivate would distract them from *jihad* by involving them in material affairs and that this would lead to a weakening of the military structure of the Islamic community. Others base their opinion on the assumption that if Muslims buy these lands they would be required to pay *'ushr* on them, rather than *kharaj*, which would lead to a reduction of income for the state treasury. However, many commentators assert that if Muslims buy these lands, they would be required to pay both *'ushr* and *kharaj*<sup>60</sup>.

One must also note that, in Shi'i *fiqh*, it is necessary for the conquests to have been done with the permission of one of the Infallible Imams for the lands to become the common property of all the Muslims. If they were conquered without their permission, they are instead part of *anfāl*<sup>61</sup>.

Other theories have been developed about *amwatan* lands. Some Shafi'i and Zaidi *fuqaha* asserted that, like the other spoils of war, the lands of Iraq were divided among the combatants, but that some of the lands were taken back by the Caliph with the consent of the combatants and transformed into common properties of all the Muslims<sup>62</sup>. On the other hand, Abu Hanifa and his followers believed that the right of ownership of

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<sup>58</sup> *Iqtisaduna*, vol. 2, part 1, p. 98.

<sup>59</sup> Modarressi-Tabataba'i, *Zamin dar fiqh-e Islami*, vol. 1, p. 162.

<sup>60</sup> *Ibidem*, vol. 2, p. 172-173.

<sup>61</sup> Khamene'i, "*Malekiyat-e omumi*", p. 208; Modarressi-Tabataba'i, *Zamin dar fiqh-e Islami*, vol. 1, p. 102.

<sup>62</sup> *Ibidem*, p. 135-136. Modarressi-Tabataba'i believes that there is no historical evidence for that assertion (*Ibidem*, p. 140).

the original owners was recognised in the peace agreement between them and the Muslims and that they, therefore, enjoy full ownership rights on their lands. Some Shafi'is, however, thought that the original owners were deprived of their rights of ownership, but that these were later sold back to them and that the *kharaj* they paid was the price of the lands<sup>63</sup>.

Whatever, their original legal status, the conception that *amwatan* lands were the common property of the Muslim community was not followed in practice and people soon began to act as if they had rights of private ownership on their lands<sup>64</sup>. Under the Ummayyads, the concept of common *fay'* was gradually changed to state *fay'*. The caliphs came to consider the conquered lands as their dynastic property and to distribute large estates out of them<sup>65</sup>. The old Byzantine and Sassanian concepts and ideas pertaining to land and the old practices of land tenure reappeared and were reformulated by the *fuqaha*. Such was the case of the ideas that all land belongs to the state and the cultivators enjoy usufruct in exchange for a part of the crop, and the assimilation of this tax (*tasq*) to a rent<sup>66</sup>.

#### Other Classifications of Lands in Islamic Law

Beside the distinction between public, state and private ownership, other types of classification of lands are used in Islamic jurisprudence. The most important are based on the method of their annexation to the Islamic territory and on whether or not they are cultivated.

The most common system of classification of the lands of the Islamic territories, both in Sunni and Shi'i sources, is based on the method of their annexation. Four categories are distinguished<sup>67</sup>:

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<sup>63</sup> *Ibidem*, p. 141.

<sup>64</sup> Ali Abd al-Kader, "Land Property and Land Tenure in Islam", *The Islamic Quarterly*, vol. 5, n. 1-2, p. 9-10.

<sup>65</sup> Haque, *Landlord and Peasant*, p. 237-238.

<sup>66</sup> *Ibidem*, p. 239, 244, 297-298, and note 57, p. 308.

<sup>67</sup> Modarressi-Tabataba'i, *Zamin dar fiqh-e Islami*, vol. 1, p. 77-78.

- the lands of *tu'* (willingness): the lands whose owners accepted Islam on their own will;
- the conquered lands: *anwatan* which the Islamic army occupied through war;
- the lands of *sulh* (treaty): the lands whose inhabitants concluded a treaty with the Islamic state according to which they agreed to pay a tax to the Islamic state and the state would respect their right of ownership on the lands;
- the *fay'* lands: the lands abandoned by their inhabitants at the approach of the Islamic army, but before any fighting.

In his study of *Land in Islamic Jurisprudence*, Modarressi-Tabataba'i clarifies a few points about this classification. First, the Islamic sources consider that each region responded globally and without exceptions to the call of Islam. For example, some Sunni *fuqaha* do not include in the lands of *tu'* regions such as Bahrain where a large number of the inhabitants embraced Islam on their own will because this region was not officially incorporated in the *Dar ul-Islam* under the category of *tu'* lands. All the lands of a conquered area are considered part of *anwatan*, including the lands of the people who had embraced Islam before the arrival of the Muslim army and the lands that Muslims had bought in that area before the victory<sup>68</sup>.

In Shi'i *fiqh*, the lands which their owners surrendered without fighting at the time of the treaty are not considered part of the lands of treaty, but part of *anfal* and the property of the Imam in his office of head of state, whereas the Sunnis assume that they are the common property of the Islamic community. Some say that making them property of the Imam would be contrary to the peace treaty, but Modarressi-Tabataba'i believes that there was never any treaty which included the stipulation that the lands would be the common property of the Muslims<sup>69</sup>.

Another type of classification, based on the cultivation status of the lands, distinguishes between:

- the lands whose population is natural, such as forests, pastures and seashores;

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<sup>68</sup> *Ibidem*, p. 78-79.

<sup>69</sup> *Ibidem*, p. 80-81.

- the dead lands which have never been inhabited/cultivated;
- the dead lands which became inhabited/cultivated;
- the lands which used to be inhabited/cultivated but, following the death of their owners or their abandoning of it, became waste lands<sup>70</sup>.

In his study on *Land and What is on it*, Ayatollah Meshkini distinguishes between four categories of land: *mawat-e asli* (originally dead lands), *abad-e asli* (originally inhabited/cultivated lands), *mawat-e arazi* (accidentally dead lands) and *abad-e arazi* (accidentally inhabited/cultivated lands)<sup>71</sup>.

Muhammad Baqir Sadr combines these two types of classification. He distinguishes three categories according to the way the lands came under Muslim control, then divides each one into the three sub-categories of: cultivated lands, dead lands and naturally prosperous lands<sup>72</sup>. His three categories are: the lands which became Muslim by conquest, the lands which became Muslim by persuasion (*da'wa*), and the lands of treaty (*sulh*). He leaves out of this classification the other types of land which belong to the state, such as the *fay'* lands attached to the Islamic state without warfare<sup>73</sup>.

- a. The lands which became Muslim by conquest: This category comprises all the lands which were conquered "in the cause of the Islamic mission" in places such as Iraq, Egypt, Syria and Iran<sup>74</sup>. Among these, the lands which were cultivated at the time of conquest became the public property of the Islamic community (*malekiyat al-'amma*, 'ommumi in Farsi)<sup>75</sup>. The lands which were not cultivated at the time of the Muslim conquest became state property and came under the control of the Prophet and of the Imams after him, in their

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<sup>70</sup> *Ibidem*, p. 91.

<sup>71</sup> Meshkini, *Zamin*, p. 31-69.

<sup>72</sup> Sadr, *Iqtisaduna*, vol. 2, part 1, p. 85-139.

<sup>73</sup> *Ibidem*, p. 140; *Eqtesad-e ma*, vol. 2, p. 93.

<sup>74</sup> *Iqtisaduna*, vol. 2, part 1, p. 86.

<sup>75</sup> *Ibidem*, p. 92-93.

office of head of state<sup>76</sup>. And the "naturally prosperous lands", that is the lands which became productive without human intervention, like the forests, are also the common property of the Muslim community<sup>77</sup>.

- b. The lands which became Muslim by persuasion (*da'wa*): This category comprises the lands which became part of the Muslim world without armed conflict, like the city of Medina, Indonesia and scattered spots in the Muslim world. Among these, the cultivated lands of the people who embraced Islam voluntarily remained their private property and no taxes would be levied on them. The dead lands became state property, as well as the naturally prosperous lands which were considered to be without an owner<sup>78</sup>.
- c. The lands of treaty (*sulh*): This category comprises the lands whose owners neither embraced Islam voluntarily nor fought against Islam, but kept their religion and agreed to live peacefully under the protection of the Islamic state. The lands of this category are subject to the conditions stipulated in the peace treaty. If the treaty provided that the lands belong to their inhabitants, then they remained their private property and the Muslim community could not have any claim on them. If the treaty stipulated that the lands would belong to the Muslim community, then they became public property and *kharaj* was to be levied on them. However, the dead lands of this category automatically became state property, whereas the naturally prosperous lands also became state property unless they were included in the treaty, in which case the stipulations of the treaty would apply to them<sup>79</sup>.

After many centuries, it is not always easy to determine the status of a particular plot of land. But most of the contemporary Iranian *fuqaha*, whether they wrote before or after the 1978-79 Revolution, do not establish a direct link between the status of the

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<sup>76</sup> *Ibidem*, p. 103-104.

<sup>77</sup> *Ibidem*, p. 115.

<sup>78</sup> *Ibidem*, p. 116-117.

<sup>79</sup> *Ibidem*, p. 117-118.

different categories of lands in the *Shari'a* and the present situation of the lands and do not advocate a restoration of their legal status. Ayatollah Meshkini expressed the opinion that, in case of doubt, one should assume that the lands do not belong to the *amwatan* category. Therefore, if a plot of land is used by somebody who claims its ownership, one can give him the ownership of the land. However, if it is not sure whether a particular plot of land was part of the cultivated lands or of the dead lands at the time of the Muslim victory, it can be left as the property of its possessor<sup>80</sup>.

### 3. Islamic Law on Land Tenure

The Prophet Muhammad tried to encourage his followers to reclaim dead lands and to cultivate land themselves. An often-quoted *hadith* reported by Bukhari, a ninth-century traditionalist, reports the Prophet as saying that: "A person who has a piece of land should cultivate it himself and should not leave it uncultivated. If he does not cultivate it, he should give it to another for cultivation"<sup>81</sup>.

The problem of land tenure was discussed profusely in the early Islamic sources. The question of whether agricultural land can be leased against a certain part of the produce of the land or against a fixed sum of money is one of the fundamental question discussed in the *fiqh* literature. The laws of land tenure, which deal with the relations between landlords, tenants and the Islamic state, as well as the rights and duties of each party, are part of the general laws of obligations, the core of the Islamic legal theory.

At the time of the Prophet Muhammad, sharecropping was practiced in three different forms<sup>82</sup>:

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<sup>80</sup> Meshkini, *Zamin*, p. 71.

<sup>81</sup> Quoted in Muhammad Abdul Mannan, *Islamic Economics: Theory and Practice*, revised ed., Cambridge, The Islamic Academy, Hodder and Stoughton, 1986, p. 79; see also Muhammad Akram Khan, *Economic Teachings of Prophet Muhammad: A Select Anthology of Hadith Literature on Economics*, Islamabad, International Institute of Islamic Economics and Institute of Policy Studies, 1989, p. 44-45.

<sup>82</sup> S.M. Yusuf, "Land, Agriculture and Rent in Islam", *Islamic Culture*, vol. 31, n. 1, 1957, p. 29-31, see also Haque, *Landlord and Peasant*, p. 14-23.



- The most common practice was to let out the land and stipulate that the product of one particular part of it, often the most fertile close to the irrigation canals, would go to the owner of the land. Other conditions disadvantageous to the tiller could also be added. This system was called *mukhabara*. It was banned by the Prophet.
- Some landlords let out their land in exchange for a specified amount of the produce or of corn. This practice was also condemned by the Prophet, the fixed amount being assimilated to interest in commerce.
- A third practice was to let out the land in exchange for a stipulated proportion of the produce. It was not viewed with favour by the Prophet. But, it is contentious whether or not it was banned.

There has been a lot of controversy among the different schools of Islam about the legality of *muzara'a* or sharecropping. The jurists who believe that it should be prohibited argue that it was banned by the Prophet but that the *fuqaha* legalised it for pragmatic reasons<sup>83</sup>. They assert that it should be prohibited because it involves a degree of chance, because it consists of hiring a tenant for an indeterminate wage and because it is equivalent to buying a crop before it has ripened<sup>84</sup>. Others, on the basis of some traditions from the Prophet, permit some form of *muzara'a* but not others. They argue that the prohibition was not general, but concerned only the contracts which included uncertainty or unjust clauses. Further, they believe that the traditions which prohibit *muzara'a* do not state a legal position, but only induce people to share their surplus land with others as an act of benevolence. Another interpretation is that these traditions do not contain the entire position on the question. The narrator either forgot a part of the instructions of the Prophet or did not report the entire context. Other traditions that explain the context of the prohibition make this clear. Sharecropping contracts of the first type were prohibited because they could lead to unjust situations in which the tenants would not get any produce from the poor side of the land<sup>85</sup>.

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<sup>83</sup> Khan, *Economic Teachings*, p. 42.

<sup>84</sup> Haque, *Landlord and Peasant*, p. 24.

<sup>85</sup> Khan, *Economic Teachings*, p. 42, 51-52.

In his study of *muzara'a* in the first centuries of Islam, Ziaul Haque demonstrates that the *ahadith* on the permissibility of *muzara'a* contain discrepancies and unrelated elements which emerged later. He concludes that they are posterior to the traditions that report the prohibition of *muzara'a* and arose as justification for actual practices<sup>86</sup>.

According to him, the *fuqaha* Islamised the customary system of tenure in order to bring order and coherence in the social relations and in the legal and contractual arrangements, in the framework of a uniform code of law relating to land. They interpreted *kharaj* as meaning '*ujra*, renting or leasing a thing for a certain hire price, and applied this definition to the lands left in the hands of their former *dhimmi* owners. These were perceived as hirers of *fay*' land, who paid *kharaj* to the Islamic state in the same way as the leaser of a land pays a rent to its owner<sup>87</sup>.

This practice was originally limited to non-Muslims. But, after the original inhabitants had become Muslims, they continued in the same status, paying *kharaj*, but not *jizya*, the poll tax which was a sign of subjection. Reducing the "rents" would have drastically reduced the revenues of the state and would have been detrimental to the Muslim community as a whole. The *fuqaha* did not agree on the question of whether these converts should as well pay '*ushr*' on the produce of their land. Abu Hanifa believed that they did not have to. Others, including Malik Ibn Anas, believed that they should pay both since *kharaj* and '*ushr*' serve different functions, the former being for the stipends of the soldiers and their families, the latter for the poor<sup>88</sup>.

According to Haque, the majority of the later *fuqaha* considered that leasing land against a part of the produce or a sum of money is permissible. However, the oldest traditions seem to be unanimous in their condemnation. Abu Hanifa maintained that *muzara'a* was absolutely forbidden because the "wage" of the tenant was unknown, whereas Malik and Shafi'i limited its applicability to the case of orchards (Shafi'i to grapes and dates only) on the model of the practice of the Prophet, and forbade it for

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<sup>86</sup> Haque, *Landlord and Peasant*, p. 93-99.

<sup>87</sup> *Ibidem*, p. 285-286.

<sup>88</sup> *Ibidem*, p. 290-292.

bare land<sup>89</sup>. Malik justified its interdiction in the case of bare land with the argument that the transaction was uncertain "because crops may be scant one time and plentiful another time". He explained that: "A distinction is made between sharecropping in palms and in cultivated lands because the owner of the palms cannot sell the fruit until its good condition is clear. The owner of the land can rent it when it is uncultivated with nothing on it"<sup>90</sup>. On the other hand, Ibn Hanbal, who belonged to a later generation, concluded that *muzara'a* was valid on the analogy with *muzaraba*, a partnership contract between a capital owner and a worker, although he thought that it was preferable that the landlord supplied the seeds. But he forbade *muhaqala* contracts in which land was leased in exchange for corn<sup>91</sup>.

Some *ahadith* on the prohibition of sharecropping report that the payment of a fixed amount of money as rent was not forbidden<sup>92</sup>. However, this practice of *ijara* was not common at the time of the Prophet and it may, in fact, have developed as an alternative to *muzara'a* as the latter was avoided by pious Muslims<sup>93</sup>. The four Sunni schools<sup>94</sup> and the Shi'as allow it.

Notwithstanding the opinion of the *fuqaha* on the prohibition of *muzara'a*, this became a very common practice in the Islamic countries. It was the predominant form of land tenure in Iran before the land reform of the 1960s. In 1960, it was practiced on

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<sup>89</sup> *Ibidem*, p. 9-10, 25, 314-325, 330-335.

<sup>90</sup> *Al-Muwatta of Imam Malik ibn Anas: The First Formulation of Islamic Law*, transl. by Aisha Abdurrahman Bewley, London and New York, Kegan Paul International, 1989, p. 289-290.

<sup>91</sup> Haque, *Landlord and Peasant*, p. 336-337.

<sup>92</sup> Khan, *Economic Teachings*, p. 52-54.

<sup>93</sup> Yusuf, "Land, Agriculture and Rent in Islam", p. 31-32.

<sup>94</sup> Haque, *Landlord and Peasant*, p. 320 (Malik), 324 (Abu Hanifa), 335 (Shafi'i), 336 (Ibn Hanbal); *Al-Muwatta of Imam Malik ibn Anas*, p. 292.

54.8 % of the cultivated lands, whereas *ijara* was found on only 10 % of the lands<sup>95</sup>. Moreover, it was endorsed by the Shi'i law books<sup>96</sup>.

Sadr accepts the legitimacy of renting and sharecropping contracts in agriculture. But, referring to Shaykh Tusi, he asserts that *muzara'a* contracts are valid only if the landowners provide the seeds<sup>97</sup>. This is based on his conception of permanence of ownership<sup>98</sup> which leads him to assert that the produce belongs to the owner of the raw material, in this case the owner of the seeds<sup>99</sup>. If this condition is not fulfilled, the contract becomes one of *mukhabara* which has been prohibited by the Prophet<sup>100</sup>.

The traditional Shi'i law books do not mention these conditions. Ayatollah Khomeini's *Tawzih al-masa'il* authorises *muzara'a* contracts as long as the shares are

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<sup>95</sup> Asghar Schirazi, *Islamic Development Policy: The Agrarian Question in Iran*, transl. by P.J. Ziess-Lawrence, Boulder and London, Lynne Rienner, 1993, notes 52 and 58, p. 66.

<sup>96</sup> See for example: Ayatollah Ruhollah Musavi-Khomeini, *Tawzih al-masa'il* (*Explanation of Questions*), n.p.n.d, p. 451-454.

<sup>97</sup> Sadr, *Iqtisaduna*, vol. 2, part 2, p. 35-36. He adds that the landlord should also provide manure if it is required.

<sup>98</sup> Sadr believes that the first person who applies his labour to a natural resource acquires possession of it through his work and that if he subsequently hires workers to transform it, it will nevertheless remain his property. Ownership can be acquired through work only if the object did not have a previous owner. He gives as example the case of a worker who weaves a fabric out of the wool owned by a shepherd. The worker will have no claim on the fabric he has woven, it will belong to the shepherd as the owner of the raw material. Changing the form of a property does not exclude it from being the property of its first owner (*Ibidem*, vol. 2, part 2, p. 25-26).

<sup>99</sup> *Ibidem*, p. 24-28, 30. According to Sadr, if somebody usurps somebody else's land and grows a crop on it, the produce will belong to the person who planted the crop since he was the owner of the seeds, and he should only pay a rent to the owner of the land.

<sup>100</sup> *Ibidem*, p. 21-22, 35-37, *Eqtesad-e ma*, vol. 2, p. 204-206.

fixed in advance and are a proportion of the total crop, not the produce of a particular part of the land<sup>101</sup>. However, he acknowledges that the produce belongs to the person who provided the seeds in case the *muzara'a* contract becomes void. If it was the landlord, he must pay a wage to the cultivator and reimburse him for his expenses. If it was the cultivator, he must pay a rent to the landlord and reimburse him for his expenses<sup>102</sup>.

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<sup>101</sup> Khomeini, *Tawzih al-masa'il*, p. 451-454.

<sup>102</sup> *Ibidem*, Art. 2235, p. 453-454.

## Chapter 2: Islamic Economics in the Writings of Iranian Authors

### 1. Definitions and Contents of Islamic Economics

#### Definitions

The Indian and Pakistani Muslims who launched the idea of an "Islamic economics" in the 1940s were motivated by a desire to defend the Islamic civilisation against foreign cultural influences. For Syaid Abdul A'la Maududi, the Pakistani ideologist whose writings popularised the phrase "Islamic economics", this new approach to economics was to be "a vehicle for establishing, or re-establishing Islamic authority in a domain where Muslims were falling increasingly under the influence of Western ideas"<sup>1</sup>. Because, Islamic economics was developed to serve cultural and political ends, it did not have to meet scientific standards of coherence, precision and realism. It needed only to differentiate itself from the intellectual traditions that it was aiming at displacing. The most important characteristics of Islamic economics which can be discerned in the writings on the subject are: the prohibition of interest, the imposition of Islamic taxes, and the requirement that economic decisions pass through an Islamic moral filter<sup>2</sup>.

Muhammad Abdul Mannan, a Bengali economist, defines Islamic economics as: "a social science which studies the economic problems of a people imbued with the values of Islam"<sup>3</sup>. Syed Nawab Haider Naqvi, a Pakistani economist, gives a more realistic definition of Islamic economics, writing that it seeks to describe the economic behaviour of a representative Muslim in a Muslim society, rather than that of the "ideal Muslim"<sup>4</sup>. However, in his *Ethics and Economics: An Islamic Synthesis*, he asserts that

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<sup>1</sup> Quoted in Timur Kuran, "Islamic Economics and the Islamic Subeconomy", *Journal of Economic Perspectives*, vol. 9, n. 4, Fall 1995, p. 156.

<sup>2</sup> *Ibidem*.

<sup>3</sup> Muhammad Abdul Mannan, *Islamic Economics: Theory and Practice*, revised ed., Cambridge, The Islamic Academy, Hodder and Stoughton, 1986, p. 18.

<sup>4</sup> Syed Nawab Haider Naqvi, *Islam, Economics and Society*, London and New York, Kegan Paul International, 1994, p. xvii, 13.

in the climate of Islamic philosophy, it is ethics that dominates economics and not the other way round. Therefore, he concludes that the Islamic economic system differs from all other economic systems by an "ethical factor"<sup>5</sup>.

The authors of a books on Islamic economics published in Iran by the Office for Cooperation between Seminaries and Universities admit that there is no agreement among Muslim economists about the extent of the sphere of economic knowledge<sup>6</sup>. Some writers restrict it to the discussion of scientific relations about the production of wealth in the society and the ways of calculating and measuring them. They consider that the philosophical and historical problems and the problems of rights which are present in economic questions are outside the sphere of the science of economics, and they believe that if that type of discussions occur in economic writings, they are out of place. Another view, which is common in Muslim writings, is that the sphere of the science of economics includes all the problems of rights of ownership. Some books published under the title of Islamic economics treat of the principles of ownership, transactions and contracts and consider them as part of economic knowledge<sup>7</sup>.

The authors of this book believe that both of these views are wrong, the first one because it restricts too much the sphere of economics, the second one because it extends it too far<sup>8</sup>. They define the science of economics as a science which discusses men's activities in relation with the acquisition of wealth and income<sup>9</sup>. They distinguish two types of problems of rights and values:

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<sup>5</sup> Syed Nawab Haider Naqvi, *Ethics and Economics: An Islamic Synthesis*, Leicester, The Islamic Foundation, 1981, p. 18.

<sup>6</sup> Office for the Cooperation between Seminaries and Universities, *Mabani-ye eqtesad-e Islami (Fundamentals of Islamic Economics)*, Tehran, Organisation for the Study and Compilation of Books of Social Sciences for the Universities, 2nd ed., 1374 [1995], p. 20.

<sup>7</sup> *Ibidem*.

<sup>8</sup> *Ibidem*, p. 22-23.

<sup>9</sup> *Ibidem*, p. 20, and note 11, p. 44.

- those which are present in the acquisition of wealth, such as the right of economic freedom, the right of private ownership or the view on profit; and
- those which do not directly influence the acquisition of wealth, such as the need of written documents in transactions, the conditions of contracts, or the different ways of transfer of property from one individual to another, which are part of civil law.

They include the former in the realm of economic knowledge, but not the latter. They assert that since economic relations are restricted by the wishes and choices of men and since values, rights, motivations and ideas form a great part of men's actions, leaving them out of the sphere of economic knowledge as Western economists do — limiting economics to scientific relations, statistical and quantitative data and economic mechanisms — would make economic discussion deficient and useless<sup>10</sup>.

According to Muhammad Baqir Sadr and his followers in Iran, Islamic economics is not and cannot be a science. Sadr makes a distinction between a school (*madhhab*) of economics and the science (*'ilm*) of economics. A school of economics lays down a policy for the organisation of a just economic life. On the other hand, the science of economics, according to him, does not lay down any policy, but "studies the effects of a policy which has already been implemented in the society just as a physical scientist studies the laws of heat and their effects"<sup>11</sup>. A science talks of factual things and describe their causes, but it does not say what should be and what should not be. A school, however, evolves a particular system in the light of its concept of justice<sup>12</sup>. Islam has not come to discover the phenomena of economic life and their causes, but to organise the economic life of men and to evolve a system based on social justice. It has set forth principles and has invited people to follow them. Therefore, Islamic economics is a school of economics and not a science<sup>13</sup>.

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<sup>10</sup> *Ibidem*, p. 21-22.

<sup>11</sup> Ayatullah Baqir al-Sadr, *Islam and Schools of Economics*, transl. by M.A. Ansari, 5th ed., Accra, etc, Islamic Seminary Publications, 1985, p. 128.

<sup>12</sup> *Ibidem*, p. 131-141.

<sup>13</sup> *Ibidem*, p. 149-151; see also *Eqtasad-e ma*, vol. 2, p. 15-22.



In the same line of thought, Reza Isfahani, a radical Iranian author, writes that what is generally called Islamic economics is in fact an Islamic economic system, not Islamic economics in the sense of the science of economics which is a new science that did not exist fourteen centuries ago when Islam was born. Islam which started with a call for a cultural programme did not need to express itself on the science of economics, the same way that it did not need to express a view on the other non cultural sciences, such as physics and mathematics. However, as Islam protects the material and spiritual interests of men and as the economic relations of men with one another cannot be left without a plan, it is necessary to have a programme about the hows of these relations, in other words an economic programme<sup>14</sup>.

On the other hand, some Sunni writers see the possibility of developing Islamic economics into a science. This is the case of Mannan who is associated with the *Journal of Research in Islamic Economics* published by King Abdulaziz University in Saudi Arabia<sup>15</sup>. In a treatise of Islamic economics, he proposes a scientific method in seven steps for the development of Islamic economic theories, policies and institutions<sup>16</sup>. According to Hamid Hosseini, no Iranian writer has tried to follow these steps or to develop positive economic theories. The writings of Iranian proponents of Islamic economics involve philosophical and ethical discussions on economic issues rather than a scientific analysis of economic concepts. On the other hand, several Arab, Pakistani, and Bengali authors have tried to develop micro-economic and macro-economic tools for Islamic economics. Hosseini concludes that the latter "have done a great deal more research in Islamic economics, and their research is tremendously more sophisticated"<sup>17</sup>.

Even though there is a general consensus that Islamic economics has to be based on Islamic law, the extent to which the *Shari'a* offers a fixed and detailed set of laws

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<sup>14</sup> Reza Isfahani, *Eqtesad-e moqayesa'i* (*Comparative Economics*), vol. 1, Tehran, Elham, 1358 [1979], p. 3-4.

<sup>15</sup> Mannan, *Islamic Economics*, p. 5; Hamid Hosseini, "Islamic Economics in Iran and Other Muslim Countries: Is a New Economic Paradigm in the Making?", *Journal of South Asian and Middle Eastern Studies*, vol. 12, n. 2, Winter 1988, p. 25.

<sup>16</sup> Mannan, *Islamic Economics*, p. 5-8.

<sup>17</sup> Hosseini, "Islamic Economics in Iran and Other Muslim Countries", p. 21, 28.

concerning economic activities capable of resolving all economic problems is a subject of debate among Muslim social scientists and jurists. Nomani and Rahnema distinguish two types of approach to this problem<sup>18</sup>:

- The traditional jurists argue that Islamic economics can and has to be deduced from divine laws with a minimum of human discretion. They argue that since Islamic law has been legislated for all times and places, it is not in need of adaptation and updating, and is capable of addressing all present and future economic problems.
- Others argue that the primary Islamic sources do not contain sufficient information for the construction of an integrated economic system capable of resolving present economic problems. Therefore, a considerable part of Islamic economics has to be based on human reasoning. Nevertheless, these authors add that human discretion has to be based on the principles laid down in the primary sources.

Different reasons can be advanced to explain the absence of a distinct, integrated and coherent Islamic economic system. First, Islamic economists profess their desire to derive their entire system from the *Qur'an* and the *Sunna*, but these sources do not offer a comprehensive economic framework. The *Qur'an* contains moral principles, but few specific injunctions and the *Sunna* is restricted by the socio-economic conditions of seventh-century Arabia. They do not deal with the pressing economic conditions of the present time<sup>19</sup>. Moreover, the existence of more than forty thousand *ahadith* attributed to the Prophet provides a vast amount of actions and statements from which it is possible to find one to prove the particular position that one wants to defend. In fact, the existence in the primary sources of contradictory positions on a single issue enables different writers to use different texts as proof of the validity of their particular position. Furthermore, the subjectivity of the Islamic jurists can lead to different interpretations of

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<sup>18</sup> Nomani and Rahnema, *Islamic Economic Systems*, p. 45.

<sup>19</sup> Timur Kuran, "The Economic System in Contemporary Islamic Thought", in *Islamic Economic Alternatives: Critical Perspectives and New Directions*, ed. by Jomo K.S., Basingstoke and London, Macmillan Academic and Professional, 1992, p. 40.

the same texts. Finally, the use of *ijma'*, *qiyas* or *ijtihad* by *mujtahidin* can make them pronounce unprecedented edicts.

Hamid Hosseini mentions four reasons to explain the inability of Islamic economics to develop into a full fledged economic system with internal consistency<sup>20</sup>:

- There exists different Islamic sects [*sic*] with different interpretations of the Qur'anic verses and *ahadith*, which are unlikely to agree on the same principles;
- Various Muslim writers have different ideological persuasions, some close to capitalism, others close to Marxism;
- He does not see the emergence of an individual, like Adam Smith or Karl Marx, who "with a sense of history and strong intellectual capabilities, has the ability to grasp at least some aspects of a troubled or rapidly changing age and, thus, lay down the rudiments of an economic paradigm [... which could be] accepted by Muslims of different sects and various ideological persuasions"; and
- A religiously inspired economics would have a strong normative and ethical component, which would make it difficult to develop a logically consistent paradigm.

Timur Kuran concludes that if a functional alternative to existing economic systems is to be developed, its intellectual foundations must either be created anew or be drawn from sources outside the *Qur'an* and the *Sunna*<sup>21</sup>. Many modern Islamic economists have chosen to deal with problems not found in the socio-economic environment of seventh-century Arabia by invoking the "spirit of the *Shari'a*", rather than its letter.

### The Different Islamic Economic Systems

Nomani and Rahnema distinguish three types of approaches to economic problems among Islamic economists and social scientists. First, some consider the distinguishing features of the Islamic economic system as basically the same as

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<sup>20</sup> Hosseini, "Islamic Economics in Iran and Other Muslim Countries", p. 43-44.

<sup>21</sup> Kuran, "The Economic System in Contemporary Islamic Thought", p. 40.

capitalism, among whom they mention: Maxime Rodinson, Ayatollah Nasser Mokarem-Shirazi, Hamid Hosseini, and Sohrab Behdad. Others categorise the Islamic economic system as anti-capitalist, socialist and egalitarian, among whom they mention Ali Shariati, Habibollah Peyman *alias* Paydar and Syed Nawab Haider Naqvi. According to them, a third position can also be deduced from Islamic sources. This would at first endorse a planned and relatively egalitarian economy during the initial stages of economic development when a market system would be incapable of meeting basic needs. Then, once basic needs have been met and the economy is capable of producing more, Islam would endorse a market economy<sup>22</sup>.

They believe that an economic system built on the strict letter of the *Shari'a* would resemble a perfectly competitive market system, whereas an economic system rigidly constructed on the equitable spirit of the *Shari'a* would resemble an egalitarian system of planned economy. They call the former: "Islamic market mechanism" and the latter: "Islamic plan mechanism". In between these two systems, they find room for an economic system influenced by both the letter and the equitable spirit of the *Shari'a*, which they call: "Islamic plan-then-market mechanism"<sup>23</sup>.

a. "The Islamic market mechanism"

This system accepts the market as the basic coordinating mechanism, and is characterised by freedom of exchange, security of contract and the sanctity of private property. Numerous guidelines can be found in the primary Islamic sources which guarantee a free market under normal conditions and condemn situations of monopoly and monopsony, as well as hoarding. On the basis of several *ahadith*, one can conclude that interference by the government in the market, for example to fix prices, is discouraged. Furthermore, inequalities in wealth and income resulting from the operation of market forces are not considered reprehensible since they reflect God's will. The *Qur'an* states that God has bestowed His gifts more freely on some individuals than on others, has raised some higher than others and has allotted to each according to what they earn (4:32, 43:32). A socio-economically stratified society is therefore compatible

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<sup>22</sup> Nomani and Rahnema, *Islamic Economic Systems*, p. 54.

<sup>23</sup> *Ibidem*, p. 55.

with the Islamic social order. Any interference with the outcome of the market operations may therefore be considered to be meddling with God's intentions<sup>24</sup>.

b. "The Islamic plan mechanism"

It can also be argued that the spirit of the *Shari'a* is governed by a strong sense of social justice, fraternity, equality and cooperation<sup>25</sup>. Therefore, if market forces fail to attain social justice, intervention, regulation and planning by the Islamic state would become imperative. The existence of an egalitarian school of Islamic thought, which places the provision of basic needs for all above all other consideration, goes back to Abu Dharr Ghifari, one of the close companions of the Prophet Muhammad who was banished by the Caliph Uthman for preaching the verses of the *Qur'an* which condemn hoarding by the rich and for insisting that the poor should have a share in the wealth of the rich<sup>26</sup>. The application of secondary ordinances gives unlimited powers to the Islamic government to alleviate the economic problems of the needy. Invoking necessity and public good could also legitimate the use of planning as the Islamic coordinating mechanism. As long as the essential basic needs remain unfulfilled, production would have to be based on their satisfaction rather than on demand. This would require a centralised system of planning and the suspension of market mechanisms<sup>27</sup>.

The supporters of this position, such as Naqvi, argue that an Islamic planned economy should be maintained indefinitely. Their argument rests on the *Qur'anic* verses which recommend the fulfilment of the basic needs of the poor, prompt the rich to give their surplus wealth for the poor, state that the poor possess a divine and social right in the wealth of the rich, and warn the rich that if they treasure their wealth and neglect helping the poor, they will go to hell<sup>28</sup>.

Nomani and Rahnema believe that, on the basis of this evidence, one might argue that according to the *Shari'a* the Islamic plan mechanism is as justifiable and legitimate

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<sup>24</sup> *Ibidem*, p. 56-58.

<sup>25</sup> See for example the verses 24:61, 51:19, and 70:24-25.

<sup>26</sup> Nomani and Rahnema, *Islamic Economic Systems*, p. 59-60.

<sup>27</sup> *Ibidem*, p. 62-63.

<sup>28</sup> *Ibidem*, p. 63, Naqvi, *Ethics and Economics*, p. 102-103.

as the Islamic market mechanism. The proponents of the latter, however, argue that the rich are only obliged to pay *zakat* (a tax on assets and savings held for more than twelve months) (for the Sunnis) or *zakat* and *khums* (a twenty percent tax on income from natural resources, mines, and profit from all permissible economic activities) (for the Shi'as) and that all other types of charity are voluntary. They admit that the market mechanism can be legitimately suspended in case the basic needs of a particular social group are not provided for and the rich refuse to help the poor. But they do not accept the idea that a planned economy would last for ever because this would amount to replacing primary ordinances and the explicit letter of the *Shari'a* by secondary ordinances and ethical recommendations, and this would imply that the primary laws are incomplete and imperfect. It could then be argued that an Islamic economic system devoid of its primary legal basis may no longer be considered to be Islamic<sup>29</sup>.

c. "The Islamic plan-then-market mechanism"

Nomani and Rahnema put in this third category Muhammad Baqir Sadr who envisaged an economy based on private as well as state ownership in which the state would control the entire economic life through its control and ownership of raw materials and minerals, without, however, considering the state plan to be an end in itself. Sadr argued that until sufficient amounts of basic necessities are produced, the production of luxury goods should be banned, but economic planning would become unnecessary once basic needs are provided for<sup>30</sup>.

According to the "plan-then-market mechanism" theory, once the basic needs have been fulfilled and social justice has been established, the Islamic economy can go back to the letter of the law and adopt the Islamic market mechanism. A phase in which each would receive according to his ability and the factors of production he owns would succeed a phase in which each receives according to his basic needs. As Nomani and Rahnema have noted, this is a reversal of the Marxist theory in which a socialist phase

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<sup>29</sup> Nomani and Rahnema, *Islamic Economic Systems*, p. 63-64.

<sup>30</sup> *Ibidem*, p. 65, Sadr, *Iqtisaduna*, vol. 2, part 2, p. 145-146.

characterised by the dictum "to each according to his work" is supposed to be followed by a communist phase with the goal of "to each according to his needs"<sup>31</sup>.

### **The Issue of Property Rights**

Islam holds that all property ultimately belongs to God. Many Qur'anic verses state that: "To God belong all that is in the heavens and on earth". Men, collectively, are considered to be His trustees on earth and to hold property only as a trust (35:39, 57:7). Therefore, God's ownership supersedes the individual's right to property, it is absolute and inalienable, while man's ownership is relative and limited<sup>32</sup>.

Nevertheless, most Sunni and Shi'i jurists and economists believe that Islam recognises and upholds the individual's right to private ownership. The *Qur'an* guarantees the security of private property by imposing stringent punishments on those who violate its sanctity<sup>33</sup>, and the Prophet Muhammad is reported to have said that a person who dies defending his property is a martyr<sup>34</sup>.

All Islamist economists and social scientists would admit that, since God is the ultimate owner of the world and men are only his vice-regents on earth, if an individual's property rights interfere with the realisation of God's will on earth, limits must be imposed on his property rights<sup>35</sup>. However, some ambiguities in Islam's teachings give rise to jurisprudential disputes in interpreting the *Shari'a* on the limits of private ownership and on the power of the state to restrict it. Islam teaches compassion for the poor and destitute and many verses of the *Qur'an* condemn the wealthy, miser and arrogant (for example: 3:180, 4:37-39). But it also praises worldly and material preoccupations. It is therefore open to a wide range of interpretations on property rights.

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<sup>31</sup> Nomani and Rahnema, *Islamic Economic Systems*, p. 65.

<sup>32</sup> Sayyed Mahmud Taleqani, *Islam va malekiyat*, n.d.n.p., p. 143.

<sup>33</sup> Nomani and Rahnema, *Islamic Economic Systems*, p. 70-71.

<sup>34</sup> Muhammad Akram Khan, *Economic Teachings of Prophet Muhammad: A Select Anthology of Hadith Literature on Economics*, Islamabad, International Institute of Islamic Economics and Institute of Policy Studies, 1989, p. 8-9.

<sup>35</sup> Nomani and Rahnema, *Islamic Economic Systems*, p. 76.

The limits of private property in an Islamic society is the most important topic of controversy among Islamic economists<sup>36</sup>.

Three types of approaches can be distinguished<sup>37</sup>:

a. The "laissez faire approach"

The majority of Islamic jurists maintain that Islam does not set any limit on the amount of property which can be acquired through legitimate means. They base their assertions on the Qur'anic verses which legitimate the differences in wealth as a sign of God's will (16:71, 4:32 and 6:165). They explain that Islam does not hold it incompatible with social justice that some people have a comparatively larger share of the endowments of nature than others as one person may be able to profitably manage a larger share than others<sup>38</sup>. Most of them would nevertheless recognise that exceptional circumstances could call for the imposition of limits on private property, or even its temporary suspension, although they would have different interpretations of what constitutes "exceptional circumstances".

b. The "populist approach"

The proponents of this approach admits that the right of private property is respected in Islam, but they think that opportunity to exercise this right must exist for every individual and that no one should be without property<sup>39</sup>. This populist approach

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<sup>36</sup> Sohrab Behdad, "Property Rights and Islamic Economic Approaches", in *Islamic Economic Alternatives*, *op. cit.*, p. 78.

<sup>37</sup> Behdad, "Property Rights", p. 80-84.

<sup>38</sup> S.M. Yusuf, "Land, Agriculture and Rent in Islam", *Islamic Culture*, vol. 31, n. 1, 1957, p. 28.

<sup>39</sup> Behdad, "Property Rights", p. 82. See for example: Abdul-Hamid Ahmad Abu-Sulayman who argues that equality is the economic manifestation of *tawhid* (Unity), the cardinal principal of Islam. Then, extending this interpretation of *tawhid* to property rights, he concludes that all natural resources including land belong to the whole society and that each individual can use them to provide for his needs, but that no one can claim a bigger share than others ("The Theory of the Economics of Islam: The Economics of Tawhid and Brotherhood", in *Contemporary Aspects of Economic*



may imply the imposition of certain ceilings on ownership. It has been supported by the Muslim Brothers and by the *Jama'at-i Islami* in Pakistan<sup>40</sup>. Furthermore, some radical authors believe that Islam is in contradiction with the private ownership of land, natural resources and capital<sup>41</sup>. In the case of land, they base their assertion on a *hadith* which reports the Prophet Muhammad as saying that: "Land belongs to those who till it"<sup>42</sup>.

c. The "populist-state control approach"

This approach extends the previous one by putting the state in a central position. According to Behdad, Sadr is the main proponent of this approach. His emphasis on the social character of ownership sets strict limits on private property rights and he legitimates a strong intervention of the state in the economy. Most Islamic economists would agree that the state should step in when the voluntary charity of individuals is not sufficient to provide for the needs of the poor and destitute. However, according to Behdad, what sets Sadr apart from others is the role that he prescribes for the Islamic state to maintain a "social balance". Sadr asserts that the Islamic state may legislate new restrictions on economic activities in addition to what is prescribed in the *Shari'a* in order to maintain social balance in the face of historical changes in the conditions of production, and that the state may establish and control large enterprises where production conditions require it<sup>43</sup>.

According to Behdad, this extensive state intervention cannot be carried out based on the existing jurisprudential tradition. He maintains that Islamic ideology

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*Thinking in Islam*, Proceedings of the Third East Coast Regional Conference of the Muslim Students' Association of the United States and Canada, April 1968, American Trust Publications, 1970, p. 14, 16-17, 39-40). See also Muhammad Nejatullah Siddiqi, *Muslim Economic Thinking: A Survey of Contemporary Literature*, Leicester, The Islamic Foundation, 1981, p. 8.

<sup>40</sup> *Ibidem*, p. 9.

<sup>41</sup> Nomani and Rahnema, *Islamic Economic Systems*, p. 75-76.

<sup>42</sup> Javad Kooroshy, "Land Tenure under Shiite Islam", *Quarterly Journal of International Agriculture*, vol. 26, n. 4, 1987, p. 392, and note 2, p.396.

<sup>43</sup> Behdad, "Property Rights", p. 83-84.

imposes definite limits on the resolution of the property rights issue. He thinks that a strict interpretation of property rights according to Islamic law would counter any radical tendency and that even the reforms proposed by Islamic economists along the line of a capitalist economy with an interventionist welfare state would require a radical reform of Islamic jurisprudence<sup>44</sup>.

### **The Issue of Land Ownership, Renting and Sharecropping**

There is little disagreement among Islamic economists that land in its natural state may not be owned by individuals<sup>45</sup>. Some hold the view that work in general is the sole basis of private property and that, in particular, cultivation is the only justification for the private ownership of land. This view is based on the Qur'anic verse which states that: "man can have nothing but what he strives for"(53:39). According to this view, the structures of land ownership prevalent in most Muslim countries are contrary to the letter and the spirit of the *Shari'a*<sup>46</sup>. But the majority of Islamist economists tend to accommodate the existing structures of land ownership in their economic system.

Most of them agree that land which has been previously subject to some improvements can be given to someone else in sharecropping. They consider that this type of transaction is analogous to profit and loss sharing agreements in trade and industry which are endorsed by Islamic law. They argue that all owners do not have the capacity to cultivate their land directly and that they should be allowed to benefit from it in cooperation with others. However, some Islamic economists, such as Abu Sulayman, oppose sharecropping on the grounds that a landowner who does not participate in cultivation is not entitled to a return<sup>47</sup>. Others adopt an intermediate position, such as the Pakistani economist Afzal-ur-Rahman who writes that:

"If there is a spirit of benevolence and goodwill behind [a sharecropping] contract and either [party] expects only to receive its due, [...] then it is the best form of

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<sup>44</sup> *Ibidem*, p. 78-79, 84.

<sup>45</sup> Behdad, "Property Rights", p. 87.

<sup>46</sup> Naqvi, *Islam, Economics and Society*, p. 101.

<sup>47</sup> Siddiqi, *Muslim Economic Thinking*, p. 16; Abu-Sulayman, "The Theory of the Economics of Islam", p. 20-21.

cooperation, partnership and friendship. But if this spirit is lacking and the weakness of the cultivator becomes the instrument of [the] landlord's oppression and exploitation, [...] then this form of cultivation is not permitted"<sup>48</sup>.

For example, he thinks that sharecropping should not be allowed in case it would turn the landlord into an idler or a parasite<sup>49</sup>.

On the other hand, the practice of renting land comes under harsh indictment from many Islamic economists because it put the risk entirely on one party and because charging a fixed sum against uncertain returns is likened to *riba* (usury)<sup>50</sup>. Mannan argues that all rents are signs of landlordism and against the tenets of Islam. He believes that Islam looks unfavourably at landlordism because this system of land tenure is the negation of the principle of equitable distribution of wealth and because it may stand in the way of the proper utilisation of the land<sup>51</sup>. However, some authors are prepared to make some exceptions. For example, Afzal-ur-Rahman believes that it is allowed if the landlord pursues activities beneficial to the society, and especially if he is defending Islam<sup>52</sup>. Abu Sulayman does not accept rent of plain land (*bida'*), which he compares to *riba*, but he accepts as lawful the rent of land in which labour or capital has been invested<sup>53</sup>. On the other hand, a small minority of Islamic economists accept fixed rents, but reject sharecropping because it involves *gharar* (chance)<sup>54</sup>.

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<sup>48</sup> Afzal ur-Rahman, *Economic Doctrines of Islam*, vol. 2, 2nd ed., Lahore, Islamic Publications, 1986, p. 173, quoted in Timur Kuran, "Economic Justice in Contemporary Islamic Thought", in *Islamic Economic Alternatives*, *op.cit.*, p. 55.

<sup>49</sup> *Ibidem*; see also Behdad, "Property Rights", p. 88-89.

<sup>50</sup> Siddiqi, *Muslim Economic Thinking*, p. 15.

<sup>51</sup> Mannan, *Islamic Economics*, p. 78-81.

<sup>52</sup> Timur Kuran, "Economic Justice in Contemporary Islamic Thought", p. 55.

<sup>53</sup> Abu-Sulayman, "The Theory of the Economics of Islam", p. 19-22.

<sup>54</sup> Frederic L. Pryor, "The Islamic Economic System", *Journal of Comparative Economics*, vol. 9, 1985, p. 202.

## 2. Shi'i Authors and Islamic Economics

Shi'i Islamic economists, social scientists and theologians are all of the opinion that an Islamic state and economy have not yet been instituted, except for two brief periods: one at the time of the Prophet Muhammad, the other at the time of Imam Ali<sup>55</sup>. As Homa Katouzian has pointed out, this is an important difference to Sunni writers who tend to assume that contemporary Muslim societies and the past civilisations from which they have evolved are Islamic. The absence of a past example of a Shi'i Islamic political economy is one of the reasons given by Muhammad Baqir Sadr for the absence of a science of Islamic economics<sup>56</sup>.

The view that Islam permits private ownership of property including the means of production was a common belief of most Shi'i Muslims in Iran up until a few decades ago. However, since the 1950s, many Iranian writers have arrived at different interpretations of the economic scheme of Islam. Whereas the proponents of Islamic economics in Pakistan, India, Bangladesh and the Arab countries have tried to create a new economic paradigm on the basis of Islamic jurisprudence or have tried to apply the tools of economic science to Islamic institutions, the literature of Islamic economics in Iran emerged for political reason as a reaction to the Marxist criticism of the economic scheme of Islam<sup>57</sup>. The Iranians who wrote on Islamic economics are mostly Shi'i 'ulama' interested in economics. They have tended to argue their cases through a refutation of Marxist tenets, while, at the same time, interpreting Islamic law to make it

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<sup>55</sup> Rahnema Nomani, *The Secular Miracle*, p. 132.

<sup>56</sup> Homa Katouzian, "Shi'ism and Islamic Economics: Sadr and Bani Sadr", in *Religion and Politics in Iran: Shi'ism from Quietism to Revolution*, ed. by Nikki R. Keddie, New Haven and London, Yale University Press, 1983, p. 145-146; John Donohue, "Notre économie", *Cahiers de l'Orient*, n. 8-9, 1987-88, p. 179, 181.

<sup>57</sup> Hamid Hosseini, "Notions of Private Property in Islamic Economics in Contemporary Iran: A Review of Literature", *International Journal of Social Economics*, vol. 15, n. 9, 1988, p. 51.

appear not less just and revolutionary than Marxist ideals<sup>58</sup>. As a consequence, the Iranian brand of Islamic economics has been distinctly more radical than those presented in other Muslim countries<sup>59</sup>.

Asghar Schirazi has counted more than three dozen works elaborating on an Islamic economy written in Iran during the three decades preceding the 1978-79 Revolution, although some of them only concerned themselves with individual questions<sup>60</sup> and none of them went into details on the practical organisation of an Islamic economy.

Some extremist authors went as far as negating private property rights as the basis and the manifestation of polytheism. The main proponent of this approach in Iran was Ali Shariati for whom "private ownership [...] is the source of various ills, among which are the disruption of social relations and the negation of values"<sup>61</sup>. He contended that Islam is in opposition to capitalism, private ownership and class exploitation. He saw class struggle and the contradictions resulting from property ownership as the driving force of history and believed that Islamic liberation had to be accompanied by the rejection of private property and the struggle toward establishing a monotheistic classless society<sup>62</sup>.

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<sup>58</sup> *Ibidem*, p. 52; Katouzian, "Shi'ism and Islamic Economics", p. 147; see for example Muhammad Baqir Sadr, *Iqtisaduna*, vol. 1, which is mainly a refutation of Marxism.

<sup>59</sup> Sohrab Behdad, "A Disputed Utopia: Islamic Economics in Revolutionary Iran", *Comparative Studies in Society and History*, vol. 36, 1994, p. 776.

<sup>60</sup> Asghar Schirazi, *Islamic Development Policy: The Agrarian Question in Iran*, transl. from the German by P.J. Ziess-Lawrence, Boulder and London, Lynne Rienner Publishers, 1993, p. 50.

<sup>61</sup> Ali Shariati, *From Where Shall We Begin?*, Houston, Free Islamic Literature, 1980, p. 39, quoted in Behdad, "A Disputed Utopia", p. 784.

<sup>62</sup> *Ibidem*, p. 782, 784-785. On Shariati, see also: Rahnema and Nomani, *The Secular Miracle*, p. 51-73; and Hamid Dabashi, *Theology of Discontent: The Ideological Foundation of the Islamic Revolution in Iran*, New York and London, New York University Press, 1993, p. 102-146.

The *Mujahidin-e khalq* (Holy Warriors of the People) also belonged to this tendency, but they went further than Shariati in espousing Marxist doctrines of historical materialism and theories of value and exploitation. They have admitted to accepting Marxist social thought while rejecting atheism. They envisaged a classless society in which commodity relations would be eradicated and the economy demonetised<sup>63</sup>.

The extremist ideas of these authors have been easily dismissed by Shi'i theologians and mainstream authors as materialist and heretic, and they exerted little influence on Islamic economic thought in the Islamic Republic of Iran. For this reason, they will not be further examined in this chapter.

### **Muhammad Baqir Sadr: A Precursor for Iranian Writers on Islamic Economics**

Although this section focuses on Iran, it will also analyse the ideas of Muhammad Baqir Sadr, who was an Iraqi, because he was a leading Shi'i *'alim* and exerted a wide influence on Iranian authors. The book on Islamic economics which he wrote around 1960 was path-breaking and is referred to by all authors who subsequently wrote on the subject.

Sadr (1935?-1980)<sup>64</sup>, one of the most famous contemporary Shi'i jurist from Najaf theological centre, is mainly remembered for his work on Islamic economics and banking. His most famous book, *Iqtisaduna (Our Economy)* was published in 1961. It is one of the most comprehensive work on Islamic economics. It was translated in Farsi in 1971-78<sup>65</sup> and exerted a considerable influence on the Islamic scholars in Iran before and

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<sup>63</sup> Behdad, "A Disputed Utopia", p. 785.

<sup>64</sup> Sadr was arrested in June 1979 because of his support for the Iranian Islamic Revolution and his allegiance to Khomeini, and was executed in April 1980 (Pierre Martin, "Une grande figure de l'islamisme en Irak", *Cahiers de l'Orient*, n. 8-9, 1987-88, p. 134). For his biography and an analysis of his work, see Chibli Mallat, *The Renewal of Islamic Law: Muhammad Baqer as-Sadr, Najaf and the Shi'i International*, Cambridge, Cambridge University Press, 1993.

<sup>65</sup> *Eqtesad-e ma*, vol. 1, transl. by Mohammed Kazem Musavi, 1971; vol. 2, transl. by Abdol Ali Ispahbudi, 1978. An English translation was published in Tehran in 1982-

after the Revolution. It was also used and discussed in several countries of the Arab world, including universities in the Maghreb<sup>66</sup>, which is evidence for the non-sectarianism of Sadr's scholarship. Indeed, Sadr has freely drawn on both Shi'i and Sunni traditions and avoided Shi'i references which could have led to polemics with Sunnis<sup>67</sup>.

It is the communist challenge in Shi'i circles which motivated Sadr to write *Falsafatuna* (*Our Philosophy*) and *Iqtisaduna*. Hussayn Ahmad al-Radhi, first secretary of the Iraqi Communist Party at the time, was a *sayyid* (descendent of the Prophet Muhammad) and belonged to a religious family of Najaf, and there were other *sayyid* (plural: *asyad*) and sons of Shi'i 'ulama' in the central committee of the Communist Party. As most of the poor in Iraq were Shi'i, the Shi'i community was attracted by an ideology which advocated social struggle<sup>68</sup>. At the same time, the Iraqi Shi'i 'ulama' tended to withdraw into themselves inside the holy shrine cities, and especially Najaf, leaving the rest of the country devoid of religious infrastructure. The majority of 'ulama' adopted a defensive position and concentrated on their traditional educational activities, cut off from the world and in an environment which, according to Pierre Martin, was more and more taking the form of a ghetto<sup>69</sup>.

Sadr reacted against these isolationist tendencies of the Shi'i 'ulama'. He became actively involved with the periodical *Al-Adwa* published by the Association of Combatant 'Ulama' which had been founded in Najaf in 1959 by his uncle, Ayatollah Murtada al-Yasin. In his editorials, he called the Muslims to unite and to struggle against Israel and colonialism<sup>70</sup>. In *Falsafatuna* published in 1959, he presented Islam as a philosophy superior to all other ideologies, in particular Marxism and materialism<sup>71</sup>.

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84: *Iqtisaduna: Our Economics*, 2 vol, 4 parts, Tehran, World Organization for Islamic Services, 1982-1984.

<sup>66</sup> Mallat, *The Renewal of Islamic Law*, p. 142-143.

<sup>67</sup> *Ibidem*, p. 124; Martin, "Une grande figure de l'islamisme en Irak", p. 124.

<sup>68</sup> *Ibidem*, p. 122.

<sup>69</sup> *Ibidem*, p. 122-123.

<sup>70</sup> *Ibidem*, p. 123.

<sup>71</sup> *Ibidem*, p. 124.

In *Iqtisaduna*, he argued that the three basic principles of Islamic economics were:

- mixed ownership: He believed that the essential difference between capitalism, Marxism and Islam resided in the nature of the property relations adopted by each system. Whereas capitalism rests on private property and considers measures like nationalisation to be exceptions to the rule, and Marxism is based on common property and recognises private property only under exceptional circumstances, Islam upholds different types of property and poses the principle of mixed property, recognising three types of property: private, public and state property<sup>72</sup>;
- economic freedom in the limits of Islamic moral and spiritual values. These limits are of two types: subjective and objective. The subjective limits stem from the Islamic education system which helps to form the Islamic personality and to internalise the Islamic moral values. The objective limits are imposed from outside by the *Shari'a* and by the power of supervision of the head of state (*wali ul-amr*, *vali-ye amr* in Farsi) who can intervene to safeguard and promote social justice. This power is based on verse 4:59: "Obey God, obey the Prophet and those in authority among you (*wali ul-amr*)"<sup>73</sup>; and
- social justice which comprises two general principles: common responsibility and social balance<sup>74</sup>.

According to Sadr, two basic characteristics oppose Islam to Marxism: its realism and its morality. Its realism makes it take into account the natural and egotistic human traits instead of basing its theories on the supposition that they can be changed, and aim at realistic objectives, while its moral aspect makes it attach importance to personal and psychological factors<sup>75</sup>.

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<sup>72</sup> Muhammad Baqir Sadr, *Iqtisaduna: Our Economics*, Tehran, , World Organization for Islamic Services, vol. 1, part 2, 1982, p. 51-54.

<sup>73</sup> *Ibidem*, p. 54-58.

<sup>74</sup> *Ibidem*, p. 60-61. See also Mallat, *The Renewal of Islamic Law*, p. 114-115; and John Donohue, "Notre économie", *Cahiers de l'Orient*, n. 8-9, 1987-88, p. 187.

<sup>75</sup> *Iqtisaduna*, vol. 1, 2, p. 62-65.



His analysis had a powerful impact on the reformist Muslim intellectuals in Iran. It provided a framework that some would reformulate. This was done for example by Habibollah Peyman, who wrote under the pseudonym of Paydar and was the leader of the Society of Combatant Muslims formed at the time of the 1978-79 Revolution. In 1978, he wrote a book entitled *Introduction on Property, Capital and Work from the Point of View of Islam*<sup>76</sup> in which he reformulated Sadr's ideas into a radical framework. He rejected the notion of property rights by a logical extension of the concept that God is the ultimate owner. He maintained that since all natural resources belong to God, everyone has a right to take advantage of them. Therefore, they must be accessible to all who want to apply their labour on them and individuals have no right to possess more of the fruits of nature than what they need<sup>77</sup>.

### Iranian Authors on Islamic Economics

One of the most prominent Iranian *mujtahidin* who wrote on the subject of Islamic economics before the 1978-79 Revolution is Ayatollah Sayyed Mahmud Taleqani (1911-1979)<sup>78</sup>. The first edition of his *Islam va malekiyat (Islam and Ownership)* was

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<sup>76</sup> Unfortunately, the author was unable to obtain a copy of that book.

<sup>77</sup> Behdad, "A Disputed Utopia", p. 792.

<sup>78</sup> Mahmud Taleqani studied first under his father, Abolhassan Taleqani, who had studied in the shrine cities of Iraq under Mirza Hassan Shirazi, then in Qom at the Fayziyeh seminary and acquired *ijtihad* in 1939. He then settled in Tehran where he started teaching and preaching at the Sepahsalar seminary and at the Hedayat mosque, and founded the Islamic Institute (*Kanun-e Islam*), an organisation devoted to the political propagation of a revolutionary reading of Islam. His sermons attracted many students and intellectuals opposed to the Shah's regime. In the early 1960s, he participated with Mehdi Bazargan in the formation of the Iran Freedom Movement, an association which sought to oppose the regime, but within the limits of the Constitution. Due to his political activities and sympathies (including his association with members of the People's *Mujahidin*), he spent many years of his life either in jail, in exile, or under house arrest. During the Revolution, he was instrumental in organising nationwide strikes and protests against the regime. Afterwards he became a member of the Revolutionary Council and was appointed by Ayatollah Khomeini

published in 1951, it was three times revised, the last time in 1965<sup>79</sup>. In this book, Taleqani stressed that Islam is different from both capitalism and Marxism inasmuch as it is not based either on unlimited freedom of private ownership which leads to unbridled capitalism, nor on public ownership which results in a total negation of private ownership and freedom. It combines public and private ownership and imposes on them limits and conditions which are compatible with human nature, a just order and the rights of all. It

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Friday prayer leader of Tehran. He was also elected to the Assembly of Experts charged with drafting a new constitution. He died of a heart attack on 5 September 1979. For his biography, see: Ahmad Jabbari, "Introduction", in Seyyed Mahmood Taleqani, *Islam and Ownership*, transl. by Ahmad Jabbari and Farhang Rajaee, Lexington (Kentucky), Mazda Publishers, 1983, p. x-xv; Dabashi, *Theology of Discontent*, p. 216-272; and Hamid Algar, "Introduction", in *Society and Economics in Islam: Writings and Declarations of Ayatullah Sayyid Mahmud Taleghani*, transl. by R. Campbell, with annotations and an introduction by Hamid Algar, Berkeley, Mizan Press, Contemporary Islamic Thought, Persian Series, 1982, p. 9-10. See also Mangol Bayat, "Mahmud Taleqani and the Iranian Revolution", in *Shi'ism, Resistance, and Revolution*, ed. by Martin Kramer, Boulder and London, Westview Press and Mansell Publishing Ltd, 1987, p. 71-75, 86.

<sup>79</sup> Ahmad Jabbari and Farhang Rajaee, "Translators' Preface", in Taleqani, *Islam and Ownership*, *op.cit.*, p. vii. The Farsi edition which the author used is a reprint which does not give any indication of date or place. It has been reported that this book was written in prison. One sentence in the book seems to confirm this. After saying that many examples from the *fiqh* literature could be given to prove one point that he was making, Taleqani wrote that: "In the situation and conditions in which the author finds himself, he is not in a state of mind to compile them, does not have the memory to do it and does not have access to the necessary books and documents (Ayatollah Taleqani, *Islam va malekiyat dar moqayesah beh nezamha-ye eqtesadi-ye gharb* (*Islam and Ownership by Comparison with the Economic Systems of the West*), n.p.n.d., p. 275).

bases private ownership on the natural freedom of individuals and common (*eshterak*) ownership on public interest<sup>80</sup>.

Taleqani also criticised doctrines such as capitalism and Marxism which apportion to the worker only food and provision for a limited livelihood, for the reason that they deprive him of his rights and do not respect human value, which are the two most important motivations to encourage natural capacities and good action. If distribution is based on assumed individual needs, whereas in fact needs are unlimited and undetermined, individuals are not motivated to produce more than what has been determined necessary<sup>81</sup>.

Shaykh Ali Tehrani (1917-), a religious teacher based in Mashhad and a brother-in law of Ali Khamene'i<sup>82</sup>, also published before the Revolution a book on Islamic economics which was heavily influenced by Sadr's ideas. He argued that, in Islam, there is no private ownership of land in the sense that it has in capitalist regimes. He only recognised a limited form of ownership which the state can revoke when the public interest requires it<sup>83</sup>.

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<sup>80</sup> Taleqani, *Islam va malekiyat*, p. 225.

<sup>81</sup> *Ibidem*, p. 229-230.

<sup>82</sup> After the Islamic Revolution, Tehrani opposed the theory of *velayat-e faqih* and he criticised the Islamic Republican Party which he compared to the Shah's secret police. After several incidents of direct criticism of the regime, he was forced to go into self-imposed exile in Iraq in 1984 from where he gave interviews condemning Khomeini's rule (Shahrugh Akhavi, "Clerical Politics in Iran Since 1979", in *The Iranian Revolution and the Islamic Republic*, ed. by Nikki R. Keddie and Eric Hooglund, Syracuse, NY, Syracuse University Press, 1986, p. 61-62; Shaul Bakhash, *The Reign of the Ayatollahs: Iran and the Islamic Revolution*, New York, Basic Books, 1984, p. 141; David Menashri, *Iran: A decade of War and Revolution*, New York and London, Holmes and Meier, 1990, p. 321).

<sup>83</sup> Ali Tehrani, *Eqtesad-e Islami (Islamic Economics)*, Mashhad, *Jamadi awwal* 1394 [Islamic lunar calendar, 1974], p. 182, 186-188.

Mortaza Motahhari (1920-1979)<sup>84</sup>, another prominent figures among the contemporary Iranian clergy, worked like Taleqani for a rejuvenation of Islam. However, his social and economic views remained more conservative. His views on Islamic economics were compiled in a posthumous publication entitled: *A View of the Islamic Economic Order*<sup>85</sup>. He considered that the first principles of Islamic economics were:

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<sup>84</sup> Motahhari studied in the seminary schools of Mashhad and Qom, where he attended the lectures of Ayatollah Borujerdi, Ayatollah Khomeini and other leading Ayatollahs. In 1954, he went to Tehran to teach Islamic philosophy at the Faculty of Theology of Tehran University. In 1964, he was among the founders of the *Hosseiniyeh Ershad*, a privately founded organisation devoted to the propagation of the Shi'i cause, of which he was the most popular speaker until 1969 when Ali Shariati joined the institute and soon eclipsed him to become the major figure in the institute until its closure by the government in 1972. Motahhari realised that traditional Islam did not respond to the demands of educated young people and that Islam's philosophical content had to be revitalised to be made appealing to the youth. He undertook to reform the traditional image of Islam and to improve the organisational structure and quality of the clergy in order to protect it from the anticlerical revolutionary Islamic currents which were becoming popular among the youth. He became one of the main theoreticians of the Islamic Republic and a member of the Revolutionary Council established after the Revolution. However, he was assassinated on 1 May 1979 by the *Furqan*, a group which claimed to be disciples of Ali Shariati and were advocating a "progressive Islam" without *akhund* (clergyman) (H.E. Chehabi, *Iranian Politics and Religious Modernism: The Liberation Movement of Iran under the Shah and Khomeini*, Ithaca, Cornell University Press, 1990, p. 203-205; Rahnema and Nomani, *The Secular Miracle*, p. 38-40, 178; see also Dabashi, *Theology of Discontent*, p. 147-215).

<sup>85</sup> Professor Mortaza Motahhari, *Nazari beh nezam-e eqtesad-e Islami (A Look at the Islamic Economic Order)*, 4th ed., Tehran, Sadra Publications, 1373 [1994], p. 37. Throughout this book, Motahhari adopts a philosophical point of view and the principles that he enounces are very general. He does not give a detailed analysis of economic principles or of the limits of ownership.

justice and equality, avoidance of exploitation, and natural rights<sup>86</sup>. According to him, the socialist principle: "work according to one's capacity and spending [i.e. receiving a wage to spend] according to one's needs" is a form of injustice and exploitation because it implies the prohibition of private ownership and it weakens the forces of production by taking away freedom and competition. On the other hand, he asserted that everything in the world which exists under the name of capitalist regime was oppressive. He concluded that two things hindered the growth of wealth: the centralisation of capital in the hands of individuals who implement the philosophy of impoverishment of the masses, and the implementation of the above-mentioned socialist principle<sup>87</sup>.

Then, he contrasted these two views with the Islamic point of view according to which the sources of wealth must be free and at the disposal of everybody, and wealth in the form of hoarding of treasures or uncultivated lands does not exist. The product of the activity of each person belongs to that person. All the primitive and secondary capital is for men and at their service, but it cannot be left stagnant, that is in the form of *mawat*, hoarding, treasures or reserves. He argued that *zakat* prevents this from happening<sup>88</sup>.

However, he accepted inequalities as the will of God. In a book on the *Fundamentals of Islamic Thought*, he quoted verse 43:32:

"Is it they who apportion thy Lord's mercy? It is We Who have apportioned among them their livelihood in the life of this world, and We raise some of them above others in rank, so that some of them may take labour from others; and the mercy of thy Lord is better than [the wealth] that they amass"<sup>89</sup>.

He asserted that the Islamic classless society is a society without discrimination, without deprived persons, without oppression, the just society.

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<sup>86</sup> *Ibidem*, p. 204-205.

<sup>87</sup> *Ibidem*, p. 232, 239-241.

<sup>88</sup> *Ibidem*, p. 241-242.

<sup>89</sup> Ayatullah Murtaza Mutahhari, *Fundamentals of Islamic Thought: God, Man and the Universe*, translated by R. Campbell, with annotations and an introduction by Hamid Algar, Berkeley, Mizan Press, 1985, p. 96.

But it is not a society without differences since homogeneity is itself a kind of oppression and injustice<sup>90</sup>.

In his notes on Islamic economics which were posthumously published, he presented a radical idea about the ownership of machines. He wrote that machines constitute a special case. From the point of view that they are the embodiment of social progress and the indirect produce of the intelligence and talent of their inventor, and that intelligence and talent cannot have a personal owner, he concluded that machines cannot belong to individuals. He explained that this does not imply a negation of private ownership, but that special cases require common ownership<sup>91</sup>. He added that it is necessary for the production and distribution of wealth to be under the control of the society<sup>92</sup>. However, he did not proceed to draw radical conclusions about the structure of ownership in society, and he did not answer the question whether it is possible to ensure social justice without negating the private property of all the means of production. In fact, this radical idea about the ownership of machines is in opposition with other passages of his writings where he asserts that Islam allows the acquisition of wealth through the ownership of the means of production as long as the labouring class is not exploited<sup>93</sup>.

Ayatollah Mohammed Hossein Beheshti (1928-1981)<sup>94</sup>, one of the influential leaders of the Islamic Republic of Iran during its first two years, also wrote on the

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<sup>90</sup> *Ibidem*, p. 94.

<sup>91</sup> Motahhari, *Nazari beh nezam-e eqtesad-e Islami*, p. 58-59.

<sup>92</sup> *Ibidem*, p. 240.

<sup>93</sup> *Ibidem*, p. 229-230. Behdad asserts that when the first edition of this book was published in 1983 under the title of *An Overview of Fundamentals of Islamic Economics*, it created an uproar in the Bazaar and among the conservative *modarressin* of Qom and, for this reason, was banned and withdrawn from the market ("A Disputed Utopia", p. 803). A revised edition of the book, vouched by the "Council to Supervise the Publication of the Works of the Martyred Professor", was published in 1989 (Preface, *Nazari beh nezam-e eqtesad-e Islami*, p. 12-13).

<sup>94</sup> Beheshti studied in the theological schools of Isfahan and Qom where he was a student of Ayatollah Khomeini. He also obtained a Ph.D. in Theology from the

subject of Islamic economics. In a book entitled *The Question of Ownership* published in 1980, he uses "natural logic" (*manteq-e fetri*) to deduce from the principle that God is the owner of the world that His ownership is total and unlimited and that absolute ownership only belongs to Him<sup>95</sup>. Therefore, the ownership of others can only be relative and limited<sup>96</sup>.

He asserts that part of the work of a peasant is indebted to his knowledge, which is not his since he has taken it from the society. Therefore, one could say that the produce of the work of an individual is not his property, it is the property of the community. Culture, the means of production and nature are the property of the community, not the community of one nation, but the community of mankind in all times. However, men use the natural and social potential differently depending on their personality and capabilities. They have an impact on the quantity of new use-value produced. Therefore, we cannot say that the value of production is the property of the worker or the property of society, both have a share in it<sup>97</sup>.

Another Iranian 'alim, Ayatollah Nasser Mokarem-Shirazi, a teacher at Qom Seminary and the editor of the monthly journal *Maktab-e Islam (The School of Islam)*

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University of Tehran, went to study languages in Europe, headed the government-financed mosque in Hamburg in 1965-71, and worked for the Ministry of Education. After the Revolution, he became the deputy chairman of the Assembly of Experts charged with writing the Constitution, was one of the founding member and the secretary general of the Islamic Republican Party (IRP) and also became the Chief Justice of the Supreme Court. He was killed on 28 June 1981 in a bomb explosion at the headquarters of the IRP which claimed the lives of several dozens senior officials and was blamed on the People's *Mujahidin* (Bakhash, *The Reign of the Ayatollahs*, p. 41; Ervand Abrahamian, *Iran Between Two Revolutions*, Princeton, Princeton University Press, 1982, p. 475).

<sup>95</sup> Ayatollah Beheshti, *Masala-ye malekiyat (The Question of Ownership)*, Tehran, Sayyed Jamal, n.d. [1980], p. 7.

<sup>96</sup> Behishti and Bahonar, *The Philosophy of Islam*, transl. by M.A. Ansari, reprint, Qom, Ansariyan Publications, 1990, p. 417-418.

<sup>97</sup> Beheshti, *Masala-ye malekiyat*, p. 14, 17.

also published a book on Islamic economics<sup>98</sup>. In this book which he entitled: *Fundamental Lines of Islamic Economics (Neither Eastern Nor Western)*, he stressed that Islam gives a special priority to economic problems and he asserted that the problem of a just distribution of wealth, the fight against accumulation and the enjoyment of a sound and independent economy are fundamental pillars of Islam<sup>99</sup>. He contended that Islamic *fiqh* considers that it is compulsory that the Islamic society, in its own limits, reach economic self-sufficiency. Therefore, everybody must satisfy one part of the social needs in the fields of industry, agriculture, service, sciences or knowledge depending on his abilities<sup>100</sup>.

He asserted that imposing quantitative limits on private ownership would not make sense because they are subject to change according to the time and place. But Islam imposes qualitative limits and conditions to private ownership, which, according to him, in practice forbid all types of centralisation and accumulation. He listed 10 types of transactions which are considered *haram* and noted that they are all linked with the prevention of the accumulation and centralisation of wealth<sup>101</sup>. He added that the control that Islam has on the use of wealth is in itself a means of controlling the increase of wealth, and that if an Islamic control on consumption is implemented by paying attention to the two fundamental interdictions of extravagance and prodigality, the owners of wealth will not have another choice than to always spend their additional income in developing their economic activities<sup>102</sup>.

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<sup>98</sup> Ayatollah Nasser Mokarem-Shirazi, *Khotut-e asli-ye eqtesad-e Islami (Ne', gharbi, neh sharqi)* (*Fundamental Lines of Islamic Economics [Neither Western Nor Eastern]*), Qom, Hadaf, 1360 [1981], p. 108-113.

<sup>99</sup> *Ibidem*, p. 36.

<sup>100</sup> *Ibidem*, p. 184.

<sup>101</sup> *Ibidem*, p. 131, 169, 174-178.

<sup>102</sup> *Ibidem*, p. 171-172.



Abol Hassan Bani Sadr (1933-)<sup>103</sup>, a lay man who became the first President of the Islamic Republic of Iran, developed Sadr's ideas in a radical way. Throughout *The*

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<sup>103</sup> Bani Sadr studied economics at the University of Tehran, then he went to Paris to continue his studies. He wrote several books in which he criticised the Shah's system of rule as well as Western capitalism and imperialism, and he elaborated the project of an alternative government based on Islamic principles under which freedom, national independence, social justice and prosperity would be realised. His ideal Islamic state is a reaction against all forms of authority and is characterised by the absence of formal structures, of concentration of economic or political power, of classes and of a dominant ideology because "any ideology that becomes official becomes an instrument of power". The people would exercise supervision over their leaders through the network of mosques. Leadership would be diffused, each member of the society through piety and self-discipline would become an imam. The imamate would be generalised and all would share in the leadership. "All will become *mojtaheds* and no one will need to ask his duty from another... Otherwise, religious tyranny would result" (Abol Hassan Bani Sadr, *Usul-e payeh va zavabet-e hukumat-e Islami (The Basic Principles and Criteria of Islamic Government)*, n.p.n.d., p. 12, 51, quoted in Bakhash, *The Reign of the Ayatollahs*, p. 94).

When Khomeini went to Paris in late 1978, he was one of the first non-clerical activists to join him in Neauphle-le-Château and he acted as an interpreter and adviser for him. Taking charge of relations with the press, he strived to improve Khomeini's image in the Western media. He returned to Tehran in January 1979 and became a member of the Revolutionary Council and of the Assembly of Experts. Khomeini appointed him to various investigatory commissions and he played an important role in the decision to nationalise the banks and major industries. In November 1979, after the seizure of the United States Embassy, he became Foreign Minister, then Finance Minister. In January 1980, he was elected President of the Islamic Republic. In contradiction with the ideas that he had previously developed, as President, he made the reassertion of the government's authority and its formal institution key elements of his programme. However, his lasting opposition to Prime Minister Mohammed Ali Raja'i over the nomination of the Cabinet (he wanted technocrats while Raja'i wanted

*Economy of Unity*, which he published abroad in 1978, he relied heavily on Sadr's *Eqtesad-e ma* from which he quoted extensively. But, contrary to him, he did not work as a jurist trying to interpret complicated and conflicting religious traditions in order to elaborate an Islamic economic theory, but as a lay man drawing eclectically on Islamic texts to support his predetermined conclusions<sup>104</sup>. He did not offer a systematic economic theory and practical prescriptions, but a general picture of an ideal society and a series of tenuously linked assertions. He did not go into great details and tended to be abstract and idealistic<sup>105</sup>.

Bani Sadr sees the possibility of man's absolute ownership as contrary to the theological principle of *Tawhid* (Unity), one of the cardinal principles of Islam. Absolute ownership is inherently exclusive to God, therefore man's ownership of his work and of

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men of piety) paralysed the action of the ministries and provided the IRP with a reason to seek his removal. On 21 June 1981, the National Assembly voted that he was incompetent and impeached him. He stayed in hiding for about one month, then fled with Mas'ud Rajavi, the leader of the People's *Mujahidin* to Paris where they announced the formation of a National Council of Resistance. They launched a campaign to overthrow Khomeini and formed the nucleus of a provisional government with Rajavi as head of the government and Bani-Sadr as President. However, they later split over differences regarding the proper stance to adopt towards Iraq (Bakhash, *The Reign of the Ayatollahs*, p. 90-109, 159-162, 217-218; Hamid Dabashi, *Theology of Discontent*, p. 367-408; and Eric Hooglund, "Iran 1980-85: Political and Economic Trends", in *The Iranian Revolution and the Islamic Republic*, ed. by Nikki R. Keddie and Eric Hooglund, revised ed., Syracuse, Syracuse University Press, 1986, p. 21).

<sup>104</sup> See for example his arguments to deny a share of the production bigger than their depreciation to the tools of production (*Eqtesad-e tawhidi* [*The Economy of Unity*], n.p., 1357 [1978], p. 168-170) and Mokarem-Shirazi's refutation of this type of argumentation (without naming Bani Sadr) (*Khotut-e asli-ye eqtesad-e Islami*, p. 135-147).

<sup>105</sup> Bakhash, *The Reign of the Ayatollahs*, p. 174; Katouzian, "Shi'ism and Islamic Economics" p. 148.

the produce of his work can only be relative<sup>106</sup>. Moreover, the *Qur'an* says that men, collectively, are God's trustees on earth. From this, he deduces that the human community has priority over the national community and the national community over individuals, and that the community had originally ownership of everything and that men acquired ownership of part of it through their work. The use of land and natural resources is for the benefit of all the community in the past, the present and the future. Therefore, the community must make sure that natural resources will be preserved for the future generations so that, in the long term, each man will be able to exert his right of working on the natural resources, the community cannot take decisions which will deprive future generations, such as depleting all the oil resources in one generation or leaving the land dry and the mines empty for the future generations<sup>107</sup>.

More radical ideas were presented in a book entitled *The Need to Review Islamic Economics* published by Abu Zarr Vardasebi in 1980. This book was dedicated to Ali Tehrani, but the author also referred to Taleqani, Sayyed-Qutb, Shariati, and Mas'ud Rajavi. Some of his claims are based on Qur'anic verses and on traditions from the Imams, but the verses and traditions that he quotes are often very general and only support general principles of piety and morality or he stretches them out of context to imply support for his predetermined progressive ideas. For example, from the belief that everything on earth is God's inheritance, he infers that since God is by essence free of want and without worldly needs, then the inheritance of God means the inheritance of the *mostaz'afin*<sup>108</sup>.

The main focus of the book is to criticise what the author calls "an Islam of classes". Vardasebi shows that the inequalities and capitalist tendencies of Islam as it is practised in most Muslim countries are contrary to some basic Islamic principles. He calls that Islam an Islam of classes (*Islam-e tabaqati*) and describes it as "without content and mortal, which defends the existence of private property in production and trade and assumes that it is 'an absolute, eternal and sacred truth', [...] with a holy and divine

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<sup>106</sup> Bani Sadr, *Eqtesad-e tawhidi*, p. 280.

<sup>107</sup> *Ibidem*, p. 193, 281-282, 285, 290-295.

<sup>108</sup> Abu Zarr Vardasebi, *Zarurat-e bazshenasi-ye eqtesad-e Islami (The Need to Review Islamic Economics)*, n.p., Abu Zarr, 1359 [1980], p. 75.

essence, and that it is a fundamental principle of the type of the faith in *tawhid* (Unity), revelation, prophethood, deliverance, piety and worship!". But he did not proceed to elaborate on the details of the "pure unitary Islam" (*Islam-e-nab-e-tawhidi*) "which is based on an axis of development and revolution and is higher than all the other ideologies", which should replace it, and on how should the property relations be in such a system<sup>109</sup>.

According to him, the partisans of the Islam of classes wrongly argue that, since at the time of the Prophet, private property existed, this means that in an Islamic society there must always be at least one part of production and trade in the hands of individuals and private establishments. He rejects this argument on the basis that, if we accept that sort of reasoning, we should also say that since slavery existed at the time of the prophet and since Islamic *fiqh* condoned it, then slavery is also a requisite (*lazimah*) of Islamic society and must exist eternally!<sup>110</sup> This is a clear example of personal reasoning which does not rest on any evidence in the Islamic sources.

He recognises, however, that Islam accepts the existence of private property under certain conditions. But, he adds that this is not in the way of the Islam of classes which uses the fundamental laws, the ideology and the principles of Islam to establish, strengthen and reinforce the bases of property. He asserts that, in fact, the principles of the *Qur'an* and the fundamental sayings of the Prophet and of the Infallible Imams aimed at weakening the bases of private property and finally at abolishing it. He believes that, according to the fundamental principles and views of Islam, historical movement should proceed towards the elimination of differences and distinctions of classes and a society free of exploitation "towards the summit of 'justice' and social and individual oneness (*yaganegi*)". He adds that "if we do not understand these fundamental ideological views and especially if we do not understand the principle of *tawhid* and its social and practical obligations, special [private] ownership of the tools of production, like an unbreakable attachment and an eternal dogma, will be a heavy burden on the shoulders of Islam and

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<sup>109</sup> *Ibidem*, p. 19-20.

<sup>110</sup> *Ibidem*, p. 20.

the Muslims". He refers to Mas'ud Rajavi who said that the monopoly of the means of production is contrary to the fundamental principle of *tawhid* and the belief in God<sup>111</sup>.

He believes that accepting the ownership of the tools of production in small dimensions would open the way to exploitation and big capitalism and would lead to the domination of imperialism since, because of the division of the world between the imperialists and because of the world economic linkages, the possibility of development of an independent and national capitalism does not exist any more, and at the present stage, there is no other way of capitalist development for countries like Iran than dependency. Therefore, the only alternative is a "unitary anti-exploitation development" which is based on its own forces and on the mobilisation of the people and relies on the workers and the peasants, that is on the government of the *mostaz'afin*<sup>112</sup>.

Far from these radical ideas, the official view of Islamic economics in the Islamic Republic of Iran was articulated by the Office for Cooperation between Seminaries and Universities (*Daftar-e Hamkari-ye Hawzeh va Daneshgah*) which was formed in 1980 after the closure of the universities to prepare for their reopening by "reconstructing" textbooks in humanities and social sciences. Under the leadership of Mohammed Taqi Mesbah-Yazdi, a seminary teacher, they concentrated mainly on economics and published an *Introduction to Islamic Economics* in 1984. Written by seminary teachers with the assistance of a number of professional economists, this book addressed some contemporary issues in economic relations in the context of Islamic jurisprudence. According to Behdad, its authors found Islamic jurisprudence quite compatible with the working of the market system and the maxims of neoclassical analysis<sup>113</sup>.

A second book was written in 1992 by the economic group of the Office under the title of *Fundamentals of Islamic Economics* "in order to teach the basics of Islamic economics in the centres of higher education and to compile a textbook for the use of

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<sup>111</sup> *Ibidem*, p. 21-22.

<sup>112</sup> *Ibidem*, p. 25-26.

<sup>113</sup> Behdad, "A Disputed Utopia", p. 796-800; Rahnema and Nomani, *The Secular Miracle*, p. 130;

professors and researchers in that area"<sup>114</sup>. It was the produce of two more years of discussions chaired by Ayatollah Sayyed Mahmud Hashemi Dam-zaleh. However, its focus is different from the first one. It is mostly an economic and analytical discussion whereas the first one was mostly a discussion of rights<sup>115</sup>.

According to the authors of this book, in economics there is no discussion of whether a right is a right of allocation, of priority or of ownership. They believe that the discussions of rights related to property as they are found in the books of *fiqh* are not economic discussions because they are not concerned with the economic content of the relations. For example, in economics, there is no discussion of the legal conditions of land reclamation. Therefore, they do not discuss these questions in this book<sup>116</sup>.

They assert that God who is the original owner of wealth has assigned it for the benefit of mankind and has put it at the disposal of the guide (*rahbar*) of the society, but they add that in order to ensure a better use of properties, Islam has allowed private ownership. They recognise that private ownership in Islam is a way for individuals to attend to their responsibilities as trustees of God on earth. It is not an absolute right and, for this reason, the society does not have the right to waste and misuse property. If somebody neglects his duty towards his property, leaves it unused, uses it in an illegal way, in a way detrimental to society or in a monopolistic way without paying his dues to the society, on the basis of the principle of "*nahi az monkar*" ("prevention from the bad"), the society has the right to take measures to prevent his improper use, protect the property and make it develop and prosper in the interests of the society. However, they

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<sup>114</sup> Office for the Cooperation between Seminaries and Universities, *Mabani-ye eqtesad-e Islami (Fundamentals of Islamic Economics)*, Tehran, Organisation for the Study and Compilation of Books of Social Sciences for the Universities, 2nd ed., 1374 [1995], p. vii.

<sup>115</sup> *Ibidem*, p. 3-4. The book was published by the Organisation for the Study and Compilation of Books of Social Sciences for the Universities which had been established in February 1985 to research, compile and translate fundamental and subsidiary textbooks in each branch of the social sciences (*Ibidem*, p. vii).

<sup>116</sup> *Ibidem*, p. 241-242.

stress that as long as somebody uses his property legally, his property must be protected like the sanctity of his blood<sup>117</sup>.

### 3. Islamic Economic Principles in the Writings of Iranian Authors

#### A. Theory of Ownership

All the authors agree that absolute ownership only belongs to God, that men as God's vicegerents (*khalifa*) on earth have been entrusted collectively with rights on the produce of nature, and that men's ownership rights are not absolute<sup>118</sup>.

Motahhari writes that, from the point of view of Islam, property and wealth belong in the first degree to society, and in the second degree to individuals<sup>119</sup>. Therefore, the right of ownership is not unlimited. He compares land ownership to a marriage contract. The same way that the husband cannot imprison his wife and abscond from his obligations towards her, or neglect her and leave her in suspense (*moattel*), an individual cannot leave his land unattended. The same way that the husband does not have absolute authority over his wife and that the wife has rights, the property also has rights and the owner has duties towards it. The husband must spend on his wife, the owner must spend on his property. The same way that the husband does not have authority to kill his wife, the individual does not have the right of wasting, spoiling or being prodigal with his property<sup>120</sup>.

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<sup>117</sup> *Ibidem*, p. 143, and note 31, p. 190.

<sup>118</sup> Taleqani, *Islam va malekiyat*, p. 143-146; Tehrani, *Eqtesad-e Islami*, p. 12-24; Beheshti, *Masala-ye malekiyat*, p. 7; Behishti and Bahonar, *The Philosophy of Islam*, p. 417-418; Bani Sadr, *Eqtesad-e tawhidi*, p. 141, 149, 280, 296.

<sup>119</sup> Motahhari, *Nazari beh nezam-e eqtesad-e Islami*, p. 159, 239.

<sup>120</sup> *Ibidem*, p. 214-215. He makes it clear that he does not imply that the rights of the wife over the husband are the same that the rights of the property over its owner. He does not say that the wife is like the property, but that the property is like the wife.

In the same line of thought, Sadr envisages ownership as a social function. If the owner does not fulfil his responsibilities towards his property, he loses his rights of exclusive use of it and cannot prevent others from gaining control over it and using it<sup>121</sup>.

All the authors concur that the right of ownership does not include the right of wasting the property and that if someone does so, he loses his rights on his property<sup>122</sup>. They also agree that ownership in Islam is limited to the lifespan of the owner of a property since Islamic law does not allow him to dispose of his property as he wishes through his will<sup>123</sup>.

All the authors believe that ownership of natural resources can only originate in direct work and that it is forbidden to hire workers to work on natural resources, for example to reclaim waste land<sup>124</sup>. In Beheshti's words, work is the source of ownership

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<sup>121</sup> Sadr, *Iqtisaduna*, vol. 2, part 1, p. 120-124.

<sup>122</sup> Sadr, *Ibidem*; Beheshti, *Masala-ye malekiyat*, p. 57; Motahhari, *Nazari beh nezam-e eqtesad-e Islami*, p. 55, 159; Bani Sadr, *Eqtesad-e tawhidi*, p. 296; Mahani-ye eqtesad-e Islami, p. 143; Hojjatolislam Sayyed Mohammed Khamene'i, "Malekiyat-e 'omumi" in *Majmu'ah-ye maqalat-e farsi-ye avalin majma'-ye barrasiha-ye eqtesad-e Islami (A Collection of Persian Articles: The First Islamic Economic Research Conference)*, ed. by Muhammad Wai'zzadeh-Khorasani, vol. 2: "Malekiyat" ("Ownership"), Mashhad, Astan Quds Razavi Islamic Research Foundation, 1369 [1990], p. 243-244.

<sup>123</sup> Sadr, *Iqtisaduna*, vol. 2, 1, p. 226; Motahhari, *Nazari beh nezam-e eqtesad-e Islami*, p. 159; Khamene'i, "Malekiyat-e 'omumi", p. 243-244; Vardasebi, *Zarurat-e bazshenasi-ye eqtesad-e Islami*, p. 71-73, 75.

<sup>124</sup> Sadr, *Iqtisaduna*, vol. 2, 1, p. 174-177, vol. 2, 2, p. 15; Motahhari, *Nazari beh nezam-e eqtesad-e Islami*, p. 54-55; Taleqani, *Islam va malekiyat*, p. 155; Isfahani, *Eqtesad-e moqayesa'i*, vol. 1, p. 34-35, vol. 2, p. 9, vol. 3, p. 28-29; Bani Sadr, *Eqtesad-e tawhidi*, p. 147, 149; Mahani-ye eqtesad-e Islami, p. 282, 512. According to Behdad, the first book published by the Office for Cooperation between Seminaries and Universities adopted the position that it is allowed to hire workers to exploit natural resources as long as they are paid "fair" wages, that is wages equal to the value added to the land ("A Disputed Utopia", p. 797-798, referring to *Dar amadi*



since if man creates and produces something, the "logic of nature" is that he is the owner of that thing<sup>125</sup>. In a book on the *Philosophy of Islam*, Beheshti and Bahonar assert that Islam does not allow anybody to dominate others and deprive them from the fruits of their labour or to live on the labour of others without performing any useful work<sup>126</sup>.

Tehrani distinguishes two types of work: work of use and exploitation (*mofid va entefa'i*) on one side, and work of hoarding and rule over discoveries (*ehtekari va salte-ye joyaneh*) on the other side. He asserts that, in Islam, the second is prohibited. The first one has an economic aspect, whereas the second consists of unreasonable power and social encroachment. For example, collecting wood from the forest, transporting stones from the desert and reclaiming waste land are works of exploitation, and "it is evident that they are means of increasing the livelihood of the community". On the other hand, taking possession of waste land or natural pastures does not have an economic side of exploitation. They are use of power and prevent others from the possibility of carrying out activities of exploitation on these natural resources<sup>127</sup>.

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*bar eqtesad-e Islami* [Introduction to Islamic Economics], p. 143-144). However, the second book published by the Office clearly rejects this possibility.

<sup>125</sup> Beheshti, *Masala-ye malekiyat*, p. 10.

<sup>126</sup> Behishti and Bahonar, *The Philosophy of Islam*, p. 419, 436. Hojjatolislam Mohammed Javad Bahonar (1933-1981) followed a career path similar to that of Beheshti to whom he was close. He studied in Kerman and in Qom theological schools, then at the University of Tehran from where he obtained a BA in literature and an MA in educational science. He took part in the Islamic movement in the 1960s and was arrested in 1963. After the Revolution, he assisted in the establishment of the IRP and became a member of the Revolutionary Council. He became Minister of Education in the Raja'i government and replaced Beheshti as leader of the IRP after he was assassinated. On 5 August 1981, he assumed the office of Prime Minister. However, he was also killed 25 days later in a bomb explosion along with President Raja'i and other dignitaries of the regime.

<sup>127</sup> Tehrani, *Eqtesad-e Islami*, p. 200-201.

However, all the authors recognise that ownership can also come through transfers such as inheritance and legal transactions once a property has been acquired through direct work. These transfers are considered to be forms of indirect work<sup>128</sup>.

All agree that the traditional categories of lands in *fiqh* are still valid. On this point, Sadr admits that "we are in need of a vast amount of information regarding the lands of the Muslim countries in order to be able to determine the condition of these lands at the time of conquest. To find out whether a particular plot was cultivated at the time of conquest requires a thorough historical investigation. However, due to the difficulty of this investigation, many jurists base their judgements on presumptions". In case the presumption is that a particular plot of land was cultivated at the time of its annexation to the Islamic territory, his opinion is that that plot must be considered the common property of the Muslim community<sup>129</sup>.

All the authors believe that the *amwatan* lands, the lands conquered by force in the process of Islamic expansion, which were cultivated at the time of conquest, were, are and will remain for ever the property of the Islamic community and cannot be taken out of the category of public ownership<sup>130</sup>. Only the right of using them can be bought, sold or transferred through inheritance, not the land itself<sup>131</sup>. They are under the supervision of the *vali-ye amr* of the Muslims who can give them to individuals in rent or sharecropping. The income from them comes into the category of common property of the Muslims and must be spent in such a way that it comes back to the community of Muslims, such as to build mosques, schools, roads, bridges, to buy military equipment,

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<sup>128</sup> Motahhari, *Nazari beh nezam-e eqtesad-e Islami*, p. 53; Mokarem-Shirazi, *Khotut-e asli-ye eqtesad-e Islami*, p. 124-126; Tehrani, *Eqtesad-e Islami*, p. 66-72, 214; Bani Sadr, *Eqtesad-e tawhidi*, p. 284. Beheshti, *Masala-ye malekiyat*, p. 32, 34-44.

<sup>129</sup> Sadr, *Iqtisaduna*, vol. 2, part 1, p. 100-101.

<sup>130</sup> *Ibidem*, vol. 2, part 1, p. 87-99; Taleqani, *Islam va malekiyat*, p. 158; Tehrani, *Eqtesad-e Islami*, p. 182-183; Behishti and Bohonar, *The Philosophy of Islam*, p. 426-427; Motahhari, *Nazari beh nezam-e eqtesad-e Islami*, p. 152; Mokarem-Shirazi, *Khotut-e asli-ye eqtesad-e Islami*, p. 127-128; *Mabani-ye eqtesad-e Islami*, p. 231-232.

<sup>131</sup> Tehrani, *Eqtesad-e Islami*, p. 182-183; *Mabani-ye eqtesad-e Islami*, p. 231-232.

for the defence of the borders of Islam and to provide for the livelihood of people who dedicate themselves to the service of the Muslim community such as a magistrate (*qazi*) or a *muazzin* (person who calls people to prayer)<sup>132</sup>. If they became *mawat*, they nevertheless remain the property of all the Muslims. If somebody reclaims them with the permission of the Islamic government, he does not become their owner, but he can use them in exchange for paying an agreed rent<sup>133</sup>.

They all believe that all undeveloped fallow lands are the property of the state which must see to it that they are put to their best possible use<sup>134</sup>. But, they do not agree on the question whether or not men can get private ownership rights on land or only a right of priority of use. In line with the traditional practice in Muslim countries, the book published by the Office for Cooperation between Seminaries and Universities adopt the position that lands from the *anfal* category are susceptible to being transferred into the private sector<sup>135</sup>. Mokarem-Shirazi also believes that the reclamer of a waste land becomes the owner of the land that he has reclaimed<sup>136</sup>. But neither him nor the members of the Office for Cooperation between Seminaries and Universities believe that the right of ownership is absolute and they admit that certain conditions detailed in the books of *fiqh* must be met<sup>137</sup>.

On the other hand, Sadr recognises that the lands whose owners voluntarily converted to Islam and some lands annexed to the Islamic territory without war remained the private property of their owners. But he believes that the individuals who reclaim

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<sup>132</sup> *Mabani-ye eqtesad-e Islami*, p. 231-232.

<sup>133</sup> *Ibidem*, p. 236.

<sup>134</sup> Behishti and Bohonar, *The Philosophy of Islam*, p. 427; Taleqani, *Islam va malekiyat*, p. 152; Tehrani, *Eqtesad-e Islami*, p. 183; Motahhari, *Nazari beh nezam-e eqtesad-e Islami*, p. 156-157; Mokarem-Shirazi, *Khotut-e asli-ye eqtesad-e Islami*, p. 127-128; *Mabani-ye eqtesad-e Islami*, p. 133-135.

<sup>135</sup> *Mabani-ye eqtesad-e Islami*, p. 229-230.

<sup>136</sup> Mokarem-Shirazi, *Khotut-e asli-ye eqtesad-e Islami*, p. 125.

<sup>137</sup> *Ibidem*, p. 131, 169; *Mabani-ye eqtesad-e Islami*, p. 143.

state-owned lands can only obtain a special individual right on them and are only entitled to their usufruct<sup>138</sup>.

Motahhari also believes that reclamation only confers to the reviver a right of allocation and priority (*ekhtesas va olaviyat*) and that the application of work on natural resources engenders a right of priority which implies that the use of it must be "in harmony with the goals of nature"<sup>139</sup>. Taleqani and Bani Sadr adopts the same line of thought, the latter quoting extensively from Sadr<sup>140</sup>.

Tehrani goes further than them. Generalising the rule about the reclamation of dead lands, he writes that in Islam there is no private ownership of land and that individuals can only have special rights on land as long as they keep cultivating it. They have a right of precedence (*taqaddom*) on the *mawat* lands that they reclaim and cultivate and can transfer that right to others, but the lands remain the property of the state or of the Muslim community. He does not make a distinction in this respect between the type of rights on *amwatan* lands, on the lands of the people who converted voluntarily to Islam, on the lands acquired through peace treaty and on lands from the *anfāl* category, except that the taxes paid on them are different<sup>141</sup>. However, following Sadr, he makes a distinction between the rights that a reviver and a cultivator get on land. Since reclaiming land creates a potential which did not previously exist and since everybody is entitled to the produce of his work, the reclamer acquires rights both on the produce of the land and on the potential which he has created. On the other hand, cultivating or using for pasture a naturally prosperous land does not create a new potential. Therefore, the cultivator and the pastoralist are only entitled to the produce of their work and do not have a right on the land that they use<sup>142</sup>.

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<sup>138</sup> Sadr, *Iqtisaduna*, vol. 2, part 1, p. 108-109, 116-118, *Eqtesad-e ma*, vol. 2, p. 84-85.

<sup>139</sup> Motahhari, *Nazari beh nezam-e eqtesad-e Islami*, p. 55, 158.

<sup>140</sup> Taleqani, *Islam va malekiyat*, p. 146, 152, 155-156, 159-160; Bani Sadr, *Eqtesad-e tawhidi*, p. 189ff.

<sup>141</sup> Tehrani, *Eqtesad-e Islami*, p. 182-185.

<sup>142</sup> Sadr, *Iqtisaduna*, vol. 2, part 1, p. 190-192; *Eqtesad-e ma*, vol. 2, p. 147-148;

Tehrani, *Eqtesad-e Islami*, p. 204. Tehrani does not specify that this rule is about naturally prosperous land and apparently extends it to all types of cultivated lands.

Reza Isfahani, who was to become one of the chief architects of the land reform programme in the Islamic Republic of Iran<sup>143</sup>, writes in his book on Islamic economics that land is not susceptible to appropriation and that people who cultivate land only have a right of usufruct (*barehbardari*) as long as they keep cultivating it. According to him, land is not a commodity susceptible to being bought and sold, it is part of the public wealth and all individuals of the community can use it, under certain conditions, for production, but not for transactions<sup>144</sup>.

Adopting a middle-ground position, Beheshti and Bahonar write that it is allowed for the state to grant plots of land to individuals or partnerships as their private property if it deems that it is in the national interest to do so, but, as a rule, land should not be held as personal property and the state should rather lease it to individuals or associations who will put it under cultivation<sup>145</sup>.

However, these distinctions between ownership and right of use are only theoretical. Since all authors recognise that private property cannot be an absolute right, and that, on the one hand, somebody can be deprived of his property if he does not respect Islamic law and, on the other hand, everybody has a right to the property that he is using as long as he keeps using it in accordance with the *Shari'a*, it does not make any

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But, he does not draw radical conclusions from it (for example that cultivated land cannot be transferred to others), leaving it at the level of a theoretical distinction.

<sup>143</sup> See Part II.

<sup>144</sup> Isfahani, *Eqtesad-e moqayesa'i*, vol. 1, p. 34-35, vol. 2, p. 18. He adds, however, that the interdiction of buying and selling land may be lifted in certain circumstances, for example if implementing this principle would make life intolerable for somebody, on the basis of necessity. On the basis of secondary ordinances, if the situation is such that if land cannot be bought, the society will be confronted to big difficulties, buying land not only becomes permitted, but it is an Islamic duty for the Muslims. However, this would last only as long as there is a social need (*zarurat*) for it. When the exceptional circumstances come to an end, one must return to the primary principle (vol. 3, p. 20-24).

<sup>145</sup> Behishti and Bahonar, *The Philosophy of Islam*, p. 427-428.

difference in practice whether somebody has a right of private property or a right of use and priority on a particular piece of land.

Another important question is the legal status of a plot of land whose owner lets become a waste land. Sadr refers to traditions from Imam Ali and Imam Sadiq which state that if somebody neglects his land so that the land becomes waste land and subsequently somebody else revives it, this latter person has a better claim on the land. According to him, if the land which is left uncultivated was previously under the category of state ownership, it will revert to that status and it will be available for somebody else to reclaim and gain rights on it. If the land was privately owned, it will thenceforth become a public property of the Muslim community<sup>146</sup>. However, he believes that the person who revives a dead land keeps his rights on the land even if he does not cultivate it as long as the land does not return to its dead status, whereas the person who works on a naturally prosperous land loses his right on it as soon as he stops cultivating it<sup>147</sup>.

Taleqani believes that the rights to land are limited to the period of cultivation and that if somebody stops cultivating his land, he loses his right to it. He quotes a tradition from Imam Kazim according to which: "Whoever leaves land uncultivated for three years without reason, the land will be taken from him and transferred to someone else"<sup>148</sup>. Beheshti and Bahonar quote the same tradition and add that it is not necessary to obtain the permission of the previous occupier to reclaim the land<sup>149</sup>. Tehrani and Bani Sadr follow the same opinion<sup>150</sup>.

Isfahani offers a different and more modern interpretation of this three-year grace period. He believes that the three-year respite mentioned in some traditions does not apply to every land in every time and place. He thinks that it was because in the first centuries of Islam, there were many uncultivated lands and people did not have powerful

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<sup>146</sup> Sadr, *Iqtisaduna*, vol. 2, part 1, p. 120-124.

<sup>147</sup> *Ibidem*, p. 180-181.

<sup>148</sup> Taleqani, *Islam va malekiyat*, p. 155-156.

<sup>149</sup> Behishti and Bahonar, *The Philosophy of Islam*, p. 430-431.

<sup>150</sup> Tehrani, *Eqtesad-e Islami*, p. 185, 275; Bani Sadr, *Eqtesad-e tawhidi*, p. 190-191, 340.

tools of production that they were left free to use their right of exploitation until three years after they stopped doing it. However, in our time, when, on the one hand, we have powerful tools of production and, on the other hand, most places are confronted with a scarcity of land, waiting three years would not conform to the Islamic principle of justice. Therefore, the period of respite can be reduced to "what the economic council (*shura-ye eqtesadi*) thinks advisable"<sup>151</sup>.

The members of the Office for Cooperation between Seminaries and Universities consider that if the owner of *mawat* lands is unknown, or if their owner has turned away from them and does not treat them as his property any more, there is no doubt that they can be reclaimed with the permission of the Islamic judge. But, in case their owner still considers them as his property but does not make efforts to cultivate them, they recognise that the opinions of the *fugaha* are divided. They refer to a *fatwa* from Ayatollah Khomeini which is about *tahjir*, but which they believe can be extended to the case of reclaimed lands. According to this *fatwa*, if somebody has practised *tahjir* ("putting up stones" to mark his claim) on a piece of land, then does not reclaim the land:

"If he neglects to do it for a long time and somebody else wants to reclaim the land, the precaution is that — notwithstanding the Islamic judge and jurisdiction and their influence — he consults with the person who did *tahjir*, then either this person reclaims the land or he loses his right except if he has a plausible excuse for delaying the reclamation"<sup>152</sup>.

### B. The Issue of Renting and Sharecropping

All the authors agree that renting and sharecropping are allowed by Islamic law<sup>153</sup>, although following Sadr most of them believe that for a contract of *muzara'a* to

<sup>151</sup> Isfahani, *Eqtesad-e moqayesa'i*, vol. 3, p. 12-13, 17.

<sup>152</sup> Khomeini, *Tahrir al-wasila*, quoted in *Mabani-ye eqtesad-e Islami*, p. 233-234; see also p. 143.

<sup>153</sup> Sadr writes that renting land is lawful, the same way that it is lawful to hire a worker for spinning wool, sewing clothes, or selling goods (*Iqtisaduna*, vol. 2, part 2, p. 35).

be valid, the owner of the land must provide the seeds and manure<sup>154</sup>. Taleqani believes that water and "the other necessities" should also be provided by the owner of the land<sup>155</sup> and Isfahani writes that all the means of production should be provided by the land owner<sup>156</sup>. Sadr and Taleqani justify the legitimacy of these types of contracts by the fact that the exploitation of the land causes a depreciation of part of the labour that the owner of the land has expended on it<sup>157</sup>.

Mokarem-Shirazi also defines *muzara'a* as a contract in which one party provides the work and the other: the land, the seeds and the means of production. He justifies its legitimacy by the following reasons:

- It is a way for the peasant to get out of wage labour and make a partnership with capital. Since the Islamic government can supervise the relations between work and capital and the distribution of income, it will ensure that these transactions do not become a means of exploitation of the peasants and will not lead to feudalism.
- Many peasants, for different reasons, are not able to cultivate the land that they have reclaimed or bought, or somebody may die and leave only a spouse and young children who are not able to cultivate the land that their father used to work. In these cases, it is permissible for the owners of the land to put their land at the disposal of somebody else in the form of *muzara'a* and to get a share of the income in return for their previous work or that of their father.
- There are many individuals who have other economic activities or work in administration, education or other types of services, and can invest a part of their savings in an agricultural unit and receive a just return for it. He stresses that permitting this type of investments is important for the development of agriculture. Since agriculture is becoming more and more mechanised, it is absurd to expect the peasants to be able to procure all the new machines themselves. *Muzara'a* is a way of getting rid of unemployment, of increasing

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<sup>154</sup> Sadr, *Iqtisaduna*, vol. 2, part 2, p. 36-37; Bani Sadr, *Eqtesad-e tawhidi*, p. 172.

<sup>155</sup> Taleqani, *Islam va malekiyat*, p. 252.

<sup>156</sup> Isfahani, *Eqtesad-e moqayesa'i*, vol. 3, p. 31.

<sup>157</sup> Sadr, *Iqtisaduna*, vol. 2, part 2, p. 58-59; Taleqani, *Islam va malekiyat*, p. 254.



agricultural production and of transforming stagnant capital into active capital<sup>158</sup>.

He stresses that the difference between *muzara'a* and *riba* (usury) is very clear since the owner of capital in *muzara'a* never gets a fixed return and it is possible for him to lose his capital. Therefore, the capital lender in this type of transactions always faces risk, which is not the case with *riba*<sup>159</sup>.

To those who argue that accepting this type of contract would lead to a bipolar society and a system of masters and serfs, Mokarem-Shirazi replies that a difference must be made between fundamental objections with a law and difficulties arising from a bad implementation of it. In this case, he believes that there are no fundamental objections with *muzara'a* itself if all its Islamic conditions are enforced. It is the duty of the Islamic government to supervise carefully these contracts to make sure that they do not lead to a bipolar society and that "the motive of economic circulation does not die out"<sup>160</sup>.

On the other hand, Tehrani does not believe that the seeds need to be provided by the land owner. However, he agrees with Sadr that if the contract becomes void the crop will belong to the person who provided the seeds and that this person will pay to the other party a rent or wage depending on the case<sup>161</sup>. As we have seen in the previous chapter, this rule was enunciated in the traditional law books, which did not stipulate that the seeds or anything else had to be provided by the owner of the land<sup>162</sup>. Tehrani's position on this question is thus the traditional one.

The form of *muzara'a* which the other authors approve is different from that practised in Iran before the 1960s and from that described in the traditional law books. Nevertheless, if they agree that contracts such as *muzara'a* and leases of lands are legitimate, then one consequence is that they leave little ground open for land reform and that it could apply only to uncultivated lands.

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<sup>158</sup> Mokarem-Shirazi, *Khotut-e asli-ye eqtesad-e Islami*, p. 154-157.

<sup>159</sup> *Ibidem*, p. 156-157.

<sup>160</sup> *Ibidem*, p. 157-158.

<sup>161</sup> Tehrani, *Eqtesad-e Islami*, p. 285-289.

<sup>162</sup> See above p. 40-41.

However, in a little pamphlet entitled *Detailed Guidelines to the Economy of the Islamic Society* which he wrote in 1979, Sadr presented more radical ideas than in *Iqtisaduna*. In this pamphlet, he writes that: "All the sources of natural wealth are part of the public sector. Individuals have a right of usufruct (*intifa'*) on one single basis, which is the labour represented in *ihya'* [reclamation] meaning solely direct work", and he goes on to add that contracts such as *muzara'a* are "discretionary elements in the Islamic economy which calls for the abolition of this type of contracts"<sup>163</sup>. Moreover, whereas in *The Question of Ownership*, Beheshti conceded that renting and sharecropping are allowed (although he added that the rate should not be excessive<sup>164</sup>), he believed that once the articles of the Constitution which guarantee to each Iranian the tools and fruits of his own labour and a decent standard of living, and which ban illegally acquired wealth, the economic exploitation of others, hoarding and monopoly<sup>165</sup>, are implemented, grounds for sharecropping or leasing arrangements simply would not exist since each person would own the tools of his/her own labour<sup>166</sup>. Furthermore, although in his book on Islamic Economics, Isfahani accepted the legitimacy of a limited form of *muzara'a*, he became one of the main architects of a land reform programme which imposed a ceiling on land ownership and allowed the landlords to keep some of their lands only if they were cultivating them themselves<sup>167</sup>.

The other authors, however, saw the solution of Iran's agricultural problems in the release of dead lands to the peasants. Mokarem-Shirazi asserted that, according to experts, Iran had more than 14 million hectares under cultivation and more than twice

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<sup>163</sup> Quoted in Mallat, *The Renewal of Islamic Law*, p. 155.

<sup>164</sup> Beheshti, *Masala-ye malekiyat*, p. 83.

<sup>165</sup> In particular, Article 43, clause 2, to which he refers twice in his book (p. 84 and 90).

<sup>166</sup> *Kayhan*, 1 December 1979, quoted in Bakhsh, *The Reign of the Ayatollahs*, p. 201, see also *Ibidem*, p. 207-208.

<sup>167</sup> The edition of *Eqtesad-e moqayesa'i* which the author used was published in *Dey* 1358 (December 1979-January 1980) after Isfahani had been appointed Deputy Minister of Agriculture in charge of Land Affairs. However, Schirazi refers to a previous edition of this book published in 1978 (Schirazi, *Islamic Development Policy*, p. 52).

that amount of *mawat* lands susceptible to being reclaimed for agriculture<sup>168</sup>. He believed that the income of the peasants can be improved by "creating the conditions for a better and larger production", not by "putting a handful of land at their disposal then leaving them on their own while withholding from them the means of production that they need"<sup>169</sup>.

Although he later approved the 1980 Land Reform Bill, Beheshti wrote in his book on ownership in Islam that the peasant who owns a large property must not be forced to distribute his land, and he envisaged a system in which the peasants who do not have land move somewhere else and are given lands which they can keep as long as they cultivate them<sup>170</sup>.

Taleqani suggested that in the Muslim countries where the methods of the past do not conform to Islamic precepts, the government must review the situation of agriculture and of the farmers and adopt the following measures before doing anything else<sup>171</sup>:

1. It must put dead lands (*mawat*) and uncultivated (*bayer*) lands free of charge at the disposal of individuals who will reclaim them; and it must also provide them with water and irrigation facilities, and with seeds and fertilisers, free of charge or in the form of loans.
2. It must limit the former ownership of cultivated land and whole villages to land under cultivation, and give the right to sow seeds to the villagers. This will allow the peasants to be free and independent in their work and to be the owners of their produce.
3. It must stop supporting the landlords since ownership gained through usurpation and feudalism is contrary to Islamic principles and law.

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<sup>168</sup> Mokarem-Shirazi, *Khotut-e asli-ye eqtesad-e Islami*, p. 163-164.

<sup>169</sup> *Ibidem*, p. 164-165.

<sup>170</sup> Beheshti, *Masala-ye malekiyat*, p. 90-91.

<sup>171</sup> Taleqani, *Islam va malekiyat*, p. 239-240.

4. It must collect taxes, *kharaj* and *zakat*, from the cultivators and on certain products and spend them on the villages and to help the peasants.

### C. Role of the State in the Economy

The main topic of contention in the Shi'i books on Islamic economics is the role that the different authors assign to the state in economic matters. Three broad tendencies can be distinguished. On one side, Sadr and Peyman are favourable to a wide-ranging intervention and a direct take-over of some production activities by the state. On the other side, the Office for Cooperation between Seminaries and Universities, Motahhari and Bani Sadr agree that the state should supervise the economy to make sure that the *Shari'a* is enforced, but they do not want it to intervene directly in economic matters. In between these two approaches, one finds most of the progressive *mujtahidin*, including Taleqani, Beheshti and Tehrani, as well as Mokarem Shirazi who want the state to intervene to guarantee social justice and correct economic inequalities, but without directly taking over production and distribution.

#### a. Proponents of a direct intervention of the state in economic matters

According to Sadr, the principal functions of the state are:

1. To provide social security. This can be done in two ways: providing opportunities for productive employment, and when this is not possible, and for those who cannot work, the state must provide an adequate amount of money to cover their needs and enable them to have an honourable standard of living<sup>172</sup>.
2. To ensure social balance: that is to ensure that the differences between individuals are only of degrees, not of standards, and related to their capacities and the work that they have done. This is not something to be achieved at once, but an objective which the state should strive to accomplish<sup>173</sup>. This can be achieved by the imposition of permanent taxes (*zakat* and *khums*) which, according to Sadr, have not been instituted only for the satisfaction of basic

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<sup>172</sup> Sadr, *Iqtisaduna*, vol. 2, part 2, p. 151-152.

<sup>173</sup> *Ibidem*, p. 165-166.

needs, but also to raise the standard of living of the poor closer to that of the rich in order to realise social balance<sup>174</sup>. In case these taxes would not be sufficient, the state would employ resources from the public treasury to the same effect<sup>175</sup>.

3. The state checks on the implementation of Islamic edicts and intervenes to fill the gaps in Islamic legislation, that is in the matters which Islamic law has left to its discretion, in such a way as to guarantee the general aims of the Islamic economic system and to implement the Islamic vision of social justice. According to Sadr, this discretionary sphere enables the Islamic system to be adapted to each time and place<sup>176</sup>. Different circumstances call for different legislation. For example, when land was cultivated with antique methods, an individual could not manage cultivating more than small spaces. However, it has now become possible for some individuals to put to cultivation huge pieces of land by employing big tools and heavy machinery. This would be contrary to the principle of social justice and detrimental to the society. This is why the state is given the latitude to pass legislation to limit their activities in accordance with the aims of the Islamic economy and its ideas of social justice<sup>177</sup>. This power of the state is based on verse 4:59 which tell the believers to "Obey God, the Prophet, and those among you who hold authority". According to Sadr, the sphere of intervention of the head of state extends to include every action which the *Shari'a* has declared neither obligatory nor forbidden, but *muba*, permissible<sup>178</sup>.

Sadr believes that Islam permits interference by the state in production to guarantee the minimum level of production of a necessary commodity as well as to make sure that the maximum level of production above which the society would be led to extravagance and prodigality is not surpassed. The state can also intervene in the

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<sup>174</sup> *Ibidem*, p. 169.

<sup>175</sup> *Ibidem*, p. 174.

<sup>176</sup> *Ibidem*, p. 178-179.

<sup>177</sup> *Ibidem*, p. 182.

<sup>178</sup> *Ibidem*, p. 183-184.

production processes to fill the legislative voids and to establish big enterprises for the exploitation of natural resources since individuals can only exploit what they can work with their own labour, which is necessarily limited to small-scale enterprises<sup>179</sup>.

Sadr's view on this matter was followed by Habibollah Peyman, who wrote that, in the modern age, in order to eliminate exploitation, all large enterprises must be owned and operated by cooperatives, where only the direct producers will receive benefits, or by the state<sup>180</sup>.

**b. Wide ranging powers of intervention, but no direct take-over of production**

Taleqani believes that in the Muslim countries where the methods of the past do not conform to Islamic precepts, the government must review the situation of agriculture and of the farmers and adopt corrective measures<sup>181</sup>. He writes that the Islamic ruler, whom he calls *hakim* (judge) and whom he says must have the power of *ijtihad* or must follow the *mujtahid* of the time, has two fundamental responsibilities. The first is to implement the written precepts. The second is to deduce derived principles and adapt them to the circumstances of the time. In his capacity of government (*velayat*), he controls the use of public resources, production and distribution, manages public and state revenues, and is responsible for securing and guaranteeing the livelihood of individuals. On this basis, the rights of the state and of the *hakim* are superior to the rights of individuals<sup>182</sup>. The *hakim* has the right of possession (*tasarof*) of natural resources. He can take possession of private properties if it is in the [public] interest and he can restrict the rights of use and ownership of individuals further than what the law has provided in case private rights contradict social rights. Since natural resources belong to the community and their use is limited by the rights of the community, if somebody

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<sup>179</sup> *Ibidem*, p. 146-147.

<sup>180</sup> Habibollah (Peyman) Paydar, *Bardashta'i dar bare-ye malekiyat, sarmayeh va kar az didgah-e Islam (Introduction on Ownership, Capital and Work from the Point of View of Islam)*, p. 137-138, 273; quoted in Behdad, "A Disputed Utopia", p. 793.

<sup>181</sup> Taleqani, *Islam va malekiyat*, p. 239-240.

<sup>182</sup> *Ibidem*, p. 274.

possesses more means than others and that what is customary, the law of public ownership and the power of the government can restrict his reclamation, extraction or exploitation and forbid his misuse of natural resources. If the prescribed taxes are not sufficient to further public welfare, he can institute other taxes, because he is the *vali-ye amr* and obedience is due to him. His power of possession (*tasarof*) is superior to the right of private ownership<sup>183</sup>.

However, according to Taleqani, the rights of the *hakim* and of the Islamic government cannot surpass the law, and the right of ownership, within the framework of just laws, is natural and results in the right of possession and distribution. In the same way that it is unjust and unnatural for the capitalists to take possession of the produce of the work of individuals, it is unjust and unnatural for the state to take over distribution and thereby negate general freedom. In the view of Islam, the monopoly of distribution and production by a particular group or class, be it the capitalists or the ruling class, is illegal and unjust. This should be allowed only in the limits of the protection of the public interest and in such a way as it prevents the undue influence of particular classes and monopolists<sup>184</sup>.

Tehrani asserts that the Islamic state plays an important role and has a wide-ranging authority in the fields of social order and economic relations. It has the power to take the decisions that are required by the needs of the time. It adopts regulations to preserve the public interests on the basis of the conditions and exigencies of the time and the evolution of the relations between man and nature. According to him, this makes the Islamic economic school more flexible and susceptible to evolution and development than any other economic school<sup>185</sup>. However, like Taleqani, he falls short of saying that the state should directly take over production enterprises.

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<sup>183</sup> *Ibidem*, p. 207-208, 229-231.

<sup>184</sup> *Ibidem*, p. 207-208.

<sup>185</sup> Tehrani, *Eqtesad-e Islami*, 262-265. His argumentation to justify the intervention of the state in economic matters is similar to that of Sadr (*Ibidem*, p. 186-188). Also, he similarly argues that the two important function of the state are to guarantee public safety and to safeguard social balance (*Ibidem*, p. 258-262).

Beheshti and Bahonar adopt a similar position. According to them, the Islamic government has two main responsibilities:

- to meet the needs of the needy with the income of the public treasury; and
- to provide guidance in the various sectors of production and distribution: It is a duty of the Muslim government to keep a watch on the economic activities and to intervene whenever it finds that the methods of production or distribution are deviating from the Islamic standards<sup>186</sup>.

They refer to a letter from Imam Ali to the governor of Egypt Malik Ashtar in which Imam Ali wrote that "a Muslim administration should always be a custodian of public interests, especially those of the poor, and not a protector of the unlawful profits of the rich", and that: "From the Islamic point of view only those rulers can be called just who maintain their standard of living on a level with the low-income group". They believe that if the ruler does not do so, the poor are not likely to give him their whole-hearted support. Then, the feeling of a distance between him and them could incite them to rise against him. But, if the ruler makes a point of living like the poor, he will know that he can improve his own economic position only if he pursues a social and economic programme aiming at ameliorating the condition of the poor. Such rulers will "keep the cupidity of the capitalists under check and will be an insurance for the implementation of social justice"<sup>187</sup>.

As we have previously noted, Beheshti was inclined to give the articles of the Constitution on social and economic justice a broad application. Once the principles are implemented, he said, "There will no longer be an owner of a large or even a small factory"<sup>188</sup>. But he did not say that the state should take over production, and he insisted on the fact that freedom of work must be respected. For example, he believed that the number of hours of work cannot be imposed<sup>189</sup>. In fact, he wrote that: "The freer an

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<sup>186</sup> Behishti and Bahonar, *The Philosophy of Islam*, p. 472-474.

<sup>187</sup> *Ibidem*, p. 475-478.

<sup>188</sup> *Kayhan*, 1 December 1979: quoted in Bakhsh, *The Reign of the Ayatollahs*, p. 201, see also *Ibidem*, p. 207-208.

<sup>189</sup> Beheshti, *Masala-ye malekiyat*, p. 98.



economic system is, the more prosperous it is, and the further from unjust discrimination and income gaps it gets"<sup>190</sup>.

Although generally more conservative than the four authors previously mentioned, Mokarem-Shirazi also recognises that the state has the right to intervene in economic matters without directly taking over production enterprises<sup>191</sup>. For example, by using the authority of the *velayat-e faqih*, the Islamic government has the right to fix a just rate of income distribution between work and the tools of production so as not to allow the development of a bipolar society<sup>192</sup>. Moreover, in order to prevent anarchy, while taking into consideration the needs of men in each time and place, it has the right to enunciate limits and rules for the appropriation and exploitation of natural resources, and for the use of *anfal*<sup>193</sup>.

### c. Supervision, but no direct intervention

The economic group of the Office for Cooperation between Seminaries and Universities recognise that the Islamic state must supervise economic activities to make sure that they are carried out in accordance with the *Shari'a*, but they believe that the natural condition of a society is that economic freedom is given to men and that the private sector is the greatest unit of production. The state supervises all economic activities of individuals and only intervenes in the vital and strategic economic sectors. The Islamic economic order is essentially not centralised in the hands of the state. They believe that the Islamic government can guide the development of capital investment and that it must prevent hoarding and monopoly, which create inflation, artificial shortages and economic crises, and open the sphere of work and economic activities to all individuals in the society. But, it is only in abnormal economic and social circumstances that the state is allowed to centralise the economy and impose limits on production, distribution and use<sup>194</sup>.

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<sup>190</sup> *Ibidem*, p. 99.

<sup>191</sup> Mokarem-Shirazi, *Khotut-e asli-ye eqtesad-e Islami*, p. 145-146.

<sup>192</sup> *Ibidem*, p. 132, 136, 140.

<sup>193</sup> *Ibidem*, p. 130, 168.

<sup>194</sup> *Mabani-ye eqtesad-e Islami*, p. 282, 508-509.

Motahhari argues that since the product of each person's labour belongs to that person, the act of taking away a part of this product by force, for example through taxation, is an act of injustice and exploitation and he concludes that sharing in material wealth is justified only if individuals do it voluntarily<sup>195</sup>. He recognises that, from the point of view of Islam, the differences between individuals cannot be excessive and that Islam allows the acquisition of wealth through the ownership of means of production as long as the labouring class is not exploited<sup>196</sup>. But, he does not give authority to the state to take measures to correct the existing inequalities. On the contrary, he repeatedly lashed out against those who spoke of expropriation and confiscation as a policy which had Qur'anic justifications<sup>197</sup>.

Although it may seem strange to put him in the same category than the conservative *mujtahidin* and his argumentation is different from theirs, in his book on Islamic economics which he published before the Revolution, Bani Sadr agreed with them on this question and categorically rejected any intervention of the state in economic matters. He wrote that when the society gives to an individual the produce of his work, it cannot take it away from him and that men can keep all the produce of their labour "except the part which is collected by the imam as *tasq* and put at the disposal of the society"<sup>198</sup>. He justified this position by the argument that: "as long as the society has not

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<sup>195</sup> *Piramin-e enqelab-e Islami (About the Islamic Revolution)*, p. 149-151; quoted in Rahnema and Nomani, *The Secular Miracle*, p. 49.

<sup>196</sup> Motahhari, *Nazari beh nezam-e eqtesad-e Islami*, p. 229-230.

<sup>197</sup> Rahnema and Nomani, *The Secular Miracle*, p. 49.

<sup>198</sup> Bani Sadr, *Eqtesad-e tawhidi*, p. 166. In *Work and the Worker in Islam*, a collection of lectures made in front of an audience of workers in the beginning of 1979, Bani Sadr contradicted himself on the matter of taxation, saying first that the religious judicial authority may order extra religious taxes whenever he determines that excessive and inequitably distributed incomes may bring about corruption within society, and that such taxes will help maintain social equilibrium (*Work and the Worker in Islam*, transl. by Hasan Mashhad, Tehran, Markas, 1980, p. 30). Then, a little while later, he said that there should only be one tax: *zakat* and that all the other taxes should be abolished (p. 39-40).

freed itself from relations of power and does not have the potential to prevent the concentration and accumulation of power, putting men's gains at the disposal of the state would necessarily result in the concentration of all wealth produced by men in the hands of a number of bureaucrats (*divansalar*) who will change the destiny of men for their self-interest"<sup>199</sup>. He added that, as long as a prosperous society, from which scarcity and the possibilities of accumulation and concentration would have been abolished, has not been established, Islam prefers that the produce of somebody's work, "after deduction of the share of God", should be transferred to his descendants according to the rules of inheritance. He implies that this will be sufficient to prevent the formation of centres of accumulation and concentration<sup>200</sup>.

However, in the ideal Islamic society which will be established after the reappearance of the Imam of the Age (Twelfth Imam), when men will have been freed from all relations of power and from all types of inequalities and differences and will live under one unique government and Islam will be the religion of everybody<sup>201</sup>, he believes that: "to conform completely with the essence of *tawhid*, it will be better to have a form of relations in which the individuals put all what they get at the disposal of the community and take from the collectivity what they need"<sup>202</sup>.

Nevertheless, after the Revolution and especially after he became President, Bani Sadr renounced his anarchic ideas and worked at imposing and strengthening the power of the government. In 1979, as a member of investigatory commissions appointed by Ayatollah Khomeini, he played an important role in the decision to nationalise the banks and major industries<sup>203</sup>.

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<sup>199</sup> *Eqtesad-e tawhidi*, p. 282-283. See also Behdad, "A Disputed Utopia", p. 793-795 and Abul Hasan Bani-Sadr, "Islamic Economics: Ownership and Tawhid" (translation of excerpts), in *Islam in Transition: Muslim Perspectives*, ed. by John Donohue and John L. Esposito, New York and Oxford, Oxford University Press, 1982, p. 231-232.

<sup>200</sup> *Eqtesad-e tawhidi*, p. 284.

<sup>201</sup> *Ibidem*, p. 387-391.

<sup>202</sup> *Ibidem*, p. 231.

<sup>203</sup> Bakhash, *The Reign of the Ayatollahs*, p. 96.

## **Part II**

### **The Debates over Land Reform in Iran**

## Chapter 3: Land Reform in Iran under the Shah

### 1. Land Ownership in Iran Before Land Reform

Up to the beginning of the 1960s, the dominant form of land ownership in Iran was large landownership and most of the large landowners were absentee landlords<sup>1</sup>. Because of the fragmentation of estates through inheritance, many consisted of parts of different villages. These villages were frequently owned as a joint or *mosha'* tenure by the heirs of the original owner, each having a right to a specific share of the capital and the income, but not to a specific portion of the land<sup>2</sup>.

There were also large numbers of smaller landlords who either had acquired land as the bailiffs of the large landlords, or were shopkeepers, tradesmen, members of the professional classes and minor government officials who had inherited land or invested in it to supplement their income from other sources. In some parts of the country, there was also a small class of peasant proprietors. Small landlords tended to be found in the less fertile districts around the towns, while peasant proprietors were, on the whole, confined to remote areas in which agriculture offered a low return, such as mountain areas or the edges of the central desert<sup>3</sup>.

According to Farazmand, in the early 1960s, 90 % of all the cultivated lands belonged to a few hundreds big landlords, state holdings and religious endowments (*avqaf*), 5 % to mid-level landlords (owning only one village) and 5 % to small landowners. Large landlords owning more than five (and often hundreds of) villages were usually called the ruling oligarchic "Thousand Families" although they numbered no more than a few hundred. Until the early 1950s, the Shah himself owned some 3,000 of

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<sup>1</sup> Ann K.S. Lambton, *The Persian Land Reform: 1962-1966*, Oxford, Clarendon Press, 1969, p. 23-24. According to Lambton, the large landowners belonged to four categories: members of the ruling family and of the official classes, tribal leaders, members of the religious classes, and merchants

<sup>2</sup> *Ibidem*.

<sup>3</sup> *Ibidem*.

the best villages. Many members of the landed oligarchy had acquired large estates during the reign of his father, Reza Shah, who had forcibly taken land from the Qajar landed aristocracy and granted them to the members of the royal court and the leading military and civilian officers of the Pahlavi state<sup>4</sup>.

From early times, the relations between the landlords and the peasants were mostly based on sharecropping agreements. Large-scale farming was not practised, the large estates being run on the basis of the plough-land or peasant holding. In 1960, 54.8 % of the cultivated lands were under sharecropping<sup>5</sup>. These agreements were mainly regulated by local custom. Five elements were taken into consideration in fixing the shares of the two parties: land, water, seeds, draught animals and labour. The party who provided that input got the share accruing to it. In some areas, the landlord levied other dues in addition to a share of the crop and the peasants were subject to certain labour services. For the most part, the sharecropping peasant had no permanent right to the land that he cultivated, and there were periodic redistributions of holdings. The main motive for this was the landlord's wish to prevent the peasant from acquiring a vested interest in his holding<sup>6</sup>. The methods of cultivation were primitive, with few tractors being used. Yields were low and the portion of the crop going to the sharecropping peasant was often insufficient to maintain him and his family until the next harvest<sup>7</sup>. Moreover, the landlords did not see favourably the cultivation of gardens by the peasants, mainly because they feared that this would improve their economic position and increase their independence, and because, in case of eviction, they would have to pay

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<sup>4</sup> Ali Farazmand, *The State, Bureaucracy, and Revolution in Modern Iran: Agrarian Reform and Regime Politics*, New York, Praeger, 1989, p. 67-68; see also Ahmad Ashraf, "State and Agrarian Relations Before and After the Iranian Revolution in 1960-1990", in *Peasant Politics in the Modern Middle East*, ed. by F. Kazemi and J. Waterbury, Gainesville, University Press of Florida, 1991, p. 278.

<sup>5</sup> Asghar Schirazi, *Islamic Development Policy: The Agrarian Question in Iran*, transl. by P.J. Ziess-Lawrence, Boulder and London, Lynne Rienner, 1993, note 52, p. 66.

<sup>6</sup> Lambton, *The Persian Land Reform*, p. 24-25.

<sup>7</sup> *Ibidem*, p. 28-29.

them compensation for any trees they had planted or building they had erected. This kind of property was known as *a'yan* and could be registered<sup>8</sup>.

## 2. The 1962 Land Reform Law

The adoption of a land reform programme in the early 1960s had some economic and social justification. This was a period of economic recession and stagnation and many members of the middle class and technically-educated strata of the population started to realise that the large absentee landlords who were draining the entire agricultural surplus to the cities were hurting the country's chance for further economic development. However, the determining factors were political. The two key factors were the pressures from the United States and the role of the Shah. During the 1950s and 1960s, the United States incorporated into its programme of foreign aid a policy of encouraging moderate land reform in Third World countries in order to bolster their capability to resist communist encroachment and to prevent potential peasant revolutions. Heartened by the American efforts of persuasion, the Shah issued a decree calling for the distribution among the peasantry of some 3,000 villages held in the Crown estate. This programme was carried out between 1952 and 1960 with American technical and financial aid. Its terms were not advantageous to the peasants. The villages, which mostly had been usurped by his father were sold by the Shah to the peasantry at his own price, cashed by instalments<sup>9</sup>. However, a few years later, the 1958 revolutionary *coup d'Etat* in Iraq and a mounting propaganda campaign from the USSR against the Shah's regime led American policy-makers to pressure him to implement a general programme of land reform<sup>10</sup>.

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<sup>8</sup> *Ibidem*, p. 26.

<sup>9</sup> Ashraf, "State and Agrarian Relations", p. 278; Homa Katouzian, *The Political Economy of Modern Iran: Despotism and Pseudo-Modernism, 1926-1979*, London and Basingstoke, Macmillan, 1981, p. 300.

<sup>10</sup> Ashraf, "State and Agrarian Relations", p. 278-279.

In 1961, the Shah was persuaded to appoint the reformist cabinet of Ali Amini, who had American support<sup>11</sup>. In an interview that he gave twenty-five years later, Amini asserted that he believed in a gradual land reform programme over 10 to 15 years with the imposition of a ceiling on large absentee land ownership, improvement of the farmers' managerial ability and better economic productivity<sup>12</sup>. This approach was attractive to the Shah and to the Kennedy administration.

The Shah, who was interested in modernising and strengthening the country, espoused the idea of land reform for a variety of intermingled political and idealistic reasons. Hooglund mentions his desire to improve his domestic image, idealism, a hope for national economic progress, a distaste for a system perceived as backward, his sensitivity to world public opinion and hope for foreign approval<sup>13</sup>. According to Hossein Mahdavy, the land reform was "a political measure on the part of the government to gain the allegiance of the 'neutral' and still inarticulate peasantry to offset the growing opposition in urban areas"<sup>14</sup>. At the same time, a policy of land redistribution would also have the advantage of enhancing the authority of the central government in the rural areas. It would reduce the power of the big landlords and diminish the opportunities for them to challenge the extension of governmental power, while it would replace them, at the village level, by state functionaries. In Hooglund's words: "Viewed in this perspective, the shah's support for land reform can be considered as one aspect of the struggle between a centralising monarch and the groups seeking to limit his authority that characterised Iranian politics from the time of the Constitutional Revolution of 1905-

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<sup>11</sup> *Ibidem*, p. 279.

<sup>12</sup> *Ibidem*, p. 281.

<sup>13</sup> Eric J. Hooglund, *Land and Revolution in Iran, 1960-1980*, Austin, University of Texas Press, 1982, p. 45.

<sup>14</sup> Hossein Mahdavy, "The Coming Crisis in Iran", *Foreign Affairs*, vol. 44, October 1965, p. 134. See also Nikki R. Keddie, "Stratification, Social Control, and Capitalism in Iranian Villages: Before and After Land Reform", in *Rural Politics and Social Change in the Middle East*, ed. by Richard Antoun and Iliya Harik, Bloomington and London, Indiana University Press, 1972, p. 387.



1911 until the 1978-1979 revolution"<sup>15</sup>. A programme casting the Shah in the role of a reforming monarch who seemed to be interested in the welfare of his people could also help improve his image vis-à-vis the intelligentsia and urban middle classes<sup>16</sup>.

Furthermore, land reform provided the Shah with an ingenious argument for not holding elections on the pretext that, like all previous elections, new elections would inevitably result in a parliament of landlords who would oppose land reform<sup>17</sup>. Finally, a policy of that type would increase the prestige of the country abroad and its chances of obtaining grants and loans particularly from the United States.

However, Dr Hassan Arsanjani, the Minister of Agriculture in the government formed by Ali Amini in May 1961, had a different approach to land reform. In the 1940s, he had travelled widely in the country as an employee of the Agricultural Bank charged with preparing plans for the establishment of rural cooperatives. He was convinced that land reform was the fundamental need in Iran and a prerequisite to political reform. His aims were political, economic and social. His most important goal was the political one of breaking up the power of the large absentee landlords. He was convinced that the Iranian peasant had great potential and was capable, if given the opportunity, of running his own affairs. Therefore, he advocated the creation of cooperatives run by the peasants which would play wide-ranging functions in the management of village affairs<sup>18</sup>. He was opposed to the method, suggested by the US, which had been applied to the distribution of the Crown lands in the 1950s, that is a gradual distribution through land surveying and mapping, since this would have taken years to complete, during which time opposition to the programme could have been mobilised and ways of circumventing it devised. He later claimed that the first thing he did when he was appointed Minister of Agriculture was to dismiss all the American advisers working in the Ministry. His intention was to

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<sup>15</sup> Hooglund, *Land and Revolution*, p. 46.

<sup>16</sup> *Ibidem*, p. 50.

<sup>17</sup> Mahdavy, "The Coming Crisis in Iran", p. 137.

<sup>18</sup> Lambton, *The Persian Land Reform*, p. 61-62; Hooglund, *Land and Revolution*, p. 51-52. On Arsanjani, see also Marvin Zonis, *The Political Elite of Iran*, Princeton, Princeton University Press, 1971, p. 53-60.

implement quickly a limited redistribution of the largest holdings to a new group of peasant proprietors with a minimum of social and economic disruption. This is why he decided to work within the existing system which counted land ownership not in terms of acreage, but in terms of parts of villages<sup>19</sup>.

On 9 January 1962, the cabinet signed a bill amending a land reform law which had been passed on 17 May 1960 but had remained a dead letter. The main provisions of that law were to limit the amount of land which anyone could hold to 400 ha of irrigated land or 800 ha of unirrigated land<sup>20</sup>. Technically, the January 1962 law was merely an emendation of that law, but, in fact, it was so different that it was a new law. Arsanjani had made preparations for its implementation and he was able to put it immediately into practice in spite of the fact that the majority of his colleagues were opposed to it. Because of its popular appeal, they were paying lip-service to it, but some ministries withheld their cooperation or only gave it grudgingly<sup>21</sup>.

The January 1962 Land Reform Law was intended to break the political and social influence of the landowning class and, by making membership of a cooperative society a condition of the receipt of land, to give responsibility to the peasants for the running of their own affairs, and thereby help to bring about the emergence of an independent peasantry. Arsanjani had no intention of replacing the landlords by government officials. The main provision of the law was to limit the amount of land which any individual could hold to one village (or the equivalent of one village) irrespective of its size. Any land in excess of one village was to be transferred by the landowner to the occupying peasants (that is the sharecroppers, not the agricultural labourers), or sold by the landowner to the government and by the government to the peasants cultivating it. Certain categories of land were excluded from the provisions of the law: the orchards, tea plantations, and woodlands, as well as all the lands worked by mechanised means at the date of the passing of the law, and the properties which had been constituted as religious endowments. Irrigated land was to be transferred together

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<sup>19</sup> Ashraf, "State and Agrarian Relations", p. 282-283.

<sup>20</sup> Lambton, *The Persian Land Reform*, p. 56-57.

<sup>21</sup> *Ibidem*, p. 63-64.

with the water rights belonging to the land according to local custom<sup>22</sup>. The price of the land was to be fixed by the office of Agriculture in each area on the basis of the taxes paid by the landlord prior to 9 January 1962. Since it was common for landlords to understate the income they were drawing from their lands in order to pay as little tax as possible, this method would result in the compulsory sale of many properties for considerably less than their real value<sup>23</sup>.

After the law had been implemented for a few months, the Shah felt that the pace of land distribution should be slowed down in order to stabilise the situation and to enable the government to extend and consolidate its authority in the countryside. Following a National Congress of Rural Cooperative Societies organised by Arsanjani in Tehran in January 1963, which demonstrated his enormous popularity and influence among the peasants, the Shah became alarmed that he was earning all the credit for land reform and began to fear that he could use his prestige to further his own political ambitions. Arsanjani was forced to resign in March 1963 and replaced by a general, Ismail Riahi. This signalled the Shah's intention to extend his personal authority over land reform<sup>24</sup>.

The new attitude towards land reform encouraged landlords in villages not yet affected by land redistribution to use a number of subterfuges in order not to have to sell their land. It became common to register villages in the names of wives and relatives so that no single family member would officially own more than the limit. Some landlords purchased tractors and declared that their land had been mechanised prior to the enactment of the Land Reform Law. In some areas, local government officials who were hostile to land reform cooperated with landowners to obstruct the work of the land reform agents<sup>25</sup>.

Additional Articles to the Land Reform Law were issued on 17 January 1963, and regulations for their execution were passed by the National Consultative Assembly

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<sup>22</sup> *Ibidem*, p. 64-65, 68, 75-76, 86; Hooglund, *Land and Revolution*, p. 53.

<sup>23</sup> *Ibidem*, p. 53-54; Lambton, *The Persian Land Reform*, p. 71.

<sup>24</sup> Hooglund, *Land and Revolution*, p. 57-59.

<sup>25</sup> *Ibidem*, p. 59-60.

on 25 July 1964. The implementation of these Additional Articles, which did not start before February 1965, is known as the second stage of land reform. They laid down the procedures to be adopted in the villages which were not subject to purchase by the government under the January 1962 Land Reform Law. They were intended to regulate the relations between the peasants and the landlords in these villages and to protect the small landlords whose condition had deteriorated because the peasants in many cases were withholding from them their share of the crop and because they lacked the influence necessary to obtain redress or the power to coerce the peasants<sup>26</sup>. Homa Katouzian described this second stage as "mainly [...] an attempt to prevent the power-base of the landlords from being occupied by a strong independent peasantry while the landlords themselves had been sufficiently weakened"<sup>27</sup>.

The landlords were given the choice between five options<sup>28</sup>:

- to rent the land to the occupying peasants on thirty-year leases in exchange for a cash rent based on the average annual income of the preceding three years;
- to sell the land to the occupying peasants at a price agreed between the two parties;
- to divide the land between themselves and the peasants in the same proportion as the crop was divided under the existing sharecropping agreement;
- to form an agricultural unit comprising the landowner(s) and the peasants; or
- to purchase the peasant's rights, with a maximum of, depending on the area, from 20 ha in the rice-growing areas of Gilan and Mazandaran up to 150 ha in Khuzistan, Sistan and Baluchistan<sup>29</sup>, except for mechanised lands for which there was no limit<sup>30</sup>.

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<sup>26</sup> Lambton, *The Persian Land Reform*, p. 214-215.

<sup>27</sup> Homa Katouzian, "Land Reform in Iran: A Case Study in the Political Economy of Social Engineering", *Journal of Peasant Studies*, vol. 1, n. 2, January 1974, p. 228.

<sup>28</sup> Lambton, *The Persian Land Reform*, p. 104, 195-208.

<sup>29</sup> Hooglund, *Land and Revolution*, p. 63-64.

<sup>30</sup> Lambton, *The Persian Land Reform*, p. 196.

The Additional Articles of January 1963 also dealt with the religious endowments. Personal *awqaf* (whose benefits were to provide for the descendants of the legatee) would be bought by the government and divided among the peasants, the proceeds from the sale being devoted to the purchase of another type of property. Charitable *awqaf* would be let to the occupying peasants for 99 years in exchange for a cash rent, with a revision of the rent every five years<sup>31</sup>. Sixteen thousand two hundred and seventy-eight estates were settled this way, affecting 172,103 peasant households<sup>32</sup>.

In April 1971, a new law was passed to permit the sale of lands from charitable *awqaf* to the tenants in accordance with an article of the civil code which allowed the sale of *awqaf* if the value was enhanced by the sale and the proceeds were used for the purchase of another property<sup>33</sup>. Charitable *awqaf* were thenceforth to be treated like any other lands and transferred to the peasants cultivating them. However, it is not clear how many were settled that way. Whereas Mohammad Javad Amid seems to imply that most *waqf* lands were sold, Hooglund writes that some were distributed to the peasants in cases where the administrators decided that it would serve the purpose of the endowment if the properties were sold and the proceeds reinvested in more profitable undertakings, and he refers to interviews with peasants cultivating *waqf* lands about rent revisions in 1970-71 and 1975-76<sup>34</sup>. Hourcade suggests that only 23,000 peasants benefited from this law<sup>35</sup>. There is also some evidence that *waqf* lands were not always

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<sup>31</sup> *Ibidem*, p. 106.

<sup>32</sup> Hooglund, *Land and Revolution*, p. 65.

<sup>33</sup> Mohammad Javad Amid, *Agriculture, Poverty and Reform in Iran*, London and New York, Routledge, 1990, p. 76-77.

<sup>34</sup> *Ibidem*; Hooglund, *Land and Revolution*, note 10, p. 165, and p. 81.

<sup>35</sup> Bernard Hourcade, "The Land Question and the Islamic Revolution in Iran", *South Asia Bulletin*, vol. 13, 1993, n. 1-2, p. 145.

transferred to the peasants, but were sometimes usurped by influential civil servants and military officials<sup>36</sup>.

### 3. Impact and Consequences of Land Reform

According to official statistics, between 12,000 and 13,000 villages out of a total of 49,000 villages in the country were distributed under the first stage of land reform. But this figure includes villages of which only one part was distributed so that the number of villages probably equalled less than 9,000 complete villages, or some 14/15 % of the total number of villages<sup>37</sup>. In addition, one must take into account the fact that nearly half the rural population was constituted of landless labourers who were not entitled under the 1962 Land Reform Law to receive land. A 1960 survey carried out by Iranian officials and the FAO showed that 47.5 % of the rural population were either wage labourers or workers who were working for the better-off oxen-owning sharecroppers<sup>38</sup>. Therefore, one can estimate that only 7 % of the rural population benefited from the first stage of land reform<sup>39</sup>.

Again according to the official statistics, during the second stage of land reform, 3,275 landowners sold their land to 57,164 peasants and 22,646 chose to divide their land in the same proportion than the crop to the benefit of 156,279 peasants, while 8,989 landlords bought off 17,157 peasants and 41,774 formed join-stock corporations with 83,267 peasants. But, by far the most common method used was the conclusion of 30-

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<sup>36</sup> B. Momeni, *Masala-ye arzi va jang-e tabaqati dar Iran (The Agrarian Question and Class Struggle in Iran)*, Tehran, Peyvand, 1980, p. 300-301, quoted in Amid, *Agriculture*, p. 76-77.

<sup>37</sup> Keddie, "Stratification, Social Control, and Capitalism in Iranian Villages", p. 390, 394, and notes 25-26, p. 401. Katouzian also estimates that the equivalent of 15 % of villages were affected by the first stage of land reform ("Land Reform in Iran", p. 229). See also Lambton, *The Persian Land Reform*, p. 121; Hooglund, *Land and Revolution*, p. 60-61; and Mahdavy, "The Coming Crisis in Iran", p. 138.

<sup>38</sup> Keddie, "Stratification, Social Control, and Capitalism in Iranian Villages", p. 387.

<sup>39</sup> *Ibidem*, p. 394.

year leases. This method was chosen by 227,490 landlords and affected 1,246,652 peasant households<sup>40</sup>.

From the point of view of the landlords, tenancies had the advantages of preserving their property rights and assuring them a fixed annual income, while substituting verbal agreements by written legally binding contracts. From the perspective of the peasants, tenancies brought few advantages, except for the security of tenure. The obligation to pay cash rent constituted a burden for peasants who did not normally participate in a cash economy. Moreover, the fixed nature of the rent posed serious problems given the unpredictability of the rainfalls throughout most of the country. Since the law permitted a landowner to abrogate a tenant's lease whenever the latter fell more than three months behind in paying his rent, there was a possibility of mass evictions occurring after bad harvests. Hooglund asserts that, generally, peasants were not satisfied with tenancy agreements, and that, as discontent grew, it was directed against the landlords who were perceived as having cheated the peasants by circumventing the law and having forced the tenancy contracts onto them. A frequent allegation was that the landlords had succeeded in having the "good" land reform officials replaced by others who were in their pockets. Peasant discontent spread during 1967-68<sup>41</sup>. This forced the landowners and the government to re-appraise their position.

At the same time, the government began considering a third stage of land reform aimed at improving agricultural production. Government officials tended to attribute the lack of growth in agricultural productivity to "backwardness". They reasoned that if the cultivating peasants were to become owners, this change of status would make them more receptive to the modernisation of agricultural methods. The third stage of land reform started with a law of December 1965 setting forth guidelines for the establishment of farm corporations<sup>42</sup>. Then, guidelines for terminating tenancy agreements were set forth in a 13 January 1969 Amendment to the Land Reform Law

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<sup>40</sup> Hooglund, *Land and Revolution*, p. 64-65.

<sup>41</sup> *Ibidem*, p.67-68.

<sup>42</sup> Abdolali Lahsaeizadeh, "Land Reform and Social Change in Rural Iran", *Land Reform, Land Settlement and Cooperatives*, vol. 1/2, 1987, p. 36.

which provided for the sale to tenants of all lands held on thirty-year leases. The purchase price would be equivalent to twelve years of rent, with payment arrangements worked out between the two parties. This law did not abrogate the second phase of land reform, so that the landlords could still opt to divide the land with the peasants or to buy their rights. It applied to the lands which their owners had chosen to rent to the former sharecroppers, to the lands included in "joint-stock agricultural units" and to the lands which remained in the hands of landlords after the first two stages<sup>43</sup>.

The successful implementation of the third stage would have resulted in virtually all peasants obtaining the land that they cultivated. However, in this stage, the government's role was limited. The government established the general procedures, but avoided any involvement in the actual process of transferring land ownership. This enabled the landlords to subvert the provisions of the law. Implementation started in the spring of 1969, and, by 23 September 1971, it was officially announced that the land reform programme had been completed. But, in fact, the law was never vigorously enforced. The government policy was to persuade the landowners to sell voluntarily to their tenants. Generally, the small landlords who had serious difficulties with the peasants were not reluctant to sell. But the owners of whole villages tended to ignore the law and to sell at prices higher than those legally permitted and many influential landlords kept the better quality lands for themselves<sup>44</sup>. In fact, it remains unclear how many peasants benefited from the third stage. Statistics from the Land Reform Organisation gave the figure of 738,119 peasants who had purchased their tenancies by the end of 1972, as compared to 1.25 million holders of leases counted at the end of the second stage. In 1978, tenancies still existed in some villages. However, Hooglund estimated that, after the three stages, approximately 92 % of the former sharecroppers had become peasant proprietors, although the majority of them did not own enough land to provide for their

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<sup>43</sup> Hooglund, *Land and Revolution*, p. 68-69; Lahsaeizadeh, "Land Reform and Social Change", p. 36.

<sup>44</sup> Hooglund, *Land and Revolution*, p. 70-71; Lahsaeizadeh, "Land Reform and Social Change", p. 36.



subsistence and that of their family<sup>45</sup>. Keddie concluded that probably no more than 10 % of Iran's peasants received enough land to support them and enable them to make the necessary improvements to the lands<sup>46</sup>.

Lambton, who wrote in 1968, claimed that the general tendency after the first two stages of land reform was for the peasant holding to be better cultivated than before, and for production to increase<sup>47</sup>. However, the positive effects do not seem to have lasted because government policy was not to encourage small peasant production, but rather the formation of capitalist farms and agri-businesses, and one of the main effects of land reform was to produce a more stratified rural society. As Mahdavy has noted, it does not make a difference to the peasant whether his landlord owns one village or 600 villages if he still has to pay rent and is at the landlord's mercy as before<sup>48</sup>. The way land reform was implemented, by not changing the land allotments, has benefited most the peasants who had better and larger plots. It thus strengthened the traditional pattern of land holding and it did not do anything to solve the root of the agrarian problem, that is the fact that nearly two-thirds of the rural population had no land at their disposal or had less than four hectares to cultivate<sup>49</sup>, whereas the minimum considered necessary for the subsistence of a family of five was seven hectares.

Following the third stage of land reform, independent peasant production became the most prevalent system of agricultural production, encompassing 40 % of the lands planted with cereals, 46 % of those planted with cotton and 85 % of the rice fields<sup>50</sup>. However, land reform did not eliminate absentee land ownership, although the great and powerful landlords virtually disappeared. In the mid-1970s, official statistics counted between 350,000 and 400,000 individuals owning from 10 to 500 ha, 200,000 owning more than 20 ha. Eliminating absentee land ownership was not the intention of the

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<sup>45</sup> Hooglund, *Land and Revolution*, p. 71-73.

<sup>46</sup> Keddie, "Stratification, Social Control, and Capitalism in Iranian Villages", p. 394.

<sup>47</sup> Lambton, *The Persian Land Reform*, p. 89.

<sup>48</sup> Mahdavy, "The Coming Crisis in Iran", p. 139-140.

<sup>49</sup> *Ibidem*, p. 140.

<sup>50</sup> Lahsaeizadeh, "Land Reform and Social Change", p. 39.

government. Its objective was to reduce their influence in the villages so that central control could be extended to the countryside. By the end of the 1970s, absentee landlords still owned about 50 % of the total crop land and an even higher percentage of orchards and pastures which had been exempted from land reform<sup>51</sup>.

Land reform destroyed the traditional unit of production, the *boneh*, while the cooperatives which were set up in the 1960s did not replace it in all its functions and operated as little more than credit organisations. The landlord and the *boneh*, which was dominated by the landlord and his representatives, but was the product of centuries of practice, were replaced by government officials who, as Katouzian has noted, by and large, did not speak the language of the peasants. According to him, the winners of the land reform were the state bureaucracy. The landlords lost a considerable part of their socio-economic power base, but this was not handed over to the peasantry. "For the first time in the history of the country, the state became the direct patron and overlord of the mass of the peasants"<sup>52</sup>.

While in the past the traditional system of production teams had given socio-economic security to its members, after their disintegration the lower members could not cope with the socio-economic pressures. The destruction of the *boneh*, therefore, caused a rapid process of social and economic polarisation and stratification within the villages. Since in the past the peasants had been accustomed to work together, the redistribution of land among the members led to a situation in which some peasants could not do all the specialised work such as irrigation which requires specialised knowledge and cooperation. After the land reform, there was a strong tendency among the peasants to keep the *boneh* intact for some years, especially in regions which faced a scarcity of water. However, in the course of time, it could not meet the challenges of the new socio-economic conditions and began to break up<sup>53</sup>.

Land reform led to the virtual elimination of sharecropping in the Iranian countryside. The new landowners were not interested in continuing that system of

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<sup>51</sup> Hooglund, *Land and Revolution*, p. 78-79.

<sup>52</sup> Katouzian, "Land Reform in Iran", p. 234-236.

<sup>53</sup> Lahsaeizadeh, "Land Reform and Social Change", p. 38-39.

production. However, renting of land in exchange for a fixed amount of money became more frequent. In some cases, land was bought by a few rich peasants from small peasants, then was rented to tenant farmers. In other cases, the landlords who had bought the rights of the sharecroppers converted the land to cash crops with the help of tenant farmers. In many cases, the landlords who had managed to get their lands exempted from the land reform turned them to the system of *nimeh-kari*. Contrary to the traditional sharecropping agreements, *nimeh-kari* was a short term contract (1 or 2 years) between the owner of the land and an experienced farmer who came from outside the village and lived on the rented farm for the period of cultivation, but was not involved in the social activities of the village. Another form of tenancy which appeared after the land reform as a result of the poor quality of the lands distributed and of the problem of obtaining water for irrigation and credit for investment is that of *tulumbeh-kari*. In this system, a poor peasant leased out his land to someone who was ready to take the risks of investing in farming activities while he went and sought employment on the land of others or in the towns. He did not provide any of the other factors of production, whereas, in the system of *nimeh-kari*, the owner of the land also provided the water and paid for half of the cost of the fertilisers<sup>54</sup>.

Land reform led to the emergence of a landless rural proletariat. The villagers who had obtained land were initially better off than the landless peasants. But many of the small independent peasants were dispossessed by richer peasants. Also, the use of machinery for major tasks such as ploughing and harvesting became common on holdings over 10 ha. These two processes led to an increase in unemployment in the rural areas. Many landless peasants were virtually compelled to move away from their village in search for work. Most of them migrated to urban areas. However, the cities were unable to provide work for all of them. Therefore, they came to form a new under-proletariat of peddlers and occasional labourers living in shanty towns on the edges of the big cities<sup>55</sup>.

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<sup>54</sup> *Ibidem*, p. 37-38.

<sup>55</sup> *Ibidem*, p. 52-53.

On the other hand, for reasons of efficiency and "modernity", government policy was to encourage the formation of capitalist enterprises such as farm corporations encompassing dozens of villages and agri-businesses involved in all stages of production. By the end of 1976, 89 farm corporations had been established. They encompassed 830 villages with a total of 33,662 members and 130,000 ha under cultivation. Most were concentrated in the western half of the country which has the most fertile lands and more abundant water. They were capitalist enterprises working with wage labourers, often Afghans who were cheaper and without ties to the area. The peasants who had been forced to contribute their land owned a share equivalent to the land they had contributed. These corporations were highly unpopular among the majority of affected peasants<sup>56</sup>.

The term agri-business refers to the vertical organisation of agricultural production on the part of certain giant companies which controlled food production and processing from the field to the table. By the end of 1977, 15 large agri-businesses owning from 5,000 to 25,000 ha and 22 agri-businesses enterprises owing 1,000 to 5,000 ha had been established<sup>57</sup>. They caused massive rural impoverishment in the areas in which they were set up by denying the rural population access to land. The peasants lost their land, homes and socio-cultural identities, were forced to resettle into new settlements which mixed different ethnic groups, and were turned into wage labourers who were just able to scratch a living by providing part-time seasonal labour for the agri-businesses<sup>58</sup>.

However, the negative impact of land reform should not be exaggerated. The impoverishment of the rural population, which led to increasing migration from the countryside to the towns, was more a consequence of demographic expansion than that of land reform. Similarly, the increase in the importation of foodstuffs was not a result of a decline of agricultural production following land reform, but of demographic expansion and rising incomes. Between 1956 and 1976, the population increased from approximately 19 million to more than 34 million. This, combined with rising incomes,

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<sup>56</sup> *Ibidem*, p. 44-45.

<sup>57</sup> *Ibidem*, p. 37.

<sup>58</sup> *Ibidem*, p. 49.

engendered an increased demand for foodstuffs that outpaced available agricultural products even though they increased from 7 to 19 million tonnes in the period 1960-75. As a result, the volume of imported foodstuffs leaped from less than 0.5 to over 2.5 million tonnes during the same period<sup>59</sup>.

Nevertheless, the poor performance of the agricultural sector may be attributed to some government policies, in particular to the urban bias of government agencies in pricing agricultural products below their market value, which made the prices of agricultural products lag behind the rapidly increasing prices of industrial products and wages, which in turn thwarted investment in the agricultural sector. Also harming agricultural performance was the lack of government credit available to the middle and lower peasants, in contrast to the generous assistance that it offered to the commercial farmers<sup>60</sup>. One must also mention the fact that the nationalisation of pastures, another point later added to the six points of the White Revolution, by depriving of their grazing lands the nomadic population — which had been harshly treated by a regime intent on eradicating a way of life which it perceived as backward — led to a catastrophic reduction of the production of meat and dairy products<sup>61</sup>.

### Opposition to Land Reform

The idea of land reform had some support in urban areas. At the beginning of the land reform campaign, the middle and lower ranks of the professional classes and the workers, in general, gave it their support. Even many of the small landowners, whose holdings were too small to be affected, were in favour of land reform. However, later, when they found the peasants withholding from them their share of the crop, they became lukewarm in their support or withdrew it altogether<sup>62</sup>.

On the other hand, the intellectuals were critical of the land reform programme on the grounds that its execution was hasty and that insufficient attention was paid to

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<sup>59</sup> Ashraf, "State and Agrarian Relations", p. 289.

<sup>60</sup> *Ibidem*.

<sup>61</sup> Katouzian, *The Political Economy*, p. 306.

<sup>62</sup> Lambton, *The Persian Land Reform*, p. 88-89.

detailed planning and to increase of production. According to Lambton, what many of them wanted was a 'text-book' reform, whereas the reform which was implemented was essentially pragmatic and especially devised to suit Iranian conditions. The extreme left was hostile to the reform and would probably have been satisfied with nothing short of collective farms, although they did not say it openly. Even some of the senior officials in the Ministry of Agriculture were somewhat lukewarm in their approval of the land reform programme because they feared that it would result in a decrease in production<sup>63</sup>. Finally, the landowning class and the upper classes in general were strongly opposed to any land reform on grounds of personal interest, although they failed to take any joint or concerted stand.

The most frequent criticism against the land reform programme was that the peasants to whom the land was to be transferred would not be able to run the irrigation system. However, according to Lambton, this did not become a problem since the landlords were not doing much maintenance work on it anyway<sup>64</sup>. The second major criticism was that the cooperatives societies would not be able to take the place of the landlords in the provision of credit and management. This rested on the false assumption that the landlords provided the credit for the peasants and managed the villages. In fact, in the vast majority of cases, the landlord was an absentee and was represented by a bailiff, generally the village headman. In any case, since agriculture was organised on the basis of the plough-land, there was no large-scale enterprise to manage. As regards the provision of credit, any credit provided to the peasants by the landlords was given at high interest rates, which tended to perpetuate the poverty of the peasants. Moreover, it was not the landlords who were the main creditors, but the local shopkeepers, travelling merchants and town merchants<sup>65</sup>.

The inequalities in the distribution of land ownership and the exclusion of the agricultural labourers became other major sources of criticism of the land reform programme. However, there were no alternative practical suggestions. Even the *Tudeh*

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<sup>63</sup> *Ibidem*, p. 89.

<sup>64</sup> *Ibidem*, p. 274-277, 284, 288.

<sup>65</sup> *Ibidem*, p. 89-90, 291-292.

(communist party) had not developed a practical alternative formula. The only exception was the proposal formulated by Khalil Maleki, the leader of the Socialist League of the Popular Movement of Iran, to transfer the ownership titles from the landlords to the village community as a whole. According to Katouzian, this would have presented the advantages of "dispossess[ing] the landlords at a stroke and without complicated legal and other wrangles; avoid[ing] the colossal administrative task of defining every single peasant-holding in every village; prevent[ing] the emergence of scattered and small *individual* holdings, which by division through inheritance could be reduced to plots so small as to have to be sold to a few large holders [...]; and bypass[ing] the immediate problem of dispossessing the *khushnishin* [villagers not holding sharecropping rights] community, with all the social and economic implications of such an act". However he believes that this idea was too advanced and too radical to be understood by any political force in the country<sup>66</sup>.

The Iran Freedom Movement, which had been founded by Mehdi Bazargan and Ayatollah Taleqani in May 1961, released a document on 23 January 1963, three days before the referendum on the White Revolution, in which it castigated the White Revolution for not being a revolution since it did not come from the people, and land reform for aiming at facilitating the extension of American imperialism in Iran and for having caused all the foundations of the economy to crumble. It predicted that, since individual peasants would not be in a position to take over the productive functions of the landlords, they would be forced to accept help from the government or from abroad. The state, with its bureaucratism and corruption, would only bring disaster into the villages. Further, resorting to the assistance of foreign capital and foreign experts would not solve the problems of agriculture. It would lead to a flood of foreign goods entering the villages, would make the Iranian market fall into the claws of international speculators, and would engender a catastrophic decline of agricultural production. However, the Freedom Movement did not elaborate an alternative land policy<sup>67</sup>.

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<sup>66</sup> Katouzian, *The Political Economy*, p. 301-302.

<sup>67</sup> Schirazi, *Islamic Development Policy*, p. 56-57.

#### 4. Reactions of the Clergy to Land Reform

On 23 February 1960, Grand Ayatollah Borujerdi, at the time the only *Marja' at-taqlid* of the Shi'i world, wrote a letter to his nephew, Sayyed Ja'far Behbehani, a member of the National Consultative Assembly, about a Land Reform bill drafted by the government in late 1959, in which he stated that limiting the size of estates would be contrary to the laws of Islam and asked him to intervene and request the National Assembly and the Senate not to pass the bill. He asserted that the bill was ill-advised and against the *Shari'a* and the Constitution. Behbehani forwarded the letter to the Speaker of the *Majles*, Sardar Fakher Hekmat, and requested him to defeat the bill. He pointed out that it contradicted both Article 2 of the Constitution according to which no law contrary to the religion and teachings of Islam could be approved by the *Majles*, and Article 15 according to which no owner may be dispossessed except for a legitimate reason<sup>68</sup>.

The bill was nevertheless passed by the *Majles* on 16 March 1960 and by the Senate on 17 May 1960. However, all passages considered offensive by the '*ulama*' were deleted and the law had so many loopholes and exceptions that it was to remain a

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<sup>68</sup> Lambton, *The Persian Land Reform*, p. 56, and Shahrough Akhavi, *Religion and Politics in Contemporary Iran: Clergy-State Relations in the Pahlavi Period*, Albany, State University of New York Press, 1980, p. 91. See also Willem M. Floor "The Revolutionary Character of the Ulama: Wishful Thinking or Reality?", in *Religion and Politics in Iran: Shi'ism from Quietism to Revolution*, ed. by Nikki R. Keddie, New Haven and London, Yale University Press, 1983, p. 77-78.



dead letter<sup>69</sup>. According to Lambton, Grand Ayatollah Borujerdi's stand against the law was a decisive factor in it remaining a dead letter<sup>70</sup>.

Commenting about these events, Akhavi wrote that the reaction of Grand Ayatollah Borujerdi to the 1960 land reform bill marked a break in the cooperation between the clergy and the state in public policy although some signs of dissatisfaction had lain underneath the surface for two or three years prior to that time. The clergy's dissatisfaction had to do with its concern that the state's jurisdiction was growing too extensively<sup>71</sup>.

However, the clergy did not react as a monolithic force to this land reform bill. Low-ranking mullas in the rural areas followed Borujerdi's opinion because of his eminence. Nevertheless, it is likely that some of them sympathised with the principle of land redistribution. According to Floor, the most prominent among the '*ulama*' opposed to land reform were Grand Ayatollahs Mohammed Reza Golpaygani and Sahaboddin Mar'ashi-Najafi in Qom, Ayatollahs Mohammed Reza Behbehani and Ahmad Khvansari in Tehran, and Grand Ayatollah Muhsin Hakim in Najaf<sup>72</sup>. He also mentions that

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<sup>69</sup> Its main provision was to limit the amount of land which anyone could hold to 400 ha of irrigated land or 800 ha of unirrigated land. Since there had been no land measurement in Iran, this would have been difficult to implement and a cadastral survey would have taken years to complete, during which time opposition to the law could have been mobilised and ways of circumventing it devised (Lambton, *The Persian Land Reform*, p. 56-57).

<sup>70</sup> However, Willem Floor reports that Sardar Fakher Hekmat declared that Ayatollah Borujerdi had approved the amended text which was passed in 1960 ("The Revolutionary Character of the Ulama", p. 82).

<sup>71</sup> Akhavi, *Religion and Politics*, p. 91.

<sup>72</sup> Floor, "The Revolutionary Character of the Ulama", p. 83, 88. He also notes that Arsanjani was reported to have sent a telegram on the occasion of '*id ul-fitr*' (celebration of the end of Ramadan) to the three Grand Ayatollahs of Qom, Shari'atmadari, Golpaygani and Mar'ashi-Najafi, in *Esfand* 1340 (February-March 1962) in which he thanked them for their support of land reform, and he concedes that

Ayatollah Milani of Mashhad complained to the Shah that petty landowners would be hurt by land reform<sup>73</sup>.

Mohammad Borghei, who was present in Qom at the time, reports that while the Shah tried to extract from the '*ulama*' a *fatwa* condemning land reform as evidence of their reactionary tendencies, the clergy consciously avoided 'his trap, except for Ayatollah Khvansari. Instead of attacking the principles of the Shah's reforms, the *Maraji*' *at-taqlid* challenged the illegal methods by which they were adopted by an increasingly despotic monarch. Nine prominent '*ulama*' issued a joint declaration condemning the "Shah-People Revolution", and even Grand Ayatollahs Khui and Hakim who were residing in Najaf denounced the 26 January 1963 Referendum as anti-constitutional<sup>74</sup>.

Instead of engaging in such blatant forms of protests as the issue of *fatawa* (plural of *fatwa*) declaring land reform *haram*, the '*ulama*'s response was generally more indirect and subtle. For example, in the region of Qom, a number of clergymen are said to have met with the *mutawali* (administrators) of *awqaf* in and near Qom in order to urge them not to carry on the tilling of the soil or the harvesting of the crops. This way the lands would appear unproductive and, therefore, would not be subject to the provisions of the law, which did not apply to unproductive lands<sup>75</sup>.

On the other hand, other '*ulama*' such as Ayatollah Taleqani did not oppose land reform. Grand Ayatollah Mohammed Kazem Shari'atmadari, one of the senior *Maraji*'

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more research is needed on this matter. The evidence is thus confused in regard to Grand Ayatollahs Golpaygani and Mar'ashi-Najafi although their negative reactions towards the land reform law adopted after the Revolution is a strong indication that they were opposed to the principle of land reform *per se* (see below, p. 198).

<sup>73</sup> *Ibidem*, p. 86.

<sup>74</sup> Mohammad Borghei, "Iran's Religious Establishment: The Dialectics of Politicization", in *Iran: Political Culture in the Islamic Republic*, ed. by Samih K. Farsoun and Mehrdad Mashayekhi, London and New York, Routledge, 1992, p. 71-73.

<sup>75</sup> Akhavi, *Religion and Politics*, p. 104, and note 45, p. 225.

*at-taqlid* of Qom, made some statements in which he denied that he was opposed to land reform. He is even said to have been favourably disposed to a distribution of *waqf* lands to the peasants<sup>76</sup>.

In a lecture which he delivered in October 1961<sup>77</sup>, Ayatollah Taleqani condemned the nation's political leaders for having plundered the lands of the Imam. He asserted that the politicians had engaged in a conspiracy with a band of greedy landowners in collaboration with functionaries in the offices of land registration and the mayoralties of various cities. Their purpose had been to accumulate in their hands as much land as possible. Then, they employed the Islamic tradition "*al-nas musallitun 'ala amwalihim*" (people are sovereign over their own wealth) as a legal shield to defend their actions and exclude others. He maintained that Iran's system of ownership was not based on the principles of international schools of economic thought or on Islamic principles, but merely on the principle of pillage, plunder and economic chaos. However, he did not support the principle of a redistribution of cultivated lands. He saw in the dead lands held by the landlords the key to the solution of the problem of the landless peasantry. He advocated the relinquishment of these lands to peasants intending to reclaim them, whereas the landlords would be allowed to keep the lands which they were sowing, ploughing and developing. He did not favour an intervention of the government in these matters, except as a conduit for contracts made independently by landowners and peasants in regard to the sale of land and purchase of properties.

In any case, in the early 1960s, land reform was not the main focus of the clergy's opposition to the Shah's government. The first demonstrations and petitions of Ayatollah Khomeini and his followers only began in October 1962, nine months after the Land Reform Law had started being implemented and were directed not against land reform,

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<sup>76</sup> *Ibidem*, note 9, p. 222.

<sup>77</sup> "*Nazar-e Islam dar bara-ye malekiyat*" ("The View of Islam on Ownership"), in *Goftar-e mah dar namayandan-e rast-e din* (Lecture of the Month of the Representatives of the Path of Religion), vol. 3, 1341 [1962], p. 46-68; see Akhavi, *Religion and Politics*, p. 93-94.

but against the new local elections bill passed by the cabinet on 7 October<sup>78</sup>. The clergy opposed this law on three grounds: first, it removed being a Muslim as a requirement for electors and candidates in these elections; second, in the swearing-in ceremony the *Qur'an* was replaced by "my Holy Book"; third, it allowed women to vote and to stand in as candidates. The first two points would have allowed Christians, Jews, Zoroastrians, and even Bahais to hold elected offices, which was unacceptable to the *'ulama*<sup>79</sup>.

When discontent turned into riots in June 1963, the main cause was not land reform, but a feeling that the use of arbitrary power by the government had exceeded all reasonable bounds, although some opponents of land reform may have made use of the discontent for their own ends and played a part in the disturbances. According to Lambton, the severity with which they were put down did much to convince the public that opposition to the government on any ground was not a practicable possibility. This is why, thereafter, land reform met with little violent opposition<sup>80</sup>.

Akhavi also points out to the fact that another point of the White Revolution six-point programme, the establishment of literacy corps, represented the risk of a serious loss of influence for the clergy in the rural areas where the elementary religious schools were still often the only source of education. The nationalisation of forests (another of the six points) was also seen with suspicion (although according to Islamic Law, forests belong to the category of state property) as an illegal appropriation of resources by a corrupt regime. However, the fundamental reasons for the clergy's opposition were of a more general political nature: arbitrary rule, the granting of extraterritoriality rights, and more generally foreign control of certain parts of the economy, and the country's

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<sup>78</sup> Azar Tabari, "The Role of the Clergy in Modern Iranian Politics", in *Religion and Politics in Iran*, *op. cit.*, p. 66; Borghei, "Iran's Religious Establishment", p. 66-67; Afsaneh Najmabadi, *Land Reform and Social Change in Iran*, Salt Lake City, University of Utah Press, 1987, p. 205.

<sup>79</sup> *Ibidem*, p. 207.

<sup>80</sup> Lambton, *The Persian Land Reform*, p. 112.

relations with Israel<sup>81</sup>. It is noteworthy that at the beginning of the land reform campaign, some land reform officials were sent to Israel for short courses on land reform and cooperation<sup>82</sup> and that, in the 1950s, Arsanjani had boasted to be the architect of the Shah's *de facto* alliance with Israel, a policy he was advocating on simple balance of power grounds<sup>83</sup>. Although it is not clear whether those members of the clergy who disapproved of the land reform programme were aware of these facts which would have given them more reasons to be worried about the hidden intentions of the campaign, they illustrate how any policy of a government which was blamed for colluding with the West and with Zionism could appear as potentially damaging to the interests of Islam and of the clergy. The Israeli influence on those who were implementing the policy would be sufficient reason for the '*ulama*' to object to it even if it was religiously acceptable and beneficial to the people.

On 6 June 1963, the day after Ayatollah Khomeini's arrest, Grand Ayatollah Shari'atmadari denied being opposed to the principle of land reform and asserted that he only objected to the way it was implemented:

"The Shi'i *ulama* have no connections with big landlords and they do not oppose peasants' ownership of land. Contrary to the deceitful government propaganda, the interests of the *ulama* will not be threatened by such ownership; they will be better served. The *ulama* are more linked to the peasants than to landlords. Our protest against the government concerns the application and implementation of the [reform] law in which, we say, legal and religious conditions must be observed. In any case, our struggles do not principally relate to this issue"<sup>84</sup>.

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<sup>81</sup> Akhavi, *Religion and Politics*, p. 98; Hamid Algar, "The Oppositional Role of the Ulama in Twentieth Century Iran", in *Scholars, Saints and Sufis*, ed. by Nikki R. Keddie, Berkeley, University of California Press, 1972, p. 246-251.

<sup>82</sup> Lambton, *The Persian Land Reform*, p. 122.

<sup>83</sup> In a 1957 interview with Richard Cottam, see Cottam, *Nationalism in Iran*, Pittsburgh, University of Pittsburgh Press, updated ed., 1979, p. 362.

<sup>84</sup> Quoted in Najmabadi, *Land Reform and Social Change*, p. 206.

A leaflet published by the Society of Iranian Clerics in *Khordad* 1342 (June/July 1963) made a similar point, asserting that:

"The ulama, contrary to the ridiculous and thoroughly false propaganda of the government apparatus, reject any property that had come about through illegal possession of the people's property, oppressing the peasants and depriving them of their rights and/or failing to pay the levies determined by the sharia for the poor";

and adding that:

"The ulama approve if (under the supervision of the religious authorities) land is taken away without payment from the owners who have deprived the peasants of it by force and extortion; they also approve of the taking away of land corresponding in value to the rights the peasants have been [deprived] of or the values of the retained sharia levies [*zakat* and *khums*]. [...] Even the wasteland that has been taken into possession contrary to the standards of the sharia must be removed from the control of its possessors".

But, the authors insisted that:

"This must take place under the supervision of righteous people and with the permission of the religious authorities, not through those who themselves are among the feudal lords [...] and whose hand is plunged up to the elbow in the blood of the peasants and working classes".

Then, they concluded that:

"It can basically be asserted, that if the Islamic theses in respect of land ownership or other things [had been] taken into consideration and if the rights of the needy classes established by the sharia [had been] observed, the ownership structure in our country could not have taken on the form which it has today. [...] What] the ulama with reference to heavenly Islamic teaching oppose and fight with all their might is the fact that everything is treated alike. No distinction is made between the idle and oppressive owners and the hardworking people who use their capital and strength for

the construction of the country, for the improvement of the economy and for creating job opportunities (regardless how small their number is) and in consequence a movement is oppressed which some people have put in motion for the reclamation of uncultivated land"<sup>85</sup>.

The authors of this leaflet dismissed the accusation that the '*ulama*' opposed land reform because they would lose the benefits they were drawing from administering *waqf* properties, since the *waqf* estates were "all in the government's hands". They also denied that the clergy was receiving money from landlords. However, it is clear that they accepted only a limited land reform programme, one which would affect only properties whose acquisition had not conformed to the *Shari'a*<sup>86</sup>.

Ayatollah Khomeini himself did not attack the government on the grounds of land reform<sup>87</sup>. According to Abrahamian, since the 1960s Khomeini had been intending to create a populist Islam and, for this reason he was always careful to avoid statements which could alienate certain groups or classes, or could make the label of black reaction stick to him. He developed a radical popular ideology which appealed both to the propertied class and the propertyless and refrained from any allusions which might alienate a segment of the population. In answer to specific questions about land reform, he used to reply: "I am not opposed", then he proceeded to give a list of all the other reasons why he opposed the regime<sup>88</sup>. However, he perceived the land reform

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<sup>85</sup> Quoted in Schirazi, *Islamic Development Policy*, p. 54-55.

<sup>86</sup> *Ibidem*, p. 55.

<sup>87</sup> Lambton, *The Persian Land Reform*, p. 112; Algar, "The Oppositional Role of the Ulama", p. 250. Katouzian asserts that he saw himself a printed public statement signed by Ayatollah Khomeini in 1963 which advised the faithful to oppose the land reform and women's rights as well as the Shah's dictatorship (*The Political Economy*, p.232, note 14). But he does not say on what grounds Khomeini was advocating this.

Therefore, it does not imply that he was opposed to the principle of land reform *per se*.

<sup>88</sup> Abrahamian comments in *The Iranian Revolution and the Islamic Republic*, ed. by Nikki R. Keddie and Eric Hooglund, revised ed., Syracuse, NY, Syracuse University Press, 1986, p. 109.

programme as a conspiracy of the Great Satan, that is the United States, to bring about a decline of agricultural production and the dependency of the country on imports of American grains and foodstuffs<sup>89</sup>. In a speech delivered in February 1979, he recalled to a large audience:

"You will remember that the Shah's regime carried out land reforms on the pretext of turning the peasants into independent cultivators, and that those reforms ultimately resulted in the complete destruction of all forms of cultivation. Our agrarian economy was ruined, and we were reduced to depending on the outside world for all our essential needs. In other words, Mohammad Reza enacted his so-called reforms in order to create markets for America and to increase our dependence upon America. We were forced to import wheat, rice and chickens either from America or from Israel, which acts as an agent of America. In short, the so-called reforms constituted a blow that it will take us maybe as long as twenty years to recover from, unless all our people work hard, hand in hand"<sup>90</sup>.

In conclusion, it may be said that it is obvious that those among the clergy who were opposed to land distribution on the basis of the Islamic principle of the sanctity of private properties acquired through lawful means did not object to the distribution of Crown lands, state lands and lands belonging to the functionaries of the Pahlavi regime or the tribal khans that had been obtained through usurpation and military power. Conversely, those among the clergy who did not object to the distribution of large *awqaf* which were controlled by the government may, nevertheless, have felt bitter about the distribution of the smaller *awqaf* which were more directly controlled by the clergy<sup>91</sup>.

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<sup>89</sup> Ashraf, "State and Agrarian Relations", p. 277.

<sup>90</sup> Ayatollah Ruhullah Khomeini, *Islam and Revolution: Writings and Declarations of Imam Khomeini*, transl. and annotated by Hamid Algar, Berkeley, Mizan Press, 1981, p. 257.

<sup>91</sup> See Fatemeh E. Moghadam, *From Land Reform to Revolution: The Political Economy of Agricultural Development in Iran 1962-1979*, London and New York, Tauris Academic Studies, 1996, p. 62, and note 7, p. 73.



This illustrates how difficult it is to determine what was the opinion of the clergy on the concept of land reform *per se*. Their reaction to the land reform programme was inevitably influenced by their attitude towards the government which adopted it and towards the people who were implementing it. They were opposed to the government because of its pro-Western, secularist, and dictatorial policies. Therefore, it was logical that they would be critical and suspicious of all its policies. But this does not mean that they would have been opposed to similar policies if they had been implemented by a government which they would have considered legitimate and Islamic. The opposition of some of the '*ulama*' to the land reform of the Shah does not necessarily imply their opposition to the concept of land reform. It will be therefore more meaningful to examine their reactions to land reform after the establishment of the Islamic Republic when they would not be distracted from the issue by their opposition to the regime itself.

### 5. Was Land Reform a Cause of the Revolution?

The final section of this chapter will attempt to answer the important question as to whether the land reform of the Shah can be identified as a cause of the 1978-79 Revolution<sup>92</sup>. Most revolutionary groups blamed it for having caused the destruction of the country's agriculture. However, as we have noted previously, the poor performance of the agricultural sector was not due to the agrarian reform, but to the lack of government support for the small farmers and its favouring of big corporations and agribusinesses which were overcapitalised and massively imported expensive technologies that often were not suited to the areas where they were implanted. It is doubtful that the sector would have performed better if no land reform had been implemented since few of the former landlords had any interest in modernising their estates and improving their

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<sup>92</sup> The 1978-79 Iranian Revolution had multiple intertwined political, social, economic and cultural causes which would be too long to discuss here in detail. Two of the best sources on the subject are: Nikki R. Keddie, *Roots of Revolution: An Interpretative History of Modern Iran*, New Haven and London, Yale University Press, 1981, p. 231-258; and Ervand Abrahamian, *Iran Between Two Revolutions*, Princeton, Princeton University Press, 1982, p. 496-537.

productivity. On the contrary, the new small landowners made considerable efforts to improve the productivity of their land and were often relatively successful despite their limited means. There is even some evidence that they were more successful than the farm corporations which between 1968 and 1975 received nineteen times as much credit (most of which were in the form of grants) per hectare from the government than the peasant cooperatives<sup>93</sup>.

Land reform was not the miracle cure that solved all agricultural and rural problems. But only ideologists could have expected it to do so on its own. If it was not successful, it is not because the idea of land reform in itself was wrong, but because of the many loopholes in its implementation and the lack of necessary accompanying measures.

It has also been frequently asserted that the failure of land reform led to massive rural to urban migration and that these displaced and discontented people fuelled the Revolution. However, as we have already noted, those migrations were more the result of demographic expansion than of land reform. It is true that land reform deprived the landless labourers of work opportunities since the new small holders preferred to use their family labour than to hire wage labourers. But, there was simply not enough land to support all those people in the countryside whatever was the land ownership situation. It was unrealistic to expect land reform to create jobs since it was intended to modernise, and therefore mechanise agriculture, which inevitably reduce the labour force requirements.

It is true that the migrants who scratched a living in the slums and shanty towns in and around the main cities played an important role in the Revolution. But their miserable situation was due to the lack of jobs, public amenities and social services in urban areas. What they were demanding was an improvement of their situation in the cities, rather than land or jobs in their villages of origin.

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<sup>93</sup> Katouzian, *The Political Economy*, p. 309-310.

The Revolution was an urban phenomenon. The peasants, whatever their grievances against the regime<sup>94</sup> did not play an important part in it. The big landlords had been successfully eradicated as a social force. Therefore, the main persons affected by the Shah's land reform did not participate in the Revolution. Those who in 1979 were talking of land reform, whether clerics or Marxists, were doing so for ideological reasons.

Nevertheless, it is important to assess the role that land reform played in turning the clergy against the Shah. As we have noted previously, land reform was not the main reason why the clergy opposed the Shah's government in the 1960s and they did not react unanimously to it. Although, some of them, who were themselves big landlords, must have resented it because of its impact on their own interests, some important figures among the '*ulama*' did not oppose the concept of land reform itself, but only the way it was implemented.

It was precisely this more progressive and more socially conscious part of the clergy who fuelled and fanned the Revolution, not the conservative '*ulama*' who maintained that land reform was contrary to Islamic law. The latter, who came from the upper-middle class and proudly traced their family origins to prestigious '*ulama*' or influential politicians and merchants of the Qajar period<sup>95</sup> and had links with the big landlords, did not want to be involved in politics and, while the Revolution was unfolding itself, stayed in their mosques and seminaries. Khomeini and his disciples, however, had more humble origins and were not linked to the big landlords, but rather to the bazaar and lower middle class. Ruhollah Khomeini's great-grandfather was a small merchant who had moved from Khorasan to Kashmir. His grandfather, who had moved back to Iran, and his father had lived off the revenues of the small landholding which they had bought in the village of Khomein near Arak. But, in 1901, his father had been dispossessed and murdered by the local governor and the young Ruhollah, who was then two years old, was thenceforth brought up by his mother's side of the family, many of

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<sup>94</sup> See Chapter 4, Section 2.

<sup>95</sup> Eric Hooglund, "Social Origins of the Revolutionary Clergy", in *The Iranian Revolution and the Islamic Republic*, *op cit.*, p. 83.

whom were minor clerics<sup>96</sup>. Ayatollah Hossein Montazeri, one of the main clerical leaders of the Revolution who in 1985 was chosen as Khomeini's successor, was the son of a peasant<sup>97</sup>. Most of the other top clerical leaders of the Islamic Republic came from the middle or lower class. Moreover, a study of lower level clerical activists by Hooglund has shown that the young preachers came predominantly from rural areas or from small towns and from the lower-middle class, working class or peasantry<sup>98</sup>. These revolutionary clerics had not been negatively affected by land reform. On the contrary, the fathers of some of them had in fact obtained land thanks to it. Therefore, it was not land reform which turned them against the Shah.

The clergy's interests were affected by the land reform measures which dealt with the *waqf* land estates. However, since 1939 when the state had taken them over, they had lost control over the biggest ones<sup>99</sup>. Moreover, they managed to keep many of the estates untouched by the land reform and received compensation for the ones which were sold so that they were able to reinvest the proceeds in more lucrative ventures. Therefore, they did not lose much of their wealth, power and influence due to the land reform.

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<sup>96</sup> Abrahamian, *Iran Between Two Revolutions*, p. 425.

<sup>97</sup> Hooglund, "Social Origins", p. 82.

<sup>98</sup> *Ibidem*, p. 77-80.

<sup>99</sup> Abrahamian, *Iran Between Two Revolutions*, p. 141.

## Chapter 4: The Context for Land Reform in 1979

### 1. The New Political Institutions: The Revolutionary Council and the Bazargan Government

In the revolutionary period, Ayatollah Khomeini and the other clerical leaders of the Revolution did not explicitly commit themselves to any economic reforms. Their economic rhetoric was ambiguous, simplistic and general. Their knowledge of agricultural problems was superficial. Khomeini frequently blamed the Shah for having destroyed the country's agriculture and he painted a catastrophic picture of the current situation, asserting for example that, whereas previously the north-eastern province of Khorasan alone would have been able to supply the whole country with foodstuffs for one year, now Iran as a whole could only supply itself for thirty-three days a year<sup>1</sup>.

On a speech delivered the day after his return to Tehran on 1 February 1979, he said that the economy had been disrupted and ruined by the former regime and that years of continuous effort by the whole population will be needed to restore it". He criticised the Shah's land reform, saying that it was enacted "in order to create markets for America", that it had resulted "in the complete destruction of all forms of cultivation", and that it had left the country dependent "on the outside world for all our essential needs"<sup>2</sup>. However, he did not advocate another land reform and he did not envisage giving the lands back to the landlords since they had acquired their fortunes by ignoring Islamic regulations<sup>3</sup>. He only called on all the people "to work hard, hand in

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<sup>1</sup> Asghar Schirazi, *Islamic Development Policy: The Agrarian Question in Iran*, transl. from the German by P.J. Ziess-Lawrence, Boulder and London, Lynne Rienner, 1993, p. 62.

<sup>2</sup> *Writings and Declarations of Imam Khomeini*, transl. by Hamid Algar, Berkeley, Mizan Press, 1981, p. 257; quoted in Ali Rahnema and Farhad Nomani, *The Secular Miracle: Religion, Politics and Economic Policy in Iran*, London and New Jersey, Zed Books, 1990, p. 236.

<sup>3</sup> Schirazi, *Islamic Development Policy*, p. 62.

land" in the agricultural sector<sup>4</sup>. He left the particulars of his programme for the future, but made it clear that it would be based on Islam and anti-imperialism<sup>5</sup>.

In January 1979, on the eve of the fall of the monarchy, he established a Revolutionary Council whose membership included seven religious figures close to himself (Motalhari, Beheshti, Hashemi-Rafsanjani, Musavi-Ardebili, Mahdavi-Kani, Bahonar and Taleqani), Mehdi Bazargan and six secular individuals associated with him, as well as two representatives of the security forces who had fallen apart with the Shah<sup>6</sup>. After the formation of a provisional government in February, Bazargan and his six colleagues left the Revolutionary Council to form the cabinet. To replace them, Khomeini appointed Mir Hossein Musavi, Habibollah Peyman, Abol-Hassan Bani Sadr, Sadeq Qotbzadeh and Jalali. This strengthened the weight of the clerical and radical elements to the detriment of the moderates<sup>7</sup>. Despite the formation of a government, the Revolutionary Council became and remained the supreme decision-making and legislative authority in the country until the election of a National Assembly in the spring of 1980.

On 1 February 1979, Ayatollah Khomeini returned to Tehran, and on 5 February, he appointed Mehdi Bazargan as prime minister of a government of transition. His task as defined by the decree of his appointment signed by Khomeini was twofold: to ensure that the government administration and the economy, paralysed by a year of strikes and disorder, started moving again, and to prepare the ground for the establishment of an Islamic Republic<sup>8</sup>.

Bazargan had the support of the majority of the liberal intelligentsia, the moderate left, the small and middle-rank entrepreneurs, the merchants, the state and private sector employees and the officers of the army, the police and the gendarmerie. The clerical

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<sup>4</sup> Rahnema and Nomani, *The Secular Miracle*, p. 236.

<sup>5</sup> *Ibidem*, p. 12.

<sup>6</sup> Shaul Bakhash, *The Reign of the Ayatollahs: Iran and the Islamic Revolution*, New York, Basic Books, 1984, p. 64.

<sup>7</sup> *Ibidem*.

<sup>8</sup> *Ibidem*, p. 53.

leaders knew that without the help of the technocracy they could not realise their objectives and gain immediate and complete control over the important levers of government. Despite their influence and connections among the masses, they had not created the necessary instruments of power to take over the state apparatus and destroy all existing and potential opposition. In fact, they were surprised by the speed with which the Revolution brought them to power. They had to buy time and to restore law and order<sup>9</sup>.

The economic objective of the Bazargan government was the restoration of the confidence of the owners of capital and economic reconstruction. Bazargan, himself an industrial entrepreneur, had always recognised the importance of the private sector as the agent of change and growth in the national economy. He argued for gradual reforms. However, the deteriorating state of the economy and the mood of the masses in the urban and rural areas did not lend themselves to gradualism<sup>10</sup>.

The ministers chosen by Bazargan were professionals, middle-class, and belonged either to Bazargan's Iran Freedom Movement, to the Islamic Society of Engineers with which he had also been associated for a long time, or to the National Front<sup>11</sup>. However, Bazargan's authority was challenged by the rapidly developing "parallel government" of revolutionary committees, revolutionary courts and revolutionary guards, which received the backing of the Revolutionary Council.

The revolutionary committees had sprung up in the cities, towns and districts throughout the country soon after the Revolution. Many were extensions of the neighbourhood committees formed around mosques during 1978 to mobilise the people, organise strikes and demonstrations, and distribute scarce items like kerosene. The post-revolutionary committees, however, were far greater in number, less disciplined, vastly more powerful, and fully armed. They served both as local security forces and as agents

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<sup>9</sup> Rahneima and Nomani, *The Secular Miracle*, p. 237.

<sup>10</sup> *Ibidem*, p. 238.

<sup>11</sup> Bakhashi, *The Reign of the Ayatollahs*, p. 54.

of the revolutionary authorities against the members of the old regime. But they also took it upon themselves to make arrests and confiscate property<sup>12</sup>.

The urban economy was in serious difficulties due to months of strikes and go-slows, and raw material and intermediate good shortages. Many of the owners and top managers of the big industrial enterprises, private banks and insurance companies had left the country and those who remained had lost confidence. Foreign technicians had left, leaving dozens of major government-financed projects, steel mills, petrochemical plants, wood-processing industries, power generation plants, nuclear reactors, as well as many roads, ports and construction projects, half completed. Lay-offs and close-downs had left 2.5 million people out of work, 1 million of them construction workers employed by contractors involved in government projects. The banking system was facing a crisis due to massive withdrawals of money in the latter part of 1978 and to the heavy debts of big businesses. The treasury was almost empty and the government had to resort to printing money and borrowing from the Central Bank<sup>13</sup>. The political organisations of the left were demanding the nationalisation of large industries, the banking system, arable and urban lands and empty dwellings. Groups such as the *Feda'iyan-e Khalq* (*Selfless Devotees of the People*) and *Peykar* (*Struggle*) were actively involved in the creation and consolidation of employees', workers' and peasants' councils<sup>14</sup>.

However, the economic crisis was not as catastrophic as the revolutionaries claimed. Foreign exchange reserves were high and the foreign debt was small. Oil exports could easily bring revenues of US\$ 20 billion a year. The infrastructure was well developed. There were the foundations of a metallurgical industry, and the private sector had built up a considerable capacity for the production of consumer durables and mass consumption goods. The country could draw on a rich pool of educated and experienced engineers, economists, technicians and managers. Nevertheless, it was the sense of

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<sup>12</sup> *Ibidem*, p. 56.

<sup>13</sup> Rahnema and Nomani, *The Secular Miracle*, p. 238; Bakhash, *The Reign of the Ayatollahs*, p. 175-176.

<sup>14</sup> Rahnema and Nomani, *The Secular Miracle*, p. 238-239; Bakhash, *The Reign of the Ayatollahs*, p. 176-177.



turmoil and crisis that influenced the government officials, while revolutionary leaders were feeding the impression of impending economic catastrophe. Bani Sadr and left-wing political groups popularised the idea that the former regime had wrecked the economy and this idea was taken over by the clerical leaders<sup>15</sup>.

Confronted with these economic problems, the Revolutionary Council and the provisional government moved slowly and cautiously. The leading clerics and the members of the Cabinet, on the one hand criticised the "bloated capitalists and feudal elements" and asked the businessmen and industrialists to come back and start their activities; on the other hand, they ordered the workers to return to work and called on the masses to observe "revolutionary patience"<sup>16</sup>.

However, some radical measures were adopted by the Revolutionary Council. On 28 February 1979, Khomeini authorised the Revolutionary Council to confiscate the properties of the Pahlavi dynasty and of those "related" to them "in favour of the needy, workers and lower echelon salaried people". The Foundation for the Oppressed (*Bonyad-e Mostaz'afin*) was established to administer these properties. In March, the National Iranian Oil Company took over all the activities of the oil and gas industries, and the government cancelled the previous regime's international agreements and reduced the oil-production target from 6 to 3.4 million barrels a day. In June, the Revolutionary Council nationalised 27 privately-owned banks, 13 of which were joint ventures with foreign share-holdings, and 15 privately-owned insurance companies. The following month, it nationalised three categories of private industries: strategic industries (such as metals, chemicals, ship building, aircraft manufacture and mining); industries belonging to 53 individuals and families who had "illegally ... acquired their wealth through relations with the former régime"; and industries whose liabilities exceeded their net assets or which were indebted to the government. The enterprises of the last two categories were to be nationalised without compensation. The owners of those of the first category could receive compensation according to their assets<sup>17</sup>. Two days after the

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<sup>15</sup> *Ibidem*, p. 177-178.

<sup>16</sup> Rahnema and Nomani, *The Secular Miracle*, p. 239.

<sup>17</sup> *Ibidem*, p. 240-241.

adoption of this decree of nationalisation by the Revolutionary Council, Khomeini tried to appease the worries of the merchants and traders of the bazaar about the security of private ownership by explaining that the objective of the Islamic economy was not to eliminate private economic activity, but to reduce the concentration of wealth<sup>18</sup>.

To address the pressing problem of urban housing, a Housing Foundation was established in June 1979 under the direction of Ayatollah Khosrowshahi. Its staff identified 200,000 empty dwellings in Tehran and announced that they would be either confiscated or bought. However, no measure was officially adopted until the following year. In the meantime, the leftist organisations encouraged poor families to occupy empty apartment buildings and hotels. But, the squatters were driven out by the revolutionary committees after several weeks of tension and dispute<sup>19</sup>.

In June 1979, the Revolutionary Council also decreed the nationalisation of almost all urban *mawat* and undeveloped lands. An Urban Land Development Organisation was established to implement this law. However, to circumvent it many landlords subdivided their large holdings, backdated the deeds and sold off the property. Nevertheless, by early 1983, the organisation had successfully transferred 20 million square meters of private urban land to government ownership<sup>20</sup>.

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<sup>18</sup> *Ibidem*, p. 242.

<sup>19</sup> *Ibidem*, p. 242-243.

<sup>20</sup> *Ibidem*, p. 243. The adoption of this decree engendered some debate in the press about the legitimacy of such a policy from an Islamic point of view. See for example: Mohammed Reza Khalil-Hedayat, "*Aya az zamin-e bayer mitavan salb malekiyat kard?*" ("Can the ownership of undeveloped lands be revoked?"), *Ettela'at*, 14 Tir 1358 [5 July 1979], p. 9, who attempted to demonstrate that the decree was in contradiction with Islamic regulations; and Mozafer Kaveh, "*Az zamin-e bayer mitavan salb malekiyat kard!*" ("The ownership of undeveloped lands can be revoked!"), *Ettela'at*, 25 Tir 1358 [16 July 1979], p. 10, who asserted that it conformed to Islamic regulations.

## 2. The Revolution in the Villages

On the eve of the Revolution, the picture of agriculture was a mixed one. There existed a state-sponsored sector of agri-businesses and farm corporations that were inefficient and unpopular, a growing commercial sector that was profitable and relatively efficient, a limited number of relatively well-off peasant proprietors, a large majority of subsistence-level farmers, and a mass of landless rural workers. Although the poorest families supplemented their income by working in urban centres or nearby industry, there was a sharp contrast in the countryside between the rich and the poor, the commercial and the traditional cultivators<sup>21</sup>.

A few villages had achieved remarkable prosperity under the Shah and acquired electricity, running water, paved streets, a school and a clinic. In some cases, prosperity had come from the conversion to cash crops, the use of modern inputs and wage labour. Other villages had experienced only a slight increase in prosperity. But, the majority of the villages were still very impoverished, and some had even become more indigent during the final years of the Pahlavi regime<sup>22</sup>.

The rural population was excessive in relation to the total arable land. In 1979, there were approximately 3.5 million families in the villages for 16.6 million ha of crop land. Dividing the land equally among them would leave each one of them with 4.7 ha, as compared to 7 ha considered to be the minimum holding for subsistence. Excluding the agricultural labourers (1.4 million families according to Hooglund) would leave the others with just enough for subsistence<sup>23</sup>. Therefore, a land reform programme would not have been sufficient to solve all rural problems. The country needed a comprehensive rural development programme.

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<sup>21</sup> Bakhash, *The Reign of the Ayatollahs*, p. 196.

<sup>22</sup> Jim Paul, "Iran's Peasants and the Revolution: An Introduction", *MERIP Reports*, March-April 1982, p. 22.

<sup>23</sup> Eric Hooglund, *Land and Revolution in Iran, 1960-1980*, Austin, University of Texas, 1982, p. 99.

The 1978-79 Revolution was mostly an urban phenomenon. For the most part, the villagers, who constituted about half of the population (53.1 % at the 1976 census<sup>24</sup>), remained indifferent or even participated in counter-revolutionary activities. The peasants did not feel concerned by the themes of freedom and democracy. Their preoccupations were more material. Moreover, while the urban masses had been culturally alienated by the socio-economic changes and the secularisation policies, the villagers had maintained their traditional values, culture and identity. Therefore, the call of the revolutionaries to restore Islamic values did not arouse them.

Hooglund who carried out research in Iranian villages in the 1960s and 1970s wrote that he never encountered any genuine enthusiasm for the Shah or his government on the part of a majority of villagers<sup>25</sup>. According to him, since most of the villagers did not benefit from the Shah's policies, few of them felt any sense of loyalty to the monarchy. On the contrary, one result of the progressive integration of the rural areas into a highly centralised and repressive state was to create widespread rural disillusionment with government in general. Consequently, even though many disliked the Shah's regime, they could not imagine how any new government would not be just like it<sup>26</sup>. This was especially true for the poorer among the villagers<sup>27</sup>.

Throughout 1978, the majority of villagers remained passive and apolitical. According to Hooglund, only a small minority actively supported the government of the Shah and only a small minority actively fought against it. Those who supported him were the rich peasants who had benefited from the land reform and subsequent programs and formed the ruling elite of the villages. Those who opposed him were mostly middle peasants who resented the fact that the government did not make cheap credit, fertilisers and improved seeds available to them as it was doing for the large-scale farmers, or

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<sup>24</sup> Manijeh Dowlat, Bernard Hourcade and Odile Puech, "Les Paysans et la révolution iranienne", *Peuples Méditerranéens*, n. 10, January-March 1980, p. 19.

<sup>25</sup> Hooglund, *Land and Revolution*, note 1, p. 171.

<sup>26</sup> Eric Hooglund, "Rural Iran and the Clerics", *MERIP Reports*, March-April 1982, p. 24.

<sup>27</sup> Hooglund, *Land and Revolution*, p. 141.

traders who were influenced by the urban retailers and wholesale merchants with whom they entertained business relations<sup>28</sup>.

A survey of revolutionary demonstrations showed that only 2 % occurred in rural areas. On the other hand, peasants were active in numerous cases of counter-revolutionary demonstrations by club-wielders who attacked revolutionary demonstrations and pillaged the bazaars and houses of revolutionary activists<sup>29</sup>. In the Caspian provinces, many believed the official propaganda that Khomeini was himself a former landlord and intended to give their lands back to the landlords. They knew little of what was happening far from their villages and were unaware of the dictatorial character of the regime and the immoral aspects of city life. What they knew was that the Shah had freed them from the burdensome demands of the feudal landlords and their agents. Therefore, they reacted to the revolutionary calls with suspicion and distrust<sup>30</sup>.

Generally speaking, the villages which were close, that is less than one hour of commuting distance to cities where revolutionary activities were intense, were more likely to experience themselves revolutionary activities than the more remote villages. This was so because large number of youths from these villages were commuting every day to work in the city. They were the ones who brought the revolutionary ideas to their villages<sup>31</sup>. For example, in the villages around Shiraz, between 50 % and 90 % of the youths were commuting to jobs in the city. Most of them were the sons of poor peasants and poor landless villagers and held unskilled and poorly-paid jobs, while a minority were the sons of middle peasants and village traders, had better education and held better-paid

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<sup>28</sup> *Ibidem*, p. 139-141.

<sup>29</sup> Ahmad Ashraf and Ali Banuazizi, "The State, Classes, and Modes of Mobilization in the Iranian Revolution", *State, Culture and Society*, vol. 1, n. 3, Spring 1985, p. 25; quoted in Ahmad Ashraf, "State and Agrarian Relations Before and After the Iranian Revolution, 1960-1990", in *Peasant Politics in the Modern Middle East*, ed. by Farhad Kazemi and John Waterbury, Gainesville, University Press of Florida, 1991, p. 290.

<sup>30</sup> Dowlat, Hourcade and Puech, "Les Paysans et la révolution iranienne", p. 21, 32.

<sup>31</sup> Hooglund, *Land and Revolution*, p. 143.

jobs<sup>32</sup>. They eagerly embraced the new interpretation of Shi'i Islam as a philosophy encouraging followers to struggle against earthly tyranny (instead of a religious ideology concerned primarily with regulating the believer's behaviour on earth in preparation for the afterlife in paradise). Khomeini appealed to them because they perceived him as different from the mullahs that they knew. They were convinced that he had suffered deprivation like themselves and therefore was able to understand the problems of the poor. Consequently, they embraced his interpretation of religion as a just battle against the forces of oppression<sup>33</sup>.

In villages located further away from the revolutionary troubles in the cities, revolutionary ideas were brought in by the villagers who had migrated to the cities and came back regularly to visit their families in the villages<sup>34</sup>.

In December 1978, many clergymen started to respond to Khomeini's call to go into the countryside to mobilise the rural population. Ironically, their task was made easier by the socio-economic reforms of the previous twenty years, especially the White Revolution, since these changes had freed the peasants and tribesmen from the tight control of their landlords and tribal chiefs and placed the countryside in direct confrontation with the state. Therefore, the field was open to the clergy. In Abrahamian's words, "modernisation had played the ironic role of strengthening the traditional 'ulama'". Indeed, it was in the backward areas of Turkmenistan, Baluchistan and Kurdistan that the Revolution encountered more difficulties with local khans, as well as Sunni mullahs and radical intellectuals, trying to establish their own ethnic organisations<sup>35</sup>.

Opposition to the Pahlavis was strong among the nomadic tribes which had been harshly persecuted and forced to settle down in permanent villages, among those whose lands had been confiscated by Reza Shah, especially in Mazandaran, and among those who had been deprived of their traditional pasture grounds transformed into hunting

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<sup>32</sup> *Ibidem*, p. 144.

<sup>33</sup> *Ibidem*, p. 145-146.

<sup>34</sup> *Ibidem*, p. 147-148.

<sup>35</sup> Abrahamian, *Iran Between Two Revolutions*, p. 536-537.

preserves for the court or given to people close to the Shah. In the tribal areas of Kazerun and Jahrom, home of the Qashqai and Khamse tribes, revolutionary activities erupted from September 1978<sup>36</sup>.

The village "intellectual elite", that is the villagers who had a high-school education and, in some cases, post-secondary training, and worked as teachers, skilled factory employees, technicians and clerks in government and private offices were the first to answer to the call of revolution and participate in the religiously motivated demonstrations of the spring and summer of 1978<sup>37</sup>. However, they were not always very successful in arousing the peasants against the Shah's regime<sup>38</sup>. Then, the shopkeepers followed the example of their colleagues in the cities and implemented the strike orders coming from Khomeini, which led to incidents with the peasants<sup>39</sup>. The local notables who supported the Shah, but without much conviction since they were getting few benefits often managed to preserve their interests after the Revolution by voluntarily withdrawing from public affairs or changing side when the outcome of the Revolution became clear, although in places where the revolutionary groups were strong, they were eliminated from the new councils and committees which were set up<sup>40</sup>.

The 15 to 25 year-olds were early and enthusiastic supporters of the Revolution. However, massive migrations to the urban areas in the 1970s had deprived many villages of a large part of this segment of the population. In villages which had not been affected by massive outmigration, they imitated their counterparts in the cities and organised demonstrations. Until December 1978, these demonstrations were successfully and often brutally repressed by the gendarmerie. But, by mid-December, gendarmes began to flee

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<sup>36</sup> Dowlat, Hourcade and Puech, "Les Paysans et la révolution iranienne", p. 22.

<sup>37</sup> Eric Hooglund, "Rural Participation in the Revolution", *MERIP Reports*, n. 87, May 1980, p. 6.

<sup>38</sup> Dowlat, Hourcade and Puech, "Les Paysans et la révolution iranienne", p. 23-24.

<sup>39</sup> *Ibidem*.

<sup>40</sup> *Ibidem*, p. 24.

their posts *en masse* and this enabled the village youths to organise revolutionary activities in their own villages and in many of those which lacked young men<sup>41</sup>.

It was only after the Revolution that the clergy played an important role in organising the villagers. Right from the week after the fall of the last royalist government, the clerical leaders of the Revolution started to systematically send mullahs to the villages to explain the situation to the peasants. A team of researchers remarked that the peasants felt honoured by their visits, but remained worried and distrustful<sup>42</sup>. Although the vast majority of them were profoundly religious, the fact that the Revolution was led by clerics did not reassure them since they knew that the mullahs had always been close to the landlords and, in some cases, as administrators of *awqaf*, had themselves submitted them to burdensome demands. These feelings had been aptly exploited by the SAVAK, the Shah's secret police, during the revolutionary upheavals<sup>43</sup>.

According to Hooglund, the revolutionary process at the village level tended to divide villages along generational lines. Villagers over 35 were generally cynical about the Revolution. Experience had taught them to be suspicious both of government promises and of the mullahs' rhetoric. In contrast, the younger generation welcomed the Revolution, had a much more positive attitude toward the role of the clergy in mobilising support for the Revolution, and found the ideas and the personality of Ayatollah Khomeini attractive<sup>44</sup>.

A report about a tribal village of South-Western Iran<sup>45</sup> came to the same conclusions about the generational gap and the scepticism of the older generation vis-à-

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<sup>41</sup> Hooglund, "Rural Iran and the Clerics", p. 24.

<sup>42</sup> Dowlat, Hourcade and Puech, "Les Paysans et la révolution iranienne", p. 25-26.

<sup>43</sup> *Ibidem*, p. 26.

<sup>44</sup> Hooglund, "Rural Iran and the Clerics", p. 24-25.

<sup>45</sup> "Current Political Attitudes In An Iranian Village", *Iranian Studies*, vol. 16, n. 1-2, Winter-Spring 1983, p. 3-29. The anonymous author of this article does not identify the village in order to "safeguard the identity of the persons involved", but it is obvious from the content of the article that the village in question is the same as the one described in another anonymous article published in 1982 in *MERIP Reports*.



vis the mullahs. The peasants of this village blamed the mullahs for having sided with the landlords and made no exception for Ayatollah Khomeini. On the contrary, they blamed him for having opposed the land reform which liberated them from the landlords' yoke. The only supporters of Khomeini in this village were some working-class youths who nevertheless shared their parents' disdain for the mullahs in general<sup>46</sup>.

In early 1979, the majority of villagers harboured ambivalent views towards the new government. On the one hand, they appreciated the fact that the new leader was a religious figure who had a reputation for piety, honesty and moral uprightness, was living like a villager and was constantly talking of the need to help the poor and to revitalise agriculture. On the other hand, past experience had taught them to be wary of the government and its promises, and, to them, Ayatollah Khomeini's religious credentials were in fact a matter of concern. They knew very little about the clergy which was mostly urban-based. Not more than 10 % of villages had resident mullahs. If the villagers needed a mullah for a special occasion, they had to make one come from the city. The only religious personnel to visit the villages regularly were mendicant dervishes and itinerant mullahs who, typically, would appear at harvest time and ask for a share of the crop. They were tolerated, but held in very low esteem. Therefore, in early 1979, many villagers were reserved in their attitude towards the new government, waiting to see whose interests it would turn out to serve<sup>47</sup>.

According to Hooglund, when asked the kind of policies they expected an Islamic government to implement, most young men mentioned land reform. There was among the villagers a uniform bitterness and even hostility toward the land reform programme of the Shah. In eight out of ten villages, a significant proportion of productive land remained in the hands of absentee owners who continued to control most aspect of

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which was not identified either but was said to be a "large, rather remote, non-Persian speaking village in the tribal area of southwest Iran" where the author had lived before the Revolution ("Report from an Iranian Village" by "A Special Correspondent", March-April 1982, p. 26ff).

<sup>46</sup> "Current Political Attitudes", p. 7-10, 21.

<sup>47</sup> Hooglund, *Land and Revolution*, p. 149.

village life. The peasants wanted them to be expropriated and their lands to be equitably distributed. The need for land reform was an idea which united the younger and older generations. But the latter did not believe that the new government would alter the land situation. Their suspicions were reinforced when they saw that, soon after the Revolution's victory, the landowning elite were accommodating themselves to the religious leaders. To them, this confirmed their beliefs about the hypocrisy of the mullahs. For the younger generation, it would take longer, but they would finally come to the same conclusions about the inability of the mullahs to inaugurate a just government<sup>48</sup>.

Hourcade agrees that the Shah's land reform caused much resentment and underdevelopment in the rural areas and that the majority of those active in agriculture needed more land. However, he asserts that they did not demand land reform and a partition of large estates. According to him, this was because the large farms which were still owned by landlords, who had lost to a large extent their social and political role in the rural areas but cultivated in modern ways, and the farms which had been sold by them to members of the affluent bourgeoisie close to the court, provided local peasants with employment. Hence, the peasants did not contest their existence. Instead, their complaints focused on the facts that many of these estates had been abandoned by their owners and that the state had nationalised, as pastures, the village fallow lands which had in the past provided an important supplement to the peasants. The peasantry's claims were directed against the government, which had confiscated communal lands and pastures, kept agricultural prices at levels much too low relative to rising industrial prices, and tightly controlled rural areas through a poorly functioning system of purchasing centres and cooperatives. The new landed middle class consisted of men in their fifties who did not want to lose what they already had and feared that contesting the Shah's land reform might become an excuse for taking away their parcels of land, which, however meagre, symbolised their freedom and independence. Their grievances against the policies of the Shah's regime did not really outweigh the satisfaction of having

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<sup>48</sup> Hooglund, "Rural Iran and the Clerics", p. 25.

received some land, and there was no "land hunger"<sup>49</sup>. However, the widespread occurrence of land seizures throughout the country in 1979 appears to belie this optimistic conclusion.

### Land Seizures

Few land seizures occurred before the victory of the Revolution, except in Northern Iran where peasants began seizing large estates in the summer of 1978<sup>50</sup>. However, in 1979, confrontations between landlords and peasants became widespread and violent. Land seizures were initiated by three different groups of people: the revolutionary government and its organisations, landlords, and peasants. The confiscations ordered by the provisional government and the revolutionary courts in Tehran and major cities covered agricultural as well as urban properties. In the countryside, revolutionary committees and local courts, as well as the Foundation for the Oppressed, seized the lands of locally prominent individuals. The actions of official and semi-official bodies spread the revolutionary temper, eroded respect for private property and encouraged land seizures by others<sup>51</sup>.

In parts of Khorasan, West Azerbaijan and in areas where semi-tribal forms of social organisation persisted, such as Kurdistan, Fars and Baluchistan, khans and landlords sought in the general disorder to reclaim lands that they had lost under the Shah's land reform. They claimed that the Islamic principle of the sanctity of private property had to be honoured in an Islamic Republic. The leading conservative '*ulama*' responded to their questions with *fatawa* strongly maintaining that principle<sup>52</sup>. In other

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<sup>49</sup> Bernard Hourcade, "The Land Question and Islamic Revolution in Iran", transl. from the French by Afshin Matin-Asgari, *South Asia Bulletin*, vol. 13, n.1-2, 1993, p. 134-136.

<sup>50</sup> *Ibidem*, p. 134-135.

<sup>51</sup> Bakhash, *The Reign of the Ayatollahs*, p. 197.

<sup>52</sup> Ashraf, "State and Agrarian Relations", p. 295.

places, landlords laid claims to disputed properties or pasture lands lying in the public domain<sup>53</sup>.

Seizures by peasants occurred throughout the country. The impetus was sometimes provided by outside organisers, sometimes by young village activists politicised by their experience in urban centres, sometimes even by middle-level peasant proprietors eager to increase their holdings. But the most frequent participants in land seizures and in demands for land distribution were landless and land-poor peasants. They were spurred on by the breakdown of authority and the absence of the landlords who remained in the cities, the availability of tracts of fallow lands, and Khomeini's call to the farmers to plant extensively in the first year after the Revolution<sup>54</sup>.

Land seizures rarely occurred in villages dominated by small landowners. They were more likely to happen in the domains of the large and even medium-size commercial farmers<sup>55</sup>. The first region to be affected was Kurdistan where large landowners were more concentrated than in other provinces and often resided in the villages. Their rapprochement with the new government infuriated the village revolutionaries who wanted them to pay for their collaboration with the Shah and their exploitation of the villagers. From March 1979, activists started organising peasant groups for the purpose of expropriating the large landholdings. The landlords turned to Tehran for help. The land struggle became intertwined with the urban-based struggle for Kurdish autonomy, which the government tried to suppress by force<sup>56</sup>.

When they heard of what was happening in Kurdistan, villagers in other parts of the country began to realise that the government was weak and had limited power to enforce its decisions. This bolstered their courage so that they started participating in land expropriations. For example, in a village near Shiraz, the villagers did not start

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<sup>53</sup> Bakhash, *The Reign of the Ayatollahs*, p. 197.

<sup>54</sup> *Ibidem*.

<sup>55</sup> Ashraf, "State and Agrarian Relations", p. 292.

<sup>56</sup> Hooglund, *Land and Revolution*, p. 150-151.

acting against the landlord who had dispossessed them before October 1979. Finally on 1 and 2 November 1979, they seized his land and started farming it collectively<sup>57</sup>.

The region which was most affected by land seizures was that of Gonbad and Gorgan on the Turkoman plain. It is an area of cotton and wheat cultivation where the farms were extensive, agriculture mechanised, the owners absentee, and the land was worked by wage labourers including migrants from Sistan. Subsistence farms existed along these large estates and many of the local farmers supplemented their income by working as wage labourers for the large landowners. During the reign of Reza Shah, many of the peasants of the region had been forcefully dispossessed of their lands. In 1941, after the Shah was deposed, a law was passed to give the lands back to the peasants. But, by 1945, when Mohammed Reza Shah put an end to the implementation of the law, only a small amount of land had been given back to the peasants in Gilan and Mazandaran, and nothing had been done in Gorgan and Gonbad. Instead of giving them back to the peasants, the new Shah gave many of those lands to his ministers and the dignitaries of the regime. Some peasants received 1 or 2 ha, but they later had to transfer it back to the big farm corporations which were established in the region<sup>58</sup>.

Following the Revolution, the Turkoman villagers, encouraged by *Feda'iyān* activists, organised village and regional councils, seized the land and the farm machinery of the large estates, ousted the landowners who were not Turkomans, and began to cultivate the land on a communal basis<sup>59</sup>. Violence spread because the Turkomans were well-organised and had access to arms. The land question became intertwined with the Turkomans' demand for local autonomy. After four Turkoman leaders were kidnapped

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<sup>57</sup> Mary Hooglund, "One Village in the Revolution", *MERIP Reports*, n. 87, May 1980, p. 10-11. They farmed the land collectively in order not to waste time dividing it since it was late into the winter wheat season.

<sup>58</sup> "*Arazi-ye tasarof shode-ye dehqanan-e Gonbad va Gorgan pas dadeh mishavad*" ("The appropriated lands of the peasants of Gonbad and Gorgan are given back to them"), *Ettela'at*, 27 *Shahrivar* 1358 [18 September 1979], p. 10.

<sup>59</sup> Bakhash, *The Reign of the Ayatollahs*, p. 198.

and murdered in February 1980, there was a general uprising, and units of the Revolutionary Guards and the army moved into towns with tanks and heavy artillery<sup>60</sup>.

In the Hamadan district in the western part of the country, villagers took over mechanised farms and distributed the lands equally between every man, woman and child. The courts eventually ruled against them, but, in many instances, they remained in possession of the land by preventing the landlords from returning to their villages. In Bam, in the eastern part of the country, cultivators who had abandoned their tenancies to work in nearby brick kilns returned to their villages, joined hands with landless and land-poor villagers, took over the fallow lands belonging to the landlords and started planting. In Samiron, a semi-tribal area in Southern Iran, villagers took over lands belonging to the khans, then petitioned the government to keep the khans in prison so that they could continue to hold the land<sup>61</sup>.

Peasants also dissolved the unpopular farm corporations and production cooperatives and gave the land back to their shareholders. Eighty-eight out of the 93 farm corporations existing before the Revolution were liquidated under pressures from their members immediately after the Revolution, some even before it<sup>62</sup>. Others refused to pay back debts to institutions identified with the former regime, including the Land Reform Organisation, the cooperatives societies, the banks, the former landlords, and the village moneylenders<sup>63</sup>.

A survey of peasant unrest during the first two years of the Islamic Republic revealed that out of 285 cases of unrest, 70 % had been fomented by radical political organisations. As for the forms of unrest, 21 % were peaceful demonstrations, 44 % took other non-violent forms such as registering complaints, signing petitions and gathering around government offices, 9 % involved taking refuge in religious and public sanctuaries, and only 16 % were violent demonstrations. Thirty-four percent attained their goals, 2 % were defeated, 18 % abandoned their struggle, while the others were

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<sup>60</sup> *Ibidem*, p. 199.

<sup>61</sup> *Ibidem*, p. 198.

<sup>62</sup> Schirazi, *Islamic Development Policy*, p. 248.

<sup>63</sup> Ashraf, "State and Agrarian Relations", p. 294.

still waiting for a favourable outcome. This survey also showed that the peasant unrest had more vigour and fervour in the provinces of Mazandaran, Gilan, Tehran, Fars, West Azerbaijan, Kermanshahan and Hamadan where the young intelligentsia was more active than in the other fifteen provinces, and that, by the autumn of 1979, the movement had cooled down following the repression of the leftist forces<sup>64</sup>.

On the other hand, landowners started to arm retainers and used them to threaten the villagers. They drove their herds onto disputed lands planted by the villagers and used tractors to plough up villagers' crops. They were often able to utilise the pre-revolutionary local networks of authority and their influence over the local gendarmerie, clerics and courts to their advantage<sup>65</sup>.

The reaction of the authorities varied from one place to another. In some villages, members of the Revolutionary Guards and *Jihad-e Sazandegi* (Holy War for Reconstruction) acquiesced to the property seizures, or even helped the peasants to take over the land and to distribute it among the landless farmers. The Revolutionary Guards office in Khuzistan issued a proclamation warning "feudal elements" that land belonged only to the tiller and that ownership established under the monarchy was value-less. They encouraged the villagers to take over the fallow land from large landlords and promised to support them in any physical confrontation with the landowners<sup>66</sup>.

However, in the Turkoman areas, the Revolutionary Guards participated in expelling villagers from lands they had occupied. In other areas, the local branch of *Jihad-e Sazandegi* opposed peasant seizures and local authorities called in gendarmes to arrest peasants who were involved in illegal seizures. Local and religious judges often tended to side with the landowners. One religious judge told the villagers who had been brought before him: "Since you usurped land, I must either exile you or cut your hands

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<sup>64</sup> G. Azar, "*Mobarezat-e dehqani dar Iran*" ("Peasant Movement in Iran"), *Donya (The World)*, Mehr 1359 [September/October 1980], p. 74-77; quoted in *Ibidem*, p. 294-295.

<sup>65</sup> Bakhash, *The Reign of the Ayatollahs*, p. 199.

<sup>66</sup> *Ibidem*.

off'. In another village, a religious judge told peasants that it was unlawful for them to farm land that they had irrigated by diverting the landlord's water<sup>67</sup>.

On the other hand, Ayatollah Abdol-Hossein Dastgheib, the head of Shiraz's revolutionary court, accused the Minister of Agriculture and the committees he had appointed to adjudicate landlord-peasant disputes of invariably siding with the landlords and sending villagers to jail, while the Gorgan revolutionary prosecutor called for the distribution of the large estates to the villagers<sup>68</sup>.

The inconsistencies in the actions of the local revolutionary and governmental organisations can be attributed to the persistence of former patterns of authority in the absence of clear directions from Tehran. Khomeini himself remained silent on the issue, and the Bazargan government emphasised the need to restore order and respect private property. It considered the commercial farmers not as cruel oppressors, but as successful entrepreneurs, and it feared that rural disorder would lead to a fall in production. It greatly underestimated the extent of "land hunger" in the villages, and the impact of the revolutionary rhetoric regarding land both on the villagers and on the urban population. It urged the farmers to exercise "revolutionary patience" and wait for government measures, while as one farmer remarked: "This revolutionary patience is killing us"<sup>69</sup>.

### 3. The Bazargan Government and Land Reform

Despite the violent conflicts in the countryside, the reactions of the Revolutionary Council and the Bazargan government were slow and conservative. The provisional government tried to prevent forced seizures of arable lands and to restore order in the countryside. Due to the seriousness of the situation in the region of Gonbad and Gorgan, they promised to intervene there in favour of the landowners who had been dispossessed by the previous regime, but even there they asked the peasants to be patient and wait for their claims to be investigated and not to try to take their lands back by force. They warned them that if they used force, they would be brought to answer to the

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<sup>67</sup> *Ibidem*.

<sup>68</sup> *Ibidem*, p. 200.

<sup>69</sup> *Ibidem*.



revolutionary courts. On 26 August 1979, a proclamation from the Ministry of Agriculture announced that committees would be established to investigate the "legal and Islamic rights of the people"<sup>70</sup>. These committees would be composed of one representative from the Ministry of Justice, one from the Ministry of Agriculture, one from the Ministry of Interior and two "reliable people" from the area<sup>71</sup>.

Around the same time, the Minister of Agriculture and Rural Development in the Bazargan government, Dr Mohammed Ali Izadi, who was himself a successful large commercial farmer as well as a professor of agronomy, drafted a bill to punish the usurpers of arable lands. He encouraged the modern commercial farmers to unite into Agricultural Councils which were to become the lobbying force for the interests of the commercial farmers against land seizures and ceilings on land ownership. However, in order to meet the mounting pressure from the left without submitting agricultural lands to further land reform, his Ministry prepared a project that provided for the distribution of dead and uncultivated lands, as well as nationalised pastures and forests<sup>72</sup>.

During an interview with *Ettela'at*, the Deputy Minister of Agriculture in charge of Parliamentary Affairs, Hashem Pur-Tabataba'i, asserted that the emphasis of this project was put on creating work and production activities and promoting a better use of available resources, and that it protected the rights of the small landowners and the farmers<sup>73</sup>. In answer to the question as to whether the project had paid attention to the

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<sup>70</sup> "*Arazi-ye Gorgan va Gonbad beh saheban-e asli-ye an baz gardandeh mishavad*" ("The lands of Gorgan and Gonbad are given back to their original owners"), *Ettela'at*, 5 *Shahrivar* 1358 [27 August 1979], p. 2.

<sup>71</sup> "*Arazi-ye tasarof shode-ye dehqanan-e Gonbad va Gorgan pas داده mishavad*" ("The appropriated lands of the peasants of Gonbad and Gorgan are given back to them"), *Ettela'at*, 27 *Shahrivar* 1358 [18 September 1979], p. 10.

<sup>72</sup> Ashraf, "State and Agrarian Relations", p. 296-297.

<sup>73</sup> A few days earlier, Pur-Tabataba'i had sent a letter to *Ettela'at* to refute an assertion by Bani-Sadr, who was then a member of the Revolutionary Council, that a new land reform project was being prepared. In that letter, he stressed that the project did not amount to a new land reform and that the Ministry of Agriculture intended to protect

important Islamic principle according to which land belongs to those who work on it, he replied that the ownership of agricultural land would be protected as long as benefits were drawn from it and the owner was benefiting himself and the society. When the journalist became more specific and asked whether protecting the ownership of a small landowner who employs farmers to work on the land and does not do any work himself would not amount to legitimise the exploitation (*barehkashi*) of an individual by another individual, he replied that if the Islamic principles and regulations relating to contracts were respected and the consent of both parties had been obtained, exploitation of an individual by another would not occur. Then, he cut short the discussion by saying that it was a complex matter which could not be properly discussed over the phone<sup>74</sup>.

In a subsequent interview, he explained that the new project recognised the fact that, according to Islamic law, land ownership is connected with responsibilities and is not absolute. Since land is a God-given gift, the owner must use the land to his benefit and that of the society. Therefore, if the land is not used for three consecutive years without reasonable excuse, in accordance with Islamic regulations, the state will not recognise the owner's right of ownership. It will cancel it and put the land at the disposal of other people<sup>75</sup>.

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the legal and Islamic rights of the people, regulate people's interactions according to mutual consent and contracts, and encourage a better use of water and soil resources (*"Tarh-e vagozari-ye zamin beh kolie-ye keshavarzan-e Iran"* ["Project to transfer land to all the peasants of Iran"], *Ettela'at*, 22 Mordad 1358 [13 August 1979], p. 10). Bani Sadr's comments had been printed in *Ettela'at* on 1 August 1979 (*"Tarh-e jadid-e eslahat-e arzi dar shura-ye enqelab barrasi mishavad"* [The new project of land reform is being examined by the Revolutionary Council"], *Ettela'at*, 10 Mordad 1358 [1 August 1979], p. 10).

<sup>74</sup> *"Tarh-e vagozari-ye zamin"*, p. 10.

<sup>75</sup> *"Dar layehah-ye jadid-e zamindari, malekiyat bar zamin mashrut ast"* ("In the new project of land ownership, the ownership of land is conditional"), *Ettela'at*, 31 Mordad 1358 [22 August 1979], p. 11.

### The Law on the Method of Transfer and Rejuvenation of Land

The Law on the Method of Transfer and Rejuvenation of Land in the Islamic Republic of Iran was approved by the Revolutionary Council on 16 September 1979. The word *zamindari* (land ownership) which had appeared on the project submitted by the Ministry of Agriculture (which was entitled: "Project on the Method of Land Ownership and the System of Transfer and Rejuvenation of Land in the Islamic Republic of Iran") was dropped from its title, which suggests that the Revolutionary Council, contrary to the Ministry of Agriculture, did not envisage it as a comprehensive and definitive land ownership law, but as a law dealing only with the transfer of some types of land.

The preamble started by stating that attention had been paid to "the principles and rules of the holy *Shari'a* of Islam"<sup>76</sup>. The law allowed for the transfer of 6 types of lands:

- a) the uncultivated (*bayer*) lands located in villages which, through the implementation of the regulations of land reform, had been transferred to the state, as well as the uncultivated state lands and those whose owner was unknown;
- b) the lands which had previously belonged to the state and had been put at the disposal of natural or legal persons or state institutions, but which reverted to the state because they were not used or the contract was not implemented;
- c) some dead (*mawat*) lands, mostly those which were registered in the name of the state or which had not been previously registered;
- d) pastures (to be used as pastures, not to be cultivated);
- e) forest lands; and
- f) the cultivated and uncultivated lands which after the Revolution had been confiscated and put at the disposal of the Ministry of Agriculture.

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<sup>76</sup> The text of the law was published in *Ettela'at* on 12 *Mehr* 1358 [4 October 1979], p. 4; and in the first issue of *Keshavarz-e emroz* (*Today's Peasant*) on 14 *Mehr* 1358 [6 October 1979], p. 1-2.

Nobody knew exactly how much land these categories would amount to. When asked, Izadi replied that he did not give much weight to the statistics that were available which were only "for show". He advised the persons who were interested to claim whatever land they saw without an owner<sup>77</sup>.

Art. 3 of the law stated that the private rights on cultivated lands are connected with responsibilities and duties which make the use of land conditional on the land being cultivated. However, it added that it was not necessary for the owner to use the land himself and that it was lawful for him to hire workers to do the work or to conclude sharecropping contracts. But if the land was not used for three consecutive years without a reasonable excuse, they would come under the principles dealing with uncultivated lands (*bayer*) (Art. 4).

The law recognised the legitimacy of the rights on land obtained through the land reform of the time of the Shah. It did not specify a maximum amount of land which each individual was allowed to own, but it stipulated that "the state can at all time, with the permission of the Islamic judge and in a legal way, limit the amount which can be occupied by each person" (Art. 2). According to a well-informed source, this clause which left open the possibility of new land reform, was not included in the text prepared by the Ministry of Agriculture<sup>78</sup>, but was added by the Revolutionary Council when it reviewed the text of the law.

Art. 8 gave to the owners and possessors of dead lands a respite of two years from the date of the approval of the law to rejuvenate them and put them into productive use. This grace period would be of five years for the owners and possessors of uncultivated lands. When the respite was over, the lands which were still dead or uncultivated would belong to the state and would be put at the disposal of the Ministry of Agriculture to be transferred in accordance with this law.

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<sup>77</sup> *Keshavarz-e emroz*, n. 1, 14 Mehr 1358, p. 5.

<sup>78</sup> "*Qamun-e taze ba ruh-e melli shodan-e zaminha monafat darad*" ("The new law is in contradiction with the spirit of the nationalisation of land"), *Keshavarz-e emroz*, n. 2, 21 Mehr 1358 [13 October 1979], p. 2.

The Ministry of Agriculture would later specify in the implementation regulations the maximum amount of land which could be transferred, while paying attention to the climatic and social conditions of each region. Lands would be allocated to the following categories of persons by order of priority (Art. 10):

1. local residents who have resided in the place for at least three years;
2. those who undertake to live in that place;
3. people who have a qualification in agriculture, husbandry or veterinary science at the condition that they do not work for the state; and
4. state employees at the condition that they retire or leave their job.

Art. 10 further stipulated that if some of these persons came forward as a group or *boneh* and formed a company to work together, they would get priority over the other volunteers. Priorities as regards the types of production and of use of the land would be determined in the implementation regulations. In each district, the commission charged with supervising and authorising the transfers of land would be composed of one representative from the village (*dehestan*) council of the relevant village, one from the agricultural council of the district and one from the Ministry of Agriculture (Art. 12). The lands would first be transferred temporarily under a lease contract before being given definitively (Art. 13).

The underlying assumptions of the law, as it had been prepared by the Ministry of Agriculture, were that a land reform programme had already been carried out in the country, that the mechanisation and commercialisation of agriculture by the private sector were desirable, and that the government could best improve productivity by providing loans and services and encouraging better techniques and increased cultivation<sup>79</sup>.

When he was asked during an interview what assistance would be given to the people who requested land, Izadi replied that it was important to make capital available to all of them so as to use their productive capabilities, but he did not elaborate on how that could be done. In those cases where vast areas were concerned and needed a major

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<sup>79</sup> Bakhash, *The Reign of the Ayatollahs*, p. 200-201.

development plan to make them useable, he said that all the services would be made available, especially water, and the lands would be put at the disposal of youths who had come forward "with ardour and fervour" and wanted to do agricultural work<sup>80</sup>.

On 21 October, *Ettela'at* published the text of a more inquisitive telephone interview with Izadi<sup>81</sup>. In response to a question asking if he had any plan to implement a real land reform and eradicate feudalism in the regions where it still existed, such as in Kurdistan, Izadi replied that feudalism had been eradicated, a land reform had already been implemented, and the Ministry of Agriculture did not intend to implement another one. When the journalist illustrated his assertion by quoting from the public prosecutor of Sistan and Baluchistan, Nabi Nejariyat, who had said that in that province feudals were still exploiting the peasants, Izadi replied that he was not aware of such a problem and that the Ministry of Agriculture had not received any complaints of that sort. According to him, it was only in Gorgan and in some parts of Baryan that lands had not been distributed. He rejected the assertion that the new law had not taken into account the rights of the peasants with little land, the landless peasants and the agricultural workers, claiming that the rights of everybody had been taken into consideration and that priority would be given to those peasants with little land or who were landless. But, when asked what the Ministry of Agriculture would do to help them to rejuvenate and use the lands put at their disposal, he remained vague and did not commit himself to any promise.

During a seminar convened to investigate the agricultural, rural and tribal problems which was held in the Ministry of Agriculture from 13 to 20 October 1979<sup>82</sup>, some participants criticised the Minister of Agriculture for being partial in wanting land ownership to be respected since he was himself a landowner. In his concluding speech to

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<sup>80</sup> "*Iran kambud-e ab nadarad*" ("Iran does not have a shortage of water"), *Keshavarz-e emroz*, n. 1, 14 Mehr 1358 [6 October 1979], p. 1, 5.

<sup>81</sup> "*Barname-ye taqsim-e arazi-ye mawat bain-e dehqan*" ("Plan to distribute the dead lands among the peasants"), *Ettela'at*, 29 Mehr 1358 [21 October 1979], p. 2.

<sup>82</sup> "*Tanha rah-e 'elaj-e keshavarzi ehteram beh malekiyat ast*" ("The only way to cure agriculture is to respect ownership"), *Keshavarz-e emroz*, n. 4, 5 Aban 1358 [27 October 1979], p. 1-2.

the seminar, Izadi responded to them that twice he had sold all his lands, except for those that nobody wanted which he abandoned, and that presently he did not have any interest in worldly properties. He added that he did not want one penny (*shahi*, a small coin) more than his needs and therefore was putting all his salary into the treasury of the Ministry of Agriculture. Then, he explained that when he said that ownership had to be respected, it was on the basis of Islam. He further elaborated that the method of distribution of wealth in Islam is *zakat* which he perceived as a cure to economic disorder. Accordingly, he had submitted to the Council of Ministers two projects about the creation of funds into which the Islamic taxes would be paid in the villages and from which interest-free loans could be provided to the needy peasants. If these funds were set up, he believed that all the difficulties would disappear from the regions where they would be established.

In order to explain how he came to the conclusion that *zakat* would be the way to solve agricultural problems, he summed up his personal experience as an agriculturalist in the province of Fars. In 1335 (1956/57), after having been sent three times to jail for political activities, he decided to devote his remaining energy to the agricultural struggle. He started working on a piece of salt-marsh which his family had inherited. He borrowed 500 *toman* and started planting wheat. But, for the first three years, he did not make any profit. He started wondering why and came to the conclusion that since all the information and knowledge that he had put into agricultural work did not produce any result, "paying *zakat* would be the way to make available instruments which would improve his situation". Since he did not have any money, he gave 1,000 *man* (weight measure equivalent to about 3 kg) of wheat and promised to give the rest once his situation had improved.

Then, by chance, he met two Americans who were working at the research station of Dezful. One of them was a professor at the Agricultural University of Utah and an expert in pedology. He explained to him the research they were doing with chemical fertilisers and he decided to try it on one of his fields. Satisfied with the experiment, he borrowed 12,000 *toman* from his brothers and sisters and promised them to assume responsibility for any loss. The result was very good and he switched to planting melons which sold well on the market. He used the proceeds of the sale to drain the land and transformed it from a salt-marsh into a rice-field. The people who were working for him

were so happy with their income that others who had left the village were induced to come back and people from neighbouring villages also came to work on his 300 ha of land during the summer.

However, in 1341 (1962/63), he was again sent to jail for political activities. There, he read the *Qur'an* and, enlightened by his reading<sup>83</sup> and feeling that he was oppressed in Iran, he decided to sell all his lands and travel to the United States where he studied for a Ph.D. Afterwards he came back to Iran to teach agronomy at the University of Shiraz. But, after some time, he went back to America where he stayed until Bazargan called him back.

This personal experience illustrates how Izadi came to the conclusion that agricultural problems could be best solved by an Islamic government, not through land reform, but through modernisation and technical improvements, combined with the implementation of Islamic laws relating to contracts and taxation.

One month after the adoption of the land transfer law by the Revolutionary Council, *Keshavarz-e emroz* published an interview with Dr Mohammed Mehdi Mehman-Dost, an agriculturalist and pastoralist with 41 years experience, who commented on this law<sup>84</sup>. He asserted that if the problem of water was not solved first,

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<sup>83</sup> He quoted in particular verse 4:97: "When angels take the souls of those who die in sin against their souls, they say: "In what plight were you?". They reply: "We were weak and oppressed (*mustaz'afin*) on the earth". They say: "Was not the earth of God spacious enough for you to move yourself away from evil?"

<sup>84</sup> "*Qamun-e tazeh ba ruh-e melli shodan-e zaminha monafat darad*" ("The new law is in contradiction with the spirit of the nationalisation of land"), *Keshavarz-e emroz*, n. 2, 21 *Mehr* 1358 [13 October 1979], p. 1-2. Mehman-Dost criticised the law for being contrary to the "spirit of the nationalisation of land". He asserted that taking land from one party to sell it to somebody else was not consistent with the lands being national property for the present generation, but also for the future generations. If the lands were sold now, what would be left for the future generations? They would not be able to use them and they would not get a benefit from them. Therefore, according to him, the lands should not be sold, but given at a very cheap rent, which, "in this



the beneficiaries of land distribution would not be able to use the land put at their disposal. He added that all the lands which, in the present situation, were cultivable were cultivated and that there was no water available to cultivate more. He maintained that if the water problem was not solved before the lands were distributed, there would be tumult and uproar in the country. He also criticised as not encouraging for the agriculturalists like himself the clause which stipulated that at all times the state can limit the size of the lands which anybody can appropriate. He did not object in principle to the fact that lands which remain uncultivated for three years would become state property, but he believed that in a country like Iran where the population is scattered, it is not possible to know if somebody had been cultivating his land for the last three years or not.

On 24 October, *Ettela'at* published an article reporting on the start of the implementation of the law<sup>85</sup>. The Ministry of Agriculture had publicly announced the previous day that the owners of dead or uncultivated lands had three months to submit their claims on those lands to the agricultural administration of their area. Then, they would be given a respite of two years for dead lands and five years for uncultivated lands, counting from the date of the approval of the law (16 September 1979). The people who, before that date, had been working at rejuvenating state lands without a legal contract were also given three months to register their claims, while the people who wished to receive lands were given the same amount of time to submit their requests for land and their plans to develop it to the local agricultural administration.

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Islamic time", could be *khums* and *zakat*. This way, the lands would remain at the disposal of the people who had reclaimed them as long as they keep cultivating them and there would be an income from them for the future generations. His objection based on the interests of the future generations is sound, but if one considers that *zakat* and *khums* are enough as a rent, then it is a problem which can be resolved by taxation and the result will be the same if the lands are sold and then taxed as provided by Islamic law.

<sup>85</sup> "*Arazi-ye dawlati beh mardom vagozar mishavad*" ("State lands are being transferred to people"), *Ettela'at*, 2 *Aban* 1358 [24 October 1979], p. 10.

However, before these three months were over, the Bazargan government resigned and the Revolutionary Council took direct control of the administration of the country. Izadi, who later left the country to return to North America, was replaced by Dr Abbas Sheybani, a former political associate of Bazargan and a member of the Revolutionary Council without previous experience in agricultural affairs, while Reza Isfahani was appointed Deputy Minister in charge of land reform. Isfahani immediately put aside the September 1979 law and started preparing his own project of radical land reform.

#### 4. The Debate on the Constitution of the Islamic Republic of Iran

On 30 and 31 March 1979, a referendum was held on the establishment of an Islamic Republic. It was a yes or no vote which did not offer any other option despite the call by secular parties and Grand Ayatollah Kazem Shari'atmadari for a wider choice of options, or at least a choice between an Islamic Republic and a republic *pure et simple*<sup>86</sup>. The government announced a result of 98.2 % votes in favour of an Islamic Republic<sup>87</sup>.

The revolutionaries had come to power determined to change Iranian society and establish an Islamic society, but they had little idea of the type of government that they would create for this purpose. In his book on Islamic government (*Hukumat-e Islami*, also known under the title of *Velayat-e faqih*), Khomeini had suggested that the Islamic state would be led by the clergy and would be modelled on the community founded by the Prophet Muhammad in the seventh century. He assigned to the government the traditional duties of protecting Islam, defending the borders, administering justice and collecting taxes. But he asserted that a legislature would not be needed since all the necessary laws were laid down in the *Qur'an* and the Islamic traditions. He believed that Islamic tribunals, unencumbered by appeal courts, bureaucracy and Western law, would settle in days cases that languished for years in the Shah's courts, and that Islamic dues

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<sup>86</sup> Bakhash, *The Reign of the Ayatollahs*, p. 72.

<sup>87</sup> *Ibidem* and Article 1 of the Constitution.

and taxes collected from the bazaars of the big cities would be sufficient to meet the expenses of the state and to provide for public welfare<sup>88</sup>.

It was only after they had seized power that the revolutionaries were confronted with the realities of office and the problems of setting up new institutions. A preliminary draft constitution had been hastily put together in Paris in January 1979 by Hassan Habibi and presented to Khomeini before his return to Iran. It was later revised by a commission chaired by Yadollah Sahabi, an advisory minister to the Bazargan government. Sahabi consulted with Bani Sadr, Sanjabi, the members of the government and of the Revolutionary Council, and showed drafts to prominent *mujtahidin*, including Grand Ayatollah Shari'atmadari. After three months of consultations and discussions, on 14 June, he published a draft constitution which was presented as the official preliminary draft of the Constitution. This document contained no reference to the *velayat-e faqih* and did not reserve any special position for Islamic jurists except on the Council of Guardians which was entrusted with ensuring that the laws respect the Constitution and Islamic regulations. But even on this body, the *fuqaha* were outnumbered by the secular jurists. This council was not empowered to review all legislation passed by the parliament, but would intervene only on the request of either the President of the Republic, the President of the Supreme Court, the Prosecutor General or the *Maraji' al-taqlid*. To be enforceable, its resolutions would have to be passed by a two-third majority<sup>89</sup>.

This draft constitution provided for a strong presidency and for limited individual rights and freedoms like the 1906 Constitution. It was approved by the government and by the Revolutionary Council. When it was presented to Khomeini, he only made two small changes (in part to bar women from being President of the Republic and judges), but he raised no objections to the rest of the document and, in fact, proposed to by-pass the promised constituent assembly and to submit the constitution directly to a

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<sup>88</sup> Bakhash, *The Reign of the Ayatollahs*, p. 73-74.

<sup>89</sup> Asghar Schirazi, *The Constitution of Iran: Politics and the State in the Islamic Republic*, translated from the German by John O'Kane, London and New York, I.B. Tauris, 1997, p. 22; Bakhash, *The Reign of the Ayatollahs*, p. 74.

referendum. All the political parties, except the Islamic Republican Party (IRP) led by Ayatollah Beheshti, objected to this proposal. Finally, it was decided that a smaller Assembly of Experts composed of 73 elected members would be empowered with amending this constitution and that its mandate would be limited to one month. The secular parties did not foresee that this would open the door to Islamic radicals who were committed to a revision of the constitution along theocratic lines<sup>90</sup>.

The draft constitution sparked off a widespread debate. All parties and many associations of all types commented on it. Newspapers filled pages with articles and letters from readers. Sixty-two drafts and over four thousand proposals were submitted to Sahabi's office, and several seminars were convened to discuss the government's proposals. Those who wanted a thorough revision of the draft constitution fell into two categories: Islamists and leftists. The leftist perspective was illustrated for example by a critique of the draft constitution discussed at a seminar on the "People's Expectations from the Constitution" which suggested limiting the President to a ceremonial role, increasing the power of the Parliament, ensuring an independent judiciary, emphasising individual rights and guaranteeing equal rights for women, and nationalising land, the banks, the large industries and foreign trade. The People's *Mujahidin* (*Holy Warriors*) presented a more radical draft, but the *Feda'iyān* and the other workers' parties, seeing the constitution as an instrument to advance capitalist interests and the elections as a sham did not bother to present an alternative proposal<sup>91</sup>.

The attacks on the draft constitution made by the secular parties led Khomeini to encourage the clerics and Islamic groups to counterattack and review the draft from an Islamic perspective. This perspective was articulated at the Congress of Muslim Critics of the Constitution organised in Tehran at the end of June, in an alternate draft distributed by Ayatollah Montazeri, in sermons and in articles and remarks by clerics published in the press. These critics sought to enshrine Islam and more precisely Shi'ism as the basis of the Constitution and the religion of the state. They wanted the President and the Prime Minister to be practicing Shi'as knowledgeable in Islamic law, to give a

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<sup>90</sup> *Ibidem*, p. 74-75.

<sup>91</sup> *Ibidem*, p. 75-77.

right of veto over all laws to the Council of Guardians and to empower the Islamic jurists to appoint judges, supervise the judiciary and approve presidential candidates. They challenged the idea of popular sovereignty, asserting that sovereignty belongs only to God and through Him to the Prophet, the Infallible Imams and the *mujtahidin*. They brought into the debate the concept of the *velayat-e faqih*. Some wanted Khomeini to be made President for life. Others, arguing that the *faqih* was superior in authority to the President, wanted Khomeini to exercise supervision over the three branches of power and to be vested with executive powers. Some radical Islamists also advocated nationalisation of land and of other forms of wealth, limits on property and common ownership of the tools of production<sup>92</sup>.

On both sides of the political divide, most groups favoured generous programmes for social welfare, egalitarian economic policies and, except for the National Front, sweeping nationalisations. The bazaar merchants, the propertied classes and the conservative clerics who wanted greater protection for private property found it impolitic at that time to press their views. The basic split between the secular groups and the Islamists did not center on economic and social policies, but on the political structure and mechanisms and on the role of Islam in the Republic. Whereas the secular parties looked to a secular state, governed by secular law in which power would lie with the elected representatives of the people, the Islamic parties envisaged a state governed by Islamic law in which power would rest with Islamic jurists qualified to interpret that law<sup>93</sup>.

The elections for the Assembly of Experts were held on 3 August 1979. Of the seventy-three elected members, fifty-five were clerics and more than fifty were candidates supported by the Islamic coalition led by the IRP. Knowing that they could exert little appeal on the masses of voters and that, in any case, they stood little chance in face of the IRP's control of the mass media and manipulations of the elections, the National Front and the National Democratic Front had boycotted the elections. The Islamic People's Republican Party (IPRP) supported by Grand Ayatollah Shari'atmadari made a strong showing only in Azerbaijan and the liberal parties won barely ten seats.

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<sup>92</sup> *Ibidem*, p. 78-79; Schirazi, *The Constitution of Iran*, p. 30-31.

<sup>93</sup> Bakhash, *The Reign of the Ayatollahs*, p. 79-80.

The only leftist candidate who was elected, Abdol-rahman Qasemlu, the leader of the Democratic Party of Kurdistan, was warned to stay away from the assembly in order to avoid arrest. The success of the IRP was partly due to the size of the electoral circumscriptions (one delegate for 500,000 voters), some of which encompassed whole provinces and a large majority of rural voters, and partly to the intimidation of opposition candidates and numerous cases of irregularities and manipulations of the results<sup>94</sup>.

In spite of his previous support for the preliminary draft constitution, in an inaugural message to the Assembly of Experts which met on 18 August, Khomeini told the delegates that the Constitution had to be "100% Islamic", that discussion of proposals contrary to Islam laid outside the scope of their mandate and that determining whether articles meet Islamic criteria was the exclusive jurisdiction of the leading Islamic jurists. He advised that the delegates lacking the necessary expertise should not interfere in the Islamic provisions of the Constitution. On the basis of these recommendations, the preliminary draft was set aside from the beginning. But, the delegates agreed that a majority of two thirds of all members would be required for the approval of all the constitutional articles<sup>95</sup>.

The demand that Khomeini, as *faqih*, should be entrusted with supreme authority under the Constitution had initially been espoused and propagated by middle-rank and provincial clerics. But, as it became clear that there existed considerable support and no mass opposition to this doctrine, the leaders of the IRP took up the idea. Ayatollah Beheshti, who was chosen as deputy chairman of the Assembly of Experts, drafted the key articles enshrining the *velayat-e faqih* in the Constitution and directed the work of the assembly the way he wanted. By the time the Assembly of Experts completed its deliberations on 15 November after its mandate had been extended three times, it had thoroughly revamped the draft constitution and laid down the foundations for a theocratic state. The new Constitution made the *faqih* or Revolutionary Guide/Leader (*rahbar*) the central figure in the political order, entrenched Islamic jurisprudence as the foundation for the country's law and legal system, and limited individual freedoms to

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<sup>94</sup> *Ibidem*, p. 81; Schirazi, *The Constitution of Iran*, p. 31-32.

<sup>95</sup> Bakhash, *The Reign of the Ayatollahs*, p. 81.

what was considered permissible under Islam<sup>96</sup>. Article 4 stated that: "All civil, penal, financial, economic, administrative, cultural, military, political, etc. laws and regulations regarding natural resources should be based on Islamic precepts"<sup>97</sup>.

The Constitution deprived the President of most of his powers to the advantage of the Revolutionary Leader. Article 5 conferred "the leadership of the affairs and the guidance of the people" to a just and pious *faqih* acquainted with the circumstances of the time whom the majority of the population recognised as their leader. Article 110 gave him the power to appoint half of the members of the Council of Guardians of the Constitution, the highest judicial authority, and the commanders of the three branches of the armed forces and of the Revolutionary Guards. The leadership was conferred on Khomeini for life (Article 107) and it was provided that he would be succeeded by a *Marja' at-taqlid* similarly recognised as leader by the people or, in the absence of such a person, by a leadership council composed of three or five competent *Maraji' at-taqlid* having "political and social insight, courage, capability and sufficient administrative abilities" (Articles 107 and 109).

The Parliament was subjected to the control of a twelve member Council of Guardians empowered to intervene automatically and veto all legislation in violation of Islamic or constitutional principles. This council was to be composed of six *fuqaha* "well versed in Islamic jurisprudence" and "aware of the virtues and needs of the time" appointed by the Leader and six jurists specialising in various branches of law appointed by the National Assembly on the recommendation of Supreme Judicial Council (Article 91). In fact, since the Supreme Judicial Council was itself composed of *mujtahidin*

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<sup>96</sup> *Ibidem*, p. 82-83; and Schirazi, *The Constitution of Iran*, p. 8-14; see also Mohsen Milani, "Shi'ism and the State in the Constitution of the Islamic Republic of Iran", in *Iran: Political Culture in the Islamic Republic*, ed. by Samih K. Farsoun and Mehrdad Mashayekhi, London and New York, Routledge, 1992, p. 138-150.

<sup>97</sup> Quotations from the Constitution are from the following translation: *The Constitution of the Islamic Republic of Iran*, Tehran, Islamic Propagation Organization, 1360 [1981-82].

(Articles 158 and 162), the Council of Guardians was dominated by Islamic jurists<sup>98</sup>. Only the six *fuqaha* on the Council would be competent to decide whether a law complied with Islamic principles (Article 96). The interpretation of the Constitution would be decided by a majority of three-fourths of the members. All legislation passed by the National Assembly would be sent to the Council of Guardians for approval. If the Council of Guardians found that a law was in contradiction with constitutional or Islamic principles, it would send it back to the National Assembly for reexamination (Article 94). In addition to its legislative role, the Council of Guardians was also given the power to screen candidates to the Presidency, which made it a very powerful body and ensured the *fuqaha*'s control over the executive branch<sup>99</sup>.

This powerful body might have functioned smoothly as long as the divergences of its members and the majority of the deputies in the *Majles* were not too pronounced. But, in the first decade of the Islamic Republic, the *Majles* and the Council of Guardians turned out to hold different views of Islamic law, especially on economic issues. According to Behdad, Khomeini intentionally appointed conservative *fuqaha* on the Council of Guardians so as to avoid a confrontation on the terrain of Islamic jurisprudence outside the governmental structure since he knew that the other *Maraji' at-taqlid* were opposed to interventionist policies<sup>100</sup>. The main points of conflict between the two legislative bodies in the 1980s would center on the nationalisation of foreign trade, the labour and industrial codes and rural land reform<sup>101</sup>. The *Majles* passed a number of controversial bills on these issues which were rejected by the Council of Guardians as un-Islamic.

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<sup>98</sup> Chibli Mallat, *The Renewal of Islamic Law: Muhammad Baqer as-Sadr, Najaf and the Shi'i International*, Cambridge, Cambridge University Press, 1993, p. 82.

<sup>99</sup> *Ibidem*, p. 80-81.

<sup>100</sup> Sohrab Behdad, 'The Post-Revolutionary Economic Crisis', in *Iran After the Revolution: Crisis in an Islamic State*, ed. by Saeed Rahnema and Sohrab Behdad, London and New York, I.B. Tauris, 1995, p. 105-106.

<sup>101</sup> Mallat, *The Renewal of Islamic Law*, p. 83.



The inclusion of the doctrine of the governance of the *faqih* in the Constitution gave rise to considerable controversy. When the left and the liberal forces objected to it, Khomeini condemned them as anti-Islamic, but it was more difficult for him to deal with Grand Ayatollah Shari'atmadari's open disagreement<sup>102</sup>. Shari'atmadari, who had always advocated the non-involvement of the clergy in political affairs, argued that the principle of the *velayat-e faqih* applied only in cases where the *Shari'a* had not provided an authorised agent and then only when dealing with unavoidable issues. As an implementation of this principle, he cited Khomeini's appointment of a provisional government after the Revolution when there was no legal authority capable of taking such a measure. He believed that the absolute powers accorded to the *vali-ye faqih* contradicted the principle of the sovereignty of the people and would lead to dictatorship, and he contested the right of the Assembly of Experts to approve any clause which would put into question the sovereignty of the people. In any case, he did not think that there was any haste to write a new constitution and was of the opinion that the country could temporarily be governed on the basis of the 1906 Constitution minus the provisions relative to the monarchy<sup>103</sup>. The conception of the *velayat-e faqih* espoused by Khomeini was also opposed by the other *Maraji' at-taqlid*, but, except for Grand Ayatollah Hassan Qomi-Tabataba'i who was swiftly put under house arrest in Mashhad, they did not become involved in the political debate<sup>104</sup>. The open disagreement of Grand

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<sup>102</sup> Ayatollah Taleqani who was a member of the Assembly of Experts had also opposed the article which enshrined the principle of the *velayat-e faqih* in the Constitution when it was discussed in commission (Schirazi, *The Constitution of Iran*, p. 46, 51), but his death on 9 September 1979, shortly before the passing of the article, relieved Khomeini of another eminent and popular opponent among the '*ulama*'.

<sup>103</sup> *Ibidem*, p. 48, and note 22, p. 56.

<sup>104</sup> At the time of the Revolution, there were four other recognised *Maraji' at-taqlid* besides Khomeini and Shari'atmadari: Grand Ayatollahs Mohammed Reza Golpaygani and Sahaboddin Mar'ashi-Najafi who also resided in Qom, Hassan Qomi-Tabataba'i in Mashhad and Abul-Qasim Khu'i in Najaf. Among them, Grand Ayatollah Khu'i adhered to the traditional role of the Shi'i '*ulama*', namely remaining aloof from

Ayatollah Shari'atmadari, however, constituted a grave danger to Khomeini's position since he had presented the concept of the *velayat-e faqih* as an evident and paramount religious theme. On 26 November, the IPRP announced that it would participate in the referendum on the new Constitution only if certain alterations were made to its content, and Shari'atmadari himself announced that he would not participate unless Article 110 was modified<sup>105</sup>.

However, the take-over of the United States Embassy on 4 November 1979 which made Khomeini appear as an anti-imperialist hero and distracted public opinion from domestic problems created a favourable climate for the approval of the Constitution. A referendum was held on 2-3 December, the days following *Ashura* (the commemoration of the martyrdom of Imam Hussayn), when religious fervour is at his peak<sup>106</sup>. The liberal and leftist parties found it inexpedient to oppose it and, giving priority to the stability of the state (for the liberals) or to the anti-imperialist struggle (for the leftists), gave it their conditional support, while those who opposed it chose to abstain<sup>107</sup>. After the Constitution was approved by a large majority<sup>108</sup>, Khomeini decided

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politics and acting as a moral guide. Grand Ayatollahs Mar'ashi-Najafi and Golpaygani did not view the notion of the *velayat-e faqih* positively, but they also remained aloof from politics and even accommodated the Islamic Republic. (Maziar Behrooz, "The Islamic State and the Crisis of Marja'iyat in Iran", *Comparative Studies of South Asia, Africa and the Middle East*, vol. 16, n. 2, 1996, p. 96-97; Schirazi, *The Constitution of Iran*, p. 48).

<sup>105</sup> Rahnema and Nomani, *The Secular Miracle*, p. 196-197.

<sup>106</sup> *Ibidem*, p. 307; Bahman Baktiari, *Parliamentary Politics in Revolutionary Iran: The Institutionalization of Factional Politics*, Gainesville, University of Florida Press, 1996, p. 63.

<sup>107</sup> Schirazi, *The Constitution of Iran*, p. 49-52.

<sup>108</sup> The official claim was that 15,680,339 votes for and 78,516 votes against were cast, or a majority of 99.5 %. However, a comparison with the 20,439,908 votes which were said to have been cast in the referendum on the Constitution in March 1979 gives an idea of the number of abstentions (Schirazi, *The Constitution of Iran*, p. 52).

to confront and discredit Shari'atmadari. On 5 December, a demonstration in support of the new Constitution was organised in Qom and the demonstrators marched towards Shari'atmadari's house chanting insulting remarks. One of his guards died in the ensuing scuffle and nine people were injured. This led to an uprising in Tabriz where Shari'atmadari was followed by the majority of the Azeris as their *Marja' at-taqlid*. The Islamic Guards were sent to Tabriz to restore the government's control. But, the clerical leadership backed down from attacking Shari'atmadari personally and, instead, attacked the IPRP as a party which had been penetrated by "anti-Islamic foreign agents". Adverse to blood-letting, Shari'atmadari chose not to call his followers to fight, but to suspend the party's activities.<sup>109</sup>

The economic clauses of the Constitution were not seriously contested during the debates of the Assembly of Experts<sup>110</sup>. These articles raised the expectations of the lower-middle classes, the peasantry and the poor. Article 3 announced that the government would endeavour to set up "a correct and just economic foundation according to Islamic principles in order to bring about welfare, eradicate poverty, and eliminate all deprivation in the areas of food, housing, work, health and providing social insurance". Article 43 stipulated that the Islamic Republic of Iran would provide "the possibilities and opportunities of work for all towards achieving full employment for all and providing the means of work for all who are able to work but lack the means, in the form of cooperatives, interest-free loans, through any other legal means so that capital is not centralised or exchanged through the hands of particular individuals or groups and in a way so that the government does not become an absolute, great employer". The same

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<sup>109</sup> Rahnema and Nomani, *The Secular Miracle*, p. 199. In 1982, Shari'atmadari was implicated in an attempted *coup d'Etat* by Sadeq Qotbzadeh and placed under house arrest. A propaganda campaign was mounted to discredit him. The Society of Seminary Teachers of Qom even announced that he had been stripped of his title of *Marja' at-taqlid*. He died in 1986 (Bakhash, *The Reign of the Ayatollahs*, p.223; Shahrugh Akhavi, "Elite Factionalism in the Islamic Republic of Iran", *The Middle East Journal*, vol. 41, n.2, Spring 1987, p. 190).

<sup>110</sup> Rahnema and Nomani, *The Secular Miracle*, p. 88.

article put "emphasis on increasing agricultural [production], animal husbandry and industrial production with a view to meeting the country's needs and requirements, and enabling the nation to reach a level of self-sufficiency in this regard and to free itself from all dependency" and prohibited the exploitation of the work of others, monopoly, hoarding and usury. Article 46 added that "every person is the owner of the product of his or her legal labor and industry and no one is entitled to deprive others from opportunities for work and industry under the pretext of owning the fruits of his or her labor". A broad interpretation of these articles would provide a legal justification for a radical land reform. Beheshti himself was inclined to read these articles in such a way<sup>111</sup>.

In accordance with Islamic law, Article 45 of the Constitution stated that "natural resources and national wealth such as waste lands or deserted lands, mines, seas, lakes, reed beds, natural woods, virgin land and pastures are part of the public domain", as well as "heirless property and property of unknown ownership and public property restored from usurpers".

The economic structure of the country was defined in Article 44 which stated that the economy was based on three sectors: public, cooperative and private. The public sector consisted of "all large and major industries, foreign trade, large mines, banking, insurance, energy concerns, large dams and irrigation networks, radio and television, post, telegraph, aviation, shipping and railways". The cooperative sector included "production and distributi[on] cooperative companies which are established in cities and villages according to Islamic criteria". The private sector was limited to "those parts of agriculture, industry, animal husbandry, trade and services which complement cooperatives and government economic activities". The details and regulations of the use of each type of property would be determined by law<sup>112</sup>.

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<sup>111</sup> Bakhash, *The Reign of the Ayatollahs*, p. 201. See above, p. 86, 92.

<sup>112</sup> It took more than a decade of debates for a law regulating the establishment of a cooperative sector to be passed. In April 1982, the Supreme Economic Council approved a draft bill on the Limits and Nature of the Cooperative Sector in the Islamic Republic of Iran. It was submitted to the *Majles* in June 1983, but was not approved until May 1987 after many debates. However, it was rejected by the Council

Article 44 of the Constitution also stipulated that "ownership in all three sectors of the economy, in so far as it conforms to other sections of this part [of the Constitution], does not contravene Islamic laws, and helps to advance economic growth and development and would not be injurious to society, will enjoy the full protection of the law in the Islamic Republic of Iran". Moreover, Article 47 provided that private property "acquired through legitimate means" would be respected and that "the relevant criteria" would be determined by law.

However, Article 49 stipulated that:

"The government is required to confiscate all wealth derived from usury, usurp[ation], bribery, misappropriation of public funds, theft, gambling, misappropriation of endowments, public contracts and transactions, sale of waste lands and natural resources, centers of corruption, and other illicit practices and should return such wealth to its proper owner".

These confiscations "should be carried out after proper investigation and establishment of proofs based upon the Divine Law by the government". In case the owner was unknown, the same article provided that the property would be handed to the public treasury. Therefore, this article provided a potential legal framework for sweeping confiscations of properties.

The Constitution was a product of Khomeini's conception of government and of the clerical dominance of the Assembly of Experts. It did not meet the aspirations of various groups: the ethnic minorities, the secular parties of the centre and the left and the moderate and conservative members of the clergy. These dissatisfied people voiced their opposition through newspapers, protest marches and, as previously noted, a major uprising in Tabriz. The revolutionary authorities responded with repression, by banning

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of Guardians of the Constitution as contravening both the *Shari'a* and the Constitution. An amended bill was approved by the *Majles* in November 1989, but it was again rejected by the Council of Guardians so that it only became law in September 1991 after more amendments (Schirazi, *Islamic Development Policy*, p. 237).

newspapers, by encouraging the *hezbollahi* to attack opposition groups, and by sending the Revolutionary Guards to Tabriz<sup>113</sup>.

The presidential elections took place in January 1980. Khomeini banned clerics from standing as candidates and vetoed Mas'ud Rajavi, the candidate of the People's *Mujahidin*. Bazargan and other moderate politicians chose not to run after the Students Following the Imam's Line who had seized the United States embassy started using documents that they had found in the embassy to cast aspersions on the moderates. The IRP candidate, Jalaloddin Farsi, was disqualified a few days before the elections because he was not Iranian by birth, and the IRP did not have enough time to mount an electoral campaign for its replacement candidate, Hassan Habibi, who was not known by the masses. This left only two serious candidates: Bani Sadr and Admiral Ahmad Madani, the governor of Khuzistan. Whereas Admiral Madani was the law-and-order candidate and the favourite of the upper-middle classes, Bani Sadr was identified by the people as Khomeini's candidate, as Islamic and radical, and was widely known and popular. He was elected by a large majority on 20 January 1980<sup>114</sup>.

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<sup>113</sup> Bakhsh, *The Reign of the Ayatollahs*, p. 88-89.

<sup>114</sup> *Ibidem*, p. 90-91.

## Chapter 5: The Elaboration, Implementation and Suspension of the Radical April 1980 Land Reform Law

### 1. Elaboration of a Radical Land Reform Law

In November 1979, under the leadership of the IRP and of its secretary general, Ayatollah Beheshti, the militant clergy staged a *coup d'Etat* against the liberal Provisional Government of Mehdi Bazargan by masterminding the American embassy hostage crisis. Bazargan was forced to resign on 6 November. The Revolutionary Council, on Khomeini's order, took over the administration of the country. It requested all ministers to stay on, which they did, at least for a while, except for Foreign Minister Ibrahim Yazdi who submitted his resignation two days later. The IRP swiftly adopted a radical posture which was directed towards two basic goals: discrediting the liberals of the Provisional Government and disarming the left of its radical platform. In particular, it decided to assume a leading role on the crucial issue of land distribution in order to cut the ground from under the feet of the radical agitators in the rural areas<sup>1</sup>. Beheshti promised that "fundamental changes in the social and economic system" would be the priority of the Revolutionary Council's programme<sup>2</sup>. On 8 November, the Revolutionary Council announced that it would introduce "effective measures to resolve the land question for the peasants and to fight feudalism"<sup>3</sup>. In an interview that he gave in November 1979, Javad Bahonar, another member of the Revolutionary Council declared that big landlordism would be eradicated from Iran and that the objective was to give the land to those who worked on it<sup>4</sup>. Following these announcements, in some areas, *Jihad-e Sazandegi*, the Revolutionary Guards and the revolutionary committees encouraged the peasants to take possession of the estates of the "feudal lords" and to cultivate them themselves, and some revolutionary courts expropriated lands acquired "illegally" by

<sup>1</sup> Ashraf, "State and Agrarian Relations", p. 297.

<sup>2</sup> Rahnema and Nomani, *The Secular Miracle*, p. 246.

<sup>3</sup> Schirazi, *Islamic Development Policy*, p. 175.

<sup>4</sup> Mehdi Beheshtipur, "*Cheh kasani ba eslahat-e arzi mokhalefat mikonand*" ("Which persons are opposing land reform?"), *Ettela'at*, 20 Farvardin 1358 [9 March 1980], p. 4.

"feudal lords"<sup>5</sup>. At the same time, peasants organised protests and demonstrations in many places around the country.

### Role of Reza Isfahani

In mid-November 1979, Reza Isfahani, a professor of religious studies at the University of Tehran and the author of radical books on Islamic economics and philosophy<sup>6</sup>, was appointed as Deputy Minister in charge of Legal and Land Matters. In his first interview which was published in *Ettela'at* on 1 December 1979, Isfahani presented the new policy of the Ministry of Agriculture to solve the agricultural problems of the country<sup>7</sup>. He announced that they were envisaging a new land reform programme which would transfer the lands of the big landlords to the peasants who worked the land themselves. He believed that Iran needed an equitable land distribution since, according to him, most of the lands were in the hands of feudals, some of them owning hundreds of hectares or much more than this in Urumia where some owned 10,000 ha. Some lands had been distributed to the peasants under the Shah, but since the peasants did not have possibilities to use the lands which they were given, they were forced to sell them back to their previous owners who were still acting like feudal landlords. He added that these

<sup>5</sup> Schirazi, *Islamic Development Policy*, p. 175.

<sup>6</sup> Isfahani had studied at the seminary and claimed to have obtained *ijtihad* (*Negareshi beh avalin dawre-ye Majles-e shura-ye Islami* [*A Description of the First Session of the Islamic Consultative Assembly*], Tehran Public Relations Services of the Islamic Consultative Assembly, *Bahar* 1364 [Spring 1985], p. 216; henceforth quoted as *A Description of the Majles*). However, his subsequent occupations drew him out of the clerical establishment and his religious credentials were not recognised by senior clerics (see for example Ayatollah Sadeq Ruhani's comments in "*Eslahat-e arzi bayad Islami bashad*" ["The land reform must be Islamic"], *Ettela'at*, 2 *Ordibehesht* 1359 [22 April 1980], p. 4).

<sup>7</sup> "*Zaminha-ye malekin-e bozorg mosadereh mishavad*" ("The lands of big landlords are being confiscated"), *Ettela'at*, 10 *Azar* 1358 [1 December 1979], p. 2; see also the report "*Moasasat-e bozorg-e keshavarzi-ye keshvar melli khvahad shod*" ("The big agricultural corporations of the country will be nationalised"), *Keshavarz-e emroz*, n. 9, 17 *Azar* 1358 [8 December 1979], p. 1, 3. Isfahani also explained his views in a television interview on 21 *Azar* (12 December).



feudals did not have the permission of an Islamic state to appropriate their lands in the first place. For this reason, he announced that the Ministry of Agriculture had decided to implement a "correct and reasonable" land reform and, *Insha 'Allah* (God willing), to put at the disposal of the peasants, according to their needs, 2 or 3 ha, as well as the seeds and the other things they needed in the form of loans or in other forms. He claimed that before reaching this decision he had fasted for several days. He also announced that *muzara'a* contracts would not be allowed. He asserted that, from the point of view of Islam, this type of contract was allowed in a very limited way for the reason that in the past there were not many tools of production but there were many lands available so that it was possible for a landowner and a cultivator to help each other without one exploiting the other<sup>8</sup>. However, he believed that the form of exploitation which was now prevalent under these contracts could not be Islamic. For this reason, the decision of his Ministry was, "in the limit of [their] power", to take the lands from the hands of the people who did not work them themselves, while the peasants who worked the land themselves would be given land to the limit of their needs, and there would be a system to prevent them from transferring their lands to others.

Isfahani announced that the Ministry of Agriculture would not implement the Law on the Method of Land Transfer and Rejuvenation of the previous government since it was too vague and general. Under it, it was possible to own 1,000 hectares of land and to exploit them through *muzara'a*, which according to him was not correct and could not be Islamic. His objectives were ambitious, but he was prudent in presenting them, mentioning several times that the Ministry of Agriculture would do what was within the limits of their power and that: "If at one time, our hands are tied and our tongue is sewn, that is another matter". They would start implementing their decisions as soon as possible, starting in Gonbad and in Kurdistan, regions which were experiencing at the time peasant uprisings and land struggles fomented by leftist groups<sup>9</sup>.

<sup>8</sup> In his book on Islamic economics, Isfahani wrote that *muzara'a* contracts with Islamic conditions were allowed by Islam if the owner of the land provided the seeds and other means of production (*Eqtesad-e moqayesah'i*, vol. 3, p. 31-33); see above, p. 84.

<sup>9</sup> "Zaminha-ye malekin-e bozorg mosadereh mishavad", p. 2.

However, due to the uproar that his policy announcement created, in an interview that he gave a few days later to *Jomhuri-ye Islami (Islamic Republic)*, the IRP newspaper, Isfahani avoided mentioning the confiscation of the lands of the large landlords and spoke only of the necessity of putting the uncultivated lands under cultivation<sup>10</sup>.

Moreover, the following month, his colleague, Hashem Pur-Tabataba'i who had remained in his post as Deputy Minister of Agriculture announced that all the regulations related to the Law on the Method of Land Transfer and Rejuvenation had been approved by the Revolutionary Council. He added that the Ministry of Agriculture would start examining the land requests on 21 January 1980<sup>11</sup>.

The new Minister of Agriculture, Dr Abbas Sheybani, a medical doctor without any previous experience in agricultural affairs, did not clearly take a position. In his first interview in December 1979, he announced that land reform would be implemented with decisiveness, but promised that order and agricultural production would not be perturbed and that the people who disturbed agriculture production would be convicted. He did not say anything about the limits of ownership and he asserted his opinion that feudalism as described in the books did not apply to Iran<sup>12</sup>.

### Reactions to Isfahani's Announcement of a Radical Land Reform

Soon after Isfahani's announcement of a new land reform law being prepared, the administrative committee of the Agricultural Council of the province of Tehran sent a letter to Khomeini in which they exposed their opposition to Isfahani's project and asked

<sup>10</sup> 13 December 1979 Interview quoted in Yusuf Qarib, "*Nehat-e keshavarzi joz ba nabudi-ye fe'odalism emkan pazir ni-st*" ("The redress of agriculture cannot take place without the destruction of feudalism"), *Ettela'at*, 23 Dey 1358 [13 January 1980], p. 4.

<sup>11</sup> "*Shara'et va tarikh-e vagozari-ye zaminha-ye keshavarzi-ye dawlat*" ("Conditions and date for the transfer of state agricultural lands"), *Ettela'at*, 13 Dey 1358 [3 January 1980], p. 2.

<sup>12</sup> "*Keshavarzan-e ma va ustad Reza Isfahani*" ("Our Peasants and Professor Reza Isfahani"), *Keshavarz-e emroz*, n. 16, 6 Bahman 1358 [26 January 1980], p. 2.

his help to prevent riots in the villages<sup>13</sup>. They also sent letters and telegraphs to the other *Maraji' at-taqlid*, and lobbied the state authorities and the newspapers, in an effort to raise opposition against Isfahani. However, on radio and television, Isfahani blamed the "feudals and people related to them" for being the instigators of these riots and provided some evidence to justify his accusations. His supporters attacked the members of Tehran's Agricultural Council as feudals, and banners supporting Isfahani started appearing in the towns throughout the country. At the same time, some landlords who had been victims of aggression went to Qom to ask for justice and seek the help of the Revolutionary Guide. Khomeini spoke to them and encouraged them to go back and cultivate their lands. The members of the Agricultural Councils of Fars, Hamadan and Qom also sent numerous telegraphs to Qom and Tehran pleading for justice<sup>14</sup>.

In its 19 December 1979 issue, *Ettela'at* published an article signed by the United Association for the Oppressed (*Anjuman-e Vahdat-e Mostaz'afin*) in support of Isfahani's project<sup>15</sup>. Responding to the claim that getting rid of big landownership would be the ferment of the decline or even the destruction of agriculture, the authors of this article asserted that big landownership in Iran did not contribute to the development of agriculture and that the only way to encourage the development of agriculture was to give land and services to the peasants. Moreover, they argued that feudalism and the exploitation of the hard-working peasants were not compatible with the principles and meanings of Islam nor with its details, rules and regulations. They asserted that:

"Given that in Islamic regulations, it is clearly said that everybody can take at his disposal the land on which he works, *muzara'a* is confined to the special case of the owner of the land not having the strength to work the land due to sickness or similar reasons. In no way can it be a ground to exploit someone else or to use the produce of the efforts and the work of others, especially in the case of large lands for which the basis of ownership is certainly not in conformity with Islamic regulations".

<sup>13</sup> Beheshtipur, "*Cheh kasani ba eslahat-e arzi mokhalefat mikonand*", p. 4.

<sup>14</sup> "*Keshavarzan-e ma va ustad Reza Isfahani*", p. 2.

<sup>15</sup> "*Malekiyat-e zaminha-ye bozorg ba movazin-e Islam sazgar nist*" ("Big land ownership is not compatible with the rules of Islam"), *Ettela'at*, 28 Azar 1358 [19 December 1979], p. 9.

They added that:

"Given that the basis and the aim of the Islamic revolution is the inheritance of the *mostaz'afin*, if the problem of landownership is not solved in a legal and official way to the benefit of the people, not only we will not achieve the aim of the revolution, but how many revolutions will be put at risk!"

In January 1980, *Ettela'at* published excerpts from a letter of complaint addressed by the peasants of the village of Vahdatabad in Zenjan province to Reza Isfahani. This letter complained that the law on landownership of the Provisional Government did not take at all into account the rights of the peasants with little or no land. It pointed in particular to Article 2 which recognised the legitimacy of existing rights on lands including those which had been acquired by "forceful transfers" and through the land reform of the previous regime. It complained that this legitimised all the illegal properties of the former regime, "including the actions of the corrupt agents of land reform, the ownership of the lands which were exempted for being mechanised and the ownership of large lands obtained by illegal schemes and by way of exploiting the peasants". It concluded that that article illustrated the economic policy of the temporary government in the field of agriculture which did not intend to change the foundations of the agricultural situation nor to act in the interest of the peasants with little or no land. Then it stressed that the peasants who wanted real land reform were intensely opposed to that law<sup>16</sup>.

The journalists and the editorial staff from *Ettela'at* tended to be favourable to a radical land reform. This is apparent from the way their questions were formulated and in the titles they chose for their articles. For example, the first question asked to Reza Isfahani in his first interview was formulated with a long preamble critical of the previous government's policy:

"Given that the project of land ownership of the Provisional Government of the Islamic Republic of Iran has not taken into account the rights of the peasants with little or no land, and it has been proved that the situation of

<sup>16</sup> "*Zamin az an kasi ast keh ro-ye an kar mikonad*" ("Land belongs to the people who work on it"), *Ettela'at*, 18 Dey 1358 [8 January 1980], p. 5.

ownership in the country has not been changed and has not taken another basic form, and that in addition, in that project, the legal use of cultivated land includes contracts of the type of *muzara'a*, given that *muzara'a* was one of the most common ways of feudal exploitation, in your capacities as Deputy Minister for Legal and Land Matters, are you going to bring changes to this project or do you have another programme in view for solving the problems of agriculture?"<sup>17</sup>.

Moreover, the titles of the articles published in *Ettela'at* often emphasised the issue of land reform at the expense of other issues. For example, an article reporting on a meeting of the provincial governors held in the Ministry of Agriculture in April 1980 was entitled: "Land Distribution Must Be Implemented" although it included only one sentence on this issue<sup>18</sup>.

On the other hand, the editorial staff of *Keshavarz-e emroz* was opposed to a radical land reform. The journal continued to be the herald of the large and medium-size commercial farmers and to call for policies protecting order and stability in the countryside as a way of ensuring agricultural development and self-sufficiency. In early December 1979, it published an editorial entitled: "Do Not Stop the Autumnal Cultivation" in which it attracted the attention of the responsible authorities on the risk of disturbing agricultural production by distributing lands in the middle of the season and called on the Minister of Agriculture to break his silence and clearly explain his views and those of the Revolutionary Council to the farmers<sup>19</sup>.

In its 20 January 1980 issue, it published a letter from a farmer of Gonbad and several telegraphs from farmers of the province of Fars addressed to Khomeini under the heading "Un-Islamic Laws Are Not Implementable in an Islamic Country", as well as the first part of an open letter addressed by Izadi to the Revolutionary Council in which the

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<sup>17</sup> "*Zaminha-ye malekin-e bozorg mosadereh mishavad*" ("The lands of big landlords are being confiscated"), *Ettela'at*, 10 Azar 1358 [1 December 1979], p. 2.

<sup>18</sup> *Taqsim-e zamin bayad anjam shavad*, *Ettela'at*, 17 Farvardin 1359 [5 April 1980], p. 2.

<sup>19</sup> Quoted in "*Keshavarzani-e ma va ustad Reza Isfahani*" ("Our Peasants and Professor Reza Isfahani"), *Keshavarz-e emroz*, n. 16, 6 Bahman 1358 [26 January 1980], p. 2.

former Minister of Agriculture opposed Isfahani's project. That issue also included an editorial which exposed the view that to ensure the development of agriculture, agricultural work should be committed to people who have expertise<sup>20</sup>. The second part of Izadi's open letter was published in the next issue, which also included an editorial analysing Isfahani's policy and the opposition to it. Although, this editorial asserted that "we leave any type of judgement to our dear readers", the way it presented the information and the other articles surrounding it clearly show that the editors were opposed to Isfahani's project. The editorial came to the conclusion that instead of the rejuvenation of agriculture, which was what people wanted to achieve after the Revolution, now there was a danger of agriculture being destroyed. It asserted the editors' belief that the state should be an instrument for the protection of agriculture and its development and should not allow what existed to be destroyed, and that if there had to be a land reform, it should be such that it would fix once and for all the limits of ownership and it would not lead to a production decline<sup>21</sup>.

The IRP and the progressive clergy put their support behind Isfahani's project. Cultural associations, especially student Islamic associations, as well as the Revolutionary Islamic Women Association also declared their support for his project<sup>22</sup>. Groups of students from the Association of Muslim Students of the University Mehdi Rezayi, the Association of Muslim Students of the College of Agriculture Hanifnejad and the College of National Resources Mashinfam and other associations spoke out against the members of the administrative committee of the Agricultural Council of Tehran, whom they accused of being feudals defending their own interests, and promised that they would protect the project of land reform of Reza Isfahani<sup>23</sup>. Even if it was not radical enough for them, the leftist groups including the People's *Feda'ayan*, the

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<sup>20</sup> Quoted in *Ibidem*.

<sup>21</sup> *Ibidem*.

<sup>22</sup> "*Poshtibani-ye jame'e-ye zanan-e enqelab-e Islami az Reza Isfahani*" ("Support of the Revolutionary Islamic Women Association for Reza Isfahani"), *Ettela'at*, 7 *Esfand* 1358 [27 February 1980], p. 2.

<sup>23</sup> "*Zamin az an kasi ast keh ro-ye an kar mikonad*", p. 5, 8.

Democratic Party of Kurdistan and its secretary general Abdol-rahman Qasemlu, the *Tudeh* Party, and the Organisation of the People's *Mujahidin* supported it as well<sup>24</sup>.

At the same time, regional institutions were elaborating their own land reform plans. For example, the revolutionary court of the province of Mazandaran prepared regulations for the distribution of land in Gorgan and Gonbad, which were published in *Kayhan* on 22 December 1979. Also, a temporary project for the cultivation of the lands of Khuzistan was prepared by *Jihad-e Sazandegi*, the *Pasdaran* and the local revolutionary prosecutor<sup>25</sup>.

Isfahani instructed all the cadastral offices to refrain from registering all types of land transfer without the written permission of the Ministry of Agriculture. However, since the cadastral offices administratively depended on the Ministry of Justice, and not on the Ministry of Agriculture, these instructions were not implemented<sup>26</sup>.

In a press conference on 8 January 1980, Isfahani announced that the lands which had been acquired illegally would be confiscated from their owners and put at the disposal of peasants in the form of *mosha'* (joint ownership) and non-communist cooperatives<sup>27</sup>. In order to brush aside the accusation of communism which had been raised against him<sup>28</sup>, he insisted that the cooperatives he had in mind were different from communist cooperatives. He stressed that the land reform he wished to implement was an Islamic ideological programme which would take into account "the exalted meaning

<sup>24</sup> Beheshtipur, "*Cheh kasani ba eslahat-e arzi mokhalefat mikonand*", p. 4.

<sup>25</sup> Qarib, "*Nehat-e keshavarzi...*", p. 4.

<sup>26</sup> "*Keshavarzan-e ma va ustad Reza Isfahani*", p. 2.

<sup>27</sup> "*Zaminha-ye keh az rah-e namashru' beh dast amadeh mosadereh mishavad*" ("The lands which came into possession through illegal ways are confiscated"), *Ettela'at*, 20 Dey 1358 [10 January 1980], p. 2.

<sup>28</sup> It was reported that some "feudals" took his book of Islamic Economics to '*ulama*' and by pointing to the signs on the cover of the book (a red hammer, a black cross and a green moon crescent symbolising his comparison of communist, capitalist and Islamic economics), told them that "the signs which look like a sickle (*sic*) and a hammer" proved that Isfahani was a communist who wanted to implement communist plans (Beheshtipur, "*Cheh kasani ba eslahat-e arzi mokhalefat mikonand*", p. 4).

of Islam and the law". Then, he reasserted his opinion that, from the point of view of Islam, land belongs to everybody, but that this does not mean that everybody is free to appropriate every plot of land; the appropriation of land must be authorised by the Islamic state. Moreover, he believed that, from the point of view of Islam, the fight against feudalism is a necessity and that "in the present conditions" the fight against feudalism cannot take place without a simultaneous fight against imperialism.

He admitted that the problem of an Islamic land reform was not a simple one and that before implementing it completely, the question had to be studied thoroughly, many studies had to be carried out and the projects had to be submitted to the Revolutionary Council for approval. He had prepared a long-term plan and a short-term plan. The short-term plan was aimed at ensuring that the lands were cultivated so that the country would achieve self-sufficiency and would not depend on foreigners any longer. He pointed out that this was an objective that Khomeini, himself, had repeatedly emphasised. His intention was to put the lands at the disposal of people to cultivate them. The lands affected were, on the one hand, state lands, and on the other hand, lands which had come into the possession of individuals through unjust or illegal ways and were going to be (or had already been) confiscated by the Islamic courts. He stressed that the confiscations had to be executed by the intermediary of the Islamic state. The lands would then be distributed among the peasants without or with little land and agricultural graduates. Since the lands needed to be cultivated and there was no time to transfer all the documents, the lands would be put at the disposal of individuals in the form of *mosha'* and non-communist cooperatives so that "50 families or 20 families will work 300 ha or 200 ha in the form of a partnership". The land would be put at their disposal with the condition that they had to be cultivated<sup>29</sup>.

Isfahani also announced that since according to the Constitution, the state has the duty to provide the people who want to work with instruments and possibilities, a special budget had been established to provide fertilisers, pesticides, instruments and machines to the people to whom land would be transferred. The Ministry of Agriculture would also endeavour to solve the problem of water shortage, to build better roads in collaboration with the Ministry of Roads, and to create small industries in the villages to provide work to the peasants who were without work several months a year and to give

<sup>29</sup> "Zaminha-ye keh az rah-e namashru'...", p. 2.



them something else to rely on in a year of drought. Furthermore, the state would have a programme to prevent the activities of intermediaries, it would buy the agricultural produce at a higher and better price and would take charge of its distribution<sup>30</sup>. In this interview, Isfahani did not give details about his long-term plan, which presumably dealt with the lands of the large landowners which were not affected by his short-term plan.

At the end of January 1980, he announced that an amount of 1 milliard *rial* had been put at the disposal of *Jihad-e Sazandegi* to make loans in kind and in cash to the peasants. Priority would be given to the local peasants, but not to the *khoshneshin* [villagers without rights on the lands] among them. These loans would be without interest. Loans would also be given to graduates in agriculture and other graduates who worked in the agricultural sector<sup>31</sup>. On the occasion of this announcement, Isfahani strongly criticised the people responsible for agriculture in the Provisional Government and especially the organisations set up by Izadi (that is the Agricultural Councils) for not protecting the interests of the peasants and supporting the interests of the "feudals" because they, themselves, belonged to the feudal class or they were influential urban people who were ignorant of the interests of the peasants. He went on to assert that one of the reasons why the people of Gonbad supported the followers of other schools (that is the leftist groups) was the actions of the Provisional Government in the field of agriculture with the organisations set up by Izadi refraining from supporting the minimum wish of the peasants which was to have land and, instead supporting the feudals<sup>32</sup>. Izadi was also criticised by the Islamic Association of the Ministry of Agriculture for his lack of piety and ignorance of Islamic problems and for having kept in their post officials who had been working in the Ministry of Agriculture under the former

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<sup>30</sup> *Ibidem*.

<sup>31</sup> "*Enteqad-e shadid-e Reza Isfahani az siyasat-e keshavarzi-e dawlat-e movaqqat*" ("Strong criticism of Reza Isfahani of the agricultural policy of the provisional government"), *Ettela'at*, 9 Bahman 1358 [29 January 1980], p. 11.

<sup>32</sup> *Ibidem*.

regime, irreligious, uninformed and corrupt people, and members of the SAVAK (the Shah's secret police)<sup>33</sup>.

In another interview, Isfahani explained that the lands would be transferred in the form of *mosha'* to the community of each village. The peasants would work the land collectively and would dispose of the produce in a cooperative form. The Ministry of Agriculture would assist them with loans. The means of production such as tractors would be first used in the village to which they belonged, then would be used in an itinerant way in the villages where they were needed. All the deep wells would be put at the disposal of the peasants in a collective form<sup>34</sup>.

*Mosha'* is an Arabic term which refers to a property held in common without implying a cooperative form. In fact, the *Shari'a* does not have any provision for cooperatives. It authorises and regulates the establishment of partnerships (*sherkat*), but it explicitly precludes those based on joint productive labour. To counter this problem, the proponents of the *mosha'* would base their arguments on the value of a cooperative spirit in Islam, as well as on Article 44 of the Constitution<sup>35</sup>.

In its 10 January 1980 issue, *Ettela'at* presented the views of Hojjatolislam Mojtahed-Shabestari as an example of a cleric who believed that Isfahani's project was in conformity with Islamic regulations<sup>36</sup>. Shabestari asserted that: "although the details of

<sup>33</sup> "*Vazir-e jadid-e keshavarzi bayad taqva-ye Islami dashteh bashad*" ("The new Minister of Agriculture must have Islamic piety"), *Ettela'at*, 24 *Khordad* 1359 [14 June 1980], p. 11.

<sup>34</sup> "*Islam, rehanande-ye dehqan az yogh-e bardegi*" ("Islam, the liberator of the peasant from the yoke of slavery"), *Ettela'at*, 20 *Dey* 1358 [10 January 1980], p. 5.

<sup>35</sup> Schirazi, *Islamic Development Policy*, p. 237.

<sup>36</sup> "*Islam, rehanande-ye dehqan az yogh-e bardegi*", p. 8. It is not clear whether the article referred to Mohammed Mojtahed-Shabestari, who as a member of the First *Majles*, would support a land reform bill two years later, or to his brother Mohs who also became a member of the First *Majles*, but did not get involved in the debates over land reform. Both are clerics who have reached the third cycle of seminary studies. Mohammed wrote several books on Islam and headed the Islamic Society of

this project have not been clarified yet, from a general perspective, it conforms to the *Shari'a* of Islam and it can solve the problems of land and of the peasants". However, he added that:

"Of course, this project is not the only possible one, but one of the projects which reflect the views of Islam on land, cultivation and the cultivator. In principle, Islam does not have a special opinion on the details of the problem. It is in a general way that Islam desires justice and the liberation of the cultivator from the yoke of the slavery of the landowners and feudals".

The opponents of Isfahani found a supporter in the person of the previous Minister of Agriculture, Izadi, who wrote an open letter to the Revolutionary Council in which he criticised Isfahani's project and reiterated his ideas for the development of agriculture<sup>37</sup>. He opposed the idea of distributing the lands in the form of *mosha'* as "state capitalism or socialism [*sic*]", that is "the way advocated by the communists" to progress towards communism. He criticised the idea of distributing the lands of the small landowners to the landless peasants as a "pharmaceutical job that alleviates the pain temporarily and does not provide any decisive remedy" since after a few years, a new distribution would have to be implemented with a smaller limit. He believed that if the intention was to increase production, a land distribution would achieve the opposite result just as the land reform of the Shah did since small landowners have expertise in cultivation and in management and they use their work capabilities to the maximum. He reasserted his opinion that rather than limiting ownership, a better way to reduce inequalities would be to use "*zakat* and the other dues". This way, the differences between individuals would remain small, the forces of production would not be harmed and the capitalist investments needed by the society would not be endangered. Economic independence and political freedom would be preserved. He believed that the country was rich in lands to be developed and that, therefore, there was absolutely no need for

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Hamburg, while Mohsen confined himself to religious teaching and preaching (*A Description of the Majles*, p. 258-259).

<sup>37</sup> "*Name-ye doktor Izadi beh shura-ye enqelab-e Islami-ye Iran*" ("Doctor Izadi's letter to the Islamic Revolutionary Council of Iran"), 2nd part, *Keshavarz-e emroz*, n. 16, 6 *Bahman* 1358 [26 January 1980], p. 3-4.

taking people's lands. Instead, there should be a reform to bring to cultivation the dead and uncultivated lands. He claimed that the latest statistics showed that there were 33 million ha of land which were ready to be put under production, which was equal to twice the amount of cultivated lands in the country. He admitted that it was possible that these statistics were not accurate. However, he related that during his travels throughout the country, he had seen unused lands on the side of the road and he had examined unclaimed lands in the deserts, in the plains and at the foot of the mountains and found many which were ready to be cultivated. The income that the country was deriving from oil would provide enough capital for "all types of new and large agricultural activities". Moreover, the country had the necessary manpower, technicians and experts if those Iranians who went to look for work in the Emirates or in America, Canada, Europe and Australia, were encouraged to come back.

He concluded that the motto of Isfahani was more dangerous than that of Arsanjani since in his time, the government did not have to pay attention to the Islamic regulations and customary relations and since it was able to implement its reform at bayonets' point, whereas now the Islamic government cannot and would not do so. In addition, at that time, foreign states supported the reform and made up for its "failure and ignominy" by sending and selling foodstuffs, but now "our nation is entangled in a struggle with all foreign states which probably wish the destruction of our agriculture".

## **2. Approval of the Land Reform Law by the Revolutionary Council**

As Ayatollah Beheshti later explained, there was not a unanimity of views in the Revolutionary Council on the question of land reform. This is why the Council requested the opinion of Ayatollah Khomeini on this matter. Khomeini examined the problem, but decided to delegate the matter and, in February 1980, charged three prominent members of the ruling clergy, Ayatollahs Meshkini, Montazeri and Beheshti, with examining the project of land reform prepared by the Ministry of Agriculture from an Islamic point of view<sup>38</sup>.

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<sup>38</sup> *O ba tanha'i yak ummat bud! (He, by himself, was a nation!)*, posthumous compilation of Beheshti's speeches, [Tehran], Cultural Unit of the Martyr Foundation, Tir 1361 [June/July 1982], p. 381-382.

In a Friday sermon that he had given on 3 November 1979, Ayatollah Montazeri had stated his opinion that nobody has the right to prevent an individual from reclaiming land which has been left uncultivated even if this land has an owner, and that it is the duty of the Islamic state to take more care of the farmers and to give them more assistance. But he had not spoken of land reform at that time<sup>39</sup> and (to the author's knowledge) did not make any public declaration on the subject after Khomeini charged him with examining Isfahani's project.

In an interview which he gave at the end of February, Ayatollah Meshkini revealed that he had prepared himself a separate project dealing with the question of land from an Islamic point of view<sup>40</sup>. He asserted that he did not remember if Isfahani's original project was correct and if it had points in contradiction with his own project because it was brief. He claimed that his own project had also been studied by Ayatollahs Montazeri and Beheshti and that it was his project which had been communicated to the government in accordance with Khomeini's instructions in order to be implemented. He said that his project had not fixed a quantitative limit on ownership and that the people who would implement the plan would decide on that question in accordance with the environment, the needs and the amount of land. He added that land would be distributed to everybody who wanted to cultivate land and that those who needed more would receive more.

In an interview which he gave at the end of March, Ayatollah Beheshti, who was then a member of the Revolutionary Council and the President of the Supreme Court, asserted that in the project which had been approved by the Revolutionary Council, that is "Isfahani's project with some modifications", "all the criteria of Islamic *fiqh* had been

<sup>39</sup> "Ayatollah Montazeri: *Keshavarzan zaminha-ye bayer-ra kesht konid*" ("Ayatollah Montazeri: Agriculturalists, Cultivate uncultivated lands"), *Keshavarz-e emroz*, n. 6, 19 Aban 1358 [10 November 1979], p. 1.

<sup>40</sup> "*Dastur-e Imam bara-ye eslahat-e arzi-ye Islami dar sath-e keshvar*" ("Instructions of the Imam for an Islamic land reform in the entire country"), *Ettela'at*, 9 Esfand 1358 [29 February 1980], p. 14.

taken into consideration as well as the opinions of the *fuqaha*<sup>41</sup>. He added that he believed that in the preparation of revolutionary projects, two things were important: that the project conforms to Islamic ideology and that it is in the common interests of the people. Another important point was the readiness of the factors of implementation since the social and economic projects must, after their approval, proceed with care to the stage of implementation.

On 29 February 1980, it was announced that Isfahani's project had been approved two days earlier by the Revolutionary Council<sup>42</sup>. In fact, it had only been approved by a commission of the Revolutionary Council<sup>43</sup>. During a press conference that he gave at the occasion of this announcement, Isfahani asserted that the project had been written in accordance with what Ayatollah Meshkini had written about the problem of land reform and with the views of Ayatollahs Montazeri and Beheshti, and that its implementation would start soon. He explained that this project dealt with three categories of land:

- A) natural resources: as common wealth, they are at the disposal and under the control of the Islamic state, and the Islamic state, on the basis of the needs and capabilities of individuals, can transfer them to individuals meeting the necessary conditions while taking into account the welfare of the society.
- B) the cultivated lands which had been confiscated by the Islamic state and were now at its disposal. Like the previous category, they would be transferred to individuals meeting the necessary conditions, while taking into account the welfare of the society and the needs and capabilities of the individuals, or they would be allocated for public works.

<sup>41</sup> "*Nazariyat-e doktor Beheshti dar mawred-e tarh-e eslahat-e arzi-ye Islami*" ("Views of Doctor Beheshti about the project of Islamic land reform"), *Ettela'at*, 7 Farvardin 1359 [27 March 1980], p. 1.

<sup>42</sup> "*Tarh-e eslahat-e arzi-ye Reza Isfahani tasvib shod*" ("The Land reform project of Reza Isfahani has been approved"), *Ettela'at*, 10 Esfand 1358 [29 February 1980], p. 2.

<sup>43</sup> "*Taqsim-e zamin bain-e dehqanan az aval-e sal-e ayende aghaz mishavad*" ("The distribution of land among the peasants will start from the beginning of next year"), *Ettela'at*, 27 Esfand 1358 [17 March 1980], p. 2.

C) the large lands which were in the hands of big landlords who had legal ownership documents from the former regime. The large lands were defined as being more than three times the amount of land that the local custom deemed necessary for one person [this would later be changed to "one farmer and his/her family"]. Among these lands, a distinction was made between:

- uncultivated lands, which the Islamic state would first take at its disposal and under its control, then transfer to farmers and animal breeders meeting the necessary conditions.
- cultivated lands: Whatever the way their owner was occupied in agricultural affairs, the limit of ownership would be fixed in function of what the small owners of the area had, depending on the various climatic and social conditions of Iran. This limit would be determined in accordance with the local custom by the committees of transfer. The rest would be put at the disposal of the state and, in accordance with the interests of the society, would be transferred to individuals meeting the necessary conditions. If the cultivator met the conditions, the land would be transferred to him. The projects also provided that in case where the interests of the society required it, the state could take all the cultivated lands of big landlords and, if it was in the interest of the society, transfer to them in exchange uncultivated lands susceptible to being rejuvenated in function of their needs and capabilities.

In his press conference, Isfahani did not mention that compensation would be given to the landlords for the lands which would be confiscated from them. But, the text of the project approved on 27 February 1980 provided that the dispossessed landlords could take in exchange other lands in the area or get as a payment "the prevailing rental provided that they did not have previous debts"<sup>44</sup>. An amended text approved by the

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<sup>44</sup> "*Layehe-ye qamuni-ye eslahiye-ye qanun-e nahvah-e vagozari-ye va ihya'-e arazi keh dar tarikh-e tasvib 8/12/58 shodeh ast...*" ("Bill amending the Law on the Method of Land Transfer and Rejuvenation which was approved on 8/12/58 [27 February 1980]..."), in Sayyed Mohammed Naimi, *Qanun-e eslahat-e arzi ba akherin eslahat va elhaqat* (*The Law of Land Reform, with the Latest Reforms and Appendices*),

commission of the Revolutionary Council on 16 March, following the comments made by Ayatollahs Montazeri, Meshkini and Beheshti<sup>45</sup>, changed this to the more Islamic stipulation that they would receive an amount equivalent to the value of their land minus their legal and Islamic dues to the state treasury<sup>46</sup>. In addition, whereas the first text left with the large landlords only as much land as the small landowners of the area owned, the second allowed them to keep three times this amount. This latter text also added that it was only in case of extreme necessity (*zarurat*) and on the order of the *vali* that the Islamic state was entitled to confiscate the lands of the big landlords and if the poor peasants did not have other means to sustain themselves<sup>47</sup>, and that the Land Transfer Committees would act in accordance with the *fiqh* principle of *zarurat* which permits the suspension of a primary ordinance (in this case the sanctity of private ownership) in a situation of overriding necessity in order to maintain the Islamic public order<sup>48</sup>. Moreover, the latter version of the law defined uncultivated lands as lands which had not been used for five years consecutively whereas the previous text was speaking of only three years. Furthermore, the stipulation that in case the well-being of the society necessitated it, the state could confiscate all the lands of the big landlords which was included in the former text was dropped from the latter<sup>49</sup>. The latter text was thus more Islamic than its previous version and more favourable to the landlords although the provision that the dispossessed landlords were allowed to take other lands in their possession in exchange for the lands that they were previously owning was dropped from the latter text.

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Tehran, Monavvar, 1374 [1995], p. 166-170 (henceforth quoted as 27 February 1980 Decree).

<sup>45</sup> Schirazi, *Islamic Development Policy*, p. 176; "*Taqsim-e zamin bain-e dehqanan az aval-e sal-e ayende aghaz mishavad*", p. 2.

<sup>46</sup> "*Layehe-ye qamuni marbut beh vagozari-ye zamin beh keshavarzan keh dar tarikh 28/12/58 tasvib shodeh ast*" ("Bill related to the transfer of land to the peasants which was approved on 28/12/58 [16 March 1980]"), in Naimi, *Qanun-e eslahat-e arzi*, p. 171-172 (henceforth quoted as 16 March 1980 Decree).

<sup>47</sup> *Ibidem*, p. 171.

<sup>48</sup> *Ibidem*, p. 172.

<sup>49</sup> 27 February 1980 Decree, p. 169; 16 March 1980 Decree, p. 174.



The land transfers would be implemented by Committees of Seven Persons comprising two persons from the Ministry of Agriculture and connected departments, one representative of the Ministry of Interior and the local provincial governor, one representative of *Jihad-e Sazandegi*, one representative of the justice and the revolutionary courts and two representatives of the village council. The representatives of the ministries would not need to be cadres of the central ministries, but would have to be approved by the central ministries<sup>50</sup>. The text approved on 16 March replaced the "representative of the justice" by a "representative of the Islamic judge and ruler", that is Khomeini<sup>51</sup>. The duties of these committees would be:

- 1) to solve and settle the claims and disputes<sup>52</sup>;
- 2) to transfer the lands of the above-mentioned types; and
- 3) to determine the suitability of individuals to receive loans and agricultural potential.

When distributing land, priority would be given to the peasants without or with little land, to the graduates in agriculture and to other people interested in agricultural work. The lands would be transferred for a fixed time (which could be extended) and in the form of cooperatives and *mosha'*, except for special cases determined by the Seven-Person Committees. The lands could not be sold and their cession to other persons could not be done without the permission of the Islamic state. Moreover, they would have to be cultivated in accordance with the needs of the society and the cultivators would not have the right to use them in a way different from that which the Islamic state gave them for.

In mid-March, Isfahani announced that the implementation of the land reform project was to start on New Year's Day, that is on 21 March<sup>53</sup>. However, a further amended text was approved by the Revolutionary Council in plenary session on 15 April 1980. This text brought more concessions to the big landlords, giving them first priority

<sup>50</sup> "*Taqsim-e zamin bain-e dehqanan az aval-e sal-e ayende aghaz mishavad*", p. 2.

<sup>51</sup> 27 February 1980 Decree, p. 168; 16 March 1980 Decree, p. 172.

<sup>52</sup> The text approved on 16 March added that for the "disputes related to the deeds of the government of the *vali*" only the opinion of the representative of the Islamic judge would be counted (16 March 1980 Decree, p. 172).

<sup>53</sup> "*Taqsim-e zamin bain-e dehqanan az aval-e sal-e ayende aghaz mishavad*", p. 2.

to rejuvenate their uncultivated lands and allowing those who were not engaged in agricultural activities and did not have sufficient resources to support themselves to keep up to twice the amount considered necessary for one farmer and his family<sup>54</sup>. It also left more room for the lands to be transferred individually to the approved beneficiaries at the discretion of the Seven-Person Committees, stipulating that the lands could be transferred in the form of *mosha'*, cooperatives or individually, whereas the previous texts had limited that last option to exceptional cases<sup>55</sup>. Moreover, it reinforced central control over the implementation of the law by adding that the village representatives sitting in the Seven-Person Committees had to be approved by Khomeini's representative<sup>56</sup>, and by establishing a Central Staff entrusted with supervising all the activities of the land transfer committees. This Central Staff was to be composed of five members: one plenipotentiary representative of the Islamic judge, one of the Ministry of Agriculture, one of *Jihad-e Sazandegi*, one of the Ministry of Interior and one of the Justice. The Ministry of Agriculture was charged with setting up this supervising group<sup>57</sup>.

Since his original project had been subjected to modifications, Isfahani later admitted that he was only 80 % satisfied with the law which was finally approved by the Revolutionary Council<sup>58</sup>. In early May 1980, he again announced that the implementation of the law would start soon and urged the peasants to wait and not to act by

<sup>54</sup> "*Layeh-e qamuni-ye eslah-e qamin-e vagozari va ihya'-e arazi dar hukumat-e jomhuri-ye Islami-ye Iran keh dar tarikh 26/1/1359 shura-ye enqelab tasvib shodeh...*" ("Bill amending the Law on the Method of Land Transfer and Rejuvenation in the Islamic Republic of Iran which was approved by the Revolutionary Council on 26/1/1359 [15 April 1980]"), in Naimi, *Qamin-e eslahat-e arzi*, p. 180-181 (henceforth mentioned as 15 April 1980 Law).

<sup>55</sup> 15 April 1980 Law, p. 183, 27 February 1980 Decree, p. 169; 16 March 1980 Decree, p. 173.

<sup>56</sup> 15 April 1980 Law, p. 182.

<sup>57</sup> *Ibidem*, p. 183.

<sup>58</sup> "*Tarh-e eslahat-e arzi ba qate 'iyat piyadeh khvahad shod*" ("The Project of land reform will be implemented with decisiveness"), *Ettela'at*, 28 Ordibehesht 1359 [18 May 1980], p. 12.

themselves<sup>59</sup>. At that time, the Minister of Agriculture, Dr Abbas Sheybani, who had remained silent during the debates on Isfahani's project, put his support behind it and asserted that all the decisions related to land transfer would fall under the competence of the Seven-Person Committees<sup>60</sup>.

The Implementation Regulations of the Land Reform Law were approved by the Revolutionary Council on 21 May 1980<sup>61</sup>. They provided that the lands subject to the law would be distributed in the following order: the confiscated lands, the uncultivated lands of the large landowners in case the possibilities to use them existed, dead lands in case the possibilities to put them under cultivation existed, then finally the cultivated lands of the large landowners (Article 25)<sup>62</sup>. For the lands which had been legally acquired, their owners would be paid the full value of the lands if they were up to five times the size of what the local custom considered necessary to support one peasant and his family. For larger estates, they would receive only one fourth of the value up to twenty-five times the size of a sustainable farm in the area, and one tenth of the value up to fifty times (Article 28)<sup>63</sup>.

The regulations also dealt with the case of the lands of the large landowners which had been acquired through illegal ways (Article 5, Clause B). They covered four types of illegal acquisitions:

<sup>59</sup> "*Ejra-ye eslahat-e arzi-ye Islami az chand roz digar aghaz mishavad*" ("The implementation of the Islamic land reform will start in a few days"), *Ettela'at*, 13 Ordibehesht 1359 [3 May 1980], p. 2.

<sup>60</sup> "*Har tasmim moghayer ba layeh-e qanun-e eslahat-e arzi bi e'tebar ast*" ("Any decision contrary to the bill on land reform is invalid"), *Ettela'at*, 15 Ordibehesht 1359 [5 May 1980], p. 10.

<sup>61</sup> "*Taqsim-e 'adelane-ye zamin beh sor'at anjam mishavad*" ("The just land distribution is quickly being implemented"), *Ettela'at*, 17 Aban 1359 [8 November 1980], p. 7. The text of the Implementation Regulations approved by the Revolutionary Council printed in Naimi (*Qanun-e eslahat-e arzi*, p. 184-201) is dated 21/9/1359, that is 12 December 1980. Since the Revolutionary Council was dissolved on 18 July 1980, this date must be a misprint.

<sup>62</sup> Naimi, *Qanun-e eslahat-e arzi*, p. 198.

<sup>63</sup> *Ibidem*, p. 199.

- the lands bought with *haram* money, that is money derived from usury, bribery, selling alcohol or drugs, gambling, embezzlement, theft, misuse of state properties, etc "as indicated in the books of *fiqh*".
- the "usurpations of the people linked with the former regime" and the taking over of lands through "administrative and non-administrative coercion".
- the possessions acquired through fraudulent ways, imposture and forgery of documents.
- the appropriation and rejuvenation of dead lands "in amounts above the entitlement" through exertion of force.

For the lands of the last category, it was provided that it was only if there were not enough lands susceptible to being rejuvenated and if there were many people in need that the Islamic government would, on the basis of the *velayat-e faqih*, take from the lands of that category what was in excess of the needs of their owners. All the cases of illegally acquired lands would be investigated by the Seven-Person Committees, but for the last category, the representative of the *vali-ye faqih* would be the only one entitled to take a decision. The lands would be given back to their original owners, or in case the owner was unknown, they would be put at the disposal of the Land Transfer Committees to be distributed in accordance with the regulations. No compensation would be paid to their owners<sup>64</sup>.

The administrative regulations stated that a *mosha'* must have at least five members with at least one of them familiar with farming work<sup>65</sup>. Subsequent rules based on these regulations provided that each *mosha'* would have at least five and at most twenty members who participated through their free will, each having an equal share of the commonly held land and machinery and engaging in the productive work. The production would be divided equally among the members unless they did not contribute equal amounts of time to productive work. Each *mosha'* would be headed by a director and two advisers to deal with the outside world, but all decisions were to be taken jointly by all the members<sup>66</sup>.

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<sup>64</sup> *Ibidem*, p. 190.

<sup>65</sup> *Ibidem*, p. 195.

<sup>66</sup> Schirazi, *Islamic Development Policy*, p. 239.

Finally, the regulations stipulated that none of the members of the Seven-Person Committees could be a large landowner and that it was better for the representatives of the villagers to be chosen among the peasants with little land or those who were landless (Article 10, Notes 2 and 3)<sup>67</sup>. As a consequence of this, the Seven-Person Committees were to become the champions of the cause of the poor peasants.

An article printed in *Engelab-e Islamic (Islamic Revolution)* on 29 March 1980 and reprinted in *Ettela'at* on 4 April expressed the unrealistic expectation that with the implementation of the Land Reform Law and the distribution of land to the peasants:

"It is possible in the current year to put *two to three times* as much land under cultivation; in the current year, our country will not need to import foodstuffs; the country will progress in the cause of total independence; the nation, with the total support of the peasants and farmers, can do away with mass unemployment in the villages; the villagers of Iran will be provided with work, production and their other needs in the villages; there will not be any reason for them to stay and live in the fringes of the towns; they will all come back and spent their efforts to work in the villages"<sup>68</sup>.

However, according to Ashraf's estimation, the implementation of the 15 April 1980 Law would leave only 1 million ha available for distribution<sup>69</sup> to more than one and a half million needy peasants, which would be far short of the 7 ha considered the minimum to support one family.

<sup>67</sup> Naimi, *Qamun-e eslahat-e arzi*, p. 192.

<sup>68</sup> Mohammed Ja'afari, "Zamin va keshavarz" ("Land and the peasant"), *Ettela'at*, 16 Farvardin 1358 [5 April 1980], p. 10 (emphasis added).

<sup>69</sup> Ahmad Ashraf, "Dehqan, zamin va engelab" ("Peasants, Land and Revolution"), in *Masa'el-e arzi va dehqani (Land and Peasantry Issues)*, ed. by Ahmad Ashraf, Tehran, Agah Publications, 1361 [1982]; translated in *Iran Press Digest*, 10 October 1984, p. 10-11. Unfortunately, all the attempts of the author to obtain a copy of this book proved unsuccessful.

### 3. Opposition to the Land Reform Law

The resistance to the Land Reform Law took many forms: discussions were held in the press, masses of telegrams and letters were sent to Khomeini, Montazeri and the Revolutionary Council, and a number of demonstrations and confrontations took place in the countryside, which sometimes turned violent. Several members of *Jihad-e Sazandegi* and of the Seven-Person Committees were killed in the provinces of Fars, Khuzistan, Kurdistan and Azerbaijan. The large and medium-size landowners organised in the Agricultural Councils were the mainstay of the resistance<sup>70</sup>. They secured *fatawa* against land distribution from prominent 'ulama' and sent their agents to the villages to tell the peasants that land seizures were un-Islamic. In Hamadan, landlords circulated an old *fatwa* from Khomeini declaring it religiously unlawful to usurp the land of somebody else<sup>71</sup>. A conference of the Agricultural Councils convened in Tehran in May 1980 adopted a resolution which stated that: "the denial of ownership and the violation of property rights of the people is not in accordance with any of the principles of Islam, the *fatwas* of the great *faqih* [Khomeini] and the leading ulama, or the constitution"<sup>72</sup>. During another conference of the Agricultural Councils in September, the participants proposed an alternative land reform law which left private property untouched<sup>73</sup>. The bazaar merchants offered their support to the landowners because they feared that land reform was only the first stage of a broad attack on private property by the revolutionary authorities. But, the most serious for the government was the opposition of prominent 'ulama'. The majority of the *fuqaha* on the Council of Guardians, who had been appointed by Khomeini on 19 February 1980<sup>74</sup>, were known to have strong reservation against the law. Some of them had close links with the bazaar merchants and the

<sup>70</sup> Ashraf, "State and Agrarian Relations", p. 301-302; Schirazi, *Islamic Development Policy*, p. 177.

<sup>71</sup> Bakhash, *The Reign of the Ayatollahs*, p. 203.

<sup>72</sup> Quoted in *Ibidem*, p. 204.

<sup>73</sup> *Ibidem*.

<sup>74</sup> David Menashri, *Iran: A Decade of War and Revolution*, New York, Holmes and Meier, 1990, p. 126.

landlords, but they were primarily motivated by the growing disorder and lawlessness in the country and what they considered to be a disregard of Islamic principles<sup>75</sup>.

A large segment of the '*ulama*' of the Qom and Mashhad theological centres opposed the restrictions on land ownership. One of the most prominent opponents of the Land Reform Law was Ayatollah Sayyed Mohammed Sadeq Ruhani of Qom. He explained his position to an assembly of people in the New Mosque of Qom in early March 1980<sup>76</sup>. He focused his criticism on the way the law had been passed, rather than on its content. He objected to the fact that the law had reportedly already been approved by the Revolutionary Council without having previously been examined by the *Maraji' at-taqlid* and the *fuqaha*. He asserted that a land reform of that type was contrary to Islam and that if it had indeed been approved by the Revolutionary Council, it was an offence (*jarm*) since the Revolutionary Council had been appointed for the interim period between the approval of the Constitution and the establishment of a National Assembly, had a limited authority and did not have the authority to take a perpetual decision on a public matter; and, in any case, the project of land reform, like all projects, had to be submitted to public opinion. He admitted that some confiscations of properties were legitimate. If the properties had been taken from other individuals by injustice and oppression or if they had been acquired through *riba*, the Islamic judge would take them and give them to persons who were entitled to get them. If they were public properties, they would be restituted to the public treasury. In any other case, the confiscations had to be implemented according to the *Shari'a*. He further stressed that according to the *Shari'a* even if somebody has committed thousands of crimes and even if he is an apostate, his properties remain his.

Ayatollah Ruhani also explained why he was opposed to the land reform project in a telegram addressed to the President of the Republic, Bani Sadr, who had said in a

<sup>75</sup> Bakhashi, *The Reign of the Ayatollahs*, p. 204.

<sup>76</sup> "*Tasvib-e eslahat-e arzi beh vasile-ye shura-ye enqelab jorm ast*" ("The approval of land reform by the Revolutionary Council is an offence"), *Ettela'at*, 16 Esfand 1358 [6 March 1980], p. 1-2.

television interview that the project was now in the phase of implementation<sup>77</sup>. He again focused his criticism on the procedural aspects, repeating his opinion that the Revolutionary Council did not have the right to approve it, and adding that it had not been given for consideration to the Council of Guardians [which by then had not been fully appointed yet] and that the Revolutionary Guide had not approved it. He asserted that the *Maraji' at-taqliq* had proclaimed that the project was contrary to the *Shari'a*, but he did not mention any name in particular. Moreover, he added that, in fact, the Revolutionary Council had not approved it. Indeed, by then, the project had only been approved by a commission of the Revolutionary Council, not by the Council in plenary session<sup>78</sup>.

After the approval of the Land Reform Law by the Revolutionary Council on 15 April 1980, Ayatollah Ruhani convened a press conference to explain his views on this law and on the question of land reform<sup>79</sup>. He asserted that he disagreed with the project of land reform, not because he was opposed to land reform, but because, according to him, this was not a reform, but corruption. "It is not a land reform to take away the land of somebody who has cultivated that land for years and has spent his life on it to give it to others". He stressed that he was not opposed to the idea of land reform, but his idea of land reform was limited to the dead lands which had been appropriated by some individuals in opposition to Islamic regulations: "In a situation where our nation has so much land ready [for cultivation]", the reforms must, according to Islamic regulations, affect the dead lands which "are more than what our nation needs" and of which one part is ready for cultivation. The state would give them to people and would also provide them with the tools of production. Some of the revenues from oil and other minerals

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<sup>77</sup> "*Ayatollah Ruhani ba ejra-ye tarh-e eslahat-e arzi mokhalefat kard*" ("Ayatollah Ruhani opposed the implementation of the land reform project"), *Ettela'at*, 23 Esfand 1358 [13 March 1980], p. 3.

<sup>78</sup> "*Taqsim-e zamin bain-e dehqanan az aval-e sal-e ayende aghaz mishavad*", *op. cit.* p. 2.

<sup>79</sup> "*Eslahat-e arzi bayad Islami bashad*" ("The land reform must be Islamic"), *Ettela'at*, 2 Ordibehesht 1359 [22 April 1980], p. 4.



should be allocated to agriculture to provide loans to the cultivators. "A nation which has so much wealth and so much capital should use them better"<sup>80</sup>.

He labelled as corruption a reform which would bring up the low class and make them rich at the expense of the rich. According to him, a policy which would consist of making the rich poor and everybody needy was contrary to Islam. He referred to what was happening in many places where it was not the big landlords who had appropriated large lands and registered them in their name who were deprived of their lands in the name of land reform, but "the helpless people, the poor and those who, with lots of troubles, cultivate a certain amount of land".

He did not criticise Reza Isfahani personally, saying that he did not have the right to judge him since he did not know him. He opposed his project because it was contrary to the Constitution and to Islamic regulations. According to the Constitution, all the laws which are implemented in the country must conform to the regulations of Islam, and it is the '*ulama*' who decide whether a law conforms to Islamic regulations or not. If Isfahani or President Bani Sadr himself said that the project was correct and they implemented it, they were guilty because the Constitution does not give them the right to decide themselves whether a project conforms to Islamic regulations or not. If they want to implement Islamic regulations according to their own opinion, according to the Constitution, they are criminal (*mojrem*)<sup>81</sup>.

<sup>80</sup> *Ibidem*. Cottam suggests that Ayatollah Ruhani was favourable to an extensive land reform in the 1960s, but he does not give any details about his views on the subject and the author was unable to check his source on this point. It is probable that, like Ayatollah Shari'atmadari (whom Cottam mentions in the same footnote), Ayatollah Ruhani expressed his support for a distribution of dead lands to the peasants (Richard W. Cottam, *Nationalism in Iran*, Pittsburgh, University of Pittsburgh Press, updated ed., 1979, note 13, p. 308; referring to *Bulletin-e Jabhe-ye Melli-ye Iran* [*Bulletin of the National Front of Iran*], 15 October 1963).

<sup>81</sup> "*Eslahat-e arzi bayad Islami bashad*", p. 4. During this press conference, Ayatollah Ruhani made clear that he was opposed to the separation of religion from politics and to the idea that the '*ulama*' should confine themselves to the problems related to the relations between men and God and leave the relations between individuals to the National Assembly. According to him, this attitude would lead to oppression.

Grand Ayatollah Qomi-Tabataba'i of Mashhad and Grand Ayatollah Golpaygani of Qom also announced their opposition to the land reform project<sup>82</sup>. Grand Ayatollahs Shari'atmadari and Mar'ashi-Najafi issued *fatawa* supporting the sanctity of private ownership<sup>83</sup>. Even Grand Ayatollah Khu'i, the *Marja' at-taqlid* of Najaf, issued a *fatwa* condemning as anti-Islamic the land expropriations perpetrated in North-Western Iran<sup>84</sup>. Ayatollah Baha'oddin Mahallati, one of the leading '*ulama*' of Shiraz, issued a *fatwa* declaring that the law "contains provisions which are in clear contradiction to the criteria of Islam, to Ja'fari [Shi'i] *fiqh*, and to the consensus of '*ulama* of both early and late times" and pronounced it forbidden to implement this law<sup>85</sup>. Ayatollah Abdollah Shirazi of Mashhad similarly proclaimed that "numerous provisions of the law are contrary to the essential bases of Islam, the Ja'fari school, the practice of the Prophet and the Twelve Imams, and the view of all the jurists of Islam"<sup>86</sup>.

In September 1980, twenty professors of theology from the Qom Seminary sent an open letter to the *Majles* which raised two crucial objections against Clause C (*Band-e Jim*) of the Land Reform Law (that is the clause dealing with the lands of the big landlords). First, they argued that it was in opposition to the Islamic principle of ownership and the edicts of prominent religious authorities, including Ayatollah Khomeini. Second, they invoked economic arguments and claimed that its implementation would "ruin the [cultivated] lands and create diffidence in the farmers and lead to the bankruptcy and backwardness of the agricultural sector at a time when

<sup>82</sup> Beheshtipur, "*Cheh kasani ba eslahat-e arzi mokhalefat mikonand*", p. 4; Bakhash, *The Reign of the Ayatollahs*, p. 204; Rahnema and Nomani, *The Secular Miracle*, p. 248.

<sup>83</sup> Ashraf, "State and Agrarian Relations", p. 295.

<sup>84</sup> Shahrough Akhavi, "Elite Factionalism in the Islamic Republic of Iran", *Middle East Journal*, vol. 41, n. 2, Spring 1987, p. 191.

<sup>85</sup> *Ummat (The Community)*, 4 Esfand 1359 [23 February 1981]; quoted in Hamid Algar, "Social Justice in the Ideology and Legislation of the Islamic Revolution of Iran", in *Social Legislation in the Contemporary Middle East*, ed. by L. Michalak and J. Salacuse, Berkeley, University of California, Institute of International Studies, Research Series, No 64, 1986, p. 43.

<sup>86</sup> *Ibidem*.

there [was] a need for self-sufficiency for termination of Iran's dependence on the United States of America"<sup>87</sup>.

Among the ruling clergy, the leading opponents of the Land Reform Law were Ayatollah Rabbani-Shirazi, a member of the Council of Guardians, Ayatollah Mohammed Mohammadi-Gilani, the chief justice of Tehran's revolutionary tribunal, Ayatollah Mohammed Yazdi, the future deputy speaker of the *Majles* and later Chief Justice, and Ayatollah Nasser Mokarem-Shirazi, the editor of the monthly journal *Maktab-e Islam* (*The School of Islam*)<sup>88</sup>.

On the other hand, the law received the approval of President Bani Sadr<sup>89</sup>, of Ayatollah Mahdavi-Kani, the Minister of Interior and a member of the Revolutionary Council<sup>90</sup>, and of Ayatollah Musavi-Ardebili, the Prosecutor General<sup>91</sup>. According to Ashraf, the main supporters of the law were the radical members of the new ruling elite, including a tiny segment of the ruling clergy, and the young college and high school graduates serving in *Jihad-e Sazandegi*<sup>92</sup>.

To the opponents of his project, Isfahani replied that it had been prepared by taking into account the "views of Islam" and in consultation with important *modarressin* (teachers) of the 'Alamiyyeh Seminary of Qom such as Ayatollahs Montazeri and Meshkini, and that it had been approved by the Revolutionary Council "which is the legal organ with the approval of the Imam". Therefore, he concluded that opposition to the project amounted to opposition to the state. He recalled that before being approved by the Revolutionary Council, the project had been signed by Ayatollahs Montazeri,

<sup>87</sup> Quoted in Ashraf, "State and Agrarian Relations", p. 301. This letter was published in *Kayhan* on 10 September 1980.

<sup>88</sup> *Ibidem*, p. 300-301.

<sup>89</sup> "Taqsim-e zamin bain-e dehqanan az aval-e sal-e ayende aghaz mishavad", p. 2.

<sup>90</sup> "Taqsim-e zamin bayad anjam shavad" ("Land distribution must be implemented"), *Ettela'at*, 17 Farvardin 1359 [6 April 1980], p. 2.

<sup>91</sup> "Zaminha-ye mosadereh shodeh bain dehqanan taqsim mishavad" ("The Confiscated lands are distributed among the peasants"), *Ettela'at*, 11 Esfand 1358 [1 March 1980], p. 16.

<sup>92</sup> Ashraf, "State and Agrarian Relations", p. 300.

Meshkini and Beheshti, hence it could not be un-Islamic. He also stressed the fact that the committees which were to be charged with implementing the project would include a representative of the Islamic judge who would supervise the correct Islamic implementation of the project. He accused the "feudals" of labelling his project as communist in an attempt to create obstacles in the way of its implementation. To those who objected that his project would prevent the development of agriculture because the lands would be cut into pieces, he replied that the lands were to be given to the peasants in the form of *mosha'* on the condition that they do not break the land and that the cultivation does not decline<sup>93</sup>.

On 9 March 1980, *Ettela'at* had published an article entitled: "Which persons are opposed to land reform?" in which the author blamed the "feudals" for being the instigators of the riots which occurred on their lands and for making it look like that it was Isfahani's policy announcement which had caused them<sup>94</sup>. The author believed that the implementation of a true land reform was necessary to eradicate feudalism and to neutralise the roots of the uprisings in Kurdistan, Gonbad, Sistan and Baluchistan, and he advocated that the peasants should unite in councils, unions and associations to fight for the abrogation of "all the reactionary laws adopted before the decision taken by the Revolutionary Council in *Aban* of last year [October-November 1979, that is the announcement of a land reform and of measures to fight feudalism]" and "more importantly to take from the landlords what they have taken from the peasants through killings and pillage and the lands that they do not cultivate or prevent the peasants from cultivating, to judge them and to impose upon them the most severe punishment in order to teach a lesson to others". He stressed the fact that, contrary to what was done under the land reform of the former regime, under the Islamic land reform which had been approved by the Revolutionary Council, the land would be given free to the peasants, the government would help them with technical and financial assistance to develop these lands and the implementation of the programme would be carefully monitored by the responsible authorities.

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<sup>93</sup> "*Tarh-e eslahat-e arzi ba qate 'iyat piyadeh khvahad shod*", *op. cit.*, p. 12.

<sup>94</sup> Mehdi Beheshtipur, "*Cheh kasani ba eslahat-e arzi mokhalefat mikonand*", *op. cit.*, p. 4.

To the '*ulama*' who opposed the land reform project, in particular Ayatollah Ruhani and Grand Ayatollah Qomi, he responded with the Constitutional argument that the land reform law had been approved in accordance with Article 44 of the Constitution. He criticised these eminent '*ulama*' for mixing the religious matters (*haq 'Allah*, the right of God) and the worldly matters (*haq al-nas*, the right of the people) and asserted that for the Shi'as, these two spheres had been separated since the time of the Great Occultation, the former being the realm of the *faqih*, the latter being under the control of the holders of power (*ahl al-hal wa al-'aqd*) or in today's terminology: the government<sup>95</sup>. He reminded them that in the first Iranian Constitution of 1906, the clergy had agreed that the National Assembly would play the role of the holders of power, and that the clergy played a dominant role in the Assembly of Experts which wrote the new Constitution of the Islamic Republic of Iran. Then, he added that since politics and economics belong to the sphere of worldly matters and since the first condition of the basis of economics is centralism, it is not acceptable that a voice comes from every corner of the country and every mosque to issue an economic *fatwa*. He used against them the argument that according to the Constitution, only the Council of Guardians has the right to issue an opinion on the compatibility of a project with Islamic regulations. If every mosque had the right to issue an economic judgement, the economic order of the country would disintegrate since one mosque could reject the judgement issued by another mosque. This is why the economic problems of the country are the responsibility of the "*Majles*, the state and the President of the Republic" and they do not have the right to give to others than the responsible authorities the right to take decisions. The decisions that the legislative power takes and which are approved by the Council of Guardians must be implemented by the State. He added that these '*ulama*' were not knowledgeable about the Land Reform Law and that they were under the influence of the feudals and counter-revolutionaries. He further maintained that they should not intervene to give permission to those people whose interests would be endangered by the

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<sup>95</sup> This was indeed the traditional position among the Shi'i clergy, but it had been contested by Ayatollah Khomeini when he developed the doctrine of the *velayat-e faqih*.

implementation of the Land Reform Law to create disorder; on the contrary, they should do all what they can to help the peasants<sup>96</sup>.

#### 4. Implementation of the Land Reform Law

By the time the Implementation Regulations of the Land Reform Law were approved by the Revolutionary Council on 21 May 1980, Seven-Person Committees had already been set up in most provinces without waiting for instructions from Tehran<sup>97</sup>. However, some regions affected by uprisings against the central government faced difficulties when trying to establish these committees. For example, following a trip to Sanandaj at the end of May, Mas'ud Khvansari, the representative of the Ministry of Agriculture in the Central Staff established to supervise the implementation of the law, admitted that it was not possible to set up a committee in that district of Kurdistan and that security had to be established first. He estimated that this would take about one month, after which a committee could be formed and land distribution could proceed<sup>98</sup>. Two weeks later, Khomeini's representative in the Central Staff, Hojjatolislam Mohi'oddin Fazel-Harandi<sup>99</sup>, announced in an interview with a journalist from *Ettela'at* that Seven-Person Committees had been formed in all provinces except Chaharmahal, Kahkiluyeh, Mazandaran and Khorasan, and that the committees were busy taking statistics of the different types of land subject to the Land Reform Law. After this task was completed, the Central Staff would send inspection committees to the provinces to supervise the beginning of the land transfers. He believed that this would probably be decided at the end of the following week and that land distribution would then start<sup>100</sup>.

<sup>96</sup> Mehdi Beheshtipur, "*Cheh kasani ba eslahat-e arzi mokhalefat mikonand*", p. 4.

<sup>97</sup> "*Tarh-e eslahat-e arzi ba qate 'iyat piyadeh khvahad shod*", p. 12.

<sup>98</sup> "*Taqsim-e zamin dar Kurdistan beh zudi aghaz mishavad*" ("Land distribution will start soon in Kurdistan"), *Ettela'at*, 10 Khordad 1359 [31 May 1980], p. 2.

<sup>99</sup> Mohi'uddin Fazel-Harandi is a *mujtahid* born in the province of Isfahan in 1934 who taught at Qom Seminary before the Revolution. After the Revolution, he worked as an Islamic judge in Na'in and Zahedan and was sent to investigate the situation in Kurdistan (*A Description of the Majles*, p. 254-255).

<sup>100</sup> "*Taqsim-e zamin az hafte-ye ayende aghaz mishavad*" ("Land reform will start from next week"), *Ettela'at*, 24 Khordad 1359 [14 June 1980], p. 2.

However, in subsequent interviews, Harandi revealed that the distribution of lands in accordance with the Land Reform Law only started in September 1980<sup>101</sup>. By then, thirty-six Seven-Person Committees had been formed throughout the country, and each of them had formed six or seven investigation teams, which were composed of five persons including one cleric and assumed the tasks of the Seven-Person Committees in the places where committees had not been formed<sup>102</sup>. The only province which, by then, did not have a committee was that of Ilam on the Iraqi border due to the outbreak of the war<sup>103</sup>. In accordance with the agricultural and political conditions, some provinces had formed more committees than others<sup>104</sup>. This was especially true in Mazandaran which counted 26 investigation teams in the district of Sari, 18 in Gonbad and 10 in Gorgan, whereas the whole province of Baluchistan had only four<sup>105</sup>. Harandi explained that for the dead lands close to the villages, priority was given to the landless peasants and the peasants with little land, whereas the dead lands further away from villages were transferred to volunteers interested in working in agriculture<sup>106</sup>. He also asserted that the recipients could not belong to any political group and had to have a good reputation<sup>107</sup>.

<sup>101</sup> By the end of August, no land had been distributed anywhere (*"Beh keshavarzan, diplomehha-ye bikar va karmandan-e mazad bar ehtyaj-e dawlat zamin vagozar mishavad"* ["Land is being transferred to peasants, unemployed graduates and employees in excess of the need of the state"], *Ettela'at*, 6 Shahrivar 1359 [28 August 1980], p. 2). By mid-September, 50,000 ha had been transferred in Shiraz and land had also been transferred in Qom (*"Zaminha-ye mawat dur az rostaha beh dawlataban-e keshavarzi vagozar mishavad"* ["Dead lands far from the villages are being transferred to agricultural volunteers"], *Ettela'at*, 22 Shahrivar 1359 [13 September 1980], p. 6).

<sup>102</sup> *Ibidem*.

<sup>103</sup> *"Taqsim-e 'adelane-ye zamin beh sor'at anjam mishavad"*, p. 7.

<sup>104</sup> *"Hayatha-ye vagozari-ye zamin cheh mikonand?"* ("What do the Land Transfer Committees do?"), *Ettela'at*, 22 Dey 1359 [12 January 1981], p. 9.

<sup>105</sup> Hourcade, "The Land Question and Islamic Revolution in Iran", p. 143.

<sup>106</sup> *"Zaminha-ye mawat dur az rostaha..."*, p. 6.

<sup>107</sup> *"Beh keshavarzan, diplomehha-ye bikar..."*, p. 2.

In an interview which he gave in November 1980, Khvansari stressed that the aim of the land reform was not merely to distribute land because if nothing else was done, the peasants would soon leave the land and go to the towns. While distributing land could be a very simple task, for the project to succeed in the long term, it had to be implemented in a very well considered manner. He asserted that the committees were working hard to educate the peasants to agree to form *mosha'* and work collectively. He believed that when the "cultural problem" would be solved, which he admitted was not an easy task, there would be no other problems since the peasants would be happy to work in the *mosha'* and there would not be any litigation. With the budget of 4 million *toman* that the government had set aside to assist the recipients of land, motor pumps and tractors had been bought, as well as seeds and fertilisers<sup>108</sup>. They would be distributed soon by the Seven-Person Committees.

In practice, uncertainty, legal confusion and disparity reigned in the countryside, and the way the law was implemented was dependent on the relative power in each region of the landlords, the peasants and the Land Transfer Committee and on the opinions of the local '*ulama*'. The Seven-Person Committees saw themselves as the champions of the cause of the poor peasants. There were many reports of committees exceeding their mandate, acting arbitrarily, and tampering with small agricultural enterprises. When offsetting the owners' religious debts against the price of the land taken from them, some committees set the debts so high that the owners did not get any compensation<sup>109</sup>. Already in December 1979, unauthorised seizures of lands by semi-official committees and revolutionary organisations had been reported in Gonbad and in the districts bordering on the Caspian Sea where the left was active, such as Nawshahr, Ramsar and Chalus. After the law was approved, revolutionary organisations in some places had formed Land Transfer Committees and began distributing land before instructions from Tehran had arrived<sup>110</sup>. The Seven-Person Committees got also involved in setting up Islamic village councils and in instructing the rural population in the principles of Islam<sup>111</sup>. According to Ashraf, the committees were in fact dominated by

<sup>108</sup> *Taqsim-e 'adelane-ye zamin beh sor'at anjam mishavad*, p. 7.

<sup>109</sup> Schirazi, *Islamic Development Policy*, p. 178.

<sup>110</sup> Bakhash, *The Reign of the Ayatollah*, p. 203.

<sup>111</sup> Schirazi, *Islamic Development Policy*, p. 162-163.



their staff, who were dedicated and religiously-oriented high school and college graduates who often were also members of *Jihad-e Sazandegi*<sup>112</sup>.

*Jihad-e Sazandegi* is a revolutionary organisation which had been set up in June 1979 in order to mobilise the Islamic forces to cooperate in development programmes in the rural areas. On 17 June 1979, Ayatollah Khomeini had called on "all the classes of the people to take part in this movement, to unite in order to begin this holy struggle for construction" and he had emphasised that according to the *Shari'a*, such cooperation was more meritorious than the pilgrimage to Mecca<sup>113</sup>. Its charter defined *Jihad-e Sazandegi* as an organisation concentrating mainly on rural improvement work. However, in the following years, it was to add to this many other tasks and to encroach on the responsibilities of other administrative organs<sup>114</sup>. This revolutionary organisation strongly supported the Land Reform Law. A declaration issued at the end of a three-day seminar of its agricultural committees held in April 1980 urged the responsible authorities to bring it to the stage of implementation as soon as possible<sup>115</sup>.

However, an important problem hindering the implementation of the Land Reform Law was that in some places, no cleric wanted to collaborate with the Seven-Person Committees. For example, in the troubled atmosphere of Fars province, it had been difficult to find a cleric who would come and collaborate with the members of the Land Transfer Committee. The leading Ayatollah in Shiraz, Ayatollah Dastgheib, who

<sup>112</sup> Ashraf, "State and Agrarian Relations", p. 299.

<sup>113</sup> Quoted in Schirazi, *Islamic Development Policy*, p. 148.

<sup>114</sup> In the 1980s, it first took control of the construction of village schools, the building of country roads, the procurement and distribution of tractors and pesticides, then it extended its authority over rural industries, started literacy programs, and even fulfilled military tasks. It encroached so much on the domain of the Ministry of Agriculture, by taking control of land reclamation, irrigation projects, animal husbandry and the fishing industry, and by setting up rival organisations at the village level, that after its transformation into a Ministry in 1984, the government envisaged merging the two (see Schirazi, *Islamic Development Policy*, p. 148-155).

<sup>115</sup> "*Ejra-ye sari'-e tarh-e jadid-e eslahat-e arzi-ye Islami khvaste shod*" ("A prompt implementation of the new Islamic land reform project is wanted"), *Ettela'at*, 28 Farvardin 1359 (17 April 1980), p. 10.

supported the Land Reform Law, had appointed one person, but the nominee had refused this appointment because of other duties. Another representative was only appointed in February 1981<sup>116</sup>.

*Keshavarz-e emroz* which from its seventeenth issue changed its name to *Barzgar* (*The Cultivator*) later claimed that in 1980, it was the only publication which attracted attention on the dangers threatening agricultural production and animal breeding because of the incorrect implementation of land reform. It carried articles on the chaotic land distributions taking place, sometimes of lands not exceeding 10 ha, and focused on what it perceived as its impact on agricultural production, including a drastic reduction of the production of cotton, the country's main agricultural export. However, the journal was criticised as a "supporter of the feudals" and was forced to moderate its stances. The editors of the journal maintained that they informed Isfahani that some Seven-Person Committees were not respecting the law, but that he did not believe them, accused them of protecting the "feudals", and refused to grant them an interview. They also asserted that when they printed the news that the Minister of Agriculture had announced that he wanted the Seven-Person Committees to be filtered of their bad elements, Salamati complained that they had given too much prominence to that news<sup>117</sup>.

In an interview that he gave at the end of August 1980, Harandi responded to the criticisms of the opponents of the law with the argument that deciding whether or not the Land Reform Law was Islamic was a question for the *fuqaha* and that since Ayatollahs Montazeri, Meshkini and Beheshti had approved it, he believed that there was no Islamic problem with it<sup>118</sup>. To support this assertion, he made a comparison with the question of the *velayat-e faqih* on which there was no agreement among the *fuqaha*. He admitted that un-Islamic acts had taken place in some regions and that he could not say that everything which was implemented was 100 % in accordance with the regulations.

<sup>116</sup> "*Tarh-e vagozari-ye zamin, ham jambe-ye qanuni darad va ham jambe-ye Shari'i*" ("The Land Transfer Project has a legal side and an Islamic side", *Ettela'at*, 27 Bahman 1359 [16 February 1981], p. 4.

<sup>117</sup> "*Ta'kid-iye dubareh bar ejra-ye daqiq-e qanun-e jadid-e eslahat-e arzi*" ("Reapproval of a careful implementation of the new law of land reform"), *Barzgar*, n. 109, 15 Esfand 1360 [6 March 1982], p. 3.

<sup>118</sup> "*Beh keshavarzan, diplomehha-ye bikar...*", p. 2.

However, the Central Staff considered itself duty-bound to investigate all the problems related to land transfer throughout the country and to eliminate any shortcoming which would be found. By August 1980, the committees had only carried out investigations, which were about to be completed. Nevertheless, some big landlords were sending every day letters and telegraphs to the authorities to complain about the Land Reform Law, while, at the same time, the deprived peasants who formed the majority of the population could not afford to send a telegram to express their deprivation. Harandi denied the rumour according to which Ayatollah Montazeri had changed his mind and withdrawn his support from the Land Reform Law and reported personally hearing him saying that the law must be implemented.

During this interview, a journalist asked Harandi whether the people who owned land subject to distribution under the Land Reform Law who were the followers of the *Maraji' at-taqlid* who had declared that this law was not in accordance with the *Shari'a* should be included in the implementation of the law. Harandi replied that if some '*ulama*' opposed the law, this was based on their own understanding of it. However, because of the existence of the *velayat-e faqih*, nobody could be exempted from the Islamic laws and regulations<sup>119</sup>.

Ayatollah Mohammed Saduqi, the leading '*alim*' in Yazd, used a similar argumentation. In reply to a question from the Land Transfer Committee of the province of Yazd in September 1980, he answered that since the Land Reform project had not been rejected by the office of Khomeini, no ordinary person had the right to oppose it. However, he ambiguously added that: "one should try not to exceed the limits of the law and not to request from the people things which are not allowed by the *Shari'a*". The Yazd Committee, which had been facing obstacles and hindrances in its work and evil comments propagated against it by its opponents, had requested his opinion in writing so that, armed with his *fatwa*, it could pursue its work with peace of mind<sup>120</sup>.

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<sup>119</sup> *Ibidem*.

<sup>120</sup> "*Ashkhas haq-e mokhalefat ha layehe-ye shura-ye enqelab dar mawred-e vagozari-ye zamin-ra nadarad*" ("Nobody has the right to oppose the project of the Revolutionary Council on the matter of land transfer"), *Ettela'at*, 9 Mehr 1359 [1 October 1980], p. 11. Ayatollah Saduqi's reply was dated 4 Mehr 1359 (26 September 1980).

By October 1980, according to their own statistics, the Seven-Person Committees had succeeded to transfer 150,000 ha of dead lands and 33,000 ha of cultivated, uncultivated and confiscated lands, and they had undertaken to transfer temporarily to the peasants over 800,000 ha of disputed lands<sup>121</sup>. They had established 4,300 *mosha'* which were the actual recipients of the lands<sup>122</sup>. They further claimed that their activities had resulted in establishing law and order in the villages, in reducing unrest and land struggle, and in extending the central government's authority over the countryside through the foundation of some 19,000 village Islamic councils and the expulsion of radical and leftist groups from the rural communities and their replacements by Islamic elements<sup>123</sup>. However, the numerous reports of peasants-landlord conflicts and rural unrest in 1980 provide evidence to the contrary. In fact, it appears that the work of the Seven-Person Committees stirred up tensions in many villages.

During the time that the Land Transfer Committees were busy trying to implement the Land Reform Law, the Islamic Republic of Iran achieved some important stages in its institutionalisation. After the approval of the new Constitution in the December 1979 referendum, an electoral law was written by the Revolutionary Council. The country was divided into 193 circumscriptions of unequal sizes. The city of Tehran was to have 30 representatives, Tabriz, the second-largest city in the country, would have six, Isfahan and Mashhad five representatives each, seven other large towns would have three representatives each, twenty-one medium-size towns would have two each, and the other circumscriptions would have only one representative. Five seats were reserved for representatives of religious minorities: two for the Armenians, one for the Assyrians and Caledonians, one for the Zoroastrians, and one for the Jews. Elections would be held in a two-round majority system (intended to preclude representation from small parties) in which electors would vote for as many candidates as there were seats in their circumscription. If no candidate received more than 50 % of the votes in the first

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<sup>121</sup> Ashraf, "State and Agrarian Relations", p. 299, referring to Central Staff and Seven-Person Committees for Land Transfer and Reclamation, *Karname-ye hasht maheh* (Eight-Month Report), 1360 [1981], p.5-6.

<sup>122</sup> Schirazi, *Islamic Development Policy*, p. 178.

<sup>123</sup> *Karname-ye hasht maheh*, p. 8, 10; quoted in Ashraf, "State and Agrarian Relations", p. 299.

round, the candidates who received the most votes would compete in the second round, with the number of contestants being twice the number of seats to be allocated. The electoral law provided that the eligible candidates must not be "suspected of dishonesty or moral depravity" and that their "allegiance to the government of the Islamic Republic" must not be in doubt<sup>124</sup>. The elections were to be supervised in each district by an executive committee composed of the local governor, five clerics, one representative of the Ministry of Justice, one of the Ministry of Education and one from the Office of Registration of Documents and Estates, who would review and investigate the applications and issue a list of those which had been approved<sup>125</sup>.

The elections for the First *Majles* were held in two rounds in March and May 1980. The IRP and its allies won the majority of seats owing to a screening of candidates which had removed many of their adversaries and to the post-electoral disqualification of some prominent independents such as Admiral Madani and Khosrow Qashqa'i, a leader of the Qashqa'i tribe<sup>126</sup>.

On 17 July, the *Majles* appointed six members to the Council of Guardians. The next day, the Revolutionary Council was dissolved, marking the end of the transitional period. The following day, the *Majles* voted to change its name from National Consultative Assembly as provided by the Constitution to Islamic Assembly<sup>127</sup>. The new Prime Minister was not appointed until early August because President Bani-Sadr and the IRP could not agree on a candidate. Mohammed Ali Raja'i, who was finally chosen, came from a poor social background and was a protégé of Beheshti and Bahonar. After he was approved by the *Majles*, he clashed with Bani-Sadr about the appointment of the

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<sup>124</sup> Asghar Schirazi, *The Constitution of Iran: Politics and the State in the Islamic Republic*, translated from the German by John O'Kane, London and New York, I.B. Tauris, 1997, p. 86.

<sup>125</sup> Bahman Baktiari, *Parliamentary Politics in Revolutionary Iran: The Institutionalization of Factional Politics*, Gainesville, University of Florida Press, 1996, p. 65.

<sup>126</sup> Sepehr Zabih, *Iran Since the Revolution*, Baltimore, The Johns Hopkins University Press, 1982, p. 66-68, p. 105.

<sup>127</sup> According to Schirazi, this was done on the order of Khomeini (Schirazi, *The Constitution of Iran*, note 25, p. 20).

cabinet. While the President wanted a cabinet of experts, he held the view that piety and revolutionary credentials were more important qualifications. Part of the cabinet was appointed in September, but a number of key ministries were left vacant for several months. In particular, no Minister of Foreign Affairs was appointed until Bani Sadr's dismissal in June 1981. Most of the new ministers were lower-rank bureaucrats who had risen to prominence as a result of the Revolution and were protégés of IRP officials<sup>128</sup>. The new Minister of Agriculture, Mohammed Salamati was like Raja'i a member of the Organisation of the *Mujahidin* of the Islamic Revolution, a coalition of Islamic guerilla forces loyal to Khomeini. Both men belonged to a radical faction which ranked social justice high on its list of priorities and supported the imposition of limitations on property and a greater degree of government intervention in the economic sphere<sup>129</sup>. When he presented his cabinet to the *Majles*, Raja'i set the redistribution of wealth as the principal goal of his government<sup>130</sup>, and the agricultural programme of the government which was released in September mentioned the continuation of the implementation of the Islamic Land Reform as a fundamental task<sup>131</sup>. Moreover, Salamati announced that under his leadership, ideology would take precedence over technical expertise<sup>132</sup>.

### 5. The Suspension of "*Band-e jim*" (Clause C)

On 20 October 1980, Ayatollah Rabbani-Shirazi, a member of the Council of Guardians and Khomeini's representative in Shiraz, announced that "in the current circumstances, in order to prevent opposition and disaccord", Khomeini had ordered land transfers to be temporarily stopped. He added that it had been decided that, pending a decision by the *Majles* on that question, the people who cultivated a piece of land the previous year would be left free to cultivate it during the current year and that if there

<sup>128</sup> Bakhash, *The Reign of the Ayatollahs*, p. 106-109.

<sup>129</sup> Rahnema and Nomani, *The Secular Miracle*, p. 173, 214.

<sup>130</sup> Zabih, *Iran Since the Revolution*, p. 73.

<sup>131</sup> "*Zaminha-ye mawat dur az rostaha...*", p. 6.

<sup>132</sup> Schirazi, *Islamic Development Policy*, p. 109.

were some disagreements about the land or about the rent, they should be referred to the '*ulama*' in the towns to solve them in accordance with Islamic regulations<sup>133</sup>.

He later explained that it was after he had received reports from various places speaking of a decline in agricultural production resulting from the "incorrect" implementation of the Land Reform Law and of the need to import more agricultural produce that he went to see Ayatollah Khomeini<sup>134</sup>. He asserted that the people who implemented the law did not respect the order of priority provided by the law and started with the last category, that is the cultivated lands of the large landowners, which raised opposition among the villagers and led to an economic failure. He claimed that the law provided that the dead lands should be distributed first. However, the implementation regulations stipulated that first the confiscated lands, then the uncultivated lands of the large landowners should be distributed before the dead lands<sup>135</sup>. According to the statistics that he had in his possession, the importations of wheat had increased from 1,050,000 tonnes in 1357 (1978/79) to 1,400,000 tonnes in 1358 (1979/80), and then to 2 million tonnes in the current year (1359 or 1980/81). He concluded from this and other importation statistics that the production had decreased and he attributed this decline to the creation of conflicts in the villages following the start of the implementation of the Land Reform Law, which did not encourage the farmers to put much effort and attention into cultivating their lands since they did not know whether at the end of the year the land would still be theirs. He also claimed that the Seven-Person Committees which had been established in many places were in fact illegal because they had less than seven members, and in particular they did not include a representative of the Islamic judge for the reason that the clergy was recalcitrant about their work<sup>136</sup>.

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<sup>133</sup> "*Ettela'ye-ye Ayatollah Rabbani Shirazi dar bare-ye masale-ye vagozari-ye zamin*" ("Announcement of Ayatollah Rabbani-Shirazi about the question of land transfer"), *Ettela'at*, 1 *Aban* 1359 [23 October 1980], p. 9.

<sup>134</sup> "*Goroha-ye mokhtalef keshavarzi-ye ma ba shekast movajeh sakhtand*" ("Various groups confront our agriculture with failure"), *Barzgar*, n. 49, 22 *Azar* 1359 [13 December 1980], p. 1.

<sup>135</sup> Naimi, *Qamun-e eslahat-e arzi*, p. 198; see above, p. 191.

<sup>136</sup> "*Goroha-ye mokhtalef keshavarzi-ye ma...*", p. 3.

He asserted that in the first year after the Revolution, he had personally asked the Minister of Agriculture to implement a distribution of dead lands. Therefore, he had approved Clauses A and B of the Land Reform Law which he found "very advanced". However, he believed that Clause C (the clause dealing with the lands of the big landlords<sup>137</sup>), which he described as affecting "small lands", did not conform to Islam and to the Constitution, nor to the aim of self-sufficiency and non-dependence on foreign states. He referred to Article 3, Clause 12 of the Constitution according to which the government must "set up a correct and just economy according to Islamic principles in order to bring about welfare, eradicate poverty and eliminate all types of deprivations". He also asserted that instead of increasing the welfare of the society and making the poor rich, the Land Reform Law was making all the rich poor and a number of poor rich for a brief time. He added that saying that the government must provide everybody with the means of work (Article 43, Clause 2 of the Constitution) did not mean taking somebody's work to give it to another. He referred to the constitutional articles which guarantee the respect of private property (Articles 22, 44, 46 and 47). Moreover, he believed that taking over private properties was also against the spirit of the Constitution and against Islam. He adopted the position that since dead lands were plentiful, there was no reason to touch on the cultivated lands. He unrealistically asserted that putting under cultivation all the dead lands of the province of Khuzistan would be sufficient to meet all the needs of the country for agricultural products<sup>138</sup>.

A few days after Ayatollah Rabbani-Shirazi's announcement, the new Minister of Agriculture, Dr Mohammed Salamati, convened a press conference in which he gave a different version of the recent events. He explained that the previous week, he had also met with Khomeini and discussed with him the current and potential future problems

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<sup>137</sup> In the text of the Land Reform Law approved by the Revolutionary Council on 15 April 1980, Clause C dealt with the uncultivated lands of the big landlords while Clause D dealt with the cultivated lands. However, in the previous drafts of the law, both categories of lands came under Clause C (Naimi, *Qamun-e eslahat-e arzi*, p. 166, 170, 180). For this reason, in the subsequent discussions of the law, "*Band-e jim*" or "Clause C" would refer to both the cultivated and the uncultivated lands of the big landlords.

<sup>138</sup> "*Goroha-ye mokhtalef keshavarzi-ye ma...*", p. 3.



affecting the agricultural sector. Khomeini told him that he again conferred the power to take a decision on this matter to Ayatollahs Montazeri, Meshkini and Beheshti, and said that he would accept their common decision. Salamati informed these three '*ulama*' of Khomeini's order. They met with each other, discussed the question and agreed that "more care" should be exerted in the implementation of the law that they had previously approved. When he was informed of this, the Minister of Agriculture became confident that the work of land transfer and distribution should continue and he told the various units under his authority to continue their work, but to act with extreme care<sup>139</sup>.

In the first week of November, the Central Staff and the Seven-Person Committee published a declaration to deny the rumour which had spread that the Seven-Person Committees had suspended all their activities and to inform the farmers that, since Ayatollahs Montazeri, Meshkini and Beheshti had again approved the Land Reform Law, they would continue to carefully implement it<sup>140</sup>.

On 8 November, *Ettela'at* published an interview with three members of the Central Staff: Mas'ud Khvansari, the representative of the Ministry of Agriculture, Mahmud Nili, the representative of *Jihad-e Sazandegi* and Hassan Karimi-Yazdi, the representative of the Ministry of Justice<sup>141</sup>. Realistically, Khvansari recognised that implementing land reform was not an easy task which could not be accomplished in one month or in one year, or even in two years. By comparison with "other revolutions", he estimated that it would take "well over two to three years". Therefore, since the law had been implemented for only four months<sup>142</sup>, one could not expect dramatic results.

<sup>139</sup> "*Ejra-ye eslahat-e arzi-ye Islami edameh miyabab*" ("The Implementation of the Islamic Land Reform continues"), *Ettela'at*, 3 *Aban* 1359 [25 October 1980], p. 2.

<sup>140</sup> "*Aghaz-e taqsim-e arazi-ye keshavarzi bain-e keshavarzan-e bedun-e zamin*" ("Beginning of the distribution of agricultural land to landless peasants"), *Barzgar*, n. 44, 18 *Aban* 1359 [9 November 1980], p. 1.

<sup>141</sup> "*Taqsim-e 'adelane-ye zamin beh sor'at anjam mishavad*" ("The just land distribution is quickly being implemented"), *Ettela'at*, 17 *Aban* 1359 [8 November 1980], p. 7.

<sup>142</sup> According to him, the Seven-Person Committees were formed in mid-June (end of *Khordad*) and the law started being implemented from that time.

Mahmud Nili had recourse to the argument that since Khomeini had conferred the decision in the matter of land transfer to Ayatollahs Montazeri, Meshkini and Beheshti and since they had approved the Islamic Land Reform Law, in reason of the *velayat-e faqih*, there should not be any objection in the society about the Islamic character of the law and if there was any problem, they should be solved at the higher level in the seminaries. Hassan Karimi-Yazdi added that the people who opposed the law were against the *velayat-e faqih* and were ignorant "since the question of the *velayat-e faqih* is very simple and, in accordance with the *velayat-e faqih*, others must not have doubts"<sup>143</sup>.

In mid-November, in an announcement which was broadcast on radio and television, the Central Staff finally clarified the situation and informed the population that the implementation of Clause C (*Band-e jim*) of the Land Reform Law was suspended, but that the other clauses of the law would continue to be implemented<sup>144</sup>. To explain the new policy towards land to the Seven-Person Committees, they convened a seminar on the Method of Land Transfer<sup>145</sup>. This seminar, which was held at Sharif University in Tehran from 24 November, was attended by Beheshti, Salamati and Prime Minister Mohammed Ali Raja'i.

In an interview that was broadcast on radio and television, Ayatollah Beheshti, speaking in his capacity of President of the High Judicial Council, explained that the essence of the Land Reform Law was to transfer land to people who had the potential to cultivate but did not have land and that it was based on Article 43, Clause 2 of the Constitution according to which the government must provide the means of work for everybody who is able to work but lacks the means to do it. He asserted that it was in accordance with Islamic regulations since, on the basis of the *velayat-e faqih*, the Islamic government had the right to take over private properties if this was in the interest of the welfare of the people and its right was superior to the right of possession of their

<sup>143</sup> "*Taqsim-e 'adelane-ye zamin beh sor 'at anjam mishavad*", p. 7.

<sup>144</sup> "*Ejra-ye band-e jim-e qanun-e eslahat-e arzi motavaqqof shod*" ("The Implementation of Clause C of the Land Reform Law was suspended"), *Barzgar*, n. 46, 8 Azar 1359 [29 November 1980], p. 1.

<sup>145</sup> "*Seminar-e hayatha-ye 7 nafari dar mawred-e nahvah-ye vagozari-ye arazi*" ("Seminar of the 7-Person Committees about the method of land transfer"), *Barzgar*, n. 46, 8 Azar 1359 [29 November 1980], p. 1.

owners. However, Ayatollah Khomeini had ordered that "in the present conditions, more forces should be concentrated on implementing Clauses A and B". "The Imam did not oppose all the project, but he did not approve all its details". Therefore, the Seven-Person Committees would henceforth work to implement Clauses A and B and they would also be charged with making sure that during the current year no land would be left without cultivation. If some landowners continued to leave their land uncultivated, the Seven-Person Committees would take them over and put them under cultivation, in accordance with the regulations which had been approved by the Central Staff and confirmed by the High Judicial Council in September 1980<sup>146</sup>. These regulations provided that the landowners whose lands would be taken over would be paid a rent<sup>147</sup>.

In his speech delivered at the seminar on the Method of Land Transfer, Raja'i stressed the fact that the lands which had been acquired in illegal ways would still be confiscated and returned to their owners if they were known<sup>148</sup>. He affirmed that on the basis of Khomeini's order, the people who tried to hinder this process were "deviating". Then, he added that "if we are Muslim elements and believers in the Revolution, we must follow the opinion of the Imam, that is accept what the Imam has determined". He used in here the term *muqalad* which refers to the way Shi'i believers follow the opinion of a *Marja' at-taqlid*.

In an interview that he gave in January 1981, Ayatollah Montazeri also asserted that *Band-e jim* came under the authority of the *velayat-e faqih* and that it was not against the *Shari'a*. However, he added that because the opponents of *Band-e jim* were saying that it was harming the situation of agriculture in the country and because the responsible authorities did not want this to happen, they decided to suspend its implementation and wait until the *Majles* took a decision on the matter. He stressed that

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<sup>146</sup> *Ibidem*.

<sup>147</sup> "*Tarh-e vagozari-ye zamin, ham jambe-ye qamuni darad va ham jambe-ye Shari'i*" ("The Land Transfer Project has a legal side and an Islamic side", *Ettela'at*, 27 Bahman 1359 [16 February 1981], p. 4.

<sup>148</sup> "*Bena beh nazar-e Imam momana'at az taqsim-e zaminha-ye bozorg yak mu'-e en'arafast*" ("On the basis of the view of the Imam, hindering the distribution of the big lands is a type of deviation"), *Ettela'at*, 4 Azar 1359 [25 November 1980], p. 4; "*Seminar-e hayatha-ye 7 nafari dar mawred-e nahvah-ye vagozari-ye arazi*", p. 2.

Clauses A and B of the Land Reform Law would continue to be implemented, and especially Clause A which stipulated that the government must provide people with possibilities to put dead lands under cultivation. He added that there was no need to have recourse to the doctrine of the *velayat-e faqih* to justify the confiscation of lands which had been acquired in a *haram* way since that was provided in Islamic *fiqh* and in the Constitution<sup>149</sup>.

Harandi also resorted to the argument of the *velayat-e faqih* and applied it both to the adoption of *Band-e jim* and to its suspension. He asserted that until the *vali-ye faqih* ordered to suspend it, its implementation was legal and Islamic, but after his order, the government, following the principle of the *velayat-e faqih*, decreed its suspension<sup>150</sup>. As a proponent of this clause, he believed that the farmers who had hoped to become landowners were discouraged by its suspension. However, as a "follower of the *velayat-e faqih*", he was forced to admit that the Revolutionary Guide took the right decision since if he had not given this order, in the current circumstances, "the problems which were harming the nation would have reached higher levels". To the important question as to whether in an Islamic state people should work in accordance with the law or with the *fatawa* of the '*ulama*', he replied that the executors of the law, who were state employees, must "implement it under the opinion of the *velayat-e faqih*", they must follow the opinion of the Revolutionary Guide or of the people appointed by him to take a decision in the matter. He thus considered that the *vali-ye faqih* was above the law. However, he did not extend this privilege to the other *fuqaha*. He asserted that since the law had been approved by the Revolutionary Council and by three just *mujtahidin*, it was evidently legal and Islamic (*Shar'i*) and other clerics did not have the rights to declare it un-Islamic and to prohibit its implementation.

An article written by the Central Staff to explain their work and to respond to accusations branded against them, which was published in *Ettela'at* on 12 January 1981, presented the Land Reform Law as "one of the most profound projects certified by the

<sup>149</sup> "*Band-e 'jim' dar tarh-e eslahat-e arzi khelaf-e shar' nabud*" ("Clause 'C' of the Land Reform Project was not in opposition to the *Shari'a*"), *Ettela'at*, 25 Dey 1359 [15 January 1981], p. 7, 11.

<sup>150</sup> "*Tarh-e vagozari-ye zamin, ham jambe-ye qamuni...*", p. 4.

*velayat-e faqih*"<sup>151</sup>. The authors of this article denied that the Seven-Person Committees had been distributing the lands of small farmers, although they admitted that it was possible that some mistakes had been made in the course of the implementation of the law. They stressed that what was important was that the Central Staff was making efforts to solve the problems. They had set up a unit to answer complaints and had sent groups to investigate the actions of the committees and to check on their proper implementation of the law. Moreover, they blamed the opponents of the law for misrepresenting its content and exaggerating the conflicts resulting from its implementation in order to serve their own interests. They claimed that it was not the law, but the landlords who were at the origin of the conflicts, and that other factors were responsible for the decline in production including the ethnic conflicts, drought<sup>152</sup> and the low price of agricultural produce. To those who argued that instead of distributing the cultivated lands of the big owners, one should distribute dead lands, they responded that putting more dead lands under cultivation in regions like Baluchistan (where dead lands were plentiful) would require the expenditure of large resources and the use of advanced technology, which was not possible in the current economic conditions. Besides, there were also water limitations and in regions like Qazvin, the possibility of making more use of the water table did not exist. Despite these restrictions, the Land Transfer Committees had distributed more than 150,000 ha of dead lands, particularly in the regions of Fars, Gorgan and Nawshahr. To those who objected that the Seven-Person Committees were illegal because they did not include a representative of the clergy, they replied that this problem only affected three or four committees and were due to specific reasons<sup>153</sup>, not to a general opposition of the clergy to the law. On the contrary, the clerical members of the committees, inspired by the progressive laws of Islam and by their personal sense of Islamic duty, were working hard day and night to make the work of the committees

<sup>151</sup> "*Hayatha-ye vagozari-ye zamin cheh mikonand?*", *op. cit.*, p. 9.

<sup>152</sup> Ayatollah Rabbani-Shirazi, however, asserted that the statistics from the meteorological organisation showed that there had not been a rainfall shortage ("*Goroha-ye mokhtalef keshavarzi-ye ma...*", *op. cit.*, p. 3).

<sup>153</sup> Harandi considered that the absence of a representative of the Islamic judge in some committees, for example in Fars, was not a problem as long as the committees were

progress. Finally, to those who argued that the law was contrary to the Constitution, they replied that it was inspired by the "spirit of the Constitution" and they referred in particular to Articles 43, 46, 47 and 49<sup>154</sup>.

Although *Ettela'at* had supported the idea of radical land reform, it did not publish any article criticising the suspension of *Band-e jim* at the time when it was suspended, presumably because the editors did not dare to criticise a decision taken by Ayatollah Khomeini himself. Instead, the newspaper focused on the fact that the activities of the Seven-Person Committees would continue and presented this as "good news"<sup>155</sup>. It was only in February 1981 that the newspaper published an article on the "dangerous consequences" of this decision under the heading: "With the suspension of *Band-e jim*, the plots of the [land] owners have intensified"<sup>156</sup>. This article had been prompted by a serious incident in the village of Shirabad in the district of Bojnurd (Northern Khorasan), two weeks earlier, when a peasant-landlord conflict had culminated in the hanging of the representative of the peasants in the local Seven-Person Committee by the landlord's men. The poor peasant had been rescued by other villagers. However, the incident had not been investigated by the local authorities. The victim and another member of the committee went to Tehran to ask for justice. Following this incident, the author of the article affirmed that "the suspension of *Band-e jim* has reached a dangerous stage". He asserted that the suspension of this clause had given fresh vigour to the feudals who interpreted the silence of the responsible authorities in the face of the requests of the peasants as a support for themselves. As a consequence, they increased their activities and continued their exploitation of the villagers and their plots against them in a more open way.

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only carrying out investigations and putting under cultivation the lands that their owners left uncultivated (*"Tarh-e vagozari-ye zamin, ham jambe-ye qamuni"*, p. 4).

<sup>154</sup> *"Hayatha-ye vagozari-ye zamin cheh mikonand?"*, p. 9.

<sup>155</sup> *"Taqsim-e 'adelane-ye zamin beh sor 'at anjam mishavad"*, *op. cit.*, p. 7.

<sup>156</sup> *"Malekin namayende-ye rosta'iyān-e mostaz'af dar hayat-e haft nafare-ye Bojnurd-ra beh dar avikhtan"* ("The owners hanged the representative of the oppressed peasants in the Seven-Person Committee of Bojnurd"), *Ettela'at*, 20 Bahman 1359 [9 February 1981], p. 14.

### **Conclusion: The Use of the Argument of the *Velayat-e faqih* to Justify Land Reform**

As long as Khomeini had tacitly approved the Land Reform Law, it had been easy for the proponents of the law to justify it with the argument of the *velayat-e faqih*. Nobody in the Islamic Republic of Iran could object to the principle of the *velayat-e faqih* without putting himself or herself into a dangerous position. There was therefore no need to enter into a detailed discussion of Islamic law. However, the argument of the *velayat-e faqih* was a two-edged sword. Once Khomeini had decreed that the implementation of the law should be stopped, it was turned into a weapon for the opponents of the law and it became very difficult for its proponents to keep supporting it.

This use of the argument of the *velayat-e faqih* in the debates about land reform illustrates the adaptability and the flexibility of the concept. It is indeed the role of the Shi'i *mujtahidin* to interpret Islamic law in the context of the circumstances of the time. However, if the concept is so flexible that it can justify a measure and its cancellation, one could question its usefulness as a governing tool, as well as the competence of the *faqih*. A secular leader would similarly take the decisions which are required by the circumstances of the time. Moreover, the fact that Khomeini deferred twice to others the power of decision in this matter shows that he did not want to be personally involved in the debates over a controversial subject, which put under question the usefulness of his position and his own capacity to act as a supreme arbitrator.

Besides, the agrarian and social situation of Iran did not change between April and October 1980. If Khomeini did not foresee what was going to happen, then he was out of touch with the reality. The only major change during that period was the Iraqi invasion of Iranian territory on 22 September which made it unwise for the government to inflame internal discord. Algar believes that this was the major factor which justified the suspension of *Band-e jim*. The Iraqi attack, combined with the attempts of the United States and its allies to impose an economic blockade on Iran, was placing a great strain on the economy, including its rural sector. "It was therefore inopportune that so critical and controversial an issue as land redistribution be forced"<sup>157</sup>. However, another factor

<sup>157</sup> Algar, "Social Justice", p. 44.

appears to have played a more important role: the amount of opposition to the land reform on the ground of Islamic law<sup>158</sup>. This type of opposition from prominent '*ulama*' as well as from lower-ranking clerics was posing a dangerous threat to the legitimacy of the Islamic government, which the government could not afford to ignore. It is therefore likely that it would have acted in a similar way even if the Iraqi invasion had not occurred<sup>159</sup>.

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<sup>158</sup> Algar mentions "[Khomeini's] desire, wherever possible, to maintain consensus — or at least the appearance of it — in the religious establishment" as another factor explaining the suspension of *Band-e jim*, but gives it less importance (*Ibidem*).

<sup>159</sup> A decline in agricultural production resulting from the implementation of the law could have been another significant factor. However, this is difficult to assess due to the short time-span.



## Chapter 6: The Debates over Land Ownership and Land Reform in the *Majles* (1981-1982)

### 1. The Question of Land Reform after the Suspension of *Band-e Jim*

Following the suspension of *Band-e jim* in October 1980, the conflicts over land reform subsided. However, the uncertainty over the government's intentions regarding land ownership interfered with the process of agricultural production and caused a dramatic drop in production in some places<sup>1</sup>. In his speeches and interviews, Minister of Agriculture Salamati kept reminding everyone that as long as the situation of ownership had not been clarified and a quantitative limit had been set, it was not possible to draw agricultural plans<sup>2</sup>. In April 1981, he advised the Seven-Person Committees that until the question of ownership had been clarified, they should refer the cases of lands under contestation to the revolutionary courts to assess their situation<sup>3</sup>. Throughout 1981, in their declarations and newspapers interviews, many members of *Jihad-e Sazandegi* and of the Seven-Person Committees, as well as a significant number of *Majles* deputies, many from rural constituencies, called for a take-over of the large estates<sup>4</sup>. In mid-May 1981, one hundred and one members of the *Majles* signed a letter addressed to Ayatollah

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<sup>1</sup> Bakhash, *The Reign of the Ayatollahs*, p. 206.

<sup>2</sup> For example: "*Ta takalif-e malekiyat roshan nashavad barnameh rizi-ye keshavarzi momken nist*" ("As long as the duties of ownership have not been clarified, agricultural planning is not possible"), *Ettela'at*, 17 Farvardin 1360 [6 April 1981], p. 2; "*Keshavarzan motma'en bashand 'adalat-e Islami dar rostaha bar qarar khvahad shod*" ("The peasants should be confident that Islamic justice will be established in the villages"), *Ettela'at*, 24 Mordad 1360 [15 August 1981], p. 3.

<sup>3</sup> *Ta takalif-e malekiyat roshan nashavad...*, p. 2.

<sup>4</sup> Bakhash, *The Reign of the Ayatollahs*, p. 205, and notes 23-24, p. 260.

Khomeini in which they requested that he used his authority as *vali-ye faqih* and decreed the reinstatement of *Band-e jim*<sup>5</sup>.

In contrast with the restraint which it had adopted in the second half of 1980 after the suspension of *Band-e jim*, in 1981, *Ettela'at* strongly supported land reform. For example, an article published in September 1981 described the text of the April 1980 Law as "one of the most important and most vital plans which must be adopted"<sup>6</sup>. In March 1981, the newspaper published an article in which the author asserted that it was not the Land Reform Law which was against Islam, but its suspension since the law had received the approval of Ayatollahs Montazeri and Meshkini and of Ayatollah Khomeini himself, ignoring the fact that it was Khomeini who had decreed its suspension<sup>7</sup>. Throughout the year, *Ettela'at* gave prominence to the news related to the question of

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<sup>5</sup> This letter was printed in *Ettela'at*, 26 *Ordibehesht* 1360 [16 May 1981], p. 9. McLachlan reports that three days earlier Isfahani had expressed the opinion that Khomeini should either enforce himself a solution of the land reform problem or nominate the *Majles* to do so, which suggests that he took the initiative of writing the letter (Keith McLachlan, *The Neglected Garden: The Politics and Ecology of Agriculture in Iran*, London, Tauris, 1988, p. 210). However, the reference that he gives for this (*Ettela'at*, 13 May 1981), is wrong. It is nevertheless possible that Isfahani who was the Chairman of the Agricultural Commission of the *Majles* at the time (see below), took the initiative of the letter. *Ettela'at* printed the names of the signatories of the letter in alphabetical order and did not give any indication on the context of its writing. See below p. 242-247 for further analysis and Appendix 1 for the names of the signatories.

<sup>6</sup> "*Miatn-e kamel-e layeh-e eslalat-e arzi-ye Islami taqdimi beh hayat-e dawlat*" ("Complete text of the Islamic Land Reform Bill presented to the Council of Ministers"), *Ettela'at*, 18 *Shahrivar* 1360 [9 September 1981], p. 11.

<sup>7</sup> Gholam-hosseini Tavakkoli, "*Tavaqqof-e band-e 'jim*", *zaminehsaz-e kharabkari-ye gorohekha*" ("The Suspension of Clause 'C', the ground for the destruction of small groups"), *Ettela'at*, 18 *Esfand* 1359 [9 March 1981], p. 10.

land reform and, in particular, to the progress of the related bills within the state institutions<sup>8</sup>.

On the other hand, *Barzgar*, whose editorial staff were opponents of land reform, refrained from publishing any news about land reform in 1981 in order not to be accused of protecting the "feudals" and not to create more "convulsions". The journal only broke its silence the week after the approval of the generalities of a new land reform project by the *Majles* in March 1982. Its editors then claimed that after the suspension of *Band-e jim*, many photocopies were sent to them showing that, in spite of the official suspension of the distribution of cultivated lands, lands of 5 and 10 ha were being distributed and their owners were driven out of the villages. They asserted that they complained to the "high authorities" about this, but that because the implementation of *Band-e jim* had officially been suspended, the complaints were only recorded in books and not acted upon<sup>9</sup>.

Shortly before his death on 28 June 1981, Ayatollah Beheshti gave a speech on the problem of land reform which was recorded and broadcast on radio four days after his death<sup>10</sup>. He explained how the April 1980 Law had been prepared and written in

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<sup>8</sup> For example, on 2 November 1981, the newspaper presented a two-page report on the proceedings of the *Majles* the previous day under the heading: "The project of Land Transfer and Investigation of the Ownership of Agricultural Lands was presented to the Assembly", whereas during that session, the *Majles* only received the project and referred it to the commission concerned, then went on to discuss other matters ("*Tarh-e vagozari-ye zamin va rasidegi beh malekiyat-e zaminha-ye zera'i beh Majles taqdim shod*", *Ettela'at*, 11 *Aban* 1360 [2 November 1981], p. 3, 13).

<sup>9</sup> "*Ta'kidi-ye dubareh bar ejra-ye daqiq-e qamun-e jadid-e eslahat-e arzi*" ("Reapproval of a careful implementation of the new law of land reform"), *Barzgar*, n. 109, 15 *Esfand* 1360 [6 March 1982], p. 3.

<sup>10</sup> *O ba tanha'i yak ummat bud!* (He, by himself, was a nation!), posthumous collection of Beheshti's speeches, [Tehran], Cultural Unit of the Martyr Foundation, *Tir* 1361 [June/July 1982], p. 379-383; also published in *Ettela'at*, 23 *Shahrivar* 1360 [14 September 1981], p. 7.

accordance with Islamic *fiqh* and with Article 43, Clause 2, and Article 49 of the Constitution. He expressed his regret that the understanding of Islam held by certain well-known *fuqaha* was not "sufficiently in harmony with the understanding of Islam that is the basis of our Revolution and the basis for the preparation of this project". He justified land confiscations by the right of the *vali-ye amr* to take the actions which were required by the overriding interests (*masala-ye zaruri*) of the community. He stressed that it was the duty of the *faqih* to determine what consisted the overriding interests of the community, but he added that the *faqih* had the right to ask competent persons to help him with this task, which is what Ayatollah Khomeini did when he charged Ayatollahs Montazeri and Meshkini and himself with examining the question of land reform.

The exclusive right of the *faqih* to determine situations of overriding necessity in which the rights of private ownership could be infringed upon created an obstacle for the *Majles* to legislate in these areas. The pressing need to solve the critical problems of the country, in particular the problem of urban housing, led to a series of consultations and exchange of letters between Hojjatolislam Ali-Akbar Hashemi-Rafsanjani, the Speaker of the *Majles*, and Ayatollah Khomeini in October 1981. In his reply dated 11 October 1981, Khomeini conceded that the *Majles* could enact and implement legislation in situations of overriding necessity (*zarurat*) where action or inaction threatened the order of the Islamic Republic or when "corruption" (*fasad*) or "sin" (*harj*) might result. However, he set two conditions: first that the laws approved by the Parliament be temporary in nature and remain in effect only as long as the emergency for which they were designed continued; second that provisions be made to punish officials who exceeded their authority<sup>11</sup>. Although in his letter, he did not refer to his authority as *vali-*

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<sup>11</sup> Quoted in "*Mozakerat-e jalase-ye 'alani-ye Majles-e shura-ye Islami*" ["Proceedings of the Public Session of the Islamic Consultative Assembly"], published in *Rosname-ye Rasmi* [Official Gazette], 17 Azar 1361 [8 December 1982], p. 14 (henceforth quoted as *Majles Proceedings*). According to Schirazi, Khomeini had decided on this matter several months before, but his decision had not been put in writing (Asghar Schirazi, *The Constitution of Iran: Politics and the State in the Islamic Republic*,

*ye faqih* and he did not speak of delegation of power to the *Majles*, Rafsanjani interpreted it as if he had delegated his power of *velayat* to the Parliament to determine the cases of overriding necessity and pass the necessary legislative measures, and he described the exercise of these special powers as lying within the sphere of secondary ordinances<sup>12</sup>. Henceforth, the *Majles* deputies considered themselves empowered with passing legislation on these matters. The law restricting the private ownership of urban land was passed by the *Majles* on the basis of this authorisation, under the criterion of *zarurat*, in March 1982<sup>13</sup>.

## 2. Composition and Power of the *Majles*

The first *Majles* elections had been held in two rounds in March and May 1980. Two hundred and thirty-four representatives out of the 270 provided by the Constitution were elected since elections could not be held or the results were cancelled for "lack of security" in the Kurdish areas and parts of Khorasan and East Azerbaijan<sup>14</sup>. The IRP candidates (mostly clerics) won 85 seats and their allies 45, candidates associated with Bazargan's Freedom Movement won 20, and 84 went to independents. However, the credentials of 20 deputies were contested and twelve of them were rejected while two resigned before their credentials were examined, bringing the total down to 220 members of which the IRP held a clear majority of 130 members<sup>15</sup>. In addition, many independents from small provincial constituencies tended to vote with them on critical issues<sup>16</sup>.

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translated from the German by John O'Kane, London and New York, I.B. Tauris, 1997, p. 178).

<sup>12</sup> Bakhash, *The Reign of the Ayatollahs*, p. 206-208.

<sup>13</sup> Schirazi, *The Constitution of Iran*, p. 179-180.

<sup>14</sup> "Asami-ye kamel-e namayandegan-e Majles dar Tehran va shahrestan" ("Complete Names of the Representatives in the Assembly from Tehran and the country"), *Ettela'at*, 25 Ordibehesht 1359 [15 May 1980], p. 2.

<sup>15</sup> *Negaraeshi beh avalin dawre-ye Majles-e shura-ye Islami* (A Description of the First Session of the Islamic Consultative Assembly), Tehran, Public Relations Services of the Islamic Consultative Assembly, Bahar 1364 [Spring 1985], p. 215, 332;

One hundred and three of these representatives, that is 46.8 % were clerics<sup>17</sup>. In addition, 29 of the lay men had attended seminary schools. Out of 94 clerics for whom information is available<sup>18</sup>, 28.7 % had *ijtihad*, the highest level of educational achievement in the seminary, and 60 % had reached the third and highest level of seminary classes<sup>19</sup>. Out of the lay men and women, 95.2 % had some tertiary education and 43.8 % held post-graduate qualifications (21 % had a doctorate). There were eleven engineers and ten medical doctors, 63.2 % had worked as teachers, 19.8 % were state employees and managers, and 9.4 % were professionals. Only two were farmers, although four teachers and one judge, as well as four clerics, claimed to have worked in agriculture. However, if one looks at their background, the picture becomes somewhat different. Out of 198 deputies for whom information is available<sup>20</sup>, 32.2 % were the sons of peasants, 28.6 % were the sons (and in two cases daughters) of clerics, 26.8 % were

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(henceforth quoted as *A Description of the Majles*); Bahman Baktiari, *Parliamentary Politics in Revolutionary Iran: The Institutionalization of Factional Politics*, Gainesville, University of Florida Press, 1996, p. 69; Schirazi, *The Constitution of Iran*, p. 89-90; Dilip Hiro, *Iran Under the Ayatollahs*, London and Melbourne, Routledge & Kegan Paul, 1985, p. 157; and Hossein Bashiriyeh, *The State and Revolution in Iran: 1962-1982*, London and Canberra, Croom Helm, 1984, p. 159.

<sup>16</sup> Bakhash, *The Reign of the Ayatollahs*, p. 105.

<sup>17</sup> These and the following statistics were calculated by the author from the background data given for each deputy in *A Description of the Majles*, p. 216-331.

<sup>18</sup> *A Description of the Majles* does not give background information on the deputies who resigned before the end of the First *Majles* to occupy another government position or for personal reasons.

<sup>19</sup> See Moojan Momen, *An Introduction to Shi'i Islam*, New Haven and London, Yale University Press, 1985, p. 200-203, for an explanation of the religious education system.

<sup>20</sup> See Note n. 18.

from the bazaar, while 5.6 % were the sons of professionals<sup>21</sup>. None of them came from landowning families. Indeed, Khosrow Qashqa'i had seen his credentials rejected because he was a feudal landlord<sup>22</sup>. The deputies predominantly came from the traditional middle-class in the rural and urban areas<sup>23</sup>. Most of the lay men born into a farming family had achieved university education, which suggests that they came in fact from the upper peasantry<sup>24</sup>.

Since pre- and post-election screenings of candidates had eliminated people whose Islamic and political credentials were not considered acceptable, one cannot say that the *Majles* was representative of the different opinions in the country. The deputies had to operate within some set limits and could not contest basic concepts such as the *velayat-e faqih*. Those who could count on the support of an influential power group had a certain degree of freedom to criticise the government or the members of the other factions. But if they showed disregard for the basic principles, they could be subjected to reprimands by their colleagues, or even to physical violence in the *Majles* itself, and to possible reprisals in their electoral constituency by the Revolutionary Court, the Special

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<sup>21</sup> The others were only described as employees or workers without further elaboration, and one was a truck-driver.

<sup>22</sup> Baktiari, *Parliamentary Politics*, p. 69. After his return from exile in the spring of 1979, Khosrow Qashqa'i tried to reclaim his rights over agricultural lands which had been divided among peasants and nationalised pastures used freely by nomadic families. This approach alienated a large portion of his tribe who refused to fight to support him in his military opposition to the Islamic Republic. He was executed on 10 October 1982 in his tribal capital of Firozabad (Hourcade, "The Land Question and Islamic Revolution in Iran", p. 137).

<sup>23</sup> See also Ahmad Ashraf, "Charisma, Theocracy, and Men of Power in Postrevolutionary Iran", in *The Politics of Social Transformation in Afghanistan, Iran, and Pakistan*, ed. by Myron Weiner and Ali Banuazizi, Syracuse, Syracuse University Press, 1994, p. 121-124.

<sup>24</sup> All but one had achieved some level of tertiary education (*A Description of the Majles*, p. 216-331).

Court for the Clergy or the Hezbollah<sup>25</sup>. The atmosphere of fear which prevailed in the *Majles* was described in the following words by Mehdi Bazargan who was a member of the First *Majles*:

"In the Islamic Majles, intimidation, slander, oppression and similar methods intended to uphold a monopoly of power take such proportions that members of the minority, who originally numbered 40 to 50 persons, and the neutrals who have been virtually forbidden to organise themselves, do not dare to utter their views or to express opposition and thereby overstep the boundaries of what is permitted. Should they do so, they will be confronted with threats and slander in their electoral wards. In parliament itself an atmosphere of such hostility, harassment and aggression prevails that it is impossible for opposition MPs to speak and express an opinion or to voice protest and criticism"<sup>26</sup>.

For example, the deputies who had disagreed with the impeachment of President Bani Sadr in June 1981 were unable to leave Tehran and visit their electoral constituencies for the next two years<sup>27</sup>.

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<sup>25</sup> Schirazi, *The Constitution of Iran*, p. 90-91.

<sup>26</sup> Quoted in *Ibidem*, p. 91.

<sup>27</sup> *Ibidem*, quoting from Prime Minister Musavi. Three deputies spoke firmly against Bani Sadr's impeachment: Ali Akbar Mo'infar, Ezzatollah Sahabi and Salahoddin Bayani. When the question came to a vote, only Bayani voted against while ten deputies abstained and twenty absented themselves (Baktiari, *Parliamentary Politics*, p. 76). Musavi must have included those who abstained (or at least some of them) among those who "disagreed with" the impeachment of Bani Sadr since Mo'infar and Ezzatollah Sahabi were both representatives of Tehran. Mo'infar, Sahabi and Bayani occupied their seats until the end of the First *Majles* in 1984 (*A Description of the Majles*, p. 224, 234, 246), but none of them sought re-election. Among the ten representatives who abstained, only two contested the 1984 parliamentary elections, and only one was re-elected: Gholam-ali Shahraki in the remote constituency of Zabol near the Afghan border. The other one, Mohammed Khalili, sought re-election in Baft



Nevertheless, some subjects engendered real debates between conflicting opinions. This was particularly the case with questions for which no official policy had been formulated, and in particular those about which Ayatollah Khomeini had made no clear pronouncement. Such was the case of the question of land reform. The relative independence of the *Majles* is also illustrated by its refusal to give a vote of confidence to some ministers and its rejection of legislative proposals brought before it by the government. The First *Majles* (1980-84) rejected 44 of those and the Second *Majles* (1984-88): 19. However, it is also true that the government sometimes showed a complete disregard for laws that it did not wish to implement<sup>28</sup>.

Although it is difficult to distinguish clear factions among the members of the *Majles* since some deputies tended to align themselves differently depending on the topic under discussion and their views on various issues stemmed more from personal than collective decision, on socio-economic matters, two broad tendencies can be distinguished: radical-statists who favoured a widespread intervention of the state in the economy to establish social justice, and conservatives who stuck to a literal interpretation of Islamic law and favoured *laissez faire* economic policies. The radical-statists called themselves *maktabi*. This name comes from a newsletter entitled *Ensan-e maktabi* (*The Man of the Religious School*) which was edited by Hassan Ayat and circulated among party cadres. Those who called themselves *maktabi* wanted to emphasise that they were the "followers of the Holy Book". They categorically rejected the argument that the clergy should not intervene directly in the affairs of the state. They advocated a strongly centralised economy, the total nationalisation of major industries

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(province of Kerman), but received only 236 votes out of a total of 40,882 votes cast ("Jadval-e kamel-e natayej-e avalin marhale-ye entekhabat-e dawre-ye duvom-e Majles-e shura-ye Islami" ["Complete table of the results of the first round of elections for the second term of Islamic Consultative Assembly"], *Ettela'at*, 31 Ordibehesht 1363 [21 May 1984], p. 19-22.

<sup>28</sup> Schirazi, *The Constitution of Iran*, p. 99-101.

and a comprehensive land reform, and they viewed the Islamic revolution as a movement geared to benefit the *mostaz'afin*<sup>29</sup>.

The most important members of this faction in the *Majles* were Hojjatolislam Sayyed Mohammed Musavi-Kho'iniha, the Deputy Speaker and Chairman of the Foreign Affairs Commission, Hadi Ghaffari, the leader of the *Hezbollah* and a member of the Politburo of the IRP, Hojjatolislam Mehdi Karubi, the future Speaker of the Third *Majles*, Hojjatolislam Sayyed Hadi Khamene'i, a younger brother of the President, Hojjatolislam Majid Ansari, Hojjatolislam Asadollah Bayat, Mortaza Alviri and Mortaza Katira'i<sup>30</sup>. By 1983, Musavi-Kho'iniha, Ghaffari and Karubi had emerged as leaders of the faction. Each one of them had an important power base outside the *Majles*. Musavi-Kho'iniha was the mentor of the Students Following the Imam's Line who had seized the United States embassy, and was close to Ayatollah Khomeini's son Ahmad. Karubi was the head of the Martyr's Foundation who provided welfare to the families of those who had died during the revolutionary upheaval and in the war against Iraq, which put him in control of important amounts of money and enabled him to entertain a large network of patronage. Finally, Ghaffari could call on the support of the *hezbollahi* club-wielders<sup>31</sup>.

In an interview which he gave in September 1980, Musavi-Kho'iniha criticised the property owners who shouted loud that Islam respects ownership when their properties were threatened and did not care that Islam also says that the rich should help the poor. Those people, according to him, only wanted to defend the wealth that they had accumulated through *haram* means. He quoted a tradition from Imam Ali according to which "everywhere stored wealth is seen, in the making of it, a destruction of rights has taken place", and Khomeini who said when he was in Paris that: "This big wealth that we see accumulated, they did not [obtain it] through *halal* means, but through perfidy, theft and embezzlement, its accumulation was illegal". He stressed that in Islam everybody does not have the right to accumulate all what he can and that there are limits to ownership. For example, hoarding and *riba* are *haram*. Moreover, he asserted that if

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<sup>29</sup> Baktiari, *Parliamentary Politics*, p. 81.

<sup>30</sup> *Ibidem*.

<sup>31</sup> *Ibidem*, p. 102-107.

one looked at the Islamic texts and at the life of the Islamic leaders, one would conclude that the best form of social life was one in which no wealth was amassed and nobody was considered poor and deprived. Then, he argued that saying that ownership in Islam does not have limits implies that if the Prophet of Islam was coming back and seeing the deprivation of the poor, he would not object to that situation, which he believed was impossible. He concluded that the Islam that the property owners defended was "an American Islam which only recognises ownership and does not see poverty and misfortune"<sup>32</sup>.

The conservatives in the First *Majles* did not have a clear leader. Baktiari mentions as influential members of this group: Ali Akbar Parvaresh, the First Deputy Speaker and future Minister of Education and Training, Habibollah Asgar-Owladi, Deputy Speaker in 1981-82 and Minister of Commerce in 1982-83, and Ali Akbar Rezvani (who was elected in 1981)<sup>33</sup>.

A third faction consisting of deputies who aligned themselves with the Speaker of the *Majles*, Hojjatolislam Ali Akbar Hashemi-Rafsanjani, emerged progressively. Rafsanjani was a moderate, a "fence-sitter" as Baktiari calls him, who was acting cautiously, avoiding extreme solutions, speaking in a non-provocative manner, and often exerting the role of a neutral referee in the *Majles* factional struggles<sup>34</sup>. Baktiari mentions as prominent members of this third faction: Ayatollah Mohammed Yazdi who was to become Deputy Speaker in 1982, Hassan Habibi, future Vice-President, Hojjatolislam Sayyed Mohammed Khamene'i, another brother of the President, and Hojjatolislam Sayyed Mahmud Do'a'i who was also supervising *Ettela'at*. They tended to oscillate between the left and the right depending on the issue. However, on economic issues, they generally held conservative opinions and were reticent to any attempt at legislating radical socio-economic transformations. Many of them came from merchant families and

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<sup>32</sup> "Islami keh "faqat" malekiyat-ra mishenasad "Islam-e Amerikayi" ast" ("An Islam which 'only' recognises ownership is an 'American Islam'"), *Ettela'at*, 19 Shahrivar 1359 [10 September 1980], p. 10.

<sup>33</sup> Baktiari, *Parliamentary Politics*, p. 82.

<sup>34</sup> *Ibidem*, p. 82, 100.

had closed ties with the *bazaar*<sup>35</sup>. Rafsanjani himself harboured conservative opinions on economic matters, despite some radical statements such as an-often quoted speech that he delivered in August 1981 in which he presented ownership as a type of "trust" for which conditions and limits were set and he asserted that: "the most essential and the most fundamental factor of ownership is work"<sup>36</sup>. However, he would move with the radical tide on crucial issues such as land reform and support the passing of legislation to solve the land ownership problem.

The *Majles* was led by an administrative board elected annually and consisting of twelve members: the Speaker, two Deputy Speakers, three officers (*karpardaz*) and six secretaries (*monshi*). The First Deputy Speaker elected in 1980, Ali Akbar Parvaresh, was a conservative, while the Second Deputy Speaker, Hojjatolislam Musavi-Kho'iniha, was a radical. Four other positions on the administrative board were occupied by radicals, whereas conservatives held two and one was occupied by Ali Reza Yar-Mohammedi, one of the two farmers in the *Majles*<sup>37</sup>. All in all, the administrative board was composed of five clerics and seven lay men<sup>38</sup>. The influence of the radicals would increase in 1981 with the election of Musavi-Kho'iniha as First Deputy Speaker and of five other radicals on the administrative board. In 1982, Ayatollah Mohammed Yazdi would become First Deputy Speaker, but the radicals would still dominate the

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<sup>35</sup> *Ibidem*, p. 81-83.

<sup>36</sup> "*Islam malekiyat-ra yak amr-e motlaq namidanad*" ("Islam does not know ownership as an absolute matter"), *Ettela'at*, 3 *Shahrivar* 1360 [25 August 1981], p. 13.

<sup>37</sup> For the composition of the administrative board, see: *A Description of the Majles*, p. 38-39. Information on the factional alignment of its members was drawn from Baktiari, *Parliamentary Politics*, chapter 2, and from the list of deputies who signed the January 1982 letter demanding the implementation of *Band-e jim* (see below, p. 242).

<sup>38</sup> The number of clerics on the administrative board would later decrease to four in 1981-82, then increase to 6 in 1982-84.

administrative board with eight members out of twelve in 1982-83, and nine out of twelve in 1983-84<sup>39</sup>.

Twenty-seven members of the *Majles* (including a son of Ayatollah Montazeri and a brother of Ali-Akbar Nateq-Nuri) died in the bombing of the IRP headquarters on 28 June 1981. The attack was attributed to the People's *Mujahidin*. Four other representatives were assassinated in the following months, including Hassan Ayat, the ideologue of the IRP, and Mostafa Chamran, a member of the Iran Freedom Movement and Defence Minister in the Bazargan Government<sup>40</sup>.

By-elections were held in 1981 to replace them, as well as the deputies whose credentials had not been accepted and those who had resigned to occupy other posts in the government or for personal reasons. Elections were also held in the districts of Kurdistan where the security had been judged insufficient the previous year. All in all, seventy-one new deputies entered the *Majles* in 1981. Forty-three (60.6 %) were clerics, which brought the number of clerics to 123 out of 242 members. Two were women, one being Raja'i's widow. Like the representatives elected the previous year, the lay men were mostly teachers and state employees<sup>41</sup>.

### 3. The Different Land Reform Bills submitted to the *Majles*

In 1980 and in the first half of 1981, under the chairmanship of Reza Isfahani who left his post of Deputy Minister of Agriculture when he was elected to the *Majles*<sup>42</sup>,

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<sup>39</sup> *A Description of the Majles*, p. 39.

<sup>40</sup> For the list of their names, see *A Description of the Majles*, p. 314-329. Mohi'oddin Fazel-Harandi who entered the *Majles* through a by-election in June 1981 survived an unsuccessful assassination attempt on 23 July (David Menashri, *Iran: A Decade of War and Revolution*, New York and London, Holmes and Meier, 1990, p. 186).

<sup>41</sup> *A Description of the Majles*, p. 216-331.

<sup>42</sup> Article 141 of the Constitution forbids government employees and officials from holding more than one government position. He was replaced as Deputy Minister of Agriculture in charge of Land Reform by Mas'ud Khvansari, the representative of the Ministry of Agriculture in the Central Staff of Land Transfer.

the Commission for Agriculture and Rural Development of the *Majles* conducted a series of studies on the question of land reform, but did not come up with a new project<sup>43</sup>.

On 15 August 1981, Salamati announced that the same land reform project which had been approved by the Revolutionary Council had been submitted to the Council of Ministers to determine its budget before it could be presented to the *Majles*<sup>44</sup>. This was two days after the new Prime Minister, Javad Bahonar, who had replaced Raja'i after his election as President of the Republic, had introduced his new Cabinet to the *Majles*<sup>45</sup>. Salamati was confident that the new government would soon approve it. The new text (as it was published on 9 September) included three additional notes to Article 4 which, according to Salamati had been added for reasons of overriding necessity (*zarurat*). These notes introduced provisions destined to protect the interests of the dispossessed landlords against arbitrary evaluations of their properties. They defined the value of the cultivated lands as the cost of all the expenses incurred by the owner(s) to develop and put the land under cultivation, except for the establishments, machines, tools and buildings which would be separately assessed. They provided that the regulations on how to assess these costs would be determined by the representatives of the Ministry of

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<sup>43</sup> "*Chigunegi-ye tarh va barrasi-ye layeh-e eslahat-e arzi*" ("The how of the project and investigation of the Land Reform Bill"), *Ettela'at*, 27 Mordad 1360 [18 August 1981], p. 9.

<sup>44</sup> "*Keshavarzan motma'en bashand 'edalat-e Islami dar rostaha bar qarar khvahad shod*" ("The peasants should be confident that Islamic justice will be established in the villages"), *Ettela'at*, 24 Mordad 1360 [15 August 1981], p. 11. Article 75 of the Constitution provides that bills which result in an increase in expenditures cannot be discussed in the *Majles* until it has been made clear how these expenditures will be met.

<sup>45</sup> Hiro, *Iran Under the Ayatollahs*, p. 193.

Agriculture, *Jihad-e Sazandegi* and the Ministry of Justice in the Central Staff of Land Transfer<sup>46</sup>.

After the death of Bahonar and Raja'i in a bomb attack on 30 August and the appointment of Hojjatolislam Mohammed Reza Mahdavi-Kani, the Minister of Interior, as temporary Prime Minister, the project languished in the Council of Minister since the Cabinet could not agree on the question. However, Mahdavi-Kani resigned on 15 October, after the election of Hojjatolislam Ali Khamene'i as President, and on 28 October, a new Prime Minister, Mir Hossein Musavi, was approved by the *Majles*. Contrary to Mahdavi-Kani who was a moderate, Musavi, a founding members of the IRP and the editor of its newspaper, *Jomhuri-ye Islami*, was a radical who favoured a redistribution of wealth and a widespread intervention of the government in economic matters<sup>47</sup>. The day he presented his new cabinet to the *Majles*, Salamati (who kept his post through all the government reshuffles) announced that the new government would give priority to solving the problem of land and would submit his bill to the *Majles* with a stamp of urgency<sup>48</sup>. But, due to divergences of opinions in the cabinet, the project was never submitted to the Parliament<sup>49</sup>.

However, on 1 November 1981, a "Legislative Project Investigating the Ownership of Agricultural Lands and the Rejuvenation and Transfer of Lands" signed by 16 representatives<sup>50</sup> was received by the *Majles* and referred to the Agricultural

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<sup>46</sup> "*Matn-e kamel-e layehe-ye eslahat-e arzi-ye Islami taqdimi beh hayat-e dawlat*" ("Complete text of the Islamic Land Reform Bill presented to the Council of Ministers"), *Ettela'at*, 18 *Shahrivar* 1360 [9 September 1981], p. 11.

<sup>47</sup> Hiro, *Iran Under the Ayatollahs*, p. 198; Bakhash, *The Reign of the Ayatollahs*, p. 224.

<sup>48</sup> "*Paygiri-ye layehe-ye eslahat-e arzi-ye Islami hamchonan avaliyat khvahad dashi*" ("Pursuing the Bill of Islamic Land Reform will also get the same priority"), *Ettela'at*, 12 *Aban* 1360 [3 November 1981], p. 11.

<sup>49</sup> Nomani and Rahnema, *The Secular Miracle*, p. 264.

<sup>50</sup> Article 74 of the Constitution requires a minimum of 15.

Commission<sup>51</sup>. This project was very different from the one approved by the Revolutionary Council the previous year inasmuch as it did not impose a ceiling on land ownership and tried to combine land reform with the implementation of Article 49 of the Constitution which provided for the restitution of illegally acquired properties<sup>52</sup>. It stipulated that the landlords would be dispossessed of the lands which they had illegally acquired without compensation. Moreover, it provided that the landlords who had acquired their lands legally but did not pay all their Islamic dues on these lands would have to pay them retroactively out of their property or with the lands themselves. The confiscated lands would be given back to their legitimate owners if they were known or would be transferred in accordance with the regulations by the Land Transfer Committees.

The project also dealt with the uncultivated lands which had been legally acquired. It gave their owners the options of cultivating the lands themselves or concluding contracts of *muzara'a* or *ijara* (rental) with cultivators. In case they would not do either of these, the Land Transfer Committees would intervene to give the lands in *ijara* to a "good" person (*zi salah*) and give the rent to the owners.

The lands available for distribution would thus be limited to the lands illegally acquired which did not have a lawful owner and to state lands among which, contrary to the April 1980 Law, this project included the pastures. The sponsors of the project hoped that this would stabilise the situation in the countryside and give to the landowners a measure of security. One of them, Ahmad Tavakkoli, the future Minister of Labour,

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<sup>51</sup> "*Tarh-e vagozari-ye zamin va rasidegi beh malekiyat-e zaminha-ye zera'i beh Majles taqdim shod*" ("The Project of Land Transfer and Investigation of the Ownership of Agricultural Lands was presented to the Assembly"), *Ettela'at*, 11 *Aban* 1360 [2 November 1981], p. 3, 13.

<sup>52</sup> The text of this project was published in *Ettela'at*, 11 *Aban* 1360 [2 November 1981], p. 3; and in *Barzgar*, n. 92, 17 *Aban* 1360 [8 November 1981], p. 1-2. The Preamble refers to Article 49 as well as Article 43, Clauses 2 and 9 (which bound the state to provide the means of work to everybody and to strive to achieve self-sufficiency), and Article 47 (which recognises the legality of legally acquired property).



predicted that since most landlords were seriously delinquent in paying their religious dues, there would be left only a very small number of landlords who had not usurped land, had not been guilty of oppression and excesses and had always paid their religious dues<sup>53</sup>.

Another significant difference with the April 1980 Law is that this project provided that the lands would be transferred to peasants for a few years, then if the desired results were obtained they would be sold to them through long-term instalments. This was obviously less advantageous to the peasants than the provisions of the April 1980 Law which were giving the lands to the peasants free.

*Zarurat* was invoked to justify the interdiction of transactions on the transferred lands, but it was limited to a period of seven years, which could be extended or shortened with the approval of the *vali-ye amr* or a *Marja'* (Article 11, Clause 2). This made the provision conform to Islamic law which accepts this principle of overriding necessity only for a temporary period. On the other hand, there was no need to refer to the principle of *zarurat* to justify the confiscation of illegally acquired properties.

The project kept the structure of the Seven-Person Committees, but altered their composition, replacing one of the two representatives of the Ministry of Agriculture by a representative of the Office of Registration of Documents and Estates (attached to the Ministry of Justice), and the representative of Khomeini by a judge appointed by the High Judicial Council (Article 6). The representative of the Leader on the Central Staff was also replaced by a representative of the High Judicial Council (Article 10). There may be an indication in this that Khomeini wanted to distance himself from the implementation of the law and the conflicts associated to it. On the other hand, the influence of the Ministry of Agriculture on these committees was increased since the project added that all the other representatives except for the Islamic judge should be approved by the Ministry of Agriculture.

The conservative character of the project is best illustrated by the stipulation that the Islamic judges on the Seven-Person Committees should take the translation (from

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<sup>53</sup> Quoted in Bakhash, *The Reign of the Ayatollahs*, p. 209.

Arabic) of the *Tahrir al-wasilah* of Ayatollah Khomeini as basis for the determination of the legality of ownership and of the Islamic dues of the landowners (Article 12).

By the time this project was referred to the Agricultural Commission of the *Majles*, Reza Isfahani had been replaced as its chairman by Mohi'oddin Fazel-Harandi<sup>54</sup> who had entered the *Majles* in June 1981 following a by-election in Aqlid (the constituency where Khosrow Qashqa'i had been elected the previous year). This appears to have been a tactical change since the Commission had not achieved anything in matter of land reform under Isfahani's chairmanship. Harandi was an influential and respected cleric whereas Isfahani was unacceptable to the conservatives because of his radical ideas. Harandi was also a supporter of land reform, but he was less radical and more open to compromises. After his demotion<sup>55</sup>, Isfahani remained a member of the Agricultural Commission until the end of the First *Majles* in 1984, but he kept a low profile and remained silent during the discussions about land reform in plenary session. In 1984, he did not seek re-election and left the political scene.

The number of supporters of land reform in the Commission increased in 1981 with three out of four new members known as supporters of land reform. Among eleven members who held a position in the Commission from the time of their entrance in the Parliament (in 1980 or 1981) up to the end of the First *Majles*, eight were open partisans of land reform (including the Chairman and Deputy Chairman) and none was a staunch opponent of it. Four others (out of six) who sat in the thirteen-member commission for some time before or after joining other commissions were known as supporters of land

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<sup>54</sup> Isfahani was last referred to as Chairman of the Agricultural Commission on 18 August 1981 (*Ettela'at*, 27 Mordad 1360, p. 9). By 19 November, he had been replaced by Harandi (*Ettela'at*, 28 Aban 1360, p. 3).

<sup>55</sup> It is possible that he was disgraced because of his uncompromising position on other issues. It is noteworthy that he was one of ten deputies who abstained during the vote on Bani Sadr's impeachment in June 1981 when only three deputies had dared to speak firmly against it (Baktiari, *Parliamentary Politics*, p. 76); see above, Note 27.

reform<sup>56</sup>. The Agricultural Commission was thus dominated by partisans of land reform. But, whatever their personal inclinations, its members had to operate within some constraints and write their projects in such a way that they stood a chance of being approved by the majority of the representatives and by the Council of Guardians. It was well known that the majority of the *fugaha* on this Council held conservative opinions on socio-economic matters and were determined to safeguard the principle of sanctity of private property.

Harandi disapproved of the 16-Representative Project for several reasons. First, he claimed that since land ownership was a very complex question, at least 200 courts would be needed throughout the country to investigate the status of the lands and that this would take several years. Moreover, he asserted that there would not be a single plot of land about which somebody would not raise a doubt, and that investigating all of them would not be possible. He believed that Article 49 of the Constitution should be implemented as soon as possible, but through a separate bill which would also deal with the other types of property<sup>57</sup>.

Secondly, he criticised the project for maintaining the relations of domination between the landlords and the peasants by recognising sharecropping and renting of land

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<sup>56</sup> For the members of the Agricultural Commission, see *A Description of the Majles*, p. 216-274. The representatives whose names appeared on the May 1981 letter addressed to Khomeini and/or on the January 1982 open letter demanding the implementation of *Band-e jim* (see below) are counted as supporters of land reform beside Isfahani and Harandi. Of the eleven core members of the Commission, three were clerics, seven were teachers and one was a former employee of the Ministry of Agriculture. However, seven of them were the sons of peasants. One of the two peasants present in the *Majles*, Mortaza A'zami-Lorestani, joined the Commission after participating for some time in the Housing Commission, the other, Ali Reza Yar-Mohammedi, was a member of the Defence Commission.

<sup>57</sup> "*Eshkalat-e tarh-e namayandegan bara-ye rasidegi beh malekiyat-e zera'i chist?*" ("What are the difficulties of the project of the representatives to investigate agricultural ownership?"), *Ettela'at*, 28 *Aban* 1360 [13 November 1981], p. 3.

since it would not be possible to investigate every year each contract of *muzara'a* and *ijara*. He pointed to the fact that if these types of contracts were the way of solving the rural problems, given that they were the most common methods of cultivation in the past, the countryside would not be confronted with problems today. He stressed that these oppressive relations were a reason why the peasants were migrating to the towns and that the *Majles* should investigate the problem to determine if there was another way of settling them down in the villages than distributing the lands of the big landlords<sup>58</sup>. He also criticised this project for including the pastures in the dead lands susceptible to being transferred, asserting that this would be detrimental to the development of animal breeding<sup>59</sup>.

Looking at the situation from a more pragmatic point of view, a member of a Seven-Person Committee described the differences between the 16-Representative Project and the April 1980 Law as "small and not essential" since they were revolving around the question of whether the ownership of the lands was Islamic or not. He believed that the April 1980 Law was capable of solving the land problem in all its dimensions and since it had been approved by three just *mujtahidin* and there was no doubt about it being Islamic, there was no place for another project. As an executor of the law, he felt that since it had been implemented for one and a half year and Clause C had been experimented for four or five months, the strong and weak points of the law were well known, and therefore passing a new law would cause all these experiments to be wasted and would necessitate other experiments to be made. He dismissed the practicality of using Khomeini's *Tahrir al-wasilah* as book of reference to determine the legality of ownership since it is a scholarly work and not a compilation of implementable laws. He pointed to the fact that Islamic judges had in many cases reversed the rulings of other judges, and, like Harandi, he noted that there were not enough Islamic judges to investigate all the land estates. Moreover, he believed that taking the landlords to court

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<sup>58</sup> *Ibidem*; "Eshkelat-e tarh-e jadid-e eslahat-e arzi tashrih shod" ("The Difficulties of the new Land Reform Project are explained"), *Barzgar*, n. 94, 30 *Aban* 1360 [21 November 1981], p. 4.

<sup>59</sup> *Ibidem*, p. 1.

would bring "the old rancours to a state of ebullition" because the oppressed peasants would seek revenge. Therefore, the security would disappear from the villages and the standard of livelihood of the villagers would decline. From his experience as a member of a Seven-Person Committee, he knew that "the cultural and social conditions in the villages, the relations of power, family, clan, religion and belief cripple the work of investigation"<sup>60</sup>.

A third project signed by twenty-five representatives was also presented to the *Majles* in early December 1981<sup>61</sup>. The Agricultural Commission debated it simultaneously with the 16-Representative Project. Although the text of this third project was never published, it appears that it was relatively similar to the one which the Commission would approve and present to the *Majles* for discussion in public session<sup>62</sup>.

The Agricultural Commission took several months to achieve a compromise between the different projects. On 22 January 1982, in his Friday Prayer sermon in Qom, Ayatollah Meshkini expressed the hope that *Band-e jim* would soon be approved by the *Majles* and his disappointment with the delay<sup>63</sup>. Salamati publicly thanked him for bringing up the question<sup>64</sup>. In response to his call and to that of Rafsanjani who in his

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<sup>60</sup> N. Yazdani, "*Hayatha-ye vagozari-ye zamin nur-e omid-e rosta'iyān-e mahrum*" ("The Land Transfer Committees are a light of hope for the deprived villagers"), *Ettela'at*, 10 *Bahman* 1360 [30 January 1982], p. 10-11.

<sup>61</sup> *Ibidem*, p. 10.

<sup>62</sup> One of the signatories of the 16-Representative Project claimed that the project presented to discussion was in fact the one which had been submitted to the *Majles* one month and two days after his project (*Majles Proceedings*, 11 *Esfand* 1360 [2 March 1982], p. 21).

<sup>63</sup> "*Vali-ye amr bayad motasadi-ye malekiyat beshavad va amval-ra taqsim konad va mane' azrar beshavad*" ("The ruler must be in charge of ownership, distribute the properties and prevent damage"), *Ettela'at*, 5 *Bahman* 1360 [25 January 1982], p. 14.

<sup>64</sup> "*Az Ayatollah Meshkini tashakor mikonim keh ba ehsas-e mas'oliat ejra-ye band-e 'jim'-ra 'onvan kardand*" ("We thank Ayatollah Meshkini who, with a sense of

Friday Prayer sermon as temporary Friday Imam of Tehran had also called for the resolution of the problem of ownership and spoken of spreading Islamic justice to the benefit of the *mostaz'afin*, one hundred and thirty-two members of the *Majles* signed an open letter in which they announced their support for the implementation of *Band-e jim*<sup>65</sup>. They were headed by Hojjatolislam Sayyed Mohsen Purmoghaffari, known as Musavi-Tabrizi, a representative from Tabriz and brother of the Prosecutor-General of the Revolutionary Courts, Hojjatolislam Hossein Musavi-Tabrizi, and included Abbas Sheybani, the former Minister of Agriculture, Hojjatolislam Mehdi Karubi, Hadi Ghaffari, and Hojjatolislam Mohammed Khatami, the future President of the Republic, as well as a brother of Ali Akbar Nateq-Nuri, the future conservative Speaker<sup>66</sup>. If one adds to the 127 names who were printed in *Ettela'at*, the names of 32 or 33 deputies<sup>67</sup> who had signed the May 1981 letter addressed to Khomeini but did not signed the January 1982 letter although they were still present in the *Majles* at the time (presumably because they

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responsibility, brought up the implementation of Clause 'C'), *Ettela'at*, 6 *Bahman* 1360 [26 January 1982], p. 2.

<sup>65</sup> "130 namayande-ye Majles khvahan tasvib va ejra-ye band-e "jim" shodand" ("130 Representatives of the Assembly want the approval and implementation of Clause 'C'), *Ettela'at*, 5 *Bahman* 1360 [25 January 1982], p. 15. The figure of 130 in the title of the article appears to be a round figure since the text of the article speaks of 132 representatives signing the letter, then quotes the names of 127 of them and adds that several other names were illegible. See Appendix 2 for the list of their names.

<sup>66</sup> Ali Akbar Nateq-Nuri was elected as a representative of Tehran in 1980. He resigned the following year to become Minister of Interior. His brother, Abbas Ali, who had been elected as a representative of their home town of Nur, died in the bombing of the IRP headquarters in June 1981. Another brother, Ahmad, replaced him as representative of Nur.

<sup>67</sup> One of the signatories of the May 1981 letter is reported to have been "Musavi-Tabrizi" (See Appendix 1). This could have been Abol-fazel Musavi-Tabrizi, who was still present in the *Majles* in 1982, or Hossein Musavi-Tabrizi who resigned in September 1981 to become Prosecutor-General of the Revolutionary Courts. The latter's brothers, Mohsen and Hassan, had not yet joined the *Majles*.

were absent the day it was written<sup>68</sup>), as well as other well-known supporters of land reform in the *Majles* who did not sign any of these letters, such as Fazel-Harandi, Hossein Ali Rahmani, Isma'il Shoshtari, and Sayyed Hassan Purnirghaffari Musavi-Tabrizi (Mohsen's brother), to quote only those who participated the most actively in the subsequent debates about land reform, this brings the total well over two-thirds of the 242 representatives in the *Majles* at the time.

Out of the 127 deputies whose names were printed in *Ettela'at*, 51 or 40.2 % were clerics (including one Sunni<sup>69</sup>), which is less than the proportion of clerics in the *Majles* at the time (50.8 %). However, if one adds to these names those of thirteen or fourteen<sup>70</sup> clerics who had signed the May 1981 letter but did not sign this one (although they were still present in the *Majles* at the time), and those of well-known supporters of land reform who did not sign either letter, such as the four deputies mentioned above, one can conclude that at least sixty-eight clerical members of the *Majles*, or 55.3 %, were favourable to land reform<sup>71</sup>.

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<sup>68</sup> None of them is known to have changed his/her mind on the subject. The number of deputies present at any one time in 1982 rarely exceeded 200 (See *Majles Proceedings*).

<sup>69</sup> Mohammed Ishaq-Madani, representative of Saravan in Baluchistan.

<sup>70</sup> See Note n. 67. Abol-fazel Musavi-Tabrizi who was still present in the *Majles* at the time did not sign the open letter, but is otherwise known as a moderate supporter of land reform (see below).

<sup>71</sup> The signatories of the May 1981 letter included twenty-nine or thirty clerics (see Appendix 1, Note \*2), two of whom died in June 1981. Of those remaining in the *Majles* in January 1982, only thirteen or fourteen signed the open letter. Since most of those who did not sign it were either prominent radicals (such as Sadeq Khalkhali and Mohammed Musavi-Kho'iniha) or well-known supporters of land reform (such as Ali Movahedi-Savaji and Mohammed Mojtahed Shabestari), one can presume that they were absent at the time the letter was written. On the other hand, the fourteen clerics who signed the January 1982 letter but had not signed the May 1981 letter appear to be more moderate deputies (such as Mohammed Khatami) who did not get actively

Among the signatories of the letter, eleven came from Tehran<sup>72</sup> (out of 25 representatives from Tehran at the time<sup>73</sup>), 4 from Tabriz (out of 6), 2 from Mashhad (out of 5), 2 from Isfahan (out of 3 representatives at the time<sup>74</sup>), 7 from other large towns<sup>75</sup> (out of 18 representatives for these towns), 17 from medium-size towns (out of 38 representatives for these towns), 5 were the representatives of religious minorities (two Armenians, one Assyrian, one Zoroastrian and one Jew), and 79 came from small towns and rural constituencies (out of 129 representatives for these constituencies at the time). They thus disproportionately represented rural constituencies, 62.2 % of them came from rural areas as compared to 53.3 % of all the members of the *Majles* at the time.

Only three of them had worked in agriculture. However, 38.6 % of them were the sons of peasants, which was higher than the average of 35 % for all the members of

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involved in the debates over land reform and who may have felt uneasy about being associated with Isfahani who is likely to have been the initiator of the first letter (see above, Note 5, p. 222).

<sup>72</sup> Including three out of the four women in the *Majles* at the time (all representatives of Tehran). The fourth one, A'zam Taleqani, Ayatollah Taleqani's daughter, had signed the May 1981 letter.

<sup>73</sup> Five seats left by deputies who resigned to occupy positions in the government were vacant at the time. This and the following figures are calculated from *A Description of the Majles*, p.216-331, which gives the dates of election and accreditation of each deputy.

<sup>74</sup> Two other seats were vacant at the time.

<sup>75</sup> Towns which had three representatives in the *Majles* are here considered to be large towns, whereas towns which had two representatives are considered to be medium-size towns. Seven towns had three representatives, but three seats from these towns were vacant at the time. Twenty-one towns had two representatives, but four seats from these towns were vacant.



the *Majles* at the time<sup>76</sup>. Out of eighty-two deputies from a farming background in the *Majles* at the time, 49 (59.8 %) signed the open letter. A large majority of the lay men among them, 72.7 % (24 out of 33), showed their support for land reform. Only one of them, Sayyed Reza Zavare'i, who was a representative of Tehran, is known as an opponent of land reform. As for the clerics who were born into a peasant family, 51 % signed the letter. The deputies who came from a farming background were thus more likely to be supporters of land reform than opponents. However, it is noteworthy that almost half of the clerics whose fathers were peasants did not sign the letter. Even if one allows for a number of absentees, this still leaves a large number who did not favour a redistribution of land holdings. Indeed, some of the staunchest opponents of land reform in the *Majles* were clerics coming from a farming family, such as Ali Akbar Ghaffari-Qarehbagh, Sayyed Mojtaba Mir-Ja'fari, Isma'il Ma'azi and Farajollah Va'ezi.

On the other hand, only 35.4 % of the clerics born into clerical families and 23.8 % of those coming from the bazaar signed the letter. A large majority of the clerics coming from an urban background were thus opponents of land reform. We can therefore conclude that, although the clerics coming from a rural background were more likely to be supporters of land reform than those coming from an urban background, a comparison with their lay counterparts suggests that their position on the question had been more influenced by their religious training than by their background.

The supporters of land reform in the *Majles* more often came from the northern part of the country than from the central and southern parts. The Caspian provinces of Mazandaran and Gilan were particularly well represented: nine deputies out of a total of thirteen from Gilan present in the *Majles* at the time, and thirteen out of fourteen from Mazandaran, including the representatives of Gorgan, Gonbad, and Turkoman Sahra, signed the letter, while two more deputies from Gilan were otherwise known as

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<sup>76</sup> The proportion of members from a farming background had increased after the series of by-elections held in 1981 from 33.2 % to 35.0 %. Two clerics *cum* peasants are here counted as peasants because of their farming experience.

supporters of land reform<sup>77</sup>. These were relatively rich provinces where agriculture was intensive and landholdings were small<sup>78</sup>. Also well represented was the relatively prosperous north-eastern province of Khorasan with 15 deputies out of twenty-two signing the letter and two more known as supporters of land reform (Hossein Herati and Isma'il Shoshtari) and the province of East Azerbaijan with nine deputies out eighteen signing the letter, plus five others known as supporters of land reform. However, the western province of Khuzistan (with 14 deputies out of 15) and the south-eastern provinces of Sistan and Baluchistan (with 6 deputies out of 6) and Kerman (with 7 deputies out of 7) which had ample dead lands also saw their representatives favouring land reform<sup>79</sup>. On the other hand, the majority of the representatives from the province of Isfahan were opposed to land reform. Only five out of 14, including two from the city of Isfahan, signed the open letter. The majority of the representatives from the Kurdish areas (Kurdistan and West Azerbaijan) were also opposed to land reform, but this was due to the rejection of candidates from the leftist parties which had a strong base of support in the area in favour of candidates considered acceptable by the government.

Another interesting point is that 41 of the signatories of the open letter, including twenty-one clerics, had been elected through by-elections in 1981. Fifteen of them were elected in districts where no previous elections had been held, six filled the seats of deputies whose credentials had not been accepted, eight replaced deputies who had resigned (mostly to occupy a post in the government), while twelve took the seats of deputies who had been assassinated or had died in the bombing of the IRP headquarters. These 41 new deputies constituted 57.8 % of the total number of deputies elected

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<sup>77</sup> They had signed the May 1981 letter addressed to Khomeini, but not the January 1982 letter.

<sup>78</sup> For the agricultural potential of the different regions of the country, see: H. Bowen-Jones, "Agriculture", in *The Cambridge History of Iran*, vol. 1, Cambridge, Cambridge University Press, 1968, p. 591-598.

<sup>79</sup> The latter three numbers include five deputies who did not sign the January 1982 open letter but had signed the May 1981, two for Khuzistan, one for Sistan and Baluchistan and two for Kerman.

through by-elections in 1981. It is thus clear that a majority of the deputies elected that year belonged to the radical faction, which is not surprising given the climate in which they were elected and the radicalisation of politics which accompanied it<sup>80</sup>. On the other hand, only six out of the twenty-seven deputies who died in the bombing of the IRP headquarters (including two clerics) had signed the May 1981 letter addressed to Khomeini. The 1981 by-elections therefore reinforced the radical faction in the *Majles*, and especially increased the number of radical clerics.

Two weeks after the publication of this open letter, Ayatollah Mohammed Yazdi explained during an interview to *Ettela'at* the reasons for his opposition to the reinstatement of *Band-e jim* which he thought, "in the present conditions", would not even be "an alleviating medicine". He believed that if the landlords had acquired their lands in a *halal* way, it was not permissible to take them from them (except on the order of the *vali-ye faqih* who had not given that sort of order), and that if they had acquired them in a *haram* way, not even one *vajab* (one hand, or about 20 cm) of land should be left to them<sup>81</sup>.

#### 4. First Reading of the Land Reform Law (2 March 1982)

On 2 March 1982, the *Majles* discussed in public session the generalities of the "Project on the Rejuvenation and Transfer of Agricultural Lands" which had finally been approved by its Agricultural Commission. Although substantial modifications had been

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<sup>80</sup> Two exceptions to this trend were Sayyed Mojtaba Mir-Ja'fari and Abbas Ali Akhtari, who both were deputies elected in 1981 who opposed land reform. In addition, Hojjatolislam Mortaza Fahim-Kermani who signed the open letter but added next to his name the note that "the resolution of the land problem in accordance with Islamic regulations is totally *zarurat*" later became an ardent opponent of land reform.

<sup>81</sup> "*Dela'il-e Hojjatolislam Yazdi dar mokhalefat ba band-e 'jim' va tavaqqof-e ahkam-e takhlie-ye khaneh*" ("Reasons for Hojjatolislam Yazdi's opposition to Clause 'C' and to the suspension of the orders of eviction [of tenants]"), *Ettela'at*, 20 *Bahman* 1360 [9 February 1982], p. 3. In this interview, Yazdi showed little tolerance for people who did not share his views.

brought to it, this project was closer to the April 1980 Law than to the 16-Representative Project. One of these 16 representatives, Hojjatolislam Majid Ansari, protested that if their project had been rejected by the Agricultural Commission, the reasons for its rejection should be examined in public session. Rafsanjani, dismissed his claim by asserting that it was in fact the same project to which the Commission had made some additions<sup>82</sup>. However, Ansari was right to assert that the two projects were essentially different since the one which was now open to discussion did not try to implement Article 49 of the Constitution. In its introduction, the Chairman of the Agricultural Commission, Fazel-Harandi, insisted that the project was based on the assumption of the legality of ownership and did not attribute judicial functions to the organs of implementation<sup>83</sup>.

An important difference between this project and the previous ones is that it limited its validity to a period of five years<sup>84</sup>. This was to make it come under the criterion of *zarurat* which, according to its definition in Islamic law, could only apply for a temporary period. The preamble referred to Khomeini's 11 October 1981 edict recognising the *Majles* as the competent organ to determine the cases of *zarurat*, and to the needs to achieve self-sufficiency, to eradicate poverty and deprivation in the society, and to prevent the inordinate migration of villagers. Harandi believed that the seriousness of the latter problem warranted taking measures which would negate the primary ordinances by having recourse to the authority of the *velayat-e faqih*<sup>85</sup>. Salamati who came to address the *Majles*, stressed the need to reach self-sufficiency and to clarify the situation of ownership so that the Ministry of Agriculture could prepare short-, medium- and long-term plans<sup>86</sup>.

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<sup>82</sup> *Majles Proceedings*, 11 *Esfand* 1360 [2 March 1982], p. 21.

<sup>83</sup> *Ibidem*, 11 *Esfand* 1360, p. 21.

<sup>84</sup> The text of the project was published in *Ettela'at* on 10 *Esfand* 1360 [1 March 1982], p. 7, 13, and in *Barzgar*, n. 109, 15 *Esfand* 1360 [6 March 1982], p. 1, 3.

<sup>85</sup> *Majles Proceedings*, 11 *Esfand* 1360, p. 22.

<sup>86</sup> *Ettela'at*, 12 *Esfand* 1360, p. 7.

Like the April 1980 Law, this project allowed the landlords who were personally engaged in agricultural matters to keep up to three times the "local custom" of land (that is the size of a sustainable farm in the area), and those who were not involved in agricultural matters but did not have another source of income to keep up to twice the "local custom" of land (Article 4). However, it extended the definition of personal involvement to include "direct and effective management" and added that the provision that those who owned less than four times the "local custom" of land would not be subject to this law (Article 4, Note 5). The project invoked the authority of the *velayat-e faqih* to justify the compulsory sale of all the lands of those who were not involved in agricultural matters and had other sources of income. They would be bought from them by the government at a just price after deduction of all their debts to the state treasury, then transferred to individuals meeting the required conditions.

The most significant difference with the April 1980 Law was that an additional Note stipulated that the lands would be transferred only "in cases where the possibility of *muzara'a* and *ijara* does not exist". One could wonder when this possibility does not exist since even if the owner is not present, it is possible to conclude a contract *in absentia*. Moreover, in case the lands were to be transferred, the children of the owner would be given priority if they met the conditions to be recipients (Article 9, Note 1). Despite what he had said before about *ijara* and *muzara'a*, when he presented the project to the *Majles*, Harandi reluctantly admitted that "when we have an alternative, since according to the gentlemen, the way is not exclusive", it was preferable to force the owner to conclude such contracts than to buy the land from him. But, when the choice was between migration of the villagers and distribution, this was a case of *zarurat* and the lands should be bought from the owner at a just price<sup>87</sup>.

This project also dealt with the case of *waqf* lands for which it provided that those which were susceptible to being transferred and used would be given in *ijara* or *muzara'a* through the intermediary of the Seven-Person Committees who would consult with the *Awqaf* Organisation and act in accordance with Islamic regulations and with the wishes of the bequeathers (Article 4, Note 4).

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<sup>87</sup> *Majles Proceedings*, 11 *Esfand* 1360, p. 22.

For uncultivated lands, this project gave to their owners a respite of one agricultural season (which could be extended if they had a good excuse) to put under cultivation three times the "local custom" of land. If they did not do it, the lands would be taken from them to be transferred to entitled individuals. But they would be paid a fair price for them (Article 3). Harandi presented this as an important difference with the April 1980 Law which did not provide for any compensation for the owners of uncultivated lands. He asserted that this was in accordance with the *fatawa* of Ayatollah Khomeini and the majority of the Shi'i *Maraji' at-taqlid* who did not believe that lands come out of somebody's ownership for the reason that they are left uncultivated<sup>88</sup>.

Harandi also stressed that the mechanised lands, the orchards and the lands used for animal breeding (on the condition that the amount of land was proportional to the number of animals) would be exempted from distribution<sup>89</sup>.

Like the April 1980 Law, this project provided that the cultivated lands would be distributed only if the other types of land were not sufficient to meet the demand (Article 9, Clause 1)<sup>90</sup>. It also stipulated that the lands would be given in the form of *mosha'* apart from exceptional cases, that the transferred lands could not be sold (except with permission from the government) and that their cultivation should be in accordance with the needs of the society (Article 10).

The legislative project provided for a Central Staff and Seven-Person Committees whose composition was the same as stipulated in the April 1980 Law except that one of the two representatives of the Ministry of Agriculture in the Seven-Person Committees was replaced by a representative of the Ministry of Justice or the local judicial administration. But it added that the representatives of the Ministries of Interior and

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<sup>88</sup> *Ibidem*, p. 21.

<sup>89</sup> *Ibidem*, p. 21-22.

<sup>90</sup> This condition was not included in the 16-Representative Project. Since this project dealt with the lands which had been acquired illegally, it was considered legitimate that those lands should be taken from their present owners and restituted to their lawful owners or transferred to others even if there was not a need for agricultural lands in the area in which they were located.

Justice and of *Jihad-e Sazandegi* in the Central Staff should have the approval of the Ministry of Agriculture, and that all the members of the Seven-Person Committees except for the representatives of the Islamic judge should be confirmed by the Central Staff who would be sending them regulations and supervising them, thereby trying to establish some central control over the formation of the committees (Articles 6 and 8).

Finally, the necessary budget for the implementation of this project was to come in the current year from the special budget of 4 million *toman* of the Central Staff, then in the following years, it would be provided for in the annual national budgets (Article 12). However, Harandi believed that this burden was too heavy for the state and asked the representatives to make proposals to help find other ways of funding the necessary budget<sup>91</sup>.

The project found more supporters than opponents in the *Majles*. Eighteen representatives signed their names to speak against the project while thirty-four wanted to speak in favour of it. Both groups were allocated the same amount of time and spoke alternatively. Although the originally allocated time was extended by an hour, there was not enough time for all of them to speak since many of them ventured into long digressions despite being repeatedly reminded by the Speaker not to speak outside the subject<sup>92</sup>. Since the project was in no way radical, opposition to it came both from radical and from conservative members of the Parliament.

Many opponents of the project focused their criticism on the fact that the project was based on the assumption of the legality ownership, which means that they were not necessarily opposed to the idea of land reform, but wanted that Article 49 of the Constitution be implemented first so that all the lands which had been illegally acquired would be confiscated without compensation. At least two of the members who spoke against the project, Abdol-majid Aqa-Rahimi and Sheikh Ahmad Mollazadeh, were among the 132 representatives who had declared their support for the implementation of

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<sup>91</sup> *Majles Proceedings*, 11 *Esfand* 1360, p. 22.

<sup>92</sup> *Ibidem*, p. 28.

*Band-e jim* five weeks earlier<sup>93</sup>. Mollazadeh, a clerical representative from Khorasan, claimed that the big landlords had been paying large amounts of money to '*ulama*' to have their ownership recognised as Islamic and he asserted that when the situation is such that the landlords are hanging a peasant as they did in Bojnurd, whether they owned three times or four times the "local custom" of land is a secondary matter. He was opposed to the project because it legitimised ownership which had been acquired illegally<sup>94</sup>. Aqa-Rahimi quoted Ayatollah Khomeini as saying that the ownership of the landlords who had coerced the poor peasants to work for them "through persecution and torture" was illegal. He also quoted Rafsanjani's assertion that "the most fundamental and the most basic means of creating ownership is work". He asserted that since the landlords did not pay *khums* and *zakat* on their lands, their debts had accumulated so much that all of their estates should be turned over to the Muslim treasury. The Speaker interrupted him several times for speaking outside the subject and told him that it was provided that if the ownership was illegal, the owners would not get any compensation<sup>95</sup>. Although this was not the case, Rafsanjani continued to interrupt the representatives who were trying to bring up the matter. Mohammed Yazdi, a conservative opponent of the project, protested against the inclusion of such digressions in the amount of time allocated to the opponents of the project<sup>96</sup>.

Aqa-Rahimi also contested the exemption made in favour of the orchards since the method of their appropriation may have been illegal as well and should be investigated. He saw in the exemption of the mechanised lands and the lands for pastures a loophole which the landlords could use to keep all their lands. He contested the priority accorded to the children of the landowners. He also objected to the fact that the recipients of lands would be tied to the state. He did not believe that this was the best

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<sup>93</sup> Others could have been among those whose names were "illegible" (see above, Note 65, p. 242).

<sup>94</sup> *Majles Proceedings*, 11 *Esfand* 1360, p. 25.

<sup>95</sup> *Ibidem*, p. 22-23.

<sup>96</sup> *Ibidem*, p. 25.



way to develop agriculture and become self-sufficient. But, after all these criticisms, he nevertheless concluded that he would vote in favour of the project<sup>97</sup>.

A fundamentalist criticism of the project was expressed by Hojjatolislam Sadeq Khalkhali, the first Prosecutor-General of the Revolutionary Courts who had made himself famous for his summary style of sentencing and execution of so-called "corruptors on earth" and who had reorganised the terrorist fundamentalist organisation of the *Feda'iyan-e Islam* (*The Devotees of Islam*) which had been active in the 1940s and 1950s<sup>98</sup>. He brought up a motion to stop the discussion of the project, which was based on the argument that since more than half of the lands of Iran were either *anwatan*, *fay'* or *waqf* lands, they should be exempted from the implementation of this project. He believed that the *anwatan* lands should be excluded because Islamic law stipulated that they were the common property of the Muslim community and could not become somebody's private property. If they were left uncultivated, the Islamic judge would take them and put them at the disposal of somebody else. He referred to Shaykh at-Ta'ifa's description of *anwatan* lands as ranging from Mosul in the North to Abadan in the South and from Qadesiyyah (in Chaldea) in the West to Nahavand (a town South of Abadan) in the East. The *fay'* lands which were the inalienable property of the State and the lands which had been perpetually bequeathed for a private or religious purpose by their owners were scattered throughout the country. He wanted their Islamic status to be respected and, therefore, their exemption from the land reform project. Then, the legality of the ownership should be examined in accordance with Article 49 of the Constitution by an investigation group. His motion was to leave the project aside until the exemptions had been incorporated in it. It was rejected by a large majority of the representatives<sup>99</sup>.

Hojjatolislam Fazlollah Mahallati (an opponent of the project) replied to his argument about *anwatan* that it applied only to lands which were cultivated at the time of their conquest by the Muslims. It did not apply to the lands which were dead lands at the time and were later brought under cultivation. He added that in case there was some

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<sup>97</sup> *Ibidem*, p. 23.

<sup>98</sup> Rahnema and Nomani, *The Secular Miracle*, p. 92.

<sup>99</sup> *Majles Proceedings*, 11 *Esfand* 1360, p. 26-27.

doubt about their status at the time of the Muslim conquest, it was correct to treat them as if they had been dead lands<sup>100</sup>.

The most prominent conservative opponent of the project in the *Majles*, Ayatollah Mohammed Yazdi objected to the project because it assumed that work was the only lawful source of ownership and considered other forms of income as an obstacle to ownership. He enumerated the other sources of ownership allowed in Islam and stressed that Islam did not forbid an individual to have more than one form of employment and income. But he also used economic arguments and asserted that breaking up the lands into pieces would not help agriculture to develop<sup>101</sup>.

Another conservative opponent of the project, Sayyed Mojtaba Mir-Ja'fari, focused his criticism on economic arguments. He asserted that from an economic point of view, it was not in the interests of the country to distribute the cultivated lands and that a better way to increase agricultural production was to reclaim dead lands and put them under cultivation. He went on to criticise the work of the Seven-Person Committees throughout the country and accused them of injustices<sup>102</sup>. The proponents of the project challenged him to prove his accusations, but he did not get a chance to do it for the reason that his time to speak was over<sup>103</sup>.

Like the opponents of the project, its proponents also quoted abundantly from Ayatollah Khomeini to support their positions. For example, Samad Sheja'iyan, quoted him as saying that: "I do not presume that the [big landlords] have paid their Islamic dues, not even one of them. [Therefore], even if all their properties are taken, they would still be in debt"<sup>104</sup>.

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<sup>100</sup> *Ibidem*.

<sup>101</sup> *Ettela'at*, 12 *Esfand* 1360, p. 7; Schirazi, *Islamic Development Policy*, p. 208. (See Note n. 111).

<sup>102</sup> *Majles Proceedings*, 11 *Esfand* 1360, p. 27.

<sup>103</sup> *Ibidem*, p. 27-28.

<sup>104</sup> *Ibidem*, p. 24.

The proponents of the project believed that the seriousness of the problem of rural migration warranted the application of the principle of *zarurat*<sup>105</sup>. Sheja'iyān also thought that eradicating exploitation was another factor and he quoted Rafsanjani as saying that ownership which has come from exploitation is rejected by Islam<sup>106</sup>.

Sheikh Mohammed Mojtahed-Shabestari stressed that the essence of the project was to transfer to cultivators, on the order of a judge, the lands in the places where contracts of *muzara'a* and *ijara* could not be concluded, and he did not believe that anybody could have a valid reason, Islamic or other, to object to that. He recognised that the rights of the owners to use the lands in another way may be infringed upon by this project, but he asserted that the only other option<sup>107</sup> would be to leave the lands vacant, which was something the Islamic Republic could not afford given the "extraordinarily acute need which exists now for increasing production and encouraging agriculture". He added that "with the amount of food dependence that we have on the outside world, there cannot be a *zarurat* more manifest than this"<sup>108</sup>.

The opponents of the project were not convinced by the demonstration of *zarurat* made by its proponents. Mohammed Yazdi doubted that *zarurat* could be proved in this case<sup>109</sup>. Mahallati reminded them that one should as much as one can govern on the basis of the primary ordinances and he asserted that the government was seeking refuge in the secondary ordinances because it was unable to implement the primary ordinances<sup>110</sup>. Mohsen Musavi-Tabrizi, the leader of the 132 deputies who had declared themselves favourable to the implementation of *Band-e jim*, retorted that there was no need to invoke secondary ordinances since the primary ordinance according to which "man is

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<sup>105</sup> *Ibidem*, p. 22, 24.

<sup>106</sup> *Ibidem*, p. 24.

<sup>107</sup> He neglected the fact that the owners were denied the right to exploit the land themselves.

<sup>108</sup> *Majles Proceedings*, 11 *Esfand* 1360, p. 25-26.

<sup>109</sup> *Ettela'at*, 12 *Esfand* 1360, p. 7. (See Note n. 111).

<sup>110</sup> *Majles Proceedings*, 11 *Esfand* 1360, p. 29; Schirazi, *Islamic Development Policy*, p. 216; *Ettela'at*, 12 *Esfand* 1360, p. 7. (See following Note).

master over his property" becomes invalid in an emergency and therefore no primary ordinance is repealed if land is expropriated<sup>111</sup>.

The proponents of the project recognised that there were many ambiguities in it and that some problems had not been addressed. Shabestari agreed that it would not be in accordance with Islamic regulations to give compensations to the landlords who had acquired their land illegally. Kazem Norozi objected to the exemption granted to the orchards<sup>112</sup>. But they believed that these problems could be corrected through amendments during the second reading of the bill. Shabestari suggested an amendment which would provide that the lands of which the ownership was under doubt should be investigated beforehand by a *Marja' at-taqlid* or an Islamic judge. This would be similar to the regulations enforced for the sale of houses according to which the owner had to obtain a letter of permission from the Revolutionary Court. Therefore, they concluded that there was no reason to oppose the essence of the project<sup>113</sup>.

Norozi also stressed the fact that the world was looking at them to see what representatives "who have come from among the deprived" would do for the deprived who "are the essential inheritors of the Revolution". Moreover, he reminded his colleagues that the majority of the martyrs who were giving their blood for the Islamic Republic were deprived villagers, and mainly landless peasants<sup>114</sup>.

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<sup>111</sup> *Majles Proceedings*, 11 *Esfand* 1360, p. 30; Schirazi, *Islamic Development Policy*, p. 217. (The author is referring here and in the previous Notes to Schirazi because she missed photocopying those pages from the *Majles Proceedings* since she did not realise that the representatives resumed their discussion of the project after a break and some time spent talking of other matters).

<sup>112</sup> *Majles Proceedings*, 11 *Esfand* 1360, p. 28.

<sup>113</sup> *Ibidem*, p. 25-26.

<sup>114</sup> *Ibidem*, p. 28.

When the votes were taken, the generalities of the bill were approved by a majority of the 185 representatives present<sup>115</sup>.

#### Discussion of the Bill outside the *Majles*

Four days after the approval of the generalities of the Bill on the Rejuvenation and Transfer of Agricultural Lands, the editors of *Barzgar* seized the opportunity of the subject of land reform being publicly discussed in the *Majles* to remind the public of the excesses committed in the past and to request from the legislators that the necessary measures be taken so that history would not repeat itself. In particular, they stressed the need to make sure that ownership was not left in suspense, and to fix the "local custom" of land at a level such that not only it would prevent emigration from the villages, but it would attract in the villages graduates and other volunteers interested in working in agriculture and animal husbandry. Moreover, they asked the legislators to add in the project an article which would specify where complaints should be addressed and how they would be dealt with<sup>116</sup>.

The following month, a seminar of the Central Staff and Land Transfer Committees was convened to examine and discuss the same bill. The resolutions of the seminar called for the omission of Note 5 to Article 4 which gave preference to *muzara'a* and *ijara* over transfers of ownership, and requested the establishment of an independent Ministry of Land Reform or an "Organisation of Islamic Land Transfers" under the leadership of an informed 'alim or *mujtahid*<sup>117</sup> or directly under the control of

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<sup>115</sup> The procedure generally followed is that the representatives in favour of a project, article, proposal or motion stand up. Unfortunately, the *Majles Proceedings* did not record their numbers.

<sup>116</sup> "*Ta'kidi-ye dubareh bar ejra-ye daqiq-e qanun-e jadid-e eslahat-e arzi*" ("Reapproval of a careful implementation of the new law of land reform"), *Barzgar*, n. 109, 15 *Esfand* 1360 [6 March 1982], p. 3.

<sup>117</sup> "*Nazarat va pishnehadat-e sitad-e markazi va hayatha-ye vagozari-ye zamin dar mawred-e tarh-e eslahat-e arzi-ye Islami*" ("Views and Proposals of the Central Staff and Land Transfer Committees about the Project of Islamic Land Reform"), *Ettela'at*, 12 *Ordibehesht* 1361 [2 May 1982], Economic Supplement, p. 4; "*Omidvarim*

the Prime Minister. The Central Staff and Seven-Person Committees wanted land reform to be under the control of only one responsible organ with enough authority which would have a revolutionary character and would not be bureaucratic. Salamati agreed that the revolutionary character of the organisation should be preserved, but he believed that it could not be totally independent since one person had to be responsible for its work before the *Majles*. Given that its activities were related to other work carried out by the Ministry of Agriculture, his opinion was that it was appropriate for it to be under his control<sup>118</sup>. On the question of *muzara'a* and *ijara*, he recognised that they were part of Islamic economics and therefore had to be taken into consideration, but he believed that: "with the particularities and specificities which exist now in some regions of the country, and with the complications which had to be taken into account [...] we must face this problem in a calculated manner so that, God forbids, we do not injure those fundamental tools of Islamic economics and these tools themselves do not become for those who use them the cause of illegal action". He was sceptical towards this type of contracts which he believed could not solve the rural problems, but he was forced to admit that if they were not authorised, the passing of the law would be delayed or would not occur and more serious problems would arise. Nevertheless, he wished their implementation to be subject to some kind of control and a limit to be imposed on the amount of lands which somebody could deal with in this way<sup>119</sup>.

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*betavanim taht-e 'onvan "vezarat-e eslahat-e arzi" fe'aliyat bishtar va behtar dashteh bashim*" ("We hope that under the title of "Ministry of Land Reform", we can have more numerous and better activities"), *Ettela'at*, 31 *Farvardin* 1361 [20 April 1982], p. 9. The latter is an interview of one of the members of the Central Staff, Mostafa Sharif Zadegan (who is here mentioned for the first time). He must be the representative of the Ministry of Interior since Harandi was still the representative of the Imam and Khvansari the representative of the Ministry of Agriculture, and the Ministry of Justice and *Jihad-e Sazandegi* did not have representatives at that time (the representative of the latter organisation, Mahmud Nili, died at the front on 5 March 1982) (*Majles Proceedings*, 24 *Azar* 1361, p. 19).

<sup>118</sup> Salamati's Interview, *Ettela'at*, 17 *Khordad* 1361 [7 June 1982], p. 31.

<sup>119</sup> *Ibidem*.

An anonymous criticism of the land reform bill published in *Ettela'at* on 5 May 1982 stressed that there were many ambiguities in the bill which if not redressed during the second reading would create difficulties in the implementation of the project and could enable malevolent people to misuse it or would even lead to another suspension of the law. Two of his main points were that nowhere did the bill say whether the lands would be given free of charge to the peasants or if they would have to pay for them, and that the exclusions from the law would give a way to the landlords to exempt their lands from distribution. The author of this criticism also believed that the aim of land reform was not to put a few hectares at the disposal of some peasants, but to take back the lands which the feudals and khans had taken by force from the villagers and to give them back to their original owners, the *mostaz'afin* and the landless peasants. Distributing dead lands would not free the peasants from the oppression of the feudals and would not bring a fundamental change to the situation of agriculture. Therefore, his opinion was that priority should be given to the lands of Clauses C and D and that the rejuvenation of dead lands should be the responsibility of the state which could muster all the necessary potential to bring more lands under cultivation. He also asserted that if *muzara'a* and *ijara* were a good way of solving the agricultural and rural problems, there would not be currently any problem. Furthermore, he believed that 99 % of the landlords had not acquired their lands legally and therefore should not receive anything from the public treasury<sup>120</sup>.

### 5. Second Reading of the Land Reform Law

In order to prepare the bill for its second reading and examine all the amendments submitted by representatives, a Special Commission was set up with Hojjatolislam Fazel-Harandi as chairman and Hojjatolislam Ali Movahedi-Savaji as deputy chairman. Its 15 members were drawn from different commissions. For example, Movahedi-Savaji was a member of the Commission for Councils and Domestic Affairs, while Hojjatolislam Abol-

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<sup>120</sup> F. Kh., "*Pishnehadha-ye dar barq-ye tarh-e qanuni-ye eslahat-e arzi*" ("Proposals about the legislative project of Islamic Land Reform"), *Ettela'at*, 16 *Ordibehesht* 1361 [5 March 1982], p. 6.

fazel Musavi-Tabrizi was a member of the Commission for Judicial and Legal Affairs<sup>121</sup>. By early September, the Commission had finished its work and prepared a text for approval by the *Majles*<sup>122</sup>. On 30-31 October 1982, another seminar of the Central Staff and Land Transfer Committees was convened to discuss its report<sup>123</sup>.

The Project on the Rejuvenation and Transfer of Agricultural Lands was discussed by the *Majles* in second reading for one month from 29 November to 28 December 1982. For sixteen sessions, it was the main subject on the agenda of the Assembly. After reading of the report of the Special Commission, the bill was examined article by article. For each article, amendments were discussed, consisting mostly of omissions since the regulations of the *Majles* did not allow during the second reading of a bill the introduction of new proposals nor discussions on the essence of articles which had been approved in the first reading. Exceptions were only made for Article 2 which, like the previous project, based the bill on the principle of *zarurat*, and for Article 19 on the financing of the bill which contained provisions different from those approved in the first reading. In both cases, one opponent and one proponent were allowed to speak on the essence of the article. For each amendment, only the author (or one of the authors) of the proposal, one opponent and one supporter were allowed to speak, plus the rapporteur of the Commission and the Minister of Agriculture (or his representative) if they wished to speak<sup>124</sup>. Numerous proposals (10 sheets of them) had been submitted to

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<sup>121</sup> *A Description of the Majles*, p. 245, 265.

<sup>122</sup> "*Taghirat-e tarh-e vagozari-ye zamin e 'lam shod*" ("Changes to the Land Transfer Project were announced"), *Ettela'at*, Economic Supplement, 21 *Shahrivar* 1361 [12 September 1982], p. 6.

<sup>123</sup> "*Ro'us-e tarh-e vagozari-ye zaminha-ye keshavarzi e 'lam shod*" ("The Leading points of the Project of Transfer of Agricultural Lands have been announced"), *Ettela'at*, 11 *Aban* 1361 [2 November 1982], p. 14.

<sup>124</sup> Salamati attended all sessions except the first two. During the second, he was represented by the Deputy Minister of Agriculture in charge of Parliamentary Affairs, Ali Ahun-Monshi.



the Special Commission and discussed by its members<sup>125</sup>. The bill, which consisted of twenty articles, was put to vote article by article. Most articles were approved by the "majority" of the representatives. Unfortunately, the proceedings did not record the numbers of favourable votes.

The opponents of the bill had recourse to the technique of proposing the omission of each article one by one. One of the main opponents of the bill, Hojjatolislam Farajollah Va'ez, who was opposed to any intervention of the state in economic matters<sup>126</sup>, submitted separate proposals to omit 13 articles. Once the omission of an article had been rejected by the majority of the deputies, the opponents of the bill tried to limit as much as possible its impact by proposing numerous partial omissions. For example, after the omission of Article 6 affecting cultivated lands did not meet the support of the majority of the deputies, Sayyed Ahmad Mostafavi-Kashani proposed to leave with all landowners three times the local custom of lands whether they were cultivating the lands or not and whether they had other sources of income or not, on the pretext that it would make the implementation work easier<sup>127</sup>. The internal regulations of the *Majles* provided that all these proposals had to be discussed one by one. Rafsanjani complained several times that this was taking too much time and that the *Majles* had more important things to do, but he had to follow the regulations.

The report of the Special Commission was read by its deputy chairman, Ali Movahedi-Savaji<sup>128</sup>. It started with the assertions that the Commission had worked extensively on the project to make it conform to Islamic regulations and that there was nothing in it which was in opposition to the *Shari'a*. It stressed that land confiscations were based on the establishment of *zarurat*, that the implementation of the project was limited to a period of five years, and that compensations would be paid to the owners of

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<sup>125</sup> *Majles Proceedings*, 8 Azar 1361 [29 November 1982], p. 17.

<sup>126</sup> Schirazi, *The Constitution of Iran*, p. 177, 190.

<sup>127</sup> *Majles Proceedings*, 17 Azar 1361 [8 December 1982], p. 16-17.

<sup>128</sup> Harandi was not present on the first day and the last three days of discussion of this bill. Those days, Movahedi-Savaji spoke instead of him as rapporteur for the Special Commission.

the lands if their ownership was legal. It also pointed to the fact that provisions had been made to prevent the committees to do all what they wanted<sup>129</sup>.

Article 2 of the bill asserted that the implementation of the project had been determined *zaruri* for a period of five years. It referred to Articles 3, 43 and 44 of the Constitution and to the order of Ayatollah Khomeini recognising the *Majles* as the authority competent to determine the cases of *zarurat*. It based *zarurat* on the needs to achieve self-sufficiency, to eradicate poverty and deprivation, and to prevent the unorderly migration of villagers.

One of the main opponents of the bill, Hojjatolislam Abdol-karim Shar'i, proposed to subordinate the implementation of this project to the prior distribution of dead lands to the owners of legal capital. He proposed to add an article providing that the state was bound to transfer the dead lands to the capitalists whose capital had not been proved illegal so that they would develop them with their own funds. He justified this proposal by the high cost which would be involved if the state which was already heavily indebted to the Central Bank had to take another loan (as provided in this project) in order to provide the peasant recipients of lands with capital. He argued that this would be a way of putting to productive use the 500 milliard *toman* which were estimated to be in private hands and of avoiding them going into hoarding and other unhealthy activities<sup>130</sup>. This proposal was opposed by Hojjatolislam Sayyed Abol-fazel Musavi-Tabrizi on the ground that it did not cure the problems of the peasants, which were the basis of *zarurat* for the implementation of this law<sup>131</sup>. Movahedi-Savaji added that, on the basis of the information and statistics that they had obtained from the responsible authorities, the members of the Commission had concluded that the dead lands would not be sufficient to meet the needs of the peasants, and that it was necessary to prevent the migration of villagers to the towns. According to him, the poverty and

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<sup>129</sup> *Majles Proceedings*, 8 Azar 1361, p. 16.

<sup>130</sup> *Ibidem*, p. 21-22.

<sup>131</sup> *Ibidem*, p. 22.

deprivation of the villagers, the absence of agricultural lands and of employment activities for those who stayed in the villages were grounds for *zarurat*<sup>132</sup>.

Ali Akbar Ghaffari-Qarehbagh objected that neither Articles 3, 43 and 44 of the Constitution, nor the aim of achieving economic independence did require lands to be divided. He thought that this would not prevent the migration of villagers to the towns since their fundamental cause was not the absence of land in the hands of the peasants, but the absence of services in the villages, such as educational and welfare services<sup>133</sup>. Mohammed Fazel also believed that the cause of the migrations was the absence of possibilities of livelihood in the villages, and he added that if the development of agriculture did come with the distribution and parcelling of lands, after the land reform that the country had already experienced, Iran would have the best agriculture in the world. But, instead, the land reform of the Shah led to the spoilage of agriculture<sup>134</sup>. The Deputy Minister of Agriculture for Parliamentary Affairs, Ali Ahun-Monshi retorted that the difference between the present proposal of land reform and that of the Shah was that the Islamic government intended to provide the peasants with all what they needed to cultivate the lands that they would be given, which the government of the Shah did not do because they wanted to create a cheap labour force for the factories in the towns. He also explained that the government did not wish to mechanise agriculture because this would make it dependent on foreign countries for the importation of machinery<sup>135</sup>. Salamati later added that the absence of services such as roads and hygiene was a secondary problem because if these services were available in the villages but the peasants did not have land, there would not be any reason for them to stay in the villages<sup>136</sup>.

Another opponent of the bill, Hojjatolislam Isma'il Ma'azi also objected that the development of agriculture was not based on the distribution of cultivated lands, but on

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<sup>132</sup> *Ibidem*.

<sup>133</sup> *Ibidem*, 9 Azar 1361, p. 16.

<sup>134</sup> *Ibidem*, p. 17.

<sup>135</sup> *Ibidem*, p. 19.

<sup>136</sup> *Ibidem*, 17 Azar 1361, p. 19.

the rejuvenation of dead lands and gave as an example all the lands between Tehran and Qom which were left unused and wasted<sup>137</sup>. Movahedi-Savaji, which was the representative of Saveh, a small town located in that region, retorted that these lands were not susceptible to being developed because of lack of water and that he was unaware of the social and economic problems of the country<sup>138</sup>.

Qarehbagh also referred to the order of priorities drawn in Article 10 and pointed to the fact the bill admitted that the state lands and the dead lands could be sufficient to meet the needs. If this was a possibility, then *zarurat* and the compulsory necessity (*ezterar*) for this bill had not been established<sup>139</sup>.

Harandi explained that the problem confronting agriculture was not a shortage of land, but a shortage of water and that, although there were numerous dead lands in Iran, few were susceptible to being cultivated. If there were dead lands susceptible to being transferred, the state would transfer them to peasants with the necessary potential to put them under cultivation since giving empty lands would be a "crime and treachery". He believed that there was not another way of stopping the disorderly migration of villagers and that if the situation remained as it was, 80 % of the villagers would migrate to the towns. According to him, there would not be a higher sin than letting this happen and nothing would be more detrimental to the future of the Revolution than letting a country which had the potential to be 100 % producer and even to export become 100 % consumer<sup>140</sup>. Sayyed Abu-fazel Razavi contested his assertion about a shortage of water and claimed that by putting under cultivation all the lands which were cultivable and using the water resources which were currently wasted, it was possible to cultivate 33 million ha<sup>141</sup> and to feed a population of 120 million. Therefore, he believed that there

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<sup>137</sup> *Ibidem*, p. 19-20.

<sup>138</sup> *Ibidem*, p. 20.

<sup>139</sup> *Ibidem*, 9 Azar 1361, p. 16.

<sup>140</sup> *Ibidem*, p. 17, 18; 17 Azar 1361, p. 15.

<sup>141</sup> Salamati asserted that only 20 million ha were cultivable and only 16.4 million ha were cultivated each year, the rest being left fallow for lack of water (*Ibidem*, 11 Azar 1361, p. 20).

was no ground for *zarurat*<sup>142</sup>. Harandi replied that it would take twenty years to build enough dams to bring 50 or 60 % of the waters of the country under control (as compared to 17 % at the current time) and that this would absorb all the nation's oil revenues<sup>143</sup>. Deputy Minister of Agriculture Ahun-Monshi added that the water resources were not equitably distributed throughout the country and that a large part were located in Khuzistan alone<sup>144</sup>.

Salamati explained that the government was planning to reclaim and irrigate 1 million ha in 10 years, which would provide land for only 100,000 families whereas there were millions of landless and land-poor<sup>145</sup>. He asserted that the most important task for the state was to eliminate unemployment in the towns and in the villages since unemployment brings about corruption. He believed that the problem could not be solved solely by creating employment in the industrial and service sectors. Moreover, the complete imbalance which was prevalent in many villages where a small number of individuals had lots of lands and a large number of villagers were without work had to be remedied<sup>146</sup>. He thought that, in most cases, it was not possible to transfer a peasant from one village to another or from one province to another to give him land. Therefore, employment had to be created in the villages where he was<sup>147</sup>.

On the other hand, Ahmad Kashani<sup>148</sup>, one of the main opponent of the bill, believed that making agriculture self-sufficient was more important than stopping rural

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<sup>142</sup> *Ibidem*, 9 Azar 1361, p. 18.

<sup>143</sup> *Ibidem*, p. 18.

<sup>144</sup> *Ibidem*, p. 19.

<sup>145</sup> *Ibidem*, 17 Azar 1361, p. 19.

<sup>146</sup> *Ibidem*, p. 15-16.

<sup>147</sup> *Ibidem*, p. 16.

<sup>148</sup> He was the son of Ayatollah Abol-qasem Kashani, the nationalist cleric who in the 1950s had founded a political party, the *Mujahidin-e Islam*, which drew its support from small traders, rich merchants, and theological students, and campaigned for the abolition of all secular laws passed by Reza Shah and for the implementation of the *Shari'a*, as well as for protection of the national industries. Ayatollah Kashani was in

migration, which in itself was not a problem, and that, therefore, the most important consideration should be to ensure that the lands were productive. As a consequence, he did not see any reason for distributing cultivated lands<sup>149</sup>.

Kazem Norozi replied that the bill was based on *zarurat* and on Khomeini's order conferring to the *Majles* authority to determine the cases of *zarurat*, and that if Article 2 was omitted, this would open the door to the omission of all the other articles and to objections from the Council of Guardians<sup>150</sup>.

Hojjatolislam Mohsen Musavi-Tabrizi believed that there was no need to invoke the principle of *zarurat* since such a law was within the normal jurisdiction of the Islamic state and, moreover, the just price of the lands was to be paid to their owners<sup>151</sup>. Harandi retorted to him that Ayatollah Khomeini's view was that even if lands had been left uncultivated for thirty years, nobody was allowed to rejuvenate them without the consent of their owner<sup>152</sup>. Hojjatolislam Hossein Ali Rahmani added that giving money did not make it lawful for somebody to use somebody else's property without his consent, and that therefore it was necessary to have recourse to secondary ordinances. This way the Council of Guardians could not make difficulties with the bill<sup>153</sup>.

After Article 2 was approved by the majority of the deputies, the opponents of the bill still tried many times to come back to the discussion of the existence of *zarurat*. During the same session, Fazlollah Mahallati and Sayyed Hashem Hamidi were cut off by the Speaker for doing so and speaking outside the subject<sup>154</sup>. Ma'azi raised the issue

1951-53 the Speaker of the *Majles*, but he broke away from Mossadeq before the 19 August 1953 *coup d'Etat* which toppled Mossadeq's government and reinstalled the Shah on his throne (Dilip Hiro, *Iran Under the Ayatollahs*, London, Routledge and Kegan Paul, 1985, p. 31-33).

<sup>149</sup> *Majles Proceedings*, p. 16-17.

<sup>150</sup> *Ibidem*, 9 Azar 1361, p. 16.

<sup>151</sup> *Ibidem*, p. 17-18.

<sup>152</sup> *Ibidem*, p. 18.

<sup>153</sup> *Ibidem*.

<sup>154</sup> *Ibidem*, 9 Azar 1361, p. 27.

again when the article concerning cultivated lands was discussed and complained that no evidence had been given and experts had not given their opinion<sup>155</sup>. One week and several sessions later, Mohammed Yazdi was still not convinced and Qodratollah Najafi requested the Special Commission to provide statistics and figures<sup>156</sup>.

Some opponents of the bill, such as Abbas Ali Akhtari and Mohammed Fazel<sup>157</sup>, wanted land distribution to be subjected to a prior investigation of the legality of the appropriation of the lands. In case it was illegal, the lands should be returned to their Islamic owners and no compensation should be paid. The proponents of the bill replied that this had been secured in Article 15 which provided that the lands that were objects of complaints would be investigated. Moreover, they explained that investigating all the lands would put the implementation of the law in suspense, which would be detrimental to the interests of the country. Therefore, it was advisable to let the lands remain in the possession of their owners unless their ownership was doubtful<sup>158</sup>.

Qarehbagh believed that there was no need for this project at all and that the problems could be solved through an implementation of Article 49 of the Constitution since the majority of the lands of Iran were illegally owned. Most of them had been usurped at some stage during the past 1,000 years, and afterwards, even if they were bought with *halal* money, their ownership remained illegal for the reason that a property obtained by force cannot be legally transferred<sup>159</sup>. Harandi agreed that 90 to 95 % of the lands were likely to have been taken by force at some stage, but he believed that it was not possible to determine it since this would require foreknowledge<sup>160</sup>. Therefore, he thought that the lands should be left in the possession of those who had been using them for years and who had documents to prove their ownership<sup>161</sup>.

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<sup>155</sup> *Ibidem*, 17 Azar 1361, p. 14.

<sup>156</sup> *Ibidem*, p. 16-17.

<sup>157</sup> *Ibidem*, 9 Azar 1361, p. 26; 11 Azar 1361, p. 18.

<sup>158</sup> *Ibidem*, 9 Azar 1361, p. 26-27.

<sup>159</sup> *Ibidem*, p. 16.

<sup>160</sup> Hojjatolislam Khalkhali disagreed with this (*Ibidem*, 9 Azar 1361, p. 17).

<sup>161</sup> *Ibidem*.

The opponents of the bill frequently referred to the Qur'anic verse according to which trade should be by mutual consent: "Eat not up your properties among yourself in vanities, but let there be among you traffic and trade by mutual good-will" (4: 29)<sup>162</sup>. The proponents of the bill, for their part, had recourse to the principle of *idtarra*, necessity which justifies the forbidden, which is derived from the Qur'anic verses allowing a believer to eat *haram* meats if he is "forced by necessity" ("*illam ma idturirtum*") and not intending to disobey (2:173, 6:119, 6:145 and 16:115)<sup>163</sup>.

The proponents of the bill also invoked Article 28 of the Constitution according to which: "The government is obliged to meet the needs of society for various occupations by providing equal possibilities for all individuals to have equal job opportunities...". They saw land distribution as the only way of creating employment in the villages given the limited capabilities of the government to bring dead lands under cultivation<sup>164</sup>. Their opponents objected that creating employment for everybody did not mean taking land from somebody to give it to somebody else, or taking somebody's job to give it to somebody else<sup>165</sup>.

The opponents of the bill argued that nothing in the *Shari'a* allowed limitations to be imposed on private ownership<sup>166</sup>. They opposed any restriction imposed on private property and were partisans of an unrestricted market economy. Some of them were even opposed to the state playing a supervisory role over economic transactions. For example, Va'ezî proposed the omission of the note giving *muzara'a* and *ijara* precedence over land transfers because it provided that these contracts would be under the complete supervision of the state<sup>167</sup>.

Contrary to what had happened during the first reading of the bill, the deputies who opposed it all harboured conservative tendencies. Those, such as Aqa-Rahimi who

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<sup>162</sup> For example Isma'il Ma'azi in *Ibidem*, 9 Azar 1361, p. 25.

<sup>163</sup> For example Harandi, *Ibidem*.

<sup>164</sup> Kazem Norozi in *Ibidem*, 17 Azar 1361, p. 18.

<sup>165</sup> Akhtari, *Ibidem*.

<sup>166</sup> For example: Isma'il Ma'azi, *Ibidem*, p. 15; Gholam-hosseini Nadi, *Ibidem*, p. 18.

<sup>167</sup> *Ibidem*, p. 14.



had spoken against it for not being radical enough now supported it. Khalkhali did not reiterate his fundamentalist criticism. Some of the demands of the radicals had been met in particular with the addition of an article stipulating that the lands that were the objects of complaints would be investigated before any compensation could be paid to their owners. Some of the demands of the conservatives were met during the debates through the introduction of amendments. For example, Mohammed Yazdi's main objection that the bill considered work as the only source of ownership and other sources of income as an obstacle to ownership was partially addressed (see below). Nevertheless, the radicals supported the bill since they realised that it was their only hope of having land reform legislation passed, although they were not very vocal in speaking in favour of it. They left that task to more moderate supporters of land reform such as Movahedi-Savaji and Abol-fazel Musavi-Tabrizi.

On the other hand, it is noteworthy that some deputies who had previously appeared to support land reform had by now turned against it. For example, Mohammed Fazel who was one of the 132 deputies who had declared themselves in favour of the implementation of *Band-e jim* ten months earlier spoke several times against this bill. His argumentation in favour of the omission of Article 2 clearly shows that he had changed his mind. Since he was a member of the Special Commission, this might have been a result of him becoming more knowledgeable about the subject. Another interesting case is that of Gholam-hossein Nadi, a cleric who claimed to be a peasant and the son of a peasant and to be well acquainted with rural problems<sup>168</sup>. He recounted that he had been working as an Islamic judge in a committee distributing land to peasants and that what he had learned from that experience had turned him against the idea of land distribution. What he saw was that the lands were left uncultivated because the peasants lacked the necessary knowledge to cultivate them. He was therefore opposed to the idea of

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<sup>168</sup> He was indeed the son of a peasant, but *A Description of the Majles* (p. 268-269) lists his occupations prior the Revolution as teaching and preaching. After the Revolution, he held positions on the Revolutionary Committee of Najafabad (Province of Isfahan), the Committee of the city of Isfahan and the Revolutionary Court of Isfahan.

spending public money to buy land and give it to people who lacked the necessary knowledge<sup>169</sup>.

Like the text approved in first reading, this bill left with all the owners of uncultivated lands three times the "local custom" of lands on the condition that they put them under cultivation within one year (Article 5)<sup>170</sup>, and with the owners of cultivated lands three times the "local custom" if they were personally involved in agricultural matters whether through direct work or through "direct and effective management", twice the "local custom" if they did not engage in agricultural matters and did not have other sources of income, and nothing if they did not work in agriculture and had other sources of income (Article 6). In accordance with the priorities stated in Article 10, the lands in excess of these quotas were to be bought by the state from their owners only if the other types of land were not sufficient to meet the demand in each area<sup>171</sup>. Moreover, "in case of agreement between the landowner and a cultivator", *muzara'a* and *ijara* "under the complete supervision of the state" would be given priority over buying by the state (Note 1 to Article 6).

The lands used for animal breeding, the orchards and the mechanised lands were again exempted from the implementation of this law. For the orchards, the bill made their exemption conditional on the lands not having been transformed into orchards after 15 April 1980 (Note 6 to Article 6) so as not to leave an easy way for the landowners to have their lands exempted. However, the majority of the representatives voted for the omission of this condition<sup>172</sup>.

Kazem Norozi and Mortaza Alviri proposed to omit the word "buy" [by the state] in Article 5 in order to avoid imposing a heavy burden on the state. In reply, Harandi made a comparison with the principle of *fiqh* which allows somebody who is

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<sup>169</sup> *Majles Proceedings*, 18 Azar 1361, p. 16.

<sup>170</sup> At the suggestion of Movahedi-Savaji, a note was added stipulating that the state would put at the disposal of the landowners the potential necessary to develop their uncultivated lands (*Ibidem*, 11 Azar 1361, p. 24.).

<sup>171</sup> The provision that they would be bought "on the order of the judge" was dropped.

<sup>172</sup> *Majles Proceedings*, 22 Azar 1361, p. 17-18.

starving to steal somebody else's property, but makes him liable to pay the price of it. He argued that this proposal was against the *Shari'a* and the Constitution<sup>173</sup>. Following these explanations, the proposal was defeated.

However, a proposal to omit "three time the local custom" and therefore to allow the owners of cultivated lands to keep all their lands met with a large support and came to a narrow-margin vote. The proclamation by the Speaker of its rejection caused an uproar on the floor of the *Majles*. Some deputies vehemently contested the count made by the secretaries of the number of deputies standing up to show their approval of the proposal<sup>174</sup>. Despite Khalkhali's objection that the Speaker had always followed the count of the secretaries in the past and that if these words were omitted the bill would lose all its meaning, another vote by written and signed ballot was organised. In the tumult that ensued, the count was again contested, but the proposal was finally rejected by a narrow margin (85 "yes" votes out of 182 deputies present)<sup>175</sup>. Since this article was the most radical in the bill and the one which most closely resembled a land reform, one can conclude from this vote that nearly half the deputies were opposed to a true and effective land reform.

When he spoke against this proposal, Kazem Norozi, who was one of the most radical deputies, suggested that the landowners should be allowed to keep only one time

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<sup>173</sup> *Ibidem*, 11 Azar 1361, p. 21-22.

<sup>174</sup> Out of 182 deputies present, one of the secretaries counted 89 yes votes and the other one: 91. Both counts were short of the necessary majority of 92. One of the secretaries was Ali Qa'emi-Amiri. The Proceedings did not record the name of the other one who was counting the votes on that day. However, all of the six secretaries officiating at the time were known as supporters of land reform. Beside Qa'emi-Amiri, they were: Asadollah Bayat, Ja'far Sobhanellahi, Fazlollah Hosseini-Barmayi, Manuchehr Motaki and Mortaza Alviri (*A Description of the Majles*, p. 39). Four of them had signed the January 1982 open letter demanding the implementation of *Band-e jim*, and the other two (Bayat and Alviri) were prominent members of the radical faction (see above, p. 230).

<sup>175</sup> *Majles Proceedings*, 17 Azar 1361, p. 18-20.

the local custom of land since there should not be any difference between them and the landless peasants who would be allotted one time the local custom. He wished that all the economic potential be divided equally among all individuals. This way the law would be equitable and conform to Article 28 of the Constitution. If somebody worked harder or was more clever, he would get more produce from his land, but everybody should have the same amount of land<sup>176</sup>. This was a lonely example of a radical suggestion in a rather conservative debate.

Several opponents of the bill, including Va'ez, Akhtari and Nadi, proposed to drop the condition that the landowners who were not involved in agricultural matters would be allowed to keep twice the local custom of land only if they did not have another source of income. Moderate proponents of the bill, most importantly Movahedi-Savaji, concurred with them on this matter and made the same proposal which was approved by the majority of the deputies. They were opposed by more radical proponents of land reform such as Sayyed Hassan Musavi-Tabrizi<sup>177</sup>. Hojjatolislam Abolhassan Elahebedashti convincingly argued that this condition implied that somebody who owned only 1,000 m<sup>2</sup> of land and had been forced to look for a job as a labourer in Tehran to support his family would lose his land. This was something difficult for anybody to agree with, except somebody who did not recognise land ownership and held the opinion that land was the property of whoever worked it, which was a completely communist thought, not an Islamic thought and not a criterion for *zarurat*. He believed that the Special Commission did not realise the implications of the condition which it intended to direct at big landownership<sup>178</sup>. Harandi replied that this provision would not affect individuals who owned less than four times the local custom of land<sup>179</sup>. However, Note 5 to Article 6, in fact, stated that the landowners who owned less than four times the local custom would not be affected *if* they were involved "personally through direct work or, at least, through direct and effective management". The note was later

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<sup>176</sup> *Ibidem*, p. 18.

<sup>177</sup> *Ibidem*, 18 Azar 1361, p. 16-18.

<sup>178</sup> *Ibidem*, p. 17.

<sup>179</sup> *Ibidem*, p. 18.

amended, following a proposal by Engineer Rajab Ali Taheri, and this condition was dropped despite Movahedi-Savaji's objection that this would leave little land for distribution. Harandi successfully argued that the inclusion of the owners of very small lands, such as women's dowers, would make a lot of people unhappy and would not solve the rural problems<sup>180</sup>. Salamati agreed with him and added that this amendment would simplify the implementation of the law since the committees would not have to assess whether or not somebody had another sufficient source of income<sup>181</sup>.

Mirza Hassan Yusufi-Eshkuri, a clerical representative from Mazandaran, proposed to omit the note relative to *muzara'a* and *ijara*. He did not contest the legality of this type of contracts, but believed that allowing somebody who owned hundreds of hectares to keep his lands and dispose of them in such a way would leave the door open for him to misuse the lands and continue to engage in "plundering, pillage and exploitation". The methods of the past which "certainly do not have Islamic essence and substance" would therefore persist under the guise of *muzara'a* and *ijara*. Asghar Rostami, a representative from West Azerbaijan, concurred that these contracts would provide a good escape for the "bloodthirsty landlords" who had illegally acquired their lands in the "satanic times" and would enable them to keep the lands and to continue through "thousands of allurements and tricks" to delude the peasants and the *khoshmeshin*. He did not believe that the state's supervision over these matters would make a decisive difference. However, he added that he would not object to this note if it applied solely to the landowners who had acquired their lands legally. Yusufi-Eshkuri, who was more radical than him, asserted that although these contracts were based on *fiqh*, not having recourse to them in this case would not be equivalent to negating their legitimacy. But Ezzatollah Dehqan (a lay man with a degree in Islamic law<sup>182</sup>) objected

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<sup>180</sup> Movahedi-Savaji accused him of having changed his mind 180° since when his own proposal to leave at least one time the local custom of land to those who did not work their lands and had another source of income was examined by the Commission, he said that they should not even be given 1 m<sup>2</sup> (*Ibidem*, 21 Azar 1361, p. 27-28).

<sup>181</sup> *Ibidem*.

<sup>182</sup> *A Description of the Majles*, p. 237.

that if *muzara'a* and *ijara* were a possible way of removing *zarurat*, by-passing them would be against the *Shari'a*. Harandi, for his part, asserted that he personally thought that the state should have more regulations to control these contracts and that there should be conditions that had to be respected. However, he was forced to admit that if the note was omitted, the bill would be in opposition to the *Shari'a* and would lose its legality. Salamati concurred with this. Only "two or three" deputies voted in favour of the proposal which was therefore rejected<sup>183</sup>. This overwhelming majority in favour of *muzara'a* and *ijara* shows that the deputies were conscious that they had to be respectful of Islamic regulations if they did not want the law to be rejected by the Council of Guardians, and some, like Harandi, must have voted to keep this note because they realised that it was the only way to save a minimum of land reform.

Nevertheless, the requirements of the agreement of both parties and of the supervision of these contracts by the state were more favourable to the peasants than the phrasing of the first reading according to which "the transfers of lands [... would be] in cases where the possibility of *muzara'a* and *ijara* does not exist" and which did not impose any conditions on the contracts. As Abol-fazel Musavi-Tabrizi noted, these conditions left open the possibility for the lands to be bought by the state in case the cultivators did not agree with an exploitative contract. Mohammed Farughi objected that the cultivators would never agree because they preferred the lands to be sold to them. Va'ez and Mir-Ja'fari disagreed with that sort of power of control being given to the state. However, Salamati argued that this was necessary because, on the one hand, many of the landowners did not respect the rights of the cultivators, and on the other hand, the peasants were so poor that they had to sell their work at a vile price and accept all what the landlords imposed on them. In practice, the relations between landlords and cultivators were not just and Islamic. He did not want the state to control everything. But, since the state was an Islamic state, intent on respecting Islamic regulations, criteria and values, and since this was an area of very frequent misuse, he believed that it was an area which required supervision<sup>184</sup>. Harandi added that a contract which would benefit

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<sup>183</sup> *Majles Proceedings*, 18 Azar 1361, p. 23.

<sup>184</sup> *Ibidem*, p. 24-25; 21 Azar 1361, p. 21.

one party to the detriment of the other would not be an instrument for the rejuvenation of agriculture<sup>185</sup>. After the omission of this note was rejected, Hossein Navab proposed to go back to the previous phrasing, invoking the same argument as Farughi<sup>186</sup>. After long debates over two sessions of the *Majles*, the conditions were maintained.

Since the implementation of the law was limited to a period of five years, the question of what would happen afterwards to the lands given in *muzara'a* and *ijara* was left pending. In an interview that he had given three months earlier, Harandi had avoided answering it<sup>187</sup> and it was not even considered by the *Majles*.

For the *waqf* lands, like in the previous text, it was provided that they would be given in *muzara'a* or *ijara* "by the Land Transfer Committees under the control of the *Awqaf* Organisation and in accordance with the regulations of the *Shari'a* and with the views of the bequeather" (Article 6, Note 4). None of the deputies objected to these lands being treated differently than the other lands. Va'ez proposed to omit "by the Land Transfer Committees under the control of the *Awqaf* Organisation" for the reason that, according to Islamic regulations, the state, the *Awqaf* Organisation and the Land Transfer Committees do not have any right of intervention in the management of a *waqf*. Only the *mutawali* (administrator of a *waqf*) has that right. In case there was no *mutawali*, the *vali-ye faqih* would appoint a representative to administer the *waqf*<sup>188</sup>. Movahedi-Savaji explained that the note was included to make sure that the *waqf* lands would be treated in accordance with Islamic regulations, not to submit them to land distribution. Abbas Sheybani, the former Minister of Agriculture, gave assurance that the state would not intervene in the management of the *awqaf* and that the regulations of the *Shari'a* would be respected, and he asserted that this note was included only to prevent

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<sup>185</sup> *Ibidem*, p. 21.

<sup>186</sup> *Ibidem*, p. 20.

<sup>187</sup> "*Taghirat-e tarh-e vagozari-ye zamin e 'lam shod*" ("Changes to the Land Transfer Project were announced"), *Ettela'at*, Economic Supplement, 21 *Shahrivar* 1361 [12 September 1982], p. 4-5.

<sup>188</sup> *Majles Proceedings*, 21 *Azar* 1361, p. 22; 17 *Azar* 1361, p. 14.

individuals to set up *awqaf* so as to avoid being subject to the law<sup>189</sup>. Harandi concurred that, even after 200 years, the intentions of the bequeather had to be respected. But, he added that since the Seven-Person Committees were responsible for the implementation of the rest of the law, it was suitable for them to transfer some *waqf* lands (for example some that had become dead lands) when the *mutawali* and the *Awqaf* Organisation agreed to it<sup>190</sup>.

The bill provided that the just price of the uncultivated lands subject to distribution would be paid to the their owners after deduction of their "legal debts". Qarehbagh proposed to omit the word "legal" so that their Islamic debts, such as *zakat* and *khums*, would also be taken into account. This had been provided in the April 1980 Law, but its implementation encountered technical and Islamic difficulties. Majid Ansari, who had been a signatory of the 16-Representative Project which provided that the landowners should retroactively pay all their Islamic dues or these would be taken out of the value of their lands, now objected that no law had been passed to regulate the collection of Islamic dues and that, therefore, it was not possible for the officials of the Ministry of Agriculture to be the agents of the collection of these dues. Anyway, he believed that entrusting with this task persons who were not competent to do it was contrary to the *Shari'a*. Harandi added that the basic questions whether paying *khums* was compulsory and whether it could be taken from somebody without his agreement had not been resolved. Ayatollah Khomeini had not issued a decree and the *Majles* had not passed any legislation on this matter. Moreover, he added that taking the property of somebody who did not pay *khums* fifty years ago would create chaos in the country. Following these explanations, the proposal was rejected by a larger number of representatives than most others, with only "three or four" supporting it. This was presumably because it was clearly impracticable and in opposition to Islamic regulations<sup>191</sup>. A similar proposal submitted by Qarehbagh and two other deputies about cultivated lands encountered the same kind of opposition with Hojjatolislam Abol-fazel

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<sup>189</sup> *Ibidem*, p. 14.

<sup>190</sup> *Ibidem*, 21 Azar 1361, p. 22-23.

<sup>191</sup> *Ibidem*, 11 Azar 1361, p. 25-26.



Musavi-Tabrizi arguing that Islamic dues should be paid in an Islamic state but that only the *vali-ye amr* was capacitated to take decisions regarding their collection<sup>192</sup>.

Article 6 was finally approved by the majority of the deputies after four days of discussions, to the acclaim of its proponents: "*Allahu akbar*" ("God is the greatest").

Like the previous projects, the bill stipulated that the Ministry of Agriculture would be the organ responsible for its implementation and provided for a Central Staff to supervise it. This Central Staff was to be composed of one cleric and four plenipotentiary representatives of the Ministry of Agriculture, *Jihad-e Sazandegi*, the Ministry of Interior and the Ministry of Justice (Article 8). The previous projects had stipulated that the cleric would be a representative of the Islamic judge and *vali-ye amr*, that is Ayatollah Khomeini. However, this provision was changed and the Society of Seminary Teachers was made responsible for its nomination, presumably due to Khomeini's desire not to directly intervene in the controversial matter of land reform. However, making the Society of Seminary Teachers responsible for appointing a member of the Staff came up against constitutional and practical difficulties. As this organisation did not have legal responsibility, the representative that it would appoint would not be legally answerable for his actions and if it refused to appoint one, it could not be forced to do it. Harandi related that the Special Commission had been confronted with that problem after it had removed the specification that there would be a representative of the Imam, and that some members were in favour of giving that authority to the Society of Seminary Teachers, while others supported giving it to the High Judicial Council as it had been provided in the 16-Representative Project. He stressed that the Commission thought that the important point was that there should be a clerical member present. He personally believed that if there was to be a cleric, he should be appointed by a legally-recognised clerical organ, the High Judicial Council, the Council of Guardians or whatever. Salamati, for his part, asserted that this cleric should meet two conditions. First, he should be answerable either to the *Majles* or to the Minister of Agriculture who was himself answerable to the *Majles*. Secondly, he should believe in this bill. He suggested that he would be nominated by the Ministry of Agriculture and approved by the High

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<sup>192</sup> *Ibidem*, 18 Azar 1361, p. 21-22.

Judicial Council, and that the Minister and Ministry of Agriculture would be answerable for him, as well as for the other members, before the *Majles*<sup>193</sup>.

The omission of the Society of Seminary Teachers as the organ responsible for the appointment of the clerical member of the Central Staff was approved by the majority of the representatives. However, its replacement by the High Judicial Council also encountered constitutional difficulties. Mohammed Mojtahed-Shabestari asserted that it was in opposition to the principle of the separation of powers (Article 60) since this work was of an executive nature and the High Judicial Council was a judicial organ. He also pointed to the fact that the High Judicial Council was not answerable before the *Majles*. Harandi objected that the representative chosen by the High Judicial Council would not act as a judge, but would do an executive job, and that the *Majles* had the right to select a member of the judicial power to act as a supervisor. Movahedi-Savaji added that similar provisions had been approved by the *Majles* in the past. Nevertheless, the proposal to make the High Judicial Council responsible for the appointment of the cleric was rejected by the majority of the representatives<sup>194</sup>.

Several deputies, including Sadeq Khalkhali, then proposed to omit the clerical member of the Central Staff altogether. Khalkhali argued that the cleric who would say whether or not something was against the *Shari'a* would in fact give his own opinion and that it was possible that other clerics would say the contrary. This would disturb the implementation of the law and would not prevent actions contrary to the *Shari'a* from occurring. He believed that it was better to leave with the courts and the High Judicial Council the determination of violations of the *Shari'a* by the organs responsible for the implementation of the law. On the other hand, Movahedi-Savaji believed that the presence of a cleric in the Central Staff was necessary and *zaruri*. Harandi related that the Special Commission did not reach a consensus on this question and that Hossein Ali Rahmani, who was a *mujtahid*, and himself were among those who insisted that there should not be a clerical member in the Central Staff for the same reasons as those put forward by Khalkhali. However, the majority believed that there should be clerics present

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<sup>193</sup> *Ibidem*, 24 Azar 1361, p. 16.

<sup>194</sup> *Ibidem*, p. 16-18.

in the Central Staff and the Seven-Person Committees because this would give "holiness" (*qadasat*) and more moral authority to these organs<sup>195</sup>. It is ironic that Harandi was advocating the suppression of his own post. This must have been because he feared that it might become occupied by a cleric who would not be supportive of land reform and because he had realised in the course of his work how difficult it was to find clerics to sit on the Seven-Person Committees<sup>196</sup>.

The majority of representatives agreed that there should be a clerical member, but did not reach a consensus on the authority responsible for his appointment. Qarehbagh predicted that the Council of Guardians would question his authority and the method of his appointment. Nevertheless, the provision that there would be a member of the clergy in the Central Staff was maintained, without any precision being given about the method of his selection<sup>197</sup>.

This legal deadlock is important since it illustrates the difficulty of making Islamic provisions implementable while respecting secular constitutional principles such as the separation of powers<sup>198</sup>. The only way out would have been to invoke the authority of the *vali-ye faqih* as overriding these principles, but the *Majles* deputies could not take that step since they were aware of Khomeini's wish not to be directly involved.

This problem was very likely to paralyse the implementation of the law since the clerical member of the Central Staff was responsible for the selection of clerics to sit on the Seven-Person Committees and no transfer of land could be made effective without

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<sup>195</sup> *Ibidem*, p.21-22.

<sup>196</sup> See his interview with *Ettela'at* three months earlier: "*Taghirat-e tarh-e vagozari-ye zamin e 'lam shod*", *op. cit.* p. 6.

<sup>197</sup> *Majles Proceedings*, 24 Azar 1361, p. 22.

<sup>198</sup> The argument of the separation of powers was also used (but without success) by Qarehbagh and Aqa-Mohammedi when they argued against the inclusion of a representative of the Ministry of Justice in the Central Staff (*Ibidem*, p. 18, 21), and again by Qarehbagh against the presence of a jurist (representative of the Ministry of Justice) in the Seven-Person Committees (*Ibidem*, 25 Azar 1361, p. 20). In the latter case, nobody agreed with him.

the agreement of these clerical members (Article 9, Note 3). Even for the other members of the Central Staff for whose appointment there was no doubt concerning the responsible authority, problems had been encountered in the past. So much so that by December 1982, the Ministry of Justice and *Jihad-e Sazandegi* had not had representatives in the Central Staff for nine months. Harandi complained that the Ministry of Justice had left all their correspondence about this matter unanswered<sup>199</sup>.

The composition of the Seven-Person Committees was the same as in the previous text (Article 9). But a note was added to specify that all their members, representatives of the ministries, of *Jihad-e Sazandegi* and local representatives, should meet the following conditions: "have faith and a practical engagement in Islam, not have done anything bad in the past, show loyalty to the Islamic Republic, and be renowned for their good moral and Islamic practice". No exception was made for regions inhabited by minorities. Yusufi-Eshkuri, a radical cleric, proposed to omit the last condition, but nobody agreed with him<sup>200</sup>. Qarehbagh proposed to omit the clerical members since they were to be appointed by the clerical member of the Central Staff whose responsibility had not been established, but this proposal was rejected by the majority of the representatives<sup>201</sup>.

The priorities in land distribution were stated in Article 10. The first to be affected by the law would be the lands confiscated by the state and other state lands susceptible to being rejuvenated, then the dead lands, abandoned lands and natural resources, before the uncultivated lands susceptible to being rejuvenated, and finally the cultivated lands if the previous categories were not sufficient to meet the needs. These lands would be given by order of priority to peasants with little land or landless, to *khoshmeshin*, to graduates in agriculture, and to other volunteers interested in

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<sup>199</sup> *Ibidem*, 24 Azar 1361, p. 19. This may have been due to bureaucratic delays more than to political reasons since Sayyed Mohammed Asghari who was the Minister of Justice at the time and later became a representative in the Second *Majles* was a partisan of land reform (*Ibidem*, 24 Ordibehesht 1364 [14 May 1985], p. 33).

<sup>200</sup> *Ibidem*, 25 Azar 1361, p.21.

<sup>201</sup> *Ibidem*, p. 19-20.

agriculture. Uncultivated and cultivated lands could be given only to landless and land-poor peasants. However, for these two types of land, the children of the owners would have precedence over everybody else if they met the necessary conditions to be recipients (that is if they were working in agriculture and did not have other sources of income<sup>202</sup>). Following a proposal by Hojjatolislam Mohammed Hadi Abd-khoda'i, a note was added to stipulate that if uncultivated or cultivated lands were distributed in spite of the availability of lands of the other types, the persons responsible for their distribution would be prosecuted and would have to pay damages. This was to make the law conform to the condition specified by Khomeini in his order giving authority to the *Majles* to determine the cases of *zarurat*<sup>203</sup>.

Article 11 left the choice open to the executors of the law, except for the dead lands, to put the lands bought by the state at the disposal of their beneficiaries in *muzara'a* or *ijara*, to sell them to them, or to give them free of charge. Several representatives, including Movahedi-Savaji, proposed to omit the last possibility on the ground that the burden would be too heavy for the state. Nadi quoted the figure of 150 milliard *toman* planned by the government to buy land in the next five years, or 30 milliard a year, and asserted that this was equivalent to the war budget. He suggested that this money should instead be given to the Ministry of Energy to be invested in water management projects. Anyway, he believed that even the poorest peasants were willing to buy land and were ready to sell their cattle and their valuable belongings in order to be able to do so, and that there was thus no reason to give them the lands free. Harandi stressed that it was important to leave that possibility open to the government so that it could make the transfers subject to respect of some conditions, which it could not do if the lands were sold. The majority of the deputies voted to keep Article 11 unaltered<sup>204</sup>.

Then, Mohammed Kazem Musavi-Bojnurdi proposed to omit the options of *muzara'a* and *ijara* which left to the state the task of administering the lands. Ali Aqa-

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<sup>202</sup> Harandi's interview in "*Taghirat-e tarh-e vagozari-ye zamin e 'lam shod*", *op.cit.*, p. 4.

<sup>203</sup> *Majles Proceedings*, 25 Azar 1361, p. 25-26. See above, p. 224.

<sup>204</sup> *Ibidem*, 28 Azar 1361, p. 22.

Mohammedi, a radical supporter of land reform<sup>205</sup>, concurred that these options would leave the peasants under the control of a ministry which would impose conditions on them and would not give them any sense of security. He believed that this would lead to lands being abandoned and to a decline of agriculture. He added that if lands were not to be transferred to landless peasants, this bill did not have any meaning. Harandi asserted that he, personally, would not insist on keeping these options, but that the view of the majority of the Commission was that they should be available. After debate, the representatives voted to maintain the four options<sup>206</sup>.

For the dead lands, Article 11 provided that the state would give them free of charge, would specify conditions and could take them back in case of infringement of these conditions. These conditions were similar to those provided in the previous projects except that they now applied only to dead lands and that the stipulation that the lands would be first transferred for five years was dropped. The lands would be transferred in the form of *mosha'* apart from exceptional cases. They could not be left uncultivated without excuse, and production should be in accordance with the needs of the society. The lands could not be transferred, bought, sold or exchanged without the state's permission. The beneficiaries had to reside in the area and work the land themselves. In addition, the condition that the recipients of lands must not have another source of income was added, as well as the stipulation that nobody would be given less than one time the local custom.

Several representatives, some proponents (including Movahedi-Savaji) and some opponents of the bill (including Qarehbagh and Kashani), proposed to omit the condition that the lands should be transferred in the form of *mosha'*. Rostami argued that this would not provide incentives to the peasants to work the lands. Hojjatolislam Mortaza

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<sup>205</sup> He believed that all existing property contradicted the *Shari'a*. At the occasion of the discussion of the urban land law in December 1980, he expressed the wish that not only the landlords would have their lands confiscated, but they would be forced to work as brick-makers so that they would come to know the bitter taste of having no property (Schirazi, *The Constitution of Iran*, p. 177).

<sup>206</sup> *Majles Proceedings*, 28 Azar 1361, p. 23.

Fahim-Kermani, who was the son of a peasant, related that he saw that the peasants who had lands in *mosha'* experienced many difficulties which were difficult to solve. He predicted that the approval of this clause would bring about opposition to the law from among the peasants in addition to that of the landowners. Hojjatolislam Mohammed Isma'il Shoshtari objected that this was intended to prevent the fragmentation of lands in small plots which would be detrimental to agricultural production. Harandi explained that only the lands and the big machinery would be owned in common and that the peasants would work their plots individually like in the traditional *boneh*, but if they did not agree to this, exceptions would be made. Salamati added that giving the lands in *mosha'* would make it possible to implement an agricultural plan and would be in the interests of the country. Nevertheless, the proposal was approved by the majority and the clause was deleted<sup>207</sup>.

One of the main criticisms expressed during the first reading of the bill was partially addressed with Article 15 which stipulated that in case the ownership of the lands was a subject of complaint, the lands would be appraised, the money to buy them would be deposited in a special account and the High Judicial Council would be bound to set up as soon as possible a special court to investigate their ownership. If their ownership was proved to be legal, the money would be paid to their owner. If not, it would revert to the state. If after the lands had been transferred, it was proved that their owner was not subject to the law, he would have the options of receiving the money, taking another plot of land in exchange or recovering the land itself. After discussions, the provision to deposit the money in a special account where it would have been left idle for several years was deleted<sup>208</sup>. Anyhow, this article applied only to the lands which were "under doubt"<sup>209</sup>. There was no provision to investigate the ownership of all the lands as the radicals had wished.

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<sup>207</sup> *Ibidem*, p. 26-27.

<sup>208</sup> *Ibidem*, 5 Dey 1361 [26 December 1982], p. 20-21.

<sup>209</sup> A note added that if it was proved that the "doubt" had been self-interested, the person responsible would be prosecuted and punished.

To finance the implementation of the law, Article 19 stipulated that the state would be authorised to take a loan from the Central Bank or other banks. Several opponents of the bill proposed to omit this article. The First Deputy Speaker, Hojjatolislam Mohammed Yazdi, who was chairing the session that day, let them speak despite Asadollah Bayat's objection that the bill would not be susceptible to be examined by the *Majles* if its budget was not specified. Movahedi-Savaji asserted that if Rafsanjani was chairing the session, he would not let them speak because it was in opposition to what had previously been approved and that if the article was omitted, all the project would fall apart<sup>210</sup>. Musavi-Kho'iniha was of the opinion that providing for a loan was not an acceptable way of specifying the budget<sup>211</sup>. Kazem Norozi and Movahedi-Savaji retorted that this was acceptable in the national budget. The opponents objected that printing money was not an acceptable policy and would lead to inflation. Nadi referred to a figure of 150 milliard *toman*. Majid Ansari, who quoted a figure of 100 milliard *toman*<sup>212</sup>, was worried of the consequences of adding to the debt of the state to the Central Bank which already amounted to 200 milliard *toman* and of what would happen with all that money circulating on the market which could go into buying contraband goods and foreign currencies. However, Movahedi-Savaji quoted from a letter addressed by Mohammed Taqi Banki, the Head of the Organisation of Planning and Budget, to the Special Commission, which said that on 22 June 1982 the Economic Council<sup>213</sup> had approved borrowing from the Central Bank for the implementation of this bill in 1361 (March 1982-March 1983). He added that, for the following years, the necessary budget would later be provided in the annual national budgets. This explanation was acclaimed

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<sup>210</sup> *Majles Proceedings*, 6 Dey 1361, p. 22-23. In fact, it appeared that, although Mohammed Yazdi did not approve of this bill, during the sessions that he chaired (21 Azar and 6 Dey completely, 29 Azar and 2 Dey in part), he acted fairly and impartially.

<sup>211</sup> *Ibidem*, p. 23.

<sup>212</sup> Both figures had been mentioned in the Special Commission (*Ibidem*, p. 25).

<sup>213</sup> The Economic Council was composed of the Minister of Economic Affairs and Finance, the Minister of Trade, and the Head of the Organisation of Planning and Budget who had the rank of a minister (*Ibidem*, 7 Dey 1361, p. 17).



by the supporters of the bill in the *Majles*. Salamati, who was present as well as Harandi when the Economic Council had discussed this matter, added that nobody had voted against it. Moreover, both Salamati and Harandi contested the figures put forward by the opponents of the article. Salamati asserted that the government was only planning to borrow 3-4 milliard *toman* a year for five years. He believed that much less than that would be necessary since the state would get an income to compensate for most of its expenses by selling lands. Movahedi-Savaji maintained that only a very small portion (maximum 5 %) of the lands would be given free to very weak individuals. Salamati stressed that what mattered was that, owing to this bill, agricultural production would increase (by putting uncultivated lands under cultivation). Further, he added that since the government was giving milliards of *toman* in subsidies to city-dwellers, it should also give some to the *mostaz'afin* in the villages. Following these explanations, the proposal to omit the article was rejected by the majority of the representatives<sup>214</sup>.

The next day, Rafsanjani chaired the session and authorised a discussion on the essence of the article since its provisions were different from those approved in the first reading. Mohammed Mojtahed-Shabestari argued that it was important for the proponents of the article to have the opportunity to speak in order to avoid the article being rejected and all the project being put into question. Majid Ansari reiterated his arguments against taking a loan. But, Shabestari stressed that if no budget was provided, the Council of Guardians would object that the bill was not susceptible to being examined by the *Majles*. Then, the project would have to go back to the Commission. He explained that the intention of the Special Commission was not that all the funds necessary for the implementation of this bill would be borrowed in the current year, put in the account of the Ministry of Agriculture and drawn out from it progressively. It was that each year what was needed could be borrowed. However, this budget, like the national budget, would have to be approved each year by the *Majles* and the *Majles* would have the right to suggest other ways than borrowing. He suggested to add "each year" in the text of the article to avoid ambiguities<sup>215</sup>. Movahedi-Savaji, speaking for the

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<sup>214</sup> *Ibidem*, 6 Dey 1361, p. 24-25.

<sup>215</sup> *Ibidem*, 7 Dey 1361, p. 16-17.

Commission, concurred that the provision to take a loan applied to the rest of 1361 and had been inserted to make the bill conform to the Constitution. Moreover, he added that since there were less than three months left to the end of the year and the bill would not reach the stage of implementation by then<sup>216</sup>, in fact, nothing would be needed for 1361 and the budgets for the following years would have to be included in the national budget. Despite these explanations, when Article 19 was put to the vote, it was rejected by the majority of the representatives<sup>217</sup>.

A proposal by Gholam-ali Shahraki to secure the budget through selling shares in factories owned by the state and through selling the lands to the peasants was also rejected<sup>218</sup>. Giving state assets such as shares in factories or other means of production had been suggested several times in the previous sessions, by Hossein Herati<sup>219</sup>, by Mehdi Tayeb who had submitted a separate project on this matter to the *Majles*<sup>220</sup> and by Majid Ansari<sup>221</sup>. Salamati had agreed with this possibility<sup>222</sup> and Movahedi-Savaji had stated that the Special Commission did not have any objection against it if the state and the landowners agreed<sup>223</sup>. But he objected that the landlords who would keep up to four times the local custom of land did not want to come to the towns to become factory-owners, but wanted to stay in the villages and receive money. Shahraki's proposal was not approved by the majority of the representatives<sup>224</sup>.

After this, another vote was taken on the omission of Article 19, but it was again rejected. In order to save the bill, several of its proponents, including Movahedi-Savaji

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<sup>216</sup> He estimated that this would take at least five months (*Ibidem*, p. 17).

<sup>217</sup> *Ibidem*.

<sup>218</sup> *Ibidem*, p. 18-19.

<sup>219</sup> *Ibidem*, 28 Azar 1361, p. 22.

<sup>220</sup> *Ibidem*, 5 Dey 1361, p. 19-20.

<sup>221</sup> *Ibidem*, 6 Dey 1361, p. 24.

<sup>222</sup> *Ibidem*, p. 25.

<sup>223</sup> *Ibidem*, 5 Dey 1361, p. 19-20.

<sup>224</sup> *Ibidem*, 7 Dey 1361, p. 18-19.

and Aqa-Mohammedi came together with Majid Ansari<sup>225</sup> to present a collective proposal similar to the text approved in the first reading. According to this proposal which omitted taking out a loan, the budget would be secured in the current year from the 4 milliard *toman* of the budget allocated to the Central Staff and the Land Transfer Committees, and in the following years "from the income of the state, such as selling transferred lands and other items in the general budget of the country". Movahedi-Savaji informed the *Majles* that according to Mostafa Sharif, the representative of the Ministry of Interior in the Central Staff<sup>226</sup> who was then present, out of these 4 milliard *toman*, there were 2.55 milliard left. Despite Mahallati's objection that a budget should be provided for the five years of the implementation of the law, this proposal was approved by the majority of the representatives<sup>227</sup>.

The Project on the Rejuvenation and Transfer of Agricultural Lands was finally approved on 28 December 1982 after seventeen sessions of deliberations by the *Majles* and four years of discussions in the country.

Some interesting conclusions can be drawn from a comparison of the deputies from both sides who were most actively involved in the debates. On the side of the supporters of land reform, the ten most active deputies were: Mohi'oddin Fazel-Harandi, Ali Movahedi-Savaji, Abol-fazel (Sayyed-Rihani) Musavi-Tabrizi, Kazem Norozi, Hossein Ali Rahmani, Latif Safari, Mohammed Mojtahed-Shabestari, Hossein Herati, Mohsen (Purmoghaffari) Musavi-Tabrizi and his brother Hassan. On the side of the opponents, the ten deputies who spoke the most frequently were: Abdol-karim Shar'i, Abbas Ali Akhtari, Mohammed Fazel, Ali Akbar Ghaffari-Qarehbagh, Qodratollah Najafi, Rajab Ali Taheri, Farajollah Va'azi, Isma'il Ma'azi, Mortaza Fahim-Kermani, and Ahmad Mostafavi-Kashani. On each side, eight out of ten were clerics<sup>228</sup>. Their level of educational achievement were similar. Among the former, three had *ijtihad* (Harandi,

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<sup>225</sup> This proposal was also signed by Ahmad Nateq-Nuri (*Ibidem*, p. 19).

<sup>226</sup> See above Note n. 117, p. 258.

<sup>227</sup> *Majles Proceedings*, 7 Dey 1361, p. 19-20.

<sup>228</sup> These and the following data are deduced from *A Description of the Majles*, p. 216-275. See Appendix 3 for more details.

Rahmani and Mohsen Musavi-Tabrizi), four had reached the third level of religious education and one (who was only twenty-four at the time of the Revolution) had attended religious classes up to the end of the second level. Among the latter, three had *ijtihād* (Va'ezi, Najafi and Ma'azi) and five had attended the third-level classes. On both sides, the lay men had tertiary qualifications, three of them holding post-graduate degrees. The two opponents of land reform were civil engineers (Taheri and Kashani), while the supporters were a scientist (Safari) and a social scientist (Herati). The opponents of land reform were somewhat older: 45.6 years on average, against 40.4 for the proponents. At least five of them<sup>229</sup>, four proponents and one opponent (Harandi, Movahedi-Savaji, Abol-fazel Musavi-Tabrizi, Rahmani and Mohammed Fazel) were members of the Special Commission which had been set up to examine the land reform bill, but only Harandi and Safari were members of the Agricultural Commission. Safari is the only one who had worked in agriculture, although two other supporters and four of the opponents were the sons of farmers.

However, the most active supporters of land reform were men of higher stature than their opponents. Three of them had acted as Khomeini's representative: Harandi in the Central Staff of Land Transfer, Movahedi-Savaji in *Jihad-e Sazandegi* and Mohsen Musavi-Tabrizi in the Seven-Person Committee of Khorasan. Abol-fazel Musavi-Tabrizi was a member of the Society of Seminary Teachers of Qom and had taught in classes for Islamic judges and Islamic courts. Shabestari was the publisher of an Islamic magazine. Moreover, whereas five of the eight clerical opponents of land reform (including the three *mujtahidin* among them) still confined themselves to their traditional role of teaching and preaching after the Revolution, all the proponents, except Shabestari, had worked in revolutionary organisations.

It is well-known that some high-ranking clerics in the *Majles*, such as Ayatollah Mohammed Yazdi, the Deputy Speaker and future Chief Justice, were opposed to land reform on religious grounds. However, those who actively engaged in the debates on the

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<sup>229</sup> The following five deputies were identified from indications given during their public interventions. *A Description of the Majles* only lists the members' affiliation to ordinary commissions.

side of the opposition were not clerics of high-status. They did not need to be since their case was easy to defend by invoking the sanctity of private property. On the side of the supporters, however, persons of high stature, such as Harandi and Abol-fazel Musavi-Tabrizi, actively participated in the debates because they were the best able to counter the arguments of their opponents on religious grounds. Sadeq Khalkhali, the well-known radical, occasionally intervened as well, but most of the time, he let his more moderate colleagues defend the case for land reform. Some of the deputies who spoke in favour of the bill, in particular Abol-fazel Musavi-Tabrizi and Movahedi-Savaji, were in no way radicals. At other times, they had voted in favour of legislation which was not in the interests of the *mostaz'afin*. For example, they had both supported the Islamised rent law which had dropped many of the guarantees which the pre-revolutionary rent law accorded to the tenants<sup>230</sup>.

Of the two peasant members of the *Majles*, although they had both previously expressed themselves in favour of land reform<sup>231</sup>, one did not speak at all, and the other, Ali Reza Yar-Mohammedi, who was a member of the administrative board, only intervened to contest Harandi's assertion that a part of the agricultural sector had been performing better after the Revolution. He objected that Iran which used to export 2 milliard tonnes of cotton was now importing some, and he asked on what statistics this assertion was based<sup>232</sup>.

Although several clerics who came from farming families were among the most vocal deputies on both sides<sup>233</sup>, few of the lay men who were the sons of peasants

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<sup>230</sup> Schirazi, *The Constitution of Iran*, p. 188.

<sup>231</sup> Both had signed the May 1981 letter requesting Khomeini to decree the reinstatement of *Band-e jim*.

<sup>232</sup> Rafsanjani replied to him that the fact that the state bought 200,000 tonnes more of wheat from the peasants was a clear piece of evidence (*Majles Proceedings*, 17 Azar 1361, p. 15)

<sup>233</sup> Movahedi-Savaji, Norozi, Abbas Abbasi and Yusufi-Eshkuri among the supporters of the bill, Qarehbagh, Fahim-Kermani, Va'ezi, Nadi and Mir-Ja'fari among the opponents.

participated in the debates. Only Aqa-Rahimi (who held a degree in *fiqh*), Rostami and Safari on the side of the supporters of the bill, and Sayyed Reza Zavare'i on the side of the opponents, engaged in the discussions. Although the subject was tightly related to agricultural performance and the well-being of the peasant population, the discussions most of the time centred on points of Islamic law and on legal technicalities. It is therefore understandable that many of the deputies from a rural background, whatever their interest in the subject, were not knowledgeable enough or did not feel confident enough to compete with the clerics<sup>234</sup>.

If one looks at the electoral constituency of the deputies who participated the most in the debates, one can see that among the most active supporters of land reform, two were representatives of Tabriz, one represented a medium-size town and the others were the representatives of small towns and rural constituencies. Among the most active opponents of land reform, one represented Mashhad, one Urumia, two represented medium-size towns and the others were the representatives of small towns and rural constituencies. Seventy percent of them (80 % of the supporters and 60 % of the opponents) were born in their electoral constituency. Three of the supporters of land reform were born in Tabriz, one came from a medium-size town, and the others from small towns. One opponent of land reform was born in Tehran, one in Najaf, two came from medium-size towns but were the sons of farmers, and the rest came from small towns. The majority of the deputies from both sides thus came from a rural background. The opponents of land reform, however, more often came from southern provinces (5 of them) where agriculture was more extensive and more lands were available, but of poorer quality. The supporters of land reform, on the other hand, more often came from northern provinces where the lands were of better quality, but more often the object of conflict. Four were from Azerbaijan and one from Kurdistan. As an illustration of the lack of popularity of the concept of land reform in the South, one can mention the case of Aqa-Rahimi, the representative of Sharbabak, a small town between Shiraz and Kerman who spoke in favour of a more radical land reform bill during the first reading of

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<sup>234</sup> Of the two peasant members of the *Majles*, Mortaza A'zami-Lorestani had only elementary education and Yar-Mohammedi had completed high-school.

the bill in March 1982 and won only 732 votes out of 33,411 votes cast in that constituency in the 1984 parliamentary elections<sup>235</sup>.

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<sup>235</sup> *Ettela'at*, 31 *Ordibehesht* 1363 [21 May 1984], p. 21.

## Chapter 7: The Debates over Land Ownership and Land Reform in the *Majles* (1983-1986)

### 1. Rejection of the Land Reform Law by the Council of Guardians

On 18 January 1983, the Council of Guardians of the Constitution announced its rejection of the Law on the Rejuvenation and Transfer of Agricultural Lands adopted by the *Majles* on 28 December 1982. In its published resolution, it enumerated six reasons why the bill was in opposition to the *Shari'a* and four reasons why it was in contradiction with the Constitution<sup>1</sup>. The first six had been approved by the majority of the *fuqaha* on the Council and the latter four by the majority of all the members. The Islamic objections were that:

1. many of the articles related to primary ordinances and that therefore there was no reason to base all the bill on *zarurat*;
2. the actual *zarurat* for the distribution of uncultivated or cultivated lands had not been established since the bill itself in its Article 10 (which fixed the order of priority in distributing lands) recognised that the other categories of land might be sufficient to meet the needs in some regions. Therefore, Articles 5 and 6 which dealt with these types of lands were not subject to the order of Ayatollah Khomeini and were in contradiction with *Shar'i* regulations;
3. the determination of *zarurat* must be based on conditions existing throughout the country. Therefore, the regional and personal needs mentioned in Article

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<sup>1</sup> Sazyyed Jalaloddin Madani, *Hoquq-e asasi dar Jomhuri-ye Islami-ye Iran* (*Fundamental Laws in the Islamic Republic of Iran*), vol. 4: "*Qovve-ye moqaneneh: Shura-ye Negahban*" ("*Legislative Power: The Council of Guardians*"), Tehran, Press of the Voice and Vision of the Islamic Republic of Iran, 1366 [1987], p. 274-277; see also Chibli Mallat, *The Renewal of Islamic Law: Muhammad Baqer as-Sadr, Najaf and the Shi'i International*, Cambridge, Cambridge University Press, 1993, p. 150.



10 were out of the scope of the order of Ayatollah Khomeini and from the point of view of the *Shari'a*, could not be the basis for limitations of the authority of the landowners over their lands;

4. the absolute character of Article 11, Clause 4 according to which the owners of the lands could not sell or transfer their lands was against Islamic regulations;
5. the second part of Note 1 to Article 11 according to which dead lands would be taken back if the conditions on which the lands were given were infringed upon, was also against Islamic regulations; and
6. Note 3 to Article 6 which provided for the intervention in the affairs of the *waqf* lands by persons to whom the *Shari'a* did not recognise such right, did not conform to Islamic regulations.

The constitutional objections were that:

1. since it considered agriculture as under the control of the state (*dawlati*), all the project was contrary to Article 44 of the Constitution [which provided for three economic sectors: public, cooperative and private]. Moreover, by making compulsory the authority of the Minister of Agriculture over the peasants, it was in contradiction with Clause C of Article 2 of the Constitution which forbids all types of domination (*saltehgiri* and *saltehpaziri*);
2. the way the budget for the implementation of the bill was determined in Article 19 was not sufficient, and from that point of view, all the project was contrary to the Constitution;
3. Clause B of Article 3 which absolutely made all the pastures part of the national lands was contrary to Article 45 of the Constitution; and
4. Article 11, since it did not specify the cases in which lands would be given for free, was contrary to Article 80 of the Constitution according to which the government cannot give away anything without the approval of the *Majles*.

Such a succinct ruling, which did not explain why a particular stipulation was in contradiction with the *Shari'a* or the Constitution or even which Islamic regulation it was infringing upon, was common practice for the Council of Guardians which tended to

adopt an attitude of superiority towards the *Majles* and often refused to inform it of the reasons for its decisions<sup>2</sup>. Curiously, the Council of Guardians did not raise objections about what appeared to be one of the weak points of the bill: the selection of the clerical member of the Central Staff. Nevertheless, such a categorical rejection of the bill by the Council of Guardian despite all the precautions taken by the *Majles* to assuage its potential criticisms was unexpected. The *Majles* deputies had wrongly assumed that if they based the bill on the principle of *zarurat* and on the order of Ayatollah Khomeini recognising them as the competent authority to determine the cases of *zarurat*, the Council of Guardians could not overturn it. After the decision of the Council of Guardians was announced, Rafsanjani complained to Ayatollah Khomeini and the Imam ordered that a majority of two-thirds of the representatives would be needed to determine *zarurat* and free the decision from possible overturn by the Council of Guardians<sup>3</sup>. This requirement of a two-thirds majority was brought in at the instigation of numerous influential members of the clergy who had spoken out against the fact that an absolute majority in the *Majles* had been accorded the right to suspend the primary ordinances of the *Shari'a* despite the fact that most of its members did not possess the knowledge of Islamic jurisprudence which they considered absolutely necessary to do so. In a meeting with members of the *Majles* on 24 January 1983, Khomeini expressed the view that resolutions based on *zarurat* would require a two-thirds majority to be passed by the *Majles*, and that, in these cases, the Council of Guardians could not raise objections against them, although he advised the deputies to formulate their resolutions in such a way that the Council of Guardians would not have difficulty in approving them<sup>4</sup>.

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<sup>2</sup> Schirazi, *The Constitution of Iran*, p. 92, and note 45, p. 119.

<sup>3</sup> *Majles Proceedings*, 26 *Ordibehesht* 1364 [16 May 1985], p. 21.

<sup>4</sup> Schirazi, *The Constitution of Iran*, p. 181-182, and note 29, p. 203. The context shows that the date printed there of 24/1/82 is a typographical error. The correct date is mentioned by Ahmad Kashani during the *Majles* debates on a bill on the subject of the lands "under temporary cultivation" (See Section 4 of this Chapter; *Majles Proceedings*, 29 *Mehr* 1365 [21 October 1986], p. 27). On the question of the two-thirds majority, Mallat commented that such a change was anti-constitutional and that

A rejection of a law by the Council of Guardians was not a rare occurrence in the 1980s. During the First *Majles* (1980-1984), the Council of Guardians raised objections against 102 out of 370 laws approved by the *Majles* (that is 27.5 %) and this figure rose to 118 out of 316 or 37.3 % during the Second *Majles* (1984-1988). Twenty-two were rejected more than once during the First *Majles* and nine during the Second *Majles*. For example, the law restricting the private ownership of urban lands was rejected twice in 1981 before finally being passed in March 1982. The Labour Law was sent back five times between the *Majles* and the Council of Guardians. Moreover, generally speaking, the laws to which the Council of Guardians objected were of greater importance than those which did not encounter opposition. Out of 64 bills of fundamental importance, 31 were rejected<sup>5</sup>. Basing itself on the classical conservative interpretation of the *Shari'a* which held private property as sacred, the Council of Guardians saw it as its task to protect the *Shari'a* and to implement primary ordinances even if they did not meet the needs of everyday policies. As a consequence of this stance, it rejected every law passed by the *Majles* which restricted the rights of property holders<sup>6</sup>.

It took two years and four months for the *Majles* to find a way to try to overcome the objections of the Council of Guardians. During that time, this Council was the main target of the criticisms of the advocates of land reform. Rafsanjani, himself, accused it of having exceeded its authority. In this period, the state-controlled press became a forum to put forward the social, economic and Islamic legal arguments for land reform, while the opponents of the reform went largely unheard<sup>7</sup>.

In August 1984, a Law on the Method of Implementing Article 49 of the Constitution was finally passed. This law assumed the legality of all personal properties and assets unless the contrary was proved (Article 2). It provided for special

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it was only Khomeini's unquestioned authority which allowed it, and this was only for a temporary period since it was not incorporated in the Constitution when it was amended in 1989 (*The Renewal of Islamic Law*, note 62, p. 222-223).

<sup>5</sup> Schirazi, *The Constitution of Iran*, p. 92, note 43, p. 118-119, and p. 179-180.

<sup>6</sup> *Ibidem*, p. 93.

<sup>7</sup> Schirazi, *Islamic Development policy*, p. 183.

revolutionary courts to be set up in each provincial capital and district capital if necessary (Article 3) in order to investigate the legality of the assets of individuals who acquired them through illegal acts and deals under the regime of the Shah. These individuals were divided into twelve categories ranging from members of the SAVAK to the owners of cinemas or cabarets (Article 5). The assets which would be proved to have been acquired illegally would be returned to their rightful owners or, if they were unknown, would go into the public treasury. However, despite the promises made at the time of the discussions of the land reform bill that illegally acquired land ownership would be dealt with under Article 49 of the Constitution, this law did not make any mention of land ownership and did not result in any significant progress for land reform<sup>8</sup>.

## 2. Discussion of Amendments to the Land Reform Law (May 1985)

In accordance with the internal regulations of the *Majles*, when the Law on the Rejuvenation and Transfer of Agricultural Lands was sent back to the *Majles* by the Council of Guardians, it was referred to the Agricultural Commission to investigate the objections of the Council of Guardians and come up with some amendments to address them. Usually, the responsible commission accomplished this task in a short period of time. However, in this case, the process dragged on until the Administrative Board of the *Majles* entrusted Deputy Speaker Mohammed Yazdi with investigating why it was taking so long and making contacts both with the Council of Guardians and the Agricultural Commission to try to solve the problem. Yazdi later explained that the Commission found the constitutional objections of the Council of Guardians particularly difficult to overcome<sup>9</sup>. After discussions with the members of the Commission, he wrote down their final views and took them to Qom to present them to influential members of the Council of Guardians. Together they prepared proposals which came close to the views of the Commission and a draft was written. Yazdi distributed copies of it to prominent

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<sup>8</sup> *Ibidem*, p. 211-213; and *Majles Proceedings*, 26 Dey 1362 [16 January 1984], p. 19, 22, 28.

<sup>9</sup> *Majles Proceedings*, 24 Ordibehesht 1364 (14 May 1985), p. 28.

individuals, including Ayatollah Montazeri who approved it.. Because of the importance of the matter, a Special Commission composed of members of different commissions was again set up. However, for "political reasons", its discussion of the draft was delayed<sup>10</sup> and no conclusion was reached before the end of the First *Majles*. After a new *Majles* was elected in 1984, a similar Special Commission was set up under the chairmanship of the new Second Deputy Speaker Ayatollah Mohammed Mehdi Rabbani-Amlashi, who was a former Prosecutor-General and a member of the Central Committee of the IRP, with Hojjatolislam Abol-fazel Musavi-Tabrizi as First Deputy Chairman and Ayatollah Mohammed Yazdi as Second Deputy Chairman. Again, it took a long time before, the Commission started discussing the problem. Since most of its members were new representatives, considerable time was spent informing them of the generalities of the bill. In accordance with the internal regulations of the *Majles*, the mandate of the Commission was limited to the points on which the Council of Guardians had raised objections, without authority to modify other parts of the bill. Every session which the Commission spent discussing this problem was attended by a representative of the Council of Guardians as well as by the Minister of Agriculture and representatives of the Seven-Person Committees<sup>11</sup>. Finally, the Special Commission came up with some amendments which were discussed in plenary session in May 1985.

By that time, the composition of the *Majles* was significantly different from what it was when the land reform bill had been debated in November-December 1982. Only 39.7 % of the deputies of the First *Majles* had been re-elected during the 1984

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<sup>10</sup> This is presumably an allusion to insurmountable differences of opinions on this topic among the different factions present in the *Majles*.

<sup>11</sup> Yazdi's Interview: "*Arazi-ye kesht-e movaqat bar esas-e zarurat dar ekhtiyar-e keshavarzan baqi khvahad mand*" ("On the basis of overriding necessity, the temporarily cultivated lands will stay at the disposal of the peasants"), *Ettela'at*, 23 *Ordibehesht* 1364 [13 May 1985], p. 15; and Yazdi's explanations to the *Majles* in *Majles Proceedings*, 24 *Ordibehesht* 1364 (14 May 1985), p. 28-29.

parliamentary elections<sup>12</sup>. The number of radicals had increased<sup>13</sup>. Members of the radical faction still held the majority of seats on the Administrative Board<sup>14</sup>, with eight out of twelve seats, although the two deputy speakers, Ayatollahs Yazdi and Rabbani-Amlashi were conservatives<sup>15</sup>. The conservative faction was now led by a new deputy, Ayatollah Ahmad Azari-Qomi, while Hojjatolislam Mehdi Karubi had emerged as the leader of the radical faction. According to Baktiari, each faction had close to eighty supporters, while a large bloc of sixty-five to seventy deputies floated between the two camps<sup>16</sup>.

Among the 132 deputies who had declared their support for the implementation of *Band-e jim*, 52 were re-elected in 1984 while 69 were not re-elected<sup>17</sup>, which gives a

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<sup>12</sup> Baktiari (*Parliamentary Politics*, p. 114) asserts that 105 out of 269 members of the Second *Majles* (that is 39 %) were re-elected members. But since there were only 264 representatives at the end of First *Majles*, the proportion of members of the First *Majles* who were re-elected in 1984 was in fact 39.7 %.

<sup>13</sup> *Ibidem*.

<sup>14</sup> For the composition of the Administrative Board, see: *Ettela'at*, 28 *Khordad* 1363 [18 June 1984], p. 14. Those who were known as supporters of land reform are here counted as radicals, even though they may not have held radical positions on other topics.

<sup>15</sup> For Rabbani-Amlashi, see: Rahnema and Nomani, *The Secular Miracle*, p. 264. Baktiari describes both of them as members of Rafsanjani's faction and adds that that faction controlled the leadership of the *Majles* (*Parliamentary Politics*, p. 115, see Chapter 6, p. 231-232, for his definition of that faction).

<sup>16</sup> *Ibidem*, p. 138.

<sup>17</sup> Among the 127 names who had been printed in *Ettela'at* (see above, Note n. 65, p. 242), one died in 1982, Khatami resigned before the end of the First *Majles* to become Minister of Islamic Guidance, and four other deputies held seats in constituencies for which no results were given on the "complete" list of results of the first round of parliamentary elections held on 15 April 1984 published in *Ettela'at* on 21 May 1984 which listed results for only 254 seats out of 270. Elections were held at a later date in the other constituencies, including Isfahan and Shiraz and in the war-

ratio of 43 %, three percentage points above the average figure of 39.7 %. However, the percentage was higher for the deputies among them who had been elected through by-elections in 1981. Twenty-two out of 41, or 53.7 %, including more than half of the clerics (11 out of 21, or 52.4 %) among them were re-elected in 1984. Those among them who represented Tehran performed very well, all being re-elected. Of the ten most active supporters of land reform in the 1982 debates, 6 were re-elected<sup>18</sup>.

On the other hand, only two of the ten most active opponents received a new mandate, one of whom (Ahmad Kashani<sup>19</sup>) after his credentials were contested and

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stricken areas. *Ettela'at* did not publish a complete list of the results of the second round of elections which were held on 17 May. For the seats which were not allocated after the first round, the results were deduced from the list of names of deputies who had their credentials approved (or contested) by the *Majles* between 12 and 17 June 1984 (*Ettela'at*, 23 to 28 *Khordad* 1363) or from later mentions in the *Majles Proceedings*.

<sup>18</sup> The list of results of the 1984 parliamentary elections mentioned above did not give the results for Amol, the electoral constituency of Kazem Norozi. Since he did not intervene in the 1985 and 1986 debates about land reform, it is likely that he was not re-elected, and therefore he is not counted as such. Harandi did not appear on the 1984 list either, he was not candidate in his previous electoral constituency of Aqlid, but his intervention in the October 1986 parliamentary debates shows that he was re-elected (and he is counted as such). However, it is noticeable that he did not participate in the May 1985 debates. It is therefore possible that he only re-entered the *Majles* through a by-election later that year or in 1986.

<sup>19</sup> In 1984, Kashani was accused in the *Majles* of having said: "I am not an imitator (*mogallid*) of the Imam in political matter" (David Menashri, *Iran: A decade of War and Revolution*, New York and London, Holmes and Meier, 1990, p. 369, note 7). This accusation was repeated against him during the debates on a bill affecting the lands under temporary cultivation (see below, Section 4 of this Chapter) in October 1986 by Gholam-reza Haydari who declared after Kashani quoted from Khomeini to support his position: "You who do not acknowledge the Imam, do not quote from the

investigated by a special investigation commission set up for this purpose. As an indication of his lack of popularity, Va'ez, who had proposed the omission, one after the other, of almost all the articles of the December 1982 Bill, received only 2,453 votes out of a total of 70,679 votes cast in his rural constituency of Abhar. Four others did not contest the elections and two campaigned, without success, in different constituencies.

The Project Amending the Law on the Rejuvenation and Transfer of Agricultural Lands was discussed by the *Majles* during three sessions between 14 and 19 May 1985. The Chairman of the Special Commission, Rabbani-Amlashi, who was very sick (and died later that year) did not attend. In an introductory speech, Mohammed Yazdi explained the main objections of the Council of Guardians and how the Special Commission had worked to overcome them and make the bill conform to the Constitution and to the *Shari'a*, and he asserted that the amendments which the Commission was proposing had received the approval of the Council of Guardians<sup>20</sup>. Then, each objection of the Council of Guardians was examined one by one and the amendments proposed by the Commission were discussed.

The first objection of the Council of Guardians related to Article 2 which based all the bill on *zarurat* and on the order of Ayatollah Khomeini conferring authority on the *Majles* to determine the cases of *zarurat* and the measures that were required. The Council of Guardians objected that many provisions of the bill such as those about dead

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Imam!" (*Majles Proceedings*, 29 *Mehr* 1365 [21 October 1986], p. 28). He was arrested in March 1987 on charges relating him to Mehdi Hashemi, the leader of the Islamic Liberation Movement coordinating support for liberation movements abroad and the brother of Ayatollah Montazeri's son-in-law. Hashemi who had leaked the news of McFarlane's trip to Tehran and of the arms deals with the United States in 1986 was arrested in October 1986 after the kidnapping of the Syrian *chargé d'affaires* in Tehran, on charges of harbouring deviationist ideologies, as well as murders committed before and after the Revolution, kidnapping, and illegal possession of arms, and was executed in September 1987 (Baktiari, *Parliamentary Politics*, p. 133-135; Menashri, *Iran*, p. 379-382).

<sup>20</sup> *Majles Proceedings*, 24 *Ordibehesht* 1364, p. 28-29.



lands, confiscated lands, national lands, and pastures, did not have any need for *zarurat* since they belong to the realm of primary ordinances. To address this objection, the Commission decided to omit from Article 2 all the section relating to *zarurat* and to the order of Ayatollah Khomeini *ra*, therefore to remove the principle of *zarurat* as the basis of all the bill<sup>21</sup>. This was a fundamental change since the advocates of land reform in the *Majles* had previously considered it as the necessary justification for land reform and as essential in order to prevent potential criticisms from the Council of Guardians on all the contents of the bill. After a short discussion, this proposal was approved by the majority of the representatives<sup>22</sup>.

The second objection of the Council of Guardians questioning the need for a distribution of uncultivated and cultivated lands (Articles 5 and 6) and the way to address it engendered a longer debate over three sessions of the *Majles*. The Council of Guardians had objected that, according to the priorities enumerated in the bill itself, the implementation of these articles would be held in suspense until no land of the other categories would be left. To solve this problem, the Commission completely changed the provisions of Articles 5 and 6. It removed the different ceilings which had been imposed on land ownership and only subjected to a possible appropriation by the state the uncultivated lands that their owners refused to put under cultivation directly or indirectly or to sell. For this, it invoked a "*zarurat* of cultivation" (*zarurat-e keshi*). The owners of uncultivated lands were given a respite of one year to cultivate their lands themselves, to give them to someone else in *muzara'a* or *ijara*, or to sell them. If they did not have the necessary financial or material capabilities, the state would help them<sup>23</sup>. Mohammed Yazdi explained that if it had been written that, because of the *zarurat* of cultivation, the owner was bound to sell his land, it would have been contrary to the *Shari'a*. This is why four options were given to the owners<sup>24</sup>. But, if at the end of the respite period, they had not implemented any of the four options, their lands would be taken over and sold, and

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<sup>21</sup> *Ibidem*, p. 29.

<sup>22</sup> *Ibidem*, p. 29-31.

<sup>23</sup> *Ibidem*, p. 31.

<sup>24</sup> *Ibidem*, p. 33.

the money would be given to them. This process would be supervised by a Three-Person Commission specially set up for this purpose, which would be composed of one judge introduced by the High Judicial Council, one representative of the Ministry of Agriculture and one "trustworthy person from the area" who knew the specificities of the lands in the area and would be introduced by *Jihad-e Sazandegi*. The lands would only be sold to the local landless or land-poor peasants, not to town people<sup>25</sup>.

Hojjatolislam Mortaza Razavi objected that there was no need for *zarurat* since the interdiction of leaving lands uncultivated was a first ordinance<sup>26</sup>. But Rafsanjani retorted that if there was enough foodstuffs to feed the population, it would not be *haram* to leave lands uncultivated. He asserted that in the present circumstances, there was a *zarurat* of cultivation because the country needed foodstuffs to feed its population and for export<sup>27</sup>.

Movahedi-Savaji contested that the Three-Person Commissions were redundant and unnecessary since their work could be accomplished by the Seven-Person Committees and they could not be assimilated to a court since the judge had only one vote out of three<sup>28</sup>. The idea of this commission had been suggested by the Ministry of Agriculture in order to solve the problem of the lands "under temporary cultivation" (see below)<sup>29</sup>. Fu'ad Karimi, who was the Deputy Chairman of the Plan and Budget Commission, proposed to replace them by the Seven-Person Committees to simplify the

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<sup>25</sup> *Ibidem*, p. 31.

<sup>26</sup> He developed this idea in a series of articles published in *Ettela'at*, in particular in " "Atala" mawredi-ye digar az movared-e "salb-e malekiyat" " (" "Atala" ["Unemployment"]: another way to take away ownership"), 5 *Esfand* 1364 [24 February 1986], p. 4, 8; and " "Utla" dar zamin" (" "Utla" ["Unemployment"] in land"), 12 *Esfand* 1364 [2 March 1986], p. 8.

<sup>27</sup> *Majles Proceedings*, 26 *Ordibehesht* 1364, p. 22-23.

<sup>28</sup> *Ibidem*, 24 *Ordibehesht* 1364, p. 32.

<sup>29</sup> *Ibidem*, p. 34.

process and another deputy suggested that the responsible authority would be designated by the *vali-ye faqih*, but these proposals were not discussed<sup>30</sup>.

Abol-qasem Vafi proposed to introduce an intermediary stage before the compulsory sale which would consist of the lands being cultivated or given in *ijara* by the state and the rent being paid to their owners. Hojjatolislam Mohammed Ali Movahedi-Kermani further argued that since the constraints imposed in the name of *zarurat* should be restricted to the extent of that *zarurat*, and since the need for the lands to be cultivated could be met with the lands being given in *ijara* or *muzara'a*, that option should be considered before that of selling the lands. Engineer Qanbar Kabiri objected that if the lands were sold, they would be better worked by their new owners and reminded the representatives that several times in the past when it had been proposed that the state would directly intervene in the economy, they had voted for the work to be transferred to people instead. Moreover, he added that all this article had been provided for exceptional circumstances, mostly cases in which the owners had fled the country, and that it was not practical for the state to act as a bailiff on their behalf and export the income of the land to them. Furthermore, Latif Safari reminded the representatives that one of the objections of the Council of Guardians was that the bill put agriculture under the control of the state. Yazdi concurred that the role of the Ministry of Agriculture was to formulate an agricultural policy and to supervise agriculture, not to intervene directly as a landlord (*ijaradar*). Abol-fazel Musavi-Tabrizi, speaking for the Commission, added that this option would require the establishment of a separate organisation to manage the lands and would be very costly for the state, and agreed with the opinion that if the lands were sold, they would be better cultivated. The new Minister of Agriculture, Abbas Ali Zali, concurred with the views of the Commission<sup>31</sup>. On the other hand, Movahedi-Savaji agreed with the proposal for the reason that if the lands were sold, they could be bought by people who would not cultivate them in accordance with the policy of the nation, whereas if they were given in *ijara* or *muzara'a*, the state could keep some control over

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<sup>30</sup> *Ibidem*.

<sup>31</sup> Zali replaced Salamati as Minister of Agriculture in August 1984 (Baktiari, *Parliamentary Politics*, p. 157).

them and make sure that they were put under cultivation. Nevertheless, the proposal was rejected by a large majority of the representatives<sup>32</sup>.

Since the invocation of *zarurat* required a time limit, the implementation of Article 5 was limited to a period of ten years in spite of Abol-fazel Musavi-Tabrizi's argument that the principle that lands must not be left uncultivated should be valid for all times<sup>33</sup>. The experience of the implementation of the urban land law had shown that a period of five years was too short for such an immense job<sup>34</sup>.

Following Khomeini's pronouncement of January 1983, Rafsanjani was convinced that if Articles 5 and 6 were approved by the *Majles* with a two-thirds majority, the Council of Guardians could not reject them<sup>35</sup>. However, when the amended Article 5 proposed by the Special Commission was put to vote, it was approved by the majority of the representatives, but not by a two-thirds majority. Another vote was then taken on the same article minus the Three-Person Commissions, but it did not get a two-thirds majority either<sup>36</sup>. During the following session, two days later, another vote was taken on the essence of the article, that is on the *zarurat* of cultivation, and this time, it was approved by "much more than two thirds" of the representatives. The implementation period of ten years was also approved by a two-thirds majority. Despite the protests of some representatives who wanted to suggest some amendments, no other vote was taken on the rest of the article<sup>37</sup>.

In order to meet the objections of the Council of Guardians, the previous Article 6 imposing restrictions on the ownership of cultivated lands was omitted and replaced by two articles, the first of which dealt with the cases of the lands which, following a decision taken by the High Judicial Council on 14 September 1980 and extended every

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<sup>32</sup> *Majles Proceedings*, 26 Ordibehesht 1364, p. 24-26.

<sup>33</sup> *Ibidem*, 24 Ordibehesht 1364, p. 35.

<sup>34</sup> *Ibidem*, p. 29-31.

<sup>35</sup> *Ibidem*, 24 Ordibehesht 1364, p. 35.

<sup>36</sup> *Ibidem*, p. 36.

<sup>37</sup> *Ibidem*, 26 Ordibehesht 1364, p. 24.

year afterwards<sup>38</sup>, had remained in the hands of the persons who cultivated them pending a decision by the *Majles*. According to Harandi, it was the Central Staff which had submitted the problem to Ayatollah Beheshti, who was then Chief Justice, and which had written the instructions that the High Judicial Council approved<sup>39</sup>. These lands were estimated to be between 700,000 and 800,000 ha and had been in a state of limbo for five or six years. Neither the Minister of Agriculture nor the Central Staff knew the exact figure, although the representative of the Central Staff, Mustafa Sharif, quoted figures of 5,600 landowners and 120,000 families of cultivators (amounting to 600,000 persons) affected<sup>40</sup>. Some had been appropriated by the peasants themselves, but many had been given to them by the Seven-Person Committees, by the army or by *Jihad-e Sazandegi*. Most of them had been acquired in 1358-59 (March 1979-March 1981). Many cases had been referred to the court and were still pending, although some judgements had already been given against cultivators who had been whipped and sent to jail, but, nevertheless, went back to the lands after being freed. According to Sharif, many of the peasants who had taken over lands had ownership claims over these lands which they said had been taken from them in the past by various means<sup>41</sup>.

The Ministry of Agriculture and the Seven-Person Committees believed that the lands which had been taken over before the end of 1359 (20 March 1981) or before the

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<sup>38</sup> Shaul Bakhash, "The Politics of Land, Law, and Social Justice in Iran", in *Iran's Revolution: The Search for a Consensus*, ed. by R.K. Ramazani, Indianapolis, Indiana University Press, 1990, p. 29; *Majles Proceedings*, 6 *Aban* 1365 [28 October 1986], p. 22.

<sup>39</sup> *Ibidem*, 1 *Aban* 1365 [23 October 1986], p. 24.

<sup>40</sup> *Ibidem*, 26 *Ordibehesht* 1364, p. 29, 30. These lands were unevenly distributed throughout the country. Half of them were located in four provinces. Zali mentioned figures of 135,000 ha in Khuzistan, 115,000 ha in Gorgan and Gonbad (province of Mazandaran), 114,000 ha in East Azerbaijan and 94,000 ha in Kurdistan, and added that the rest was encompassed in five or six provinces (out of 24 provinces in the country).

<sup>41</sup> *Ibidem*, p. 30.

end of 1360 (20 March 1982) in the region of Kurdistan came under the category of *zarurat*, but not the rest of the cultivated lands<sup>42</sup>. These dates were those mentioned in the circulars of the High Judicial Council which had also been based on the "*zarurat* to prevent disorder in the affairs of cultivation" and had been approved by Ayatollah Khomeini<sup>43</sup>.

Zali asserted that since their situation had remained undetermined lands which used to produce four tonnes per hectare of cotton or wheat had seen their production reduced to only one tonne per hectare, and he predicted that this would continue as long as their situation remained unresolved<sup>44</sup>. The decision to leave them in the hands of the peasants who were cultivating them was justified by the argument that giving them back to their owners would create "an extraordinary chaos" and "disruption of the system" since an estimated one million persons (that is the cultivators and their dependents) would all find themselves at once without a job and would migrate to the towns where they would disrupt the system and put pressure on the services available. Abol-fazel Musavi-Tabrizi asserted that some members of the Special Commission believed that doing so would be "higher than a sin". Therefore, it had been decided that the lands would remain in the hands of the peasants and that their rightful owners would receive the price of the lands after deduction of their legal and Islamic debts, which would be paid to them by the peasants by instalments<sup>45</sup>. In order to be allowed to keep the lands, the peasants had to meet three conditions: to be landless or land-poor, to reside in the area, and not to have a non-agricultural income. In case they did not meet these conditions, the lands would be put at the disposal of their owners and dealt with in accordance with the provisions of Article 5 (i.e. the owners would be bound to put them under cultivation or they would be sold). However, if the owner himself used to cultivate his land and did not have another source of income, his needs would have precedence

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<sup>42</sup> *Ibidem*, p. 27.

<sup>43</sup> *Ibidem*, p. 29; and 29 *Ordibehesht* 1364, p. 19.

<sup>44</sup> *Ibidem*, 26 *Ordibehesht* 1364, p. 29.

<sup>45</sup> *Ibidem*, p. 27.

over those of the cultivators and he would be entitled to get his land back within the limits of his needs.

Among the 700,000-800,000 ha of lands under temporary cultivation, 40,000 ha were in the hands of revolutionary organs. They were dealt with separately in Note 3 to Article 6. In case the ownership of their owner was not clear, their case should be referred to the court. If the ownership of their owner was legal, they would be returned to him and dealt with in accordance with Article 5<sup>46</sup>.

Mortaza Fahim-Kermani objected that all these provisions did not have anything to do with the previous Article 6 and, therefore, should be dealt with separately. He believed that it was not appropriate that the same article dealt both with lands given to the peasants by revolutionary organs and with lands that had been usurped or stolen. He argued that the principle of *zarurat* could not be used to take over somebody's property since *zarurat* only enabled use of somebody else's property, not ownership. *Zarurat* affected the use of an item of property, not its condition. For this reason, he predicted that the Council of Guardians would not approve this article<sup>47</sup>.

Abol-fazel Musavi-Tabrizi responded to him that the owners were only deprived of their right to work their land, not of their right of ownership since they were paid the price of the land. He reminded him that the circular of the High Judicial Council had also provided that these lands would remain in the hands of the persons who cultivated them whatever way they had acquired them. Fahim-Kermani retorted that the circular itself was against the law<sup>48</sup>. During the following session, Musavi-Tabrizi admitted that some members of the Commission, including himself, had opposed the idea of ratifying illegal appropriations. But he added that the cases of unjust appropriations were very few and that he personally had not found any<sup>49</sup>.

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<sup>46</sup> *Ibidem*, p. 30; *Ettela'at*, 28 *Ordibehesht* 1364, p. 18.

<sup>47</sup> *Majles Proceedings*, 26 *Ordibehesht* 1364, p. 27-28.

<sup>48</sup> *Ibidem*, p. 29.

<sup>49</sup> *Ibidem*, 29 *Ordibehesht* 1364, p. 20.

As with the previous article, a vote was first taken on the essence of the article, the *zarurat* to leave these lands in the hands of those who were cultivating them. This was approved with a two-thirds majority<sup>50</sup>. Following a proposal by Mohammed Ma'azi supported by a representative from Kurcistan, Mohammed Reza Rahimi, the deadline was extended to the end of 1363 (20 March 1985) for the region of Kurdistan despite the opposition of Latif Safari, speaking as rapporteur for the Special Commission. Thereafter, the article in its entirety was approved by an absolute majority<sup>51</sup>.

All the other cultivated lands were dealt with in Article 7 which stipulated that they would remain in the hands of their owners except if they were left uncultivated for more than a year longer than the usual fallow period. In this case, they would be dealt with according to the provisions of Article 5. This article was approved with a two-thirds majority<sup>52</sup>.

In order to counter the objection of the Council of Guardians that the stipulation that the transferred lands cannot be the object of transactions without permission from the state was contrary to Islamic regulations, the Commission had recourse to the artifice of saying that this restriction would be included in a clause inserted in the contract of land transfer, as well as the provision that if this condition was not respected, the transfer would be cancelled. This was a way of making the provisions conform to the *Shari'a* which recognises the freedom of contract<sup>53</sup>.

This was opposed by Nasrollah Salehi who claimed to be a sixty-year-old peasant who had worked hard with his hands and had been a traditional *rowzeh* narrator (making the eulogy of the martyrs of Karbala) in the villages and to know well the problems of the peasants. He was not in the First *Majles*. At the time, he was a member of the provincial agricultural commission in the province of Fars and he spent three years investigating agricultural problems and the causes of migrations. He objected to this condition being inserted in the contracts because it would tie the hands of the peasants

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<sup>50</sup> *Ibidem*, 26 *Ordibehesht* 1364, p. 31.

<sup>51</sup> *Ibidem*, 29 *Ordibehesht* 1364, p. 21-23.

<sup>52</sup> *Ibidem*, p. 27-30.

<sup>53</sup> *Ibidem*, p. 23.



who might need to sell their lands if their conditions changed and it would not give them hope in the future. However, the substance of it had been previously approved by the *Majles* and could not be put in question. The amendment was, therefore, approved by the majority of the representatives<sup>54</sup>.

The stipulation that the transferred dead lands would be taken back if the conditions on which they had been given were infringed upon (Note 1 to Article 11) was dropped altogether since the Commission was unable to change it to make it conform to the *Shari'a*<sup>55</sup>. As for the Note relative to *waqf* lands (Note 3 to Article 6), it was modified in such a way that the Land Transfer Committees and the *Awqaf* Organisation were denied any role in the management of these lands and were replaced by the *Shar'i mutawali*<sup>56</sup>.

The previous year, the *Majles* had approved a "Legislative Project on the Annulment of the Documents drawn up on the Sale of Endowed Water and Lands". Its single article provided that: "From the date of approval of this law, all the endowed properties which have been sold without *Shar'i* permission or have been appropriated in any way will revert to their condition of *waqf*, and the documents issued will be void and without value". Note 1 added that: "After annulment of the documents of ownership, in the cases in which the endowed property can be leased and the occupant request a lease (*ijara*), [...] a lease contract will be concluded with the occupant"<sup>57</sup>. This meant that the peasants who had received plots of endowed lands as part of the Shah's land reform would lose their right of ownership to these lands, but would have the possibility to keep cultivating them in exchange for paying a rent to the trustee administering the *waqf*. According to Hourcade, it only affected 23,000 peasants since the provisions concerning

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<sup>54</sup> *Ibidem*, p. 24-25.

<sup>55</sup> *Ibidem*, p. 25-26.

<sup>56</sup> *Ibidem*, p. 27.

<sup>57</sup> "*Tarh-e qamuni-ye ebtal-e esnad-e forush-e raqabat, ab va arazi-ye mawqufah eslah shod*" ("The Legislative proposal on the annulment of the documents drawn on the sale of public properties, endowed water and lands was amended"), *Ettela'at*, 29 *Farvardin* 1363 [19 April 1984], p. 11.

this type of land had gone into effect late and in a very incomplete way<sup>58</sup>. The law encountered no opposition in the *Majles*. It had come up as a legislative proposal signed by 116 representatives and had been examined by the Commission for Judicial and Legal Affairs, rather than by the Agricultural Commission. Both during its first reading (11 August 1983), and its second reading (8 January 1984)<sup>59</sup>, the discussions were very short, no deputy opposed it and no significant divergent opinion was expressed<sup>60</sup>.

About the constitutional opposition to the domination of the Ministry of Agriculture over the peasants, Safari, speaking for the Commission explained that it had come to the conclusion that the amendments made to Article 11 removed that problem and asserted that the representative of the Council of Guardians had agreed with this view<sup>61</sup>. In order to address the objection that the state cannot give something free

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<sup>58</sup> Bernard Hourcade, "The Land Question and the Islamic Revolution in Iran", *South Asia Bulletin*, vol. 13, 1993, n. 1-2, p. 145. Rahnema and Nomani give figures of 28,519 endowments, 6,989 farms and 6,082 parcels of lands affected (*The Secular Miracle*, p. 266).

<sup>59</sup> Madani, *Hoquq-e esasi...*, vol. 4, p. 328.

<sup>60</sup> Schirazi, *Islamic Development Policy*, p. 226. The Council of Guardians only objected to one note, which was omitted before the law was passed on 18 April 1984. This note entitled the *Awqaf* Organisation to check on the social, political and moral suitability of the persons who used endowed properties in any way and to evict them if it found them not suitable. The Council of Guardians had objected, in a decision dated 18 January 1984, that it was against *Shari'i* regulations to allow the *Awqaf* Organisation to intervene in the affairs of the *awqaf* that have a *Shar'i mutawali*, and that making this organisation competent for taking and enforcing an order of eviction, which are judicial matters, was contrary to Articles 156 and 159 of the Constitution (Madani, *Hoquq-e esasi...*, vol. 4, p. 328-329). Schirazi reported that the implementation of this law encountered resistance from the peasants who had received these lands at the time of the Shah's land reform, especially after the initial rents were increased manyfold (*Islamic Development Policy*, p. 227-228).

<sup>61</sup> *Majles Proceedings*, 29 Ordibehesht 1364, p. 26.

without the specific approval of the *Majles*, article 11 was modified so that the lands in its possession would be either given in *ijara* or *muzara'a* or sold and only the dead lands would be given free. This was acceptable since, according to the *Shari'a*, dead lands are not in the possession of the state, but at its disposal, and, for this reason, cannot be sold<sup>62</sup>. The other articles criticised by the Council of Guardians were reformulated to address its criticisms, but were not substantially changed<sup>63</sup>.

Given that the internal regulations of the *Majles* only authorised the deputies to discuss the sections of the law which had been rejected by the Council of Guardians and the way to amend them, much of the debates dealt with technicalities and there was little room for the proponents and opponents of land reform to express their opinions. For example, at one time, Sayyed Mohammed Asghari tried to argue that the aim of the bill was to eradicate poverty, but the Speaker did not let him pursue this theme<sup>64</sup>. The only notable exception to this was the case of the lands under temporary cultivation, but they only constituted an anomalous case, an exception to the rule of the sanctity of private ownership upheld with all its strength by the Council of Guardians.

### 3. Rejection of the Amendments by the Council of Guardians

Despite all the time and efforts devoted by the *Majles* deputies to address the objections of the Council of Guardians and make the law conform to its understanding of the *Shari'a* and the Constitution, and despite the fact that a representative of the Council of Guardians had attended the deliberations of the Special Commission and had allegedly approved their decisions, the Council of Guardians bluntly rejected their amendments in a decision released only three days later (22 May 1985)<sup>65</sup>. Crushing their hopes that, following the order of Ayatollah Khomeini, if they approved a law under the category of *zarurat* with a two-thirds majority, the Council of Guardians could not overturn it, the

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<sup>62</sup> *Ibidem*, p. 31-33.

<sup>63</sup> *Ibidem*, p. 30-31.

<sup>64</sup> *Ibidem*, 24 Ordibehesht 1364, p. 33.

<sup>65</sup> Madani, *Hoquq-e asasi...*, vol. 4, p. 285-286; see also Mallat, *The Renewal of Islamic Law*, p. 151-152.

Council of Guardians retorted that: "Surely, the intention of the Imam [...] is not that the difficulties in bills and projects or articles that the Council of Guardians return to the *Majles* because of *Shar'i* difficulties be removed under the category of *zarurat*". For this reason, it rejected the amendments made to Articles 5 and 6 concerning uncultivated and cultivated lands. It again referred to the text of the bill itself to argue that *zarurat* had not been proved<sup>66</sup>. Moreover, as Fahim-Kermani had predicted, the Council of Guardians objected that the provisions concerning the lands under temporary cultivation which had been added to the bill were outside the subject, had nothing to do with land reform, and therefore should be discussed by the *Majles* in a separate bill in accordance with the normal procedure. Anyway, it found these provisions in opposition to Article 47 of the Constitution which stipulates that ownership acquired through lawful means must be respected. Furthermore, it objected (like Fahim-Kermani) that the alleged *zarurat* of cultivation might be a reason to constrain the landowners to cultivate their lands, but not to take the lands from them and sell them, which would not be proportional to the extent of the *zarurat*.

The Council of Guardians also objected that the clause which provided that the cases of the lands under temporary cultivation which were in the hands of state organs would be referred to the courts if the legality of the ownership of their owners was not clear (Article 6, Note 3, Clause A) was in contradiction with the *Shari'a* since their ownership should be presumed lawful unless the contrary was proved. More importantly, it found that there were Islamic and constitutional objections to all the clauses and notes of Article 12 (former Article 11) which imposed conditions on the transfer of dead lands by the state. This was more encompassing than the objections that it had raised previously to this article. Finally, it objected that Clause 1 of Article 8 which constrained the owners of transferred lands to sell or rent the agricultural tools and machinery necessary to cultivate the lands to the recipients of the lands was contrary to Islamic

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<sup>66</sup> It referred to Note 3 to Article 11 of the revised bill, previously Article 10, punishing the persons responsible for transferring cultivated or uncultivated lands in case other lands were available.

regulations and to Article 47 of the Constitution, whereas it had not objected previously to these tools and machinery being transferred against compensation<sup>67</sup>.

On the other hand, the Council of Guardians was satisfied with the amendments made to the provisions relative to *waqf* lands, to pastures and to the financing of the law. It did not raise either the problems of the control of the state over agriculture or the authority of the Ministry of Agriculture over the peasants. Nevertheless, this blatant decision coming after all the efforts and negotiations of the *Majles* deputies to conciliate the views of the two institutions, quashed the hopes of the supporters of land reform among them that any law could be passed on this matter<sup>68</sup>. Thereafter, they would renounce drafting a comprehensive law and would concentrate their efforts on the parts of the bill that were the least controversial and the most urgent to solve, the cases of the dead lands and the lands "under temporary cultivation" respectively.

That dead lands (*mawat*) were state property and could not be privately owned were widely-accepted tenets of Islamic law, which had been enshrined in Article 45 of the Constitution. Islamic law clearly stipulates that ownership of dead lands can only be achieved by reclamation. During the debates on the land reform bill in the *Majles*, the opponents of land reform did not object to the articles providing for the transfer of dead lands. On the contrary, they repeatedly called for their transfer and reclamation and argued that there was no need for further land reform since they would be sufficient to meet all the needs for land. What was a controversial issue, however, was whether or not individuals needed permission from the state to go and reclaim dead lands. A bill discussed in second reading by the *Majles* in June 1986 took the stance that permission from the Islamic state was a prerequisite. The Bill on the Source of Authority for the Determination of Wasteland and Annulment of their Documents, which consisted of a

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<sup>67</sup> The objections that the Council of Guardians raised to the extension of the urban land law in 1987 were also more stringent than those that it made in 1981-1982, and its scope had to be limited to 32 cities before the Council of Guardians approved it (Schirazi, *The Constitution of Iran*, p. 182-184).

<sup>68</sup> According to Schirazi, the public was not informed of this decision of the Council of Guardians (Schirazi, *Islamic Development Policy*, p. 186).

single article, stipulated that: "all the documents [...] official and unofficial that are related to dead lands (or the document related to the part of a land that is dead land) located out of the limits of the towns, with the exception of the lands that have been transferred by the competent authority of the state of the Islamic Republic of Iran, are void and this type of lands are put at the disposal of the state of the Islamic Republic of Iran to be used in accordance with the regulations for agricultural and industrial production, for creating employment, for public works, for meeting the needs of the state institutions and the Islamic revolutionary and municipal organs, for housing and for transferring to people who do not have an accommodation". The bill did not define what constitutes a dead land, but Note 1 provided that the Ministry of Agriculture would be the responsible authority to determine whether or not a plot of land fitted in that category, and would implement this work through the intermediary of the Seven-Person Committees. In addition, Note 2 permitted the expropriation of persons who had been using dead lands without permission if the Seven-Person Committees determined that they did not meet the necessary conditions. The bill was approved by the *Majles* on 12 June 1986<sup>69</sup>. But, following objections from the Council of Guardians, the *Majles* had to drop Note 2 and to add in Note 1 the stipulation that in case of litigation, the final decision on the legal status of a plot of land would rest with a competent court, before the bill could become law on 21 December 1986<sup>70</sup>. However, this hardly constituted a land reform and it did not have much implication for agriculture since most of these dead lands were not susceptible to being developed for agricultural purposes due to a lack of water. The law mainly affected opportunists who had grown rich by speculating on land after the Revolution<sup>71</sup>.

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<sup>69</sup> "*Layeheh-e marja' -e tashkhis-e arazi-ye mawat va ebtal-e esnad-e an tasvib shod*" ("The Bill on the Source of Authority for the Determination of Wasteland and Annulment of their Documents was approved"), *Ettela'at*, 23 *Khordad* 1365 [13 June 1986], p. 11.

<sup>70</sup> Schirazi, *Islamic Development Policy*, p. 224.

<sup>71</sup> *Ibidem*

#### 4. Discussion of the Law on the Transfer to the Peasants of the "Lands Under Temporary Cultivation" (October 1986)

The issue of the lands "under temporary cultivation" was a more controversial issue and one that presented a pressing problem for the authorities of the Islamic Republic. Hourcade reported that Ayatollah Musavi-Ardebili, the president of the High Judicial Council, threatened to go on strike if no clear law was passed for the settlement of the hundreds of thousands of complaints filed by landowners and peasants<sup>72</sup>. Khomeini was repeatedly petitioned to express his view on the question in order to solve the problem<sup>73</sup>, but he chose not to take sides and to leave the decision to the *Majles*.

After the rejection of the May 1985 Bill, it took more than a year for the supporters of land reform in the *Majles* to draft a project which could satisfy the Council of Guardians. On 24 July 1986, a project dealing with the case of the lands under temporary cultivation was referred for discussion with a stamp of urgency to a joint commission of the Agricultural Commission and the Commission for Judicial and Legal Affairs chaired by Abol-fazel Musavi-Tabrizi<sup>74</sup>. On 2 October 1986, the Joint Commission approved, by an absolute majority, but not a two-thirds majority<sup>75</sup>, a text composed of a single article and eight notes on the Transfer of the Cultivated and Uncultivated Lands which After the Revolution were put at the Disposal of Peasants Under Temporary Cultivation.

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<sup>72</sup> Hourcade, "The Land Question", p. 142.

<sup>73</sup> Schirazi, *Islamic Development Policy*, p. 186.

<sup>74</sup> *Majles Proceedings*, 29 Mehr 1365 [21 October 1986], p. 24.

<sup>75</sup> According to Hojjatolislam Abu-taleb Mahmudi-Golpaygani, a member of the Joint Commission and an opponent of the bill (*Ibidem*, 6 Aban 1365 [28 October 1986], p. 26).

This project was examined in first reading by the plenary session of the *Majles* on 21 and 23 October 1986<sup>76</sup>. For this occasion, the Central Staff of Land Transfer had published a pamphlet retracing the origins of the problem of the lands under temporary cultivation and detailing its economic, social and political impact, which was distributed to the responsible authorities and all the members of the *Majles*<sup>77</sup>. This pamphlet explained that the lands under temporary cultivation included some of the best lands in the country, in particular the 120,000 ha which were located in the region of Gonbad and Gorgan, region which produced 85 % of the cotton of the country. Although the lands under temporary cultivation only constituted a small percentage [about 4.5-5 %] of all the agricultural lands of the country, they comprised one fifth of all the irrigated lands. According to this pamphlet, the most important economic consequence of the undetermined status of these lands was a reduction of the cultivated area resulting from the lack of enthusiasm of the peasants in cultivating them and from the lack of infrastructural work (partly due to the fact that, without documents of ownership, the cultivators were unable to get loans from the banks). The unresolved problem of these lands also had an impact on the level of investment in the agricultural sector as a whole. Moreover, the pamphlet stressed that the 120,000 peasant families who were cultivating these lands were mostly landless or land-poor, did not have another source of income, and, therefore, did not have another reason to stay in the villages. The Central Staff believed that preventing their migration to the towns was a very important reason to transfer the lands to them. The pamphlet also noted that, after seven years and all the promises that had been made to the peasants, the general expectation was that the lands would be transferred to the cultivators and that this was in accordance with the policy of the Islamic government of protecting the deprived and the *mostaz'afin*. It predicted that

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<sup>76</sup> These debates have been analysed by Shaul Bakhash in "The Politics of Land, Law, and Social Justice in Iran", in *Iran's Revolution: The Search for a Consensus*, ed. by R.K. Ramazani, Indianapolis, Indiana University Press, 1990, p. 27-47.

<sup>77</sup> "*Hayatha-ye 7 nafareh khvastar tasvib-e tarh-e vagozari-ye arazi-ye 'kesht-e movaqat' beh keshavarzan shodand*" ("The 7-Person Committees wish the approval of the Project on the Transfer of the Lands "Under Temporary Cultivation" to the Peasants", *Ettela'at*, 30 *Mehr* 1365 [22 October 1986], p. 3.



if the problem was not solved, it would be exploited by anti-revolutionary groups. Finally, it concluded that if they were returned to their owners, the conflicts, old and new, would be aggravated and insoluble problems would arise.

Isma'il Shoshtari, who was the Chairman of the Commission for Judicial and Legal Affairs and acted as rapporteur for the Joint Commission, read the report of the Joint Commission to the plenary session of the *Majles*. According to this report, the lands "under temporary cultivation" encompassed 750,000 ha<sup>78</sup> of cultivated or uncultivated lands which the peasants had taken possession of themselves or which had been put at their disposal by revolutionary organs and institutions in the first few months after the Revolution, and whose status had remained in a state of limbo since then. The report asserted that it was not in the interests of the country to leave them in that undetermined situation<sup>79</sup>.

Like the 1985 bill, this project envisaged, on the basis of *zarurat*, to transfer to their occupants the lands which had come in the possession of persons or institutions other than their owners (*ghair malek*) after the Revolution and before the end of 1359 (20 March 1981) or before the end of 1363 (20 March 1985) in the region of Kurdistan<sup>80</sup>. In order to receive the lands, the cultivators had to meet the three conditions of being landless or land-poor<sup>81</sup>, not having other sufficient income, and residing in the

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<sup>78</sup> Kabiri who was a member of the Joint Commission gave the figure of 725,000 ha (*Majles Proceedings*, 6 *Aban* 1365, p. 21).

<sup>79</sup> *Ibidem*, 29 *Mehr* 1365, p. 24.

<sup>80</sup> The term Kurdistan was later changed to "region inhabited by Kurds" (*Ibidem*, 6 *Aban* 1365, p. 24), which the implementation regulations defined as including the province of Kurdistan and the southern part of West Azerbaijan, but not the Kurdish areas in Ilam, North Bakhtaran and Loristan. The implementation regulations are published in Naimi, *Qanun-e eslahat-e arzi*, p. 213-225.

<sup>81</sup> This was defined in the implementation regulations as a peasant who owned less than one time the local custom of land, which was considered to be the amount of land that the Seven-Person Committees would determine as providing enough income to support one family in that area (*Ibidem*, p. 213-214).

area. If they did not meet these conditions, the lands would be returned to their owners (Note 4). The transfers were to be conditional sales with conditions of cultivation imposed on them and payment of the just value of the lands to their owners after deduction of their legal and *Shar'i* debts pertaining to the lands if their ownership was not unlawful. In case the ownership was contested, the cases would be referred to the competent courts<sup>82</sup> (Note 1). The lands for which contracts of *ijara*, *muzara'a*, sale or other had been concluded between the owner(s) and the occupants would be exempted from this law (Note 2). The owners who were engaged in agricultural affairs, who resided in the region and who did not have other sufficient income would be entitled to recover enough land to support themselves and their families (Note 5).

The implementation period of the law was limited to a period of three years whereas the May 1985 bill envisaged a period of ten years (Note 8). However, experience had shown with other laws based on *zarurat* that the implementation period could easily be extended when necessary. The difference was therefore not very important.

The most significant difference was that this bill provided that all the "temporary cultivated" lands which were at the disposal of state organisations would be put at the disposal of the Seven-Person Committees to be transferred in accordance with this law to peasants meeting the conditions, whether the ownership rights of their owners were lawful or not (Note 3).

After reading of the report of the Joint Commission, five opponents and five proponents of the bill spoke alternatively. The first opponent of the bill to speak, Hojjatolislam Mohammed Baqer Akhundi asserted that legalising these illegal land appropriations because they involved too many persons was like saying that since there are lots of contrabandists, thieves, speculators and people who sell at high prices, we have to let them continue with their shameful deeds. Qanbar Kabiri, a supporter of land reform, protested that comparing the peasants with that type of people was not correct. Akhundi, then, asked the proponents of the bill why *zarurat* had not been invoked in the

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<sup>82</sup> This was later changed to "revolutionary courts" following a proposal by Gholam-reza Haydari that no deputy opposed (*Majles Proceedings*, 7 Aban 1365, p. 27-28).

case of the dead lands which had been appropriated without permission after the Revolution and were taken away from the people who were working them. He rhetorically asked how it was possible that the Islamic Government which was standing up against and fighting all the world arrogance, was not able to suppress a small group of people who transgressed on the properties of the people in its own territory. Moreover, he questioned the existence of *zarurat* in the case of the lands in the hands of state organs. He concluded that saying that the state was not able to protect the properties of these owners was sacrilegious to the Islamic government<sup>83</sup>.

Ahmad Kashani, who spoke after him, asserted that the invocation of *zarurat* in this case was not correct and did not conform to the permission given to the *Majles* by Ayatollah Khomeini to determine the cases of *zarurat* and to legislate appropriate measures. He referred to the conditions mentioned in the order of the Imam of 24 January 1983 and concluded that *zarurat* had to be proved and that the discussions should center on that word. He contested the general assumption that the status of the lands under temporary cultivation was undetermined, asserting instead that it was determined since they had owners, and he concluded that the aim of the bill was only to shake the foundation of ownership in the country. Like Akhundi, he asked why the lands in the hands of state organs were not given back to their owners<sup>84</sup>.

Two other opponents of the bill, Mojtaba Mir-Ja'fari and Fahim-Kermani, contested the application of the principle of *zarurat* in this case on the ground that, as stipulated in the Qur'anic verses on *zarurat* (2:173, 6:145 and 16:115), the compulsion should be without inclination, without wilful disobedience (*ghair bagh*) in order to constitute a case for *zarurat*. Since, in this case, those who were using something without permission were inclined to do it and the supporters of the bill were inclined to give it to them, they could not constitute a case for the application of *zarurat*<sup>85</sup>. Although, he supported the bill, Abol-fazel Musavi-Tabrizi agreed with them on the point that there could not be *zarurat* in the case of the cultivators who had put

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<sup>83</sup> *Ibidem*, 29 Mehr 1365, p. 25-26.

<sup>84</sup> *Ibidem*, p. 27.

<sup>85</sup> *Ibidem*, 1 Aban 1365 [23 October 1986], p. 22, 24.

themselves into that situation by unjustly appropriating lands without authorisation from a state organ and this is why, during the discussions on the specifics of the bill, he would propose to only legalise the transfers which had been made by state organs<sup>86</sup>.

Fahim-Kermani again stressed that the principle of *zarurat* enables lifting the ordinances of use (*taklif*), but not the ordinances of condition (*vaz'*), and therefore allows somebody to use somebody else's property without permission, but not to become its owner<sup>87</sup>. Mir-Ja'fari asserted that if the Prophet was present, he would certainly order that the occupants be expelled from the properties they had unjustly occupied<sup>88</sup>. Another opponent of the bill, Hojjatolislam Abu-taleb Mahmudi-Golpaygani, admitted that it was possible that there was a *zaruri* situation in Gonbad and in parts of Kurdistan, but contested the extension of the principle to all the country<sup>89</sup>.

Mahmudi-Golpaygani also stressed that one of the important principles of Islam on which rested the Islamic order was the protection of legal ownership. He reminded the proponents of the bill that all the *'ulama* from the ayatollahs and hojjatolislams to the preachers and low-rank clerics had condemned the land reform of the Shah as *haram*<sup>90</sup>.

Although they mainly used religious arguments, the opponents of the bill also used the economic argument that the money paid to the landowners would be spent on non-productive expenses in the towns or would leave the country. For this reason, Kashani asserted that this project was in contradiction with the policy of protecting investment in productive sectors<sup>91</sup>.

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<sup>86</sup> *Ibidem*, 6 *Aban* 1365, p. 20. See below, p. 326-327.

<sup>87</sup> *Ibidem*, 1 *Aban* 1365, p. 24.

<sup>88</sup> *Ibidem*, p. 22.

<sup>89</sup> *Ibidem*, 29 *Mehr* 1365, p. 30.

<sup>90</sup> *Ibidem*, p. 29. Bakhash commented on this assertion by Mahmudi-Golpaygani that it was probably the first time that the almost universal opposition of the clergy to the land reform of the previous regime was stated so explicitly in a public forum ("The Politics of Land", note 45, p. 47).

<sup>91</sup> *Majles Proceedings*, 29 *Mehr* 1365, p. 27, and p. 30.

In response to these objections, Hossein Herati reminded the opponents of the bill that the same provisions had previously been approved by the *Majles* and asked them what alternative plan they had for the one million of people affected (in his calculation) and who was more deprived and *mostaz'afin* than them. He asserted that if these provisions were not approved a second time, there would be many problems in the country<sup>92</sup>. The proponents of the bill repeatedly stressed that the state was not able to provide alternative employment for the occupying peasants<sup>93</sup>.

Their opponents saw the solution to this problem in the vast areas of land which were currently not cultivated and in the large amount of water from the rivers which was wasted, without worrying about the technical problems involved in putting these lands under cultivation and storing and transferring the water where it was needed. Mir-Ja'fari claimed that out of 51 million ha of cultivable lands, only one third was cultivated, and that out of 12 million m<sup>3</sup> of water available in the country, only one third was used. Therefore, he believed that there were enough lands available to give 100 ha to each cultivator<sup>94</sup>. Mahmudi-Golpaygani believed that the problem could be solved by the state giving to these peasants loans to buy lands in Khuzistan<sup>95</sup>. To this, Ali Abbas Zali, the Minister of Agriculture, responded that each hectare of reclaimed land required close to 100,000 *toman* of investments to drain and level it. He added that it was not possible for the Ministry of Agriculture to provide lands and facilities in Khuzistan for all the 120,000 cultivators, but that it was technically possible to offer these opportunities to the landowners who were fifty times [in fact twenty times] less numerous<sup>96</sup>.

To the assertion of the opponents of the bill that it was against the *Shari'a*, Rafsanjani responded that it had been signed by recognised *mujtahidin* and that the Joint

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<sup>92</sup> *Ibidem*, p. 26.

<sup>93</sup> See for example Movahedi-Savaji in *Ibidem*, 1 *Aban*, p. 23.

<sup>94</sup> *Ibidem*, p. 22.

<sup>95</sup> *Ibidem*, 29 *Mehr* 1365, p. 30.

<sup>96</sup> *Ibidem*, 1 *Aban* 1365, p. 26.

Commission which approved it was composed of *mujtahidin* and learned and just individuals<sup>97</sup>.

The proponents of the bill insisted on the conditions which existed in 1979 when many landowners had fled the country or, at least, did not dare to go to the villages to conclude contracts with the peasants who used to cultivate their lands<sup>98</sup>. They insisted on the facts that in many cases there were conflicts over the ownership of the lands and that, as a result, many of the lands remained uncultivated<sup>99</sup>. They asserted that, in many cases, the cultivators had been working the same lands before the Revolution under lease or sharecropping contracts. Movahedi-Savaji claimed that this was the case of 90 % of the occupying peasants<sup>100</sup>.

Shoshtari reminded the representatives of the general revolutionary atmosphere of 1979, when there was much talk about self-sufficiency, about the importance of agriculture, about the need to cultivate lands, and when the people were encouraged to go back to the villages to put lands under cultivation. It was in this context that many different organs<sup>101</sup> transferred lands to cultivators or encouraged them to go and cultivate the lands. He added that the owners had not been expelled by force, but that the lands had been taken over because they were left uncultivated<sup>102</sup>.

The proponents of the bill stressed that a solution had to be found for the problem since the courts had been instructed by the High Judicial Council not to take any decision in these cases, and no responsible organ had authority to intervene in these

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<sup>97</sup> *Ibidem*, p. 21.

<sup>98</sup> For example Movahedi-Savaji in *Ibidem*, p. 23.

<sup>99</sup> Harandi in *Ibidem*, p. 24.

<sup>100</sup> *Ibidem*, p. 23.

<sup>101</sup> He listed them as: the *Mostaz'afin* Foundation, revolutionary district courts, revolutionary courts, *Jihad-e Sazandegi*, commandants, cultivation councils, the *Pasdaran* army, land transfer committees, village councils, Imam's representatives and Friday Prayer leaders.

<sup>102</sup> *Majles Proceedings*, 6 Aban 1365, p. 23.

matters<sup>103</sup>. Herati counted that the problem of the lands under temporary cultivation and the promise of its resolution by the *Majles* had been mentioned several times by Ayatollah Khomeini, 16 times by Ayatollah Montazeri, 35 times by the successive Prime Ministers (Raja'i, Bahonar and Musavi), 65 times by the successive Ministers of Agriculture, and 335 times by the Speaker of the *Majles* and the representatives<sup>104</sup>. Moreover, Harandi stressed that Ayatollah Khomeini himself had vouched for the decision of the High Judicial Council in this matter. He quoted from a letter that the Imam addressed in 1983 to the Chief Justice, Ayatollah Musavi-Ardebili, in which he instructed that these lands should continue to be given in *ijara*, year by year, until the *Majles* determined their status<sup>105</sup>.

Zali exposed the technical problems resulting from the undetermined status of the lands under temporary cultivation<sup>106</sup>. Then, he concluded that, after seven years of conflicts, hopes and promises, there was no possibility of concluding contracts of *ijara* or *muzara'a* between the landowners and the cultivators since they would not sit at the

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<sup>103</sup> Harandi in *Ibidem*, 1 *Aban* 1365, p. 24.

<sup>104</sup> *Ibidem*, 29 *Mehr* 1365, p. 26.

<sup>105</sup> *Ibidem*, 1 *Aban* 1365, p. 24.

<sup>106</sup> He referred in particular to the lands under temporary cultivation which were located in Gorgan and Gonbad. Most of these lands were growing cotton, a labour-intensive crop which required meticulous work and attention. Before the Revolution, these lands used to produce 3.5 tonnes of cotton per hectare. In 1359-1361 (1980-1982), their yield had gone down to 2 tonnes/ha. In the following years, with the introduction of improved seeds and other technical improvements, their production reached 2.8 tonnes/ha, which was still well under the pre-revolutionary yields. He attributed this to their undetermined status, which did not encourage the peasants to work hard and to invest in necessary infrastructure and irrigation projects (*Ibidem*, p. 25). Harandi related that during a trip he made the previous year to the province of Mazandaran (where the districts of Gonbad and Gorgan were located), he observed that all the villages had fallen into poverty (*Ibidem*).

same table<sup>107</sup>. Movahedi-Savaji concurred that potentially insurmountable problems would result from the fact that the owners did not dare to go back to the villages<sup>108</sup>.

Moreover, Harandi reminded the audience that the peasants were the people who were filling the ranks of the army, and he asked the opponents of the bill how many sons of the landlords whom they spent so much energy defending were at the front<sup>109</sup>. Similarly, Shoshtari insisted on the sacrifices of the peasants who had offered their production for the war effort and reminded the audience that for seven years the government had been saying that it wanted to protect the *mostaz'afin*, the peasants and the workers. Then, he concluded that if there was a situation of *zarurat* in the country, no *zarurat* was higher than in this case<sup>110</sup>.

Some radical supporters of the bill claimed that even though the landowners might have legal documents of ownership, most of them had acquired their lands by oppressing the peasants and forcing them to work for them. Khalkhali referred to Khomeini's calculation that if all the unpaid Islamic taxes, *zakat* and *khums* of the feudal landlords were added up and taken from them, they would not have anything left. He asserted that it was possible to find among the landowners affected 10 or 20 pious persons, but that most of them had fled abroad<sup>111</sup>. The proponents of the bill illustrated their point with official statistics from the Central Staff according to which 78 % of the landowners affected lived in urban areas, 6 % abroad, and only 8.8 % were in the villages<sup>112</sup>.

The opponents of the bill did not contest that if the landowners had acquired their properties unlawfully, they should be taken from them and returned to their lawful owners. Mir-Ja'fari agreed that all their unpaid rents and taxes should be taken from

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<sup>107</sup> *Ibidem*, 1 *Aban* 1365, p. 26.

<sup>108</sup> *Ibidem*, p. 23.

<sup>109</sup> *Ibidem*, p. 25.

<sup>110</sup> *Ibidem*, p. 27.

<sup>111</sup> *Ibidem*, 29 *Mehr* 1365, p. 28.

<sup>112</sup> *Ibidem*, 1 *Aban* 1365, p. 28. As for the rest, 1.8 % lived both in the towns and in the villages and it was not known where the others lived.



them until they had left only the clothes that they were wearing<sup>113</sup>. During the debates on the specifics of the bill, another opponent of the bill, Sayyed Farajollah Afrazideh expressed the somehow radical opinion that the courts should investigate how some landowners managed to keep thousands of hectares after the land reform of the Shah<sup>114</sup>. However, the opponents of the bill reminded the audience that the cases of illegal ownership were outside the scope of this bill, which dealt with legal ownership, and fell under the law to implement Article 49 of the Constitution. Moreover, they mentioned cases of small landowners who had unjustly been dispossessed and objected to the legalisation of such injustices. For example, Mir-Ja'fari mentioned the case of an old widow with three sons who had been dispossessed of her 9 ha<sup>115</sup>.

Movahedi-Savaji responded to them that this type of cases constituted only 1 % of all cases and that specific regulations could be proposed to deal with them during the discussion of the specifics of the bill. In turn, he quoted examples of landowners owning thousands of hectares of which only a small part was falling into the category of land under temporary cultivation, such as the Behbehani sisters in the province of Fars who had 2,000 ha of which only 250 ha were under temporary cultivation. Moreover, he reminded the opponents of the bill that even if all the lands under temporary cultivation were transferred to the cultivators, their 5,600 owners would still have 114,000 ha at their disposal, or more than 20 ha each<sup>116</sup>.

Harandi, who was the last of the five proponents of the bill to speak, powerfully concluded his speech by reciting the *shahadat* (Islamic profession of faith), during which all the audience stood up, and asserting that he had made his ablutions, which put him in a state of ritual cleanliness to vote in favour of *zarurat*. This was greeted by acclaims of "bravo, well done!"<sup>117</sup>.

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<sup>113</sup> *Ibidem*, 1 *Aban* 1365, p. 22.

<sup>114</sup> *Ibidem*, 6 *Aban* 1365, p. 21.

<sup>115</sup> *Ibidem*, 29 *Mehr* 1365, p. 30, 1 *Aban* 1365, p. 22.

<sup>116</sup> *Ibidem*, p. 23.

<sup>117</sup> *Ibidem*, p. 25.

After the Speaker decreed that the vote on the generalities of the bill did not require a two-thirds majority, despite the objections of several of the representatives, including Abol-fazel Musavi-Tabrizi, who argued that it was based on *zarurat* and therefore required a two-thirds majority, the generalities of the bill were approved by a large majority, which the secretaries and the proponents of the bill estimated to be larger than two-thirds, but which was not recorded as such<sup>118</sup>.

### Debate on the Specifics of the Bill

Since the bill was recognised to be urgent, after the approval of its generalities, it did not follow the normal procedure of being sent back to the commission concerned for further discussions. The *Majles* immediately started discussing its specifics and the deputies were given the opportunity to present their proposals of modifications of and additions to the text of the bill in the plenary session. The debates lasted one week (four sessions of the *Majles*) and were held in the presence of the members of the Council of Guardians.

Having failed to vote down the generalities of the bill, its opponents focused their efforts on trying to restrict its impact and obtain more concessions in favour of the dispossessed landowners. Fahim-Kermani proposed to restrict the application of the bill to the lands whose ownership was not lawful. Movahedi-Savaji objected that this would be against the essence of the bill, which was not to implement Article 49 of the Constitution, and would make it a different bill. Shoshtari added that if the bill was to deal with the lands illegally owned, it would be wrong to restrict it to the lands acquired before the end of 1359. Following these explanations, the proposal was rejected by the majority of the representatives<sup>119</sup>.

During the following session, Abol-fazel Musavi-Tabrizi proposed not to include the lands which the peasants had appropriated themselves without authorisation and to restrict the bill to the lands which had been given to the cultivators by "*Jihad*, the Seven-Person Committees or official organs of the country". He believed that *zarurat* could not

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<sup>118</sup> *Ibidem*, p. 28.

<sup>119</sup> *Ibidem*, p. 29.

be established in the cases of the cultivators who unjustly took possession of lands without the permission of an official organ since they, undoubtedly, did something which was against the indisputable principles of Islam. He asserted that the determination of *zarurat* which Ayatollah Khomeini had conferred to the *Majles* was that of *Shar'i zarurat*, which is restricted to the cases where there is no inclination to commit a sin<sup>120</sup>. He also related that during a meeting that he and other representatives had with Ayatollah Montazeri three days earlier, Montazeri expressed the opinion that, if it was possible, it would be better to solve the problems through the intermediary of the village leaders, but that if this was not possible, he did not object to the provisions of this law<sup>121</sup>. He also quoted Ayatollah Musavi-Ardebili as promising that if all the cases were sent to the courts, rulings would be issued for all of them within one year of the approval of the law<sup>122</sup>.

Kabiri described this proposal as "amazing" coming from Musavi-Tabrizi who was the Chairman of the Joint Commission and had been in the previous Special Commission, after so many months of discussions, and rightly asserted that Musavi-Tabrizi had previously been convinced of the existence of *zarurat* in these cases and of the need to implement the specified measures<sup>123</sup>. He went on to explain that most of the lands under temporary cultivation had been appropriated in 1358 and in the first half of 1359 before the Seven-Person Committees were set up and started working in the middle of 1359. Consequently, according to the statistics of the Seven-Person Committees, 44.4 % of the lands had been taken over without permission from an official organ, although, in some cases an official organ approved the appropriation afterwards. Moreover, he asserted that the words "in any way" were not susceptible to being omitted since they had been included in the circulars of the High Judicial Council. He believed that if the cases were referred to the courts, in most cases the lands would be returned to their owners. Furthermore, he reminded the representatives that when the first land

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<sup>120</sup> *Ibidem*, 6 *Aban* 1365, p. 20.

<sup>121</sup> *Ibidem*, p. 20.

<sup>122</sup> *Ibidem*, p. 21.

<sup>123</sup> *Ibidem*, 26 *Ordibehesht* 1364 [16 May 1985], p. 29 (See above, p. 307).

reform law had been written six years earlier, the views of Ayatollah Montazeri had been taken into account<sup>124</sup>.

The representative of the Central Staff, Nabizadeh, added that among the 56 % of lands that had been given to the cultivators by organisations, there were only 15 documented cases of lands being given by official organs, such as the army, *Jihad*, the Seven-Person Committees or the *Mostaz'afin* Foundation. All the others had been transferred by illegal organs, like the Turkoman People's Movement in Gonbad and Gorgan, or the Democratic Party and *Komala* (the Revolutionary Organisation of the Toilers of Kurdistan) in Kurdistan. Moreover, even if the organs were legal, what they did was illegal, and the situation of all these lands had to be clarified one way or another. He agreed with Kabiri that if the cases were referred to the courts, the lands would be given back to their owners since they were in possession of documents of ownership. Following these explanations, Musavi-Tabrizi's proposal was rejected by the majority of the representatives<sup>125</sup>.

Since the generalities of the bill had been voted as if for an ordinary bill, Fahim-Kermani proposed to omit the reference to *zarurat*. Mohammed Yazdi protested that this proposal was not susceptible to being examined since if *zarurat* was omitted, some parts of the bill would have to be changed and, given that its essence was not susceptible to being modified, it would become a totally different project. But the Speaker, nevertheless, allowed the proposal to be discussed for the reason that no vote had been taken on *zarurat* yet<sup>126</sup>. Abol-fazel Musavi-Tabrizi opposed this proposal on the grounds that the subject had previously clearly been discussed under the category of *zarurat*, and he asserted that nothing but *zarurat* could permit the dispossession of lawful owners. Therefore, if *zarurat* was omitted, the essence of the bill would have to be omitted in order to prevent its rejection by the Council of Guardians since it was contrary to the *Shari'a*. He concluded that, for these reasons, he was opposed to Fahim-Kermani's

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<sup>124</sup> *Ibidem*, 6 *Aban* 1365, p. 21.

<sup>125</sup> *Ibidem*, p. 22-23.

<sup>126</sup> *Ibidem*, 6 *Aban* 1365, p. 25. Rafsanjani asserted that never had the generalities of a bill requiring *zarurat* been voted under the criterion of *zarurat*.

proposal, but he took care to add that this did not mean that he wished to confirm the existence of *zarurat*. However, Mahmudi-Golpaygani, who supported the omission of *zarurat*, predicted that the Council of Guardians would object that it was a nonsense to vote a bill as for an ordinary project, then to have a vote on the same bill under the criterion of *zarurat*<sup>127</sup>. Nevertheless, the majority of the deputies agreed on the need to keep the invocation of *zarurat* and rejected Fahim-Kermani's proposal<sup>128</sup>.

Then, Movahedi-Kermani proposed to add the restrictions that the cultivators to whom the lands would be transferred would be constrained to cultivate the lands and would not be allowed to sell them before ten years. Abol-fazel Musavi-Tabrizi objected that if the lands were transferred because of *zarurat*, there was no reason to restrict the rights of ownership, and that if there was no *zarurat* to impose these restrictions, imposing them would be against the *Shari'a*. On the other hand, Movahedi-Savaji agreed that these conditions were congruent with the philosophy of the bill and with *zarurat* resulting from the fact that the lands were in the hands of those persons. However, both Shoshtari and Zali believed that these conditions were unnecessary since the bill already included the provision that the sale of the lands would be conditional and since the peasants would not be allowed to sell the lands before they received the documents of ownership after payment of their last instalment, which could be after five years or more depending on the value of the land. Movahedi-Kermani's proposal was, therefore, rejected by the majority of the representatives<sup>129</sup>.

The following day, Sayyed Reza Akrami proposed to deduct from the value of the lands only the legal debts of their owners, not their *Shar'i* debts since no mechanism to determine them had been provided in the bill. This proposal was supported by Abol-fazel Musavi-Tabrizi with the argument that although paying their Islamic taxes was compulsory for all Muslims, the government did not have authority to collect them by force<sup>130</sup>. Indeed, no legislation had yet been passed about their collection and they were

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<sup>127</sup> *Ibidem*, 6 Aban 1365, p. 26.

<sup>128</sup> *Ibidem*, p. 24-26.

<sup>129</sup> *Ibidem*, p. 27-28.

<sup>130</sup> *Ibidem*, 7 Aban 1365, p. 26.

not enforced in the Islamic Republic of Iran<sup>131</sup>. However, Movahedi-Kermani believed that all the debts of the landowners should be taken into account, and Shoshtari explained that the *Shar'i* debts included not only *khums* and *zakat*, but all the debts related to these lands for which there was no legal document, and that the deduction of all these debts, which would be regulated in the implementation regulations, could be interpreted to be in the interests of the cultivators who would pay less. Following these explanations, Akrami's proposal was rejected by the majority of the representatives<sup>132</sup>.

The provision that the lands in the hands of state organs would be put at the disposal of the Seven-Person Committees to be transferred in accordance with this law (Note 3) was opposed by Movahedi-Savaji for the reason that it was against the *Shari'a*. He argued that there was no *zarurat* to take these lands from their owners to transfer them to people who were not presently cultivating the lands. Similarly, Abol-fazel Musavi-Tabrizi believed that these lands should be returned to their owners if their ownership was lawful. Mahmudi-Golpaygani, who did not believe in the existence of *zarurat* for the rest of the lands under temporary cultivation, concurred that even if the reasons advanced for *zarurat* for the lands in the hands of cultivators were valid, they would not justify giving away the lands which were in the hands of state organs. They were opposed by Kabiri and by Shoshtari who explained that most of these lands, which had been taken over by state organs, mostly *Jihad-e Sazandegi*, because they were left uncultivated due to conflicts of ownership, were not cultivated directly by the state organs, but by cultivators under contracts, and that due to the previous conflicts of ownership, it was not clear to whom they should be returned. Moreover, Shoshtari added that if Note 3 was omitted, these lands would be treated like the rest and transferred to cultivators meeting the conditions, which would defeat the purpose of those who made this proposal. Following these explanations, the proposal was rejected by the majority of the representatives<sup>133</sup>.

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<sup>131</sup> See Rahnema and Nomani, *The Secular Miracle*, p. 157-159.

<sup>132</sup> *Majles Proceedings*, 7 Aban 1365, p. 26-27.

<sup>133</sup> *Ibidem*, p. 29-31. A previous proposal by Ali Urumian, supported by Abol-fazel Musavi-Tabrizi, to return these lands to their owners if they were engaged in

Several representatives, including Movahedi-Savaji and Gharavi, the representative of Gonbad and Turkoman Sahra, proposed to add the condition that the cultivators should have lived in the area for at least five years before taking over the lands. Hassan Sadeqlu, another Turkoman deputy, proposed fifteen years. However, Abol-fazel Musavi-Tabrizi and Shoshtari objected that this was not consistent with the aim of preventing migration to the towns since if this condition was added, many cultivators who had previously migrated to a town and returned to the villages after the Revolution would not qualify. As a result, the proposal was rejected by the majority of the representatives<sup>134</sup>.

During the last day of the debates, several representatives proposed to exempt from the implementation of this law (and therefore return the lands to them) the owners who owned less than one time the local customs of land. Movahedi-Savaji, Harandi, Movahedi-Kermani and Shoshtari agreed on limits of 10 ha in the northern provinces of Gilan and Mazandaran, and 20 or 30 ha in the other provinces for irrigated lands and twice as much for dry farming lands. Others suggested higher ceilings. Ibrahim Islami proposed twice the local custom of land and Latif Safari suggested to give back to their owners five times if the owners did not have an income outside of agriculture. Finally, a proposal by Movahedi-Savaji to return three times the local customs of land to the owners whose ownership had been recognised as lawful by the revolutionary courts and who did not have a sufficient income was approved by the majority of the representatives<sup>135</sup>.

On the other hand, several deputies, including Gharavi and Sadeqlu, proposed not to return to their owners the lands in the hands of cultivators who did not meet the conditions. Gharavi argued that it would not be in the interests of Islam and the society since there were many other peasants who were meeting the conditions and that returning only one part of the lands to their owners would aggravate the problems of the

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agriculture and their ownership was lawful had been rejected by a large majority of the representatives (*Ibidem*, p. 28-30).

<sup>134</sup> *Ibidem*, 6 Aban 1365, p. 29-32.

<sup>135</sup> *Ibidem*, 8 Aban 1365, p. 22-26.

past. Shoshtari concurred that it would not be fair to give his land back to one owner and not to another one. However, after Movahedi-Savaji reminded them that the aim of the bill was not to solve all the question of the ownership of agricultural lands, but only the problem of the lands under temporary cultivation, the majority of the representatives rejected the proposal<sup>136</sup>.

The supporters of land reform achieved a small victory with the addition of a note stipulating that, within the limits of its ability, the Ministry of Agriculture would put at the disposal of the cultivators whose lands were returned to their owners another plot of land<sup>137</sup>.

Rafsanjani, who was not sure whether a two-thirds majority could be mustered for the totality of the bill, had announced after the approval of the generalities that separate votes would be taken on the parts of the bill that required *zarurat* and on the parts that did not. Several deputies, including some supporters of the bill, objected that there could be only one vote on a bill which consisted of a single article. Deputy Speaker Mohammed Yazdi protested that it was against the internal regulations of the *Majles* to have one part of a single article voted as for an ordinary bill and one part under the criterion of *zarurat* requiring a two-thirds majority<sup>138</sup>. He agreed that some parts of the bill did not need *zarurat*, but stressed that they were not independent subjects. They appeared to be *Shar'i* ordinances, but they were related to non-*Shar'i* transactions that were only made lawful by the invocation of *zarurat*<sup>139</sup>. Abol-fazel Musavi-Tabrizi concurred that it was against the regulations to vote separately under the criterion of *zarurat* on one note of a single-article bill. Shoshtari suggested solving the problem by making the notes separate articles<sup>140</sup>, but this option was rejected by the Speaker.

Finally, Rafsanjani agreed to first hold a vote on the article in its entirety under the criterion of *zarurat*, but insisted that if the two-thirds majority was not obtained,

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<sup>136</sup> *Ibidem*, 7 Aban 1365, p. 35-36.

<sup>137</sup> *Ibidem*, 8 Aban 1365, p. 27-28.

<sup>138</sup> *Ibidem*, 6 Aban 1365, p. 25.

<sup>139</sup> *Ibidem*, 8 Aban 1365, p. 30.

<sup>140</sup> *Ibidem*, 6 Aban 1365, p. 26.



another vote would be held on the parts that required *zarurat*. This was not necessary since the first vote obtained a two-thirds majority. However, the session ended in a tumult with the opponents of the bill contesting the count of the votes by the secretaries and demanding a vote by ballot<sup>141</sup>. According to Bakhsh, some opponents of the bill were reluctant to publicly appear as voting against the bill and being identified as defenders of the rich and the propertied interests. This is why they demanded a secret ballot which would preserve their anonymity. Rafsanjani, who was conscious of this, told them that if a vote by ballot was taken, he would require the deputies to write their names on the cards<sup>142</sup>. But, he finally decided to accept the count of the secretaries and declared the bill passed by a two-thirds majority and the matter closed.

This time, the Council of Guardians went along with the *Majles*' interpretation of its absolute right to pass laws under the category of *zarurat* by a two-thirds majority and did not object to this law<sup>143</sup>.

The law affected only a small portion of the agricultural lands and fell far short of the comprehensive land reform that the radicals had wished. It was the legalisation of a *fait accompli* for reasons of political expediency and it had little to do with Islamic justice and fairness since the peasants who had waited patiently for the government to give them land and those who had compromised and signed a tenancy or sharecropping contract with the landowners were rewarded with nothing. One of the radical supporters of land reform in the *Majles*, Qanbar Kabiri, quoted statistics according to which in 1361 [1982-83], 33.5 % of the cultivators had only 2 % of the cultivated lands at their

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<sup>141</sup> Out of 190 deputies present, one of the secretaries counted 130 deputies standing to mark their approval, the other one counted 142. Even the lower count was over the necessary quota for a two-thirds majority. However, the opponents claimed that, in the tumult accompanying the vote count, some opponents had stood up to protest and had been counted among those approving the bill (*Ibidem*, 8 *Aban* 1365, p. 31).

<sup>142</sup> Shaul Bakhsh, "The Politics of Land", p. 43, and n. 44, p. 47.

<sup>143</sup> Schirazi, *The Constitution of Iran*, p. 187; see also Mallat, *The Renewal of Islamic Law*, note 62, p. 222.

disposal, whereas 0.6 % of the owners owned 13.2 % of the lands<sup>144</sup>. Moreover, he cautioned the representatives against thinking that, with the resolution of the problem of the lands under temporary cultivation, all the problems of agriculture would be solved, and reminded them that there were a large number of big landlords who were not affected by this law<sup>145</sup>. Nevertheless, the law constituted a symbolic victory for the radicals. Prime Minister Musavi described it as "a revolutionary law which will play a large part in solving the land question. [...] It will destroy the feudal order throughout the country at a blow and pave the way for growth, grandeur, and freedom to replace the landlords' oppression"<sup>146</sup>.

The regulations to implement this law were prepared by the Central Staff and the Ministry of Agriculture and were approved by the Council of Ministers on 18 February 1987<sup>147</sup>. They stipulated that all the transfers of cultivated and uncultivated lands that had been made in implementation of the April 1980 Law before the suspension of *Band-e jim* in November 1980 and had been approved by the Central Staff remained valid and were therefore not affected by this law (Article 23). They also excluded from the implementation of the law (which implied that they would be returned to their owners) the orchards (Article 1) and the lands donated by their owners to *waqf* foundations before having been appropriated (Article 24). They specified three restrictions to be imposed in the contracts of conditional sale of the lands: not using the lands for non agricultural purposes or parcelling them up, not leaving the lands vacant without excuse, and complying with the cultivation plans and technical guidelines of the Ministry of Agriculture (Article 10). They explained how the legal debts of the owners that were to be deducted from the price of the lands would be assessed (Article 9), but they failed to give any precision on the contents and method of assessment of the *Shar'i* debts. Therefore, although these debts were mentioned in the text of the law, in practice, they were unlikely to be taken into account.

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<sup>144</sup> *Majles Proceedings*, 29 Mehr 1365, p. 31.

<sup>145</sup> *Ibidem*, 6 Aban 1365, p. 21.

<sup>146</sup> Schirazi, *Islamic Development Policy*, p. 191.

<sup>147</sup> They are published in Naimi, *Qamun-e eslahat-e arzi*, p. 213-225.

According to Schirazi, the implementation of the law encountered many difficulties mainly due to the reluctance of the ministries and other state organs to cooperate. In particular, the Ministry of Justice and the courts were blamed for making the transfer work more difficult by delaying registration procedures. Moreover, some courts issued judgements returning to their owners lands that were subject to the law, or revoked transfers made by the Seven-Person Committees<sup>148</sup>. Because of the obstacles encountered, the transfer work proceeded slowly and the implementation period had to be extended. By February 1990, ownership titles had only been issued for 270,000 ha. The path accelerated that year so that, by December 1990, titles had been handed over for 450,000 ha. By July 1992, 670,000 ha had been transferred to peasants, while 180,000 ha had been returned to their owners<sup>149</sup>. But transfers were still being carried out in mid-1994<sup>150</sup>.

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<sup>148</sup> Schirazi, *Islamic Development Policy*, p. 190. See also Ashraf, "State and Agrarian Relations", p. 304.

<sup>149</sup> Schirazi, *Islamic Development Policy*, p. 191, and note 145, p. 200.

<sup>150</sup> Schirazi, *The Constitution of Iran*, p. 187.

### **Epilogue: Formation and Intervention of the Council to Determine the Interests of the State Order**

In an important letter dated 6 January 1988, Khomeini declared that an Islamic state had the right to disregard Islamic ordinances when passing laws in the interest (*maslahat*) of maintaining state order. His intervention had been prompted by a Friday Prayer sermon delivered by the President of the Republic Ali Khamene'i on 1 January in which he had expressed the generally accepted opinion that the executive and the legislative branches in an Islamic state were bound by a law that was superior to them, the *Shari'a*<sup>1</sup>. In a letter addressed to Khamene'i that was publicly released the following day, Khomeini criticised him for not recognising that "the government [is] a supreme deputyship bestowed by God upon the Holy Prophet" and "among the most important of divine laws and has priority over all peripheral divine orders". He asserted that if the government did exercise power only within the bounds of divine statutes, "then the entrustment of divine rules and absolute deputyship to the Prophet of Islam [...] would be hollow and meaningless". He added that if Khamene'i's interpretation of the *velayat-e*

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<sup>1</sup> On 7 December 1987, the radical Minister of Labour had requested Ayatollah Khomeini's opinion on the extent of the government's authority to impose various requirements on the operation of the private sector. Khomeini replied that the government, by virtue of the public services that it provides, can impose conditions on private contracts to which it is not a party. This response was welcomed by the radicals who launched a propaganda campaign for the legitimisation of unlimited authority for the state to intervene in the economic life. Pronounced in this context, Khamene'i's sermon came in support of the conservatives against the radicals (Ahmad Ashraf, "Charisma, Theocracy, and Men of Power in Postrevolutionary Iran", in *The Politics of Social Transformation in Afghanistan, Iran, and Pakistan*, ed. by Myron Weiner and Ali Banuazizi, Syracuse, Syracuse University Press, 1994, p. 136-137; and Vahid F. Nowshirvani and Patrick Clawson, "The State and Social Equity in Postrevolutionary Iran", in *Ibidem*, p. 233).

*faqih* was to prevail, it would limit so much the power of the *faqih* that it would make his rule inoperative<sup>2</sup>.

As Mallat has noted, these remarks by Khomeini differed considerably from the accepted interpretation of the *velayat-e faqih* as the authority charged with making certain that the *Shari'a* is the ultimate legal reference in the country. Khomeini, instead, asserted that the government had precedence over all other Islamic ordinances, including such fundamental obligations as praying, fasting and the pilgrimage to Mecca. He explained that: "The government is empowered to unilaterally revoke any *Shari'a* agreements which it has concluded with the people when these agreements are contrary to the interests of the country or Islam". Moreover, he added that: "The government can also prevent any devotional or non-devotional affair if it is opposed to the interests of Islam and for so long as it is so". For example: "The government can prevent *hajj* (the pilgrimage to Mecca), which is one of the important divine obligations, on a temporary basis, in cases when it is contrary to the interests of the Islamic country"<sup>3</sup>.

The recourse to *maslahat* to justify government decisions is a practice accepted by the four Sunni schools under different names<sup>4</sup>, which has played an important role throughout the history of Islamic societies. However, it was not a principle accepted by the Shi'i *fuqaha*. But, in 1987-1988, the ruling '*ulama*' in the Islamic Republic of Iran came to accept that they had to use this principle in order to preserve their government. To justify its use, the periodical *Hawzeh (Seminary)* started publishing a series of articles on the use of *maslahat* throughout Islamic history and on the various attitudes of Islamic jurists towards it. It attempted to show that the Shi'i Imams had not forbidden the use of this principle, and, at the contrary, had based their statements and actions on it. Ayatollah Azari-Qomi, in particular, gave his support to this re-reading of the Islamic sources<sup>5</sup>.

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<sup>2</sup> Mallat, *The Renewal of Islamic Law*, 1993, p. 89-90. See also Schirazi, *Islamic Development Policy*, p. 219; and Schirazi, *The Constitution of Iran*, p. 64.

<sup>3</sup> Mallat, *The Renewal of Islamic Law*, p. 90-92.

<sup>4</sup> See Chapter 1, p. 16-17.

<sup>5</sup> Schirazi, *The Constitution of Iran*, p. 233-234.

The leaders of the government and the *Majles* greeted Khomeini's declaration with enthusiasm and were eager to read in it the important clarification needed to break the legislative deadlock that had opposed them to the Council of Guardians. On 6 February 1988, a letter was sent to Khomeini by the President of the Republic, the Speaker of the *Majles* (Rafsanjani), the Prime Minister (Musavi), the President of the High Judicial Council (Musavi-Ardebili) and Khomeini's son, Ahmad<sup>6</sup>. The signatories of the letter called for his intervention as *faqih* to "solve the problem that remains, [that is] the method of implementation of the Islamic sovereign right with regard to Government ruling". They insisted on the urgency of breaking the legislative deadlock. Knowing that Khomeini was reluctant to clearly tip the balance against the Council of Guardians, they tried to force a decision from him by suggesting that they were "informed that [he had] decided to appoint an authority to state the decision of the sovereign body in case of failure to solve the differences between the Majlis and the Council of Guardians". They urged him to act quickly "since at present numerous issues of importance to society are left undecided"<sup>7</sup>.

Khomeini replied to them that he did not believe that the institutionalisation of a new superior phase was necessary "since these matters have already been through all the phases under the supervision of experts who are an authority on them". Nevertheless, he agreed that: "In case the Majlis and the Council of Guardians should fail to come to an understanding on theological and legal points, then a council must be set up [...] to discuss the interests of the Islamic regime". This council would include the six *fuqaha* of the Council of Guardians, Hojjatolislams Khamene'i, Rafsanjani, Musavi-Ardebili, Tavasoli (a member of Khomeini's office), Ahmad Khomeini and Kho'iniha (the Prosecutor-General), Mir Hossein Musavi and the relevant minister. If necessary, other experts could be invited. After consultations, the decision taken by the majority of those present would be enforceable<sup>8</sup>.

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<sup>6</sup> Mallat, *The Renewal of Islamic Law*, p. 103.

<sup>7</sup> *Ibidem*, p. 103-104; Schirazi, *The Constitution of Iran*, p. 234.

<sup>8</sup> Mallat, *The Renewal of Islamic Law*, p. 105.

This new body, to which Khomeini did not give a name, came to be known as the Council to Determine the Interests of the [State] Order (*Majma'-e tashkhis-e maslahat-e nezam*). The government officials who sat in it were designated in Khomeini's letter by their names, not by their positions, which suggests, as Mallat has noted, that Khomeini did not intend the Council to become a permanent institution, but only an *ad hoc* body which would meet to solve the unbridgeable disputes between the *Majles* and the Council of Guardians<sup>9</sup>. The solutions adopted by this council were likely to go along with the government's wishes since the members of the Council of Guardians were outnumbered eight to six.

Khomeini later extended the authority of the Council, enabling it to decide on any subject that the majority of those present deemed worthy of discussion. This turned it into a legislative body capable of framing legislation independently of the *Majles* and the Council of Guardians<sup>10</sup>.

When the Constitution was revised the following year, this new institution was incorporated in the revised text, which was approved by referendum on 28 July 1989<sup>11</sup>. Article 112 stipulated that the Council to Determine the Interests of the State Order would be convened, upon the order of the Leader, in case the Council of Guardians had rejected a bill approved by the *Majles* for being against the *Shari'a* or the Constitution and the *Majles* was unable to satisfy the demands of the Council of Guardians. It could also meet to discuss any other issue referred to it by the Leader, in particular, as provided in Article 110, the problems which could not be resolved by conventional methods. Its fixed and temporary members would be appointed by the Leader<sup>12</sup>.

The Determination Council managed to solve a number of important legislative deadlocks, in particular the Labour Law which it approved on 20 November 1990 after

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<sup>9</sup> *Ibidem*.

<sup>10</sup> Schirazi, *The Constitution of Iran*, p. 234.

<sup>11</sup> The work of the Assembly to Revise the Constitution had started before Khomeini's death on 4 June 1989.

<sup>12</sup> *The Constitution of the Islamic Republic of Iran*, Tehran, Islamic Propagation Organization, 2nd ed., 1990, p. 71-74.

having returned it once to the *Majles* in 1989 and having worked on it for ten months<sup>13</sup>, and in the matter of land reform.

On 16 August 1988, it adopted a decision on the "Resolution of the Problem of Uncultivated Lands" which consisted in reinstating the provisions of the May 1985 Amendments to the Law on the Rejuvenation and Transfer of Agricultural Lands relative to uncultivated lands which had been blocked by the Council of Guardians<sup>14</sup>. The single article of this resolution stipulated that all the uncultivated lands that had clearly been abandoned by their owner would be taken over by the state without compensation. For those that their owners had not abandoned, due to *zarurat*, their owners would be bound to either cultivate them themselves, sell them or give them in *ijara* or *muzara'a*. If after one year they had not implemented any of these four options, the Ministry of Agriculture, directly or through the intermediary of the Seven-Person Committees<sup>15</sup>, would buy the lands from them at a just price after deduction of their legal and *Shar'i* debts. In case the ownership of the lands was contested, they would be referred to the courts set up to implement Article 49 of the Constitution which would be bound to decide on their status within one year.

This decision, like the Law on the Rejuvenation and Transfer of Agricultural Lands and its amendments, was based on the principle of *zarurat* in spite of the objections raised by the Council of Guardians against its use in this case. The principle of *maslahat* as a justification for it was not mentioned in the text of the resolution. However, it is implicit that the Council to Determine the Interests of the State Order considered that it was acting in the interests of the state order when it chose to ignore the objections of the Council of Guardians and to confirm the provisions of the May 1985 Amendments.

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<sup>13</sup> Schirazi, *The Constitution of Iran*, p. 213-214.

<sup>14</sup> This resolution was published in Naimi, *Qanun-e eslahat-e arzi*, p. 228-229.

<sup>15</sup> There was no mention any more of the Three-Person Commissions entrusted with this task by the May 1985 Amendments, whose existence had been contested as redundant with that of the Seven-Person Committees (See Chapter 7, p. 302-303).



This was the most important decision taken by the Determination Council in the matter of land reform. The new supreme legislative body did not address the more controversial issue of cultivated lands, which in any case had been left untouched by the May 1985 Amendments (except for the lands under temporary cultivation), and for which therefore there was no legislative deadlock any longer. Its achievement in the matter of land reform is thus quite limited, although the decision to transfer uncultivated lands was an important breakthrough. Nevertheless, after the approval of this resolution, it took two years for the government to prepare and approve its implementation regulations in spite of the fact that it had been stipulated that they should be approved by the Council of Ministers within two months<sup>16</sup>. As a consequence, the resolution did not have any practical effect before 1991.

In March 1989, the Determination Council also approved the addition of four notes to the text of the Law on the Transfer of the Lands Under Temporary Cultivation in order to address some problems encountered during the implementation of the law. Note 11 stipulated that the value of the land to be taken into account was the market price of the lands in the region at the time of the implementation of the law. Note 10 provided that in case the occupied lands were cultivated collectively and there was no clear ground and basis to divide them, they would be divided in equal shares. Moreover, Note 12 added that: "in order to preserve the unity of the large lands under temporary cultivation (100 ha and more) and to prevent their breakdown into small parcels, the users of these lands retain their ownership [rights], but are bound to form cooperatives of production of the type of *mosha*' of lands [that is collectives units in which only the land is held in common] to use the lands". The Determination Council thus rehabilitated the controversial institution of *mosha*', which had been provided for in the April 1980 Land Reform Law, but deleted from the Bill on the Rejuvenation and Transfer of Agricultural Lands during its second reading in December 1982 following opposition of the majority of the *Majles* representatives. Finally, Note 13 extended the

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<sup>16</sup> Mallat, *The Renewal of Islamic Law*, p. 155.

implementation period of the law by a further two years, that is until October 1991<sup>17</sup>. On 17 October 1991, the Determination Council approved a new extension until the end of 1370 (20 March 1992)<sup>18</sup>.

After the adoption of the Resolution of the Problem of Uncultivated Lands, on 1 October 1988, Harandi declared that the Determination Council had already taken all the decisions demanded of it by the Seven-Person Committees<sup>19</sup>. At the same time, a change of policy started to take shape. Various government officials announced the government's readiness to make land available to investors for setting up agricultural enterprises. Already in February 1988, Harandi had instructed the Seven-Person Committees to make available to people who were interested to invest in agriculture as much dead land as they could cultivate. He announced that the concept of the local custom of lands had been dropped and he claimed that Ayatollah Montazeri agreed with this new policy<sup>20</sup>. In October 1988, the new Minister of Agriculture, Isa Kalantari who had replaced Abbas Ali Zali<sup>21</sup>, promised that protecting private investments would be a firm part of his policy and that landed property would no longer be touched<sup>22</sup>. However, the political climate was not encouraging enough for investors to take risks and invest in large agricultural enterprises. Radicals still occupied important posts in the government and, after the 1988 elections, held the majority of the seats in the *Majles*. Therefore, the

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<sup>17</sup> Naimi, *Qamun-e eslahat-e arzi*, p. 211-212; and Schirazi, *Islamic Development Policy*, p. 191.

<sup>18</sup> Naimi, *Qamun-e eslahat-e arzi*, p. 226. Naimi and Schirazi do not mention a further extension after that one. However, Schirazi reported that the law was still being implemented in the Summer of 1994 (*The Constitution of Iran*, p. 187).

<sup>19</sup> Schirazi, *Islamic Development Policy*, p. 194.

<sup>20</sup> *Ibidem*, p. 192.

<sup>21</sup> In September 1988, the *Majles* denied Zali a vote of confidence due to the poor performance of the agricultural sector during his tenure as Minister of Agriculture, and he was replaced by Kalantari (Schirazi, *Islamic Development Policy*, p. 99, 295-296; Baktiari, *Parliamentary Politics*, p. 157).

<sup>22</sup> Schirazi, *Islamic Development Policy*, p. 193.

new agricultural policy did not have much practical effect in the late 1980s and early 1990s.

## Conclusions

At the time of the White Revolution, the prominent Iranian '*ulama*' did not issue a *fatwa* against the Shah's land reform. But, after the Islamic Revolution, several among the most eminent Shi'i clerics issued *fatawa* against the land reform law adopted by the Revolutionary Council in April 1980. This may appear paradoxical since the institution which approved it included distinguished clerics and was intent on implementing Islamic law. However, this can be explained by the fact that the interpretation of Islamic law held by the prominent '*ulama*' of the main Shi'i theological centres was different from that espoused by the clerical leaders of the Islamic Republic and that the former expected the Islamic state to follow the traditional interpretation of Islamic law, and in case it did not do so, they were not afraid to denounce it. In the 1960s, most high-ranking '*ulama*' did not issue a *fatwa* against land reform because they knew that they held little chance of influencing the Shah's policy and because they wanted to avoid being labelled as "black reactionaries".

However, some important personalities among the clergy, in particular Grand Ayatollah Shari'atmadari and Ayatollah Taleqani, were not opposed to the idea of land reform. The progressive clerics were opposed to the way the land reform programme was implemented and to the people who were implementing it rather than to land reform *per se*. Ayatollah Khomeini himself never said that he was opposed to the concept of land reform, although he denounced the Shah's programme as a conspiracy of the Great Satan (the United States) to bring about a decline of agricultural production and the dependency of the country on imports of American grains and foodstuffs.

After the 1978-79 Revolution, several important members of the clerical leadership of the Islamic Republic, who belonged to the progressive section of the clergy, declared their support for the land reform law adopted by the Revolutionary Council. Asked to explain why they did so whereas the majority of the clergy at the time of the Shah was opposed to land reform, Ayatollah Saduqi, the Friday Prayer leader of Yazd, replied that the fact that an Islamic government had been established constituted an important difference. He asserted that the government of the Shah was illegitimate since the power that it held had been usurped, and that, therefore, its decrees were not

implementable. But, when the holder of power was a just leader who had been appointed (*mansus*) by God and an Islamic government had been constituted, he believed that all the decrees that this government would adopt would be right and nobody could find any error in them. To make things clear, he compared the situation of the country with that of a property. If the owner of a property gives to somebody the permission to use his property, then this person can go and use it. But if somebody else gives him the permission to do so, then this permission is void. He concluded that if Ayatollah Khomeini did not say that an action of the Revolutionary Council was wrong, it meant that it was correct. Then, he added that the orders of the *vali-ye faqih* are like those of the Imam, those of the Imam are like those of the Prophet, and those of the Prophet are like those of God. Nobody can object to them<sup>1</sup>.

However, Ayatollah Khomeini did not pronounce himself clearly in favour of land reform. He chose to delegate his power of decision on this matter and avoided statements that would have alienated one segment of the population. It is precisely his lack of commitment in one way or another which enabled the issue to develop into a controversial one in the Islamic Republic.

All the Iranian authors who wrote on the subject of landownership in Islam before and after the Revolution agreed that the traditional categories of lands in *fiqh* were still valid. All believed that the *anwatan* lands, the lands conquered by force in the process of Islamic expansion, which were cultivated at the time of conquest, were, are and will remain forever the property of the Islamic community and cannot be taken out of the category of public ownership, and they all believed that all dead lands are the property of the Islamic state. However, most of them did not establish a direct link between the status of the different categories of lands in the *Shari'a* and the present situation of the lands and they did not advocate a restoration of their legal Islamic status. They recognised that after thirteen centuries, it was very difficult to determine the status of each plot of land at the time of the Muslim conquest of Iran. Ayatollah Meshkini

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<sup>1</sup> "Nazarat-e Ayatollah Saduqi dar mawred-e malekiyat-e arazi va mawat" ("Views of Ayatollah Saduqi on the ownership of dead lands"), *Ettela'at*, 16 Azar 1360 [7 December 1981], p.4.

wrote in his book on land in Islamic law that, in case of doubt, one should assume that the lands do not belong to the *amwatan* category and can be left with the persons who use them and claim their ownership. In a public speech that he delivered in May 1980, he stated more simply that it was impossible that the ownership of a plot of land be annulled after so many centuries<sup>2</sup>. During the debates about land reform in the *Majles*, Hojjatolislam Fazlollah Mahallati (an opponent of land reform) also expressed the opinion that in case there was a doubt about the status of the lands at the time of the Muslim conquest, it was correct to treat them as if they had been dead lands and therefore were not part of the *amwatan* category.

Only extremists argued that there should be a return to the traditional categories. During the debates on the land reform bill in March 1982, Hojjatolislam Sadeq Khalkhali brought up a motion to stop the discussion of the project, which was based on the argument that since more than half of the lands of Iran were either *amwatan*, *fay'* or *waqf* lands, they should be exempted from the implementation of this project. He referred to Shaykh at-Ta'ifa's description of *amwatan* lands as ranging from Mosul in the North to Abadan in the South and from Qadesiyyeh (in Chaldea) in the West to Nahavand (a town South of Abadan) in the East. He asserted that *fay'* lands which were the inalienable property of the State and *waqf* lands which had been perpetually bequeathed for a private or religious purpose by their owners were scattered throughout the country. He wanted the Islamic status of these three categories of land to be respected and, therefore, their exemption from the land reform project. However, his motion was rejected by a large majority of the representatives and no other mention of this issue was made during the debates on land reform in the *Majles*.

The ruling clergy in the Islamic Republic, therefore, did not adopt a fundamentalist interpretation of Islamic law on the issue of land, except in the case of *waqf* lands, about which they all believed that their status as *waqf* was inalienable. Consequently, legislation aiming at cancelling the sale of endowed lands in the 1970s and restoring them in their *waqf* condition was adopted without any opposition.

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<sup>2</sup> Schirazi, *Islamic Development Policy*, p. 211.

However, many among the revolutionary clergy spoke in favour of land reform at the time of the Revolution and in the first years afterwards, although the concept meant different things to different segments of the clergy. The conservative section of the clergy would have liked to limit land reform to two types of lands on which there was agreement among the clergy: the lands acquired by their owners in contradiction to the provisions of the *Shari'a* and the dead lands which according to the *Shari'a* cannot be privately owned, but are the property of the state which is to distribute those susceptible to being developed to interested persons. The radical members of the clergy, however, tried to extend land reform to two controversial categories of land: the cultivated lands in the hands of large landowners and the arable lands left uncultivated by their owners.

They justified it by a radical interpretation of Islamic law and an invocation of the spirit of Islam. They argued that feudalism and the exploitation of the hard-working peasants by absentee landlords were not compatible with the principles and the meaning of Islam. They maintained that the form of exploitation which was prevalent under the contracts of sharecropping and leasing which were accepted by Islamic law could not be Islamic and that allowing them would imply the preservation of the relations of domination between the landlords and the peasants. Moreover, they claimed that the large landowners could not have acquired their lands in accordance with Islamic regulations in the first place. Therefore, they presented land reform as the way to redress injustices and establish Islamic justice in the Iranian countryside. They believed that it was the best way to solve the employment problem in the villages and to put an end to the rural exodus, as well as to improve agricultural productivity and make the country self-sufficient in agricultural products.

After the project of land reform was approved by Ayatollahs Montazeri, Meshkini and Beheshti, the three *mujtahidin* entrusted by Ayatollah Khomeini to examine it, it was easy for its supporters to argue that since it had been approved by them, it could not be un-Islamic, and to present it as a decision of the *vali-ye faqih*, the supreme authority in the country whose judgement nobody could object to without putting himself or herself into a dangerous position. There was therefore no need to enter into a detailed discussion of Islamic law. However, once Khomeini had decreed that the implementation of the law should be stopped, the argument of the *velayat-e faqih* was turned into a weapon for the opponents of the law and its proponents had to look for other arguments.

The only device they found in Islamic law to overcome the well-enshrined principle of the sanctity of private property was the principle of *zarurat* which permits one to ignore primary ordinances in situations of overriding necessity. *Zarurat* had already been invoked as a basis for the April 1980 law in response to the comments of Ayatollahs Montazeri, Meshkini and Beheshti. The determination of the cases providing grounds for the implementation of *zarurat* was considered to be the prerogative of the *vali-ye faqih*. However, in October 1981, Ayatollah Khomeini entrusted the *Majles* with the passing of legislation in situations of overriding necessity where action or inaction threatened the order of the Islamic Republic or when "corruption" (*fasad*) or "sin" (*harj*) might result. Consequently, the December 1982 land reform bill invoked the principle of *zarurat* which it based on the needs to achieve self-sufficiency, to eradicate poverty and deprivation, and to prevent the unordered migration of villagers. The proponents of the bill believed that these problems were serious enough to warrant the application of the principle of *zarurat*. But, its opponents were not convinced by their demonstration. Neither was the Council of Guardians which used the text of the law itself as evidence that it had not been proven and argued that to be grounds for the implementation of *zarurat* throughout the country, the overriding necessity should apply to conditions existing all over the country and not to local isolated problems.

The May 1985 amendments removed *zarurat* as a basis for all the bill and only invoked a *zarurat* of cultivation in the articles dealing with arable lands left uncultivated by their owners and in the case of the lands seized by peasants after the Revolution. In the latter case, the decision to leave the lands in the hands of the peasants who were cultivating them was justified by the argument that giving them back to their owners would create "an extraordinary chaos" and "disruption of the system" since an estimated one million persons (that is the cultivators and their dependents) would all find themselves at once without a job and would migrate to the towns where they would disrupt the system and put pressure on the services available.

This bill was passed by the *Majles* with a two-thirds majority on the basis of Khomeini's order of 24 January 1983 according to which resolutions based on *zarurat* would require a two-thirds majority to be passed by the *Majles* and could not be overturned by the Council of Guardians. However, the Council of Guardians contested the right of the *Majles* to pass under that category legislation which it had previously



rejected as contrary to the *Shari'a*. It did not agree with the use of *zarurat* made in this case. It again objected that it had not been proven and it added that even if it was accepted as a reason to constrain the landowners to cultivate their lands, it could not be a valid reason to take the lands from them and sell them, which would not be proportional to the extent of the *zarurat*.

Indeed, the use which was made of the principle of *zarurat* by the radicals in the *Majles* and in the government did not meet all the conditions provided by Islamic law for its application. As Hojjatolislam Mortaza Fahim-Kermani asserted during the *Majles* debates, the principle of *zarurat* only made permissible the use of somebody else's property, not its ownership, and therefore it could not be used to take over somebody's property. The supporters of land reform countered this objection with the argument that the landowners were only deprived of their right to work their land, not of their right of ownership since they were paid the price of the land. This is true, but this does not make the use of *zarurat* in this case conform to the *Shari'a* which did not intend it to be a permanent solution to a problem, but only a temporary remedy. A strict interpretation of the principle of *zarurat* in this case could have consisted of letting peasants use the lands during the emergency period, then return the lands to their owners. However, this would not have solved the problems of rural unemployment and migration which required permanent solutions. Moreover, the uncertainty about the length of the emergency situation would have been very detrimental to any investment in agriculture and therefore to agricultural production.

The opponents of land reform also contested the application of the principle of *zarurat* in the case of land reform and particularly in the case of the lands which had been illegally occupied by peasants, on the grounds that, as stipulated in the Qur'anic verses on *zarurat*, the compulsion should be without inclination and without wilful disobedience in order to constitute a case for *zarurat*. Since, on the one hand, those who were to receive land looked forward to it and those who were already using somebody else's land without permission were inclined to do it and, on the other hand, the supporters of land reform were inclined to give the lands to them, these cases did not provide grounds for the application of *zarurat*. The second part of this objection was difficult to contradict by the proponents of land reform who presented themselves as the defenders of the *mostaz'afin*. For the first part, they insisted on the conditions prevailing in 1979 in an

effort to argue that the occupying peasants had not wilfully usurped the property of the landlords, but had been enticed to do it by the revolutionary rhetoric and the actions of the revolutionary organisations, or had been compelled to do it by the need to assure their livelihood and that of their family. As for those who were still waiting to receive lands, they argued that there was not another way of improving their situation.

The radicals in the *Majles* and the government endeavoured to push legislation aiming at economic and social reform on the basis of *zarurat* because they did not find a better tool for it in Islamic law. But, the Council of Guardians rejected many of their bills with the argument that the system of the Islamic Republic could not be constructed on secondary ordinances, but had to be based on primary ordinances while secondary ordinances should be reserved for emergencies which were by definition of a temporary nature.

*Zarurat* was a tool of Islamic law which had been designed for private cases, not to rule a country and legislate social reforms. The insufficiency of it led the ruling clergy to have recourse to the principle of *maslahat* (the interests of the state) which was not traditionally a principle accepted by the Shi'i *fuqaha*. But, in 1987-1988, the leading 'ulama' in the Islamic Republic of Iran came to the conclusion that they had to use it in order to preserve their government. However, the recourse to *maslahat* made the state superior to the *Shari'a* and therefore undermined the basis of authority behind the theory of the *velayat-e faqih* whose rule was supposed to be aimed at ensuring the implementation of the *Shari'a*.

The sanctity of private property in Islamic law did not constitute the only major Islamic obstacle for the supporters of land reform. The legitimacy of contracts such as *muzara'a* and *ijara* in Islamic law provided a solution to the problem of availability of land for the peasants without having recourse to a programme of land redistribution. The radicals found themselves unable to bypass these types of contracts. Hojjatolislam Harandi who had opposed them as oppressive in November 1981 was forced to admit one year later that if they were omitted as an option, the land reform law would be in opposition to the *Shari'a*. However, the acceptance of these contracts did not leave much land available for distribution since it is obvious that most landlords would prefer this option to that of selling their lands and, therefore, land reform could only apply to state lands which were mostly dead lands and to confiscated lands which were

administered by the *Mostaz'afin* Foundation. Moreover, nothing was provided to regulate what would happen to the lands given in *muzara'a* or *ijara* once the emergency period, restricted to five years by the December 1982 bill, was over. If the lands were sold as stipulated in the April 1980 law for the lands of the large landowners and in the October 1986 law for the lands under temporary cultivation, the status of the lands was clear-cut, they would be transferred definitively. But if the lands were only to be given in *muzara'a* or *ijara*, then nothing could prevent their owners from evicting the peasants once the emergency period was over. Since the December 1982 bill was rejected by the Council of Guardians, this problem and the wider question of how to insure that sharecropping and leasing contracts meet Islamic criteria of justice were never discussed in detail and no law was passed to regulate them.

The analysis of the debates about land reform illustrates the inability of the *Shari'a* as a body of written rules to provide solutions to modern-day problems. Throughout the thirteen centuries of Islamic history preceding the Iranian Revolution, Shi'i jurisprudence had centred on problems of private law and had not attempted to provide rules and legislative instruments to govern an Islamic country. Therefore, the Shi'i jurists who came to hold the reins of power in the Islamic Republic of Iran encountered substantial difficulties in trying to implement Islamic law and at the same time meet the needs and aspirations of a twentieth-century society.

Moreover, although the Islamic message had been a progressive one at the time of its revelation, its codification into moral and social regulations throughout the centuries had transformed it into a conservative system which benefited the interests of the dominant classes. Therefore, the more radical and progressive elements among the ruling elite in the Islamic Republic of Iran found themselves at pains to counter established principles such as that of the sanctity of private property and provide Islamic justifications for the redistributive policies that they wished to promote. To do this, they had to return to the spirit of Islam and to the basic principles behind the established rules. However, in some cases, they went too far in this reconstruction of Islam and re-reading of the sources to support their personal inclinations.

At the end, we are left with the question as to whether the attempts at implementing a programme of land reform in the Islamic Republic of Iran failed because of Islamic objections to it or for other reasons. Undoubtedly, since Iranian society before

1979 did not function in accordance with Islamic criteria, the land ownership situation prevalent in 1979 did not correspond to that of an ideal Islamic society. Therefore, the leaders of the Islamic Republic were confronted with the problem of transforming it into something closer to the Islamic ideal. However, after several centuries of un-Islamic dealings, this was not an easy task. Although Islamic law stipulates that a property acquired in contradiction with the provisions of the *Shari'a* cannot be transmitted, it would have been difficult to determine who was the legitimate owner of each plot of land illegally acquired one thousand years earlier and to take it away from the people who had been living on it and cultivating it for generations. A literal application of Islamic law in this case would certainly not have met the Islamic criteria of fairness and justice. Faced with the impossibility of turning the Iranian countryside into an ideal Islamic society overnight, the government of the Islamic Republic was confronted with the pressing question (which would have similarly confronted a secular government) of how to improve the situation of the masses of poor peasants in the short and medium terms. A section among the ruling Islamists, moved by egalitarian ideals, saw a redistribution of the large estates as the way to solve the rural problems, whereas others with more conservative leanings or a more realistic approach to the problem considered that supporting private enterprise and the commercial farmers was a better way of achieving the same aim. If at the end the latter policy prevailed, it is to be attributed on the one hand to the existence of powerful conservative forces, the large landowners and their allies among the senior clergy and the rich bazaar merchants, and on the other hand to the fact that land reform was not the way to solve the rural problems since even if all the agricultural lands had been redistributed, they would not have been sufficient to give to each peasant a plot big enough to assure his livelihood. In the final analysis, this latter fact appears to be the reason why the radicals who supported land reform for ideological reasons, rather than out of their knowledge of the rural problems, found themselves unable to mobilise a peasant movement to fight for land reform. The two main institutions which carried the struggle for land reform in the countryside: *Jihad-e Sazandegi* and the Seven-Person Committees were not composed of peasants, but of urban youths in the first case and of a majority of government officials in the second. Whereas the large landowners and commercial farmers quickly organised themselves after the Revolution in agricultural councils to constitute a powerful lobbying force

against land reform, the poor peasants did not unite in a peasant association and only came together to fight for isolated causes at the local level.

It can nevertheless be said that the April 1980 law and the December 1982 bill appear to contradict not only the written text of the *Shari'a*, but the spirit of Islam by indiscriminately putting all the landowners in the same category and not taking into account the local and individual circumstances. Putting in the same category the courtiers of the previous regime who used their position to usurp some of the best lands, the tribal leaders who claimed ownership over all their tribe's traditional pastures, and the commercial farmer who developed with his own hands a plot of land larger than the prescribed limit is totally unfair. In this way, one can say that the land reform legislation was in contradiction with the spirit of Islam. However, it would have been very difficult to conceive a programme which would have been fair to everybody. A focus on individual cases may preclude the solution of national problems, and in the end be detrimental to everybody, which would not be in accordance with the spirit of Islam either.

The conflict between the radicals and the conservatives among the Islamists holding the reins of power in the Islamic Republic of Iran can be seen as a conflict between two factions invoking different interpretations of the *Shari'a* in support of different policies. The rivalries between these two factions intensified between 1986 and 1988 and resulted in the dissolution of the Islamic Republican Party on 1 June 1987 due to unbridgeable divergences of opinions between its factions, and the formation in March 1988 of the Assembly of Militant Clerics of Tehran by a number of prominent radicals led by Hojjatolislams Karubi and Musavi-Kho'iniha, in ideological opposition to the Association of the Militant Clergy of Tehran which had become the bastion of the conservative clerics. The formation of this association brought into the open the differences between factions among the clerical leadership of the Islamic Republic who had until then endeavoured to play down their importance.

The rivalries between the two factions became so serious in 1988 that they threatened to endanger the stability of the Islamic Republic and that Ayatollah Khomeini who until then had refused to take sides was forced to intervene. In November 1988, he declared that divergences of opinions among Shi'i *fuqaha* on a number of important economic and political issues were legitimate. In an address, which has come to be

known as the "Covenant of Brotherhood" (*Manshur-e baradari*), he argued that since the door of *ijtihad* was open, differences of opinion among *fuqaha* were permissible. He listed a number of issues including the problem of ownership and its limitation, land, *mizara'a* and renting, as well as taxation, domestic and foreign trade, banking and foreign exchange, cultural issues, limits to individual and social freedoms, and Islamic punishments. He concluded that: "It is clear that if disagreements occur among those who are loyal to the revolution, their differences would be solely political, even though they may take an ideological form. This is because they all share the same bases and principles, and that is why I endorse them all. They are all loyal to Islam, the Quran and the revolution"<sup>3</sup>.

In admitting the legitimacy of divergences of opinions among the Shi'i *fuqaha*, Khomeini again avoided taking sides in the debates and giving his blessing to one interpretation of Islamic law over the other. On the contrary, he recognised both of them as legitimate Islamic views and therefore, he *a posteriori* legitimised the views of the two factions in the debates over land reform. His endorsement of the two sets of views as legitimate is important for two reasons. First, because it recognises that Islamic law does not provide a fixed set of regulations to address all problems in every time and place as many Islamists affirm, and admits that different interpretations of Islam can be legitimate. Second, by leaving open the discussion of major political and economic issues, it provides space for a genuine debate among the Islamist factions. These two conclusions do not imply that Khomeini's declaration represented a watershed. His ambiguous declarations and silences and his efforts to maintain a balance between the two factions in the 1980s made the former implicit. However, until 1988, the legitimacy of different

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<sup>3</sup> Ali Rahnema and Farnad Nomani, "Competing Shi'i Subsystems in Contemporary Iran", in *Iran After the Revolution: Crisis of an Islamic State*, ed. by Saeed Rahnema and Sohrab Behdad, London and New York, I.B. Tauris, 1995, p. 89. This pronouncement had been made in response to a question asked to the Imam by Mohammed Ali Ansari, the brother of *Majles* deputy Majid Ansari, in relation to "the differences of opinion that exist among the different factions loyal to the revolution" (Baktiari, *Parliamentary Politics*, p. 161).

Islamic views was not acknowledged publicly by the leadership of the Islamic Republic who endeavoured to give an appearance of unity. As for genuine debate within the regime, the *Majles* and the written press provided space for it throughout the 1980s.

In the 1980s, the *Majles* constituted a forum for passionate debates between a wide spectrum of views on many social and economic issues of great importance. Admittedly, its members had to operate within some limits and constraints. In the first place, to be allowed to contest the elections, they had to acknowledge the doctrine of the *velayat-e faqih* which was at the basis of the Constitution of the Islamic Republic of Iran. However, the 1979 Constitution did not confer to the *vali-ye faqih* the power to take all the decisions required by the day-to-day administration of the country, and Ayatollah Khomeini never attempted to do so. If his advice on some matters was followed by the government, it was more due to his personal prestige than to his constitutional authority. He left the *Majles* free to pass legislation on economic and social matters. Some important subjects, such as foreign policy, were not discussed publicly, but few countries at war, as Iran was between 1980 and 1988, allow a free discussion of their foreign policies.

A more important restriction on the power of the *Majles* was the power of veto exerted by the Council of Guardians. However, it is important to note that the Council of Guardians always operated within the limits of its constitutional power and objected to legislation passed by the *Majles* because it found it contrary to the Constitution or to the *Shari'a*, although the majority of its members did not always agree among themselves and the *fuqaha* among them in some cases held different views on what was contrary to the *Shari'a*. The dominant views in the Council of Guardians were in fact those of an important faction within the regime. Therefore, one could say that the Council of Guardians dominated by conservative Islamists exerted a moderating role in curbing the radical leanings of the majority of the *Majles* representatives. In the case of land reform, it is clear that the legislation passed by the *Majles* was in contradiction with the written text of the *Shari'a*, that it was opposed by important social forces throughout the country, that there was not enough land to meet the needs of the poor peasants, and that therefore the implementation of land reform would have been likely to lead to chaos and to create more problems than what it would have solved.

Finally, it must be stressed that although the views of the majority of the members of the Council of Guardians were conservative, they did not uphold a fundamentalist interpretation of the *Shari'a*. Their objections to the land reform law did not refer to the traditional categories of land in *fiqh*. They accommodated themselves to the existing situation and adopted the view that property rights are lawful unless the contrary is proved.

The present study of the debates over land reform in the Islamic Republic of Iran illustrates that Iran in the 1980s was not in essence a fundamentalist state, in the sense of a state enforcing a strict and literal interpretation of a religious doctrine. The important issue of land ownership was not addressed from a fundamentalist point of view. The vast corpus of Shi'i jurisprudence dealing with the status of different categories of land was ignored completely. No important group within the regime advocated a fundamentalist solution to the question of land ownership. Admittedly, this would have been difficult to enforce in practice, but that option or ways to go around the problem by preserving the Islamic status of the lands at least in theory were not even discussed.

Moreover, land ownership is not the only important issue about which a fundamentalist policy was not adopted in the Islamic Republic of Iran. Even such important Islamic requirements as the payment of *zakat* and *khums* which constitutes one of the pillars of Islam were not enforced in the 1980s, whereas legislation was passed on other forms of taxation<sup>4</sup>. Many other laws adopted in the 1980s circumvented the *Shari'a* or introduced principles foreign to Islam<sup>5</sup>. In practice, the Islamic Republic of Iran in the 1980s, therefore, was not essentially a fundamentalist state but, behind a cloak of fundamentalist rhetoric and under the tight constraints of a political environment restricted to those who accepted the basic tenets of the regime, it presented the features of a state which attempted to reconcile Islamic principles and values with the requirements of the administration of a modern society. It also incorporated democratic institutions and Western principles, such as a constitution and the separation of powers,

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<sup>4</sup> Rahnema and Nomani, *The Secular Miracle*, p. 157-159; Schirazi, *The Constitution of Iran*, p. 237-239.

<sup>5</sup> See *Ibidem*, p. 161-222.



which are foreign to Islam, and provided some space for open debates on important economic and social issues.

The vitality of the debates among the Islamist factions in Iran provides evidence for the possibility of a pluralistic debate within an Islamic society. In the 1980s, the Iranian political stage was restricted to those who accepted the basic tenets of the regime and had demonstrated their loyalty to it. Nevertheless, on social and economic issues, the views which were expressed ranged from the extreme left to the extreme right of the political spectrum. Moreover, the doctrine of the *velayat-e faqih* and the intervention of the clergy in political affairs are not accepted dogmas among the Islamic clergy, even among the Shi'as. Consequently, these constraints are susceptible to being moderated in the future to open the Iranian political space to a more genuine democratic debate.

## Appendix 1:

**The 101 representatives who signed the May 1981  
letter requesting Ayatollah Khomeini to reinstate *Band-e jim***

Name	Electoral constituency, Province	Cleric/layman (woman)
Abdol-hamid Aqa-Rahimi	Shahrbabak, Kerman	layman
Ali Aqa-Mohammedi	Hamadan, Hamadan	layman
Abol-qasem Akhutian	Sari, Mazandaran	layman
Abdol-reza Asadi-Nia	Ahvaz, Khuzistan	layman
Rahman Estaki	Shahr Kurd, Chaharmahal	layman
Mortaza A'zami -Lorestan	Khoramabad, Lorestan	layman
Fathollah Omid-Najafabadi	Isfahan, Isfahan	cleric
Reza Isfahani	Varamin, Tehran	layman
Mohammed Reza Amin-Naseri	Astaneh, Gilan	layman
Ersalan Felah Hojjat-Ansari	Lahijan, Gilan	layman
Mohammed Hadi Barumand	Borujerd, Lorestan	layman
Behroziyeh? <sup>1</sup>		
Mohammed Reza Babasafari	Burkhar, Isfahan	layman
Bayat Oshana	Assyrians and Caledonians	layman
Mohammed Ali Tatari	Zahedan, Sistan and Baluchistan	layman
Bahram Taj-Gardun	Gochsaran, Kahkiluyeh	layman
Mostafa Tabrizi	Bojnurd, Khorasan	layman
Mohammed Mehdi Ja'fari	Dashtestan, Bushehr	layman
Abdol-hosseini Jalali	Neyshapur, Khorasan	layman
Sayyed Ahmad Hosseini	Marvdasht, Fars	layman
Shamsoddin Hosseini-Na'ini	Na'in, Isfahan	layman
Sayyed Abol-hassan Ha'erizadeh	Birjand, Khorasan	layman
Abbas Haydari	Bushehr, Bushehr	layman
Fakhroddin Hejjazi	Tehran, Tehran	cleric
Herayi Khalatian	Armenians of the North	layman
Herach Khachaturian	Armenians of the South	layman
Mohammed Khaza'i	Rasht, Gilan	layman
Mohammed Khalili	Baft, Kerman	layman
Isma'il Khoshnevis	Ardebil, East Azerbaijan	layman
Mohammed Sadeq Khalkhali-Givi	Qom, Central Province	cleric
Ghaffur Sadeq-Khalkhali	Khalkhal, East Azerbaijan	layman
Sayyed Fakhroddin Rahimi	Lorestan, Lorestan	cleric
Mohammed Taqi Ranjbar-Chubeh	Somea-Sara, Gilan	layman
Mohammed Rashidian	Abadan, Khuzistan	layman

## Appendix 1 (continued)

Name	Electoral constituency, Province	Cleric/layman (woman)
Isma'il Rafi'ian	Marand, East Azerbaijan	layman
Mohammed Raja'ian	Zenjan, Zenjan	layman
Reza Ramazani	Rasht, Gilan	layman
Mohsen Rehami	Khodabandeh, Zenjan	cleric
Sayyed Mohammed Musavi-Kho'iniha	Tehran, Tehran	cleric
Qahraman Rahmani	Takestan, Zenjan	layman
Musa Zargar	Shahriyar, Tehran	layman
Sayyed Ahmad Zarhani	Dezful, Khuzistan	layman
Kazem Sami	Tehran, Tehran	layman
Ahmad Salamatian	Isfahan, Isfahan	layman
Mohammed Amin Sazgarnejad	Sarustan, Fars	layman
Ezzatollah Sahabi	Tehran, Tehran	layman
Mohsen Sayyedin	Khomein, Central Province	layman
Gholam-ali Shahraki	Zabol, Sistan and Baluchistan	layman
Mohammed Samad Sheja'iyani	Mamasani, Fars	layman
Sayyed Mohammed Taqi Shahrokhi	Khoramabad, Lorestan	cleric
Latif Safari	Islamabad, Bakhtaran	layman
Fazlollah Salavati-Khuzani	Isfahan, Isfahan	layman
Hassein Sabaghian	Tehran, Tehran	layman
A'zam Taleqani	Tehran, Tehran	lay woman
Asadollah Alipur	Ilam, Ilam	layman
Mohammed Farzpur-Machiani	Astara, Gilan	layman
Isma'il Firdosipur	Firdos and Tabas, Khorasan	cleric
Mostafa Fumani-Ha'eri	Fuman, Gilan	cleric
Mehdi Karubi	Aligodarz, Lorestan	cleric
Asadollah Kian-Arsi	Faridan, Isfahan	cleric
Ali Golzadeh-Ghaffuri	Tehran, Tehran	layman
Parviz Moikpur	Zoroastrians	layman
Mohammed Mohammedi	Gorgan, Mazandaran	layman
Yunus Mohammedi	Khoramshahr, Khuzistan	layman
Mohammed Kazem Musavi-Bojnurdi	Tehran, Tehran	layman
Sayyed Abdol-vahed Musavi	Larestan, Fars	cleric
Sayyed Hossein Musavi-Jahanabadi (Musavi-Khorasani):	Mashhad, Khorasan	cleric
Ali Movahedi-Savaji	Saveh, Central Province	cleric
Mohammed Mojtabed Shabestari	Shabestar, East Azerbaijan	cleric
Mohammed Nasrollahi	Abadan, Khuzistan	layman

## Appendix 1 (continued)

Name	Electoral constituency, Province	Cleric/layman (woman)
Mortaza Mahmudi	Qasr-e Shirin, Bakhtaran	layman
Ahmad Mollazadeh	Gonabad, Khorasan	cleric
Sayyed Mohammed Milani-Hosseini	Tabriz, East Azerbaijan	layman
Ali Akbar Mo'insar	Tehran, Tehran	layman
Mohammed Ali Montazeri	Najafabad, Isfahan	cleric
Hossein Hashemian	Rafsanjan, Kerman	cleric
Mohammed Ali Hadi-Najafabadi	Tehran, Tehran	layman
Hossein Herati	Sabzavar, Khorasan	layman
Mirza Hassan Yusufi-Eshkuri	Tankabon, Mazandaran	cleric
Moslem Mirzapur-Kalashdari	Rudbar, Gilan	layman
Alasad Ghazanfarpur	Lenjan, Isfahan	layman
Mohsen Mojtahed Shabestari	Tehran, Tehran	cleric
Majid Ansari	Zarand, Kerman	cleric
Ali Mohammed Besharati	Jahrom, Fars	layman
Sayyed Ali Akbar Parvaresh	Isfahan, Isfahan	layman
Ali Reza Chiraghzadeh-Dezfali	Ramhormoz, Khuzistan	layman
Sayyed Abol-hassan Hosseini	Minodasht, Mazandaran	cleric
Qurban-ali Dari-Najafabadi	Ardel Farsan, Chaharmahal	cleric
Gohar al-Shari'a Dagheib	Tehran, Tehran	lay woman
Mohammed Sheja'i	Zenjan, Zenjan	layman
Javad Shirazian	Qa'emshahr, Mazandaran	layman
Mohammed Javad Hojjati-Kermani	Tehran, Tehran	cleric
Fu'ad Karimi	Ahvaz, Khuzistan	cleric
Mas'ucheir Motaki	Kard Kuy, Mazandaran	layman
Mowlavi Nazr Mohammed Di'agah	Iranshahr, Sistan and Baluchistan	Sunni cleric
Norozi ? <sup>2</sup>	? Mazandaran	?
Hadi Ghaffari	Tehran, Tehran	cleric
Ali Reza Yar-Mohammedi	Bam, Kerman	layman
Musavi-Tabrizi <sup>3</sup>	Tabriz, East Azerbaijan	cleric
Abu-fazel Razavi-Ardegani	Sapidan, Fars	cleric
Mortaza Alviri	Damavand, Tehran	layman

Source: *Ettela'at*, 26 Ordibehesht 1360 [16 May 1981], p. 9.

<sup>2</sup> The author was unable to identify this deputy. A deputy called Hassan Behroziyeh was elected in 1980, but according to *Negarareshi beh avalin dawre-ye Majles-e shura-ye Islami* ([A Description of the First Session of the Islamic Consultative Assembly], Tehran, Public Relations Service of the Islamic Consultative Assembly, Bahar 1364 [Spring 1985], p. 332), his credentials were not accepted. Maryam Behrozi did not enter the *Majles* before August 1981 (*Ibidem*, p. 224).

- <sup>2</sup> This was either Kazem Norozi, a cleric and representative of Amol, Mazandaran., or Mohammed Norozi, a layman and representative of Gonbad-e Kavus, Mazandaran. Both are known supporters of land reform and both signed the January 1982 letter demanding for the implemntation of *Band-e jim*.
- <sup>3</sup> This was either Abol-fazel Sayyed-Rihani or Hossein Purmirghaffari, both being known as Musavi-Tabrizi, representatives of Tabriz and clerics. The first one is known as a moderate supporter of land reform and the latter, who resigned to become Prosecutor-General of the Revolutionary Courts before the subject of land reform was debated in the *Majles*, is known as a radical. His brothers Mohsen and Hassan had not yet been elected to the *Majles*.

## Appendix 2:

The 127 representatives who signed the 25 January 1982  
open letter demanding the implementation of *Band-e jim*

Name	Electoral constituency, Province	Date of election	Cleric/layman (woman)
Sayyed Mohsen Musavi-Tabrizi	Tabriz, East Azerbaijan	1981	cleric
Yadollah Dehqani	Ahr, East Azerbaijan	1980	cleric
Sayyed Ahmad Zarhani	Dezful, Khuzistan	1980	layman
Sayyed Abdol-vahed Musavi	Larestan, Fars	1980	cleric
Hassan Hassanzadeh	Kashmar, Khorasan	1980	cleric
Shahaboddin Bimeqdar	Varzqan, East Azerbaijan	1981	layman
Sayyed Jalil Sayyedzadeh	Bakhtaran (Khoramabad), Bakhtaran	1981	layman
Mohsen Sayyeddin	Khomein, Central Province	1980	layman
Mohammed Kazem Saburi	Shirvan, Khorasan	1981	layman
Mohammed Akhlaqi-Nia	Sirjan, Kerman	1981	cleric
Mohammed Amin Sazgarnejad	Sarustan, Fars	1980	layman
Ali Ma'arafizadeh	Khoramshahr, Khuzistan	1980	layman
Hossein Kamali	Tehran, Tehran	1981	layman
Mohsen Rehami	Khodabandeh, Zenjan	1980	cleric
Ali Qa'emi-Amiri	Babalsar and Band-e Pai, Mazandaran	1980	cleric
Mohammed Taqi Al-Sayyed-Ghaffur	Shoshtar, Khuzistan	1980	cleric
Gohar al-Shari'a Dastgheib	Tehran, Tehran	1980	lay woman
Maryam Behrozi	Tehran, Tehran	1981	woman with clerical education
Atiqa Sadiqi Reja'i	Tehran, Tehran	1981	lay woman
Hossein Hashemian	Rafsanjan, Kerman	1980	cleric
Fakhroddin Hejjazi	Tehran, Tehran	1980	cleric
Hassan Ruhani	Semnan, Semnan	1980	cleric
Mohammed Ali Hadi-Najafabadi	Tehran, Tehran	1980	layman
Kazem Norozi	Amol, Mazandaran	1980	cleric
Mortaza Mahmudi	Qasr-e Shirin, Bakhtaran	1980	layman
Ali Aqa-Mohammedi	Hamadan, Hamadan	1980	layman
Ali Kazemi Movamundi	Salsaleh Dehghan, Kurdistan	1980	cleric
Sayyed Fazlollah Hosseini-Barmayi	Dargaz, Khorasan	1981	cleric

## Appendix 2 (continued)

Name	Electoral constituency, Province	Date of election	Cleric/layman (woman)
Mostafa Fumani-Ha'eri	Fuman, Gilan	1980	cleric
Sayyed Ahmad Hosseini	Marvdasht, Fars	1980	layman
Mehdi Karubi	Aligodarz, Lorestan	1980	cleric
Ezzatollah Dehqan	Torbat-e jam, Khorasan	1980	layman
Mohammed Faghuri	Masjed-e Soleyman, Khuzistan	1981	cleric
Mahmud Reza'i-Hanjani	Karaj, Tehran	1980	layman
Qahraman Rahmani	Takestan, Zenjan	1980	layman
Abbas Mozafar	Bojnurd, Khorasan	1980	layman
Abdol-hamid Aqa-Rahimi	Shahr-babak, Kerman	1980	layman
Mohammed Reza Amin-Naseri	Astaneh, Gilan	1980	layman
Mohammed Hosseini-Nia	Rudsar, Gilan	1980	cleric
Iraj Safati-Dezfuli	Abadan, Khuzistan	1980	layman
Mostafa Tabrizi	Bojnurd, Khorasan	1980	layman
Ahmad Mollazadeh	Gonabad, Khorasan	1980	cleric
Kamel Abeddinzadeh	Khuy, West Azerbaijan	1980	layman
Asadollah Alipur	Ilam, Ilam	1980	layman
Sayyed Mahmud Alavi	Larestan, Fars	1980	cleric
Isma'il Khoshnevis	Ardebil, East Azerbaijan	1980	layman
Manuchehr Motaki	Kard Kuy, Mazandaran	1980	layman
Mohammed Reza Babasafari	Burkhar, Isfahan	1980	layman
Ersalan Felah Hojjat-Ansari	Lahijan, Gilan	1980	layman
Abbas Abbasi	Minab, Hormozgan	1980	cleric
Gholam-abbas Za'eri	Bandar Abbas, Hormozgan	1980	layman
Sayyed Mohammed Khatami	Ardek, Yazd	1980	cleric
Rasul Montajab-Nia	Shosh and Andimashk, Khuzistan	1981	cleric
Abdol-reza Asadi-Nia	Ahvaz, Khuzistan	1980	layman
Bahram Taj-Gardun	Gochsaran, Kalikiluyeh	1980	layman
Sayyed Abol-hassan Hosseini	Minodasht, Mazandaran	1980	cleric
Bayat Oshana	Assyrians and Caledonians	1980	layman
Mohammed Samad Sheja'ian	Mamasani, Fars	1980	layman
Ezzatollah Sahabi	Tehran, Tehran	1980	layman
Abol-hassan Elahhebadashti	Nawshahr, Mazandaran	1981	cleric
Sabah Zenganeh	Shiraz, Fars	1980	layman
Hossein Bazqandi	Daurud, Lorestan	1981	cleric

## Appendix 2 (continued)

Name	Electoral constituency, Province	Date of election	Cleric/layman (woman)
Fazlollah Salavati-Khuzani	Isfahan, Isfahan	1980	layman
Gholam-reza Rahimi	Mahshahr, Khuzistan	1981	cleric
Mostafa Kiayi	Tuisargan, Hamadan	1981	layman
Latif Safari	Islamabad, Bakhtaran	1980	layman
Sayyed Yunus Erfani	Talash, Gilan	1980	cleric
Ali Taheri	Izeh, Khuzistan	1981	layman
Mirza Hassan Yusufi-Eshkuri	Tankabon, Mazandaran	1980	cleric
Mohammed Ali Sobhan-Elahi	Tabriz, East Azerbaijan	1980	layman
Mohammed Norozi	Gonbad-e Kavus, Mazandaran	1980	layman
Mohsen Rasi	Miandavab, West Azerbaijan	1981	layman
Mir Ghaffur Sajjadi (Sajjadnejad)	Bastanabad, East Azerbaijan	1981	cleric
Sayyed Mahmud Do'a'i	Tehran, Tehran	1981	cleric
Mahmud Marvi-Samavarchi	Torqbeh, Khorasan	1980	cleric
Sayyed Mohammed Milani-Hosseini	Tabriz, East Azerbaijan	1980	layman
Sayyed Baqer Hashemi	Falavarjan, Isfahan	1981	cleric
Mohammed Fazel	Babol, Mazandaran	1980	cleric
Sayyed Hadi Khamene'i	Fariman, Khorasan	1981	cleric
Mohammed Reza Rashed	Maghan, East Azerbaijan	1981	layman
Ali Ojam	Mashhad, Khorasan	1981	cleric
Asghar Rostami	Noqdeh, West Azerbaijan	1981	layman
Abbas Ali Bahari-Ardeshiri	Sari, Mazandaran	1981	cleric
Mohammed Mehdi Ja'fari	Dashtestan, Bushehr	1980	layman
Mohammed Farzpur-Machiani	Astara, Gilan	1980	layman
Sayyed Abol-hassan Ha'erizadeh	Birjand, Khorasan	1980	layman
Moslem Mirzapur-Kalashtari	Rudbar, Gilan	1980	layman
Ahmad Sadr-Hajj-Sayyed-Javadi	Qazvin, Zenjan	1980	layman
Mohammed Javad Reja'iyani	Zenjan, Zenjan	1980	layman
Isma'il Feda'yi	Sarband, Central Province	1980	cleric
Mohammed Kazem Musavi-Bojnurdi	Tehran, Tehran	1980	layman
Mohammed Ali Saduqi	Yazd, Yazd	1981	cleric
Mortaza Fahim-Kermani	Kerman, Kerman	1981	cleric
Hashem Hejjazi-far	Maku, West Azerbaijan	1981	cleric
Mowlavi Mohammed Ishaq-Madani	Saravan, Sistan and Baluchistan	1981	Sunni cleric
Mowlavi Hamed Damani	Khash, Sistan and Baluchistan	1981	layman
Ali Asghar Baghani	Sabzavar, Khorasan	1980	cleric



## Appendix 2 (continued)

Name	Electoral constituency, Province	Date of election	Cleric/layman (woman)
Abbas Dozdozani	Tabriz, East Azerbaijan	1981	layman
Mehdi Tayeb	Na'in, Isfahan	1981	layman
Abbas Sheybani	Tehran, Tehran	1981	layman
Mohammed Mohammadi	Gorgan, Mazandaran	1980	layman
Mohammed Hadi Barumand	Borujerd, Lorestan	1980	layman
Mohammed Khaza'i	Rasht, Gilan	1980	layman
Herayi Khalatian	Armenians of the North	1980	layman
Mohammed Rashidian	Abadan, Khuzistan	1980	layman
Ahmad Nateq-Nuri	Nur, Mazandaran	1981	layman
Isma'il Firdosipur	Firdos and Tabas, Khorasan	1980	cleric
Abdol-karim Arbabi	Chah Bahar, Sistan and Baluchistan	1981	layman
Yunus Mohammadi	Khoramshahr, Khuzistan	1980	layman
Sayyed Mohammed Hossein Mohammadi	Rudbaran, Bushehr	1981	cleric
Hadi Ghaffari	Tehran, Tehran	1980	cleric
Abdol-hossein Jalali	Neyshapur, Khorasan	1980	layman
Fathollah Omid-Najafabadi	Isfahan, Isfahan	1980	cleric
Ahmad Zamanian	Nahavand, Hamadan	1981	cleric
Javad Shirazian	Qa'emshahr, Mazandaran	1980	layman
Sayyed Hashem Hamidi	Hamadan, Hamadan	1980	cleric
Mohammed Mehdi Purgol	Bandar Anzali, Gilan	1981	layman
Herach Khachaturian	Armenians of the South	1980	layman
Khosrow Naqi	Jews	1981	layman
Gholam-ali Shahraki	Zabol, Sistan and Baluchistan	1980	layman
Parviz Molkper	Zoroastrians	1980	layman
Sayyed Hossein Musavi-Jahanabadi (Musavi-Khorasani)	Mashhad, Khorasan	1980	cleric
Mortaza Katira'i	Malayer, Hamadan	1980	layman
Hossein Hosseini-Va'ez-Ramiani	Ramian and Turkoman Sahra, Mazandaran	1980	cleric
Mohammed Khalili	Baft, Kerman	1980	layman
Mohammed Ali Tatari	Zahedan, Sistan and Baluchistan	1980	layman
Shokrollah Zeynali	Behbahan, Khuzistan	1980	layman

Source: *Ettela'at*, 5 Bahman 1360 [25 January 1982], p. 15.

### Appendix 3: Background Data on the Representatives Most Active in the Debates over Land Reform in 1982

Table A: The 10 Most Active Supporters of Land Reform

Name	Electoral constituency, Province	Year of election	Year of birth	Place of Birth	Father's occupation	Level of education*	Occupation Before the Revolution	Occupation After the Revolution
Mohi'oddin Fazel-Harandi	Aqlid, Fars	1981	1934	Marand, Isfahan	Cleric	<i>Ijtihad</i>	Teaching at the 'Alamiyyeh Seminary, preaching and study	Islamic judge in the courts of Na'in and Zahedan, investigation of the situation in Kurdistan and other towns, member of the Central Staff of Land Transfer
Ali Movahedi-Savaji	Saveh, Central Province	1980	1943	Saveh	Farmer	<i>Kharij</i>	Teaching, preaching, Friday Prayer leader, compilation and translation	Friday Prayer leader, responsibilities in the Committee, army and Islamic judge in Saveh; representative of the Imam in <i>Jihad-e Sazandegi</i>
Sayyed Abol-fazel Sayyed-Rihani (Musavi-Tabrizi)	Tabriz, East Azerbaijan	1980	1935	Tabriz	Cleric	<i>Kharij</i>	Teaching, member of the Association of Teachers of Qom 'Alamiyyeh Seminary	Teaching in classes for judges and courts, member of the Assembly of Experts
Kazem Norozi	Amol, Mazandaran	1980	1947	Amol	Farmer	<i>Kharij</i>	Study, teaching	Member of the Revolutionary Committee, the Commission to Solve Differences and the Revolutionary Tribunal of Amol
Hossein-Ali Rahmani	Bijar, Kurdistan	1980	1926	Bijar	Tradesman	<i>Ijtihad</i>	Teaching, preaching, Friday Prayer leader	Collaboration with revolutionary organs, member of the Assembly of Experts
Latif Safari	Islamabad, Bakhtaran	1980	1945	Islamabad	Farmer	Post-graduate degree in natural sciences	Teaching at university and in high school, agriculture and animal husbandry	Executive director of <i>Jihad-e Sazandegi</i> in Islamabad, teaching at university

Table A (continued)

Name	Electoral constituency, Province	Year of election	Year of birth	Place of Birth	Father's occupation	Level of education*	Occupation Before the Revolution	Occupation After the Revolution
Mohammed Mojtahed Shabestari	Shabestar, East Azerbaijan	1980	1936	Shabestar	Cleric	<i>Kharij</i>	Head of the Islamic Centre in Hamburg (Germany)	Teaching at university and publication of an Islamic magazine
Hossein Herati	Sabzavar, Khorasan	1980	1945	Sabzavar	Worker	Post-secondary diploma in social sciences	Teaching in high school	Responsibilities in the education unit of the Revolutionary Guards
Sayyed Hassan Purmirghaffari (Musavi-Tabrizi)	Hashtrud, East Azerbaijan	1981	1954	Tabriz	Cleric cum tradesman	High <i>sath</i>	Teaching at the 'Alamiyyeh Seminary, preaching	Responsibilities in revolutionary courts and tribunal
Sayyed Mohsen Purmirghaffari (Musavi-Tabrizi)	Tabriz, East Azerbaijan	1981	1951	Tabriz	Cleric cum tradesman	<i>Ijtihad</i>	Study, teaching, preaching and compilation	Teaching at the seminary, representative of the Imam and head of Committee in Khorasan, Islamic judge on the Seven-Person Committee of Khorasan, Islamic judge in the Revolutionary Court of Khuzistan

Source: *Negaraeshi beh avalin dawre-ye Majles-e shura-ye Islami (A Description of the First Session of the Islamic Consultative Assembly)*, Tehran, Public Relations Service of the Islamic Consultative Assembly, Bahar 1364 [Spring 1985].

\* *Muqqadama* is the first level of seminary studies, *sath*: the second level, and *kharij*: the third level.

**Table B: The 10 Most Active Opponents of Land Reform**

Name	Electoral constituency, Province	Year of election	Year of birth	Place of Birth	Father's occupation	Level of education*	Occupation Before the Revolution	Occupation After the Revolution
Farajollah Va'ez	Abhar, Zenjan	1980	1925	Abhar	Farmer	<i>Ijtihad</i>	Preaching and teaching, study at the seminary	Preaching and teaching
Isma'il Ma'azi	Malayer, Hamadan	1980	1923	Malayer	Farmer	<i>Ijtihad</i>	Study, teaching and compilation	Study, teaching and compilation
Sayyed Ahmad Mostafavi-Kashani	Natanz, Isfahan	1980	1947	Tehran	Cleric (Ayatollah Abol-qasem Kashani)	Post-graduate degree in roads and construction, <i>muqaddama</i>	Study	Occupations in revolutionary organs
Mortaza Fahim-Kermani	Kerman, Kerman	1981	1934	Kerman	Farmer	<i>Kharij</i>	Study, teaching in high school, Friday Prayer leader in Tehran	Representative of the Imam in Fuman and <i>Jihad-e Sazandegi</i> of Gilan
Abdol-karim Shar'i	Darab, Fars	1981	1949	Darab	Cleric	<i>Kharij</i>	Teaching at the 'Alamiyyeh Seminary and in high school, preaching	Teaching at the seminary, preaching
Abbas Ali Akhtari	Mashhad, Khorasan	1980	1939	Garmsar, Tehran	Cleric	<i>Kharij</i>	Teaching, study and preaching	Head of the Committee of Shirvan, teaching, Friday Prayer leader of Semnan, reconstruction of Islamic educational institutes in Arak
Mohammed Fazel	Babol, Mazandaran	1980	1935	Najaf (Iraq)	Cleric	<i>Kharij</i>	Preaching	Formation of the Revolutionary Committee of Babol
Mir Akbar Ghaffari-Qarehbagh	Urumia, West Azerbaijan	1980	1936	Qarehbagh	Farmer	<i>Kharij</i>	Preaching, Friday Prayer leader	Preaching, Friday Prayer leader

Table B (continued)

Name	Electoral constituency, Province	Year of election	Year of birth	Place of Birth	Father's occupation	Level of education*	Occupation Before the Revolution	Occupation After the Revolution
Qodratollah Najafi	Qamesheh (Shahreza), Isfahan	1980	1940	Shahreza	Tradesman	<i>Ijtihad</i>	Teaching, study and preaching	Teaching at university, preaching
Rajab Ali Taheri	Kazerun, Fars	1980	1936	Kazerun	Tradesman	Post-graduate degree in roads and construction, <i>muqaddama</i>	Employee of the Ministry of Roads and Transport	Responsible for the Revolutionary Guards in Fars

Source: *Negaraeshi beh avalin dawre-ye Majles-e shura-ye Islami (A Description of the First Session of the Islamic Consultative Assembly)*, Tehran, Public Relations Service of the Islamic Consultative Assembly, Bahar 1364 [Spring 1985].

\* *Muqqadama* is the first level of seminary studies, *sath*: the second level, and *kharij*: the third level.

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