

The Legal Efficacy of *taqiyya* Acts in Imāmī Jurisprudence: ‘Alī al-Karākī’s *al-Risāla fī l-taqiyya*

La eficacia legal de actos de *taqiyya* en la jurisprudencia imāmī: *al-Risāla fī l-taqiyya* de ‘Alī al-Karākī

Robert Gleave

University of Exeter, United Kingdom

La *ṣī’a* imāmī está estrechamente asociada a la doctrina del disimulo (*taqiyya*). En general, los juristas imāmīs permitieron a los creyentes actuar contraviniendo a la «verdadera» *ṣarī’a* en circunstancias de *taqiyya*. Para estas transgresiones permitidas no había castigo, no se incurría en pecado ni repetición ni compensación con tal de que los actores legales guardaran unos límites estipulados. En el siglo X/XVI el famoso jurista ‘Alī al-Karākī introdujo una innovación en las reglas *ṣī’ies* de *taqiyya* según la cual habría una amplia categoría de actos generados por *taqiyya* que no implicaban pecado pero sí una transgresión legal y por lo tanto el posible requerimiento de repetir o compensar los actos cometidos. En este artículo se traduce y comenta su “Tratado del disimulo” y se analizan algunas de las reacciones posteriores que causó en la jurisprudencia *ṣī’ī*.

Palabras clave: *Ṣī’a* imāmī; disimulación; *taqiyya*; jurisprudencia *ṣī’ī*; ‘Alī al-Karākī.

The Imāmī *Shī’a* are particularly associated with the doctrine of dissimulation (*taqiyya*). Generally speaking, Imāmī jurists allowed believers to act in contravention to the (true) *Sharī’a* in circumstances of *taqiyya*. For these permitted transgressions there was no punishment, sinfulness or required repetition or compensation, provided the legal actors stayed within some stipulated boundaries. In the tenth/sixteenth century, the famous Arab jurist ‘Alī al-Karākī introduced an innovation in the *Shī’ī* legal rules of *taqiyya*, devising a large category of *taqiyya* generated acts for which there may be no sin, but there was still a legal transgression, and hence the possible requirement to repeat or compensate for the acts’ commission. In this article I translate and provide an explanatory commentary on his “Treatise on Dissimulation”, and analyse some of the reactions to it in later *Shī’ī* jurisprudence.

Key words: Imāmī *Shī’a*; Dissimulation; *Taqiyya*; *Shī’ī* jurisprudence; ‘Alī al-Karākī.

1. Introduction

The difference between the Imāmī and other schools of law does not concern the permission to dissimulate (*taqiyya*) in order to protect the faith, oneself or the community. All the schools permit a believer

subject to the requirements of the law (*mukallaḥ*) to act in a way at variance with the usual demands of the *Shari'a*, when the circumstances demand.¹ It is, in a sense, a specific application of the theory of *ḍarūra*, “necessity”, which is commonly recognised across the schools as permitting the transgression of a specific rule when adhering to it endangers the individual’s life, or the life of his fellow Muslims, or the well-being of the Muslim community generally. There are restrictions and conditions, naturally, and there is much debate (equally naturally) over which actions are, and which are not permitted in particular circumstances. Dissimulation, though, is not itself forbidden. Where the *Imāmiyya* are, perhaps, distinctive is in the positive encouragement of *taqiyya* as an element of piety.² For the other schools, it is a regrettable necessity; for the Imāmī theologians it forms part of the creedal package which comes with minority, oppressed status. Through *taqiyya*, the individual protects himself or the community, and this act of deliberate transgression of the law is in a sense, an act of service and dedication. The moral flavour of many of the statements of the Imāms on *taqiyya*, for example, gives the impression that it is more than simply an expedient act in line with other dispensations permitted in the law when required by necessity (*ḍarūra*): it is an act of imitation of the Imāms themselves, and therefore an act of piety. Some have linked this positive evaluation of *taqiyya* to a supposed esotericism in early Imāmī Shi’ism. *Taqiyya*, under such a view, was a mechanism whereby the purity and exclusivity of the Shi’i doctrine might be preserved, making it an expression of deliberate concealment rather than tactical dissimulation.³ These distinctions deserve a separate treatment, and space does not permit their exploration here. It can be noted here, though, that in Imāmī juristic discourse on *taqiyya*, there is a recognition of dissimulation as necessary on occasions, but there is little or no evidence that this is due to the need to preserve a secret doctrine which must be kept pure from the world. At times, the early Imāmī writers appear to recognise much religious benefit from acting according to *taqiyya* and almost revel in the transgression of the law brought on by

¹ See, for example, al-Sarakhsī, *al-Mabsūṭ*, vol. 24, pp. 38-47.

² Dakake, “Hiding in Plain Sight: The Practical and Doctrinal Significance of Secrecy in Shi’ite Islam”.

³ Amir-Moezzi, “Dissimulation”; and Clarke, “The Rise and Decline of *Taqiyya* in Twelver Shi’ism”.

taqiyya.⁴ This contrast between theological and juristic texts is, perhaps, not surprising since jurists are rarely interested in esotericism (at least in their juristic writings). Instead, in legal terms, *taqiyya* is generally portrayed as no more than a praiseworthy, legitimate and regularly obligatory act which is an inevitable result of the hostility of the Sunnis towards the *Shi'a*.⁵

A number of legal issues emerge from the permission to perform illegal acts out of *taqiyya*; the discussion of them has been extensive within the Imāmī tradition. In the interests of focussing the analysis here, I have selected one such issue (the legal efficacy of *taqiyya* generated acts), and in the coming pages, examine the innovative answer of the sixteenth century jurist, 'Alī b. al-Ḥusayn al-Karakī (d. 940/1534), to the problem. After presenting a translation and commentary upon his "Treatise on Dissimulation" (*al-Risāla fī l-taqiyya*), I explore briefly why he argued in this manner, and the subsequent assessment within Imāmī jurisprudence (*fiqh*) of his theory of the division between scripturally and generally permitted *taqiyya*-acts. Further explorations of the development of the *taqiyya* doctrine with Imāmī jurisprudence will, I suspect, provide a richer picture of the precision with which the jurists processed *taqiyya*. Complex legal problems were posed by the permission (often outright encouragement) found within the *akhbār* corpus attributed to the Imāms to violate the law under specific conditions.⁶

One of the more debated issues concerns the status of the *mukallaḥ*'s acts performed under *taqiyya* – are they legally effective or not? If a *mukallaḥ* is forced to pray in conformity with the Sunni ritual requirements or with Sunnis in order to prevent identification (and the probable resultant oppression – *i.e.* out of *taqiyya*), then is that prayer valid or must he repeat it (*i'āda*) or make up for it (*qaḍā'*) at some later point? Similarly, in non-ritual matters, the validity of a judge's ruling, working under *taqiyya* for an illegitimate ruler, might also be problematic. Does the rule have proper legal force?⁷ Need it be obeyed when *taqiyya* does not require it? For these specific problems, and for many others discussed in Imāmī works of *fiqh*, the validity of acts performed under

⁴ Kohlberg, "Some Imāmī-Shī'i views of Taqiyya".

⁵ Kohlberg, "Taqiyya in Shi'i Theology and Religion".

⁶ Gleave, *Inevitable Doubt: Two Theories of Shi'i Jurisprudence*, pp. 32-41.

⁷ Madelung, "A Treatise of the Sharīf al-Murtaḍā on the Legality of Working for Government"; Gleave, "Two Classical Shi'i Theories of *qaḍā'*".

taqiyya is subjected to detailed analysis. The general position, though with some intra-Shī'ī discussion and nuance, is that an action performed under *taqiyya* has legal validity. This validity is proven by the Imāms' many exhortations to act out of *taqiyya* when necessary. The Imāms would not, it is argued (or sometimes simply assumed), encourage the transgression of the law, and then demand compensatory and penitential actions for that transgression. Compensation and penitence are required when one has disobeyed the Imāms, not when one has acted in accordance with their commands. It is this question with which al-Karakī is particularly concerned in his treatise, and the position he advocates is at variance with the general view that the permission to act out of *taqiyya* relieves the individual entirely from the legal effects of disobedience. One senses that al-Karakī is worried that *taqiyya* has become an excuse for legal laxity, and he wishes to establish a mechanism whereby *taqiyya* is restricted to actions which are proven and demonstrated. I consider about possible reasons for him arguing this way in my conclusions.

2. Al-Karakī and his Treatise on Dissimulation (*al-Risāla fī l-taqiyya*)

ʿAlī b. al-Ḥusayn al-Karakī, also referred to as al-Muḥaqqiq al-Thānī (“The Second Investigator”) by Shī'ī jurists is one of the better studied figures in Imāmī intellectual history in the secondary literature.⁸ A full biography and assessment of his political is not necessary here, since that task has been already been presented on more than one occasion. It is sufficient to provide the outline of his life and scholarly career. He was born into a clerical family in Karak-Nūḥ in the Beka valley, then under Ottoman control. He studied with various scholars in his early years there, and on his travels first to Egypt, and then later to Najaf. He was to outstrip his teachers in terms of influence and notoriety when he entered the service of the first Safavid *Shāh* Ismā'il, probably in late

⁸ References articles include: Abisaab, “Karakī”, *EIr*, vol. XV, pp. 544-547; and Madelung, “Karakī”, *EP*, vol. IV, p. 610. Other studies include Arjomand, *The Shadow of God and the Hidden Imam: Religion, Political Order, and Societal Change in Shi'ite Iran from the Beginning to 1890*; Arjomand, “Two Decrees of Shāh Ṭahmāsp Concerning Statecraft and the Authority of Shaykh ʿAlī al-Karakī”; Jaʿfariyān, *Naqsh-i Khāndān-i Karakī dar taʿsis va tadāwum-i dawlat-i Ṣafavī*; Abisaab, “The Ulama of Jabal ʿAmil in Safavid Iran, 1501-1736: Marginality, Migration and Social Change”.

916/1510.⁹ The chronicles record him as one of the major Arab Shī'ite scholars who were invited to Iran by *Shāh* Ismā'il, and later by *Shāh* Tahmasp, in order to inculcate the population with Twelver belief and practice. These scholars, mainly Lebanese “‘Āmilis” (from Jabal ‘Āmil), migrated to Safavid Iran from Ottoman lands throughout the period, making a major contribution to the Shī'itization of the Safavid state.¹⁰ There is some debate amongst commentators about how many Amilis there were, and their level of influence, but al-Karakī and others certainly brought a level of external, orthodox Shī'i sanction to the Safavids. In return, he received largesse from *Shāh* Ismā'il, including funds for al-Karakī's seminary activities in Najaf. After *Shāh* Ismā'il's death in 930/1524, al-Karakī's close relationship with the Safavid state continued under the successor *Shāh* Tahmasp. Al-Karakī occasionally held the position of *Ṣadr* (chief religious official) at the court, and schemed to get his opponents removed from office and his students and supporters appointed to positions of influence. The sanction he gave to the Safavids was controversial. The literature on his relations with other Shī'i theologians, lawyers and philosophers is replete with tales of personal dislike and intellectual disagreement. His dispute with the Najaf-based scholar Ibrāhīm al-Qaṭīfī (d. after 951/1544) over the legality of land tax (*kharāj*) has been well documented by Madelung and Modarressi,¹¹ and his dispute with the philosopher and sometime Safavid *ṣadr* Ghiyāth al-Dīn al-Dashtakī (d. 948/1541) was clearly part intellectual, part personal.¹² Many of the disputes around al-Karakī were linked to his promotion of clerical authority during the occultation of the Imām, and he was awarded the titles of “Delegate of the Imām” (*nā'ib al-imām*) and “Seal of the Legal Experts” (*khaṭam al-mujtahidīn*) by *Shāh* Tahmasp. Although these were, obviously, honorific, they do represent a certain clerical aggrandisement. This close identification with the Safavids is the characteristic most commonly associated with al-Karakī, which is particularly telling in a tradition where relations with ruling

⁹ Stewart, *Islamic Legal Orthodoxy: Twelver Shi'ite Responses to the Sunni Legal System*, pp. 83-84.

¹⁰ Newman, “The Myth of the Clerical Migration to Safavid Iran: Arab Shi'ite Opposition to 'Alī al-Karakī and Safavid Shi'ism”; Stewart, “Notes on the Migration of 'Āmili Scholars to Safavid Iran”.

¹¹ Madelung, “Shi'ite Discussions on Legality of the Kharaj”; Modarressi Tabataba'i, *Kharaj in Islamic Law*.

¹² Newman, “Daštakī, Ġiāt-al-Dīn”, in *EI*, vol. VII, pp. 100-102.

dynasties during the occultation of the Twelfth Imām (who is, theologically speaking, the only truly legitimate ruler) were legally problematic. His legal output, though, was quite impressive with jurisprudence being the primary discipline in which he wrote, composing Treatises, commentaries and legal manuals. His promotion of *ijtihād* as a method of deriving legal rules was in tune with the orthodox legal doctrine of the day, at least since the time of al-‘Allāma al-Ḥillī (d. 726/1325). Al-Karakī died in Najaf in 940/1534 during the reign of *Shāh* Tahmasp, and even his funeral was a controversial affair, with some major scholars absenting themselves.

Much of al-Karakī’s voluminous output has been edited and published. The text translated and commented upon here is a short “Treatise on Dissimulation”, forming part of a collection of treatises (*rasā’il*) edited by Muḥammad al-Ḥaṣūn and published in 1409/1988.¹³ The single manuscript from which the edition was constructed is found in collection (*majmū’a*) no. 4933 in the Āyatallāh Mar’ashī Library in Qum, and was copied in 964/1556-57, a couple of decades after al-Karakī’s death.¹⁴ There is no reason, as far as I can tell, to doubt its attribution to al-Karakī, though it might be said that its ideas differ in emphasis from those expressed in his *Jāmi’ al-Maqāṣid*.¹⁵ In the translation below, I give my translation followed by a commentary of the translated passages. Like much *fiqh* writing, the expression of ideas is dense, and assumes a certain level of understanding of the readership. Each paragraph requires some background information and explication. Al-Karakī’s innovative theory of the status of *taqiyya* generated acts was the subject of some comment by later jurists to which I turn in section 4.

3. Translation and Commentary

Treatise on *taqiyya*

[1: Preamble] In the name of God, the merciful the beneficent, in whom I trust, thanks be to God as is required, and prayers be given to Muḥammad and his family.

¹³ Al-Muḥaqqiq al-Thānī al-Karakī, *al-Rasā’il*, v. 2, pp. 49-54.

¹⁴ Āghā Buzurg al-Ṭīhrānī, *al-Dharī’a ilā taṣānīf al-shī’a*, v. 4, p. 404 and v. 21, p. 399. The manuscript viewed by Āghā Buzurg was more recent (it was “included with material dated 1100/1689”) than that used by al-Ḥaṣūn for the edition.

¹⁵ See, for example, al-Karakī, *Jāmi’ al-Maqāṣid*, v. 2, p. 222. A fuller study would need to be carried out to confirm this supposed disparity.

[2: Definitions] Know that *taqiyya* is permitted, and it may even be obligatory. The meaning of [*taqiyya*] is to manifest conformity, out of fear, with the people who oppose [us] in what they profess. The base in this meaning, before there was consensus, was that which became popular from the different statements of the Ahl al-Bayt (upon them be peace), and their actions.

[3. Revelatory Evidence]

[3.1] It has been said, concerning God's Word (may He be exalted) "The most noble of you is the pious of you (*atqākum*)" (Q49.13) that the meaning [of *atqākum*] here is "your actions by *taqiyya*".

[3.2] From [Imām Ja'far] al-Šādiq (upon whom be peace) there is [the statement]: "*taqiyya* is my religion and that of my forefathers"; not to mention the statement of Amīr al-Mu'minīn [Imām 'Alī], "Concerning vilification: insult me, for I am pure and you are saved."

[4. Categories of actions under *taqiyya*]

[4.1] Once this has been iterated, then it is known that *taqiyya* could be in the area of ritual worship, or it could be in other areas of the social obligations.

[4.2] The action [performed under *taqiyya*] could be something specifically permitted, such as washing the two feet during ritual purity, or folding one's arms during prayer. Alternatively, it could be something not specifically permitted, rather *taqiyya* in relation to that action is derived from the previously issued general statements (*umūmāt*) and their like.

Karakī's definition of *taqiyya* might be considered overtly sectarian: "to manifest agreement, out of fear, with the people who oppose [us] in what they profess" (*izhār muwāfaqat ahl al-khilāf fi mā yudīnūn bihi khawfan*) [2]. In *Shi'ī fiqh* works, the term *ahl al-khilāf* ("those who oppose", "the people of opposition") invariably refers to the Sunnis, and hence *taqiyya* is closely linked with the preservation of both self and sectarian identity. This meaning (*murād*) of *taqiyya* goes back, in its fundamental sense (*al-aṣl*) to the Imāms themselves [3], and possibly even to the Qur'ān (Q 49: 13 is cited and *atqākum* is linked to *taqiyya*). Of the many statements and actions of the Imāms which establish *taqiyya*'s permissible (and possible obligatory) nature, al-Karakī cites first a saying by Imām Ja'far al-Šādiq ([3.2] "*taqiyya* is my religion and that of my forefathers") and then, more decisively, a statement by Imām 'Alī in which he permits his followers to insult him outwardly if circumstances require it.

The legal processing of *taqiyya* in al-Karakī's thinking cuts across two distinct binary categories [4]. First, there is a distinction between ritual duties (*'ibādāt*) and those of social interaction (*mu'āmalāt*). *Taqiyya* may be required in either of these categories of duties, though for actions in each category, there are separate legal ramifications [4.1].

Second, there is a distinction between acts specifically permitted under *taqiyya* within the revelatory texts, and those which come under a general permission to perform *taqiyya* when the need arises. Once again, there are distinct legal consequences for acts specified as permitted under *taqiyya* (*ma'dhūn fīhi bi-khuṣūṣihi* and I shall call such specified actions “specified *taqiyya* acts”) and to acts falling under what I shall call the “general *taqiyya* dispensation” [4.2]. The distinction may actually be explained by the fact that the specified *taqiyya* acts are known to be permitted by an explicit text, whilst acts which fall under the general *taqiyya* dispensation need to be argued as such, and therefore stand on a less sure basis.

[5. Specified *taqiyya* actions]

[5.1] Concerning that which is explicitly mentioned in a text, when one performs it as a permitted action, it is valid and sufficient (*ṣaḥīḥan mujziyyan*), whether the individual is free to act or not. With regard to the Law-giver, he establishes that action in place of what was previously commanded, on account of *taqiyya*. When this is done obediently, then all the individual elements [of the duty] are fulfilled. [5.2] In accordance with this, there is no need to repeat [a specified action done under *taqiyya*], even if it becomes possible to perform the action without recourse to *taqiyya* before the allotted time has elapsed. I know of no dispute amongst [my] fellow [*Shi'a*] on this matter.

Karakī initially discusses the second categorisation (specified permissions vs. the general dispensation). If there is a specific and explicit revelatory permission (normally from the Imāms) to perform an act out of *taqiyya*, and the performance of this act contravenes the true law, then this *taqiyya* act is not only valid, but it also fully replaces the act which the individual would have performed had *taqiyya* not been necessary. One example given is prayer with folded arms (reading *al-takattuf fī-l-ṣalāt* for *al-katf fī l-ṣalāt*), which, though normally prohibited, has been specifically permitted by the Imāms under *taqiyya*. Al-Karakī means here that the individual believer, charged with obedience to the law (*mukallaḥ*) may perform specified *taqiyya* acts and know that in doing so he or she has fulfilled the law in its entirety. This is the case whether or not the individual was forced to perform the action. That is, the societal situation for the true believers may mean *taqiyya* is generally or regularly necessary, but an individual believer may not be forced to act out of *taqiyya* in every instance and at all times. In the latter case, he can, if he so wishes, act in accordance with the *Shari'a*. The important point about those cases where the Imāms

have given a specific and explicit permission to depart from the *Shari'a* is that in these specified *taqiyya* acts, the departure is as legal as obeying the true law (*i.e.* the prayer with folded alms is valid and legally efficacious), and in the cases where the specified *taqiyya* act is obligatory, it is a more complete obedience of the law than following the original, “true” non-*taqiyya*, ruling. The specified *taqiyya* act replaces (perhaps only temporarily) the actual *Shari'a*. The Lawgiver (*i.e.* God) “establishes that action (*i.e.* the one which the individual performs) in place of what was previously commanded, on account of *taqiyya*” [5.1]. The performance of the specifically stipulated *taqiyya* action is, in truth, an act of obedience to a direct order of the Lawgiver, and therefore fulfils the requirements of the law in the same manner as the non-*taqiyya* action it replaces. In such cases, there is no need to compensate for a supposed transgression. If the action performed is in conformity with, say, Sunni (rather than Shī'i) requirements, there is no need to re-perform the action in a private setting where *taqiyya* is not necessary, and there is no need to perform acts which “make up” for some failure to adhere to the law [5.2]. Specifically permitted transgressions from the law, it would appear, are akin to other dispensatory acts permitted in law, such as performing the ritual ablution with sand in the absence of water (*tayammum*). They have the same legal efficiency as acts of obedience performed in non-*taqiyya* circumstances.

[6. The general *taqiyya* dispensation]

Concerning those actions for which there is no explicit text, [these include] performing prayer in a direction other than the *qibla*, or performing ritual ablutions with date wine, or the disturbance to continuing [with one's ritual ablutions] because the moisture has dried as one sees some Sunnis doing, or marrying a wife even though there was an intervening period between the request and the acceptance. [In such circumstances] the individual must [perform such actions out of *taqiyya*] whenever necessity requires [him] to do so, in accordance with the [practice of the] Sunnis, outwardly manifesting conformity to them. This is like the simultaneous intention to perform circumambulation at the first [passing] of the [Ka'ba's Black] Stone when the first part of the limbs of one's body are alongside it.

Next, there is the general dispensation to act in contravention of the *Shari'a* under *taqiyya* [6]. Al-Karakī provides examples of actions which are not specifically mentioned as permissible by the Imāms (*i.e.* they are not specified *taqiyya* actions as examined above), but are instead potentially justified on specific occasions due to the general dispensation to act out of *taqiyya*. The first two such instances he mentions

are praying in a direction other than that of Mecca (*ṣalāt ilā ghayr al-qibla*) and performing the ritual purification with date-wine. Neither of these, it appears, are required in order to conform to the practice of the Sunnis, though one could, perhaps, concoct circumstances in which one or other of these actions might be required due to an evil ruler's capricious decrees. The next two examples, on the other hand, are instances of Sunni practice (or at least the practice of some Sunnis). These might plausibly require *taqiyya* generated actions, and relate to purity law and marriage, even though they have not been specified by the Imāms. The first relates to water drying in the course of the performance of ritual ablutions. If, during ablutions, the worshipper breaks off from his ritual washing for some reason and returns to find that the water on his skin has dried, may he pick up from where he left off and resume the ablutions, or must he return to the start and perform the whole ritual wash? In technical terms, the question revolves around *muwālāt*; that is, whether continued dampness is required for effective ritual purification. The Sunnis allowed a break in *muwālāt*, and a resumption of the ablutions without a restart; the Imāmī *Shī'a*, on the basis of explicit statements of the Imāms, require continued dampness. For the Imāmīs, a repetition of the whole ablutions *ab initio* is necessary when *muwālāt* is broken. The second example concerns a time lag between the offer and acceptance of the proposal of marriage. The Sunnis allow an interval, whilst for the Imāmīs the offer and acceptance must follow on from one another. In both cases, when *taqiyya* is required, the individual must act in accordance with the Sunni doctrine. However, if the person is able to act in a way which complies with the true, Imāmī law, then he is not obligated to act out of *taqiyya* in this instance, even if the societal situation of the believing community within the society is oppressive and requiring "day-to-day" acts of *taqiyya* as it were.

[7. Compensating for actions under the general *taqiyya* dispensation]

[7.1] And when it is difficult, then if he is free not to do this action, it is not obligatory for him to do it; and if he is not free [*i.e.* compelled], then it suffices [when he does it]. Then if it is possible to repeat [the action] within the allotted time period after performing it under *taqiyya*, then it is obligatory for him to do that as well.

[7.2] If the allotted time [for the performance of the action] has elapsed, then one must consider the evidence as to whether one must make up for it (*wujūb al-qadā'*). If [the evidence] is such that it is proven, then we are obligated to do it; if not, then [we are] not. This is because making up [for a missed action] is only obligatory when there is, in relation to the ritual duties, a new command.

These two fundamental categories – actions which are specified as permitted and those which fall under the general *taqiyya* dispensation – differ when applied to the issue of the individual's need to repeat the action (if possible), and furthermore whether the individual should “make up” (*qaḍā'*) the missed duty at some subsequent point [7]. Actions which are specifically mentioned as permissible under *taqiyya* in the revelatory corpus are viewed as sufficient (*mujzī*) fulfilments of the law. Actions covered by the general *taqiyya* dispensation however should be repeated after the first (*taqiyya*) performance, if the *taqiyya* conditions have lapsed and there is sufficient time [7.1]. If they have not lapsed, and the time for proper performance passes (*i.e.* the prayer time passes without an opportunity to perform a *Shari'a* compliant action), a further “make up” performance may be required [7.2]. Al-Karakī stipulates that this requirement to “make up” a duty missed under *taqiyya* depends on the discovery of revelatory evidence (*i.e.* a *dalīl*) which establishes *qaḍā'* in this instance. Without the *dalīl*, there is no requirement to perform *qaḍā'*.

The distinction, then, between specified and non-specified *taqiyya* acts lies in the extent to which they can substitute for non-*taqiyya* acts. *Taqiyya* acts which are specifically mentioned by the Imāms as permitted fully substitute for the non-*taqiyya* acts; acts which are covered by a general dispensation hold a lower status and do not fully substitute as they may require repetition and compensation. If time and circumstances allow, the usual (non-*taqiyya*) required duty is triggered and the individual is obligated to perform the “true” law. Furthermore, if there is evidence that the failure to perform a particular duty requires some sort of compensatory act outside of the stipulated time, then the individual must also perform this compensatory act (*i.e.* *qaḍā'*). In short, the *taqiyya* acts covered by the general permission statements from the Imāms fall significantly short of full compliance with the demands of the Lawgiver. When possible or required, they must be repeated or compensated, unlike specific *taqiyya* dispensations.

[8. *Mu'āmalāt* and the general *taqiyya* dispensation]

As for in the area of social duties, it is not permitted for one to have sexual intercourse in private when under *taqiyya* in a manner not permitted by the people of the truth; nor [is it permitted] to make use of wealth taken from a bondsman when *taqiyya* requires that one take it; nor [is it permitted] to marry a fifth wife when one has divorced the fourth wife in accordance with the requirements of the “people of opposition” but not of the true school. In this area, one must have a text

which specifies that one can perform this specific action. If this [text] is found, the first rule [demonstrating legal efficacy] is proven, and if it is not found, then it is not [proven].

What is the significance of the distinction al-Karakī insistently draws here? It is, perhaps, a recognition on his part that the permission to perform *taqiyya* must not drift into an acceptance that the “true” law need not be obeyed. By restricting the circumstances under which *taqiyya* acts fully substitute for ideal performance, al-Karakī is resisting the notion that *taqiyya* conditions lead to permissiveness. He is also emphasising the imperfection of the *taqiyya* generated regulations. *Taqiyya*, he is reiterating, is a “less than ideal” circumstance in which the individual believer finds him or herself. It must not degenerate into an excuse for failure to adhere to the *Sharī’a*.

There is, for al-Karakī, a distinction here between ritual acts of worship (*‘ibādāt*) and the *Sharī’a* requirements of social interaction (*mu’āmalāt*) [8]. All of the above regulations relate to the *‘ibādāt*. With regard to *mu’āmalāt*, *taqiyya* requires one to behave in such a way that one outwardly conforms to the rules of the Sunnis. Once that has been achieved, the dispensation ends. So, al-Karakī states, it is not permitted to have sexual intercourse (in private, obviously) with a wife married under *taqiyya* in contravention of the real law of “the people of truth”. It is not permitted to use the wealth which was illegally taken from a bondsman under *taqiyya*. If one divorces one’s fourth wife according to the divorce rules of the Sunnis, one is not then permitted to take another wife because one is not yet, in truth, divorced from one’s fourth wife. Unless there is a specific revelatory text in which the Imām stipulates that this or that action under *taqiyya* carries the same legal effect as a non-*taqiyya* act, then one has to treat the action as being entirely without true legal effect. Unless specified by the Imām, *mu’āmalāt* carried out under *taqiyya* according to the rules of the Sunnis have no legal effect. As in the domain of ritual worship, the circumstances of *taqiyya* do not, for al-Karakī, provide any grounds for a relaxation of the requirements of the law.

[9. The refutation of the view that there is no distinction between specified *taqiyya* acts and acts under the general *taqiyya* dispensation]

It might be said that there is no difference between the two categories in that what is actually performed is legal and sufficient in every respect, but this is to be refuted. In our view, the Lawgiver requires acts of ritual worship in a specific manner, and arranges the effects in an area by it being in accordance with a specific manner.

There were those who clearly felt differently. Al-Karakī critiques those who do not distinguish between specific *taqiyya* dispensations provided by the Imāms (*i.e.* “specified *taqiyya* acts”) and the general dispensation to act under *taqiyya* when circumstances demand [9]. Such opponents argue that all *taqiyya* actions occupy the same position in that they are all permitted and therefore are all legally efficacious. Al-Karakī’s arguments against this view depend on whether the action is an *‘ibāda* or a *mu’āmalā*. With regard to the *‘ibāda*, he argues that the Lawgiver makes the act of ritual worship obligatory in a specific manner, and likewise stipulates its effects in a specific manner. Without these specific regulations, a ritual cannot be said to be sound or valid, and the duty to perform it has not been effectively discharged. Hence the general dispensation permitting *taqiyya* cannot be applied to acts of worship because the operations of acts of worship are essentially inscrutable and created by non-rational diktat.

[10. The Limits of the general *taqiyya* dispensation]

[10.1] The unconditional [general] dispensation to [act out of] *taqiyya* does not require more than a simple outward manifestation of conformity [with the Sunnis], whether the thing which one does is that required [of the individual], or is an act of social interaction acknowledged by the Ahl al-Bayt (upon whom be peace). Any action in addition to this [outward manifestation of conformity] is not proven by the unconditional [general] *taqiyya* dispensation, by any of the various pieces of evidence.

[10.2] So we say: the one who argues that there is no difference between the two categories must say, then, that prayer in a direction other than the *qibla*, be it a little to the left or the south or even in the opposite direction of the *qibla*, when performed out of *taqiyya* is a sound prayer. In the same way [prayer] in the skin of a dog [is sound]. If there is a disruption in the performance of [ritual ablutions], then it is also sound. It is permitted to have sexual intercourse with one whom one has married in accordance with their laws, or to marry a fifth wife when the divorce has been performed in accordance with their [legal opinions] because of the necessity of *taqiyya*, or to take the wealth of the guarantor, due to *taqiyya*, and to use it.

[10.3] And he must [also say] that there is no need to repeat [the act done under *taqiyya*], even if there remains time to perform the act of worship because what he has done [under *taqiyya*] is sufficient in legal terms.

[10.4] It is also necessary for him to say that there is no requirement that the individual be free in the second category, like the first.

[10.5] All of these deductions are invalid.

With regard to *mu’āmalāt*, al-Karakī’s argument is pragmatic. The general *taqiyya* dispensation from the Imāms may be expressed in an unconditional manner (*‘alā jihat al-iṭlāq*), but it is limited to a permission to “outwardly manifest conformity” to the laws of the Sunnis

[10.1]. This may mean performing an action which is in conformity with the true law (*i.e.* something which the individual is already required to perform –*mukallaḥ bihi*), or it may mean something which is dubious or subjective, and therefore not required. However, when an action is carried out purely in order to give the impression of conformity (*iḡhār al-muwāfaqa*), nothing more than that follows in terms of legal effect. If one allows acts permitted under the general *taqiyya* dispensation to have legal effect and to fulfil the law in the same way as non-*taqiyya* acts or acts specifically permitted by the Imāms, then one would be committed to a series of ridiculous positions, al-Karakī says. One would be committed to the following strange views [10.2]:

(1) the person who, under conditions of *taqiyya*, performs prayer with his back to the *qibla* has fulfilled his obligation to pray in the same manner as one who performs it correctly facing the *qibla*. (It should be remembered that al-Karakī had a well-documented dispute with Ghiyāth al-Dīn al-Dashtakī over the direction of the prayer and was credited with changing the orientation of the *qibla* in some Iraqi and Iranian mosques).

(2) someone who, under *taqiyya*, prays wearing dog-skin (on which, see below) or after the ritual purification with a break in the continuity (the issue of *muwālāt* mentioned above) has fulfilled the requirements of the law.

(3) sexual intercourse with a woman who is married according to the rules of the Sunnis, but not according to the true law, is permitted.

(4) marrying a fifth wife after divorcing one's fourth wife according to the divorce regulations of the Sunnis under *taqiyya* is permitted.

(5) making use of the wealth illegitimately taken from the bondsman under *taqiyya* is permitted.

For al-Karakī, the unacceptability of these positions speaks for itself. Furthermore, someone who makes no distinction between specifically permitted acts under *taqiyya* and the general *taqiyya* dispensation is committed to the view that an act which contravenes the law committed under *taqiyya* requires no repetition, even if there is time enough to perform the repetition. So in relation to case (i) above for example, it is argued that even if there is sufficient time for the individual to perform the prayer in the direction of the *qibla* and there is no fear of reprisal or oppression, he need not do so [10.3].

Karakī has little time for this position. He has already argued that when the Imāms specifically permit an action under *taqiyya*, then it

does not matter in any particular instance whether the individual is compelled to perform the action or not. The Imāms' explicit permission makes that action as legally effective as the "true" law – indeed, because the Imām has ordered it, it becomes the true law. However, acts committed under the general *taqiyya* dispensation enjoy no such privilege. For those actions, permission to contravene the *Sharī'a* only occurs when there is compulsion from the "oppressors", and the requirement to repeat or compensate for failure to perform remains. Now, the person who makes no distinction between specified *taqiyya* acts and the general *taqiyya* dispensation is effectively saying that there is no compulsion condition for non-specified acts as there is for specified acts. The result is a dangerously lax attitude towards the contravention of the law, allowing many more instances of transgression under *taqiyya* because there is no requirement that the individual be compelled in this or that particular instance to obey the law. Once again, al-Karakī appears extremely concerned that the fact of *taqiyya* should not be used as a license for flagrant transgression of the law. The only occasions when the law may be transgressed without legal consequence (or rather with the legal consequences of fulfilment), even under *taqiyya*, are when the Imāms have specified that a particular act normally forbidden is now permitted.

[10.5] "All of these deductions are invalid" (*jamī' al-lawāzim bāṭila*) al-Karakī states, thereby expressing a *reductio ad absurdum* argument against those who would want to dissolve the distinction between Imām-specified *taqiyya* acts and the general *taqiyya* dispensation.

[11. The view that praying in dog skin in *taqiyya* is valid]

[11.1] There has been a dispute about covering oneself in dog skin.

[11.2] It is claimed that the individual, if he is not able to remove it because of *taqiyya* or time restrictions, and he prays in it, then the prayer is valid and suffices [in legal terms]. And the argument here is based on *taqiyya*, for wearing a covering is not an unconditional condition of [valid] prayer, rather it is a general condition.

[11.3] It is argued that there is a consensus on the validity of the prayer and that [the duty] is accomplished by it.

In the final section al-Karakī discusses in some detail an issue which highlights the problematic elements of the view he is attacking [11]. If someone prays, in circumstances of *taqiyya*, in dog skin (*i.e.* an impure garment), is that *ṣalāt* a valid prayer? Some opponents have tried to argue that it is, and in doing so, al-Karakī alleges, they have attempted

to use a specific permission from the Imāms for a situation of *taqiyya* as the basis for a broader legal argument. Al-Karakī, as we have seen, wishes to keep the Imāms' *taqiyya* permission specific to the particular case they are addressing, and he resists making them generalizable. The opponents argue that since the Imāms allowed prayer in inappropriate attire whilst in a state of *taqiyya*, being appropriately covered up (*satr*) cannot be an absolute condition of a valid prayer [11.2]. That is, the Imāms' *taqiyya*-based permission to pray in inappropriate clothing demonstrates that a valid prayer can occur without the worshipper being properly dressed, and therefore proper attire cannot be an absolute condition (*shart mutlaq*). The garment (its presence or absence) during *taqiyya* would appear unimportant, and so, it follows that a garment made of an impure substance (such as dog skin) should not invalidate prayer whilst in a state of *taqiyya*. The unnamed proponent of this view further argues that there is a consensus (*ijmā'*) that such a prayer will be both valid and a proper discharge of one's ritual duties under the *Sharī'a* [11.3]. The argument here appears as a corollary of the view that *taqiyya* suspends much of the usual legal order, and that this suspension was supported and promoted by the Imāms. The view that prayer in dog skin under *taqiyya* is both permitted and valid accords the Imāms' general *taqiyya* dispensation the power to suspend established patterns of legal reasoning.

[12. The reply to this view]

[12.1] The answer to this is that being covered in a specified garment in its [particular] place is a condition of prayer [being valid] by consensus, due to the command which demonstrates it to be obligatory by His words, "Take your adornment [at every mosque]" (Q7.31), as well as numerous other [passages].

[12.2] The Lawgiver, though, has permitted prayer without a covering and in an impure garment, or in silk for the man but in circumstances specific [to each exception]. And hence, [it is true that] covering oneself is not an unconditional condition.

[12.3] However, it is not permitted to bring together these circumstances and their like together [into a single class of exceptions], as they emerge from the texts [as individual exceptions].

[12.4] The general statement, when it is particularised, remains a proof for what remains [uncovered by the exception], just as the unconditional statement does, when it is subject to restriction.

[12.5] As for the claim that there is a consensus on this, then proving this requires the presentation of the opinions of the jurists on this topic, and [demonstrating that] they all agree with what he claims, and where might he get this from?

Karakī replies that there is a consensus that the revelatory sources require a person to be covered for prayer [12.1]. The proponent is correct in that proper attire is not an absolute condition, for the Lawgiver has permitted prayer (and made the prayer valid) to someone uncovered, or in an impure garment, or in silk (for men). However, al-Karakī argues, each of these permitted departures from the general rule is specific to the particular set of circumstances. Al-Karakī's opponent appears to be arguing that the various exceptions to the general rule outlined by the Imāms can be brought together in a single category, and hence can be employed equally in each of the exceptional circumstances (one of which is *taqiyya*). For al-Karakī, however, each exception to the norm is made by the Imām for a restricted and specific circumstance. "When a general statement is made particular [on one occasion], it is still a [general] proof for the others; and the same with an unconditional statement which is restricted" on a particular occasion by the Lawgiver/Imāms.

For al-Karakī, once again, one must distinguish between actions which are permitted under *taqiyya* under the general dispensation, and actions which are permitted *and legally valid*. For the latter category, a specific "permitting" text is needed. For prayer in dog skin to be permitted and legally valid in circumstances of *taqiyya*, one requires a text from the Lawgiver specifying this to be the case. That the Imāms may have permitted prayer in inappropriate clothes in non-*taqiyya* circumstances does not mean this exception can be transferred to *taqiyya* circumstances. Each exception to the general rule is specific and non-generalizable. Finally, al-Karakī dismisses the claim of consensus on the validity of prayer under *taqiyya* in dog skin as simply lacking in evidence.

[13. The possible support from Shahīd I's *al-Alfiyya* and its rebuttal]

[13.1] Perhaps it is said that it is proven by the well-known passage from the well known introduction of our Shaykh on the prayer, known as the *Alfiyya*: "and in the same way with the rest of the conditions, such that it is valid for the one who fails to fulfil them to make them up, except for the one who fails to fulfil the requirement of ritual purity."

[13.2] The answer [to this] is that this passage, if it were a proof which would aid him, does not indicate what he seeks because the skin of a dog is one of the things which prevents a valid prayer (*min mawāni' al-ṣalāt*).

[13.3] The passage simply indicates that [prayer] is permitted without the [fulfilment of] the condition. It does not indicate that there is a barrier [to valid prayer] by some aspects or other.

[13.4] As has come in the report with the defective chain from Abū 'Umayr from al-Ṣādiq: "Do not pray in any skin of carrion, not even the sandal tie".

[13.5] And the repetition of these [sentiments] in the early sources creates a prohibition in areas of ritual worship which indicate that [prayer in dog skin garments] is defective prayer.

[13.6] This is an indication of the meaning [of the reports] concerning the disputed question which is sufficient for one who views it fairly.

The person arguing for the validity of prayer in dog skin returns with an argument based on a citation from *al-Alfiyya*, a famous work on the ritual of prayer by Shahīd I [13.1]. In the short passage cited, Shahīd I states that the person who fails to carry out certain elements of prayer correctly may make amends (*i.e.* perform *qaḍā'* according to a set formulae) for those failed elements only; the prayer itself remains valid. The only exception to this is if the element he failed to carry out was ritually purity (*i.e.* he prayed in an impure state). For that person, it is not that he has performed the prayer incorrectly, but that he has not really performed prayer at all since a state of ritual purity is a prerequisite for valid prayer. The implied argument here is that wearing dog skin is an example of incorrect performance of a valid prayer rather than performance of an invalid prayer. The failure of correct performance is, one assumes, relatively minor, and therefore dispensed with under the pressure of *taqiyya*. Al-Karakī replies that this citation will not, in fact, help his opponents' argument because wearing the skin of any carrion beast (*jild al-mayta*) is something which the Imāms stated explicitly as invalidating the whole prayer (*min mawānī' al-ṣalāt*) [13.2]. After a citation of a report from Imām Ja'far al-Ṣādiq to this effect [13.4], the treatise ends, rather abruptly and without any concluding formalities.

4. Reaction to al-Karakī's *Treatise on Dissimulation*

Al-Karakī, then, divided *taqiyya*-generated actions into two categories: (i) specified *taqiyya* acts and (ii) acts performed under the general *taqiyya* dispensation. The legal consequences of type (i) and type (ii) acts are distinct in that the former do not require an immediate compulsion (*i.e.* the *mukallaf* could still, without immediate risk, perform the actions – that is, he has an element of agency – *mandūḥa*) and they do not require repetition or compensation. Actions in the latter category require an element of immediate compulsion, and also require repeti-

tion (and possibly compensation) if they are performed. Whilst the former are exceptions to the law (actions rendered permitted under the specific circumstances of *taqiyya*), the latter are contraventions of the law which though not sinful (in the sense of requiring repentance) are, nonetheless actual transgressions (and hence requiring repetition or compensation). Al-Karakī's theory, then, is a modification of what was the mainstream Imāmī position that actions performed under *taqiyya* are all (be they specified by the Imāms or not) acts of obedience to the Imāms' many exhortations to dissimulate when necessary: under such a scheme, generally speaking, no repetition or compensatory actions were necessary for obedience to the Imāms' commands.

Al-Karakī's division was not, generally, accepted by subsequent Imāmī jurists, though it took some time before his ideas were addressed directly. His stature as a Safavid jurist may have prevented detailed rebuttal during the Safavid period, for whilst there are juristic accounts of *taqiyya*, none employ this division to my knowledge and none argue against it. Perhaps it was simply ignored, or more likely, jurists did not wish to argue against it directly. The first explicit rebuttal I have located came from the famous Akhbārī scholar Yūsuf b. Aḥmad al-Baḥrānī (d.1186/1772), who devotes a few pages to the question in his *al-Ḥadā'iq al-nāḍira*.¹⁶ In the section on the validity of purification rituals, al-Baḥrānī discusses whether a ritual purification (*wuḍū'*) performed in *taqiyya* and not in accordance with the stipulated rules of the Imāmī sect, is sufficient for a valid prayer. Al-Baḥrānī elevates this specific discussion to the general discussion addressed in al-Karakī's treatise, concluding that al-Karakī's distinction between specified and general permission is invalid. Al-Baḥrānī accepts that there is no explicit text or indicator which establishes (or refutes) the distinction drawn by al-Karakī. What the *akhbār* of the Imāms do indicate, though, is that there was a general exhortation from the Imāms to mix and pray with the Sunnis, even though they may oppose and oppress the *Shī'a*. Such exhortations would indicate the validity (*ṣiḥḥa*) of the actions performed in obedience to the order, and this validity does not depend on whether the Imāms have, on another occasion, explicitly mentioned an action as permitted under *taqiyya* or not. Stipulating a need to repeat an action (*i'āda*) if *taqiyya* is lifted before the end of the

¹⁶ Al-Baḥrānī, *al-Ḥadā'iq al-nāḍira*, v. 2, pp. 316-318.

allotted time requires, al-Baḥrānī states, an indicator. The exhortations establish the action's full validity as the assumed status of the action, and establishing the need to repeat the action requires a *dalīl*. "Repeating the action when there is no indicator has no point" (*fa-i'ādatuhu ma'a 'adam al-dalīl lā wajh lahā*).¹⁷

A similar response was offered by al-Shaykh Murtaḍā al-Anṣārī (d.1281/1864), in his "Treatise on Dissimulation" (*al-Risāla fī l-Taqiyya*), a work which requires a separate treatment.¹⁸ In terms of al-Anṣārī's rejection of al-Karakī's view, the most problematic element is the idea that there are acts for which there is no text (*naṣṣ*) specifying them to be permitted under *taqiyya*. Al-Anṣārī relies on the established distinction between the actual rules (*al-aḥkām al-wāqī'iyya*), and the rules which come into force when the actual rule is unavailable, unknown or unenforceable in a particular instance (the apparent rules: *al-aḥkām al-zāhiriyya*). For al-Anṣārī, actions under *taqiyya* operate under *zāhiri* rules because the actual law has to be suspended due to the force of circumstances. The texts which make *taqiyya* acts obligatory on particular occasions establish the individual obligatory nature of each act one might perform. When the Imāms mention a particular act they do so not to stipulate that particular act and not others (in a *wāqī'i* manner), but simply to indicate that such an act (*i.e.* washing rather than wiping ones feet, or wiping over the socks rather than wiping over the feet) can be performed in place of the correct act. So, for example:

If we determine that *taqiyya* causes [the believer] to perform the prayer [in a particular way], and that [obedience] is not achieved by neglecting to perform the prayer [in this way], then this aforementioned prayer become individually obligatory on account of the *taqiyya* surrounding it. This [prayer] is an act of individual obedience to the obligation to perform *taqiyya*, not to the broader obligation to perform prayer in the true [non-*taqiyya*] manner.¹⁹

This individual obligation to act in accordance with *taqiyya* may or may not specify the precise actions which the believer should perform, but it does make that action obligatory individually and specifically. The individual who performs it has fulfilled the law. For al-Anṣārī, the

¹⁷ Al-Baḥrānī, *al-Hadā'iq al-nāḍira*, p. 318.

¹⁸ Al-Anṣārī, *al-Risāla fī l-taqiyya*, pp. 47-49. The treatise has been printed as an appendix to al-Anṣārī's other works of *fiqh* and *uṣūl* on numerous occasions.

¹⁹ Al-Anṣārī, *al-Risāla fī l-taqiyya*, p. 49.

taqiyya circumstances cast doubt on the applicability of the usual (“proper”, *wāqi’i*) obligation in this instance, and the apparent (*zāhiri*) ruling takes over and constitutes full obedience to the law. The situation is not, therefore, so different from the one who follows (*muqallid*) the ruling of a *mujtahid* which turns out to be at variance with the “true” law. The *muqallid* has fulfilled the law by following the *mujtahid*’s *zāhiri* ruling.

Amongst the more positive (or perhaps more accurately, less negative) assessments of al-Karakī’s theory are Muḥammad Jawād al-‘Āmili (d. 1226/1811), who describes al-Karakī’s theory in detail and considers it worthy of consideration (*ta’ammul*) – not a ringing endorsement perhaps, but less negative than many of his contemporaries. More recently, Āyatallāh Rūḥallāh al-Khumaynī expressed support for al-Karakī’s division within his own theory of *taqiyya*. This is not the place to describe al-Khumaynī’s theory in detail, but his view of al-Karakī’s division is positive:

As for matters such as ritual purification and the like, then you already know that the obvious [message] from most of the general statements on *taqiyya* [from the Imāms] and their unqualified statements, is that the one who acts out of *taqiyya* has fulfilled the essence of what was commanded, and his command to fulfil it has been satisfied by him performing it in this way. With regard to the things demanded by the law itself, it is clear. However, with regard to other matters, such as the ritual purification and washing, then there is some uncertainty as to whether that is included in the indicators, and whether they are distinct from the things demanded by the law. To perform prayer with a purification of this or that sort which has been forced upon the individual is permitted and allowed. However, after *taqiyya* has been removed, then it is not permitted to perform a prayer with that ritual purification or washing which was done out of *taqiyya*.²⁰

Unless a ritual washing has been specifically mentioned as permitted under *taqiyya* by the Imāms, al-Khumaynī argues, it has no legal efficacy. It does not make the individual ritually ready for prayer in the same way as a properly conducted ritual purification, because it does not have continuance beyond the prayer performed. For it to have continuance, the Imāms must have explicitly mentioned it as being equivalent to the proper ritual purification. The duty to perform prayer is fulfilled (and here al-Khumaynī differs, perhaps from al-Karakī) but the prerequisites to prayer (such as *wuḍū’*) are not fulfilled without ex-

²⁰ Rūḥallāh al-Khumaynī, *al-Rasā’il*, p. 208.

plicit designation from the Imāms. Al-Khumaynī expresses amazement (*al-ʿajab*) that al-Anṣārī rejects al-Karakī's distinction. Indeed, Khumaynī's whole theory of *taqiyya* can be seen as a critique of al-Anṣārī's influential *al-Risāla fī l-taqiyya*.

5. Conclusions

Al-Karakī's modification of the mainstream Imāmī position can plausibly be linked to his adoption of senior office within the Safavid state.¹⁹ With the emergence of a Safavid Shī'ī state, the need to act out of *taqiyya* was, in al-Karakī's view, reduced, and the *carte blanche* approach to *taqiyya* of previous Imāmī jurists sat uneasily with this new socio-political reality. There was, with the Safavids, no need to act out of *taqiyya*, unless one remained within Ottoman lands, and al-Karakī encouraged his students (and perhaps many ordinary *Shī'a* also) to migrate to Safavid Iran. His position on *taqiyya*, with the division of acts into specifically and generally permitted (and the legal consequences which flowed from that), was clearly designed to reduce the ritual and legal attractiveness of *taqiyya*. Many acts which were previously allowed to continue without legal penalty or inconvenience created, under al-Karakī's theory, the need for repetition and possibly compensation (*qaḍā'*, "making up"). *Taqiyya* could no longer be used as an excuse for imperfect adherence to the law unless the act was specified as such by the Imāms themselves. Al-Karakī's innovative division was probably the result of his assessment that the need for *taqiyya* had greatly reduced with the advent of a *fuqahā'*-approved Shī'ī state during the occultation.

It is possible that al-Khumaynī's general approval of al-Karakī's division is attributed to similar assessments of state legitimacy during the occultation. That is, a state which is (minimally) legitimate and Shī'ī, though not led by the Imām is possible during the occultation: the Safavids for al-Karakī, and the (future) Islamic government as outlined in al-Khumaynī's *Hukūmat-e Islāmī*. Though one is monarchical and the other avowedly republican makes little difference and produces the same theoretical legal circumstances, and the theory of *taqiyya*

¹⁹ Newman, "The Myth of the Clerical Migration to Safawid Iran".

flows from that. The more cautious position of, say, al-Baḥrānī or al-Anṣārī, reflects their own suspicion of any government other than that of the Imām. What the discussion around al-Karakī's theory demonstrates is that the implications of a particular political theory can drill down to even the most detailed legal discussions of the maintenance of ritual purity in a state of *taqiyya*.

6. Bibliography

- Abisaab, Rula Jurdi, "Karakī", in *Encyclopaedia Iranica*, New York, Columbia University, vol. XV, fasc. 5, pp. 544-547.
- Abisaab, Rula Jurdi, "The Ulama of Jabal 'Amil in Safavid Iran, 1501-1736: Marginality, Migration and Social Change", *Iranian Studies*, 27, 1-4 (1994), pp. 103-122.
- Āghā Buzurg al-Ṭīhrānī, Muḥammad Muḥsin, *al-Dharī'a ilā taṣānīf al-shī'a*, Beirut, Dār al-Aḍwā', 1983-86, 26 vols.
- Amir-Moezzi, Moḥammad Ali, "Dissimulation", in J.D. McAuliffe (ed.), *Encyclopaedia of the Qur'ān*, Washington D.C. Georgetown University, 2013, available on Brill Online: <http://referenceworks.brillonline.com>.
- Al-Anṣārī, al-Murtadā, *al-Risāla fi l-taqiyya*, Qum, Mu'assasa Qā'im Āl Muḥammad, 1412/1991.
- Arjomand, Said Amir, *The Shadow of God and the Hidden Imam: Religion, Political Order, and Societal Change in Shi'ite Iran from the Beginning to 1890*, Chicago, The University of Chicago Press, 1984.
- Arjomand, Said Amir, "Two Decrees of Shāh Ṭahmāsp Concerning Statecraft and the Authority of Shaykh 'Alī al-Karakī", in S.A. Arjomand (ed.) *Authority and Political Culture in Shi'ism*, Albany, State University of New York Press, 1988, pp. 250-62.
- Al-Baḥrānī, Yūsuf b. Aḥmad, *al-Ḥadā'iq al-Nāḍira*, Najaf, Dār al-Kutub al-Islāmiyya, 1958.
- Clarke, L., "The Rise and Decline of *Taqiyya* in Twelver Shi'ism", in Todd Lawson (ed.), *Reason and Inspiration in Islam: Theology, Philosophy and Mysticism in Muslim Thought. Essays in honour of Hermann Landolt*, London-New York, I.B. Tauris-The Institute of Ismaili Studies, 2005, pp. 46-63.
- Dakake, Maria M., "Hiding in Plain Sight: The Practical and Doctrinal Significance of Secrecy in Shi'ite Islam", *Journal of the American Academy of Religion*, 74, 2 (2006) pp. 324-355.
- Gleave, Robert, *Inevitable Doubt: Two Theories of Shi'ī Jurisprudence*, Leiden, Brill, 2000.
- Gleave, Robert, "Two Classical Shi'ī Theories of *qaḍā'*", in J. Mojaddedi, A. Samely and G. Hawting (eds.), *Studies in Islamic and Middle Eastern Texts*
- Al-Qanṭara* XXXIV 2, 2013, pp. 415-438 ISSN 0211-3589 doi: 10.3989/alqantara.2013.015

- and Traditions in Memory of Norman Calder*, Oxford, Oxford University Press, 2001, pp. 105-121.
- Al-Karakī, *Jāmi' al-Maqāṣid*, Beirut, Mu'assasat Āl al-Bayt, 1981, 13 vols.
- Al-Khumaynī, Rūḥallāh, *al-Rasā'il*, Tehran, Mu'assasa-yi Ismā'iliyān, 1410/1989-90.
- Kohlberg, Etan, "Some Imāmi-Shī'ī Views on Taqiyya", *Journal of the American Oriental Society*, 95, 3 (1975), pp. 395-402.
- Kohlberg, Etan, "Taqiyya in Shī'ī Theology and Religion", in Hans G. Kippenberg and Guy G. Stroumsa (eds.), *Secrecy and Concealment: Studies in the History of Mediterranean and Near Eastern Religions*, Leiden, Brill, 1995, pp. 345-380.
- Madelung, Wilferd, "A Treatise of the Sharīf al-Murtaḍā on the Legality of Working for Government (*Mas'ala fī 'l-'amal ma'a 'l-sulṭān*)", *Bulletin of the School of Oriental and African Studies*, 43, 1 (1980), pp. 18-31.
- Madelung, Wilferd, "al-Karakī", in P.J. Bearman *et al.*, *Encyclopaedia of Islam*, 2nd edition, Leiden, Brill, 1960-2005, p. 610.
- Madelung, Wilferd, "Shī'ite Discussions on the Legality of the Kharāj", in R. Peters (ed.), *Proceeding of the Ninth Congress of the Union Europeene des Arabisants et Islamisants*, Leiden, Brill, 1981, pp. 193-202.
- Modarressi Ṭabāṭabā'i, Ḥossein, *Kharāj in Islamic Law*, London, Anchor Press, 1983.
- Al-Muḥaqqiq al-Thānī al-Karakī, *al-Rasā'il*, Qum, Mar'ashi Library, 1409/1988 3 vols.
- Newman, Andrew, "Daštakī, Giāt-al-Dīn", in *Encyclopaedia Iranica*, New York, Columbia University, vol. VII, fasc. 1, pp. 100-102.
- Newman, Andrew, "The Myth of the Clerical Migration to Safawid Iran: Arab Shī'ite Opposition to 'Alī al-Karakī and Safawid Shī'ism", *Die Welt des Islams*, 33, 1 (1993), pp. 66-112.
- Rasūl Ja'fariyān, *Naqsh-i Khāndān-i Karakī dar ta'sīs va tadāwum-i dawlat-i Safavī*, Tehran, Nashr-i 'Ilm, 1387/2008.
- Al-Sarakhsī, Shams al-Dīn, *Kitāb al-Mabsūt*, Beirut, Dār al-Ma'rifa, 1414/1993, 30 vols.
- Stewart, Devin J., *Islamic Legal Orthodoxy: Twelver Shi'ite Responses to the Sunni Legal System*, Salt Lake City, University of Utah Press, 1998.
- Stewart, Devin J., "Notes on the Migration of 'Āmili Scholars to Safavid Iran", *Journal of Near Eastern Studies*, 55 (1996), pp. 81-103.

Recibido: 14/03/2013

Aceptado: 24/06/2013