

SHI'Ī RELIGIOUS THINKERS AND THE ISSUE OF APOSTASY

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Abstract:

'Apostasy' is one of the controversial issues in the Muslim world. According to Islamic teachings, an apostate must be killed. This article is to assess the status of killing *fatwas* among contemporary Islamic thinkers in general and two Shi'ī religious thinkers in particular. Mohsen Kadivar and Fazil Lankarani have presented differing ideas dealing with the killing of an Azerbaijani journalist, Rafiq Taġi, who was accused of apostasy.

Keywords: Apostasy, Fatwa, Ijtihad, Ijma', Sab al-Nabi, Fazil Lankarani, Mohsen Kadivar, Rafiq Taġi.

Definition of Important Terms

Apostasy: or *irtidd*, is "the abandonment of Islam either by a declared desertion in favour of another religion or by a clandestine rejection of Islam often combined with the secret practice of another religion."³

Sab al-nabi: Insulting the Prophet (Muhammad), Imams and Companions. The particular verdict for *sab al-nabi* is death penalty/execution.⁴

Apostate (*murtadd*): Anyone who commits apostasy and *sab al-nabi*.⁵

Fatwa: A definitive legal pronouncement in response to a question about an Islamic legal practice, given by a qualified *mufti* or *mujtahid* based on authoritative precedents and not on personal opinion alone.

Ijtihad: in jurisprudence (*fiqh*) it means the exercise of independent judgment by one who has sufficient knowledge, as opposed to the imitation of precedents or *taqlid*.⁶

Ijma': The doctrine forming the consensus of those with sufficient knowledge to practice *ijtihad*, or independent judicial reasoning, and it constitutes one of the sources of jurisprudence.

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³ The Qur'an says that those who willfully deviate from God's signs will earn a painful punishment FF. In the early history of the Islamic community, the term was applied to those who rebelled against the authority of the caliph. As such, the term was applied to the *Khawarij*. In the 'Abbasid period, the term was applied to such people as materialists and atheists. The Isma'ili were termed *mulhids*, as were all Shii and many Sufis in the Ottoman period. See Griffel, F. (2013). Apostasy, in *The Princeton Encyclopedia of Islamic Political Thought*, 40-41.

⁴ Ziraat, A. (2002) Legal and Jurisprudential Investigation of Sab al-Nabi Crime, *Mutala'at Islami*, 57, pp.75-104

⁵ *Qatl-e Rafiq Taġi va Fatway-e Panj Sala-ye Ayatullah Fazel Lankarani* <<http://www.parsine.com/fa/news/52956/>> accessed 22 October 2015

⁶ Gordon, N. (2011). *Encyclopedia of Islam*.

Introduction

The implementation of certain verdicts, such as stoning, whipping, cutting off the hands, etc., provoke social activists and politicians to strictly monitor the relationship between Islam and modernity. The Punishment for Apostasy is one of the most challenging issues investigated by numerous Muslim and non-Muslim scholars. Sporadically, some jurists whose desire is to aptly carry out Islamic laws issue execution verdicts for individuals who renounce Islam or reproach Islamic thought. According to Islamic teachings, apostasy can be known as abandoning Islam, deviating from religious belief and practices and insulting Islam. Also, Muslim religious and political leaders have delivered killing *fatwa*s for non-Muslims who wrote disagreeable things about the religion of Islam. Ayatullah Khomeini (d. 1989), the former leader of Iran, issued a *fatwa* for killing Salman Rushdie (b. 1947) in 1989 for writing a novel entitled “The Satanic Verses” (1988). However, a Dutch film maker, Theo van Gogh (d. 2004) was killed by Mohammad Bouyeri. It is reported that Gogh had directed *Submission*, a short movie displaying violence against women in various Muslim countries.⁷

Nonetheless, this study focuses on *killing fatwa*s for Muslims. One of the most famous contemporary Shi’i Ayatullahs, Shaykh Muhammad Fazil Lankarani (d. 2006), issued an execution *fatwa* against Rafiq Tağı (d. 2011) on November 25, 2006. Rafiq Tağı was a [Muslim] Azerbaijani writer and journalist who received the *fatwa* owing to expressions on the role of Islam and the Prophet. Although it was assumed that Tağı was stabbed because ‘he sharply criticized the Iranian government and ridiculed Tehran’s threats against Azerbaijan’,⁸ it seems that some people presume that Tağı insulted Islam in his article “Them and US” published by *San’at* newspaper.⁹ He was killed on 23 November 2011. According to a report published by an Iranian online newspaper, Tağı was killed based on Lankarani’s *fatwa*.¹⁰

⁷ Ayaan Hirsi Ali accompanied Gogh in making “Submission”.

⁸ *Azerbaijani Journalist Targeted By Fatwa Dies After Stabbing Attack* http://www.rferl.org/content/azerbaijani_journalist_targeted_by_fatwa_dies_of_stab_attack_injuries/24399744.html/ accessed 22 October 2015

⁹ Lankarani also issued a killing *fatwa* for Samir Sadagatoglu, the newspaper’s editor who allegedly provoked ‘incitement to religious hatred’ in a philosophical essay published in 2006. Haraszti, M. (2009) “In God’s name” *Index on Censorship* 38(2), 108-115.

¹⁰ *Qatl-e Rafiq Tağı va Fatway-e Panj Sala-ye Ayatullah Fazel Lankarani* <<http://www.parsine.com/fa/news/52956/>> accessed 22 October 2015

The Emergence of Disputation

Although Ayatullah Muhammad Fazil Lankarani passed away around five years earlier than Rafiq Tağı, his son, Ayatullah Muhammad Jawad Fazil Lankarani,¹¹ writes a letter addressing the people of Azerbaijan and displays his joy:

Muslim and faithful people of Azerbaijan,

We are grateful to the Majestic and Revengeful Allah whose hand of vengeance thrust out of the sleeves of zealous men and smote the sinner and sent the apostate to hell, he who insulted Islam and the Holy Prophet (S).

Without doubt, he who carried out this divine ruling and made Muslims happy will be rewarded profusely in the Hereafter.

The enemies of Islam should know that the free-hearted Muslims and zealous youths of Islam shall not let the world's arrogant powers and international Zionism to carry out their evil conspiracies and plots in order to insult Islam. They will punish the religion-mongers and those who betray their religion for their shameful acts.

I extend my congratulations to all Muslims of the world especially the zealous people of Azerbaijan on the death of Rafiq Taqi, the apostate. Meanwhile, we honor the memory of the great religious authority, late grand Ayatollah Fazel Lankarani (may Allah bless him) who issued a decree on the lawfulness of spilling the blood of this atheist. May Allah raise his ranks¹²

Mohsen Kadivar, as a visiting professor of religious studies at Duke University¹³, writes an open letter to Lankarani¹⁴ dealing with 'the objection to the recent fatwa of terror.' He points out that not only issuing and performing this *fatwa* is a form of assassination, but it also leads to distortion of the image and reputation of Islam in general and Shi'ism in particular. Kadivar's letter was a starting point for a lengthy controversy.

Lankarani critically answers Kadivar in an open letter entitled "Answer of Ayatullah Shaykh Muhammad Javad Fazel Lankarani regarding the Doubts on Jurisprudential

¹¹ Shaykh Muhammad Jawad Fazel Lankarani is the son of Grand Ayatullah Fazel Lankarani, the *marja'* of the Shi'a world.

¹² Frances Harrison, *Iran issues fatwa on Azeri writer*: http://news.bbc.co.uk/2/hi/middle_east/6158195.stm accessed 22 October 2015

¹³ Kadivar was born in Iran in 1959, has published eight books as sole author, seven more as co-author and is an editor in Persian and Arabic. To read about him see Zahra Rudi (Kadivar) ed., *Baha-ye Azadi: Difa'iyat-e Muhsin-e Kadivar dar Dadgah-i Vizha-ye Ruhaniyat* (Tehran: Nashr-e Nay, 1999), pp.17- 19.

¹⁴ <http://www.rahesabz.net/story/45527/>

Ruling of Apostasy.”¹⁵ After that, Kadivar decides to elucidate his opinion and replies once more with “The treatise criticism of the capital punishment for an apostate and insulting the Prophet.” For Kadivar, the execution of an Azerbaijani journalist was sorrowful and incorrect, because Taği was killed (a) based on an Islamic law decree issued in Iran – (b) without an official trial. Kadivar states: “assassination is a ‘taboo’ in Islam and no one, specifically jurists (*fuqahā*), is able to issue an unlawful verdict.”¹⁶ He divided the significance of his critical essay into three main categories, including (a) the significance of the vitality of human beings; (b) prevention from re-issuing such verdicts in the future; and (c) criticism of decrees issued by Muslim leaders that are harmful to Islam.

Kadivar contends that *killing fatwa* is still a common discussion topic in Islamic and Shi’i seminaries (*hawza*). He refers to the accounts of some religious figures who supported issuing a *killing fatwa* for Shahin Najafi, a young Iranian rapper and singer living in Germany. Upon releasing his new song entitled “Naqi”, six grand Ayatullahs based in Qum declared that Najafi is an apostate because his song insults the tenth Imam of Shi’a, ‘Ali al-Naqi.

Later on, one Iranian News Agency notified readers that Najafi’s *killing fatwa* had been issued.¹⁷ ‘Shia-Online.ir’ also allocated US\$ 100000 to anyone willing to kill the rapper.¹⁸ Once more, Kadivar, along with four religious revivalists and intellectuals, categorically condemned this *fatwa* and warned that such Islamic *fatwas* promote “terror” in the world.

Lankarani’s and Kadivar’s Ijtihadi approach towards fiqhi matters

It seems Lankarani follows Shi’i traditional principles of *ijtihad* and does not preach a fresh voice against traditional Islamic law. As he indicated, the basis on which such

¹⁵Fazil Lankarani, J. (2011) “Answer of Ayatullāh Shaykh Muhammad Jawād Fazel Lankarani regarding the Doubts on Jurisprudential Ruling of Apostasy. See: <http://www.fazellankarani.com/english/works/article/5220/>

¹⁶ Kadivar had previously written a 200 pages essay arguing that terror is forbidden in Islam according to the Qur’an and authentic tradition (*sahih*) of Muhammad.

¹⁷ *Hukm-e irtidād-e Shahin-e Najafi Sadir shod:* <http://www.farsnews.com/newstext.php?nn=13910220001069> accessed 22 October 2015

¹⁸ *Jayaza-ye Shia-online baraye koshtan-e khananda Irani:* <http://shia-online.ir/article.asp?id=22927> accessed 22 October 2015

fatwas are issued is ‘one thousand years of clerical principles of *ijtihad*’. Lankarani critiques Kadivar’s ideas and believes that “the methodology presented by some people requires most religious rules to be changed, which is impossible because by doing so we will be compelled to follow man-made rules.”¹⁹

On the other hand, Kadivar does not support *traditional ijtihad* anymore, and opine that there is no compatibility between traditional *ijtihad*, modernity and modern society, herewith including: human rights, democracy, feminism, etc.

Apostasy Fatwa: An Unlawful Act or a Divine Decree

Ayatullah Lankarani contends that a true Muslim should implement the Islamic law when he/she sees an apostate. He said: “From a jurisprudential point of view, the application of the death penalty rule for an apostate does not need to be ordered by a learned scholar every time. If a Muslim meets an apostate, he is religiously allowed to apply the law without consulting any jurisprudence.”²⁰ Lankarani additionally supports his peculiar remark by relying on various narrations as reported by Ammar Sabati: “He, who hears words based on apostasy from another person, has the right to apply the law.” However, Lankarani maintains that it is more appropriate if those who wish to kill an apostate consult a qualified *mujtahid*/religious thinker fully familiar with Islamic law.²¹

Kadivar rejects Lankarani’s view by saying that killing an apostate without passing criminal law processes leads to the promotion of assassination.²²

Issuing the apostasy *fatwa* raises this point that such *fatwas* dealing with death sentence were mainly issued out of official court and without any trial session. So, it allows anyone to kill a so-called apostate. It can be said that *killing an apostate* may be an individual duty (*faida*) in Muslim countries, despite an execution (taking human’s life) having to be decided ~~on~~ by a competent court.

¹⁹ Fazil Lankarani, J. (2011) *Answer of Ayatullāh Shaykh Muhammad Jawād Fazel Lankarani regarding the Doubts on Jurisprudential Ruling of Apostasy*. <http://www.fazellankarani.com/english/works/article/5220/> accessed 22 October 2015

²⁰ *Ibid*

²¹ *Ibid*

²² Kadivar, M. (2011) *The treatise criticism of the capital punishment for an apostate and insult Prophet*. See: <http://en.kadivar.com/> (it should be noted that these information were found in his former Persian website, in: <http://kadivar.org/?p=9058>).

Another question relates to how and why a jurist from one country is able to issue a death sentence for a citizen of another country. Lankarani contends that 'geographical borders are legally invalid.'²³ By contrast, Kadivar believes that issuing such decrees is "against the national sovereignty of a country" and it facilitates the emergence of anarchy and chaos in society.²⁴ It seems the disparity between the approaches of these two religious figures pertains their understanding of 'shar'ī verdict' and 'canon.'

In Kadivar's view, theologians' (*mutakallimun*) and jurists' (*fuqaha'*), *fatwa* is not found in constitutional law. In his opinion, a theologian can identify *hukm* but a jurist is the one familiar with verdicts - but may not necessarily know all subjects very well.²⁵ A number of Shi'ī scholars and jurists disagree with Kadivar. Lankarani sustains that 'judgeship' is a requirement in jurisprudence, and notes:

A jurisprudent is very well acquainted with divine laws and he knows how to apply them in the most correct manner; and this is one of the basic needs of jurisprudence. Judgeship is among the conducts of the Prophet, the holy *Imāms* and the qualified *mujtahids*. It is so important that the condition of *ijtihad* has been made compulsory for it. In Islam, no one except a qualified *mujtahid* can occupy the seat of judgment.²⁶

With regards to the main conditions of a jurist in issuing a *fatwa*, Lankarani clarifies that no jurist or learned person has the right to issue a *fatwa* of death penalty against anyone else unless the person has proved him to be an apostate.²⁷ Junior Lankarani supported his father's act to issue the *fatwa* because his father had read the translation of Taqī's work.²⁸

²³ Fazil Lankarani, J. (2011) *Answer of Ayatullāh Shaykh Muhammad Jawād Fazel Lankarani regarding the Doubts on Jurisprudential Ruling of Apostasy.* <http://www.fazellankarani.com/english/works/article/5220/>

²⁴ Kadivar, M. (2011) *the treatise criticism of the capital punishment for an apostate and insult Prophet.* See: <http://kadivar.com/>

²⁵ *Ibid.*

²⁶ Fazil Lankarani, J. (2011) *Ibid.*

²⁷ Fazil Lankarani, J. (2011) *ibid.*

²⁸ Fazil Lankarani, J. (2011) *ibid.*

People and the Implementation of a Fatwa

As indicated before, one of the main challenging matters dealing with *fatwa*—is entrusting the responsibility of identifying the apostate and implementing the law to a group of people.²⁹ On this subject, Lankarani maintained that circumstances occasionally require everyone to become implementers of law. It means that there are certain cases in which all individuals must take part and play a role in carrying out a law; it prevents them from future anti-Islamic acts from those who are not familiar with Islam. He declares that such cases include apostasy and *sab al-nabi*, which entails legally defending the true Islam. Based on reason and logic, Islam does not permit one to negate it after its reality has been made clear to him; nor does it permit one to insult its holiness and/or holy persons such as the Prophet.³⁰

Then Kadivar disagrees with engaging people for the implementation of a *mujtahid's* verdict. He has two specific stances: (a) from a religious perspective, it caused that offensive to lose the repentance (*al-tawaba*) opportunity; (b) from a legal perspective, verdict implementation involves particular conditions that must be completely fulfilled. The conditions include holding a trial in court, in the presence of a judge, attorney, jury, etc.

Regarding Taġi's killing, Kadivar holds: Was stabbing truly according to Islamic principles? Today, he argues, "punishment or the death penalty without a competent court's verdict and in the absence of the culprit's defense ability is out of common sense."

Kadivar stands against J. Lankarani and says that not only this is a radical method whereby the fear of execution is instilled in those who make anti-Islamic notes, not helpful for Islamic *da'wah*, but it is also destructive and may increase pessimistic views towards Islam.³¹

²⁹ Faraj Fawda was an Egyptian human rights activist and writer. Faraj was assassinated in 1992 after al-Azhar accused him of blasphemy. In the trial, Fouda's killer was asked: "Why did you assassinate Faraj Fouda?" to which he responded: "he was a disbeliever" The killer was asked again: "which writings show that he is a disbeliever?" the killer said: "I did not read any of his books. I am illiterate." In this court during the trial of the murderers, Azhari scholar and former Muslim Brother Muhammad al-Ghazali testified that when the state fails to punish apostates, somebody else has to do it. Soage, A. B. (2007). Faraj Fawda, or the cost of freedom of expression. *Middle East*, 11(2), 26.

³⁰Fazil Lankarani, J. (2011) *ibid*.

³¹Kadivar, M. (2011) *Ibid*.

Islamic Legal Verdict: Constructive or Destructive

Some modern Muslim thinkers consider that, nowadays, it is not required to implement those Islamic laws present in the early period of Islam. It seems Kadivar follows this modern interpretation and explicitly states that issuing this kind of *fatwas* presents an incorrect image of Islam. Certainly, this sinister reflection of Islam represents rough, detested, ferocious and non-merciful features of Islam, such as slavery, stoning, killing of apostates, burning, cutting off hands for stealing, the law of retaliation (*Qisās* of the body) - for instance eye for an eye, nose for a nose, ear for an ear, and tooth for a tooth - beating wives; lashing, and so on.³²

However, J. Lankarani does not accept Kadivar's claim that this type of *fatwa* and verdict is harmful to Islam and mentions that the death penalty rule for an apostate and *sab al-nabi* has existed from the very first day of Islam and has never spoiled its reputation. But as soon as the colonialists set out professing human rights, they started to vociferously complain about this rule, as well. The result of these complaints along with their false propagation emerged as an announcement of conflict between Islamic laws and freedom, reason and human dignity.³³

In addition, Lankarani proudly defends such *fatwas* believing that the implementation of divine orders results in greater obedience of God's holy commands, and that it has "worldly and spiritual blessings."³⁴ Lankarani also argues that no man's nature will oppose the punishment of an apostate or of a person involved in *Sab al-nabi*³⁵ But Kadivar argues that some people who are not supporters of Islam may scare upon the learning of the killing *fatwa* and will therefore not approach Islam. He further develops his response by wondering how was it possible for anyone to have faith in a religion whose opponents and critics may be killed without any legal court of law or official trial.³⁶

³²Kadivar, M. (2011) *Ibid.*

³³Fazil Lankarani, J. (2011) *Ibid.*

³⁴Fazil Lankarani, J. (2011) *Ibid.*

³⁵Fazil Lankarani, J. (2011), *Ibid.*

³⁶Kadivar, M. (2011), *Ibid.*

Fatwa and its Origination in the Qur'an

The Qur'an, like other Scriptures, has a complex tenor (*batin*) enabling anyone to interpret it based on personal opinions. Some modern thinkers believe that the Qur'an -- the most important source of Islam -- does not include any particular worldly punishment for the act of apostasy.³⁷ Although apostasy has been mentioned in the Qur'an (Q 2:108; 2:217; 4:167; 3: 86-87-88; 3:91; 3:176), the consequence for an apostate is due on the Day of Judgment (*yawm al-qiyama*). Lankarani apparently accepts this view but says "we should admit that in fact there is no verse that clearly mentions the necessity of death penalty, specifically for an apostate. Depending solely on the holy Book of Allah and neglecting all other sources, such as traditions, consensus and what is considered axiomatic within religious teachings, we are hardly able to say much about this matter or prove it." Nevertheless, he indicated the 54th verse of *surat al-Baqara*: "In that will they dwell; nor will their penalty be lightened, nor respite be [their lot]" and that Prophet Musa said 'You have been cruel to yourselves by performing this deviation for which you must repent and kill each other.' Here, he did not imply that people should kill their sensual desires, but he meant them killing themselves in real terms, letting death take their souls"³⁸ with reference to "tumult and oppression are worse than slaughter" (Q2:217). Lankarani referred to Fakhr al-Din al-Razi's exegetical view that the *hubut a'mal*, or the nullification of good deeds in this world, implies worldly penalties. Lankarani deems that all types of apostasy fall under the 'tumult' category.³⁹ Apart from the abovementioned points, modern thinkers believe that the idea of punishing an apostate was a strategic self-defense tactic in battles. In chapter "Freedom is one Thing, Apostasy Another", Mohammed 'Abed al-Jabiri states:

³⁷See: Shafaat. A (2007) "Q & A The Punishment of Apostasy in Islam" Part I: The Qur'anic Perspective. Also see: Rahman. (2006), *Punishment of apostasy in Islam*, Kuala Lumpur: The Other Press.

Among contemporary scholars, Abul Ala Mawdudi [1903-1979], one of the most influential Muslim thinker of the 20th century, had different ideas about this issue; thence, many Muslims disagree with Abul Ala Mawdudi's understanding and argumentation. In his book on apostasy in Islam, Mawdudi argued that indeed the Qur'an prescribes the death penalty for all apostates. The scholar, also known as Maulana Maududi, claims that the Qur'an prescribes death sentence for apostasy, quoting verse 9:11-12 See: Mawdudi. M (1994). *The Punishment of the Apostate according to Islamic Law*, trans. Syed Silas Husain and Ernest Hahn, available at Answering-Islam,

³⁸ Fazil Lankarani, J. (2011), Ibid.

³⁹ Lankarani also refers to 'tumult' (*fatnah*) which came to the Q2:217 "Tumult and oppression are worse than slaughter" for proving his utterances. Lankarani questioned that "is it not possible to conclude the permissibility of death penalty for an apostate from this verse?" Hence, he proclaimed that "One should keep in mind that according to this verse every kind of apostasy is *fitna* sedition. Therefore, one should never think that only some kinds of apostasy are *fitna* seditious, while others are not".

After the rise of the Islamic state, was not merely a person who changed his faith. He was also a person, who renounced Islam as a faith, a society and a state ... the apostate at that time was equal to a traitor who betrays his country and colludes with the enemy at the time of war.⁴⁰

Besides, it is obvious that Lankarani does not see apostasy as a political issue, especially in the early days of Islam and during the Prophet's era. Some modern scholars say the death penalty for an apostate should have been interpreted in light of the socio-political context of that time. The Qur'an makes reference to a group of Jews who had accepted Islam and then converted back to their original religion (i.e. Judaism). These Jews would pretend they accepted Islam in the first part of the day and would show they did not believe in it any more at the end of the day (Q 3:71-73). This became a political issue, as Mohammed S. El-Awa argues that 'at that time the Prophet was the ruler of Medina. Consequently, one cannot imagine how such people could have done this under a government which punishes apostasy with the death penalty, while they were not, in fact, punished in any way.'⁴¹

Kadivar rebuffed the reference made by Lankarani to the seven mentioned verses of the Qur'an: "although the Qur'an does not accept the infidelity and conversion to other religions, the Qur'an, itself, postponed the punishments like the death penalty and life imprisonment for apostates to the Hereafter."⁴²

Kadivar said that not only the death penalty for apostates and *Sab al-nabi* does not have any Qur'anic reference, but that such penalties also stand against the core of the holy Qur'an.⁴³ In this concern, Mohamed Talbi believes that Punishment for Apostasy is not proportionate with the Qur'anic spirit and notes and that "we must consider the

40 Abed al-Jabiri, M. (2009), *Democracy, Human Rights and Law in Islamic Thought*, I.B.Tauris & Co Ltd. p.199.

Al- Jabiri cited an example for his argument: "The 'Apostasy Wars' at the time of Abū Bakr were against people who did not only 'betray' the Islamic state, which they joined at the time of the Prophet, but organized themselves to attack that state after violating its laws (by withholding payment of *al-zakah*). Therefore, the apostate in this sense is one who renounced the Islamic state as a 'fighter', a conspirator or a spy for the enemy."

41 *A Fresh Look at Freedom of Belief in Islam* by Abdullah Saeed. Ayatullah Montazeri, a prominent Shi'i scholar, holds that it is probable that the punishment was prescribed by Muhammad during early period of Islam to combat political conspiracies against Islam and Muslims, and is not intended for those who simply change their belief or express a change in belief.

⁴² Kadivar, M. (2011) *Ibid*

⁴³ Kadivar, M. (2011) *Ibid*

apostate case. In this field, too, traditional theology does not follow the spirit of the Qur'an."⁴⁴

Lankarani, on the other hand, replies: "how can they make such a considerable claim? It is very difficult to claim that one is completely aware of the core of the Holy Qur'an! Basically, such a claim does not comply within the guidelines of logical argumentation."⁴⁵

Hadith as a Secondary Source

Hadith or tradition⁴⁶ plays a crucial role in Islam and it addresses the issue of apostasy. Kadivar believes that both jurists and theologians cannot issue an execution *fatwa* for an apostate by relying on unreliable *hadiths* (e.g., *khavar wahid*: single individual narrations) as a decisive proof.⁴⁷

Lankarani and Kadivar hold different views on *khavar wāḥid*. Lankarani assumes that applying *khavar wāḥid* to deliver an apostate decree is common among religious thinkers. But Kadivar strongly rejects this idea and raises various questions, such as 'who are those thinkers?' and 'who would issue a killing *fatwa* by relying on unreliable tradition or *khavar wahid*?'⁴⁸ To which Lankarani argues that there is no difference between dangerous and non dangerous affairs in the authentication of *khavar wahid*: "All jurists, those who lived in the past and contemporary ones included, have acted on "single individual narrations" in jurisprudence, without considering affairs such as blood or the opposite, properties or opposite, worshiping or opposite and politics or opposite etc. Their books on jurisprudence clearly mention this fact."⁴⁹

Lankarani states that there are not only a few *khavar wahids* on killing verdicts for an apostate, but there are more than twenty *khavar wahids* pertaining to this subject. Thus, how would it be possible to deny an issue supported by over twenty traditions?

⁴⁴ Kamravā. M (ed.) (2006) *The New Voices of Islam: Reforming Politics and Modernity: a Reader*, London: I.B. Tauris, p 113. In conclusion as Ebrahim Moosa says: "The modern view has also attempted to reconcile the law with the overall spirit of the Qur'ānic teachings that does advocate greater freedom to choose one's faith" (The Dilemma of Islamic Rights Schemes Ebrahim Moosa, p13)

⁴⁵ Fazil Lankarani, J. (2011) *Ibid*.

⁴⁶ Generally speaking, *hadiths* are prophet's acts and speeches.

⁴⁷ Kadivar, M. (2011) *Ibid*.

⁴⁸ Kadivar, M. (2011) *ibid*.

⁴⁹ Fazil Lankarani, J. (2011) *ibid*.

Asks Lankarani.. So, according to the author, the abundance of *khavar wahids* confirms its popularity and comprehensiveness. He stated that if a transmission is accepted as successive, then studying its 'chain of narrators' is not even necessary, something that is very clear and customary for jurists.

Kadivar, on the other hand, urges that some widely transmitted traditions (*mutawātir*) are not either sound nor reliable. He then scrutinizes these traditions referring to the execution sentence for apostasy and concludes that the majority of them (i.e. 2/3) are forged and unreliable. He points out that the large number of weak and defective *ḥadīth*s make their authenticity hard to prove. Kadivar contends that the validity of the two *wahid* traditions regarding *sab al-nabi* is ambiguous as well.⁵⁰

Consensus: a Source for Fatwa

In Islamic *fiqh*, if some scholars and thinkers altogether approve or disapprove an issue, it is called consensus or *ijma'*. Lankarani states that the "death penalty for an apostate" is a religious law on which not one amongst past or current jurists has disagreed on, and it is agreed upon by both *Shi'ah* and *Sunnites*. However, in recent years, a very small number of scholars (less than the fingers on one's hand) have attempted to refute arguments on this matter; hence, comparing them to the vast amount of jurists and recent scholars, is futile and pointless."

Although Kadivar knows that there is a consensus on the incumbency of killing *fatwa* for an apostate, he does not admit it as an independent reason. He mentions that "the number of tellers is not related to the strong points of their reason. This type of disputation is the same for *sab al-nabi* as well."⁵¹

Prophetic Command and Different Perceptions

Kadivar assumes that Prophet Muhammad or his cousin 'Ali and his household (*ahl al-Bayt*) did not agree over death penalty for an apostate, unless that person has

⁵⁰Kadivar, M. (2011) *ibid*.

⁵¹Kadivar, M. (2011) *ibid*.

committed other crimes such as spying and murdering. Kadivar believes that Lankarani's emphasis on prophetic command referring to killing a person for apostasy indicates that Islam naturally contains hostility.⁵²

Lankarani says that there were individuals who were sentenced to be killed as apostates at the time of the Prophet. He employs some *hadiths* as examples in which 'Ali (son-in-law and the cousin of Muhammad) "pronounced the death sentence over them." Lankarani states "We cannot say that these decisions were special cases but what we come to understand from them is that the Imam (as) wanted to extract the rule and apply it in general. There is a tradition in the Sunnite books mentioning that the holy Prophet (sawas) also ordered the killing of a group of people who had become apostates."⁵³

Concluding Remark

Lankarani, regardless of modern debates over human rights, democracy, etc., highlights the significance of Islamic traditions and believes that Shi'i *ijtihad* allows people to implement the death *fatwa* and perform the penalty/punishment upon the apostate, such as Rafiq Tağı, by relying on *seven* Qur'anic verses, Islamic traditions (*khobar wahid*), consensus (*ijma'*), and historical evidence from early period of Islam.

But Kadivar rejects both of Lankarani's viewpoints and states that issuing such killing *fatwas* for apostasy or *sab al-nabi* is not applicable in contemporary society. He believes that traditional Shi'i *ijtihad* must alter its methodology based on contemporary issues such as human rights. Moreover, he argues that issuing and implementing a killing *fatwa* is not implementable by individuals alone, because it is a legal matter and must be considered in open court at the presence of judge, a jury and an attorney. Kadivar concludes that the Qur'an does not specify any form of globally valid Punishment for Apostasy, and *khobar wahid*, unreliable *hadith* and *ijma'* are not sufficient proofs allowing people to kill an apostate. Kadivar additionally maintains that individuals who were killed in early periods of Islam did not commit apostasy, but were guilty of different acts, including spying or killing.

⁵²Kadivar, M. (2011) *ibid*.

⁵³Fazil Lankarani, J. (2011) *ibid*.