

Mutahhari and His Approach to Women's Social Life

With Special Reference to Political Participation
and Issuing *Fatwas*

by

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Abstract

This research investigates Ayatollah Murtada Mutahhari's approach to women's social life focusing on political participation and issuing *fatwas*. Mutahhari (1919-1979) is one of the foremost thinkers of contemporary Iran who proposed a new theoretical foundation for the study of women's rights based on rational-philosophical principles. Many studies have been conducted on gender equality and women's issues from the perspective of Muslim traditionalists, secularists, feminists, and modern reformists. However, the contribution of Muslim traditional rationalist reformers (such as Mutahhari) to the study of women's rights has been ignored, especially in the contemporary academic scholarship. What distinguishes Mutahhari from other traditional jurists is his awareness of modern developments and his rational-philosophical, dynamic and progressive methodology in jurisprudence. Mutahhari changed the traditional style of discussion about women's rights from specialized and technical jurisprudential debate to a rational and philosophical argument. Treating justice and natural rights as meta-jurisprudential principles, he supported women's right of issuing *fatwas* or their right of taking political positions, which did not agree with the common *fatwas* of the day. In fact, Mutahhari approved of women's right to issue *fatwas* when this was (and still is) the exclusive right of men. This research demonstrates that, although Mutahhari was an influential figure in Iranian society and legitimised religious women's social participation, some of his ideas were not developed and embraced by the religious authorities. This study reveals that by adopting Mutahhari's rational-philosophical approach, different understandings of female leadership in society and religion could be developed.

Dedication

To my beloved husband Mahdi and lovely kids, Ali and Fatimah

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Note on Translations, Transliteration of Arabic and Persian Words and Translations of the Qur'an

Throughout the thesis, a simplified version of the *International Journal of Middle East Studies* (IJMES) transliteration guide has been used. The Arabic letter 'ayn has been shown by a single opening quotation mark (‘), as in *Jum‘ah*. The sign of *hamzah* is represented by a single closing quotation mark (’), as in Qur’an. Initial *hamzah* is not marked, like *asbab*. The Arabic letter of *waw* has been represented by (w), as in *wahy*, while the Persian letter *vav* has been shown by (v), as in *ravish*. The letter “h” at the end of words such as *Jum‘ah* has been retained. It is worth noting that a few names are not transliterated according to the house style because they have appeared with regularity in the academic world. These include Ayatollahs, Khomeini, Khomeini, Khomeini, Reza, Seyyed Hossein Nasr, Tehran, Tehrani, Medina, Tudeh party and Soroush.

All the Qur’anic verses are from Arberry’s translation. In addition, all other translations are my own unless otherwise indicated.

1 Introduction

This thesis is a study of Ayatollah Murtada Mutahhari's ideas about the role of women in public life. Mutahhari is one of the foremost thinkers of contemporary Iran who proposed a new theoretical foundation for the study of women's rights in the context of *usuli*¹ jurisprudence, based on rational-philosophical principles when most Shi'a clerics were solely interested in juridical and legal discussions. Mutahhari, in his dynamic methodology of *ijtihad*², placed significant emphasis on the principle of justice and the philosophy of natural rights, which allowed him to develop new or even revolutionary views that were different from the common *fatwas*³ of his time.

This study aims to demonstrate that Mutahhari's rational-philosophical approach to gender-related issues opens up new horizons for expanding women's social participation. It also reveals that, even within the traditional *usuli* school, reformist ideas about woman's rights can be brought up. In addition, this study displays how a traditional religious figure, such as Mutahhari, was aware of the requirement of the time and made a significant contribution to the development of modern thought in Iranian Shi'a society.

¹ Usuli: "Shi'i school of Islamic law relying on a series of rational processes dating to at least the twelfth century. Opposed to traditionist Akhbaris. Favored the exercise of *ijtihad* (independent reasoning) by those qualified to carry it out and obedience to these rulings (*taqlid*) by those not capable of exercising *ijtihad* themselves" (Esposito, 2003).

² *Ijtihad* means, "Islamic legal term meaning "independent reasoning," as opposed to *taqlid* (imitation)" (Esposito, 2003).

³ *Fatwa*: "Fatwa Authoritative legal opinion given by a mufti (legal scholar) in response to a question posed by an individual or a court of law" (Esposito, 2003).

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Modernity, as a worldwide phenomenon, had a significant influence on so many aspects of human life, including the status of woman. Before the Enlightenment in pre-modern Western society, people's sense of the world came mostly from religion. Tradition was regarded as sacred and unchangeable⁴. By the eighteenth century, the religious view of the world was increasingly being challenged, and a scientific understanding of the world became more and more prevalent. In this new understanding, reason and rationality were put at the centre, and the sacredness of nature and the social order were called into question. In this regard, Davis states that "Modernity's immanence refuses submission to anything that attempts to impose itself upon human consciousness from without in the name of knowledge or of value" (Davis, 1994, p.24). Perhaps, this is the main reason why Seyyed Hossein Nasr describes 'modern' as "cut from the transcendent" (Nasr, 1994, p.98).⁵.

After the Enlightenment, modern ideas gradually questioned the traditional views, including issues concerning women. Following the French Revolution (1789-1799), a minority of women stressed women's rights as a part of universal human rights. As Rowbotham contends "the advocates of women's rights argued that reason and rights ought to be genderless" (Rowbotham, 1992, pp. 34-35). Hence, the issue of gender inequality and female oppression became a controversial matter in the European states. Many scholarly debates emerged in the West, investigating the roots of gender inequality and female oppression. Feminism, as one of today's most significant intellectual, political, and social movements, presents various attitudes to the goals and ideals of women. Feminists provide

⁴ In pre-modern societies, the dominant view was "that all living things participate in their own way in the Divine Life and that in so doing they, in a sense, 'live the Life of God' (Trainor, 1998, p. 134). Religious authorities had made people believe that the things that happen to them are the will of God and should not be questioned. People considered the social order and society "as an affair of divine ordinance rather than a product of human freedom" (Davis, 1994, p.22). 'Nature' was regarded as a "collection of unrelated phenomena" shaped by divine power (Hampson, 2006, p. 199).

⁵ Nasr criticises the concept of man and human science in modern thought and considers the emphasis on the human as one of the basic traits of modern thought. From Nasr's standpoint, not only does modern man put himself at the centre of the universe but he also sees himself as a "purely earthly creature" who is the master of Nature and refuses to accept any principle higher than himself. Therefore, it is human reason and human sense which determine modern science (Nasr, 1994, pp. 100-104).

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a diversity of methodologies and illustrate a wide range of perspectives on the cause and basis of their movement (Bustan, 2009, p.9). Although Western feminist theories are as diverse on issues related to the basis of their theories as they are on matters related to the solution of women's current problems, as Badran stresses, "feminism in the West has been cast within a secular framework and has neither explicitly involved religious principles nor looked to religion for support or legitimacy" (Badran, 2009, p.2)⁶.

Following the expansion of industrialization and colonisation, as well as intercultural developments, Muslim communities became aware of feminist thinking and European women's lifestyles and rights. As a result, many traditional religious beliefs about women, such as Quranic verse 4:34, indicating the superiority of men over women or *hadiths* expressing the intellectual inferiority of women, were called into question (Mihrizi, 2010, p.16-18). Muslim scholars from various social, political, and philosophical schools who have engaged with the challenges regarding the question of women have proposed different theories regarding the status of women and their rights and responsibilities in order to reduce gender inequality or find some ways to justify it. Their approaches range from total rejection of Western secular views to total rejection of tradition. Investigating the various responses given by Muslim thinkers to the challenges of the modern age concerning women's issues is beyond the scope of the present study. However, at least four major approaches to this issue by Muslim scholars can be recognised: traditionalist, secularist, Islamic feminist and Islamic reformist⁷.

⁶ To know more about feminism in the West, see (Tong, 2009).

⁷ Since Mutahhari is an Iranian intellectual and philosopher, in our discussion of Muslim scholars' different approaches toward the question of women, this research mainly focuses on Iranian thinkers. In addition, it is worth noting that it is difficult to present a simple classification of Muslim scholars' approaches to the question of women, given the diverse and complicated reactions to this issue. Scholars have provided different classifications, using different terms, but none of them can claim to have demonstrated a comprehensive and clear understanding of what this issue means. For instance, Seyyed Hossein Nasr and Andrew Rippin adopt a three-part classification (fundamentalism, traditionalism, and modernism) to describe the main reactions of Muslim thinkers to the modern age. Nevertheless, Rippin believes that "these are theoretical categories only; people, in the realities of their life situations, can rarely, if ever, be fitted neatly into one position or the other" (Rippin, 1993, p. 28).

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Traditionalist approach has been the most popular in many Islamic societies and has existed since the early years of Islamic history, long before the emergence of modernity anywhere. Most of the top rank religious authorities (*'ulama*) in both Sunni and Shi'a religious seminaries adhere to this stance. Prominent theologians and students of jurisprudence, such as Muhammad Sadiq Urumi Fakhr al-Islam (1824-1911), Shaykh Fadlullah Nuri (1843-1909), Muhammad Farid Wujdi (1878- 1954), Ayatollah Sayyid Muhammad Husain Tehrani (1925-1995), and Ayatollah Misbah Yazdi (1935) can be regarded as representatives of this school of thought in modern Iran.

In most of the traditional sources, men are described as superior to women in creation (*takvin*), and this superiority has been taken as the basis for juridical differences between the two sexes. In other words, the superiority of men over women is assumed as a natural fact. In this regard, Tehrani asserts that "in physiology, it has been proven that women are physically inferior to men" (Tehrani, 1978, p.95). Generally, those who conform to this approach have a strict understanding of women's role in public life. They are known by their resistance to women's social participation and by their strict views in favour of the exclusion of women from social spheres (Mihrizi, 2010, p.77).

Secularism is another tendency in the discussion of women's rights in Islam which encompasses a diverse range of scholars from various ideologies ranging from liberalism, nationalism, and communism to Muslim secular feminism. Muslim secularists⁸ became famous for their advocacy of secular thoughts. Its proponents were fascinated by the West and sought the modernity of European civilization. Therefore, they tried hard to bring about modernist reforms so as to accommodate Western ideas and ideology, regardless of the

⁸ There are different meanings for secular Muslim. On the one hand, there are people with Muslim backgrounds who come from Muslim families but are secular and do not practice Islam. On the other hand, there are people who are believers and practice Islam but believe that they should separate religion from politics.

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religious background of Muslim societies. Malkum Khan (1833-1908)⁹ and Mirza Fath Ali Akhundzadah (1822-1874)¹⁰ can be deemed as representatives of the secularists of nineteenth century Iran. Malkum's publications such as *Kitabchih-yi Ghaybi (The Hidden Booklet)* reveal his attitude towards the West. According to him, the only possible way to do reform in Iran is an exact imitation of the West and going through the same way as the European countries had done previously (Malkum Khan, 1948)¹¹. Akhundzadah also sought modernity in Westernisation; however, unlike Malkum Khan, he blamed Islamic traditional beliefs and values. Akhundzadah attacked Islam as he believed that Islam is inherently incompatible with modern ideals of progress (Kurzman, 2004, p.614). His hostility towards Islam made him publish *Maktubat-i Kamal al-Dawlah (Kamal al-Dawlah's Writings)* in which he regards Islam as an obstacle to the spread of civilization among the Muslim masses. He declares, "I therefore set myself the task of sundering the foundation of that faith"(Algar, 1969, p.122)¹².

With respect to women's rights, secular figures such as Akhundzadah demand women's freedom and gender equality in the social sphere. Akhundzadah criticised the Islamic doctrine of *hijab* and found it in contrast to women's freedom. According to him, the revelation of the *hijab* verse led to the eternal imprisonments of half of the population of human beings, i.e. women (Uruji, 2016, p.1).

⁹Malkum Khan was the chief representative of the modernist approach in the Qajar dynasty. He was born in an Armenian Christian family and later converted to Islam. He established the earliest Freemasonry institution on Persian soil, known as Faramushkhanah (Algar, 1970). See also (Algar, 2000).

¹⁰To know more about Akhundzadah, see (Adamiyat, 1970).

¹¹ On this point, see also; (Algar, 1973, p.17).

¹² Therefore, it could be deduced that Muslim secularists hold different views in their perception of religion ranging from the tactical use of religion (Islam) to the total rejection of religion. For instance, Malkum was more cautious and less radical in his approach toward Islamic tradition and criticised Akhundzadah's extremist tendencies. From Malkum's standpoint, Akhundzadah's method of confrontation with religion as demonstrated in his book *The Writings of Kamal al-Dawlah (Maktubat-i Kamal al-Dawlah)* "was unsuitable, for it tended to provoke only hostility and resistance and to encourage the believer to keep his baseless convictions (Algar, 1973, p. 98).

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Secular feminists (of the Muslim background) can be deemed as the largest part of Muslim secularists who campaign for gender equality. Secular feminists “regard Islam as a purely cultural issue”, and understand women’s rights “in largely Western terms” (Jawad, 2009, p.2). Secular feminists find Islam as an oppressor rather than liberator and ask Muslim women to release themselves from religious restrictions by embracing Western secular alternatives (Jawad, 1998, p. viii). Perhaps, this is the main reason why Roald states that “in some cases a secular Muslim might share attitudes and ideals with secular non-Muslims rather than with Islamists. Likewise in some cases religious Christians might share attitudes and ideals with Islamists rather than with secular Christians in their own community” (Roald, 2001, p.70). However, it seems that some secular figures like Haideh Moghissi and Haleh Afshar came to a new understanding and agreed to support Islamic feminists’ movements and interpretations of Islam. For instance, Moghissi, in her analysis of Islamic feminism, asserts that “women’s resistance to patriarchal domination in Islamic cultures must be supported and assisted regardless of the form it takes” (Moghissi, 2011, p.84). Afshar also believes that the development in Iranian women’s role in public life is a result of the cooperation between Islamists and secular women (Afshar, 1998, p.215).

Islamic feminism is another trend which extensively engages with the discussion of women’s rights within the framework of *shari’ah*¹³ law. The emergence of Islamic feminism may be traced back to the late twentieth century (Badran, 2005, p.6). Islamic feminism also embraces a wide range of perspectives and nationalities: however, they all advocate gender equality and justice within the parameters of the religion of Islam. Badran defines Islamic feminism as “a feminist discourse and practice articulated within an Islamic paradigm. Islamic feminism, which derives its understanding and mandate from the Qur’an, seeks rights and justice for women and for men in the totality of their existence” (Badran, 2009, p.242). Islamic feminism can be seen as a new discourse on the global scene which engages with

¹³ *shari’ah*: Islamic law based on the Qur’an and the sunnah of the Prophet (and in a Twelver Shi’a context also on the teachings and interpretations of the twelve Imams)

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independent intellectual interpretations of the primary religious texts. In fact, Muslim feminists criticise the patriarchal understanding of Islam while committing to Islam as “an essential part of their identity” (Jawad, 2009, p.2).

Although Islamic feminists primarily follow the classic Islamic methodologies of *ijtihad* (independent investigation of religious sources) and *tafsir* (interpretation of the Qur’an) (Badran, 2002, p.4), in their understanding of religious texts, they are influenced by liberal and secular thoughts. Hence, in some cases, they try to discuss Islamic juridical rules on specific subjects (such as *hijab*) outside the realm of jurisprudence. In other words, they move from the realm of *fiqh*¹⁴ to other realms such as ethics, history, and sociology. For instance, Mir-Hosseini, suggests discussing the doctrine of Islamic *hijab* in terms of ethical and personal choices for women (Mir-Hosseini, 1999, p.94). Perhaps, this is the main reason why, in the eyes of Badran, the Islamic feminist discourse in Iran draws upon secular discourses and methodologies to strengthen and extend its claims (Badran, 2002, p.4)¹⁵. However, it seems that this approach can be seen more among Iranian feminists who are living in the West.

Another approach taken by Muslim thinkers is known as ‘Islamic reformism’, which developed in the nineteenth century. The *Islah* (reform) movement in the Muslim world was a result of “the cultural movement born of the renaissance”. Sayyid Jamal al-Din al-Afghani (1839–97), Muhammad ‘Abduh (1849-1905), and ‘Abd Al-Rahman Kawakibi (1854-1902) were the pioneers of the Muslim reform of the nineteenth century (Algar, 2020, p.5). However, the reformist movement has continued until today and covers a wide spectrum of

¹⁴ *Fiqh*: Islamic jurisprudence

¹⁵ The secular approach can be found among non-Iranian Muslim feminists as well. For instance, Fatima Merinissi, a Moroccan feminist, in her investigation of the Islamic veil, does not engage with jurisprudential arguments, but rather mainly focuses on historical contexts. She concludes that “it is possible that the *hijab*, the attempt to veil women, that is claimed today to be basic to Muslim identity, is nothing but the expression of the persistence of the pre-Islamic-mentality, the *Jahiliyya* mentality that Islam was supposed to annihilate” (Mernissi, 1987, p. 81). Therefore, it is clear that Muslim feminists are influenced by secular thoughts, though they try to work within the Islamic context.

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Muslim scholars whose positions are frequently determined by embracing change in religious beliefs or “making religion itself subject to change” (Rippin, 1993, p.31).

Despite the diversity of opinions and scope of ideas, consensus can be observed between most Islamic reformists on the issue of the compatibility of Islam with modern notions. As Majeed states, “Although there were some differences between these thinkers, their work was governed by the same project, which was to show that Islam was consistent with the rationality of the European enlightenment and the development of modern science” (Majeed, 2004, p.456). They draw attention to the requisites of the time and the changes that have taken place in the modern era and seek to build bridges between Islam and modernity¹⁶. This trend may be distinguished from other Islamic movements by its rational interpretation of Islam and its enthusiasm for the socio-political and theological themes which have been overlooked by others, themes such as the need for new Islamic theology (based on a rational interpretation of Islamic teachings) (Masud, 2009, p.238), the reawakening of the Islamic world, the unification and development of Muslim nations, social justice, the status of women in Islam, etc.

However, as Hunter stresses, the reformist thinkers “vary in their methodology of analysing Islamic scriptural and legal sources, in their view of the scope for interpretation and in their opinion regarding what aspects of Islamic scripture and laws may be reinterpreted” (Hunter, 2009, p.3). Hence, due to various religious methodologies applied by Muslim reformists, they have taken different approaches to the status of women in Islam. Some thinkers defend women’s rights within the secular feminist framework, as does the Egyptian jurist and reformer Qasim Amin (1863-1960) in *The Liberation of Women (Tahrir al-Mar’ah)*. On matters such as women’s education, seclusion, divorce, polygamy, and *hijab*, he rejects the traditional perspective and asserts that, with a few exceptions, current theologians have manipulated Islam (Amin, 2000, p.65).

¹⁶ On this point, see also (Voll, 1994).

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However, some Muslim reformers such as the Iranian figure¹⁷ ‘Abd al-Karim Soroush (b. 1945) do not extensively engage with the question of women, though his theories of “the accidental of history”, the “expansion of the Prophetic experience”, and social pluralism construct the basis for secular and feminist understandings of religion. Soroush’s methodology of jurisprudence is very different from the traditional one. As Shakouri Rad explains, For Soroush, *ijtihad* means

The cultural translation of the accidental aspects of Islam which were relevant and appropriate to the time and environment of the Prophet into other accidental rules and laws relevant and appropriate for our time and environment. This is called *ijtihad* in *usul* (principles) by him to differentiate it from the traditional *ijtihad*, which according to him, is only “*ijtihad* in *furu* [secondary matters]” (Shakouri Rad, 2009, p.306)¹⁸.

Soroush’s methodology influenced Iranian Islamic feminists who not only ask for the reinterpretation of *shari’ah* laws based on the feminist approach but also they believe that “such revision should be carried out in light of contemporary schools of philosophy and thought” (Ahmadi, 2006, p.43). Iranian feminists try to develop their own feminist-oriented demands based on Soroush’s understanding of religion and Islamic scripture. Mir-Hosseini’s statement can clarify this point. She states that

It was not his position on gender but his conception of Islam and his approach to sacred texts that empowered women in the *Zanan*¹⁹ to argue for gender equality... By now, I could see how his approach to Islam could open up a space for a radical rethinking of gender relations among other issues (Mir-Hosseini, 1999, p.238).

Ali Shari’ati (1933-1977) is another Iranian reformer who engaged with women issues. Shari’ati had a mainly revolutionary understanding of Islam. Hence, in *Fatimah, Fatimah Ast* (*Fatimah is Fatimah*), he tries to present a revolutionary model for Muslim women. However, there are clear indications in Shari’ati’s works that he was influenced by Marxist ideology. In

¹⁷ Ahmad Qabil (1954-2012) and Muhsin Kadivar (b.1959) are also among contemporary Iranian reformists who were educated in traditional religious seminaries, though they developed new understandings of some Islamic doctrines such as women’s head covering (*hijab*) which is in contrast to the *fatwas* of almost all high-ranking religious authorities (*maraji*). The Literature Review of this thesis will briefly explain their views.

¹⁸ To know more on Soroush’s views, see (Soroush, 1998) and (Soroush, 2000).

¹⁹ The *Zanan* was a monthly Iranian women's magazine. It had a feminist orientation and was publication until 2008.

the *Jahatgiri-yi Tabaqati-yi Islam (The Class Orientation of Islam)* and *Ummat va Imamah (Community and Leadership)*, Shari'ati deals with the politics and economics of Islam while employing Marxist terms. He tries to create a link between modern Marxist concepts—such as class struggle, class exploitation, classless society, and imperialism—and the teachings of the Shi'a leaders such as Imam Ali, Imam Husain and Abu Dhar Ghaffari (Bayat, 1990, pp. 5-14). When engaging with the question of women, Shari'ati does not enter into jurisprudential discussion rather, he mainly takes a socio-political approach using revolutionary terminology in order to evoke Iranian women to actively participate in shaping their political destiny against the Pahlavi regime. However, as Dabashi emphasises, Shari'ati blames Shi'a clerics because they failed to present a revolutionary model of Shi'a Imams and did not introduce Fatimah as a role model who could lead Iranian women to a virtuous life of political awareness (Dabashi, 2017, p.123).

Before investigating Mutahhari's ideas about, and different approach to, women's issues, the women's movements in pre-revolutionary Iran will be discussed. This will help to have a better understanding of the reason underlying Mutahhari's engagement with the question of women and the context in which he lived.

1.1 Women's Movements in Modern Iran

In Iran, where the focus of this study lies, women's problems have been discussed publicly ever since the Qajar dynasty in the 19th century. In this era, women participated in various socio-political activities such as opposition to the Reuter Concession (1872), participation in the Tobacco Movement (1890) and supporting the Constitutional Revolution (1905-1911) (Ziba'i Nizhad and Sobhani, 2009, p.142).

The Constitutional Revolution brought major changes to women's life such as modern education for Muslim girls, formation of women organisations and publication of their magazines. In fact, the appearance of women's magazines and organisations provided a

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new opportunity for them to discuss their problems in the diverse fields of education, health, and socio-political activities, such as the right to vote and *hijab*. *Danish* (1910), *Shukufih* (1913) and *Zaban-i Zan* (1918) are some of women's magazines, and *Anjuman-i Nisvan-i Vatan Khah* (*Women's Patriotic Society*) and *Anjuman-i Azadi-i Zanan* (*Women's Freedom Society*) are some of women's organizations during the Qajar era (Ziba'i Nizhad and Sobhani, 2009, pp. 147-151)²⁰.

During the reign of the Pahlavi dynasty, the process of modernization continued on a wider scale than before because its founder, Reza Shah (1878-1944), was in favour of Western-style reforms. Reza Shah's secular policies were highly influenced by the strategies of reform implemented by Mustafa Kemal Atatürk (1881-1938) (Axworthy, 2008, p.226). It is worth adding, however, that the relationship between the Pahlavi Shahs and the religious authorities and clerical systems varied during the course of the Pahlavis' reign. The Shi'a *'ulama* enjoyed the veneration of the religious segment of Iranian society and even the governments. Politicians usually sought to draw the *'ulama's* attention to themselves as a way of strengthening their power. During the early years of the first Pahlavi Shah (1925-1941), Reza Shah, who was well aware of the socio-political power of the *'ulama*, tried to present himself as an advocate of religion by, for instance, making pilgrimages to the holy Shi'a shrines. For this reason, the state and the religious authorities were at first mutually respectful. Later, however, Reza Shah found the *'ulama's* power to be an obstacle to the secularization and Westernization of Iran. Therefore, in 1927, after having consolidated his authority above a sufficient threshold of power, he changed his policy and began to weaken the influence and power of the clerical system, a move which led to a direct confrontation between the secular state and the *'ulama* (Faghfoory, 1987, pp. 414-415)²¹.

²⁰ Since Mutahhari lived in the Pahlavi era, this part mainly focuses on women's movement during that era. However, to know more about the women's movement during the Qajar period, see (Shakouri Rad, 2009, pp. 62-68), (Mahdi, 2004, pp. 427-429), and (Ziba'i Nizhad and Sobhani, 2009, pp. 142-151).

²¹On this point, see also (Davari, 2005, p. 9), (Ja'fariyan, 2007, p.24) and (Abrahamian, 2008 p. 85).

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The Western tendency of the first Pahlavi Shah reached a point where, in 1936, he outlawed traditional, national, customary clothing for adults. Both males and females were forced to wear Western-style clothes (Abrahamian, 2008, p.83). Consequently, Iranian Muslim women faced a compulsory dress code known as *kashf-i hijab*, which banned using the headscarf. However, since, for most Iranian women, the headscarf was highly valued as a religious identity marker, its elimination led to a confrontation between the secular state and devout Muslims. In one incident, when unarmed demonstrators in Mashhad (in 1935) were peacefully protesting against the imposition of a Western style of dressing, the Shah ordered his army to shoot at the crowd as a result of which many were killed and many more injured (Vahid, 2014, pp. 232-234)²².

Although Reza Shah's policy of forcible Western modernisation brought about some social reforms under his dictatorship, all kinds of opposing movements and voices, including women's voices, were suppressed. In 1932, Reza Shah closed down the only remaining independent women's society, *Anjuman-i Nisvan-i Vatan Khah*, but, in 1934, he established *Kanun-i Banuvan* (Ladies' Centre) under government control to begin a series of welfare services for women (Mahdi, 2004, p.430). Secular feminists were suspicious about the Shah's reformist measures regarding women's situation, such as free education and prohibition of headscarf. According to Paidar, "these measures had been demanded by many constitutionalists and feminists since the turn of the century, and, by implementing them, the state took the initiative on women's issues away from independent socialists, liberal nationalists, and feminists" (Paidar, 2007, pp. 54-55).

In 1941, after Reza Shah's forced abdication, his son, Muhammad Reza, took power. Women's movements during the second Pahlavi king's reign could be divided into two eras: before and after the CIA-led coup of 1953 (known as the Murdad 28 coup against Prime

²² For more on this point, see ('Aqili, 2001) and (Abrahamian, 1982 p. 152)

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Minister Musaddiq). In the first years of Muhammad Reza Shah's reign (1941-1953), due to the occupation of the country by the Allied forces in World War II, the state experienced a decline of power, and, consequently, Iranian society found some political freedom (Abrahamian, 2008, pp. 97-100). For instance, in 1943, Ayatollah Sayyid Husain Tabatabai Qumi (1845-1947) wrote a letter to Shah and asked for the cancelation of the state ban on the headscarf. As a result, women were free to wear the headscarf, and some of them chose to put the headscarf on while others, who had experienced the Western dressing style, refused to wear it. As Ziba'i Nizhad points out, the most important difference between the first and the second Pahlavi kings' *hijab* policies originated in the fact that, in the era of Reza Shah, removing the headscarf was enforced by the state army while, in the reign of Muhammad Reza Shah, it was widely spread by propaganda (Ziba'i Nizhad and Sobhani, 2009, p.163).

Before the CIA-led coup, various women's magazines and organizations had emerged in the social arena of Iran demanding improvement in the women's situation. *Huquq-i Zanan* (Women's Rights), *Azadi-yi Zanan* (Emancipation of Women) and *Qiyam-i Zanan* (Women's Revolt) are some of the women's magazines published in the late 1940s and early 1950s which aimed to defend social justice and women's rights (Paidar, 1995, p.126). Moreover, many women's organizations tried to gain the support of the political parties. During the 1940s, the pro-Soviet Communist party, known as *Hizb-i Tudeh*, was one of the most active political parties in the country. *Tashkilat-i Zanan-i Iran* (The Organisation of Iranian Women) of the Tudeh party was the largest women's organization of the time, which was founded in 1944. In addition to Tudeh, other leftist groups were active, such as *Hizb-i Zanan* (Women's Party) *Jam'iyyat-i Zanan* (Women's League) and *Sazman-i Zanan-I Pishru* (Progressive Women's Organization). These women organizations asked for equal pay for equal work by men and women, women's suffrage, maternity leave and establishment of nurseries (Ziba'i Nizhad and Sobhani, 2009, p.165).

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In the Oil Nationalization Movement (1951), women played a significant role although the primary focus of the movement was on socio-political demands, not on women's issues. Nevertheless, Muhammad Musaddiq (d.1067) the nationalist prime minister (1951-1953) and the leader of the movement, was overthrown in a CIA-led coup in 1953 (Risen, 2000, p.1)²³. As Keddie points out, after the deposition of Musaddiq, "there was a return to an ever more autocratic royal rule under Muhammad Reza Shah, who again homogenized women's organizations and created an umbrella organization with royal patronage" (Keddie, 2000, p.405). In 1958, *Shuray-i 'Ali-yi Jam'iyat-i Zanan* (The High Council of the Society of Women) was established by the state under the leadership of the Shah's twin sister, Ashraf. This Council had a secular approach and, therefore, was welcomed by secular feminists who found its activities in line with their needs and joined it.

The 1960s and 1970s were marked by the growth of a significant number of active secular and feminist publications and organizations. These included such journals as *Zan-i Ruz* (*Women of Today*), *Javanan* (*Youth*), *Dukhtaran va Pisanan* (*Girls and Boys*) and *Ettala'at-i Banuvan* (*Women's Information*), which campaigned for the right to a modern secular education and right to vote, while at the same time criticising *shari'ah* laws concerning marriage, divorce, *hijab*, and polygamy. In other words, before the revolution, women's secular publications mainly concentrated on the "promotion of Western culture, fashion, and family issues" (Farhadpour, 2012, p.95).

In 1966, the secular Women's Organization of Iran (WOI) was founded under the presidency of the Shah's twin sister, Ashraf, and the Queen's mother, Faridih Diba. By 1978, the organisation had more than 400 branches in various cities. The most important achievement of the WOI was the enactment of the Family Protection Law (FPL) in 1967 and its amendment in 1975. The law altered Iran's civil codes on the age of marriage, the custody of children, polygamy, and divorce. For instance, with respect to polygamy, as Paidar points

²³ To know more about Musaddiq, see (Katouzian, 1999).

out, although the law did not prevent a man's second marriage, it secured the first wife's right in these circumstances to ask for a divorce (Paidar, 1995, pp. 152-154)²⁴. The Family Protection Law introduced a modern legal change to the status of women which was quite different from the one advocated by the predominant conservative understanding of Islam, and, in some fields such as divorce and polygamy, the new status stood in contrast to this understanding of *shari'ah* law²⁵. As a result, the ratification of the new law (FPL) created a wave of debates in Iranian society. As reported by Ziba'i Nizhad, Ayatollah Khomeini strongly criticised the new divorce law and issued a *fatwa* which said "women who are divorced in the family court (based on the FPL) should consider their divorce as null. They are still considered married, and, if they remarry, they have committed adultery" (Ziba'i Nizhad and Sobhani, 2009, p.170). As a consequence, a vigorous debate developed in women's magazines such as *Zan-i Ruz*, mostly encouraging the changes. *Zan-i Ruz* published articles by the judge Ibrahim Mahdavi Zanjani asking for the Iranian civil law on family rights to be revised. He published a draft for the new law and wrote forty articles asserting his approval for this modification (Dabashi, 2017, p.206). The new law was not welcomed by the religious authority of the time and impelled them to react.

1.2 Clerical Responses

Iranian traditional Shi'a religious scholars, who encountered these socio-religious challenges, took diverse approaches as they examined the status of women in Islam in different frameworks. At least two perspectives were more conspicuous than others: a conservative traditionalist view and a rational-philosophical one²⁶.

²⁴ On this point, see (Shakouri Rad, 2009 Pp. 80-81) and (Afary, 1996 P. 39).

²⁵ In some areas such as inheritance and passport laws, the Family Protection Law did not change the previous civil law at all.

²⁶ In addition to the aforementioned religious approaches, there was another view known as "political Islam", which was manifested in the writings of Ali Shari'ati. One of the significant features of Shari'ati's political ideology concerned the question of women in Islam. In his *Fatimah is Fatimah*, he avoids getting involved in juridical discussions, but rather historically investigates the life of Fatimah, the Prophet Muhammad's daughter,

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The first approach supported the traditional understanding of Islamic sources and rejected any new ideas coming from the West (Subhani, 2011). The traditionalists approached women's rights and feminism with negative presuppositions and extensively criticised them in their writings. In this regard, Muhammad Hasan Mazandarani (d.1971), in *Hijab: Pardih-yi Dushizigan (Hijab: A Curtain for Young Women)* asserts that women's movement in the West, in fact, worked against women's freedom, as many young women had to work in factories for little income (Ja'fariyan, 2001, p.171)²⁷. The traditionalist tendency was dominant in Iranian society from the Constitutional Revolution days until 1960 and could be found in various Islamic sources, including Qur'anic exegesis, as well as historical, theological, juridical, ethical, and mystical writings (Mihrizi, 2010, p.56)²⁸.

The second approach started in the early 1960s and was mainly manifested in the writings of 'Allamih Tabatabai (1904-1981) and Ayatollah Mutahhari (1919-1979)²⁹ and was later continued by scholars such as Ayatollah Javadi Amuli (b.1933). This group investigated the psychological and physical differences between the two genders according to philosophical and rational principles. For instance, Mutahhari evaluated and explained familial rights according to the theory of natural rights and the principle of justice (Mutahhari, 2002c). In addition, this approach supported the public life of women and their social activities at a time

who, according to Shi'a beliefs, is the best of all women in the world. He also points out some issues about the oppression of women (Shari'ati, 1971). On this point, see also (Paidar, 1995, pp. 178-179).

²⁷ Rasul Ja'fariyan, a contemporary Iranian scholar, gathered the most renowned works on the issue of *hijab* (including books, articles and treatises) written by religious authorities during 1911 to 1968. Ja'fariyan's work is entitled *Rasa'il-i Hijabiyih, Shast Sal Talash dar Barabar-i bid'at-i Kashf-i Hijab (Treatises on Hijab: Sixty years of effort against the heresy of the eliminating of hijab)*. Since most of these sources are unavailable to all and only found in a few famous libraries, researchers could not borrow them for study. Ja'fariyan's work paved the way for easy access. Therefore, in this study, *Rasa'il-i Hijabiyih* has been referenced due to the unavailability of the original sources.

²⁸ *Risalah fi Wujub Hijab (Treatise on the Obligation of Hijab)* (Fakhr al-Islam, 1910), *Mutahhari's Responses to Criticisms of The Question of Hijab* (Mutahhari, 2014c), *Women and Election (Zan va Intikhabat)* (Qurbani, 1960) and *Tumar-i 'iffat (The Letter of Chastity)* (Najafi Jilani, 1993) are traditional sources.

²⁹ The rational-philosophical approach of 'Allamih Tabatabai to women can be found in his interpretation of Qur'anic verses in *Al-Mizan* concerning women's issues, such as verse 4:34 or 2:228. Ayatollah Javadi Amuli, (b. 1933) a contemporary Iranian jurist and philosopher, takes a rational-philosophical approach as well. His ideas about women are given in his book *Zan dar Ayinih-yi Jamal va Jalal Ilahi (Woman in the Mirror of Glory and Beauty)*. In the next chapters, Tabatabai's and Javadi Amuli's views will be explained.

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when religious women had no such rights and mostly led a life of seclusion because of the prevalent unjust norms and *fatwas*.

Religious authorities felt obliged to respond to the phenomenon of secularisation propagated by the Pahlavi regime, which questioned Islamic juridical rules about women's issues. From Davari's perspective, undoubtedly, "Mutahhari, as an eminent jurist, appeared to be the most suitable candidate for this task, and so, all hopes were pinned upon him" (Davari, 2005, p.33). Under an agreement with the journal *Zan-i Ruz*, Mahdavi's defence of his forty-point proposal was published in a series of articles, with Mutahhari's articles supporting the retention of the Islamic civil laws published in the same issues in response to the proposal. In December 1966, Mutahhari and Mahdavi started to write their arguments. Six weeks later, Mahdavi died of a heart attack; however, Mutahhari continued to write. Later, in 1974, Mutahhari published *Nizam-i Huquq-i Zan dar Islam (The System of Women's Rights in Islam)* as a collection of these articles. Mutahhari's arguments engaged widely with the question of women. He took a different approach to the new family law in comparison with other traditional religious authorities. He neither rejected nor affirmed all the proposed changes implemented in the Family Law. Rather, as he wrote in his letter to *Zan-i Ruz's* editors, he declared his readiness to defend the Civil Law as far as it was in agreement with Islamic jurisprudence (Mutahhari, 2002c, p.25).

Mutahhari's approach in *The System of Women's Rights in Islam* is important for two reasons. First, by publishing articles in a secular journal, he paved the way for direct dialogue between secular and religious thinkers on questions concerning women. At that time—namely, before the revolution—the publication of the ideas of a very important clerical figure such as Mutahhari in a secular journal was something of a rarity. As Dabashi states, "[Mutahhari] was given an unprecedented opportunity to communicate directly to one of the most secularized segments of the Iranian youth. His previous audience was primarily likeminded Muslim students and their professional parents" (Dabashi, 2017, p.207). Second,

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Mutahhari's stance in his book is clearly that of a theologian-philosopher, as suggested by the following passage, in which he places himself within the philosophical framework of a debate on family rights:

Our discussion has a completely philosophical orientation. It is linked with the philosophy of rights as well as [being] based on the principle of justice, which is one of the chief pillars of Islamic theology and jurisprudence. The principle of justice constructs the harmony between reason and religious verdicts ... Islamic *shari'ah* never leaves the axes of justice and natural rights (Mutahhari, 2002c, p.124).

Therefore, Mutahhari engaged in women's issues and the challenges which women had faced in the modern world. It is clear that Ayatollah Mutahhari does not fit in the category of secularism or Islamic feminism as he does not share the same basis with these ideologies. As explained above, Islamic secularists blame Islam for being anti-gender equality and try to find the path to gender equality within a Western secular approach. Mutahhari is different from Islamic feminists. From the very beginning, Mutahhari engages with jurisprudential discussions while Islamic feminists primarily investigate gender inequality from historical, psychological, and socio-political perspectives.

Mutahhari cannot be placed in the category of traditionalists, either, due to his awareness of change over time. In fact, the significance of Mutahhari's views is partly due to his consciousness of the effects of the times and current issues, which are mostly neglected by the traditionalists. For this reason, some scholars have named him '*mutifakir-i 'asri*' (a modern intellectual) (Nasri, 2010b, p.604). In addition, although Mutahhari shares the same jurisprudential principles (*usul-i fiqh*) with traditional jurists, his *ijtihad* methodology is different from theirs. His emphasis on philosophical principles, such as the notion of natural rights and justice, demonstrates how far his philosophical interest influenced his religious understanding. Particularly, his approach to the principle of justice has considerably distinguished him from the traditionalist jurists since he takes justice as a meta-jurisprudential

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principle, implying that *mujtahids*' understanding of primary religious sources has to conform to the principle of justice; otherwise, their religious decrees would be iniquitous.

Therefore, in this research, Mutahhari is placed in the category of Muslim traditional reformists. As explained earlier, although Muslim reformists vary in terms of their methodology in the interpretation of Islamic sources, they unanimously argue that Islamic thinking needs to be reinterpreted in accordance with change over time. Hence, since Mutahhari followed the traditional *usuli* principles in jurisprudence, in this research, he has been considered as a rationalist traditional reformer, who, within the traditional framework, developed new ideas on different Islamic discourses, including women's issues. It could be argued that Mutahhari is a middle-ground thinker between traditionalists and reformists, implying that by applying the traditional *usuli-i fiqh's* principles³⁰, he developed reformist thoughts.

Many scholars have worked on gender equality and women's rights from the perspective of Muslim traditionalists, secularists, feminists, and modern reformists. However, the contribution of Muslim rationalist traditional reformers (such as Mutahhari) to gender issues, which does not fit in the aforementioned categories, has been ignored, especially in the contemporary academic scholarship of the West. Seemingly, the assumption (particularly in the West) that the Islamic Revolution of Iran has been a source of the oppression of women has led people to think that figures like Mutahhari, who is known as one of the theorists of the Revolution and a close friend of Ayatullah Khomeini, could not possibly support women's right. The negative approach toward the effect of the Islamic Revolution on the status of women is clear from the following statement:

Their [secular women] struggle has enormously contributed to the contest against the clergy's everyday attempts to marginalize women from social life, impose the veil as a barrier separating women physically from men and deprive women of their rights as citizens, mothers and wives (Ahmadi, 2006, p.34).

³⁰ *usuli-i fiqh's* principles: Islamic jurisprudential principles (the Qur'an, sunnah, reason and consensus).

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Mutahhari found the question of women's roles and rights in Islam a crucial socio-religious issue which engaged the minds of many young people and religious families. Since the need to understand changes over time was one of his main concerns, he carried out an extensive study on the status of woman to provide reasonable answers to them. Mutahhari believed that the status and rights of women in Islam needed further investigation and reform. Former president, Khatami (b.1943)³¹, praises Mutahhari's books for this and notes that he defended the dignity of Muslim women when they were under great pressure from both traditionalists and modernists. In the socio-religious environment of pre-revolutionary Iran, Mutahhari affirmed his approval for women's social activities, although thirteen years after the Islamic Revolution, there was still pressure to preclude women from public life (Khatami, 2000, p.120)³².

Mutahhari did not question Islam, did not support the acceptance of every change or claim that Islamic laws might be transient. Rather, he sought to clarify the philosophy behind the Islamic rules, addressing the misunderstandings and misinterpretations among intellectuals and the public which needed immediate attention. He presented his views on the status of women in five books: *Nizam-i Huquq-i Zan dar Islam (The System of Women's Rights in Islam)* (1974), *Mas'alih-yi Hijab (The Question of Hijab)* (1969), *Zan va Masa'l-i Qadai va Siyasi (Women and Juridical and Political Issues)*(2012), *Khanivadih va Akhlaq-i Jinsi (Family and Sexual Ethics)* (2019), and *Nizam-i Khanivadigi-yi Islam (The System of Family Life in Islam)* (2019). In some of his other writings, such as *Akhlaq-i Jinsi dar Islam va dar Gharb (Sexual Ethics in Islam and the Western World)* (1966), he also brings in the question of women. It is worth noting that I use the aforementioned books as the main sources in my research: therefore, my PhD is the first academic study in English on these books. In addition, since the three books of *Zan va Masa'l-i Qadai va Siyasi*, *Khanivadih va Akhlaq-i*

³¹ The former president of Iran, who is well-known as a reformer.

³² This speech was delivered thirteen years after the Islamic Revolution.

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Jinsi, and Nizam-i Khanivadigi-yi Islam were published recently, I have used material in my thesis that previous researchers have not had access to.

In the above writings, Mutahhari clarifies various matters including women and their social independence, the human status of woman in the Qur'an, the natural basis of family rights, the differences between women and men, the equality but not uniformity of the two sexes, the history of *hijab* in other nations, the cause and origin of *hijab*, the rationale for *hijab* in Islam, women's suffrage, women's political participation, and their right of issuing *fatwas*. It should be noted that, although Mutahhari tried to cover controversial issues related to women's rights in Islam, he ignored some of them, such as the question of 'blood money'³³. This neglect may have been due to the socio-religious situation of his time. Zolghadr, for example, believes that it is not an intellectual characteristic of Mutahhari to simply miss out such an important matter. Possibly, the socio-religious climate of the seminary was not ready for all his ideas, so that he remained silent about specific issues. The traditionalist criticism of his book, *The Question of Hijab*, illustrates the dominant views of the seminaries at the time and the opposition of traditionalist clerics to his ideas (Zolghadr, 2005, p.40).

Whatever Mutahhari's subject, the value of his argument is partly due to his rational approach. He was eager to demonstrate the reason behind every rule and exerted his efforts to reveal their intellectual rationale to the readers when most Shia clerics were interested in nothing more than juridical and legal discussions. In other words, he changed the traditional style of debate from specialised jurisprudence to that of rational and philosophical arguments that appealed to young educated Iranian Shi'a Muslims. It seems that Mutahhari realised that presenting arguments solely based on tradition would not work and that, in the context of modern Iranian society, more intellectual arguments needed to be developed. Therefore, most of his discussions were based on two factors: the principle of justice and the philosophy

³³ Blood money, or *diyah*, is a certain sum of money paid to the victim or his/her family when somebody is injured or killed in a conflict. However, in *shari'ah* law, the *diyah* of a woman is half of that of a man.

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of natural rights. In the next chapters, his rational-philosophical approach will be explained. As a result of his new approach to the question of women, he suggested some new ideas which were different from the *fatwas* common at that time. His role in allowing women into public life should not be ignored. In pre-revolutionary Iran, when traditionalists recognized family life as the only realm for women, Mutahhari discussed their participation in politics and their right to issue *fatwas*, which has traditionally belonged to Muslim male scholars of the highest ranks (Mutahhari, 2012c). In other words, Mutahhari approved women's rights to *fatwas* when this was -and still is- the exclusive right of men. Mutahhari's writings criticise a number of unfair norms and *fatwas* pertaining to women's issues. From his perspective, there is a huge difference between the Quran's attitude to the rights of women and the attitude found in the *hadiths* (traditions), jurists' *fatwas*, and common norms in Muslim societies. He asserts,

Regarding the issue of women's rights, I see that the Qur'an's doctrines are on a supreme and excellent level. When I compare them with the hadiths, I realize that the Muslim traditions are not on the same level as the Qur'an. And when I refer to Islamic jurisprudence, I realize that it has been affected by personal life and the context of the jurists' lives. And the lowest level is that of the Muslim masses' understanding and practice (Mutahhari, 2010c, p.566).

In exploring Mutahhari's writings, it becomes clear that his critics follow a methodology of *ijtihad* which is different from his. In the third chapter, Mutahhari's methodology in *ijtihad* will be elaborated. By emphasising rational principles such as justice and the philosophy of natural rights, Mutahhari aims to establish theoretical grounds for the debate on women's rights in Islam. In doing so, according to many, he succeeds in expressing Islamic ideology and principles clearly. To Nasri, Mutahhari's discussions never become out of date since his argument is based on philosophical principles and an anthropological approach to the issues related to women (Nasri, 2010b, p.346)³⁴.

³⁴ On this point, see also (Davari, 2005) and (Zolghadr, 2005).

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Although Mutahhari is known as the ‘theoretician of Islamic rule’ (Davari, 2005) or the ‘ideologue of the Islamic Revolution of Iran’ and had a close relationship with Ayatollah Khomeini, the post-revolution state has not put all his ideas in practice. For example, Mutahhari’s views on women’s right of issuing *fatwas* or the right of taking governmental positions has not been respected and practiced as suggested by him. With respect to women’s right of issuing *fatwas*, both political and religious authorities think that women cannot be *muftis*³⁵.

Therefore, although some of Mutahhari’s ideas need to be criticised, the present study concentrates on his work because, as will be shown in the following chapters, it could make valuable contributions to the contemporary discussion of women’s rights in Shi’a communities and more precisely in Iranian society. Mutahhari’s contributions, as will be seen, originate in his approach to requirements posed by changing time and the need for reform in Islamic thinking, particularly on women’s rights. It should be noted that by developing new ideas on women’s issues within the Islamic framework, Mutahhari proves that, by the aid of a progressive *ijtihad* and based on the primary religious sources, new *fatwas* can be formed and issued. In other words, building upon his awareness of the different Islamic fields, the effects of time and socio-political, cultural, and religious backgrounds of Iranian society, Mutahhari founded an intellectual religious movement which pervaded a variety of areas, including women’s rights. This is perhaps the reason why he was called by other intellectuals as ‘the ideologue of the Islamic Revolution’ (Khamenei, 1985, p.309)³⁶ and ‘an architect of modern Islamic theology’ (Davari, 2005, p.31).

Mutahhari’s views on women’s rights in Islam can be divided into three groups. The first category of his views include those in which **he agrees with a number of current *fatwas***, such

³⁵ Mufti: “Mufti Jurist capable of giving, upon request, an authoritative although nonbinding opinion (fatwa) on a point of Islamic law. These opinions are generally based on precedent and compiled in legal reference manuals. In Twelver Shiism an analogous role came to be played by a mujtahid” (Esposito, 2003).

³⁶ Ayatullah Khamenei stated that ‘Mutahhari’s writings have formed the theoretical foundations of our (Islamic) Republic’ (Davari, 2005). See also (Tahiri, 2009).

as *fatwas* related to dowry, *hijab*, etc, although he disagrees with the traditionalists on the style of *hijab* for women. In his book, *The Question of Hijab*, he presents a new style of *hijab* for Muslim women which is more convenient for them (Mutahhari, 2009b). Mutahhari believes that the doctrine of Islamic headscarf originated from Qur'anic verses, though, during the history of Islam, it was implemented too strictly. By examining primary religious sources and *fatwas*, he clearly explains Islamic *hijab* and its boundaries within the traditional *usuli* framework. Although he does not confirm any specific mode of Islamic *hijab*, as Davari points out, Mutahhari "modified the monopoly and piety of the customary *hijab*, namely, the *chadur* and *ruband* or *niqab*. He consequently endorsed the new representation of religious covering -headscarfs and *manteaus*- which became increasingly popular with working and educated women" (Davari, 2005, p.36) .

There are also some views in which he distinguishes between Islamic doctrines and current traditions and ways of life in Muslim communities. According to him, some doctrines have either been misunderstood or have been mixed with later social and cultural traditions and turned into oppressive rules under the name of Islam. These include some responsibilities imposed on women in family life, e.g. considering housework and childcare as women's exclusive responsibilities and neglecting women's social and financial independence (Mutahhari, 2002c) . The third group of his ideas are those in which he asserts that some *fatwas* in jurisprudence are not strong enough to be accepted: for example, women's being precluded from social activities, education, the right to issue *fatwas* and some traditions concerning marriage (Mutahhari, 2012c).

1.3 Aims and Objectives

This research aims to analyse Mutahhari's views on women's social participation and issuing *fatwas*. Mutahhari is selected for this research because most academic research on gender issues in Islam have focused on traditionalist, secularist or Islamic feminist reinterpretations

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while the ideas of middle-ground Muslim traditional reformers such as Mutahhari have been overlooked. In fact, research on women's rights in Islam has either focused on patriarchal norms as endorsed by traditionalist scholars or on the discourse of Muslim feminist authors. My thesis, however, introduces another figure into the debate who used the jurisprudential and philosophical sources of Shi'a Islam to formulate a middle-ground stance between these two positions.

On the one hand, Mutahhari worked within the traditional Shi'a *usuli* school, and, on the other hand, he developed reformist ideas in various Islamic fields, including women's issues. Mutahhari's contributions, as will be seen, originate in his jurisprudential methodology. He benefited from a combination of jurisprudential and philosophical perspectives, that is, although he discussed the issues within the *usuli* traditional framework, he applied the philosophical principles of justice and natural rights to his argument as meta-jurisprudential principles. In fact, he used these philosophical principles to make legal judgements. As we will explain later, what distinguishes Mutahhari from other traditional jurists is his understanding of the role of reason in the process of *ijtihad* (jurisprudence). Mutahhari does not have an instrumental understanding of reason. He does not use reason to develop his argument and to convince his audience, but rather as a category outside *fiqh*. It could be said that, to Mutahhari, '*aqi*' is the criterion which helps determine the validity of legal judgements while many traditionalist jurists make instrumental use of '*aqi*' (reason) to develop their arguments; that is, when they refer to '*aqi*', they, in fact, refer to logical reasoning. In other words, Mutahhari is among modern scholars who believes in the independent judgment of '*aqi*' and refers to it as "an independent rational indicator" or "independent rationality" (Bhojani, 2015, p.32).

Most of the research conducted on Mutahhari's view within the Iranian Shi'a context concentrates on his thoughts about gender issues within the family and his theory of the 'equal but dissimilar rights of men and women in the family sphere'. On the other hand,

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Western scholarly research focuses more on the views of secularist and Islamic feminists than on the conservative traditional approach. Therefore, there exists an academic gap regarding the ideas of rationalist traditional reformers such as Mutahhari about gender related issues, particularly his revolutionary opinion about the women's right of issuing *fatwas* and taking high-ranking governmental positions. Hence, this research concentrates on Mutahhari's approach to women's social participation and right of issuing *fatwas*. Mutahhari's influence is not confined to specific social or religious groups, but rather, he is one of the most respected intellectual and religious figures among various groups ranging from high-ranking jurists, such as Ayatollah Khomeini, to modern intellectuals, such as Seyyed Hossein Nasr, as well as political figures, students and ordinary people in contemporary Iran. His thought is not restricted to Iranian society, either, since some of his books have been translated to thirty languages and in some other countries, such as Iraq and Lebanon, he is still considered a prominent figure in Shi'a communities.

This thesis investigates his novel approach to jurisprudence as well. As a matter of fact, there are different *ijtihad* methodologies within the Shi'a *usuli* school which result in diverse understandings of women's rights in Islam. This study reveals that, although Mutahhari was brought up and educated according to the standards of the *usuli* school of *fiqh*, his rational and philosophical approach deeply influenced his understanding of religion. By exploring his writings, I investigate Mutahhari's methodology of *ijtihad* in his approach to women studies to scrutinise his ideas about women's right of issuing *fatwas* and reveal the jurisprudential and theoretical grounds for his position on this issue. Finally, Mutahhari's stance regarding women's political participation, particularly their involvement in governmental positions and leadership, will be delved into. This will help to clarify that his *ijtihad* methodology paves the way for women's participation in different social activities and, more precisely, their political participation.

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This research, like other academic writings, pursues a number of secondary objects as well, namely, to make a contribution to understanding the socio-political and intellectual situation of Iran at the time of Mutahhari as the context in which he lived and to position him and his contribution therein, and also to explain the importance of the principle of justice and philosophy of natural rights (the theory of *Fitrah*) in Mutahhari's jurisprudential methodology and clarify how he utilised these principles in support of women's participation in social activities. This will also help to establish how Mutahhari's approach to the principle of justice and the philosophy of natural rights makes for distinctions between his views on women's rights and those of other traditional jurists. Lastly, this study will scrutinise Mutahhari's theory of freedom to find out how it shaped his understanding of women's social rights.

This thesis focuses on investigating the social status and rights of women only from the perspective of Ayatollah Mutahhari, but, for a better understanding of Mutahhari's views, the ideas of traditional jurists on the relevant topics will be explored. Investigating the conservative approach will help with understanding how Mutahhari, while having the same educational background, distances himself from the views of the traditionalist scholars. This research does not have an Islamic feminist approach, either, and investigates the issues within the jurisprudential *usuli* school while adhering to Mutahhari's philosophical principles as well.

1.4 Research Methodology

This study is based on library research and textual analysis. I focus on one question: how are women's rights in Islam (particularly their social rights) presented in Mutahhari's writings? Or, to put it differently, what is Mutahhari's contribution to the role of public life of Muslim women (especially Iranian women)? This thesis engages in an analysis of Mutahhari's corpus of writings and will bring it to bear on the issue of women's public roles and rights. This

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research, presents a critical review of Mutahhari's work undertaken with reference to contemporary Iranian Shi'a traditional school of thought.

Firstly, more than 100 works by Mutahhari were studied. One should bear in mind that, although some of his writings particularly focus on women's issues, in many of his other works, he raises relevant subjects which need to be taken into consideration. Next, all the relevant material on women's role in public life available in his books and in the works of other scholars who wrote about Mutahhari's views on women's issues were studied. In addition, the views of other contemporary conservative scholars opposing Mutahhari's views were collected. Thirdly, this thesis gives an account of the framework in which Mutahhari explained his views. In this process, it was recognised that his ideas are developed on three philosophical bases of natural rights, the principle of justice and theory of freedom. The primary sources regarding Mutahhari's viewpoint on women are confined to his books. However, throughout the thematic analysis, this thesis engages critically with the literature on Mutahhari's work which includes material written in English and Persian.

1.5 Structure

My study is comprised of six chapters, including the introduction and conclusion. Chapter two is a sketch of Mutahhari's life and thought. I begin by presenting a brief outline of his education in Mashhad and Qum in order to delineate the intellectual atmosphere of Mutahhari's time and the context in which he lived in his early life. The second part of the chapter will discuss his life in Tehran. An analysis of Mutahhari's life in Tehran leads me to look at this period from two perspectives: first, his formal academic career and, in particular, his professorship at the University of Tehran, which paved the way for him to join academic circles and be in touch with the trends of modern thought; and second, his intellectual reformist activities in Tehran.

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The third chapter will examine Mutahhari's juridical and philosophical methodology. This chapter is divided into three sections. The first part presents Mutahhari's methodology in women-related debates. Exploring his writings, one can observe that he develops his arguments on the basis of juridical-philosophical principles which allow him to deal with different aspects of gender-related issues. Mutahhari, benefited from a particular jurisprudential methodology (*ravish-i ijthadi*) which shaped his understanding of religious sources. Therefore, the first part of the chapter displays his approach to the jurisprudential principles (*usul-i fiqh*), and the second part of the chapter investigates the theoretical-philosophical basis of his views on women's social participation. Exploring Mutahhari's writings show that three fundamental concepts construct the basis of his views on women's role in public life: the principle of justice, the philosophy of natural rights, and his definition of freedom. Therefore, this part reveals that Mutahhari's understanding of social justice is connected to his theory of natural rights and his definition of freedom. The last section illustrates how his rational approach distinguishes his contribution to the question of women's rights in Islam from the prevalent traditional approach. First, Mutahhari investigates the underlying reasons behind patriarchy and then, as a rationalist traditional reformer, criticises some of common unfair norms and *fatwas* regarding women's rights. This part also demonstrates how Mutahhari has benefited from the philosophical study of natural rights to justify the different jurisprudential rules pertaining to men and women in *shari'ah* laws.

Chapter four will explain Mutahhari's views about women's right of issuing *fatwas* (religious verdicts). This will make for a better understanding of Mutahhari's approach to the possibility of women becoming top-ranking religious authorities and reveals how his ideas differ from the dominant traditional views of his time. In this chapter, the arguments of the opponents and proponents of women's right of issuing *fatwas* will be examined. Subsequently, Mutahhari's approach will be analysed in detail. The right of women to issue *fatwas* is one of the controversial subjects among Muslim jurists. In pre-revolutionary Iran, when a traditional

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approach was prevalent in the religious circles, due to the socio-cultural conditions, religious women were confined to the sphere of family. Therefore, the dominant atmosphere did not allow such questions to be raised although it did not prevent Mutahhari from expressing his understanding of the religious authority women can exercise.

Chapter five explores the views of Mutahhari regarding women's socio-political participation. His views are a combination of his juridical, historical, philosophical, and interpretive approaches to the question of women. Although Mutahhari has not directly criticised any specific traditional jurist, it is obvious that he primarily engaged with the conservative *'ulama* and used different approaches to refute their claim that women have no role to play in public life. Therefore, for a better understanding of Mutahhari's ideas, the opinions of the traditional jurists who opposed women's right of political participation will be given, too. This chapter also intends to clarify different kinds of socio-political participation from Mutahhari's perspective, ranging from participating in public demonstrations and voting to holding governmental positions.

The present study may be considered unique in the sense that, even if some research has been conducted on specific issues regarding women in Islam from Mutahhari's perspective, there is still no comprehensive account of Mutahhari's thought as applied to the status of women which delves as an interrelated unity into the main issues of women such as social justice, freedom and natural law (*fitrah*). Therefore, the contribution of this research can be summarised as follows. Firstly, it provides an in depth analysis of Mutahhari's approach to women's right of participating in social activities and the right of issuing *fatwas*. Secondly, it demonstrates that a different *ijtihad* methodology, even within the framework of traditional primary sources, can lead to new ideas. Thirdly, this study illustrates how Mutahhari distances himself from the views of the traditionalists' scholars. To this end, the traditionalist approach especially on the two issues of women's right of delivering *fatwas* and their right of participating in socio-political activities are discussed. Some research has been done on

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Mutahhari's views on women's right in Islam; however, to the best knowledge of the author, there is no research that investigates his approach in comparison with conservative views. Having traditional views in mind will help to have a better understanding of Mutahhari's *ijtihad* methodology and his distinct opinions. Moreover, Ayatollah Mutahhari and his thinking are under-researched in Western academia, and, therefore, further investigation into Mutahhari's ideas is needed in order to introduce his thoughts to the academic world of the West.

To understand Mutahhari's ideas, one needs to be well familiar with his *ijtihad* methodology and the social-intellectual context in which he lived. Mutahhari is unique in his approach as he investigates the rationale for Islamic juridical laws concerning women's issues within a framework that involves the philosophy of natural rights and the principle of justice while working within the *usuli* jurisprudential school. Drawing on the above principles, he makes a distinction between family and public life when it comes to discussing the rights and roles of Muslim women. Then, he concludes that, as far as public life is concerned, all individual humans benefit from equal and identical (similar) natural rights, and their differences are due to their acquired rights which depend upon their performance and upon how good they are at fulfilling their responsibilities (Mutahhari, 2002c, p.147). However, to his mind, the sphere of the family should be examined with respect to the 'philosophy of natural rights. The law of nature puts family members (male and female) in dissimilar positions.

Although Mutahhari asks for women's social participation, tries to pave the way for their active role in public life, and appreciates women's role in the Islamic Revolution, he believes that the primary role of a woman is to be a good mother and wife. Nevertheless, for a thinker like Mutahhari, with a traditional background resulting from being brought up in a traditional religious family and educated in a traditional religious school, the idea of women's right to social activities and right of issuing *fatwas* are quite revolutionary. In fact, the importance of Mutahhari's approach lies in the fact that he introduces philosophical principles that can be used to secure more rights for women. Therefore, it is possible to achieve some kind of

fundamental change in terms of how we can conceptualise the *usul-i fiqh* to argue for more rights for women. In other words, Mutahhari has laid the foundations for re-interpreting the social status of women within a reformist Islamic framework which other scholars can pick up today and develop further.

1.6 Review of Literature

Much has been written about the status of women in Islam. Many scholars with various socio-political and philosophical perspectives have engaged with the question of women. This part investigates the relevant literature on three levels. At first, different sources on gender in Islam will be considered to demonstrate how this research relates to the existing literature. In the next step, Mutahhari's writing on women's issues will be introduced, and finally sources examining Mutahhari's ideas about women-related issues will be studied.

Writings on gender in Islam can be categorized into four major approaches of traditionalism, secularism, Islamic feminism, and reformism. The conservative traditional approach to the status and rights of women can be found throughout a wide range of theological, philosophical, jurisprudential, ethical, and exegetical sources. There are also sources with a traditional approach focusing on women's issues (particularly Islamic *hijab*). Generally, in the traditional writings, scholars under the interpretation of some verses such as "men are in charge of the affairs of women" (4:34) and (2:228) draw attention to the differences between the two sexes and claim the natural superiority of men over women³⁷. This approach can be seen in the writings of Tehrani (1978) and Vishnavi (1973). For instance, Vishnavi takes the natural superiority of men over women as the basis for the juridical differences between the two sexes in Islamic jurisprudence in various fields of familial and social life (Vishnavi, 1973, p.41). The idea of female inferiority is also prevalent among Muslim philosophers' writings.

³⁷ As Mhrizi claims, generally those who conform to this approach believe in considerable differences between the two sexes in the various realms of biology, emotion, intellect, and psychology. They also confine women to domestic roles and exclude them from public life (Mhrizi, 2010, p. 77). In this regard see also (Zarkashi, 1990, p.88).

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For instance, Mulla Hadi Sabzivari (d.1873), stresses that placing women under animal category [by Mulla Sadra] signifies the intellectual inferiority of women. In fact, women have been shaped as humans so that men can marry them. Therefore, in our *shari'ah*, men have juridical superiority in various matters, including divorce (Sadr al-Din Shirazi, 1989, p.13).

Women's role in public life is the missing point in the traditional sources because they define women's salvation within the domestic roles of being a mother or a wife and disregard the social dimension of a woman's life. For instance, to Tehrani, "the physical and psychological health of a female is in 'giving birth' or 'being pregnant' or 'being breast feeding'" (Tehrani, 2014, p.41). Farid Wujdi even claims that "a woman can never obtain salvation unless she is a wife of a man or a mother of children and she tries hard for their true upbringing" (Ja'fariyan, 2001, p.278). Therefore, traditional scholars deprive women of engagement in different socio-political activities, including *qadawat* (position of judge), issuing *fatwas* and holding top-ranking governmental positions. These traditionalists argue that this deprivation is in accordance with the principle of justice because, in creation, women are granted a lower capacity. Misbah (b. 1935) finds gender equality as an instance of injustice and stresses that "if men do not have more rights and authority in [religious] laws than women, that would be an oppression of men. Therefore, not only is the superiority of male over female in law not a symbol of oppression, but it is the exact instance of justice" (Misbah, 2003, p.16)³⁸.

Exploring the above sources reveals the fact that there is a significant difference between the traditional approach to women's status and Mutahhari's. As we will explain in the third chapter, Mutahhari's methodology of *ijtihad* is a combination of jurisprudential and philosophical approaches with emphasis on the principle of justice and the philosophy of natural rights. In addition, Mutahhari intends to disclose the rationale behind the *shari'ah*

³⁸ Traditional approaches can be found in other sources such as *Risalah fi Wujub Hijab (Treatise on the Obligation of Hijab)* (Fakhr al-Islam, 1910), *Mutahhari's Responses to Criticisms of The Question of Hijab* (Mutahhari, 2014c), *Zan va Intikhabat (Women and Election)* (Qurbani, 1960), and *Tumar-i 'iffat (The Letter of Chastity)* (Najafi Jilani, 1993).

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verdicts on gender-related issues while the traditional sources adopt a jurisprudential perspective that significantly emphasises *naql* (*hadiths*). Therefore, this study demonstrates that, even within the traditional *usuli* framework, new *ijtihad* could be practiced in favour of gender equality and women's social participation.

Muslim secularism, particularly Muslim secular feminism, is another trend which engaged with women's discussion³⁹. Ibrahim Shafi'i Sarvistani's book *Jaryan Shinasi-yi Huquq-i Zanan dar Iran (The Movements in Defence of Women's Rights in Iran)* is an appropriate source that provides readers with a better understanding of both secular and religious approaches. As Sarvistani stresses, secular feminists' believe that Islam either contains some pro-gender equality principles or possesses a patriarchal structure and is by definition anti-egalitarian. Therefore, according to them, women's issues cannot be dealt intrinsically within Islamic frameworks (Shafi'i Sarvistani 2006, pp. 85-90). Rather, they attempt to seek the solution of Muslim women's problems outside the sphere of Islamic thought. For instance, Tohidi deems Islam as the source and underlying cause of social patriarchy (Tohidi, 1990)⁴⁰ and Moghissi asks, "how could a religion which is based on gender hierarchy be adopted as the framework for struggle for gender democracy and women's equality with men?" (Moghissi, 1999, p.126).

The significant point about Iranian secular feminists is that they chiefly scrutinise the issues of women primarily from a socio-political perspective rather than from a theological and jurisprudential approach. They highlight the role of an Iranian Islamic state in women's subjugation in both private and public spheres⁴¹, which has resulted in a setback in the Iranian women's position. Nashat, for instance, writes, "Judging by the results over the past

³⁹ To know more about sources with secular orientations, see (Mir-Hosseini, 1999, p.284).

⁴⁰ Tohidi's tendency has changed, and now she speaks from the position of an Islamic feminist. In this regard, Moghadam writes that "during the 1990s, her writings shifted from an emphasis on the forms of gender oppression in Iran to the empowerment of Muslim women and the possibilities for reform within the Islamic system in Iran" (Moghadam, 2002).

⁴¹ To know more on Iranian secular feminists approaches see (Shafi'i Sarvistani 2006, pp. 90-95).

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three years, their efforts to push women out of public life and back into the home have been successful” (Nashat, 1983, p.196)⁴². Although Muslim secularists and Mutahhari both ask for the equality of rights between the two sexes, there is a fundamental difference between their approaches. Mutahhari seeks equality within the Islamic framework based on the philosophy of natural rights and the principle of justice while secular scholars demand gender equality outside the framework of Islamic laws.

The issues of gender equality and women’s rights are the focus of Islamic feminists’ writings as well. Muslim feminists try to present their argument within an Islamic framework. An Islamic feminism orientation can be found in a wide range of scholarly sources with various perspectives and nationalities, but they all advocate gender equality and justice within the parameters of the religion. For instance, Amina Wadud has devoted her life to reread the Qur’an in order to present a women-friendly interpretation. She has developed some revolutionary ideas on women’s rights such as their right to lead a mixed-gender congregation in prayers (Wadud, 2006)⁴³. As Badran stresses, Wadud “did not see Islam as oppressive to her as woman but quite the opposite” (Badran, 2001, p.50).⁴⁴ Generally, Islamic feminists do not consider Islam as anti-gender equality in essence; rather, their main criticism is levelled at some Islamic jurisprudential rules pertaining to men’s and women’s

⁴²This idea has been pursued by others as well; for example, see: (Mahdavi, 1985, p.255), (Tabari, 1982 p.15.), (Azari, 1983) and (Ferdows, 1985). Although women still face a number of challenges after the Revolution, their limitations in many realms of social activities, particularly education, have been reduced. In recent years, the annual University Entrance Exam has seen a greater number of female candidates than male. Consequently, sociologists and government bodies have become worried about the effects of this phenomenon on society. They are more concerned about the job prospects of these educated women and their possible marriage issues. Since, in Iran, an educated woman is expected to marry an educated man, the number of unmarried women may increase over time.

⁴³ Wadud also criticises the absence of women in the interpretation of the Qur’an and emphasises that Qur’anic interpretations which include female voices and experiences “could yield greater gender justice to Islamic thought” (Wadud, 1992, p. X)

⁴⁴“Hijab and Choice between Politics and Theology” (Mir-Hosseini, 2011), *Islam and Gender: The Religious Debate in Contemporary Iran* (Mir-Hosseini, 1999), *The Construction of Gender in Islamic Legal Thought and Strategies for Reform* (Mir-Hosseini, 2003), *Women with Moustaches and Men without Beards* (Najmabadi, 2005), (Un)Veiling Feminism (Najmabadi, 2000) and *Feminism in an Islamic Republic: Years of Hardship, Years of Growth* (Najmabadi, 1998) are some Iranian Muslim feminist works.

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rights. Therefore, they try to engage with the interpretation of the primary religious texts from a feminist perspective. In this regard, Mir-Hosseini argues,

I distinguish between *shari'ah* and the science of *fiqh*...it is *shari'ah* that is sacred and eternal, not *fiqh*, which is a human science and changing...I do not aim to do what Muslim jurist (*faqih*) does, that is, to extract rules from sacred sources by adhering to the *usul-i fiqh* theories and methodologies. Rather, I approach the *fiqh* rules and their underlying theories from a critical feminist perspective, examining their validity in the light of contemporary gender theories and realities (Mir-Hosseini, 2003, pp. 2-3)⁴⁵.

Mir-Hosseini, as a contemporary Muslim feminist, keeps her distance from both the secular and traditional approaches. This is partly due to the fact that she is keen to retain 'feminism', for she believes that "it is important to locate women's demands in a political context" (Mir-Hosseini, 1999, p.6). According to her, Mutahhari is a neo-traditionalist⁴⁶ scholar who has sought to justify gender discrimination through Islamic law (Mir-Hosseini, 1999, p.118). Her main criticism of Mutahhari is that, because Mutahhari wrote *The System of Women's Right in Islam* in defence of Islamic *shari'ah* in the socio-political context of pre-revolutionary Iran, "when a Western model was being adopted without much sensitivity to the nation's cultural and Islamic roots", his arguments are products of a specific time and cannot be applied to the current situation (Mir-Hosseini, 1999, p.118).

Mir-Hosseini also questions Mutahhari's assumption of natural differences between men and women on which a theory of natural rights can be based and believes that the differences between the two sexes depend more on "nurture, and are not fixed but are shaped by social conditions" (Mir-Hosseini, 1999, pp.117-118). However, elsewhere in the book, in response to a question about whether she accepts the principle of natural differences between the genders and the impact of those differences at the level of law making, she states "I do

⁴⁵ Mir-Hosseini makes a distinction between *shari'ah* and *fiqh*, defining Islamic *shari'ah* as the 'totality of God's law', 'sacred and eternal', whilst regarding *fiqh* as a 'human science' (Mir-Hosseini, 2009, p.2).

⁴⁶ It should be noted that, although Mir-Hosseini discussed Mutahhari's ideas about neo-traditionalism in her book, *Islam and Gender*, it seems that she is quite undecided which category Mutahhari is to be placed in, but, in other parts of the same book, she states that some modernists "subscribe to the views of modernist clerics such as Ayatollah Mutahhari, who advocated reforming the clerical establishment" *ibid.* p.213

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accept [it], I'm not arguing for identical rights. I think that the mechanics of reproduction, motherhood and the special bonding between mother and child must be taken into account" (Mir-Hosseini, 1999, p.122). It seems that, although she confirms the natural differences between the sexes, she does not make clear the impact of these differences on the level of law making, rights, and responsibilities.

The approach in this study is different from Mir-Hosseini's view since she studies the question of gender in a 'feminist perspective'. However, my understanding of Mutahhari's line of thought is different. Unlike Mir-Hosseini, who questions Mutahhari's main principle of natural rights, I believe that the natural differences between men and women is the significant issue which exerts so much impact on Islamic laws regarding women's duties and responsibilities in both social and familial spheres. Thus, this study widens the scope of knowledge on the subject in order to reveal Mutahhari's 'theory of natural rights' in more detail. In addition, Mir-Hosseini mainly concentrates on Mutahhari's individual and familial pronouncement, such as the issue of polygamy and the rights of divorce. She dismisses Mutahhari's ideas about the role of women in public life. However, I find some important ideas in Mutahhari's thinking on women's social life which should be studied and further developed.

The issue of gender equality is the focus of Muslim reformists' literature as well. These sources investigate women's question using various methodological approaches. For instance, Ali Shari'ati takes a socio-political approach, provoking Iranian women to be active in the political arena of Iran (Shari'ati, 1971) while Ahmad Qabil⁴⁷, as a post-revolutionary clerical figure, approaches the issue within a jurisprudential framework and develops a new interpretation on the Islamic doctrine of *hijab*, rejecting the obligation of head-covering. By investigating Islamic sources, he comes to the conclusion that Islamic *hijab* is not obligatory, but rather recommended and desirable (*Mustahab*) (Qabil, 2013). Mohsen Kadivar, another

⁴⁷ To know more about Ahmad Qabil, see (Ridgeon, 2020).

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contemporary reformist clergyman, also questions the traditional understanding of Islamic *hijab* and stresses that it is for Muslim women to choose the form and extent of their *hijab* (head-covering). In his view, Muslim women have to decide to cover or uncover their heads based on the prevalent customs (*'urf*) of the time (Kadivar, 2016)⁴⁸.

What distinguishes Mutahhari's approach from that of the aforementioned Muslim reformers is his approach to *usul-i fiqh*. Mutahhari tries to develop new ideas within the traditional *usul-i fiqh* framework while scholars like Kadivar insist on the reconstruction of *usul-i fiqh*. According to him, "any reform without a reconstruction of almost all of these parts of traditional methodology is unsuccessful" (Kadivar, 2015, p.24). Therefore, he calls for *ijtihad* in *usul*, or structural *ijtihad*. However, Kadivar confirms that he is highly influenced by the idea of some Western philosophers such as Schleiermacher, Otto, Heidegger, Gadamer, and Eric Donald Hirsch and claims that, a text could have several meanings. "There is no standard meaning of a text" (Kadivar, 2015, p.24)

However, the question is whether it is possible to examine Islamic *fiqh* outside the traditional *usul-i fiqh* methodology. This is the core point which distinguishes Mutahhari's methodology and this research's approach to Islamic jurisprudence from the perspectives of Muslim feminists, secularists and even some reformists. Although Mutahhari proposes revolutionary ideas about women's rights such as their right of issuing *fatwas*, he never goes beyond the boundaries of Islamic jurisprudence; that is, he practices his jurisprudential methodology based on the traditional *usul-i fiqh* principles and within the methodology of the *usuli* school. The importance of Mutahhari's ideas, which have attracted the interest of many scholars, is partly due to his methods of discussion. Mutahhari discusses the subjects using rational and philosophical principles supported by authentic religious texts (the Qur'an and the *hadiths*). In this regard, Davari states,

⁴⁸ Kadivar's view is accessible through his personal web site at <https://kadivar.com/10194/>.

Mutahhari offers a unique type of analysis. He neither builds his arguments by means of reason (*'aql*) alone—as do the liberal—nor limits himself to a literal understanding of religious texts—as do conservatives. Supporting his arguments with religious texts, Mutahhari prefers rational interpretation (Davari, 2005, p.2).

Therefore, those scholars who have paid no heed to the jurisprudential (*fiqhi*) considerations and do *ijtihad* with recourse to other philosophical and theoretical systems can be said to have gone beyond the boundaries of Islamic jurisprudence, as Mir-Hosseini confirms as well.

My work is within the context of debate around gender equality in Islam, concentrating on women's social participation and their right of issuing *fatwas*. However, most of academic scholarship on this matter either has supported some sort of patriarchal tendency of *fiqh*, which is the traditional approach, or look at the activities of Muslim feminists. Mutahhari, who is a distinguished Shi'a figure, has been overlooked in Western academic research on gender-related issues. Ayatollah Mutahhari was a top-ranking Shi'a intellectuals and clerical figure who was highly concerned with the views of Islam on women. After his assassination (on 1st May 1979 in Tehran), a number of significant documents were written by experts in Shi'a thought, taking various approaches to investigating Mutahhari's views. Mutahhari's writings cover many fields, including theology, philosophy, history, sociology, ethics, education, women's rights, economics, and politics. Since not much research has been done on Mutahhari in the West, before exploring the relevant literature on Mutahhari, I want to use the next section to briefly introduce his works concerning the question of women.

1.6.1 Mutahhari's Writings on the Status of Women

1.6.1.1 The Rights of Women in Islam

Nizam-i Huquq-i Zan Dar Islam presents a systematic theoretical framework of women's issues which primarily covers the individual and familial aspects of women's lives. Mutahhari's methodology in this book is perhaps the most prominent feature. He applies a combination of jurisprudential and philosophical approaches to his study. In addition, he

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highlights the ideas of Western scholars such as Bertrand Russell (1872-1970)⁴⁹ and Will Durant (1885-1981)⁵⁰ to either support his arguments (such as referring to Will Durant's view on the differences between the two sexes) or to demonstrate that, in some points, the Islamic view is very different from the Western approach (as he does in criticising Russell's ideas about trial marriages or prostitution). Mutahhari confirms that he has mainly applied a rational-philosophical method based on the philosophy of 'natural rights' and the principle of 'justice' (Mutahhari, 2002c, p.124).

Although, in *Nizam-i Huquq-i Zan Dar Islam*, Mutahhari discusses many of the laws related to women's position in the family, such as the laws on divorce, polygamy, dowry, and inheritance, it can be observed that, by assessing these Islamic laws, he moves beyond a jurisprudential explanation. He wants to present a philosophical framework in which the question of women in Islam can be dealt with. His approach is particularly characterized by his drawing on the philosophy of natural rights, his belief in the equality (but not similarity) of men's and women's rights, his emphasis on the principle of justice, and the differences he makes between family life and public life.

Regarding human natural rights, Mutahhari argues that nature (the book of creation) is the only reliable authority for discovering the true rights of human beings (Mutahhari, 2002c, p.143). He interprets the physical and psychological differences between men and women on the basis of the philosophy of natural rights. From his perspective, these differences were initiated by nature (Mutahhari, 2002c, pp.159-173). However, the key point in his argument is that these natural differences are the source of the different gender-based rights and responsibilities in Islamic law. The second distinctive feature of his approach concerns his emphasis on the equality of rights between men and women in Islam, although it does not mean that they have the same rights. In other words, to him, being equal and being the same

⁴⁹ Mutahhari mainly refers to Russell's views presented in *Marriage and Morals* (Russell, 2009)

⁵⁰ Mutahhari chiefly refers to Will Durant's ideas presented in *The Pleasures of Philosophy* (Durant, 1953).

are two substantially different notions (Mutahhari, 2002c, p.168). The principle of justice is the third distinguishing element in Mutahhari's approach. He believes that "one of the vital pillars of Islamic theology and jurisprudence, which demonstrates the harmony between reason and religious law in Islam" is justice (Mutahhari, 2002c, p.124). The differences he identifies between family life and public life makes for the fourth important characteristic of Mutahhari's perspective. According to him, family life is rooted in nature and is natural while the public life of human beings is subject to conventions (Mutahhari, 2002c, p.152). The point he wants to clarify is that, since family life is independent of other forms of social life, its system demands its own specific criteria, rules, and logic (Mutahhari, 2002c, p.11).

1.6.1.2 The Question of the Hijab

For Mutahhari, women's rights in Islam are not merely individual and familial matters but involve social life as well. Depriving women of public life by resorting to *shari'ah* in Muslim societies makes Mutahhari widen the scope of his discussion on women's issues and scrutinise their public life and the issue of *hijab*. In this regard, in 1968-1969, he delivers a series of lectures on the question of Islamic *hijab* at Husainiyyah Irshad in Tehran which were then collected in a book form and published as *The Question of Hijab* (Mutahhari, 2009b, pp. 4-6)⁵¹.

Mutahhari's approach in this book includes historical, philosophical, and juridical perspectives that are separately used in the three stages of his discussion. Perhaps, this is the reason why Mir-Hosseini notes that Mutahhari, in this book, "offers a discursive narrative of *hijab*, its history, its philosophy, its treatment in the Qur'an and *hadith* and the rationale for its *fiqh* [jurisprudence] rulings" (Mir-Hosseini, 2011, p.198). In the first and second chapters, Mutahhari presents a historical analysis by looking into the origins, backgrounds, and possible causes of *hijab* in other faiths and civilizations. He then elucidates the philosophy

⁵¹ This was the time when his book was first published by the Association of Islamic Physicians under Mutahhari's supervision.

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behind the doctrine of *hijab* in Islam. In this part, he takes a rational-philosophical perspective. From his standpoint, the rationale for *hijab* in Islam depends on several factors. Some of them are rooted in psychological, familial, and social basss while the others relate to women's dignity (Mutahhari, 2009b, p.76). Then, in the final part, from the position of a high-ranking cleric, he examines the related Qur'anic verses and *hadiths* which touch on the question of *hijab*.

Mutahhari's objective is to reread the Qur'an and present a new interpretation, a reading based on rational principles. He then approaches Islamic jurisprudence and Muslim traditions with caution with the intention of evaluating their authenticity. Mutahhari, by necessity, deals with these sources with a degree of scepticism when investigating and evaluating them. The result is that he challenges some unjust norms and legal rulings regarding the doctrine of *hijab*, such as the exclusion of women from society⁵². Although the term *hijab* is most often associated with wearing the headscarf, it has a wider implication which is challenged by Mutahhari. He deems exclusion of women from social activities as a kind of misinterpretation of Islamic doctrine. In his view, Islam does not aim by the doctrine of *hijab* to exclude women from social life, but rather to formulate and shape their participation in a certain way (Mutahhari, 2009b, pp. 92-96).

Furthermore, one of the major outcomes of Mutahhari's interpretation is the endorsement of a new style of *hijab* which allows Muslim women to engage more conveniently in public life. He neither accepts the secular style and fashion in women's clothing nor affirms the traditional view as the only way of women's covering. He offers a third possibility for *hijab*, 'the headscarf and the *manteau*', without face covering. According to Davari, this new type of

⁵² In this regard, see (Nasri, 2010b, p347-349).

religious covering “encouraged many of the country’s unveiled ‘Westernized’ women to adopt this more up-to-date Islamic dress” (Davari, 2005, p.54).⁵³.

1.6.1.3 Women and Juridical and Political Issues

Mutahhari’s novel interpretations suggesting that women could take part in socio-political activities and occupy top-ranking religious positions can be found in the book *Zan va Masa’ili Qadai va Siyasi (Woman and Juridical and Political Issues)*. This book is a collection of Mutahhari’s debates at the Association of Islamic Physicians (which were held in 1966-1967). However, unlike Mutahhari’s previous writings, which were published under his supervision, this book was printed after his assassination in 2012. It is comprised of four controversial subjects: women’s testimony, judging, political participation, and right to issue *fatwas*.

Contrary to the approach that is usually found in his other writings—where he adopts a rational-philosophical stance—in this work, he applies jurisprudential and historical approaches to the debate. Perhaps, his hermeneutical approach counts as his most important contribution because he rereads the related Qur’anic verses and *hadiths* on women’s issues. In the process of interpretation, he scrutinises and explains the key concepts of justice, faith, reason, testimony, and politics used in the Qur’an. He, therefore, brings up new ideas about women’s public activities.

Mutahhari’s opinions on the social life of women in this book can be divided into two groups. First, there are the cases in which he agrees the prevalent *fatwas*, but offers a new explanation for them. For instance, regarding women’s right to testimony, Mutahhari believes that, although in some specific cases Islam asks for two women to witness against one male,

⁵³ Mutahhari’s eagerness to remain aware of the opposing arguments is to be appreciated, especially when considered in the light of the norms of his time, when such an attitude was rare. He allocates a whole chapter to posing and responding to the theoretical challenges regarding the question of the Islamic *hijab*. In this regard, see: (Mutahhari, 2009b).

In addition, the traditionalists’ critiques of his perception of Islamic *hijab* and Mutahhari’s respective responses can be found in (Mutahhari, 2010b).

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in other cases, such as female health or childbirth, one female testimony is sufficient. From his perspective, the key point is that these rules on women's testimony have nothing to do with any deficiency in intellectual ability, personal integrity or faith of women (Mutahhari, 2012c, pp.9-24). The second category of opinions includes those in which he proposes new and distinctive understandings. The most controversial one of these is his idea about women's right to issue *fatwas*. This position faced a wave of criticism from the religious authorities, which has continued until today. A substantial proportion of the prominent religious authorities exclude women from this domain, including Ayatollah Safi Gulpaygani (b. 1919), Ayatollah Wahid Khurasani (b.1921), and Ayatollah Sayyid Ali Sistani (b.1930), to name only a few (Sajjadi Amin, 2019, pp. 42-44).

Concerning women's right to religious authority, Mutahhari scrutinises the idea of opponents and concludes that there is no reason to confine the right of issuing *fatwas* to men's authority. Rather, according to him, issuing *fatwas* is a scientific task and qualified women deserve to become a *marja' al-taqlid*—a religious authority (Mutahhari, 2012c, p.46). This unique understanding of women's right to issue verdicts was introduced at a time when the traditional trends of Islam were predominant and had deeply penetrated Muslim societies. These trends looked on women as inferior and even deficient, compared to men, in the domains of intellect and faith. For the greater part of Islamic history, this attitude made for depriving women of their place in the social sphere. In spite of controversy, Mutahhari's contribution continues to pave the way for the succeeding scholars to scrutinise the issue from a wide range of different angles. Consequently, new research has been published lately which defends women's right vis-à-vis issuing *fatwas*. These include the work of Sajjadi Amin (2019), which collects and analyses the ideas of foremost Muslim jurists (both Shi'a and Sunni) who have supported this right for women⁵⁴.

⁵⁴ We can also see some non-Iranian scholars, including a number of leading Shi'a religious authorities in recent decades (e.g., Lebanese Ayatollahs Muhammad Husain Fadlullah and Muhammad Mahdi Shams al-Din) that share the same idea with Mutahhari and, according to Hussein, brought innovative arguments to the most

1.6.1.4 *Nizam-i Khanivadigi-yi Islam (The System of Family in Islam)*

This book is a collection of nine weekly lectures of Mutahhari at the Association of the Islamic Physicians in 1966. However, due to non-availability of some of the audio tapes, there was a long delay in its publication and, for the first time, the essays were collected, edited and printed by Sadra Publications in 2019. Mutahhari's methodology in this book is a combination of jurisprudential and philosophical approaches based on the philosophy of natural rights supported by Qur'anic verses and *hadiths* as well as historical evidence.

In this book, Mutahhari explains the Islamic notion of "*qawwamun*"⁵⁵ (men's rule over women) in the family sphere and discusses the meaning and implication of Quranic verse 4:34. From his point of view, the concept of male-female equality is different in the spheres of the family and society. The family should be examined with respect to the philosophy of natural rights. The law of nature puts family members (male and female) in dissimilar positions. Natural differences between the two sexes explain the different responsibilities and rights in the family. Based on the philosophy of natural rights, Mutahhari develops his justification of the different juridical rules pertaining to men and women in the family, including the guardianship of men over women and its relation with the family expenses paid by men. In addition, in the last four chapters of the book, some controversial issues including the practice of polygamy in Islam and the number of the Prophet's wives have been discussed. He discusses the issue of polygamy from various angles such as the relationship between love and marriage and the principle of justice as well as the place of justice in polygamous life.

1.6.1.5 *Khanivadih va Akhlaq-i Jinsi (Family and Sexual Ethics)*

This book is a collection of eight lectures by Mutahhari at Ark Mosque in Tehran in 1975 on 'the basis of women's rights from an Islamic point of view'. The book was printed by Sadra in 2019. Mutahhari, in *Family and Sexual Ethics*, discusses family life, the natural essence of

challengeable questions of women. The issues include the right of women to participate in political life or the possibility of obtaining a governmental position (Husseini, 2008, p. 281).

⁵⁵ The notions of '*qawwamun*' and '*qiyama*' are both rooted in the word '*qawama*'.

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family life, and the rationale for differences between the two sexes and the notion of chastity (*haya*) in sexual ethics. From his point of view, in investigating women's rights (*huquq-i zan*), three points have to be taken into consideration. First, he argues, we should remember that each person has certain responsibilities (*takalif*). When we speak about men's and women's rights, their responsibilities have to be investigated in both realms of family and social life as well. The question is whether men and women should be equal in all rights and responsibilities (Mutahhari, 2020, p.12). From Mutahhari's point of view, 'punishment' is the second matter which has to be studied in the discussion of women's rights, though he has not provided more explanation on different Islamic punishments pertaining to the two sexes. According to him, ethics and upbringing (*tarbiyat*) is the third point which needs to be investigated in the discussion of women's rights. From his point of view, education and upbringing (*amuzish va tarbiyat*), especially ethical education, is one of the significant pillars of each society. The question here is whether boys and girls, or men and women should receive the same education. He emphasizes that, although men and women receive some sort of common education, they also go through a gender-specific education. Mutahhari believes that for a better understanding of the Islamic juridical system, rights, responsibilities, punishments, and education should be investigated as interrelated subjects (Mutahhari, 2020, pp.14-16).

1.6.2 Writings on Mutahhari's Thought

Much has been written on Mutahhari's thoughts from several angles. Persian works on Mutahhari can be categorized into two groups; academic studies done by university researchers and studies that have been published by clergymen of the *hawzah*, who are more interested in discussing Mutahhari's views from a faith-based perspective.

To have a clear understanding of Mutahhari's biography, Abdullah Nasri's (2010), Davari's (2005) and Va'izzadih Khusasani's (1981) books offer great help. Abdullah Nasri's *Hasil-i*

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‘Umr, Sayri dar Andishiha-yi Ustad Mutahhari (The Fruit of Life: A Survey of Ayatollah Mutahhari’s Ideas), Sayyid Abdullah Mu’min Zadih’s *Mabani va Nuavariha-yi Fiqhi-yi Shahid Mutahhari (The Bases and Juridical Innovations of Martyr Ayatollah Mutahhari)* and Ali Ghulami’s *Mutahhari va Mas’alih-yi Zan (Mutahhari and the Question of Woman)* are Persian academic sources which pay particular attention to Mutahhari’s views on the questions of woman. Abdullah Nasri’s study covers almost all Mutahhari’s ideas, including social, political, philosophical, religious, and ethical ones. A positive feature of this book is that it presents a summary of all Mutahhari’s ideas in only two volumes. Since Mutahhari has more than a hundred works in various fields of Islamic studies, discovering and getting to know all his opinions and views is a difficult task which Nasri has accomplished. Although his efforts are rewarding, it should be noted that, because he tries to cover the full extent of Mutahhari’s research and studies, it inevitably cannot explore each topic in depth. It can be observed from his study that the author is impressed by Mutahhari’s methodology and approach to women’s studies. In this regard, he states that “since Mutahhari’s argument is based on philosophical principles and an anthropological approach, his discussions never become out of date” (Nasri, 2010b, p.346). According to him, two basic principles shape his thought, namely, the philosophy of natural rights and the principle of justice (Nasri, 2010b, p.355-356). Nasri declares that, with Mutahhari’s principles of thought in mind, one can critically investigate feminist thinking. To this end, he dedicates a short section to investigating feminism in which he criticises the feminist approach toward marriage, family life, and motherhood (Nasri, 2010b, p.346). Since there are various schools of feminism, Nasri’s methodology of taking feminism as a whole and evaluating their theories is less than accurate. However, it must be admitted that he refers only to the views of secular feminists. The main difference between my study and Nasri’s lies in our approaches. Nasri chiefly summarises Mutahhari’s thought; hence, his book is more of an informative and descriptive account than a critical investigation. My study, in contrast, analyses the theoretical-philosophical basis of Mutahhari’s thought on women’s social life.

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Sayyid Abdullah Mu'min Zadih's *Mabani va Nuavariha-yi Fiqhi-yi Shahid Mutahhari (The Bases and the Juridical Innovations of Martyr Ayatollah Mutahhari)* is another piece of work which examines Mutahhari's thoughts. Unlike Nasri's book, which covers almost all Mutahhari's ideas, including social, political, philosophical, religious and ethical ones, Mu'min Zadih's study exclusively highlights Mutahhari's jurisprudential innovations in different Islamic fields. Mu'min Zadih explains Mutahhari's views on women's issues in the first chapter, in his discussion of the philosophy of natural rights. Similar to Nasri, his work establishes the philosophy of natural rights and principle of justice as two important elements of Mutahhari's argument regarding women's issues. However, Mu'min Zadih very briefly summarises Mutahhari's views on women's right to political participation which is overlooked by Nasri. It is worth noting that Mu'min Zadih's knowledge of Mutahhari's views on women's role in public life is limited to the published *Notes* of Mutahhari, and he did not have access to Mutahhari's recently published books, while my access to these sources makes for novel understandings of Mutahhari views on women's issues.

Ali Ghulami, in *Mutahhari va Mas'alih-yi Zan*, similar to the aforementioned scholars, mainly focuses on Mutahhari's ideas about gender issues in the context of family life by emphasis on Mutahhari's theory of equal but dissimilar rights of men and women in family. However, his book can be distinguished from the others as he dedicates about half of his book to the investigation of women's movement and the status of women in the West. The rest of the book looks into the status of women in Islam based on Mutahhari's ideas. With respect to Mutahhari's ideas, Ghulami finds the solution to the women's oppression in four activities: informing women about their rights, awakening men's justice-seeking conscience, creating an atmosphere of chastity and piety, and finally the growth of men's familial emotions (Ghulami, 2019, pp. 125-127).

Although my research shares some ideas with the above studies about the significance of natural rights and principle of justice as the underlying principles of Mutahhari's philosophical

approach, I demonstrate that Mutahhari has created a theoretical-philosophical framework for his discussion on women's socio-political life by adding yet another element to his approach, namely, freedom. According to my research, there is an interrelated connection between these principles in Mutahhari's ideas. In addition, the focus of this study is on Mutahhari's view on women's role in public life which has been ignored by the above scholars.

Mahdi Mhrizi,⁵⁶ an Iranian clerical figure, presents a faith-based examination of different religious approaches to the question of women in Iran during the past century⁵⁷. He places Mutahhari under the socio-theological category (Mhrizi, 2010, p.80). Mhrizi pays particular attention to Mutahhari's methodology of *ijtihad*. According to him, three factors play a significant role in Mutahhari's jurisprudential investigation: a) taking into consideration the importance of time and place in *ijtihad*; b) the impact of the socio-political and cultural sphere on a jurist's understanding of religious texts and consequently on his *fatwas*; and c) Mutahhari's careful attention to the meaning and implications of the traditions (*hadiths*). In this respect, Mhrizi declares that if other jurists apply the same methodology, many juridical problems, in particular those concerning women's issues, will be resolved (Mhrizi, 2010, pp. 99-100). Although Mhrizi adopts Mutahhari's rational approach, he has concerns about Mutahhari's philosophy of natural rights and criticises some of his assumptions, particularly his idea about natural, physical, psychological and social differences between the two sexes. From Mhrizi's perspective, it is hard to maintain that the wide range of differences between

⁵⁶ Mhrizi is a contemporary Iranian theologian who works on women's rights as discussed in a wide range of Shi'a texts. In addition to this book, Mhrizi has published other studies on women's issues, such as *Shakhsiyat va Huquq-i zan dar Islam (Character and Rights of Women in Islam)* (Mhrizi, 2011), *Asibshinasi-yi hijab (The Challenges of the Veil)* (Mhrizi, 2006) and *Sahm-i Zanan dar Nashr-i Hadith (Woman's Share in the Expansion of Hadith)* (Mhrizi, 2008). By exploring these works in a focused and analytical approach, it becomes clear that the author aims to present a comprehensive and systematic study on the personal characteristics and rights of women in Islam.

⁵⁷ Mhrizi chronologically classifies religious approaches to the status of women into three periods: traditionalism (since the Constitutional Revolution in 1905), socio-rationalism (since the 1960s) and the juridical approach (since the 2000s) (Mhrizi, 2010, p. 56).

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the two sexes has a natural basis as many of them are rooted in the socio-cultural environment and cannot be categorised as natural (Mihrizi, 2010, p.98).

The major difference between Mutahhari's and Mihrizi's approaches is their treatment of religious sources. While Mutahhari interprets the primary sources, the Qur'an and *hadith*, on the basis of philosophical and rational principles, Mihrizi is deeply concerned with the historical contexts (*asbab al-nuzul*) of the Qur'anic verses and traditions. Mihrizi's work can be deemed innovative in its chronological investigation of Shi'a thought concerning the status of women in contemporary Iran (beginning with the Constitutional Revolution). However, as it aims to explore various Shi'a schools of thought and the perspectives of several scholars, he makes no attempt to examine every aspect of women's rights⁵⁸.

In addition to the above Persian sources, which make a significant contribution to the study of Mutahhari's thought, there are many other sources which discuss his ideas in one way or another. Since Mutahhari is one of the most influential figures of contemporary Iranian Shi'a thought, he has been the focus of some academic studies in the West, too, but Western academicians are still not well familiar with Mutahhari's thoughts.

Davari's doctoral thesis is the only English work I have come across that exclusively focuses on Mutahhari's thinking at a PhD level. He examines almost all of Mutahhari's socio-political thoughts, with particular attention to the historical background of Mutahhari's discussions. Davari, in his monograph, introduces Mutahhari as 'an architect of modern Islamic theology' and the 'ideologist of the Islamic revolution' in Iran who deals in his works with Islamic ideological and theological issues (Davari, 2005, p.31). In the second chapter of his thesis,

⁵⁸ In addition to the aforementioned Persian studies on Mutahhari's thoughts, there are many articles on his views on women's rights, such as *Women's Position in the Islamic World View in Mutahhari's Thought* (Zolghadr, 2005), *Shahid Mutahhari va Huquq-i Zan dar Islam (Martyr Mutahhari and Woman's Rights in Islam)* (Sharafi, 2012), and *Nizam-i Huquq-i Zan dar Islam az Didgah-i Shahid Mutahhari (System of Women's Rights in Islam from Mutahhari's Perspective)* (Hakimi, 2012). Since these writers take the same approach as that of the above studies, I do not examine them in this part.

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he scrutinises Mutahhari's contribution to the question of women's rights in Islam. According to Davari, Mutahhari wrote both *The System of Women's Rights in Islam and Sexual Ethics in Islam and in the Western World* in response to the phenomena of Westernization and secularization of Islamic beliefs. From Davari's perspective, Mutahhari, as 'an eminent jurist', was the ideal person to deal with the question of *hijab* because "other well-known 'ulama in the country ... either lacked education in this field, or they were not prepared to deal with such a problem" (Davari, 2005, p.52). The author presents a good account of Mutahhari's social and political thoughts. This is perhaps due to the fact that he shares Mutahhari's background: he, too, was educated in an Islamic seminary in Qum. He is also well-versed in the Western academic tradition, and this "enables his apt use of almost all of Mutahhari's writings" (Farzaneh, 2008). Nevertheless, in this study, it can be seen that Davari is deeply influenced by Mutahhari's thought and character; thus, he "tends to be devotional rather than critical in his overall approach to the subject" (Jawad, 2008). There is no doubt that Davari's book has greatly contributed to the study of Mutahhari's political thought. Since a great majority of Shi'a theologians are unknown to Western academics, any attempt to introduce new scholars and explore their views is to be commended.

My approach in this study is, however, different from Davari's. Unlike his study—which covers the whole aspects of Mutahhari's socio-political thought—this study exclusively concerns Mutahhari's contribution to women's role in public life. Furthermore, Davari takes a mainly historical approach in order to clarify the socio-political atmosphere in which Mutahhari's books on women's issues were written. However, it seems that this prevents him from engaging in detail with Mutahhari's arguments. In other words, he confines himself to the historical background and does not analyse Mutahhari's discussions. In contrast, my study seeks to assess Mutahhari's methodology and the basis of his arguments on women's role in public life in some depth in order to clarify the relationship between his views and the current conditions of Muslim women in world.

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Mutahhari's works on women's issues have received particular attention from Sedigheh Shakouri Rad's PhD thesis, which is a systematic study of women in modern Shi'a Iran. She comes up with a new classification of Shi'a schools of thought, based on their manner of encountering modernity in this area. These schools are represented by traditionalists, neo-traditionalists, rational traditionalists, and religious intellectuals. She regards Mutahhari as one of the most important figures among the rational traditionalists who used a logical and scientific approach (Shakouri Rad, 2009, p.132). She considers rationality, justice, and the need for a new interpretation of Islamic sources as important and influencing factors in Mutahhari's approach to women's studies. Shakouri Rad is more than aware of Mutahhari's active involvement, as a prominent intellectual and jurist, in addressing the challenges facing Muslims in the modern world, and it seems that she remains undecided which class Mutahhari belongs to. In another part of her study, however, she states that "Mutahhari's view may be categorised under [the heading of] Islamic modernist" (Shakouri Rad, 2009, p.137). She criticises Mutahhari's views in all familial matters and emphasises that he chiefly takes the traditionalist view, although "his outlook does not display the bitterness of a patriarchal position or contempt of women" (Shakouri Rad, 2009, p.143). Nevertheless, regarding the social rights of women, she praises Mutahhari's position and asserts that anyone who explores Mutahhari's works can be certain that "he was opposed to the seclusion of women and defended their social activities provided that they observe the Islamic code of dress and also do their duty as mothers" (Shakouri Rad, 2009, p.147)⁵⁹.

One should bear in mind that widening the scope of research to include the views of a vast range of scholars will tend to reduce the depth of investigation. Therefore, unlike Shakouri Rad's work, the present study concentrates on Mutahhari's thought on women's role in public life and intends only to (a) clarify the rational principles upon which his theories on gender

⁵⁹ Shakouri Rad praises Mutahhari's position concerning women's social participation and states that "It can be deduced that this was the underlying reason behind the traditionalists' serious opposition to Mutahhari's view on veiling and women's wider presence in society (Shakouri Rad, 2009, p. 147).

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issues are established; (b) demonstrate how his methodology of *ijtihad* distinguishes him from other traditional jurists; and (c) evaluate how far his principles can apply to the challenges of today's world.

Furthermore, my approach to Mutahhari's way of thinking is different from hers. She regards him as a rational traditionalist whose "book on women's rights in Islam ... played an important role in justifying the traditional view of the issue in the new state" (Shakouri Rad, 2009, p.88). In the present study, as was explained before, Mutahhari is regarded as a rationalist traditional reformer: this is demonstrated in the fact that he was primarily concerned with (a) doing *ijtihad* based on the traditional *usul-i fiqh* principles and (b) the importance of reform in Islamic thinking on women's rights, with respect to the two fundamental concepts in religious studies of reason, natural rights, and justice.

1.6.3 Conclusion

It can be deduced from the brief glance at the above literature that, although previous studies have made significant contributions to the study of Mutahhari's thought on women's rights in Islam in terms of describing and examining his arguments, my work has certain features which distinguish it from previous studies. These differences arise from the methodology, the scope of my research and also my access to the new materials in this field. My approach in this study is different from theirs. I pay particular attention to Mutahhari's methodology of writing on gender-related issues because I believe his approach is the significant outcome of his methodology of *ijtihad*. I will examine his philosophical approach to women's issues and will analyse his methodology in the study of the primary religious texts of the Qur'an and *hadiths*. Furthermore, I am concerned with describing the socio-political and historical background of Mutahhari's life, believing that the approach he adopted in his works was greatly influenced by his personal, social, and ideological context. In this regard, I will locate

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Mutahhari within the context of pre-revolutionary Iran. Then, I will show that his work is an important part of reformist thought in the contemporary Shi'a context.

Moreover, there is a significant difference between my study and previous works in terms of the scope of research. While, in the previous studies, the nature of Mutahhari's ideas about individual and familial aspects of women's life form the main parts of the contents, the present research will scrutinise his argument on the social participation of women. There is no source, to my knowledge, that exclusively and comprehensively deals with Mutahhari's thoughts about women's social rights, apart from his views on the issue of *hijab*, which has been briefly discussed by scholars such as Davari. It is worth mentioning that some of Mutahhari's ideas about the role of women in public life, such as their right of issuing *fatwas*, have never been examined, and this lack must be made good for the sake of Muslim societies. Nevertheless, my work complements the studies that have already been carried out on him. It brings together most of the various works and discussions on his thought mostly by Shi'a scholars.

One of the most significant features of this research is that I have used the audio recordings of Mutahhari's speeches that have been published recently and previous researchers could not have access to recordings of such sources as *Nizam-i Khanivadigi-yi Islam*, *Khanivadih va Akhlaq-i Jinsi*, *Zan va Masa'il-i Qadai va Siyasi*, and *Fitri Budan-i Din*. Therefore, not only is the present study the first conducted in English at PhD level that exclusively concentrates on Mutahhari's views on the role of women in public but also it is unique in terms of access to newly published material,. The recently published sources help me to have a much more complete picture of Mutahhari's ideas on the topic. Finally, it must be admitted that, although Ayatollah Mutahhari is a well-known scholar and made a distinct

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contribution to Iranian women's life on both socio-political and ideological levels, his ideas have not been studied widely in English⁶⁰.

⁶⁰ There are publications in the English academy of the West which have investigated Mutahhari's view on various subjects. The following are some examples of these studies: *Women's Position in the Islamic World View in Mutahhari's Thought* (Zolghadr, 2005), *An Introduction to Islamic Philosophy: Based on the Works of Murtada Mutahhari* (Obudiyyat, 2012), *The Interpretation of Miracles According to Mutahhari and Golshani: Comparative and Critical Notes* (Bigliardi, 2013), *The philosophy of education in Islam: an evaluation of Ali Shari'ati's thought on Islamic education in Iran in the light of the theory of Ayatollah Motahhari* (Sanaee, 1987).

2 Life and Thought of Mutahhari

2.1 Life in Fariman and Mashhad

Ayatollah Murtada Mutahhari was born to a clerical family on February 2, 1919, in Fariman, a small village in the south east of Mashhad⁶¹. His grandfather, Muhammad Ali, and his father, Muhammad Husain (1833-1971), were educated people and had spent several years in the religious seminaries of Mashhad and Najaf. Mutahhari received elementary lessons in Islamic theology and the Arabic language from his father in Fariman. His family background laid the ground for his own clerical personality. Mutahhari was approximately six years old when he was sent to a *maktab khanih* (a traditional primary school). After finishing his elementary education at the age of twelve (in 1932), he went to a seminary in Mashhad to study the primary religious courses (Mutahhari, 2011a).

When he entered the seminary in Mashhad, a new hermeneutical approach had emerged in Mashhad, founded by Mirza Mahdi Isfahani (d.1946), later known as *Maktab-i Tafkik* (literally, “differentiation school”)⁶². According to Rizvi, “The school of *tafkīk* separates out the language and discourses of scripture, philosophy and mysticism, deliberately opposing the synthetical approach of the Sadrian school reflected in the teaching of *ḥikmat* and *‘irfān* dominant in the *ḥawza*” (Rizvi, 2012, p.494). According to the *Tafkik* school, the Prophet and the Imams’ sayings and deeds have precedence over all other branches of knowledge, and “all rational Islamic fields of knowledge, namely, logic, philosophy, and agnosticism, are alien

⁶¹ Mashhad is a city in northeast Iran, popular as a destination for religious pilgrimage.

⁶² To know more about *Maktab-i Tafkik*, (segregation), see (Hakimi, 1996).

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to Qur'anic teachings (Davari, 2005, p.8). However, it is clear that the anti-rationalistic atmosphere of the Mashhad seminary did not affect young Mutahhari as, later on, he showed his interest in the rational-philosophical approach. In this regard, Mutahhari states that

As far as I can remember from my spiritual development, from the age of thirteen, this concern was found in me, and I had great interest in theological matters. Questions, albeit in proportion to the intellectual level of that age, were attacking my mind one after another (Mutahhari, 1993a, p.9).

Mutahhari's settlement in Mashhad was quite short because, at that time, the *hawzah* was in danger of being closed down due to the open hostility of Reza Shah's political regime towards religious seminaries (*hawzah*). However, despite the immense pressure, several prominent scholars, such as Mirza Mahdi Isfahani, kept lecturing in Mashhad's seminary in such fields as Islamic jurisprudence and philosophy (Davari, 2005, pp.7-11). Mutahhari spent the next two years (1934-1936) on elementary Islamic seminarian studies in Mashhad. Education was his sole aim, and there is no evidence indicating that young Mutahhari was engaged with political issues. Finally, due to family problems, he left the *hawzah* and returned to his family home in Fariman, where he continued his studies privately at home in this period (Hujjati, 2012, pp.15-16).

In 1936, Reza Shah issued a ban on *hijab* known as *kashf-i hijab*, prohibiting the use of head coverings for women in public⁶³. There were mass demonstrations in Mashhad against the unveiling policy which were brutally suppressed by the regime (especially at Guharshad Mosque in Mashhad in 1936). Soon after this event, most of the leading *'ulama* in Mashhad, such as Haj Aqa Husain Qumi, were arrested and sent into exile. All religious schools were closed, and seminary students were forbidden to wear clerical clothing, and they would even need the government's permission to continue their religious studies. Mutahhari found the situation for religious seminaries in Mashhad unbearable and decided to leave for Qum.⁶⁴

⁶³ To know more about *kashf-i hijab*, see (Ziba'i Nizhad and Sobhani, 2009, pp. 156-159).

⁶⁴ There is no direct indication in Mutahhari's works implying how he experienced and witnessed the state oppression on the *hawzah* religious clerics and students and also the *kashf-i hijab* crisis. It is not clear whether

Perhaps, he realized that there was no chance for further education in Islamic studies in the *hawzah* of Mashhad.

2.2 Mutahhari in Qum

The seminary in Qum was also under increasing pressure, notably after the policy of unveiling. However, as a result of significant developments such as non-confrontational policies of Ayatollah 'Abdul-Karim Ha'iri (1859-1937) and the other religious leaders with the Pahlavi regime, Qum's *hawzah* resisted the prevailing pressures and continued with its work. Ayatollah Ha'iri avoided interfering in politics in order to save Qum's seminary from being destroyed by Reza Shah's secularising policies. Some scholars hold that Ha'iri's non-confrontational approach to the Pahlavi regime was based on the Islamic doctrine of *taqiyyah*, which is a precautionary pretended denial or hiding of one's religious belief and practice in the face of persecution (Ajami, 1986, p.57). In other words, his approach towards the Pahlavi regime was meant to help protect Islam and the *hawzah* and to save innocent people from being persecuted and killed by the regime (as had happened at Guharshad Mosque) (Tavakuli Muhammadi and Mutahhari Fard, 2015, p.129).

Mutahhari left Mashhad in 1937 to study in Qum, where he stayed for almost fifteen years. He entered Qum's seminary when Ayatollah Ha'iri had just passed away and three prominent Ayatollahs, Sayyid Muhammad Hujat Kuh Kamari, Sayyid Sadr al-Din-i Sadr, and Sayyid Muhammad Taqi Khansari (known as *Maraji'-i Thalath*, the triple religious authorities), presided over the *hawzah* (Mutahhari, 2011a, p.9). During the eight years of *Maraji'-i Thalath's* management (1937-1945), the *hawzah* was under great pressure from the regime, a side-effect of which was the departure of the *tullab* (religious students) from the *hawzah* in order to work in public institutions. In fact, the state offered *hawzah* students jobs in the government to incentivise them to leave their religious studies. In addition, although

this event had any effect on his future political consciousness though it is obvious that he never agreed with the secular tendency of the Pahlavi regime.

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Qum's, Isfahan's, Mashhad's and Najaf's seminaries remained autonomous, the Theology College of Tehran and Sepahsalar Mosque examined candidates to decide as to who could be a religious teacher and should be allowed to wear clerical clothes. As Abrahamian puts it, in this way, "the state for the first time determined who was a member of the *'ulama*" (Abrahamian, 2008, p.85).

The triple religious leaders handled the situation by continuing Ha'iri's non-confrontational policy. It appears that while there was a division of responsibilities between these leaders⁶⁵, they all aimed to defend *hawzah* and keep it alive. At that time, some prominent ayatollahs such as Khomeini, Mar'ashi Najafi, Gulpaigani, and Mirza Hashim Amuli were lecturing in the *hawzah* and were a great support to those leaders (Ifati, 2011, p.80). With the arrival of Ayatollah Burujirdi in Qum in 1944, significant changes happened in the libraries, journals, courses, and other areas under his supervision, and he became the sole leader of the *hawzah* in Qum.

Considering the hostile policy of the state towards the *hawzah* and seminary students, as Va'izzadih states, it was Mutahhari's profound enthusiasm for Islamic studies that prevented him from abandoning the *hawzah* in Qum (Va'izzadih Khurasani, 1981, pp. 322-345). During his stay in Qum, Mutahhari followed the standard curriculum of Islamic higher education, the basis of which was the study of the Qur'an and traditions together with commentaries on these, Islamic jurisprudence (*fiqh*), and Islamic philosophy. There were also ancillary subjects such as Arabic grammar, ethics, logic, and biography of the transmitters of tradition (*'ilm al-Rijal*). In Mutahhari's case, the chief emphasis was on jurisprudence and philosophy.

⁶⁵ For instance, Ayatollah Khansari was more active in political matters and, for example, objected to the regime's unveiling policy, while Ayatollah Hujjat was reluctant to get involved in politics and mainly focused on the *hawzah* affairs. Ayatollah Sadr and Khansari were engaged in financial matters of the *hawzah* for a period of time though, after a while, they left this responsibility to Hujjat (Aqa'i, 2017, pp. 59-61).

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From the outset, Mutahhari was always drawn to philosophical subjects and abstract concepts. Philosophy remained his favourite study and was the basis of his future works. In this regard, he noted:

During the early years of my stay in Qum, before finishing elementary Arabic grammar, I had felt an overwhelming interest in philosophical matters. This led to my avoiding contact with others, and for a while I preferred to lead a life of seclusion ... My primary purpose in studying jurisprudence (*fiqh* and *usul*), Arabic and logic was for them to act as a preliminary means to examining the great philosophers' thoughts (Mutahhari, 2011a, pp. 440-441).

This led him to form a close relationship with Ayatollah Khomeini, who was at that time the preeminent teacher of Islamic philosophy and mysticism. In 1944, Mutahhari began to read Mulla Hadi Sabzivari's philosophical book, *Manzumah*, with Ayatollah Khomeini, who also started teaching him Mulla Sadra's *Asfar Arba'ah* in 1944. In addition, during 1950-1953, he attended 'Allamih Tabatabai's private philosophy classes on Ibn Sina's *Ilahiyat-i Shifa*. However, as Va'izzadih emphasizes, of various Islamic philosophical schools, Mutahhari was devoted to Mulla Sadra's philosophy of *Hikmat-i Muta'aliyah (Transcendent Theosophy)*⁶⁶ (Va'izzadih Khusasani, 1981, p.326).

In pre-revolutionary Iran, philosophy was not welcomed by the religious authorities in the seminaries, including Qum's *hawzah*. According to Tehrani, when 'Allamih Tabatabai came to Qum (in 1946) and started his lessons on Mulla Sadra's *Asfar*, around one hundred students (*Tullab*) attended his classes, but Ayatullah Burujirdi (who was the head of the seminary) ordered that paying the tuition fees of the students who took part in 'Allamih's classes be cancelled by the seminary. In response, 'Allamih sent the following message:

Tell Mr. Burujirdi, we have studied such official and prevalent courses as *fiqh* and *usul* as well and are well qualified to teach those courses and have nothing less than others [who teach these course in seminary]...however the only reason I moved from Tabriz to Qum is to correct the *tullab's* view according to the truth (*haq*) and to struggle against the materialistic ideas. Nowadays, every student who enters the seminary is full of doubts and questions, and we have this responsibility to answer their questions and prepare them for struggle against materialists. We have to teach them the true Islamic philosophy.

⁶⁶ To know more about Mulla Sadra and his philosophical school, see (Nasr and Leaman, 1996, pp. 1125-1174).

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After 'Allamih Tabatabai's message to Burujirdi, the problem was solved and the *Asfar* course continued without any issues (Tehrani, 2017, pp. 103-106)⁶⁷.

From the beginning of his studies at Qum's seminary, Mutahhari was drawn to philosophy. For him, philosophy was not simply a topic for studying and teaching; rather, it was always an integral part of his intellectual personality. It was essential to his identity and to his work. Exploring Mutahhari's works confirms that whatever his subject matter, the value of his argument is partly due to his rational approach. Definitely, Ayatollah Khomeini and 'Allamih Tabatabai played important roles in shaping Mutahhari's particular intellectual orientation. As we will explain in the next chapter, the issue of *fitrah* (human nature), which is one of the significant elements of Mutahhari's philosophical thought, was emphasised by Ayatollah Khomeini and 'Allamih Tabatabai as well.

During his stay in Qum, Mutahhari benefited from prominent teachers who were influential in the history of Iran in the latter half of the 20th century and who had a significant impact on his thinking. His best-known mentors were Ayatollah Khomeini, Ayatollah Sayyid Husain Burujirdi and 'Allamih Sayyid Muhammad Husain Tabatabai. Although they all came from a traditional background of Shi'a schooling, they took different approaches to the question of modernity. Ayatollah Khomeini was known to be attracted to mysticism (*'Irfan*) and philosophy. His approach to mysticism was a combination of *fiqh* and *'Irfan*. According to Ridgeon, Khomeini's commentary *Sharh-i Du'a-yi Sahar (Commentary on the Morning Prayer)* "demonstrated the compatibility of the *shari'ah* with *irfan*. The commentary also revealed Khomeini's debts to Ibn 'Arabi (the great master of *'Irfan* from Andalusia whose work has fascinated Sufis and mystics since the thirteenth century)" (Ridgeon, 2014, pp. 195-196)⁶⁸.

⁶⁷ For more on this issue, see (Dabashi, 2017, pp. 281-283).

⁶⁸ For more information about Khomeini's mystical approach, see also (Knysh, 1992).

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Nevertheless, Khomeini was highly cautious about the political threat coming from the Pahlavi regime under the name of socio-political reform. Ayatollah Burujirdi had mainly focused on the implementation of educational and administrative reforms in the systems of the religious seminaries. Furthermore, he was keen to introduce Shi'a beliefs and doctrine to the West while avoiding an open confrontation with the Pahlavi regime. 'Allamih Tabatabai, a prominent philosopher and theologian, concentrated primarily on the philosophical, theological, and mystical dimensions of Shi'a thought and the interpretation of the Qur'an. Although Tabatabai was a traditional philosopher and mystic, he tried hard to make Shi'ism relevant to the lives of modern Shi'a Muslims. His interpretation of the Qur'an, *Al-Mizan fi Tafsir al-Qur'an*, also could be seen as an effort in that direction. Later on, in this chapter, we will explain how Mutahhari was influenced by 'Allamih Tabatabai.

In the early 1930s, Mutahhari attended Khomeini's⁶⁹ ethical and mystical courses and became one of the most devoted students of his thought. Although some prominent jurists of the time such as Ayatollah Burujirdi were against esoteric teachings, Khomeini continued his lessons on mystical philosophy in a private session for selected students such as Mutahhari and Montazeri (d. 2009), who played significant roles in the establishment of Islamic state of Iran (Knysh, 1992, p.650). However, at the time, Khomeini was a relatively young seminary lecturer who had not hitherto seriously engaged, at least publicly, in political activities against the current regime. This was because he was of the belief that political activities should be engaged in only under the auspices of the highest religious authority⁷⁰. However, Khomeini was not the kind of person who could remain apathetic about anti-religious systems and their

⁶⁹ Ayatollah Ruhullah Musavi Khomeini (1902-89) was a prominent *mujtahid* in the *hawzah*. He taught Islamic jurisprudence, ethics, and philosophy of Mulla Sadra (*Hikmat-i Muti'aliyah*) at that time and later became the leader of the Islamic Revolution in Iran. For a biography of Ayatollah Khomeini, see (Dabashi, 2017) and (Koya, 2009).

⁷⁰ According to Algar, Khomeini "was obliged to accept the decision of Ha'iri [the head of the seminary in Qum] to remain relatively passive toward the measures taken by Reza Shah against the traditions and culture of Islam in Iran" (Algar, 2009, p. 27). It seems that the main purpose of Ha'iri was to protect Qum's religious seminary; hence, he took a non-confrontational strategy towards the state's secular policies and did not engage in political issues.

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manifestations. Therefore, in his ethics lessons, he went beyond the text and addressed a wide range of contemporary issues. His classes became popular among the religious students of several cities, including Tehran and Isfahan, who came to Qum to attend his lectures. Nevertheless, since the popularity of Khomeini's lessons contravened the Pahlavi's policy, which had aimed to limit the influence of the *'ulama* outside the religious seminaries, the government transferred his lectures to a much smaller location which could not accommodate large crowds (Algar, 2009, p.26). Mutahhari describes attending Khomeini's lectures in the following way:

After settling in Qum ... I found myself completely drawn to Ayatollah Khomeini's ethics lectures, which were being delivered every Thursday and Friday. Without exaggeration, those lectures were not merely theoretical ethical teachings in my opinion; rather, they involved divine knowledge and spiritual wayfaring (*ma'rifat va sayr-u suluk*) (Mutahhari, 1993a, pp. 9-10) .

Perhaps, this was the starting point of the reciprocal and intimate relationship between Mutahhari and Khomeini which made him the principal aide to Khomeini until the Islamic Revolution in 1979. Mutahhari was also a special student to Khomeini. After his death, Khomeini described him as his 'dear son' and 'a fruit of his life'. Ayatollah Khomeini's statement on Mutahhari's death demonstrates his clear approval of Mutahhari's thoughts. In that statement, he describes Mutahhari as a "man who was almost unique in Islamology and different Islamic disciplines and [the study of] the Holy Qur'an" (Mutahhari, 2011a).

The other important figure in Mutahhari's educational upbringing was Ayatollah Hajj Aqa-Husain Burujirdi (d.1961), who, in December 1944, became the head of the Qum seminary and the top Shi'a authority during the reign of the second Pahlavi ruler. Burujirdi was highly cautious about the socio-political atmosphere of the time. In contrast to many religious figures and movements engaging in radical confrontation with the regime⁷¹, he took, like Ha'iri before him, a non-confrontational approach. In his view, the socio-political climate of Iran was not ready for a radical approach. Responding to the criticisms of his non-

⁷¹ One of these movements was Fada'iyan-i Islam, which will be discussed later.

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confrontational political approach, Burujirdi explained that he was “waiting for an appropriate time to support a young figure [i.e., Khomeini] who can be fruitful for both Islam and Muslims” (Ruhani, 1979, p.101). As a result of the immense pressures that had accumulated against the Shi‘a seminaries, therefore, Burujirdi mainly focused on non-political improvements and reforms during the Pahlavi era. In the eyes of many scholars, he had revived the *hawzah* with his reformist efforts (Mutahhari, 2001b, pp. 147-149). In other words, Burujirdi had established various reforms in both teaching and administrative domains in the *hawzah* as a result of which more students attended the *hawzah* in Qum.

Mutahhari attended Burujirdi’s lectures on jurisprudence for about ten years (Nasri, 2010a, p.13)⁷². He praises Burujirdi’s reformist measures in the religious seminaries and believes that he developed an innovative style of teaching Islamic jurisprudence using an accessible language and avoiding unnecessary, irrelevant arguments. In addition, his peaceful and moderate approach to Sunni Muslims resulted in a convergence between Shi‘a and Sunni scholars against sectarianism and Western imperialism. Furthermore, his positive attitude to modern sciences helped him convince affluent religious people to build modern schools in Iran under the supervision of the religious leadership (Mutahhari, 2001b pp. 145-157)⁷³.

In 1945, Mutahhari became familiar with ‘Allamih Muhammad Husain Tabatabai (d.1981), who had a significant influence on Mutahhari’s intellectual and spiritual growth later. As noted above, Tabatabai was one of the great Shi‘a theologians and philosophers who had devoted his life to Islamic studies. He wrote a great many books of Qur’anic exegesis (*tafsir*), Islamic

⁷² Mutahhari studied *fiqh* and *usul* with other prominent jurists as well, such as Ayatollah Hujat KuhKamari, Ayatollah Sayyid Muhammad Damad, Ayatollah Sayyid Muhammad Reza Gulpaygani and Haj Sayyid Sadr al-Din Sadr. However, the most important mentor of Mutahhari in *fiqh* was Ayatollah Burujirdi.

⁷³ Burujirdi was highly cautious in his juridical approach about the historical context of each juridical matter; that is, he tried to clarify as to when for the first time a specific matter was dealt with in *fiqh* and how it had been developed and changed by the *‘ulama* throughout history. In addition, unlike the prevalent approach of Shi‘a *‘ulama*, his approach involved paying attention to the Sunni *‘ulama*’s *fatwas* as well (Shakuri, 1991, pp. 21-22).

To know more about the Qum seminary’s approach to *ijtihad* under the leadership of Ayatollah Burujirdi, see (Mohaghegh Damad, 2013).

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philosophy, Shi'a doctrine, and the like. One of his masterpieces is his *Al-Mizan fi Tafsir al-Qur'an*, which is a 20-volume exegesis of the Qur'an. His interpretive methodology had a significant influence on Mutahhari's approach. It can be argued that Mutahhari's methodology of *tafsir* may be traced back to Tabatabai's methodology. Mutahhari praises Tabatabai's exegesis throughout his writings. According to him, "although 'Allamih Tabatabai is considerably renowned today, he will become more well-known in the next century as his work keeps him alive" (Mutahhari, 2011c, p.241).

Tabatabai also was well acquainted with Islamic philosophy and engaged with Western scholars and academics⁷⁴. Despite being a traditional philosopher, theologian, and mystic, Tabatabai was very anxious to reveal the relevance and importance of the *shari'ah* laws of Shi'a in modern life. Therefore, during the 1950s, when Marxist theory was being propagated in Iran and communist movements such as the Tudeh party were gaining influence in society, religious scholars such as Tabatabai felt a responsibility to respond to Marxist claims. Thus, Mutahhari, along with other students, asked Tabatabai to organize informal classes in his house to focus on the principles of Islamic philosophy in comparison with Marxism, dialectical materialists' theories and leftists thought⁷⁵. Mutahhari's familiarity with materialist philosophy had started back in 1946, when he began to read the Persian and Arabic translations of Marxist literature published by communist groups. From this point on, he felt obliged to respond to Marxist theories. Therefore, he found Tabatabai's lectures a great opportunity and eventually collected Tabatabai's lectures and converted them to fourteen articles which questioned materialist theories based on rational and philosophical

⁷⁴ Tabatabai held discussions with the philosophers of other religions and philosophical schools. For instance, in 1959 and 1961, he held one of his most noticeable debates with the French philosopher and theologian Professor Henry Corbin and Seyyed Husain Nasr, in which the basis of Shi'a thought and Islamic gnostic doctrines were discussed and compared with other schools of thought such as Sufism. Tabatabai's famous book, *Shi'a Islam*, is the product of these debates (Tabatabai, 1975).

⁷⁵ One of the most famous communist groups in Iran at that time was the Tudeh party, which was established in 1941 by Dr Taqi Arani and actively articulated materialist and Marxist theories. To know more about this party, see (Abrahamian, 1982)

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principles (Nasri, 2010a pp.18-21)⁷⁶. Those lessons were later expanded with footnotes added by Mutahhari himself, under Tabatabai's supervision. They were collectively published in five volumes as *Usul-i Falsafih va Ravish-i Ri'alism (The principles of philosophy and method of realism)*. Tabatabai's language in those articles was highly technical, addressing religious students of Qum while Mutahhari's explanation was much more accessible and essentially addressed to secular intellectuals in Tehran (Dabashi, 2017, p.153).

Another important figure in Mutahhari's education was Mirza Ali-Aqa Shirazi (d.1957), who taught *Nahj al-Balaghah (The Path of Eloquence* ⁷⁷) at Sadr seminary. He was proficient in many fields, including theology, jurisprudence, Arabic, Persian literature, and traditional medicine. Of all the subjects Shirazi lectured on in the seminaries, *Nahj al- Balaghah* was his favourite. Mutahhari learned much about *Nahj al- Balaghah* from Shirazi and, in 1974, wrote *Sayri dar Nahj al- Balaghah (A Survey of Nahj al-Balaghah)*, where he reveals that, like other religious students, he was unaware of *Nahj al- Balaghah's* greatness until he met Mirza Ali-Aqa Shirazi. (Mutahhari, 1974, p.12).

Although Mutahhari was drawn to Shirazi spirituality, his understanding of *Nahj al-Balaghah* was quite different to that of his master. Shirazi was not a political person by nature and was immersed in the spiritual and religious teachings of *Nahj al- Balaghah*. Mutahhari, however, was not only interested in the spiritual and religious teachings of this book but also highly fascinated by its political views. As he puts it in *A Survey of Nahj al- Balaghah*, to him, *Nahj al- Balaghah* was much more than a collection of Imam Ali's sayings: it depicted a whole world of worship, ethics, freedom, social justice, human rights, *jihad*, and ontological philosophy (Mutahhari, 1974, pp. 99-135). One of the important issues that Mutahhari took

⁷⁶ In this regard, see also (Rizvi, 2004, p. 29).

⁷⁷ *Nahj al-Balaghah* is the most famous collection of sermons, letters and *hadiths* of Imam Ali, which was collected by Sharif Radi, a Shi'a scholar in the 10th century.

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from *Nahj al-Balaghah* (particularly from sermon 214)⁷⁸ was the legitimacy of an Islamic government. Considering the fact that Mutahhari was a strong opponent of the Pahlavi regime, it seems that, by explaining the descriptions of an ideal state, he aimed to demonstrate how far the ideal Islamic state differed from the current state. In addition, Mutahhari was highly influenced by *Nahj al-Balaghah* in his understanding of the principle of justice and the issue of asceticism.

Although Mutahhari himself tirelessly paid tribute to his teachers for shaping his life and ideological perspective, he developed his own different understandings in certain philosophical and juridical areas. For instance, he brought up the new idea, never supported by his teachers earlier, that Muslim women had a right to issue *fatwas*. Although he was deeply influenced by his teachers, this had never stopped him from thinking independently and approaching their attitudes critically. Their intimate relationship, however, was never overshadowed by the differences in their thinking. After Mutahhari's assassination, Tabatabai described him as a *sahib-i nazar* (an authority) (Tabatabai, 2000, p.278).

2.2.1 Socio-Political Activities in Qum

Mutahhari's life in Qum was not confined to studying and lecturing⁷⁹. He was also preoccupied with a number of social and political activities. Amongst the more important of these was his relationship with the group called 'Fada'iyan-i Islam' (Devotees of Islam) and his significant role in preparing the reform plans for the educational and administrative systems of religious schools. Fada'iyan-i Islam was a political and religious movement which had been established in 1945 by Sayyid Mujtaba Navvab Safavi (1923-1955) in Tehran⁸⁰.

⁷⁸ In this sermon, Imam Ali speaks about the mutual rights of citizens and governments (Mutahhari, 1974, p. 114).

⁷⁹ It is a tradition in *hawzah* that well-educated senior students can lecture to the other junior students. Since Mutahhari soon came to be known as a highly smart student, a great number of other religious students gathered around him.

⁸⁰ The Fada'iyan members believed in the comprehensiveness of Islam with a specific programme for all aspects of human life and with capability of developing great human civilisations. According to them, "Islam is

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According to Ghobadzadeh, Navvab-i Safavi “was the first cleric in Iran’s contemporary history to propose the notion of an Islamic State” (Ghobadzadeh, 2015, p.135). The members of this group were very indifferent to Western material civilisation. This group was better known for its armed activities against the Pahlavi regime, such as the assassination of ‘Abdul-Husain Hazhir, the Minister of the Court in 1949 and of the Prime Minister Ali Razmara in 1951 (Ja‘fariyan, 2007, pp. 205-206).

The Shi‘a *‘ulama* in Qum took different approaches to Fada’iyan’s activities. Some prominent scholars, such as Ayatollah Muhhamad Taqi Khansari (1888-1952), publicly supported Fada’iyan’s actions while Ayatollah Burujirdi was not on good terms with them. In fact, since Burujirdi maintained a non-confrontational stance and was reluctant to get involved in politics, he found Fada’iyan’s activities to be a threat to the religious seminary as a whole. Although Fada’iyan’s members tried to show their loyalty to Burujirdi as the head of the religious seminary, their attempts never came to fruition and, ultimately, they were rejected by him (Ja‘fariyan, 2007, pp. 200-204). At this time, Mutahhari tried hard to achieve reconciliation between the group and Burujirdi by aligning them closer to the religious leader of the seminary in Qum. Due to Mutahhari’s close friendship with Navvab and his followers, Fada’iyan’s members followed his advice and acknowledged the need to acquire a more profound Islamic education.⁸¹ Consequently, they began to study Burujirdi’s *Tudih al-Masa’il* (a jurisprudential book containing *shrai’ah* laws) and even went out of their way and clearly expressed their loyalty to Burujirdi as the highest religious authority in the Islamic world (Davari, 2005, p.15)⁸². However, Fada’iyan continued its radical political and armed activities, which ultimately led to its failure. In 1955, eight leading members, including Navvab-i Safavi,

not confined to private issues...but is supposed to rule over all aspects of Muslims’ lives” (Taghavi, 2005, p. 125).

⁸¹ Fada’iyan’s leaders and members were not well-educated in Islamic studies and belonged to religious groups with middle or lower class backgrounds.

⁸² On this point, see also (Zamiri, 2011).

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were arrested and subsequently executed by the government which led to the extensive anti-Shah protest in Qum (Hovsepian-Bearce, 2016, p.30).

The second pivotal component of Mutahhari's social activism in Qum was his attempt to carry out certain reforms within the educational and administrative systems of the *hawzah*. Although Mutahhari praised Burujirdi's reformist measures, he realised that the religious seminaries needed reorganisation in order to be more in line with the needs of the times. Therefore, he prepared a primary draft of radical reforms within the clerical system, covering education, leadership, administration, and finance in order to make the organisation of the *hawzah* more efficient. This draft was created under the supervision of two Ayatollahs: Khomeini and Murtada Ha'iri (who were close to Burujirdi) and presented to Burujirdi, as the head of the seminaries. Since the draft suggested that the head of the seminary should be divided up between several discrete committees for the purpose of making decisions, Burujirdi became suspicious about the intention behind the plan and did not welcome it (Nasri, 2010a, p.23). Consequently, the relationship between Burujirdi and the *'ulama* involved in the formulation of the plan became colder, and the plan was terminated prematurely (Davari, 2005, pp. 29-30).

As Va'izzadih, a close friend of Mutahhari states, in the last two years of his life in Qum, Mutahhari was not happy with the atmosphere of the seminary. Personal financial problems and his doubts about his future⁸³ led to his move from Qum to Tehran (Va'izzadih Khurasani, 1981, p.348). In addition to the aforementioned points, the failure of the reform plan in the religious seminary could be another factor which led Mutahhari to move to Tehran. As a result of that failure, Mutahhari found that his goals of seeking new ideas and reformist thoughts were no longer achievable in the restricted atmosphere of Qum's seminary. In other words, Mutahhari, from the early years of his education in Qum, felt the need to reform traditional religious understanding. Perhaps, this was the main reason for his migration from

⁸³ However, it is not clear whether or not he distanced himself from Burujirdi and the leadership of the *hawzah*.

the traditional atmosphere of a religious school to the modern-academic world of the university in the city of Tehran.

2.3 Mutahhari in Tehran

Mutahhari left Qum for Tehran in 1952. This was to become the starting-point of his academic life outside of the traditional seminary context and his broad range of writings and socio-political activities. Mohaghegh, a student of Mutahhari, believes that Mutahhari was far more successful outside the religious seminary because the development of his own ideas and his subsequent significant impact on Islamic thought were made possible by his move beyond the religious seminary (Mohaghegh Damad, 2013). Perhaps, this was due to the fact that, in Tehran, Mutahhari was in touch with academic circles and younger people and realised that many questions had arisen among Muslim youth, especially on women's rights. Mutahhari perceived that the traditional approach could not respond to the challenges emerging from modern developments and, therefore, made an extensive examination of various publications on women's rights in Islam.

This period saw the development and growth in Iran of secular ideologies, ranging from nationalism and secularism to Marxism and liberalism. Mutahhari had already engaged with these secular modes of thinking in Qum while his main concern was to respond to the theological and theoretical questions raised by modern developments in the minds of Muslims (Nasri, 2010a, p.604). Understanding the questions of the young generation and intellectuals at his time was his main concern. Accordingly, in the introduction to his *Divine Justice*, Mutahhari asserts that "since twenty years ago, when I decided to write, the only aim of my writing has been responding to the current questions about Islam (Mutahhari, 2005a, p.14). A brief survey of Mutahhari's life in Tehran reveals two aspects of his engagements. On the one hand, we notice his formal academic career and, in particular, his professorship at the University of Tehran, which paved the way for him to join academic circles and be in

touch with modern thought. On the other hand, we see his intellectual reformist activities in Tehran.

2.3.1 Formal Academic Career

At the beginning of his life in Tehran, the young clergyman was invited to teach the philosophies of Avicenna and Mulla Hadi Sabzivari at Marvi School (a religious seminary in Tehran). This continued for about twenty-five years when his books, *Sharh-i Mabsut-i Manzumah (An Extensive Description of Manzumah)* and *Darsha-yi Ilahiyat-i Shifa (Theological Lessons of Shifa)*, were published as the fruits of his lectures. In addition to his classes in philosophy, he held weekly Qur'anic classes in which he interpreted parts of the Qur'an at Marvi. Although Mutahhari's interpretive methodology was based on rational and philosophical argumentation, the simplicity of his language made his discussions both understandable and accessible to a wide range of non-professional and non-specialist audiences. He spoke simply because he believed that the interpretation of the Qur'an should not be confined to the jargon of seminaries and religious students but rather should be presented in such a way that it was also understandable and beneficial to the audience outside religious seminaries⁸⁴.

The most prestigious formal part of the academic career of Mutahhari was at the University of Tehran, where he taught for more than twenty years. He started his work in 1955 with a professorship in Islamic Philosophy and Theology in the Faculty of Theology and Islamic Scholarship (Nasri, 2010a, pp. 25-27). However, as Davari notes, due to the socio-political atmosphere of pre-revolutionary Iran, Mutahhari was never acknowledged as a distinguished academic by the University's authorities (Davari, 2005, p.33). In 1977, after his intellectual confrontation with the views of Amir Husain Ariyanpur, the University authorities forced him

⁸⁴ The accessibility of the language was one of the significant characteristics of Mutahhari's writings. It is not restricted to his Qur'anic interpretation but also extends to his written texts in philosophy, history, sociology, and other subjects.

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to resign. At that time, Ariyanpur was a professor of modern Western Philosophy in the University of Tehran who constantly derided religious belief and Mutahhari's thoughts in his lectures; hence, Mutahhari had heated arguments with him, which resulted in his enforced retirement (Davari, 2005, p.33). According to Nasri, however, his debates with Ariyanpur were not the only reason for his resignation. Mutahhari, in fact, was not satisfied with the University's conditions and the status quo in general and wished to return to the seminaries in Qum to continue teaching there, rather than working as an employee paid by the government (Nasri, 2010a, pp. 41-44).

At the University of Tehran, Mutahhari followed two major purposes. First, he tried to reconcile the intellectual milieu of the *hawzah* with that of the university. Taking the social climate of pre-revolutionary Iran into consideration, when the relationship between the religious seminaries (*hawzah*) and universities was unproductive, holding a formal academic position by a clergyman was something of a rarity. Most religious scholars held their classes in the seminaries while most university positions were in the hands of people who were educated in the West (or received a secular university education) and who lacked traditional Islamic education. The significance of Mutahhari's role during his stay in Tehran partly lies in his attempt to reconcile these two educational bodies. He introduced the new academic ideas and schools of thought (such as Marxism and materialism) to the *hawzah* scholars. At the same time, he used this opportunity to become familiar with the intellectuals of academic circles. Since his main purpose was to respond to the challenges that modern Muslim communities, in particular those in Iranian society, were facing in their encounter with modernity and such schools of thought as Marxism and materialism, he developed a series of debates with those scholars to identify and evaluate their main concerns. This helped him to enhance his knowledge and learn more about other schools of thought. Mutahhari profited from this opportunity and established a close link with renowned scholars such as Sayyid

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Hossein Nasr (1933)⁸⁵, Hamid Enayat (1932-1982)⁸⁶ and Muhammad Ibrahim Ayati (1915-1964)⁸⁷ (Va'izzadih Khurasani, 1981, p.348)⁸⁸. The second main advantage of Mutahhari's position at the University of Tehran was the unique opportunity for him to be in close contact with a wide range of young Iranian students, which helped him to realise the challenges and questions of their age-group concerning modern and Western ideologies such as Marxism that were disseminated then. Mutahhari realised that the new generation, which was under the influence of secular ideologies and philosophies, had their own set of intellectual, philosophical, social, and political questions. Some socio-political and intellectual movements that had swept across Iran and the whole Islamic world had affected Muslims' understanding of themselves and their religious identity. Mutahhari praised the awareness of the younger generation for being sensitive to the challenges coming from the modern West. He asserted that this awareness was "a sign of intellectual growth and a revival movement within the Islamic world" (Mutahhari, 2000a, pp. 212-219). Therefore, he urged the *'ulama* and intellectuals of the time to respond to the theological and theoretical questions raised in the minds of Muslims, due to modern developments, concerning the relationship between Islam and modernity or between religion and science (Mutahhari, 2000a, pp. 219-223). At the same time, he encouraged the students of the university in various fields to study the Islamic subjects in the *hawzah* in order to develop their religious understanding. Mutahhari regarded the students who studied the Islamic subjects in religious seminaries as "the link between modern [thought] and the traditional Islamic scholarship because they help to enhance Islamic culture" (Mutahhari, 2011f, p.87).

⁸⁵ Sayyid Hossein Nasr is a famous Iranian-American philosopher of religion who is the author of many scholarly books and articles. To know more about his life and thoughts, see (Nasr and Jahanbegloo, 2010, pp. 1-148).

⁸⁶ Iranian political scientist and translator, whose translation of Aristotle's *Politics* and Hegel's *Reason in History* and *Master and Slave* were generally admired for the precision and elegance of their language. One of his most important writings is *Modern Islamic Political Thought* (Ashraf, 1998).

⁸⁷ Muhammad Ibrahim Ayati was an Iranian historian who had both religious and academic education. *Tarikh-i Payambaran (The History of the Prophets)* and *Tarikh-i Andulus (the History of Andalusia)* are two of his works.

⁸⁸ In this regard, see also (Nasr and Jahanbegloo, 2010, p. 115).

2.3.2 Networking with the Younger Generations

Mutahhari's presence in Tehran and his interaction with the academic circles and younger people, mainly students, made him realise the dangers inherent in the growth among Muslim societies of secular thinking and Western ideologies such as liberalism, secularism, and Marxism. He knew that the younger Iranians suffered from lack of profound understanding of Islamic thought, and that this was perhaps partly due to the unproductive relationship between the *hawzah* and the universities and due to a general intellectual dichotomy in the Muslim world between Western-educated intellectuals and religious scholars. He realised that, to respond to the questions of the young people, he had to build a constructive relationship with them. Therefore, he decided to be active beyond his academic audience and create a network with people of different social classes, particularly young people who were exposed to secular thoughts propagated by Marxists. Below are some examples of Mutahhari's networks with the younger generations.

During the 1960s, Mutahhari established four renowned religious associations with the help of some other scholars such as Mahdi Bazargan, Kazim Yazdi, and Yadullah Sahabi. They were *Anjuman-i Islami-yi Muhandisan* (Islamic Association of Engineers), *Anjuman-i Islami-yi Mu'alliman* (Islamic Association of Teachers), *Anjuman-i Islami-yi Pizishkan* (Islamic Association of Physicians), and *Anjuman-i Dini* (Religious Association)⁸⁹. Mutahhari was an active and, in some cases, the only speaker at the meetings of these Islamic associations, and many of his publications are collections of his lectures at these organizations (Rizvi, 2004, p.32)⁹⁰.

⁸⁹ In 1942, Mutahhari set up the Islamic Association of Students, in which Mutahhari and Bazargan were the main speakers. Later, they joined the Associations of Engineers and Physicians (see above). Finally, in 1961, Bazargan with the help of Yadullah-i Sahabi and Ayatollah Taliqani, established the political movement entitled 'Nihdat-i Azadi-yi Iran (the Liberation Movement of Iran). For more information about this movement, see (Dabashi, 2017, p. 335).

⁹⁰ *The Question of Hijab, The Issue of usury (Riba), The Reciprocal Services between Islam and Iran* and many others are the products of his contribution to these associations.

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In 1963, a coalition comprised of small religious groups or assemblies was established in Tehran under the supervision of Ayatollah Khomeini, known as *Hay'atha-yi Mu'talifah Islami* (The Coalition of Religious Assemblies)⁹¹. The group primarily aimed to organize and supervise a systematic activity against the Pahlavi regime. Ayatollah Khomeini appointed a clerical committee for the Coalition,⁹² including Mutahhari and five other clerical figures. The failure of Fada'iyan's efforts, perhaps, presented a guideline and a lesson to activists for their intellectual and political activities in opposition to the regime. With the establishment of this committee, Khomeini wanted to control, guide, develop, and supervise the religious understanding of the Coalition while nurturing their obedience to religious authorities. As Davari explains, "this union found credibility among the *'ulama* and the religious circles" due to the nature of the clerical composition of the committee (Davari, 2005, p.39).

Soon the Coalition acquired popularity amongst religious people and the younger generations. After the exile of Ayatollah Khomeini in 1964⁹³, it established a military branch for armed activities, disregarding Mutahhari's reluctance and disagreement with engaging in armed struggle. Mutahhari, from the very outset, was mainly focused on the cultural and intellectual dimensions of Islamic thought rather than militant actions. In this regard, Mutahhari delivered a series of lectures to the members of the Coalition in which he scrutinised the reasons for the decline of Islam in the modern world. Mutahhari completed these lectures and published them in the form of a book entitled *Insan va Sarnivisht (Man and Destiny)*, which became the core of the Coalition's training curriculum (Nasri, 2010a, pp.30-33).

⁹¹ Since the Coalition's members were strong followers of religious authorities, specially Ayatollah Khomeini, Ja'fariyan believes that it is better to call it a religious union of "the sons of the mosque (*bachchihay-i masjid*) rather than a political association (Ja'fariyan, 2007, p. 373).

⁹² *Mu'talifah* is still active in the political arena of Iran.

⁹³ On 26th October 1964, Ayatollah Khomeini delivered his famous speech on the Shah's pro-American policies, the issue of capitulation, in particular. Consequently, on 4th November 1964, he was arrested and exiled to Turkey. However, in September 1965, he left Turkey for Najaf in Iraq, where he stayed for about thirteen years (Algar, 2009, pp. 34-36).

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Mutahhari founded the institution of Husainiyyah Irshad in 1965 with the help of some of his friends⁹⁴. In a short time, a great number of people would gather at the institute to attend its daily and weekly programmes. It became an important centre for religious meetings where famous figures such as Mutahhari and Ali Shari'ati lectured⁹⁵. Mutahhari followed different purposes in establishing the institute including invitation of prominent Muslim clerical and non-clerical intellectuals to give academic lectures and establishing the Institute of Research and Education under the management of Husainiyyah Irshad. However, as Davari states, "although, eventually, this institute did not meet Mutahhari's expectations, it played a major role in the religious movement of the young activists before the Islamic Revolution" (Davari, 2005, P. 42). In addition, Mutahhari intended to organize question and answer sessions for the young generations and other audiences of the lectures and to establish a centre for Islamic studies in Tehran under the supervision of the Irshad.

Mutahhari's measures at the Irshad Institution show that his aim was to bridge the gulf between traditional and modern understandings of Islam. He thought this could be actualised neither by a return to the traditional understanding of Islam, nor by stopping the process of modernisation or blindly adopting Western secular thoughts. Rather, he argued that this could be attained only by presenting a comprehensive theoretical framework for a modern Islamic ideology, thus empowering Muslims to deal with and properly encounter modern ideas and other ideologies such as Marxism (especially Islamic Marxism), nationalism and liberalism. Therefore, as Ja'fariyan affirms, the Irshad institution was established by scholars who had aimed to use modern philosophical terminology to present Islamic thought (Ja'fariyan, 2007, p.529).

⁹⁴ Muhammad Humayun, Sayyid Ali Shahchiraghi, and Minachi helped Mutahhari to establish the Husainiyyah Irshad institution.

⁹⁵ To know more about Shari'ati, see: (Dabashi, 2017, p. 102) and (Rahnema, 1994, p. 208).

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Many of Mutahhari's books are the products of his lectures during his involvement in the project of Irshad⁹⁶. Mutahhari remained active in his position at the institution until 1970, but, after facing internal conflicts, he resigned (Nasri, 2010a, pp. 33-40). This resignation was the outcome of tension between the Muslim intellectuals without formal religious training (such as Shari'ati and Minachi) and clerics such as Mutahhari, whose approach was completely different from that of Minachi as head of the institution. Mutahhari sought to place the Irshad institution under the supervision of a 'Senior Clergy Council' as a foundation for Islamic studies, which meant that any programme had to be approved of by a *mujtahid* (a senior clergyman), while Minachi had an absolutely different perspective. According to Davari,

As Minachi recently revealed—in a private interview in August 1993—he and Shari'ati had come to a secret agreement...they agreed to render the institute more attractive to the younger generation by changing its appearance from an academic quietist religious centre to a politically revolutionary institute. In order to achieve this, Shari'ati presented more sociologically and politically oriented speeches (Davari, 2005, p.43).

It seems that Mutahhari was aware of their intentions. That is why, in his letter of resignation, he wrote:

Every religious institution needs to be under the supervision of a fully qualified cleric of top juridical calibre ... in contrast, these gentlemen [Minachi and his companions] do not even tolerate the presence of five honourable, intellectual and knowledgeable *'ulama* within an institute that is entitled 'Islamic'. Therefore, many problems have arisen within the institution (Mutahhari, 1990b, p.111)⁹⁷.

2.3.3 The Development of Mutahhari's Reformist Thought in Tehran

Mutahhari realised in Tehran that the traditional approach could not help enough to respond to the challenges of modern times. He believed that Islamic thought needed reforms and a revival. The following section illustrates how his encounter with the academic world and young educated Iranians in Tehran shaped his reformist views. Exploring Mutahhari's publications, one realises that his reformist thought was supported by the following pillars:

⁹⁶ Books such as *Divine Justice ('Adl-lilahi)*, *Sayri dar Nahj al- Balaghah (A Survey of Nahj al-Balaghah)*, *Jazibi va Dafi'ih-yi Ali (Polarization around the Character of Ali Ibn Abi Talib)* and *Ihya-yi Tafakur-i Islami (Revival of Islamic Thought)* are the products of his lectures in Irshad institute.

⁹⁷After resigning from the management of the Irshad institute, Mutahhari continued his lectures at al-Jawad Mosque in Tehran.

the need for an Islamic renaissance, the unity of the Islamic world, the establishment of a new Islamic theology, and his engagement with non-Islamic ideologies.

2.3.3.1 The Need for an Islamic Renaissance

To Mutahhari, the Islamic world needed a renaissance. The underlying concern which motivated and informed all Mutahhari's thoughts, activity, and writing was the revival of Islamic thought. His call for revival and renewal in Islamic thought derived from his perception of its backwardness and the stagnation of Muslim societies over many centuries. In 1970, he delivered a series of lectures at Irshad organised for honouring the Pakistani reformer 'Allamih Iqbal. These lectures were published later in a book entitled *Ihya-yi Tafakur-i Islami (The Revival of Islamic Thought)*. In response to the question as to what Muslims need to do to regain their civilisational power and initiative, Mutahhari makes a distinction between Islam and Muslims. According to him, Islam is alive because the Qur'an and *hadiths* (traditions), together with the Prophet's and Imams' *sunnah* (way of life) are alive and accessible to Muslims (Mutahhari, 2009a, p.18). In addition, Islam continues to live because it is one of the fastest growing religions in the world (Mutahhari, 2000a, p.145). However, he warns that Islamic thought is dead in the Muslim communities and needs a revival (*Ihya*). He writes, "when misconception, distortion, and superstition find a way into religious belief, religion loses its dynamic power in society, and therefore, one cannot see the active presence of religion in individual and public spheres" (Mutahhari, 2000a, pp.131). Here, Mutahhari describes the current situation of Muslim societies, Iranian and others. In the following passage, Mutahhari displays his severe criticism of the comparison made between Muslim societies and Western ones:

If we only criticise European culture and civilization and praise Islamic culture and thought and claim that the true Islamic culture is the one that we have today...[implying that] people of the world should come and follow us, [then] nothing will be attained. Because, if other people follow us, they will become like us: half dead (Mutahhari, 2009a, p.20).

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There are clear indications that Mutahhari was impressed by the ideas of the pioneers of Muslim modernist thinking, such as Sayyid Jamal al-Din Afghani (1839–97), Muhammad ‘Abduh (1849–1905), and Muhammad Iqbal (1876–1938). He praises these thinkers in different writings and has dedicated chapters of *Ihya-yi Tafakur-i Islami* and *Barrisi-yi Ijmali-yi Nihdatha-yi Islami dar Sad Sali-i Akhir* (*The Investigation of the Islamic Movements in the Recent Century*) to these precursors. It seems that Mutahhari saw himself as standing in the great tradition of Islamic renewal and revival movement,⁹⁸ which stretched across the centuries and was epitomized by such Muslim reformers and modernists as these thinkers.

To Mutahhari, Afghani was the founder of the Islamic revival movement in the nineteenth century who realised that Muslim societies were chiefly suffering both from colonisation and from domestic tyranny. Consequently, he focused mainly on Muslim political awareness (Mutahhari, 1989a, p.18). The central aim of Afghani was “to persuade Muslims to understand their religion aright and live in accordance with its teaching. If they did so, he believed, their countries would of necessity be strong” (Hourani, 2001, p.113)⁹⁹. Muhammad ‘Abduh, a Egyptian disciple of Afghani, was, however, less engaged with political matters. As Scharbrodt points out, in ‘Abduh’s view “the ‘ālim should remain outside the state but exercise his religious authority to provide guidance to the rulers and to society at large” (Scharbrodt, 2008, p.141). His central achievements were extensive reforms in education, language, and the legal system, together with a reform of Islamic theology (Mutahhari, 1989a, p.43)¹⁰⁰.

Another Muslim revivalist who influenced Mutahhari was Muhammad Iqbal, whose philosophical and spiritual ideas inspired him. He called Iqbal the ‘hero of the reformist movement’ who defended Islamic ideology against Western threats (Mutahhari, 2009a, p.12-

⁹⁸ For further details on the origin of Islamic modernist movements, see (Masud, 2009, pp.140-141) and (Nasr, 2001).

⁹⁹ According to Keddie Afghani can be regarded as a forerunner of Islamic trends which “reject both pure traditionalism and pure Westernism” (Keddie, 1972, p. 1).

¹⁰⁰ To know more about ‘Abduh, see(Kerr, 1966).

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18). Iqbal called for an Islamic revival and emphasised the need for Muslim self-determination and nationalism (Lelyveld, 2004, p.356). In his treatment of the primary religious sources of the Quran and the *sunnah*, he stressed the importance of rational understanding and the principle of *ijtihad*¹⁰¹. Although Iqbal was educated in Europe and much admired the intellectual and technological achievements of the West “he was equally critical of the imperialism of European colonialism, the moral bankruptcy of secularism, and the economic exploitation of capitalism” (Esposito, 1983, p.188). Therefore, as John Esposito underlines, Iqbal advocated a return to true Islam in order to construct an alternative Islamic path to modernity for modern Muslim societies (Esposito, 1983, p.188).

Through investigating the ideas of such celebrated Muslim modernists, Mutahhari aimed to demonstrate that, despite the diversity of opinions and scope of ideas, consensus could be observed between most Islamic modernists on the issue of the compatibility of Islam with modern notions. Confirming Iqbal’s idea, Mutahhari stressed that:

If we only consider the intellectual and scientific aspects of Europe, no matter how close we get [to them in terms of science] there is no danger for us, because science is science, and European science is the continuation of Islamic science.... (Mutahhari, 2009a, pp. 13-14).

Reviewing Islamic history, Mutahhari recognised that most Muslim countries are not only technically, economically, and educationally underdeveloped but also falling behind in ethics and spirituality. In fact, Mutahhari and the aforementioned Muslim modernist thinkers made a distinction between the scientific and technological progress of the West which Muslims can embrace, and Western ideologies which they considered to be contrary to Islamic thought.

One of the significant differences between Mutahhari and the other Muslim modernist thinkers lies in the fact that he chiefly focussed on the wider Iranian Muslim society and the younger generations in particular. As it was explained above, he established different

¹⁰¹ Perhaps Iqbal’s most significant work on Islamic reformism is ‘*The Reconstruction of Religious Thought in Islam*’, in which he expounds on his social and religious philosophy and demonstrates the harmony between religion and science (Iqbal, 1934).

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institutions such as Husainiyyah Irshad which were a place for religious meetings. In all these places, Mutahhari aimed at presenting a comprehensive philosophical and theoretical ground for Islamic ideology, enabling the new generations to engage with other schools of thought and to be equipped for defending Islam intellectually against Western thoughts and ideologies.

2.3.3.2 Unity of the Islamic world¹⁰²

Drawing upon his Islamic heritage and deep concern about modern challenges, Mutahhari responded to the weakened condition of Islamic unity. In fact, one of the most significant features of his reformist movement was his call for Islamic unity between the different Muslim sects, most of all between Sunnism and Shi'ism¹⁰³. Perhaps Mutahhari's reconciliatory approach to other Islamic sects was inspired by his teacher, Ayatollah Burujirdi, who supported Sunni-Shi'a dialogue initiatives.¹⁰⁴

Mutahhari's ideas about Islamic unity can be found in his book, *Hajj*,¹⁰⁵ and also in his article, '*Al-Ghadir va Vahdat-i Islami (Al-Ghadir and Islamic Unity)*', in which he affirms that Islamic unity and Muslim brotherhood have been the prime purpose of Islam from the very beginning and thus, it is the responsibility of every Muslim to seek this purpose. He

¹⁰² Mutahhari's reformist thought on Islamic unity has not drawn the attention of researchers (either in Persian or in English studies). At least, I have found no examination of his reconciliatory approach to other Islamic sects in the literature.

¹⁰³ Since Mutahhari was impressed by the ideas of the pioneers of Muslim modernists, it could be argued that his idea about Islamic unity was influenced by Afghani as well. Afghani, on the one hand, stressed internal reforms and self-improvement by emphasising technological and scientific education and the importance of reason ('*aql*), freedom, and science in Islamic teachings. On the other hand, he brought up the idea of 'pan-Islamism' as the best way for reviving and uniting Islam against Western powers and the forces of imperialism. Afghani's idea on pan-Islamism can be found in his journal '*Urwah al-Wuthqa*' (Keddie, 1972, p. 184). To know more about the history of Islamic modernism and Muslim modernist figures, see (Rippin, 1993), (Hourani, 2001) and (Esposito, 1983).

¹⁰⁴ As mentioned before, Ayatollah Burujirdi, the head of the seminary in Qum, took a reconciliatory approach towards other Islamic sects, particularly those of Sunni Islam, which led to convergence between Sunni and Shi'a congregations to confront Western imperialism and colonialism.

To know more about the history of Sunni-Shi'a reconciliation and the way to Islamic unity, see (Brunner, 2004) and (Nasr, 1997).

¹⁰⁵ This book is a collection of Mutahhari's notes on the Muslim pilgrimage, which he aimed to extend and publish in book form. However, he did not find an opportunity to complete the work (Mutahhari, 2005b, p. 6).

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supported his argument by referring to some Qur'anic verses such as "And hold you fast to God's bond, together, and do not scatter" (3:103) and "Be not as those who scattered and fell into variance after the clear signs came to them" (3:105). In his view, Islamic unity does not mean that all Muslims should adhere to one sect and put aside their own beliefs. It does not imply that Muslims must ignore their differences, either. Rather, each Muslim has to bear in mind that he has significant sources of consensus which can be used as the basis for their unity¹⁰⁶. For Mutahhari, unity among Muslims can be seen in the sense of the essential unity of Islam. For instance, all Muslims worship the one God (monotheism), they believe in the prophetic mission of the prophet Muhammad (pbuh), the Qur'an is their common book, Muslims face the same direction (i.e., *ka'ba*) in prayers, they pray and fast in the same way, and so on. The question is why Muslims should not benefit from all these common features when, according to the Qur'an, they are all brothers (Mutahhari, 2001a, pp. 211-213).¹⁰⁷ Furthermore, following Mutahhari's way of thought, unity among Muslims has to be translated into political unity, in line with Afghani's pan-Islamist approach, to resist Western imperialism. Therefore, in his speech in defence of Palestine against Israel (on the day of 'Ashura in 1969), he strongly criticised the Islamic world particularly Iranians for not financially helping Palestinians. After that speech, he was arrested and sent to solitary confinement by the Pahlavi regime (Mutahhari, 2018, pp. 270-281).

Although there is no clear indication of Mutahhari's active engagement with other Islamic sects, his admiration of Ayatollah Burujirdi's activities in this field reflects his own primary concerns about the issue of Islamic unity. Mutahhari called Burujirdi, Shaykh 'Abd al-Majid Salim¹⁰⁸ and Mahmud Shaltut¹⁰⁹ 'The planner[s] of Islamic unity in our century'. For instance, Burujirdi, as a top Shi'a religious authority and 'Abd al- Majid Salim, as the chief *Mufti* of

¹⁰⁶ In this regard, see (Nasr, 1997, p. 658).

¹⁰⁷ The Qur'an asserts that 'The believers indeed are brothers; so set things right between your two brothers, and fear God; haply so you will find mercy" (49:10).

¹⁰⁸ Shaykh Abd al-Majid Salim (1832-1916) was a Grand Imam of Azhar from 1899-1903.

¹⁰⁹ Mahmud Shaltut (1893-1963) was a prominent Sunni Egyptian scholar who, in 1958, was appointed as Deputy-Rector of Azhar (Brunner, 2004, p. 284).

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Egypt, agreed to accept the authentic traditions (*hadiths*) of each other (Shi'a & Sunni) and include them in their *hadith* sources. As Brunner states, in 1959, Shaltut "identified the need to establish the instruction of Shi'ite law on a permanent basis in the Faculty of *Shari'ah* [at al-Azhar] (Brunner, 2004, p.287). In Mutahhari's view, this agreement paved the way for the growth of comparative jurisprudence (*fiqh-i muqarin*)¹¹⁰ (Mutahhari, 2005b, pp. 81-82). Another result of Burujirdi's moderate approach to Islamic unity was the publication of a number of Shi'a texts in Sunni majority countries (particularly in Egypt), which paved the way for Sunni Muslims to access original Shi'a sources (Mutahhari, 2002b, pp.17-18).

Mutahhari saw the solution to Muslim disunity in intra-faith dialogue, which could provide a basis for addressing practical issues and common concerns, such as the development of Western imperialism or the causes of decay in the Islamic world, in order to encourage both formal and informal unified political action against Western imperialism. In addition, dialogue would help Muslims from different schools of thought to properly understand each other. In this regard, Mutahhari writes:

Our purpose for Islamic unity is to fill the gaps between different Islamic sects that have originated from misunderstandings. Muslims need to have an authentic and clear understanding of their [Muslim] brothers and break down distortions, misunderstandings and illusory notions regarding other sects. They have to take into consideration that Islam asks Muslims to maintain strict unity (Mutahhari, 2005b, p.11).

Although Mutahhari brought out many publications explaining and representing Shi'a thought, such as his book on *Imamah*, these publications never stood in the way of his apologetic approach to other Islamic sects. For example, Mutahhari sometimes supported his arguments by quoting traditions from Sunni sources, such as '*Sahih Muslim*' and '*Bukhari*'¹¹¹.

¹¹⁰ *Fiqh-i muqarin* means to collect the views of different Muslim jurists and their arguments on one specific juridical issue in a book and determine the most authentic one. However, there are different approaches to *fiqh-i muqarin* the investigation of which is out of the scope of this research. To know more about this issue, see (Shahrudi, 2008).

¹¹¹ For instance, Mutahhari, in *The Question of Hijab*, sometimes supports his ideas by referring to Sunni traditions.

2.3.3.3 *New Islamic Theology*

Another purpose of Mutahhari's reformist thought was establishing a new Islamic theology (*kalam-i jadid*). Due to modernisation and scientific progress, Islamic thought faces new challenges in various fields that need to be dealt with. In this regard, Mutahhari emphasised that "Islamic theology constantly needs to be renewed, in response to the requirements of the times" (Mutahhari, 1988, p.37), and, therefore, he called for a new theology. In fact, Mutahhari sought to establish a new Islamic theology in which he scrutinised the perspective of Shi'a Muslim ideology. His writings cover different theological themes, including monotheism (*tawhid*), prophethood (*nubuwwat*), divine justice (*'adl-i ilahi*), Resurrection (*ma'ad*), *imamat*, Islamic economics, philosophy of ethics, philosophy of history, etc. His publications paved the way for a new generation to enhance its Islamic knowledge in confrontation with secular ideologies. In all these publications, Mutahhari used an accessible language which allowed people from all social classes to understand him. In defence of Islamic thought vis-à-vis modern criticism, Mutahhari set out to address a wide range of theological themes to clarify the distinction between Islamic and modern thought such as, spirituality in Islamic thought¹¹², the Islamic conception of human being (*al-insan*)¹¹³, the relationship between science and religion¹¹⁴, and redefinition of some specific Islamic concepts such as predestination (*mashiyat*), trust in God (*tavakul*) and asceticism (*zuhd*)¹¹⁵.

¹¹² Mutahhari seeks to differentiate between Islamic thought and modern thought. To him, the basic trait of modern thought is its materialistic nature which recognises matter as the exclusive criterion and instrument of knowledge, neglecting the spiritual aspects of the world. However, for Islam, material causation is not enough to explain the happenings of this world. He names the spiritual power '*imdadha-yi ghaybi*' (divine intervention), which is manifested in various realms such as strengthening human willpower and inspiring scientific thought (Mutahhari, 2007b, pp. 78-83).

¹¹³ Mutahhari sees the separation from spirituality as the key problem of modern humans. He calls this phenomenon 'the mistake of today's world' which involves disregarding the divine identity of human beings (Mutahhari, 2001c, pp. 85-86). For Mutahhari, there are features and values in human nature which are not in harmony with the material world and not shaped by matter. He names them 'the spiritual values' and the basis of human personality (Mutahhari, 2004a, p. 58).

¹¹⁴ Mutahhari believes that the theory of the separation between religion and science is primarily rooted in Christian history. However, this idea has penetrated into Muslim minds as well, whereas religion (faith) and science are two fundamental and indispensable bases of human personality (Mutahhari, 1996, p.29). It should be remembered that although Mutahhari is optimistic about modern scientific developments and technological improvements and does not at all deny the validity of science, he perceives a subtle threat in the rising faith in

2.3.4 Mutahhari's Engagement with other Schools of Thought

Another important feature of Mutahhari's activities in Tehran is his engagement with other schools of thought. One has to bear in mind that, during the reign of the second Pahlavi shah, which coincided with Mutahhari's residence in Tehran, many Western ideas had penetrated into the secular urban middle and upper classes of Iranian society, and practically most of the elites of the country were influenced by Western ideas. Mutahhari deemed these ideologies a threat to the Islamic identity of Iranians. According to Va'izzadih, the period of 1952-1979 was the most critical time of Mutahhari's life, in which, through his writings and speeches, he engaged with non-Islamic thinking coming from the West (Va'izzadih Khurasani, 1981, p.361). There were some major ideologies in the socio-intellectual arena of Iran that Mutahhari felt obliged to respond to. These included secularism, nationalism, Marxism (especially Islamic Marxism), and traditionalism.

In response to these ideologies, Mutahhari delivered a series of speeches to young Iranians at different Islamic associations' meetings including Husainiyyah Irshad in which he examined the theoretical basis of secular ideologies such as Marxism and nationalism from an Islamic perspective. Mutahhari's lectures were completed and published in various books including *Khadamat-i Mutiqabil-i Islam va Iran (Reciprocal Services between Islam and Iran)*, *Naqdi bar Marxism (A Critique of Marxism)*, *The System of Women's Rights in Islam*, *The Question of Hijab*, *Sexual Ethics in Islam and the West*, etc. It is beyond the scope of this research to investigate Mutahhari's engagement with all ideological schools propagated in

the absolute validity of science. He explains that "not only are religion and science not contradictory; rather, they are complementary, for they belong to two different realms" (Mutahhari, 1996, p. 35). Religion (Islam) belongs to the realm of spirit and meaning of life, which is its goal and shows the direction in which man should orient his instinct while science produces the tools and instruments which make it easier for humans to reach their goals (Mutahhari, 2002c, p. 103). In this regard, Mutahhari wholeheartedly rejects the scientific interpretation of the Qur'an, which uses the facts and theories of the sciences to highlight its objectives and true meaning (Mutahhari, 2011d, p. 74).

¹¹⁵ From his standpoint, Islamic concepts such as predestination have lost their authentic meanings. He finds these misconceptions to be among the internal causes of decline in Islamic thinking and asks for a reinterpretation based on an authentic Islamic worldview (Mutahhari, 2009a, p.68). To know more about Mutahhari's view about the notion of predestination, see (Mutahhari, 2008c, pp. 55-72).

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pre-revolutionary Iranian society¹¹⁶. However, since Mutahhari found Islamic Marxism the most threatening to Islamic thinking due to its propagation of Marxist ideology under the name of Islam and its growing popularity among the Iranian youth, his engagement with Iranian Islamic Marxism is explored briefly below. Mutahhari's criticism of Islamic Marxism finally resulted in his assassination by an organisation (Furqan) which strongly supported this ideology .

In pre-revolutionary Iran, Islamic Marxist ideology was supported by two groups: the Organization of the Popular Religious Fighters of Iran – otherwise known as MKO (Sazman-i Mujahidin-i khalq-i Iran)¹¹⁷ and the Furqan Group (Guruh-i Furqan). The followers of these groups tried to create a synthesis between Islam *qua* religion and Marxism; they would even try to transform Islam into a leftist ideology in order to present Marxist doctrine within an Islamic framework. As Hunter explains, “Muslim Marxists were more Marxist and revolutionary than Muslims and they equated any revolutionary movement with Islam” (Hunter, 2014, p.77). For instance, Mujahidin, in their publications such as *‘Prophets’ way and the human way’ (Rah-i Anbiya, Rah-i Bashari)* and *‘Husaini Movement’ (Nihdat-i Husaini)*, interpreted the movements of the prophets and Imam Husain as the class struggle between the poor and the rich, the ruled and the rulers¹¹⁸. Accordingly, they asserted

Our original aim was to synthesize the religious values of Islam with the scientific thought of Marxism ... for we were convinced that true Islam was compatible with the theories of social evolution, historical determinism, and the class struggle... we say ‘no’ to Marxist philosophy, especially to atheism. But we say ‘yes’ to Marxist social thought, particularly to its analysis of feudalism, capitalism, and imperialism (Abrahamian, 1989, p.92).

¹¹⁶ For further details on ideological schools which penetrated pre-revolutionary Iranian society and on Mutahhari's response to them, see (Ja'fariyan, 2007) and (Davari, 2005, P. 34-69).

¹¹⁷ The first group, Mujahidin-i Khalq, was established in 1965 by a small circle of students from the University of Tehran. Mujahidin did not consider themselves followers of Ayatollah Khomeini or any other religious authority. (Ja'fariyan, 2007, pp. 436-439).

¹¹⁸ According to Miythami, who was a member of Mujahidin before the Revolution, Mujahidin believed that the prophets' way and the humans' way were the same, and, therefore, Marx's and Lenin's way was the same as the way of the prophets (Miythami, 2003, p. 111).

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In 1972, the Mujahidin organization published a *Manifesto of Ideological Issues* in which they publicly announced that they were discarding Islam in favour of Marxist-Leninist ideology.

They declared,

At first we thought we could synthesize Marxism with Islam and accept historical determinism without dialectical materialism. We now realize that this is impossible ... We have chosen Marxism because it is the true road for the emancipation of the working class" (Abrahamian, 1989, p.145)¹¹⁹.

As it is clear from the above passage, they came to the conclusion that Marxism, and not Islam, was the true revolutionary philosophy because ultimately Islam is 'the ideology of the middle class' while Marxism is 'the salvation of the working class'.¹²⁰ After the Mujahidin announced their conversion to Marxism, another Muslim Marxist group came into existence, known as the 'Furqan Group', which was founded by Akbar Gudarzi in 1975¹²¹. As Ja'fariyan notes, the whole organization of this group, which had approximately 60 members, was under the authority of a 25-year-old, Gudarzi, who prepared a commentary on more than 20 parts (*juz'*) of the Qur'an. Furqan published its Quranic commentary under the name of *The Message of the Qur'an (Payam-i Quran)* and *The Principle of Qur'anic Thinking (Usul-i Tafakur-i Qurani)* in which they presented Marxist political ideology within a Qur'anic framework (Ja'fariyan, 2007, pp. 628-633).

Mutahhari observed a clear deviation from Islamic principles in the attitudes of these groups, and so, in response, he started to elaborate a full Islamic ideology through his writings and speeches. These had reached their climax during the 1972-1978 period, when leftist and Islamic Marxist (known as *iltiqati*)¹²² tendencies were extensively propagated and permeating the social, political, and intellectual spheres of Iran. Mutahhari wrote a great number of books

¹¹⁹ On this point, see also (Ja'fariyan, 2007, pp. 470-488).

¹²⁰ For further details on this point, see (Hunter, 2014, p. 78).

¹²¹ Gudarzi was born into a religious family. He abandoned high school to attend religious seminaries, but left them before completing the first year of the traditional Islamic curriculum. In 1978, Gudarzi, who was highly influenced by the writings of Ayatollah Taliqani and Ali Shari'ati, established small religious groups in different parts of Tehran, chiefly in mosques, in which he gave commentaries on the Qur'an and *Nahj al-Balaghah* and tried to entice young people to join the Furqan group.

¹²² In Mutahhari's writings, Islamic Marxism is described as *iltiqat* (Mutahhari, 2006a, p. 168).

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and articles in refutation of Marxism and Islamic Marxist ideology. Moreover, he began to lecture on Islamic philosophy in his weekly sessions which were attended by young scholars such as Hamid Enayat and Reza Davari. In these sessions, he extensively discussed Islamic philosophy and criticised the Marxist-Communist ideology. The following writings are products of this time: *Naqdi bar Marxism (a Critique of Marxism)*, *Falsafi-yi Tarikh (Philosophy of History)*, *Qiyam va Inqilab-i Mahdi (The Rise and Revolution of Mahdi)*, *Barrisi-yi Ijmali-yi Nihdatha-yi Islami dar Sad Sali-i Akhir*. According to him, Islamic Marxism, combined some elements of communism and existentialism and then introduced the outcome to the masses as an authentic approach to Islam (Mutahhari, 1993b, p.129). Mutahhari tried to ascertain why Islamic Marxism had found such popularity in the twentieth century among Muslim communities. He was wondering why Muslim generations who benefited from a profound Islamic ideology and philosophy had been attracted to such materialist theories¹²³.

To Mutahhari, the Iranian Marxism employed two tactics. First, they distorted facts by falsely introducing a number of prominent religious and national figures, such as the great poet Hafiz-i Shirazi, as materialists, in order to attract attention to their ideas and philosophy (Mutahhari, 1993a, pp.15-23)¹²⁴. According to Mutahhari, the second tactic of the Iranian Marxists was that of Qur'anic interpretation. Whilst completely believing in materialist political ideology, in addition to the materialist means of achieving their goals, they interpreted Qur'anic verses in the context of materialist schools of thought. Drawing inspiration from a Marxist interpretation of the Qur'an which saw Islam through the perspective of the class struggle, the Iranian Islamic Marxists made a theoretical connection between the Qur'anic

¹²³ On this point, see (Dabashi, 2017, pp. 183-187).

¹²⁴ For instance, Ahmad Shamlu (1925-2000), the Iranian Marxist poet, in his preface to *Shams al-Din Hafiz-i Shirazi*, describes Hafiz as an 'unbeliever' (*kafir*) who rejects the resurrection day and interprets God as love (Shamlu, 2002). Mutahhari strongly criticises the materialist-Communist thinkers for inaccurately presenting a materialistic interpretation of Hafiz's poems and disregarding his use of metaphoric language to represent an abstract concept of theological ideas, in particular, elements of Islamic mysticism. He wonders how Hafiz could be seen as an unbeliever while he had memorized the whole text of the Qur'an and was one of the great *'ulama* of his time (Mutahhari, 1993a, pp. 15-23).

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teachings and Marxist thought. As a result, they presented a rare understanding of Qur'anic doctrines. For instance, the Furqan members interpreted the words '*ghayb*' and '*shahada*' (the unseen and visible worlds) as the two hidden and public stages of a revolution (Mutahhari, 2004a, pp. 29-43)¹²⁵. In this way, the Furqan group tried to present the religion of Islam as an expression of the class struggle and revolutionary ideology against capitalism and imperialism.

Criticising the Furqan understanding of the Qur'an, Mutahhari emphasised that, although each Muslim has the right to think about the Qur'an's message and understanding the Qur'an is not restricted to any individual or group, the interpretation of the Qur'an requires certain preliminary studies, containing, at least, basic information and skills for exegesis. In fact, it is the reader's responsibility to learn this prior to approaching the Qur'an. In other words, this prerequisite knowledge can guide the reader to the point where he can interpret the Qur'an properly. The types of knowledge needed for this include the Arabic language¹²⁶, certain Islamic subjects such as Islamic jurisprudence (*Fiqh*), *hadith* and Islamic mysticism. Furthermore, a commentator should know something of Islamic history. The Qur'an was revealed over a long period in the Prophet Muhammad's life. Some of its verses were revealed because of certain historical events or situations. Therefore, the expounder should be aware of these historical conditions and occasions of revelation (*sh'an-i nuzul*). In addition, a commentator should have correct knowledge of the sayings of the Prophet Muhammad and the Shi'a Imams (*Ahl al-bayt*).¹²⁷

¹²⁵ A number of Furqan's ideas about the interpretation of the Qur'an are mentioned by Mutahhari in his article 'Materialism in Iran' (Mutahhari, 2004a, pp. 29-43).

¹²⁶ Being expert in Arabic means being familiar with the structure and idioms of Qur'anic language and being acquainted with the types of writing represented in the Qur'an, including its allegorical, metaphorical, literal and symbolic (explicit or implicit) styles found in it. On this point, Hadavi states that the interpreter of the Qur'an should be absolutely familiar with its language because, undoubtedly, the Qur'an has its own language, which cannot be compared with a human language. It is a combination of different styles, and each of them has its own specific aim (Hadavi, 2006 p. 298).

¹²⁷ Shi'a Muslims believe that the prophet Muhammad and his family (*Ahl al-Bayt*) were the best interpreters of the Qur'an, and their explanations can be a great help to commentators. In this regard, the Qur'an says, "we

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With this in mind, Mutahhari points to the signs of poor Islamic knowledge and superficial understanding that he has found in Furqan's publications. He warns that there is undoubtedly a 'major conspiracy' running against the religion of Islam (perhaps by Islamic Marxism). He describes the materialistic method of Qur'anic interpretation as 'materialism' and threatens that if Furqan continues after this naive interpretation of Islam, he will call them 'hypocritical materialists' (*materialism-i munafiq*) who use 'religion against religion'. Mutahhari declares that "the Muslim materialists, Furqan, hollowed religion out by removing its primary spiritual meaning and filled it in with materialist content" (Mutahhari, 1993a, pp. 30-32).

Mutahhari explicitly criticised this approach as he was opposed to any kind of compromise or silence vis-à-vis leftist ideologies, in spite of their revolutionary struggle against the Pahlavi regime. His widespread criticism of this view, however, resulted first in the prohibition of his books, speeches and lessons and ultimately in his assassination by the Furqan group¹²⁸ on Tuesday, May 1, 1979. Furthermore, anti-Mutahhari propaganda continued even after his death. In this regard, on the anniversary of Mutahhari's death, Ayatollah Khomeini strongly recommended that students and intellectuals prevent Mutahhari's books from being neglected and discarded by anti-Islamic movements (Muhajiri, 2000, p.172).

2.4 Conclusion

Undoubtedly, Mutahhari's life can be investigated from different standpoints, including his social activities, political engagements, relationship with Ayatollah Khomeini and his role in the Islamic Revolution of 1979. In this chapter, Mutahhari's life has been explored from the perspective of his intellectual work on the revival of Islamic thought within Iranian Shi'a Islam. However, his significant role in the Islamic Revolution is undeniable. Mutahhari's first

have revealed to you – Prophet Muhammad – the Reminder that you may make clear to men what has been revealed to them... (16:44)".

¹²⁸As Davari states, the Furqan group indirectly threatened Mutahhari when he published the article *Matirialism dar Iran (Materialism in Iran)*. Giving reasons for Mutahhari's assassination, Furqan accused him of being a leading member of the ruling clerical regime and the man who had labelled the Furqan group as 'hypocritical materialists' (Davari, 2005 p.82). On this point, see also (Mutahhari, 2011f p. 106).

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confrontation with the Pahlavi regime went back to the uprising of 1963, when he strongly supported Ayatollah Khomeini's ideas and activity. As a result, he was arrested by the police and imprisoned for 43 days. In November 1964, Ayatollah Khomeini went into exile for 14 years, first in Turkey and then in Najaf (Iraq). Throughout this period, Mutahhari was in touch with him directly (by face to face meeting in Najaf) or indirectly (by letters). In 1969, he issued a declaration in his sermon at Irshad in defence of Palestinian refugees. That declaration, which was signed by 'Allamih Tabatabai and Ayatollah Haj Sayyid Abulfadl-i Mujtahid Zanjani (d.1992), demanded Muslims to financially help Palestinian refugees. Again, he was arrested by the police and kept in solitary confinement for a few days. In 1978, Ayatollah Khomeini left Najaf for Paris, and Mutahhari was among those who travelled to Paris to meet and consult with him. He was so close to Ayatollah Khomeini that he was appointed by Khomeini as the Head of the Council of the Revolution. Mutahhari's loyalty to Ayatollah Khomeini and Islamic Revolution continued until his assassination in 1979.

With respect to Mutahhari's intellectual life, it is worth noting that he was brought up in two contexts, traditional and academic. Given his education in a traditional religious seminary and his professorship at the University of Tehran, he could understand the advantages and disadvantages of both systems. With respect to the social climate of pre-revolutionary Iran, when the relationship between the *hawzah* and universities was not constructive, holding an academic position by a religious figure was something of a rarity. The significant contribution of Mutahhari's work partly lies in his attempt to make a bridge between *hawzah* and intellectuals when he was respected by both sides. Since he encountered a wide range of modern intellectuals in Tehran within different ideological and philosophical trends (such as Sayyid Hossein Nasr, Hamid Enayat, Ali Shari'ati, Mahdi Bazargan, and Amir Husain Ariyanpur), he became aware of the need to engage with modern thought from the perspective of a traditional reformer.

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Being aware of the secular ideologies and Western philosophical schools helped Mutahhari to differentiate his approach from the perspective of the current traditional religious authorities by changing the style of discussion from a merely jurisprudential one to a rational-philosophical approach. It could be argued that Mutahhari's emphasis on the philosophy of natural rights, the concept of freedom and the principle of justice in his juridical methodology was an outcome of his engagement with modern thought. As was explained in the Introduction to this thesis, one of the controversial issues in pre-revolutionary Iranian society was the status of women in Islam. Mutahhari, as a traditional reformer strongly believed that Islamic thought on women's issues needed to be revived, and, hence, he contributed several publications to the question of women in Islam. The next chapter analyses the jurisprudential and philosophical bases of Mutahhari's approach to gender-related issues. This will help to clarify how far his ideas about the question of women were influenced by his philosophical approach and were part of his reformist perspective.

3 The Jurisprudential-Philosophical Basis of Mutahhari's Approach to Women's Social Participation

Jurisprudential methodology is an important factor which distinguishes Shi'a jurists' approaches from each other. What makes Mutahhari's works distinct from others' is that he introduces into the study of woman's question a fresh style of discourse and philosophical methodology which epitomises the modern intellectual developments in Shi'a thought¹²⁹. In Nasri's view, Mutahhari, in his approach to women's issues, neither questions Islam, nor supports the acceptance of each and every change in Islamic laws, nor accepts that *shari'ah* might be transient. Rather, he seeks to clarify the rationale behind religious laws, addressing the most urgent misunderstandings and misinterpretations among academics and the public (Nasri, 2010b, p.345).

By adopting a rational-philosophical approach, Mutahhari follows two aims: first, to make Islamic legal discourse intelligible to new generations of modern Muslims by providing rationales for certain legal rulings (using natural rights and the principle of justice) and, second, to deduce Islamic legal rulings based on meta-jurisprudential principles such as justice and natural rights. Mutahhari stresses that, all jurisprudential rulings must be evaluated and scrutinised through a number of indisputable and definitive principles. Any

¹²⁹ Even some secular feminist figures such as Paidar find Mutahhari a modern thinker who rationalises Shi'a thought. Paidar, in a study devoted to women's political process in Iran, states that "Shii [Shi'a] modernism involved a major rethinking and rationalisation of the family. It propagated a new concept of Shii [Shi'a] woman through its publications and sermons. Ayatollah Mutahhari was one of the main proponents of Shii [Shi'a] modern thinking on the family" (Paidar, 1995, p. 175).

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ruling violating such principles must undoubtedly be rejected and not deemed legitimate. These principles may be called "meta-jurisprudential principles". Justice is one of these principles.

This chapter is divided into three sections. The first part examines Mutahhari's jurisprudential methodology in women-related issues. Mutahhari, in his *ijtihadi* methodology, follows the *usuli* school of *fiqh* and applies the four principles of *fiqh* (the Qur'an, the *sunnah*, *consensus* and reason) in order to extract the relevant *shari'ah* laws from these sources. Although all *usuli* scholars believe in reason as one of *fiqh's* principles, they apply reason to different degrees. Mutahhari, is highly concerned with the significance of reasoning in *ijtihad* and places more emphasis on reasoning than most Shi'a *usuli* jurists. Whereas most religious scholars take a juridical approach to gender-related issues, Mutahhari seeks to justify women's social rights within a rational-philosophical framework. Although Mutahhari follows the standards of the *usuli* school of *fiqh*, his rational and philosophical approach deeply influences his understanding of religion. Mutahhari confirms the four principles of jurisprudence -the Qur'an, the *sunnah*, *ijma'* (consensus) and reasoning- as the major elements of *ijtihad's* methodology, but he also believes in two more fundamental principles in the same field the principle of justice and the philosophy of natural rights. He utilises the principle of justice and the philosophy of natural rights as bases for his jurisprudential analysis in various fields, including women's rights in Islam. From this perspective, he distinguishes himself from traditional Shi'a jurists and takes a more supportive approach toward women's social participation. By introducing a new framework for discussing women's rights, he creates a space for alternative ways of thinking to the juristic approach. Thus, he brings up ideas, such as his views on women's socio-political participation, which are in contrast with those of traditional jurists.

The second part of this chapter investigates the theoretical-philosophical basis of his *ijtihadi* methodology in dealing with women's social participation. Exploring Mutahhari's writings

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shows that three fundamental concepts construct the basis of his views on women's public role: the principle of justice, the philosophy of natural rights, and his definition of freedom. There is an interrelated connection between these three concepts in Mutahhari's thought.

The last section looks at the way in which his approach allows him to make a distinctive contribution to the question of women's rights in Islam. First, Mutahhari investigates the general reasons behind patriarchy. Then, as a Muslim scholar and traditional rational reformer, he criticises Muslim societies for some of their unfair norms and cultural practises that are often viewed and described as Islamic and *fatwas* regarding women's rights. This part of the chapter also demonstrates how Mutahhari has benefited from the philosophical study of natural rights to give reasons for the different rights conferred upon men and women in Islamic jurisprudence.

3.1 Mutahhari's Jurisprudential Methodology

Prior to investigating Mutahhari's jurisprudential methodology, it is worth noting that in his discussions on Islamic jurisprudence (*fiqh*), and, more particularly, in his treatment of the issue of women's rights, Mutahhari puts forward a basic presupposition, saying that Islam has provided two types of law: fixed (*thabit*) laws for the fixed needs and changeable (*mutighayyir*) laws for variable needs. In fact, this presupposition is concerned with Mutahhari's approach to the nature of laws in Islamic jurisprudence in terms of change. The essential questions here are: Are women's rights considered changeable in Islamic jurisprudence or not? Does Islamic jurisprudence have the capacity to adapt itself to the ever-changing conditions human life in general and in the field of women's right in particular? Finally, do the differences of opinion between Mutahhari and other traditionalist thinkers in the field of jurisprudential judgements concerning women's rights mean that he has exceeded the boundaries of Islamic jurisprudence?

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Working within the boundary of Islamic *fiqh* means to practice *ijtihad* based on the principles of *fiqh* and within the methodology of the *usuli* school. Therefore, those scholars who pay no heed to jurisprudential principles and investigate Islamic laws with recourse to philosophy and other theoretical systems go beyond the boundaries of Islamic jurisprudence. Mir-Hosseini, for instance, is a scholar who tries to examine the *fiqh* rules from a feminist perspective, investigating their validity in terms of “contemporary gender theories and realities” (Mir-Hosseini, 2003, pp. 2-3)¹³⁰. Mutahhari disagrees with the idea of totally neglecting the logical procedure of deducing Islamic legal rulings and adapting Islam to other philosophical frameworks. As was mentioned above, he believes that, Islam has provided two types of law: fixed laws and changeable laws. In addition, the changeable laws are derived from the fixed ones. Mutahhari suggests that the Islamic way of life, as found in Islamic jurisprudence, is itself dynamic and open to change (Mutahhari, 1994a, p.140). In other words, although Islamic jurisprudence has eternal and immutable principles which are necessary for its regulation, *shari'ah* is based on principles such as the principle of *ijtihad* by means of which it can adapt itself to changing circumstances. According to him, Islam has a dynamic nature which maintains the permanence of certain principles while undergoing changes based on circumstances. Concerning this point, he states:

Another aspect which provides Islam with the possibility of adapting to the requirements of the times is the rational aspect of the commands of this religion. Islam has told its followers that all its commands arise from a series of supreme exigencies (*masa'lih-i 'aliyah*)(Mutahhari, 2010b, p.122).

Mutahhari, like Muhammad Iqbal, believes that *ijtihad* is ‘the principle of movement’ in Islam; however, he believes that *ijtihad* nowadays has ‘lost its dynamic spirit’. He criticises religious authorities for not appreciating and using *ijtihad* for a long time, causing the immobility of

¹³⁰ The so-called Islamic Marxists also belong to this category. They tried to create a synthesis between Islam qua religion and Marxism; they would even try to transform Islam into a leftist ideology in order to present Marxist doctrine within an Islamic framework. In this way, the Furqan group tried to present Islam as an expression of class struggle against capitalism and imperialism. Taha Husain can be seen as another representative of this trend, who, according to Nasr, “preached the complete adoption of Western culture and a total break with the sacred ambience of traditional Islam” (Nasr, 2001, p. 135).

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Islam in facing the challenges of modern times. According to Mutahhari, in today's world, *ijtihad* is dead because jurists do not attach enough importance to the challenges of the times while the main responsibility of the *mujtahid* is to investigate new problems (Mutahhari, 1994a, p.140). It seems that, from Mutahhari's standpoint, adapting Islamic jurisprudence to the requirements of the times is the missing part of today's *ijtihad*.

By delving into the works of Mutahhari, one can observe that, in his opinion, changes in the times indicate that through rational deliberation and setting a theoretical framework, one must, of necessity or exigency, embark on studying Islamic laws in order to arrive at a new understanding of such developments. Now, the main question is this: On what ground can one claim that Islamic laws and regulations are changeable? Can one change the laws merely because circumstances have changed? Is there a particular methodology in doing so? And how is Mutahhari distinguished from other *usuli* jurists in this matter?

From Mutahhari's standpoint, there are some principles in Islamic jurisprudence known as primary laws (*ahkam awaliyyah*), which cannot be the subject of *ijtihad* in any situation, while others, called secondary rules (*ahkam thanawiyyah*) can be changed through the process of *ijtihad*. For example, *zakat* is one of the primary unchangeable rules, and Muslims have to pay it in all circumstances. However, the type of crops and products that *zakat* applies to are determined by secondary rules which can be varied in response to the time and situations.

In addition, due to the new changes and developments in different aspects of our life, an *ijtihadi* methodology is required. That is, only those who are deeply acquainted with Islam and well-versed in deducing religious rulings should determine the degree of importance of the exigencies and select the more pressing ones always in accordance with the guidelines set down by Islamic law itself. Muslim jurists call this principle *al-ahamm va al-muhimm* (that which is more important and that which is less important). To put it in another way, Islamic law has organised its regulations so that in case of disagreement between them, the more

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important laws should take precedence over the less important ones. For instance, Islamic jurisprudence forbids people to touch members of the opposite gender if they are not *mahram* to each other, that is, if they do not belong to the circle of certain close relatives, but, in some contexts, such as giving urgent medical treatment, such physical contact is permissible (Mutahhari, 1994a, p.150).

Mutahhari believes that there are certain laws in Islam which can suspend other laws.

Concerning the point in question, he writes:

Another consideration which has given this religion the property of mobility and adaptability and gives it an eternal life is that there is a series of principles and laws incorporated into this religion whose function is to control and harmonise other laws. Muslim jurists call these rules *al-qawa'id al-hakimah* (the governing principles), such as the principle of '*la haraj*' (literally, "no blame") and '*la darar*' ("no harm"), which have considerable authority in Islamic jurisprudence (*fiqh*). The purpose of this series of principles is to control and harmonise the other laws. In fact, Islam has acknowledged these principles as having the right to suspend all laws and precepts. That is to say, these principles are intended to control other laws, and, as a result, the latter laws might change in certain different cases. For example, it might be the case that, at a point in time, a law or a precept has to be removed on the basis of the principle of "no blame" and "no harm" (Mutahhari, 2002a, pp. 59-62).

Mutahhari also emphasises that all Islamic rules are based on wisdom (*hikmat*) and expediency (*maslihat*). According to him,

'ulama have stated two rules that reflect each other and are together called the rule of *mulazimah*, according to which, there is always a harmony between reason and *shari'ah*; that is, everything ordained by reason is also ordained by religion, and vice versa (Mutahhari, 1994a, p.148).

To Mutahhari, another factor which makes for flexibility of some kind in Islamic laws is the authority granted to *mujtahids*. For him, in order to rule a society, Islam has entrusted certain authorities to the state to make laws in conformity with the circumstances. Of course, the righteous state should do its tasks by employing people who are well-versed in Islamic issues. He quotes Avicenna's illuminating remark in *al-Shifa*, where he refers to the necessity of making independent juridical judgement (*ijtihad*) about this principle, stating that:

On the one hand, times change and there continuously arise some new questions. On the other hand, the Islam's general principles are constant. It seems that there

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should be some people who, being well-informed of and well-versed in Islamic issues, can meet the needs of Muslims as new questions arise in any age (Mutahhari, 2010b, p.123).

According to Mutahhari, the principle of evolution or change of laws, which is put forward by different groups (such as socialists)¹³¹ in various ways, poses the question as to whether these changes in laws could continue for ever or they should stop at a certain point in time. According to Mutahhari, one has to presume a certain stage as the ideal stopping point. To be ideal is not to move and change. If we are to stop at a point, that point should be defined in terms of justice (*'idalat*) and nature (*fitrah*) (Mutahhari, 2001d, p.256). This implies that the ideal situation for legislation is one which fits natural conditions. If the fulfilment of such conditions in society is not possible, the changes in laws should aim at the administration of justice and establishment of natural rights

To sum up, it could be argued that, based on the Shi'a *usuli* school, there are certain rules in Islamic jurisprudence which pave the way for jurists to practice *ijtihad* in order to adapt Islamic jurisprudence to the demands of the times. These rules include the principle of *al-aham va al-muhimm* (preferring the more important over the less important), the principle of *mulazimah* (that everything ordained by reason is also ordained by religion, and vice versa), the principle of '*la haraj*' (no blame) and '*la darar*', (no harm) and certain mandates that Islam grants to the Islamic state. Mutahhari's difference from other *usuli* jurists can be traced back to two factors. First, since Mutahhari was in close relationship with the modern intellectuals and the young generation, he had a better understanding of the challenges of modern generations. Therefore, he engaged with issues which were chiefly not considered by other jurists, for instance, women's right of participating in politics, social justice and its impact on women's social participation, as well as natural rights and its impact on Islamic

¹³¹ For instance, Socialists hold that the boundary at which changes of laws can be stopped is the attainment of classless society. On this point, see (Schmitt, 2012, p. 135).

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jurisprudence. The second factor is Mutahhari's different approach to the aforementioned rules, particularly the rule of *mulazimah*. His understanding of the role of reason in *ijtihad* is different from other jurists'. As it will be explained, he does not have an instrumental understanding of reason. He treats reason and justice as meta-jurisprudential notions. These two factors made Mutahhari's approach to *ijtihad* different from those of other *usuli* jurists.

3.1.1 The Principles of Jurisprudence (*usul-i fiqh*)

For the study of jurisprudence (*fiqh*),¹³² certain necessary disciplines need to be learned by jurists, including the Arabic language, Qur'anic exegesis (*'ilm al-tafsir*), logic, the science of traditions (*'ilm al-hadith*) and transmitters (*'ilm al-rijal*). However, the most important one is the study of the principles of jurisprudence, known as *usul-i fiqh*, which is "the science of the principles to be used in deriving the rules of Islam from its sources" (Mutahhari, 2000c, p.17)¹³³. For Shi'a Muslims, there are four primary jurisprudential sources, namely, the Qur'an, the *sunnah*, consensus (*ijma' al-'ulama*) and reason (*'aql*). Although Shi'a jurists share the same religious sources, due to their different methodological approaches to *ijtihad*, they come to diverse conclusions and even contradictory opinions concerning *shari'ah* laws¹³⁴. This reveals the significance of methodology in Shi'a jurisprudence¹³⁵. Therefore, for better understanding of Mutahhari's methodology of *ijtihad*, a brief explanation of the principles of *usul-i fiqh* (the principles of jurisprudence) within the Shi'a *usuli* school and Mutahhari's approach to these principles will be analysed. This will help to understand Mutahhari's novel approach to Islamic jurisprudence.

¹³² Mutahhari defines the concept of '*fiqh*' (jurisprudence) as 'deep understanding'. Technically, *fiqh* is the scholarship of Islamic laws derived from certain primary religious sources. To Mutahhari, *fiqh* is the "study of secondary religious commands, i.e. not the fundamental principles of belief—*usul-i itiqadi* or moral actions, but the commands regulating practical and ritual actions of the *Shari'ah* of Islam" (Mutahhari, 2000c, p. 15).

¹³³ In other words, *usul-i fiqh* is the critical analysis of the primary Islamic sources upon which the Islamic *Shari'ah* law is based.

¹³⁴ However, from Mohaghegh's perspective, the authentic and rational use of these texts has led to the development of dynamic jurisprudence (Mohaghegh, 2015, p.12).

¹³⁵ In fact, within the Shi'a *usuli* school, there exist different perspectives which have shaped important schools of *ijtihad*, including the Samira school, Najaf school and Qum school, each of which was supported by prominent *usuli 'ulama*. To know more about the different schools of *ijtihad* within the Shi'a *usuli* framework, see (Mohaghegh Damad, 2018, pp. 1-50).

3.1.1.1 *The Qur'an*

Throughout Islamic history, several methods and schools of Quranic interpretation have emerged, for example, *fiqhi* (jurisprudential), philosophical, mystical and *naqli* (interpretation of the Qur'an by *hadith*). In fact, the variety of hermeneutical attitudes to the Qur'an reveals the existence of various theological schools of Islam which have led to the diversity of juridical understandings. Mutahhari's method of interpreting the Qur'an was influenced by the methodology of his teacher, 'Allamih Tabatabai, who offered a new methodology of *tafsir* in Shi'a, using parts of the Quran to illuminate other parts. Tabatabai interpreted the entire Qur'an in his *Al-Mizan* (in 20 volumes) by this method. He interpreted each Qur'anic verse by considering other verses of the Qur'an. What distinguishes this method of interpretation (*tafsir*) from others is that the exegete tries to identify and know, for instance, certain people or themes mentioned in a particular Qur'anic verse by tracing them in other verses. It is also worth noting that, although Tabatabai's interpretive method is unique within the Shi'a context, it is not uncommon in Sunni *tafsir*¹³⁶.

Mutahhari places emphasis on two main principles in his approach to Qur'an interpretation : the internal consistency of the Qur'an and the element of reasoning. The internal consistency of the Qur'an is one of the key presuppositions of Mutahhari's approach. The Qur'an itself notes in a verse, "What, do they not ponder the Koran? if it had been from other than God surely they would have found in it much inconsistency (*ikhtilaf*)" (4:82). From Mutahhari's standpoint, anyone who wants to interpret the Qur'an should be aware of the whole Book or else run the risk of interpreting part of it in a way that violates the overall meaning. Commentators are not supposed to select some verses of the Qur'an and disregard others. To Mutahhari, the Qur'an is like a building: its verses are its different parts, which together construct a perfect and beautiful building (Mutahhari, 1999, p.19). Therefore, Mutahhari is

¹³⁶ *Tafsir al-Qur'ani lil-Qur'an* (Khatib, 2003) and *Adwa' al-Bayan fi lidah al-Qur'an bil-Qur'an* (Shanqiti, 1997) are examples of Sunni *tafsir* which interpret the Qur'an with the Qur'an.

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part of the tradition that argues for a comprehensive and holistic understanding¹³⁷ of the Qur'an, rather than a partial verse-to-verse one that was traditionally practiced in *tafsir*¹³⁸.

Whether reason should be applied to the interpretation of the Qur'an and whether the Qur'an is understandable by ordinary people have been controversial issues within the Shi'a school of thought. There is a school in Shi'a jurisprudence known as Akhbari which rejects the use of reason for reaching a religious verdict and confine its understanding of the Qur'an solely to *hadiths* which have been ascribed to the Prophet and Imams (Mohaghegh, 2015, pp. 38-39)¹³⁹. Mutahhari, following the *usuli* school, offers a notable discussion on the possibility of understanding the Qur'an. He asks whether the Qur'an is understandable or is only for reading (*qara'at*) and gaining reward. He draws attention to the importance of reasoning when interpreting the Qur'an, which, he believes, leads to the universality of the Qur'anic message (Mutahhari, 1999, p.23). To him, each generation has its own circumstances, and they must expound on the Qur'an by reasoning in order to find solutions to the problems of their time. He concludes that there is a reciprocal relationship between current issues and the interpretation of the Qur'an in any given era. There are various Qur'anic verses which

¹³⁷ The comprehensive and holistic understanding of the Qur'an is part of the modern exegesis which can be found in the works of both Shi'a and Sunni commentators. For instance, the Shi'a scholar Ayatollah Muhammad Baqir Sadr ('Azizi Kia, 2000, p. 60) and the Sunni scholar Muhammad 'Abduh have applied this kind of approach to their interpretations (Reda, 2010, p. 500).

¹³⁸ Indeed, this is similar to the hermeneutic circle, which emphasises that "we can never understand a whole without understanding all of its parts; nor can we adequately understand the parts without seeing them functioning in an overall composition to which they contribute" (Jeanrond, 1994, p. 6). The significant point embedded in any debate on the internal consistency of the Qur'an is the relationship between understanding and interpreting. In fact, every interpretation depends on an appropriate understanding. Thus, an expounder cannot interpret a verse correctly without a comprehensive understanding of the whole text. To put it more simply, our interpretation of the Qur'an is subordinate to our holistic understanding. Without perceiving the entire Qur'an, one cannot interpret any of it properly.

¹³⁹ Akhbari theologians are a group of Twelver Shi'a Muslims, followers of Muhammad Amin al-Astarabadi (d. 1967), the author of *Al-Madaniyah*. He believed that the *Ahl al-bayt* (the Prophet and his family) were the only addressees of the Qur'an. In addition, the content and message of the Qur'an are so great and complicated that ordinary people cannot understand them (Mohaghegh, 2015 pp. 38-39). To know more about the Akhbari theology, see (Mutahhari, 1999) and (Gleave, 2007).

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encourage everyone to read and think about God's message¹⁴⁰, and all people, regardless of culture, nationality or language over the centuries should follow the message (Mutahhari, 1999, p.23)¹⁴¹. Mutahhari's approach to reasoning in his *ijtihad* methodology manifests itself in his *tafsir* as well. In the next chapters, we will discuss the way he develops new interpretations of the Qur'anic verses pertaining gender issues, such as verse 4:34, in which he distinguishes between the familial and social spheres of life to support women's role in public life.

3.1.1.2 *Sunnah*

Dealing with the serious challenges in *hadith* studies, such as the spread of many forged *hadiths*, Mutahhari as an *usuli mujtahid*, considers the question of '*khavar wahid*' vs. '*khavar mutawatir*'. Depending on the number of narrators, a *hadith* can be classified generally as either *mutawatir* or *wahid*. The former group of *hadiths* (*mutawatir*) (literally, "repeated") consists of those which are reported by many narrators that could not have all conceivably agreed upon a lie. '*Khavar wahid*' (single report) describes any *hadith* which is not *mutawatir* and has too few narrators to be accepted as an authentic report (Mutahhari, 2000c, p.36)¹⁴². Concerning the validity of '*khavar wahid*', there is a wide range of attitudes among Muslim scholars. Some prominent Shia scholars, such as Shaykh al-Mufid (d. 1022) and Sayyid Murtada (d. 1044), believe that a single report (*khavar wahid*) is not necessarily valid and needs additional proof to be confirmed as valid. However, others, such as Shaykh Tusi (d. 1067), have accepted the authenticity of single reports (Mohaghegh, 2015, pp. 79-80)¹⁴³. In fact, although a single report is not reliable as much as a repeated report and is open to

¹⁴⁰ The Qur'an says, "A Book We have sent down to thee, Blessed, that men possessed of minds may ponder its signs and so remember" (38:29) or "What, do they not ponder the Koran? Or is it that there are locks upon their hearts?" (47:24).

¹⁴¹ For further information about this topic, see also (Mutahhari, 2000c, p. 29).

¹⁴² On this point, see also (Mohaghegh, 2015, pp. 77-79).

¹⁴³ Their rejection of the authenticity of single reports relies on their "insistence upon sure knowledge (*'ilm*) as the basis of action in religious matters", and this certainty cannot be achieved by single reports (Bhojani, 2015, p. 27).

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suspicion, as Muhammad Baqir Sadr stressed, "in the absence of any other proof, it is to be used by jurists when the transmitters are reliable sources" (Sadr, 2003, p.201).

Mutahhari, who is aware of the serious challenges in *hadith* studies, takes a critical approach to understanding *hadiths*. Although he accepts the authenticity of single reports when the transmitters are reliable, he is often greatly concerned about the meaning and implications of the *hadiths*. His criticism is partially rooted in the importance of the principle of justice and his different methodology of *Ijtihad*. According to him, although the authenticity of the narrator is an essential factor in Islamic jurisprudence, *ijtihad* should also be practised with conceptual evaluation. His name for this kind of *ijtihad* is '*naqd-i muhtavay*' (content criticism) (Mutahhari, 2004b, p.309). For instance, with respect to one of the most controversial traditions about women's faith— Imam Ali's sermon 80, which states that women lack faith (*nawaqis al-iman*) because they refrain from prayer and fasting during menstruation—Mutahhari does not clarify his stance vis-à-vis the authenticity of the chain of transmission for this *hadith*.¹⁴⁴ Nevertheless, from the very beginning, he engages with the conceptual evaluation of the tradition. He argues that the meaning of the term, faith (*iman*) requires scrutiny. According to him, the phrase 'women's faith is weaker' is not intended to mean that women's doctrinal beliefs (*'aqidah*) are weaker (Mutahhari, 2009a, p.34). Mutahhari also asserts that the term 'faith' is often observed in the traditions to refer to action (*'amal*). He goes on to say that, during Islam's earliest period, people debated whether 'faith' referred to beliefs alone or was comprised of a combination of beliefs rooted in the heart (*i'tiqad-i qalbi*), verbal proclamations (*iqrar bi zaban*) and external actions (*'amal ba javarih*). In short, are actions part of faith or not? To his mind, actions are not strictly included in faith and not deemed part of it. They are, rather, the result and by-product of faith. Hence, when women's faith is said to be 'deficient', it refers to the outcomes that are derived from faith,

¹⁴⁴ However, some prominent jurists such as 'Allamih Fadlullah are uncertain about the authenticity of this tradition (Fadlullah, 2012, P. 59).

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and this is the reason why women actualise less of this outcome when menstruating (while still having the same spiritual potential as men) (Mutahhari, 2009a, pp. 36-37).

3.1.1.3 *Consensus (Ijma')*

Consensus is the agreement of the Muslim religious authorities (*'ulama*) on religious issues¹⁴⁵. However, as Mutahhari points out, for Shi'a Muslims, "consensus is not genuinely binding in its own right, rather it is binding in as much as it is a means of discovering the *sunnah*" (Mutahhari, 2000c, p.24). This statement implies that, in Shi'a jurisprudence, consensus is not as reliable as the Book (the Qur'an) and the *sunnah*¹⁴⁶. With respect to the principle of consensus, Mutahhari confirms the prevalent perspective of Shi'a School, and there is no reason to suppose that he used a different *ijtihad* methodology in this regard. However, since Mutahhari believes in two extra juridical principles of justice and natural rights and uses them to provide new interpretations, he sometimes brings up new ideas which are in contrast to the consensus of the *'ulama'*, such as his ideas about women's right of issuing *fatwas*.

3.1.1.4 *Reason*

The significance of reason for Shi'a Muslims can be confirmed by the fact that they embrace reason as one of the sources of jurisprudence. Historically, before Shaykh al-Mufid (d. 1022)¹⁴⁷, reason (*'aql*) was not so fundamental to Shi'a jurisprudence. Shaykh al-Mufid was the first one take reason as one of the valid tools in deriving the principles of *shari'ah* laws from the Qur'an and the *sunnah*. Gradually the question of reason and its vital role as one of the principles of jurisprudence developed in the Shi'a tradition. In the 19th century, Shaykh Murtada Ansari (1781-1864) expanded rational arguments about the principles of *fiqh* and implicitly rejected the priority of the *sunnah* over reason. He contended that the *Sunnah*

¹⁴⁵ Shi'a and Sunni branches of Islam differ markedly on the Principle of consensus. For Sunni Muslims, consensus is regarded as the third source of Islamic law and include all Muslims or all Sunni jurists whereas Shi'a consensus is achieved either between all Muslims or all Shi'a jurists (Mottahedeh, 2003, p. 22).

¹⁴⁶ For more on this point, see (Mohaghegh, 2015 pp. 110-112).

¹⁴⁷ To know more about Shaykh al-Mufid, see (Walbridge, 2000, p. 216).

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needed to be explained by reason (Mohaghegh, 2015, pp. 127-130)¹⁴⁸. Consequently, from the nineteenth century onwards, under the influence of Murtada Ansari's rational *usuli* approach, the followers of Shi'a *usuli* school differentiated themselves from the rival Shi'a Akhbari group in favour of employing *ijtihad* and reasoning to derive religious rules from the primary sources.

There are at least two stances regarding the role of reason (*'aql*),. Some prominent *usuli* jurists, such as Muhaqiq-i Qumi (1737-1816) and Ibn Idris al-Hilli (1148-1201), believe that the Qur'an, *sunnah*, and *ijma'* have precedence over reason, and, therefore, *'aql* is merely used to interpret and explain the *shari'ah* laws. From Ibn Idris al-Hilli's perspective, when there is no indication in the Qur'an, *sunnah*, and *ijma'* about a certain issue, reason can be applied (Katuzian 2014, pp. 52-54). Although this approach has been taken by many Shi'a jurists, such scholars as Ibn Idris and Sharif al-Murtada (d.1044) give "*al-'aql* an independent role as an action-guiding source of normativity", and to them, "it would seem that its judgements are not considered *shar'i*, and, hence, not attributable to God" (Bhojani, 2015, p.29). Consequently, in case of disagreement between *shari'ah* laws and reason, jurists have to adhere to the former and disregard the findings of reason.

In contrast to this view, some followers of the *usuli school*, such as 'Allamih Muhammad Husain Tabatabai¹⁴⁹, Ayatollah Mutahhari, and Ayatollah Javadi Amuli,¹⁵⁰ apply reason in deriving religious laws from the very beginning. To them, *shari'ah* can sometimes be discovered through the light of reason. They also take one step further and adhere to the principle of *mulazimah*, saying that "Everything ordained by reason is ordained by religion (divine law) and vice versa" (Mutahhari, 1994a, p.147). The rule of *mulazimah* entails that there is a strong and unbreakable relationship between reason and *shari'ah* and that they act

¹⁴⁸ For more on reason and its position in Shi'a Islam, see (Mottahedeh, 2000).

¹⁴⁹ For more on the status of reason in 'Allamih Tabatabai's view see (Pursalih and Hasanzadiah, 2014).

¹⁵⁰ Ayatollah Javadi's views of the role of *'aql* in understanding the religious laws and its relationship with *naql* can be found in his book, *Manzilat-i 'aql dar Hindisih-yi Ma'rifat-i Dini* (Javadi Amuli, 2019).

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as criteria for the validity of each other. Mutahhari, along with other *usuli* jurists, considers the guidance given by reason to be more credible than that from weak *hadiths*. However, one may ask: what distinguishes Mutahhari's juridical *usuli* method of reasoning in examining religious laws from other jurists' methods? Although Mutahhari confirms the four principles of jurisprudence as the major elements of *ijtihad's* methodology, he believes in two more key principles: the principle of justice and the philosophy of natural law. However, there is nothing in Mutahhari's writing to imply that 'justice and natural law' should be part of *usul-i fiqh*, but he regards them as meta-jurisprudential principles which construct the basis for his religious understanding. In addition, many traditionalist jurists adopt an instrumental use of 'aql to develop their arguments; hence, when they refer to 'aql, in fact, they refer to logical reasoning. For instance, as Bhojani asserts, for Shaykh Mufid, "al-'aql is considered a necessary pre-requisite to establishing the provenance of religious texts and a tool for interpreting them, but it is not explicitly listed as a source (*dalil*) of *Sharī'a* [*shari'ah*] precepts themselves" (Bhojani, 2015, p.27). However, Mutahhari does not have an instrumental understanding of reason. He does not use reason to develop his argument and to convince his audience, but rather as a category outside *fiqh*. Thus, to Mutahhari, 'aql is the criterion which helps determine the validity of legal judgments. Therefore, Mutahhari conceives justice and natural rights as the rational categories which have to be used in the process of *ijtihad*. It seems that, for Mutahhari, the rationality of *ijtihad* is defined by implementing justice and being in accordance with natural rights. Hence, he seems to adopt a substantialist (*zati*) approach to reason in Islamic jurisprudence that is defined by what is just and in conformity with natural rights.

3.2 Philosophical Basis of Mutahhari's *Ijtihad* Methodology

3.2.1 The Principle of Justice

Justice is one of the five pillars of Shi'a *kalam*. It is the second fundamental principle of Shi'a Islamic belief (alongside monotheism, prophecy, *imamate* and resurrection). Justice

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assumes such prominence in Islam that a wide range of the Qur'an's verses and *hadiths* are dedicated to the concept. According to Mutahhari, the foundation of justice in Islamic thought should be sought in the Qur'an, which describes different aspects of justice and oppression (Mutahhari, 2005a, p.35). Exploring the Qur'an shows us that the concept of justice in the Qur'an is a broad term which applies to the creational, juridical, ethical and social realms. In the Qur'an, justice is regarded as one of the main purposes of the prophet's mission where it says, "Indeed, We send our Messengers with the clear signs and We send down with them the Book and the Balance so that men might uphold *justice*..." (57:25). In another verse, justice is regarded as God's criterion in creation: "and heaven He raised it up and set the *Balance [justice]*" (55:7). The Qur'an also testifies that God himself aims to dispense justice, "God bears witness that there is no god but He—and the angels and men possessed of knowledge—upholding *justice*" (3:18).

Mutahhari's devotion to the concept of justice inspired him to write a book on '*Adl-i Ilahi (Divine Justice)*' and to dedicate chapters to this issue in many other writings¹⁵¹. Perhaps, his concentration on the concept of justice stems from three elements: his deep respect for Ali Ibn Abitalib¹⁵² (the first Imam of Shi'a), his interest¹⁵² in philosophy, and the propagation of leftist views of social justice in pre-revolutionary Iran. Ali is reputed for his distinctive personal characteristics such as braveness, piety, generosity, and forgiveness. Of the highest concern to him was the principle of justice and its dispensation. In sermon 223 of *Nahj al-Balaghah (Peak of Eloquence)* he says:

¹⁵¹ In various writings, Mutahhari dedicates a chapter to the concept of justice. See, for instance, *The Bist Guftar (Twenty Articles)*, *Islam va Muqtadiat-i Zaman (Islam and the Demands of Time)*, *Azadi-yi Ma'navi (Spiritual Freedom)*, *Ayandih-yi Inqilab-i Islami (The Future of the Islamic Revolution)*, *Nizam-i Huquq-i Zan Dar Islam (The System of Women's Rights in Islam)*, *Falsafih-yi Tarikh (Philosophy of History)*, *Yaddashtha-yi Ustad (Mutahhari's Notes) Vols. 1,4,6,7, and 8*.

¹⁵² Ali was a cousin of the Prophet Muhammad, the husband of Fatimah, the male ancestor of the rest of the Shi'a Imams, and the fourth Caliph of Sunni Muslims. According to Shi'a traditions, he was also the first who converted to Islam and the only person who was born inside Ka'ba. In addition, Shi'a Muslims believe that , along with his descendants, Imam Ali is one of the divinely appointed successors of the Prophet.

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By Allah, even if I am given all the domains of the seven (stars) with all that exists under the skies in order that I may disobey Allah to the extent of snatching one grain of barley from an ant, I would not do it (Sharif Radi, 2011, p.374).

According to Mutahhari, in the above passage, Ali does not intend to undermine the value of the material world; rather, he tries to highlight the importance of justice and truth. In fact, oppression and injustice is a grave sin in Ali's eyes, to the extent that he cannot do injustice even to a little creature (like an ant). In other words, it is not worth it to undermine moral and social principles and human virtues in exchange for worldly interests (Mutahhari, 2016, p69). Imam Ali's sermons, letters, and statements frequently stress the virtue of justice, demonstrating its significance in his thought¹⁵³. In Letter 31, concerning behaviour towards other people, he advises his son in the following way:

Let your 'self' act as scales to judge its goodness or wickedness. Do unto others as you wish others to do unto you. Whatever you like for yourself, like for others, and whatever you dislike to happen to you, spare others from such happenings. Do not oppress and tyrannise anybody because you surely do not like to be oppressed and tyrannised (Sharif Radi, 2011, p.422).

Mutahhari was so influenced by Imam Ali's conduct, thus he published two specific books about him: *Jazibih va Dafi'ih-yi Ali Ibn Abitalib (Polarization Around the Character of Ali Ibn Abi Talib)* and *Sayri dar Nahj al-Balaghah (A Journey to Nahj al-Balaghah)*. Furthermore, it is quite difficult to find a piece of work of his in which he has not praised Ali ibn Abitalib¹⁵⁴.

The second element underlying Mutahhari's concentration on the principle of justice is his rational and philosophical approach. Although justice is one of the Shi'a *usul-i din* and Shi'a Muslims are even labelled as *'Adliyah* (followers of justice) for this,¹⁵⁵ there are different views among modern and contemporary Shi'a scholars regarding its place in *fiqh*. Mutahhari is a

¹⁵³ For instance, Imam Ali asserts, "nothing except justice could improve people's affairs" (Tamimi Amidi, 1987, p.206); "The best politics is justice" (Tamimi Amidi, 1987,p.678); and "Justice is the strongest foundation, in a way that whatever is based upon it would remain stable and firm (Tamimi Amidi, 1987, p. 216)

¹⁵⁴ Imam Ali benefited from characteristics that even non-Muslim scholars praised him. For instance, George Jordac (1931 – 2014), a Christian author and poet from Lebanon, published a book about Ali entitled *The Voice of Human Justice* (Jordac, 2007).

¹⁵⁵ It should be noted that along with Shi'a, Mu'tazilah puts emphasis on reason and justice in understanding religious laws (Mutahhari, 2005a, p. 24).

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figure who puts more emphasis on a rational and philosophical understanding of religion. He believes that not everything is found in the Qur'an, *sunnah*, or *hadiths*. Therefore, in many cases, reason must be used extracting religious laws. For example, there is no direct indication in religious sources with respect to the phenomenon of smoking, which belongs to the modern era. Thus, the jurist, through the help of reasoning, could extract religious rules about smoking. Mutahhari clearly affirms that Islamic laws are not beyond reason (Mutahhari, 1994a, p.20-22). Rather, 'justice, reason and expediency (*maslihat*)' are real and exist outside the realm of *shari'ah*, suggesting that they are criteria with which religious laws should be evaluated (Mutahhari, 2016, p.36-37). This is why he pays special attention to reasoning and calls attention to the rule of *mulazimah*¹⁵⁶.

In addition, although divine justice is one of the main principles of Islam (*usul-i din*) in Shi'a theology, Mutahhari's unique contribution is that he tries to connect a principle of divine justice to social justice. It will be explained later that Mutahhari made an attempt to socially contextualise the concept of divine. Since, in pre-revolutionary Iran, the social justice discourse coming from the communist and other leftist political groups (such as Tudeh Party), was propagated among the Iranian youths and intellectuals (Abrahamian, 1982, p.340)¹⁵⁷, Mutahhari was inspired to focus on the idea of social justice to demonstrate that Islam can face and successfully deal with the ideological challenges raised by the leftists. Perhaps, this is another underlying reason behind Mutahhari's vast engagement with the concept of social justice while other traditional scholars of his time did not engage with this issue as much as he did.

¹⁵⁶ The 'rule of correlation' illustrates the significance of reason in Shi'a jurisprudence, implying that "the religious rule may be inferred from the sole verdict of reason" (Tabatabai, 1989 P. 68).

¹⁵⁷ The Tudeh Party, which was one of the Iranian leftist groups in pre-revolutionary Iran, demanded social justice. According to Abrahamian, "the extensive propaganda machine hammered away on the social justices produced by the vast inequality between rich and poor. And the party intellectuals published a series of works both on the concept of class struggle in Marxist theory and on the politics of class conflict in contemporary Iranian history" (Abrahamian, 1982, pp. 340-341).

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For instance, Ali Shari'ati (1933-1977) is one of the pre-revolutionary intellectuals whose ideas about social justice were inspired by Marxism and, in *Shi'ism*, tried to present Shi'a Islam as a 'revolutionary ideology' (Dabashi, 2017, p.110). Shari'ati, in his discussion of social justice, resorts to such Marxist notions as the ruling class and the oppressed class, as well as public and private ownership. According to Shari'ati, Islam has an anti-aristocratic orientation. It is a religion of the people (*nas*). It has an irreconcilable conflict with the ruling classes, the powerful, the rich and even clerics who, in all societies and previous religions, were part of the ruling classes. He emphasises that the final aim of Islam is to establish universal justice and equality (Shari'ati, 1988, p.99). There is a significant difference between Shari'ati and Mutahhari in their theories of the establishment of social justice. According to Shari'ati, social justice cannot be achieved unless private ownership is abandoned and replaced by public ownership while, as we will explain in this chapter, from Mutahhari's point of view, society should be an arena of free contests. Hence, all individuals should be left free, and the arena of life should take on the form of not one contest but many contests in which all men and women can have the right and opportunity to participate and obtain jobs or positions in line with their preference, capacity, merits and efforts (Mutahhari, 2016, p.92). In fact, Mutahhari's idea of social justice is based on his theory of natural rights¹⁵⁸.

3.2.1.1 The Status of Justice in Fiqh in Mutahhari's view

The concept of justice in the Islamic world has been scrutinised in the two realms of theology (*kalam*) and jurisprudence (*fiqh*) (Mutahhari, 2005a, p.30). In the preface to *Divine Justice*, Mutahhari classifies justice into two major types of 'divine justice' and 'human justice'. Divine justice is a central theological concept in Shi'a Islam and the starting point of Mutahhari's reflection. According to Mutahhari, divine justice appears as justice in legislation (*'adl-i tashri'i*) and justice in creation (*'adl -i takvini*); that is, God is just both in legislation and in creation, and He does not commit any act of injustice (Mutahhari, 2005a, pp. 33-38). This

¹⁵⁸ For more about differences between Shari'ati's and Mutahhari's views on social justice, see (San'atju, 2003)

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attitude is rooted in the theological theory of the rationality of good and evil (*husn va qubh-i 'aqli*) supported in Shi'a and Mu'tazilah theology,¹⁵⁹ which assumes 'justice' is essentially good, and its goodness can be known through reason, without resorting to revelation. Accepting the role of reason in identifying true and false, as well as good and evil, paved the way for the authorisation of the principle of justice as a reliable common basis for juridical understanding, and commentators of different persuasions have shown how justice can be applied in extracting religious verdicts. The root cause of this variety is uncertainty about whether justice is a criterion for assessing religious laws or *shari'ah* laws should be seen as the basis for justice. In other words, the question is: does the concept of justice have an independent existence outside the Islamic juridical framework or must it be defined and implemented within the Islamic juridical system?

Some renowned jurists such as Muhammad Husain Na'ini (1860-1936) find 'equality' (*musavat*) to be the most important principle of Islamic laws, particularly in the socio-political realm. To him, justice and equality are the essence of all Islamic rules. Na'ini praises Western societies for their emphasis on freedom and equality and simultaneously blames Iranian society for closing its eyes to these most central principles of the religion of Islam (Na'ini, 2009, pp. 84-91)¹⁶⁰. However, another prominent jurist, Shaykh Fadlullah Nuri (1843-1909), who advocated the establishment of the 'house of Justice' (*'idalat khanah*) in Iran, believes that equality (*musavat*) has to be defined within the Islamic juridical framework, implying that differences acknowledged in Islamic laws, including gender differences, should be taken into account (Hushangi, 2016).

In terms of jurisprudence, the situation is quite complicated. As Mohaghegh points out, although Shi'a jurists confirm that ethical features are real, and human reason is able to

¹⁵⁹ In theological discussions, two major groups came to existence, *Ash'ariyyah* and *Mu'tazilah*, and the Shi'a theological approach was close to *Mu'tazilah's* rationalistic stance.

¹⁶⁰ For more information about Ayatollah Na'ini's views regarding justice, see (Mohaghegh Damad, 2018, pp. 233-235).

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distinguish between good and bad deeds—e.g., human reason can understand that justice is good and oppression is bad (without the knowledge provided by revelation)—Shi'a jurists believe that there are still many instances of justice and oppression that could be recognised only through divine revelation (Mohaghegh Damad, 2018, pp. 231-232). Therefore, this is not clear whether justice is a criterion for assessing religious laws, or vice versa.

In the following excerpt, Mutahhari clearly introduces a new understanding of how Shi'a *fiqh* should operate. He states that

The principle of justice is one of Islam's axes of measurement. Justice pertains to the domain of rulings' *ratio legis* rather than their effects. The significant point is that, from the Islamic perspective, justice is a criterion for [evaluating] religion, but religion is not a criterion for [evaluating] justice (Mutahhari, 2012b, p.52)¹⁶¹.

What differentiates Mutahhari's view from other jurists here is that he sees the Islamic jurisprudential principles on a vertical line, as it were, and he places justice above the others, implying that jurists' understanding of the primary religious sources has to conform with the principle of justice; otherwise, it is iniquitous (Mutahhari, 2002c p.124). Therefore, justice is a *meta-jurisprudential principle*, and no ruling must contradict it. This implies that justice, in itself, requires no elaboration by the *shari'ah* because it is intuitive, and human reason may independently perceive it. Accordingly, Mohaghegh asserts that "justice is not a jurisprudential principle; rather, it is outside the framework of jurisprudence" (Mohaghegh Damad, 2009, p.377). Therefore, for Mutahhari, justice is not a by-product of Shi'a *fiqh*, but an overarching principle of *ijtihad*. The followers of traditional *usuli fiqh*, on the other hand, argue that using the four sources of *fiqh* for issuing *fatwas* will lead to a just statement and that justice as such is not to be taken as a criterion or source for issuing jurisprudential decrees. It is this focus on, and attention to, the principle of justice which clearly distinguishes Mutahhari's views in many discussions of women's rights. Perhaps, it is mainly

¹⁶¹ In attempting to define what Mutahhari means by 'criterion', it is best to explore his other writings, in which he declares that "It is not the case that whatever religion dictates is just rather, that which is just is dictated by religion. This is what is meant by saying that justice is an evaluation criterion measurement in religion" (Mutahhari, 1998b, p. 203).

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why Mutahhari finds many prevalent *fatwas* in various Islamic fields, particularly women's rights, unfair and in contrast to the principle of justice.

3.2.1.2 Definition of justice

Due to the high value of justice in Islamic thought, numerous sources were produced by Muslim scholars investigating the definition and different aspects of this concept, particularly the issue of 'divine justice'¹⁶². Justice has been defined in various frameworks, ranging from legal definition to jurisprudential and philosophical ones. For instance, 'Allamih Muhammad Taqi Ja'fari (d. 1998), defines justice as "the behaviour which is in compliance with the law". To him, this is the most comprehensive definition of justice, which covers all just behaviours and phenomena. According to him, there are laws governing human social well-being which are legislated to improve human life. Therefore, behaving according to these laws is justice, and violating them is injustice and oppression (Ja'fari 2006, pp. 254-255).

Taking Ja'fari's explanation of justice into account, some questions may arise: Does the concept of justice have no definition outside the realm of social life? What is the place of individual justice in Ja'fari's thought? How should (social) laws be evaluated? Is justice above all laws and a criterion for assessing them or are social laws superior to justice? Ja'fari's explanation of justice could be labelled as 'legal justice' and may not be accurate enough to define the concept of justice. As Mutahhari also argues, there are some unjust laws obedience to which constitutes injustice and oppression while defying them is justice (Mutahhari, 1998b, p.219).

Justice has also been described by jurists as a spiritual power (*malakih-yi nafsani*) which recommends the obligatory (*wajib*) and warns against the forbidden (*haram*) (Tabatabai Hakim, 1967, p.332). As a result, Shaykh Ansari, in *Treaties of Justice*, asserts that a just person is one who does not commit a major (*kabirah*) sin and does not commit minor

¹⁶² *Ilahiyat (Theology)* (Subhani, 2013), *Manshur-i Javid (Eternal Charter)* (Subhani, 2004) and *Payam-i Quran (The Message of the Qur'an)* (Makarim Shirazi, 1998) are some publications on divine justice.

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(*saghirah*) sins repeatedly (Qurbaniyan, 2002, p.28). Mulla Ahmad Naraqī (d. 1829), in *Mi'raj al-Sa'adat*, which treats ethical themes, asserts that justice is submission to reason to the extent that one does not do anything unless it is ordered by reason. As a result, a just person is the one who avoids extremes (*ifrat va tafrit*) and acts moderately. In fact, justice creates harmony between extremes (Naraqī, 1999, p.80). Then, he declares that "divine *shari'ah* is the criterion based on which excess and deficiency could be recognised" (Naraqī, 1999, p.46). 'Allamih Tabatabai, argues that justice means 'granting every possessor of right his or her due' (Tabatabai, 1985, p.371). Mutahhari confirms Tabatabai's definition of justice¹⁶³; however, inspired by Imam Ali's statement (N.437 in *Nahj al-Balaghah*)¹⁶⁴, he asserts that "justice means putting things in their own place" (Mutahhari, 2016, p.19).

As explained above, Mutahhari classifies justice into two major types of 'divine justice' and 'human justice'. According to him, divine justice encompasses justice in legislation (*'adl-i tashri'i*) and justice in creation (*'adl-i takvini*). Mutahhari supports his argument by addressing some Qur'anic verses concerning different kinds of justice. With respect to *'adl-i takvini* (justice in creation), the Qur'an perceives justice as the foundation of the creation:

God bears witness that there is no god but He and the angels and men possessed of knowledge [that he is] upholding [creation in] justice...(3:18). And heaven He raised it up and set the balance (55:7)¹⁶⁵

Justice in legislation (*'adl-i tashri'i*) means that religion and religious rules are also based on justice. In other words, social justice is a branch of justice which has clearly been highlighted in the Qur'an, where one of the most important missions of the Prophets is considered as the establishment of social justice (Mutahhari, 2014a, p.19)¹⁶⁶. Mutahhari also divides human

¹⁶³ In this regard, see, (Mutahhari, 1994a, p. 184).

¹⁶⁴ Imam Ali was asked "Which of the two is better: justice or generosity?" He replied: Justice puts things in their places while generosity takes them out of their directions; justice is the general caretaker while generosity is a particular benefit. Therefore, justice is superior to and more valuable than generosity (Nahj al-Balaghah, statement N. 437).

¹⁶⁵ There is a prophetic *hadith* about this verse emphasising that "the heavens and the earth stand up because of justice" (Mutahhari, 2005a, p. 36).

¹⁶⁶ He refers to the Qur'anic verse which states, "In deed We have sent Our Messengers with clear signs, and We sent down with them the book and the balance so that men might uphold justice" (57:25).

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justice into two kinds of individual (*fardi*) and public (*guruhi*) justice. He believes that a great number of Qur'anic verses on justice refer to public justice, which includes the realms of family, society, politics and judiciary. However, it seems that by "individual justice" he mainly refers to ethical justice; that is, an ethical person who acts justly. To support his understanding, he refers to the Qur'an, which says:

...as shall be judged by two men of equity among you (5:95).

...And call in to witness two men of equity from among yourselves (65:2).

However, the significance of Mutahhari lies in his attempt to make a bridge between divine justice and social justice. According to him, the issue of 'divine justice' is inevitably connected with the concept of social justice. From Mutahhari's standpoint, individual justice is the basis of social justice, and divine justice is the basis of individual justice (Mutahhari, 2016, pp.35-38). He asserts that "undoubtedly, social justice cannot mean anything contrary to individual justice" (Mutahhari, 1998b, p.268) and, therefore, piety (*taqwa*) and spirituality can reinforce individual and social justice:

The law itself is nothing more than a sheet of blackened paper; it is people who must be the objective embodiment of the law. The important thing is then abiding by the law, which requires sacrificing one's interests. This is not possible without faith in divine respect for justice and faith in divine punishment for injustice. For the implementation of justice, two things are necessary: first, an awakening of common sense in the public to preserve their rights and not transgress the law. The other is the faith of those in power (Mutahhari, 1998b, p.270).

For a better understanding of Mutahhari's argument of how he develops his idea of justice, the following points need to be considered:

1. Regarding the definition of justice, Mutahhari's approach is based on rights. Although he confirms the dominant Islamic definition of justice, that it is what places everything in its rightful place, he defines it more precisely as "the merit and right, granted to people, that is in accordance with one's nature and one's earned actions and deeds.

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The opposite being oppression and prejudice” (Mutahhari, 1994b, p.226). Therefore, Mutahhari connects his discussion of justice to his discussion of rights.

2. Mutahhari argues that we should clearly know, what Islam means by justice when it asks Muslims to be just and to not oppress each other Do justice and human rights possess a reality outside the framework of religious laws or could they only be defined within the realm of religion? As was mentioned above, Mutahhari emphasises that justice is independent of religion. The following statement displays his stance:

Islamic laws follow the rationality of good (*husn*) and evil (*qubh*). Rights and justice are real, and Islam confirms their reality. Based on this attitude, we can define Islamic social philosophy (Mutahhari, 2016, p.50).

3. Every human being possesses certain rights, and these rights have been granted to them by creation (nature). On this point, the Qur'an says, "It is He Who created for you all that is in the earth" (2:29) and "We have established you in the earth and there appointed for you livelihood; little thanks you show" (7:10). It seems that Mutahhari attempts to devise his theory of natural rights on the basis of the 'principle of purposivism' (final cause or ultimate purpose for being – *'illat-i gha'i-*) by making a link between human and nature, or between human and the blessings of the world. From his standpoint, in the Islamic worldview, humankind is the most important component of the creation, all things have been created for humans, and everything came into existence to benefit them. Therefore, although human beings have certain responsibilities toward creation, they have undeniable natural rights as well (Mutahhari, 1994a, p.202)¹⁶⁷.
4. From Mutahhari's standpoint, there is a harmony between natural law and *shari'ah* laws. However, he claims that natural law is prior to religious law [or positive law of the state] and since both types of laws come from God, religious laws should be in

¹⁶⁷ See also (Mutahhari, 2016, pp. 50-54).

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accordance with the law of creation, not contrary to it. Therefore, a proper understanding of *shari'ah* will not contradict natural law. To clarify the point, Mutahhari gives the example of a new born baby and its need for breastfeeding. The question is whether anyone can deny the relationship between a baby and its mother's breast milk and whether this milk is the baby's right, and if it is, who granted this right to it. Mutahhari responds in the affirmative: breastfeeding is the baby's right, and the world of creation assigned this right to the baby (Mutahhari, 2016, p.55)¹⁶⁸. On the other hand, *shari'ah* responds to the natural right of the baby by making an obligation for the mothers to feed their kids.

5. It was argued that Mutahhari, similar to other thinkers such as 'Allamih Tabatabai, defines justice as 'granting every possessor of rights his or her due'. Based on this definition, the two principles of justice and natural rights are closely intertwined. It was also discussed that all human beings possess certain natural rights. In the next step, it has to be clarified as to how these rights can be recognised and utilised. Mutahhari puts forward his theory of the correlation between rights and obligations. He emphasises, in this stage, that rights and obligations are attached to each other, meaning rights can be achieved merely through the performance of our duties and responsibilities. He explains that there is a significant difference between human beings and other creatures. By virtue of creation, every creature has received an instinct (*gharizah*) of its own, and this instinct is the only condition for them to be eligible for their natural rights. Accordingly, Mutahhari asserts that "being children of the earth is enough for them to have certain [natural] rights" (Mutahhari, 2016,

¹⁶⁸ In this regard, he refers to the following Qur'anic verses which demonstrate the fact that there is a meaningful harmony between a human's needs and nature: "It is He who sends down to you out of heaven water of which you have to drink, and of which trees, for you to pasture your herds, and thereby He brings forth for you crops, and olive, and palms, and vines and all of manner of fruit. Surely in that is a sign for a people who reflect. And He subjected to you the night and day and the sun and moon, and the stars are subjected by His command. Surely, in that are signs for a people who understand" (16:10, 11, 12).

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p.58)¹⁶⁹. However, concerning human beings, Mutahhari's view touches upon two key central factors: human reason (*'aql*) and will (*iradiah*). With respect to the human instinct, humankind has certain natural rights, such as a baby's need for breastfeeding, regardless of any kinds of obligation (the right to this milk entails no duty or obligation). However, there are some other types of natural rights that could only be achieved through the implementation of duties and fulfilment of obligations involving both reason and will. For instance, all humans have the right to food and nutrition; hence, they need to cultivate the earth in order to use its resources. In other words, humans have to carry out their duties toward nature and revitalise the earth in order to obtain their natural rights in return¹⁷⁰.

Mutahhari tries to explain the relationship between rights and responsibilities by drawing on a tradition from Imam Ali, who states, "No one has a right unless he is responsible for a right and no one is responsible for a right unless, for him and to his benefit, there is a right" (letter 53)(Sharif Radi, 2011, p.450). This *hadith* displays the correlation between rights and responsibilities, indicating that the possessor of a right has an obligation alongside with it. This may be the main reason why the Prophet said, "Those who put the weight [of their responsibility] on others' shoulders are deprived of God's mercy" (Kulayni, 1995, p.72). Mutahhari holds that this tradition refers to people who benefit from public rights while they do not perform their own duties [toward society] (Mutahhari, 2016, pp.58-59)¹⁷¹.

¹⁶⁹ On this point, see also, (Mutahhari, 1994a, p. 192)

¹⁷⁰ Mutahhari points to some Qur'anic verses and *hadiths* to support his view about the correlation between rights and obligations. For instance, the Qur'an says, "...it is He who has produced you from the earth and has given you to live therein;..." (11:61). There is also a tradition from Imam Ali saying, "All of you are responsible even towards livestock and the earth" (Sharif Radi, 2011, p. 450). This tradition demonstrates that, in Islam, not only do people have responsibility towards God, but also they are responsible for natural resources, including animals.

¹⁷¹ In interpreting the Prophetic *hadith*, he also points to the differences between Islamic social philosophy and materialist philosophies. He explains that, in material systems, rights are dependent on work, production, and industry. In Islamic law, however, poor and needy people possess certain rights. The following verses clearly display the Islamic stance: "And give the kinsman his right, and [also] the needy and the traveller, and never squander (17:26), "And those in whose wealth is a right known, for the beggar and the outcast (70:24 & 25).

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The above points summarise Mutahhari's standpoint: the concept of justice is a reality which exists outside the realm of religion. In addition, human beings possess certain natural rights which have been assigned to them by creation. Since the law of creation is prior to the law of religion, these rights have to be recognised and applied to all. These rights are obtained by performing duties indicating that humans, by virtue of the two elements of reason and will, need to fulfil their obligations in order to achieve their rights. This idea demonstrates the correlation between rights and duties in Mutahhari's definition of justice and in his rational and philosophical approach.

3.2.1.3 Mutahhari's Understanding of Society and Social Justice

In discussing social justice, the main question regarding the two principles of natural rights and justice is: can natural rights be used as a source of social rights? It seems that Mutahhari tries to explain the social rights of human beings in general and those of women in particular based on justice and natural rights. In other words, he seeks to arrive at the philosophy of individuals' social rights in respect to the scheme and order of creation.

Regarding social justice, he mentions a *hadith* from the Prophet Muhammad stating "a society can survive if it is just and moderate even though its people are infidels, and if oppression, cruelty, injustice, and discrimination exist in a society, that society will be annihilated even if its people are Muslims" (Mutahhari, 2016, p.71). This *hadith* also illustrates the place of justice as a meta-jurisprudential and meta-religious principle as discussed above.¹⁷² One important point in Mutahhari's view of justice, which has a direct effect on his remarks concerning women's social activities is what he thinks of the definition of social justice. Does he define justice as total equality? Do any differences in society mean that there is injustice and that social justice is violated? Does justice demand that individuals should have no precedence over the others? In answering the above questions, Mutahhari

¹⁷² Accordingly, the Qur'an states, "Yet thy Lord would never destroy the cities unjustly while as yet their people were putting things right." (11: 117).

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states that justice does not demand that all differences and distinctions should be erased. Rather, it demands that one should observe the natural merits and capabilities; that is, the rights of individuals must be observed.

We have to take the next step here and raise the question: what did Mutahhari mean by the observation of rights? In other words, what are the criteria and standards of individuals' merits? To further clarify the point, he compares a society to the body of a living organism¹⁷³, an analogy that is also found in classical writings such as Ibn-i Khuldun in '*Muqadamih*'. According to him, just as a human being goes through the stages of adolescence, youth, middle age, old age, and death, so the state has its own birth, growth, aging, exhaustion and death (Ibn-i Khuldun, 2009, pp. 324-327). Khajih Nasir al-Din Tusi also, in '*Akhlaq-i Nasiri*', makes a similar observation and likens the members of society to the members of the human body (Tusi, 2017, p. 216). However, It seems that Mutahhari was influenced by his teacher 'Allamih Tabatabai and took this concept from him, as this analogy can be found in Tabatabai's writings as well (Tabatabai, 1988, p.442)¹⁷⁴. In Mutahhari's view, as a body consists of limbs and organs, each performing its own particular function, a society also consists of groups of individuals, and all tasks required of a society are shared among individual members as jobs. A human body may be in the state of health or illness. It is born into the world and begins to grow, and so does is a society. Any problem in one limb of the body causes disease in other limbs as if there existed a kind of sympathy among the organs and limbs.¹⁷⁵ A sound society enjoys a social spirit. The difference between a society and a living organism lies in the fact that the limbs of a body each have their own fixed place and

¹⁷³ At this point, Mutahhari refers to a statement from the Prophet Muhammad, who says that "[Muslim] believers, due to the love, friendship and sympathy that exist among them, are like limbs of a body. When one limb is afflicted with pain, the other limbs cannot remain unaffected" (Mutahhari, 2016, p. 89).

¹⁷⁴ In this regard see also (Tabatabai and Mutahhari, 2009, pp. 206-208).

¹⁷⁵ 'Allamih Tabatabai, quotes many verses from the Qur'an In order to prove the existence of a reality called society that goes beyond individuals and their actions. These verses demonstrate that society has its own understanding (*fahm*), actions (*'amal*), sins (*ma'siyat*), book (*kitab*), etc. For instance, the Qur'an says, "every nation being summoned unto its *Book*" (45:28), and "So We have decked out fair to every nation their *deeds*" (6:108). Quranic verses 5:66, 2:113 and 10: 47 are other examples that, according to Tabatabai, demonstrate that society really exists (Tabatabai, 1995, p. 96).

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function which are not changed. However, members of a society have their own minds, power of differentiation, autonomy, free will, and choice. In explaining human merits, Mutahhari asserts that early philosophers (*hukama*) thought of humankind as being social by nature, though he does not mention the names of those philosophers. This implies that human beings have been bestowed with certain capabilities (potentialities) which cannot be actualised, except in the context of social life. However, he believes that the social nature of mankind does not contradict the idea that human social life is based upon convention and selection and that humans, by their own reason and free will, have made a choice to live a social life (Mutahhari, 2016, pp. 88-91)¹⁷⁶.

With respect to Mutahhari's view, individuals in society have no certain or fixed positions; rather, they are exposed to a wide range of activities, tasks and functions which make it possible for them to make a choice and obtain the positions they desire with effort and by using their own free will, freedom of choice, and preference. No doubt, social positions are subject to change. The main question is how different kinds of social work are to be shared among individuals, and what the criterion for this division of labour is. In answering the question, Mutahhari emphasises that there is only one way to do this: there should be no coercion at all. All individuals should be left free, and the arena of life should take on the form of not one contest (*musabiqih*) but many contests in which all men and women can have the right and opportunity to participate and obtain the job or the position in line with their preference, capacity, merits and the extent of their efforts (Mutahhari, 2016, p.92)¹⁷⁷.

¹⁷⁶ Although, Mutahhari's view on human social life, to some extent, sounds like the social contract theory of Jean-Jacques Rousseau, there are significant differences between their approaches. To Rousseau, "the natural freedom of the individual is consolidated into the general will of the community...this individual does not control the general will, which has the status of corporate or legal personality and may have to be articulated by the single legislator" (Akhavi, 2003, p. 27). While from Mutahhari's perspective, individuals in society do not delegate (*tafvid*) their rights to the legislator (state).

¹⁷⁷ One may question Mutahhari's view because the word 'contest' inevitably implies that there should be a winner and a loser. Hence, 'contest' seems to imply a game where the survival of the fittest is at stake. It could be argued that society is the arena of many contests in diverse fields, and people with different degrees of talent and extent of effort participate in social contests. Hence, one can be a loser in some areas while simultaneously a winner in other fields.

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Thus, society in various respects should be like an arena for contests, and the notion of contest demands that there should be freedom in society. We will deal with the views of Mutahhari concerning freedom later. According to him, there are two elements in any contest: 1) an activity that is the object of the contest, and 2) a prize or a reward set for the winner in the contest. The activity that is set as the object of the contest can be knowledge, virtue, piety, and whatever that is thought to be useful for human beings and social life. The prize is the rights which are conferred on somebody for his/her outstanding activity, capability, and competency. It is at this point that one can come to understand the relationship between right (*haqq*) and duty (*taklif*) in Mutahhari's thought. Concerning these two concepts, he observes,

If we fully understand the principle of concomitancy of right and duty in Islam, we can understand that when we claim that life is a form of contest, it means the contest of doing duties and responsibilities. And by the prize or reward, we mean enjoying social rights (Mutahhari, 2016, p.95).

To support his claim, he refers to the Qur'anic verse saying, "and that a man shall have to his account only as he has laboured"¹⁷⁸ (53:39). Therefore, Mutahhari talks about a just society with equal opportunities for all, not equal treatment of everybody; hence; he adopts a distributive understanding of justice. Society should provide equal opportunities for its members, and, if it does not, it cannot be called a just society. As Mutahhari puts it, the only way to have a just social contest is by letting individuals be free to gain advantage over their rivals. When people are free, due to the fact that they are not equal in their talents and capabilities and that they differ in terms of the extent of their efforts, differences and distinctions naturally arise. There is a good case in point: if the same mark is given to all

¹⁷⁸ With respect to this verse (53:39), one may argue that sometimes people can strive without there being a contest. For example, one can strive for peace, mercy, and love. To put these endeavours in terms of a contest seems to be quite strange. This criticism could be responded by referring to another Qur'anic verse saying that, "every man has his direction to which he turns; so be you forward in good works..." (2:148). Therefore, from the Qur'anic perspective, this material world is a field of contest, and people have to attempt to obtain virtues as far as they can. In addition, as it will be explained in the next part, from Mutahhari's perspective, human beings have certain natural (*firi*) tendencies that need to flourish, and human tendency toward love and worship is one of them.

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students who take one and the same exam, this will be gross injustice (Mutahhari, 2016, p.96).

One can conclude from what was previously said that justice entails equality as far as the equal rights of individuals are concerned. That is, the participants in the social contest should be discriminated only by virtue of what is related to their talents, achievements and hard efforts. However, regarding the conditions of the social contest, everyone has to benefit from equal opportunities or chance to take part in the contest. To support his claims on rights, Mutahhari has recourse to certain verses of the Qur'an and traditions (*ahadith*). For instance, there is a tradition from the Prophet saying that "people are like the teeth of a comb being equal (Al-Mufid, 2014, p.341)". In another *hadith*, he says that "your God is One, your parents are one, all of you are descended from Adam and Adam was made from clay, and there is no superiority for Arabs over non-Arabs except for piety (Ansari Qurtubi, 1985, p.342). Accordingly, the Qur'an says:

Such believers as sit at home unless they have an injury are not the equals of those who struggle in the pass of God with their possession and their selves. God has preferred in rank those who struggle with their possession and their selves, over the one who sit at home (4: 95).

O mankind, We created you male and female, and appointed you races and tribes that you may know one another. Surely the noblest among you in the sight of God is the most god-fearing of you (49:13).

Therefore, a just society is one in which, firstly, there is the possibility of holding a contest for all individuals, and, secondly, all people are equal in the eyes of law so that even the competent villagers or peasants have the opportunity to acquire higher education, thus becoming a scientist and even being appointed as ministers. There is a kind of similarity between Mutahhari's approach to social justice and that of Aristotle's view on distributive justice. Distributive justice involves dividing benefits, goods and honours among the members of a community (in a political group). The general principle is that "equal persons must have equal shares and unequals, unequal shares" (Winthrop, 1978, p.1204). Therefore,

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distributive justice is a proportion¹⁷⁹. Aristotle makes a distinction between distributive and commutative justice. Commutative justice is the principle to give to each person that to which he or she is entitled... (Koslowski, 2001, p.184). However, as Chroust¹⁸⁰ (1907-1982) states,

The fundamental distinction between "distributive Justice" and "commutative Justice" is to be found in the distinction between Equality with regard to the persons involved and Equality without regard to the person; between the notion that the same treatment applies to everyone and the notion that everyone should have his due according to his worth (Chroust, 1942, p.137).

There is a distinction between Mutahhari's view and the Aristotelian perspective as there is an egalitarian notion in Mutahhari's idea of justice. In terms of social justice, he makes no distinction between the members of society or genders¹⁸¹. One might claim that Mutahhari's philosophy appears to be rather idealistic and to have certain presuppositions built upon the mobility and freedom of diverse human beings because their ability to be exposed to such things depends upon their means. The impoverished of society, or those who live in contexts where there are strict class or caste systems, do not have such freedoms. For example, sometimes women's social participation is circumscribed by societal, cultural and family expectations, by norms of sexuality and gender, and by religious constructions of femininity that prevent women from participating and obtaining social positions in line with their preference, capacity, merits, and the extent of their efforts. Therefore, in reality, in many cases, what Mutahhari describes as the natural rights of women does not occur due to

¹⁷⁹ Aristotle divides justice into two forms of distributive and corrective. According to him, corrective justice provides the principles used in courts of law when a member of a community has been unjustly benefited or burdened with more or less than is deserved. Therefore, corrective justice is employed when a contract must be modified (Winthrop, 1978, p. 1204).

¹⁸⁰ Anton-Hermann Chroust was a German-American jurist, philosopher and historian. Chroust was a professor of law, philosophy, and history at the University of Notre Dame from 1946 to 1972. Chroust was best known for his 1965 book on the American legal profession, titled *The Rise of the Legal Profession in America*.

¹⁸¹ However, from Aristotle's point of view, there are some people who are superior and fit to rule from birth while there are others who are inferior and have to be ruled from birth. In this regard, in *Politics*, he states, "The kind of rule differs; the freeman rules over slave after another manner from that in which the male rules over the female, or the man over the child; although the parts of the soul are present in an of them, they are present in different degrees. For the slave has no deliberative faculty at all; the woman has, but it is without authority, and the child has, but it is immature" (Aristotle, 2016, p. 12). From Pomerleau's perspective, "This supposedly applies not only to ethnic groups, but also to the genders, and he unequivocally asserts that males are 'naturally superior' and females "naturally inferior," the former being fit to rule and the latter to be ruled. The claim is that it is naturally better for women themselves that they be ruled by men, as it is better for "natural slaves" that they should be ruled by those who are 'naturally free'" (Pomerleau, 2020).

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various problems. However, we should bear in mind that Mutahhari investigates the concept of social justice from a theoretical and philosophical perspective. He makes an effort to display the direction of society's movement toward the implementation of social justice based on just social contests, which allow individuals to be free to gain advantage over their rivals. In other words, Mutahhari seeks to arrive at the conclusion that justice and equality require that all discriminations or inequalities in society which have their roots in false traditions and habits or force and oppression have to be obliterated, while those differences which have originated from competency, capacity, hard efforts and activities have to be preserved. In addition, he argues that the conditions for taking part in social contests ,i.e., enjoying social facilities, should be provided equally for all members of society (Mutahhari, 2016, p.105). Therefore, from his perspective a just society provides equal opportunities for its members. However, Mutahhari does not stop at the theoretical and philosophical levels, but rather engages with social constrains as well. In other words, he has a theory of the political system explaining the responsibilities of the authorities toward people with different socio-economic backgrounds. According to him, even for achieving spiritual perfection, which is the final goal of Islam, economic, social and political systems are so important. In other words, spirituality could be achieved within an appropriate socio-political, economic and cultural context (Mutahhari, 2012a, p.167).

Mutahhari explains his Islamic socio-political, economic and cultural views in various writings. In the *Nazari bi Nizam-i Iqtisadi-yi Islam (A Glance at the Islamic Economic System)*, he asserts that "for this science [economy], we must consider the basic principles that are not in dispute". Then, he alludes to three principles of justice (equality), avoiding exploitation (which is one of the branches of the principle of justice) and the issue of natural and creational rights, though, in his view, the principle of natural rights has superiority over the other principles (i.e., over justice and avoiding exploitation) (Mutahhari, 2000d, p.199). His view of the science of economy demonstrates the fact that Mutahhari agrees with a political system

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with an economic foundation in which all members of society could achieve their natural rights. Therefore, with respect to his view, investing in wealth should be such that the conditions for competition will be available to everyone in all parts of the country¹⁸².

3.2.2 Philosophy of Natural Rights in Islam

A discussion of natural law and its connection with divine law exist among theologians within different faiths. According to Griffel, "Jewish, Christian and Muslim theologians implicitly acknowledge this principle and claim the identity of divine and natural law, at least on some level" (Griffel, 2007, p.42). Concerning the long-standing history of natural law in the West, the question has arisen whether Mutahhari, in his use of a theory of natural law, was inspired by Western views or Islamic sources. In order to answer this question, we will need to see whether the theory of natural law has any kind of origin in Islamic sources, including Shi'a thought. Exploring Shi'a sources reveals a notion known as the '*mustaqilat al-'aqliyyah*' (intellectual postulates), which can be regarded as the root of the theory of natural laws in Shi'a tradition. *Mustaqilat al-'aqliyyah* refers to the series of rational rulings which are provided by the intellect independently, that is, without the help of revelation. Examples include the virtue of justice and the vice of oppression (Mohaghegh, 2015, p.136). Shaykh Ansari, in *al-Rasa'il fiqhiyah* and *Kitab al-Taharah*, refers at different points to the *mustaqilat al-'aqliyyah*. For instance, he states that "practicing what is likely to be beneficial and avoiding harm is a matter that will undoubtedly be recognised by reason as good (*husn*) (Ansari, 1995, p.139)¹⁸³.

As noted above, there is a juridical principle in the *usuli* view stating that everything that is ordained by reason is ordained by religion, and vice versa (the rule of *mulazimah*). Katuzian believes that this idea can be regarded as the foundation for the concept of *mustaqilat al-*

¹⁸² Mutahhari's view concerning political systems could be found in various writings, including *Ayandih-yi Inqilab-i Islami (The Future of the Islamic Revolution)* and *Piramun-i Inqilab-i Islami (About the Islamic Revolution)*.

¹⁸³ For more information on *mustaqilat al-'aqliyyah*, see (Bhojani, 2015, p. 32).

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‘aqliyyah. However, in the Shi‘a context, there are two main approaches to this concept. To some jurists, such as Muhaqiq Qumi (1738-1815) and Ibn Idris Hilli (1148-1202), *mustaqilat al-‘aqliyyah* are the ones which expose the underlying rationale behind religious rules, and, in case of conflict between rational rules and religious laws, one has to stick to the religious ones. From this standpoint, *mustaqilat al-‘aqliyyah* are subordinate to *shari‘ah* laws. The other approach, which is more prevalent among theologians (such as Shaykh Tusi), is constructed upon the theological theory of the rationality of good and evil (*Husn va Qubh ‘aqli*), implying that all deeds are inherently and intrinsically either good or evil and, therefore, their goodness or badness can be known through reason, independently of revelation. For example, justice is intrinsically good and oppression is inherently evil (Katuzian 2014, pp. 50-58). Hence, as Katuzian states “the validity of *mustaqilat al-‘aqliyyah* and rational rules is not due to their implication for religious verdicts; rather, it is because they are intrinsic and natural laws” (Katuzian 2014, p.56).

The discussion of natural law is not confined to Islamic *fiqh* and could be traced back to the writings of some pre-modern philosophers such as al-Farabi and Ibn Sina (Avicenna) as well. However, they did not use the term *fitrah* in a way that it has been understood in modern thought and Mutahhari's view. These philosophers used *fitrah* in the sense of intellectual capability and ability rather than human nature. For instance, the term *fitrah* appears in Avicenna's definition of 'intellect'. As cited by Griffel, in *Kitab al-Hudud*, Avicenna states that,

‘Intellect’ is a homonymous term for various concepts (ma‘ani). People call the soundness of the first *fitrah* (*sihhat al-fitrah al-ula fi l-nas*) an ‘intellect’ and [they say] that its definition is: a faculty through which the distinction between what is morally bad and morally good is achieved (Griffel, 2011, p. 12)

Farabi also uses the term *fitrah* in the sense of 'intellect'. In the *Book of Letters* (*Kitab al-Huruf*), he demonstrates that there is a close relationship between *fitrah* and intelligibles (ma‘ani) (Griffel, 2011, p. 10). However, the way Mutahhari has used *fitrah* is more how these philosophers talk about the nature of human beings (*tab‘*, *tabi‘at* or *surat-i nu‘iyyah*) as

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far as their humanity is concerned.¹⁸⁴ Mutahhari's understanding of *fitrah* will be discussed later on in this chapter.

Khajih Nasir al-din Tusi (1201-1274) is the first prominent Shi'a polymath who, in *Akhlaq Nasiri*, classifies rights and discusses them in two categories of natural laws (*huquq-i tabi'i*) and statutory laws (*huquq-i mudu'i*). Tusi, does not make use of the term *fitrah* in his writings, but rather explains his views when discussing natural laws. According to him, some kinds of verdicts (*ahkam*) are rooted in nature and intellectuals can perceive them by the help of intellect and experience. These are natural rules which are unchangeable (Tusi, 2017, p.41). His view on the validity of rational rules distinguishes him from jurists. According to him, rational rules are valid not because they signify religious rules, but because they are natural [originated from *fitrah*] (Katuzian 2014, p.56).

Muslim modernists were also concerned about natural law. They were either influenced by Mu'tazilah's or Ash'ari theology. For instance, as Griffel asserts, Muhammad 'Abduh, a pioneer of Islamic modernism, was influenced by the Mu'tazilah and the 'rationalism of the Aristotelian tradition in Islam'. From 'Abduh's point of view, natural law is not accessible to all human beings; rather, the faculty of reason (*quwwat al-'aql*) is the only means which enables some individuals to recognise the 'rule of justice' ('Abduh, 1966, pp. 66-76). In contrast to 'Abduh, Sayyid Qutb was influenced by the Ash'ari theology -according to Ash'ari theology "right and wrong are constituted through God's word; and it is through the same means that they can be exclusively known"- (Vasalou, 2016, p.3). In Qutb's view, God assigned human beings with a faculty which enables them to distinguish between good and bad actions. However, he emphasises that this faculty is not reason, but inspiration (*ilham*). Therefore, the basis of human judgements on the moral aspects of their actions lies hidden within their soul (Griffel, 2007, p.52).

¹⁸⁴ To know more about Avicenna's view of *fitrah*, see also (Griffel, 2012), (March, 2015), and (Gutas, 2012).

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Exploring Mutahhari's view, it can be deduced that according to him, there is a direct connection between natural laws and natural rights¹⁸⁵: natural laws are the rules which are derive from natural rights (natural needs). For instance, there is a tendency in human beings to educate, implying that education is a natural right for all humans. Hence, the law for the education of all humans is a natural law which has its root in human nature. However, the terminology used by Mutahhari and some other Muslim theologians is quite different from others because the discussion of natural rights in Islam is mainly based on the Qur'anic notion of *fitrah* (nature) in verse 30:30:

So set thy face to the religion, a man of pure faith God's original [*fitrah*] upon which He originated mankind. There is no changing God's creation. That is the right religion; but most men know it not.

As Vasalou states, the concept of *fitrah* refers to "a particular matrix of relationships or correspondences. At its heart, and most immediately, lies the claim of a correspondence between the demands of our nature and the demands and principles of the Islamic faith (Vasalou, 2016, p.1). Among modern thinkers in Shi'a Islam, 'Allamih Tabatabai, Ayatollah Khomeini and Ayatollah Mutahhari, are the figures who pay special attention to the concept of *fitrah* and its connection with divine law; however, they approach the issue from different perspectives. Mutahhari and Tabatabai deal with the issue in a philosophical framework while Khomeini takes a mystical (*'irfani*) approach. 'Allamih Tabatabai, in his interpretation of verse (30:30), which says, "So set your heart on the religion as a people of pure faith, the nature (*fitrah*) of Allah according to which He originated mankind. There is no altering Allah's creation; that is the upright religion". He argues that the term *fitrah* in the phrase '*fitrah* of Allah' means creation. Then, he explains that the word religion in this verse refers to the religion towards which creation and divine *fitrah* guide people. Indeed, it is the *fitrah* which is unchangeable (Tabatabai, 2008, p.267).

¹⁸⁵ To know more about natural laws and natural rights see (Muvahhid, 2017).

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The issues of the final aim (*hadaf-i ghayi*), final perfection (salvation), and creatures' tendency toward their perfection play a significant role in Tabatabai's argument¹⁸⁶. From his standpoint, all creatures are naturally (*fitri*) led toward their salvation and ideal goal. Tabatabai calls this creational guidance 'divine general guidance' (*hidayat-i `amih*). He refers to the Qur'anic verse which says, "He said, Our Lord is He who gave everything its creation then guided it" (20:50) and another Qur'anic verse which states that "Who created and shaped, Who determined and guided" (87:2-3) to support his point.

Although human beings also benefit from 'divine general guidance', they are distinguished from other creatures due to their need for social life. Human beings have some natural needs that they are unable to fulfil individually; therefore, they have to gather initially in a small society such as family and then in the larger ones such as cities. However, Tabatabai emphasises that the need for social life is not natural to human beings, but rather they have some natural needs the satisfaction of which inevitably requires social participation. This is one of the major differences between Tabatabai and Mutahhari since the latter believes that humans are naturally social. Then, Tabatabai continues that human beings are never able to have a prosperous society unless they show respect to scientific principles (*usul-i `ilmi*) and social rules (*qavanin-i ijtima'i*). By scientific principles, he refers to the knowledge of the reality of material life, the beginning and the end of the world. In his view, different approaches to the above issues (i.e. the materialistic or divine approach) results in the formation of different social traditions and, consequently, the shape and form of life would be different. Social rules, in Tabatabai's theory, denote the rules which demonstrate 'what to do and what not to do'. These are the practical rules. The important point is that these rules must originate from the true human needs. Reason (*`aql*) has this responsibility to distinguish between the true and false needs.

¹⁸⁶ it seems that Tabatabai's view originated from Mulla Sadra's theory of trans-substantial motion (*al-harakat al-jawhariyyah*) which claims that "All beings in this world are moving vertically as a result of trans-substantial motion until they reach the plenum of their archetypal reality" (Nasr, 1996, p. 1150).

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The commitment to those social traditions and rules will lead human beings toward their final salvation (perfection). It seems that, from Tabatabai's perspective, reason is sufficient to create rules and establish a just human society, but, at the same time, he points out that humans need religion for salvation. Then, Tabatabai concludes that religion, which is combination of traditions, practical rules, and principles, is the only source that guarantees the salvation of human beings. Therefore, religious legislation (*tashri'*) should be in harmony with *fitrah* (nature) because it comes from the same source (Tabatabai, 2008, pp. 266-289).

In contrast to Tabatabai's philosophical reading of *fitrah*, some thinkers probe the issue of *fitrah* in Islam from a mystical angle. Ayatollah Khomeini is a representative of this kind of modern Shi'a scholars who take a mystical (*irfani*) approach. Although, like Tabatabai and Mutahhari, he believes that the term *fitrah* means nature, he presents his interpretation of the verse on *fitrah* (30:30) based on the mystical notion of 'love of the Perfect'. Then, he stresses that '*fitrah*' means 'attention to the Perfect beloved'. He refers to verse (24:35), which says, "God is the Light of the heavens and the earth...Light upon Light (God guides to His Light whom He will)... (24:35) and argues that the existence of the Perfect is the prerequisite of the 'love of the Perfect'. Khomeini takes one step further and claims that it is impossible for human beings to show devotion to anyone except the Ultimate Perfect. Although some people apparently seek someone or something other than God, this is because their eyes are veiled and they suppose that they seek an entity other than God, while in reality, they seek God (Khomeini, 2009, pp. 506-526)

From Khomeini's perspective, all human beings are created based on divine *fitrah*, which is the trust (*amanat*) that is mentioned in the divine Book: "We offered the trust to the heavens and the earth and the mountains, but they refused to carry it and were afraid of it, and man carried it..."(33:72)(Khomeini, 1999, p.9). However, from Khomeini's point of view, the divine *fitrah* of human beings needs to grow in a healthy family and society in order to help reach salvation. On the other hand, since, in his view, the religion of Islam is based on *fitrah*, an

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Islamic state is one which is founded on the basis of humanity, justice, democracy, and Islamic rules (Khomeini, 2010, p.133).

Mutahhari's philosophical mind led him to embrace a philosophy of natural rights as one of the main components of his methodological principles. He attempted to examine the underlying basis of Islamic laws including the rules pertaining to gender issues via the philosophy of natural rights. In *The System of Women's Rights in Islam*, Mutahhari declares that natural rights are universal and unchanging and, therefore, they can be regarded as the authoritative source for discussing human rights (Mutahhari, 2002c, p.143). Mutahhari, similar to his teachers ('Allamih Tabatabai and Ayatollah Khomeini), puts much emphasis on the issue of *fitrah*, to the extent that he has been labelled by some thinkers as the '*fitrah* philosopher' (Bihishti, 2014). In his understanding of *fitrah*, Mutahhari was influenced by the philosophical approach of Tabatabai, although they bore differences in some respects. What distinguishes Mutahhari from other thinkers (who work on the theory of *fitrah*) is his eagerness to explain *shari'ah* laws based on his theory of *fitrah*. Consequently, in his reading of Islamic jurisprudence, he develops some new ideas, such as rules pertaining to women's social participation or his theory of the equal but dissimilar rights of men and women in the family. One should bear in mind that Mutahhari's perception of *fitrah* is in close relationship with his understanding of the principle of justice and the concept of freedom. In other words, there is an intimate connection between the three concepts of *fitrah*, justice and freedom in Mutahhari's socio-political approach including his views on women's role in public life.

3.2.2.1 Mutahhari's Theory of *fitrah*¹⁸⁷

Mutahhari, who benefited from philosophical-theological ways of thinking, bases his theory of natural rights on the 'principle of purposivism' (final cause or ultimate purpose for being) (Mutahhari, 2002c, p.144). His position seems to have pursued the following line:

¹⁸⁷ In this research, the term '*fitrah*' is translated as 'nature' because Mutahhari develops his discussion of natural rights and natural laws from his theory of *fitrah*.

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- A. Nature seeks an aim, and God has innately assigned potential in creatures, driving them towards their own specific purpose.
- B. Human beings are in possession of a series of specific rights, called 'human rights'¹⁸⁸.
- C. The manner of ascertaining and differentiating these rights is through observation of the (natural) order of creation. After all, each natural potential is evidence for, and proof of, one particular natural right. Mutahhari argues that each faculty brings a natural right; for instance, human beings have the right to be educated because they have the potential to be educated while animals do not have this right simply because their creation does not provide them with the necessary faculties. According to him, creation placed each creature in its proper orbit, and thus, their wellbeing depends on remaining in their assigned realm (Mutahhari, 2002c, pp. 142-145)¹⁸⁹
- D. In this process, human beings enjoy a special position. In fact, God has exclusively endowed human beings with faculties which enable them to fulfil their responsibilities as the deputies of God (God's vicegerents) on earth. Mutahhari lists these faculties, including the capacity for reasoning, beauty, innovation, love and worship (Mutahhari, 1990a, pp.74-87)¹⁹⁰. Therefore, all human beings, men and women, benefit from these innate faculties granted to them by their nature. Hence, as far as social life is concerned, all individual humans benefit from equal and similar natural rights; their differences are due to their acquired rights which depend upon their work, the performance of their duty and upon how good they are at fulfilling their responsibilities.
- E. As noted above, all human beings have equal and identical natural rights in the social sphere. This is due to the fact that in the human world, unlike that of gregarious

¹⁸⁸ On this point, see also MacDonald (MacDonald, 1946, p. 228).

¹⁸⁹ On this point, see also (Husaini, 2009, pp. 247-253).

¹⁹⁰ See also (Mutahhari, 2006b pp. 8-14).

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animals such as bees, no one is naturally born as ruler or ruled, and, likewise, no one is born to submit or to be obeyed, to carry out orders or to command, to be a worker or an employer. People do not come into the world as commanders or soldiers. In other words, human tasks, jobs and responsibilities are not assigned by nature.

- F. There are two theories regarding men and women's rights in the family. First is the theory that the rights of men and women are identical. This theory is based on the assumption that family life is like public life and that members of a family benefit from the same and equal rights. In other words, all members of the [human] family (men and women) have the same innate faculties, talents, and requirements in family life and, therefore, the law of creation (nature) does not assign tasks and responsibilities to them. On the other hand, the theory of dissimilarity of rights within the family emphasises that the system of family life should be distinguished from the public one. Because the law of creation has placed men and women in different positions and assigned a particular orbit for each of them, in fact, they do not possess the same natural capabilities, talents and requirements (Mutahhari, 2002c, pp. 142-149)¹⁹¹.

It is worth mentioning that Mutahhari confirms the second theory of dissimilarity of rights in the family. Based on this theory, he clarifies the rationale behind the different rights and responsibilities of the two genders in family life. He presents a new theory of 'the equal but non-identical rights of men and women in the family'. His theory will be explained in the next part.

3.2.2.2 Mutahhari's interpretation of *fitrah* verse (30:30)

Mutahhari, in his book, *Fitrah*, categorises human's natural (*fitri*) tendencies into five overall groups. First, natural tendency such as quest for the truth are those which make us seek to

¹⁹¹ On this point, see also (Husaini, 2009, pp. 247-253).

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discover realities and know the true nature of objects. This means that human beings desire to discover the universe and the objects in it as they are. There is a *hadith* from the Prophet Muhammad that reads, "O God! Show me the things as they are (Mutahhari, 1990a, p.74). Second comes a tendency towards goodness and virtue, according to Mutahhari, lead us towards honesty, piety, cleanliness, order, discipline, and courage. Third, a tendency towards beauty, which manifests itself in loving and creating beauty, a disposition that makes for appreciating art in all human beings. Fourth, a tendency towards creativity or innovation. All human beings desire to create or innovate something that did not exist before. Fifth, disposition to love and worship (the divine) (Mutahhari, 1990a, pp. 74-84). Mutahhari holds that, based on the Qur'an, there is a tendency toward religion in human nature. In fact, the prophets were sent by God to satisfy that innate demand. The prophets have given human beings whatever they have been, and will be, looking for, due to their nature, and this is the meaning of *fitrah* (Mutahhari, 2015, p.602).¹⁹² He lends support to his claim by referring to the following verse:

So set your heart on the religion as a people of pure faith (*Hanif*), the origination of Allah (*fitrah*) according to which He originated mankind. There is no altering Allah's creation; that is the upright religion, but most people do not know (30:30)¹⁹³.

Mutahhari translates the word *Hanif* as being "a man of pure faith", that is, as seeking the truth or being "truth-oriented". For him, the origination of Allah (divine *fitrah*) in this verse means the very Divine creation and the way in which He created humans, the origination in which there is no alteration and is part of the nature of human beings. In other words, "so long as human beings are born into this world, they will be born again with the same nature" (Mutahhari, 2015, p.603).

¹⁹² Having looked into the Islamic literature, Mutahhari comes to the conclusion that there is a notion that appears by various names. such as *fitrah*, *fitrah-i dini*, *fitrah -i Islami* or *fitrah-i tawhidi*

¹⁹³ This is Mutahhari's interpretation of the *fitrah* verse.

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Since, in the above verse, religion is explicitly addressed as the "origination of Allah ", we may conclude that religion is a matter of *fitrah*, and thus, religious prescripts should be in line with human nature. Human beings have been created out of the seeds of divine origination, which are the very tendencies in various fields, i.e., those five tendencies which Mutahhari recounted above. On the basis of these tendencies, there are certain rights for human beings which are taken to be their natural rights, and religion (which includes jurisprudence) is here to meet these natural rights of human beings. Thus, it is not that religion neglects the natural rights of human beings, for, according to the very text of the Holy Qur'an, religion is attainable based on the nature (*fitrah*) of human beings. Mutahhari refers to certain Qur'anic verses, such as the following, and *hadiths* in support of his views (Mutahhari, 1990a, pp. 245-248):

When thy Lord took from the Children of Adam, from their loins, their seeds and made them testify touching themselves, [He said to them,] 'Am I not your Lord'? They said, 'Yes we testify'. [This,] lest you should say on the Day of Resurrection , as for us we were heedless of this (7: 172).

The above verse displays a conversation between God and human beings when humans souls acknowledged that Allah is their Lord. Therefore, this verse demonstrates that the tendency toward religion and worship is in the nature of humans (Mutahhari, 2019a, p.161)¹⁹⁴. Based on Mutahhari's argument, each natural potentiality is evidence for one particular natural right. Hence, religion considers the natural rights of humans, and religious rules should be in conformity with *fitrah*. In addition to the above-mentioned verses, there are certain traditions that refer to the divine nature of human beings. For instance, the Prophet of Islam states, "every child is born according to *fitrah*. Only his parents make him a Jew, a Christian or a Zoroastrian; every group makes changes in the members of its own group"

¹⁹⁴ Mutahhari supports his argument by other Qur'anic verses and traditions. For instance the Qur'an says, "Made I not covenant with you, children of Adam, that you should not serve Satan. Surely he is a manifest foe to you..." (36:60). There are also certain traditions that refer to the divine nature of human beings. For instance, in Sermon No. 1 of *Nahj al-Balaghah*, Imam Ali says, "God sent his Messengers and a series of His prophets continuously one after another so that they may remind human beings of fulfilling the pledges of His creation... That is, the prophets were sent to ask human beings to be faithful to the covenant they made with God out of their primordial nature" (Sharif Radi, 2011 p. 45). In this regard see (Mutahhari, 2019a, pp. 188-22).

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(Mutahhari, 1990a, p.20). From Vasalou's perspective, the aforementioned scriptural resources "is the most important way in which the notion of fitra[h] had been developed by Muslim writers as a base disposition for religious belief, or indeed, as some would argue the point more thickly, for the Islamic faith"(Vasalou, 2016, p.2).

In Mutahhari's opinion, there is a mutual and deep relation between justice and *fitrah*. Accordingly, he believes that there is a tendency toward justice in the *fitrah* of all human beings. They love justice just as they cherish beauty, justice is, indeed, a form of beauty (Mutahhari, 2011b, p.159).¹⁹⁵ Mutahhari uses the term 'beauty' because it refers to the innate ability to know what is beautiful and what is ugly and, consequently, what is right and what is wrong. He makes connections between the moral categories of good and evil as they define what is just and aesthetic categories that define the beautiful and the ugly (as developed in the Shi'a and Mu'tazilah forms of *kalam*). In other words, it is in human's *fitrah* to know intuitively what is good or evil and what is beautiful or ugly. Therefore, the correlation between aesthetics and ethics (in notions such as justice) is also reflected in the terminology since good and evil also indicate beauty and ugliness¹⁹⁶.

3.2.3 Freedom

Freedom can be taken to be one of the main constituent elements of Mutahhari's approach to women's rights. For him, freedom is among the highest human values and is above the animal instincts of human beings and their material values (Mutahhari, 2004a, p.40). Again, he reckons freedom as one of the sacred values of humanity (Mutahhari, 2000b, p.42): "Freedom is a requisite of life and evolution and one of the greatest needs of living creatures,

¹⁹⁵ From Mutahhari's viewpoint, justice is the cornerstone of society. He compares justice to the stone columns of a building and a charitable act (*ihsan*) to the facade, colour scheme, and painting of the building (Mutahhari, 2008d, p. 226).

¹⁹⁶ Mu'tazilah's theology which shares roots with Shi'a *kalam* has not distinguished between the aesthetic and the rational understandings of ethical virtue. In this regard, Martin contends that "the *Mu'tazila[h]* maintained that we know intuitively that injustice, iniquity, murder, theft, etc., are ethically wrong. They offered reasons, but they stated with proposition about what is ethical and what is not that they believed all rational people can agree upon" (Martin, 1997, p. 74).

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whether they are plants, animals or human beings." He holds that living creatures need three things for their growth and evolution: nurturing (*tarbiyat*), security (*amniyat*) and freedom (*azadi*). Moreover, freedom, in his view, is the absence of obstacles in the way of growth. Therefore, free persons are those who fight against all obstacles set in their way of growth and perfection (Mutahhari, 2008b, pp. 11-13).

In many of his books, Mutahhari discusses freedom and divides it into various forms: spiritual, social, political, philosophical and, personal freedom, as well as freedom of thought, freedom of expression, freedom of belief, etc. Discussion of all these forms of freedom lies outside the scope of this work. Thus, we put more emphasis on his views of social freedom here¹⁹⁷. In the field of social freedom, one has to answer the question: what are the boundaries of individuals' freedom in society? In other words, how is freedom delimited in Mutahhari's view? As explained earlier, in his view, freedom is an important prerequisite for the realisation of innate potentialities, and the same is true of the creation of a virtuous society. On the other hand, in *The Causes Responsible for Materialist Tendencies*, Mutahhari explicitly states that "it is not possible to oppose a natural and instinctive urge by permanently neglecting it". Since he thinks of freedom as a human natural right, one can conclude that, to him, it is impossible to oppose people's freedom, whether personal or social. He contends that

The function of religion and its messengers is not to wipe out the natural urges, but to moderate, refine, and guide them and to bring them under one's control since instincts (*gharizah*) cannot and should not be annihilated... (Mutahhari, 1993a, p.167).

Since, according to Mutahhari, human beings have been granted many inner tendencies and potentialities (such as worship, love, acquisition and quest for knowledge and truth, aptitude for art and beauty, capability for creativity, benevolence and virtue and so on), freedom helps

¹⁹⁷ Mutahhari's views on the concept of 'freedom' can be found in the following sources: (Mutahhari, 2001c), (Mutahhari, 2004a), (Mutahhari, 2000b), (Mutahhari, 2011e), (Mutahhari, 2005a), (Mutahhari, 2008b), (Mutahhari, 2009b), (Mutahhari, 1993a), (Mutahhari, 1989b), (Mutahhari, 2000a), (Mutahhari, 2006b), (Mutahhari, 2006c), (Mutahhari, 2008c), (Mutahhari, 2008a), (Mutahhari, 2007a), (Mutahhari, 2010a), etc.

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these potentialities to be realised. Now the main question is whether it is possible for freedom in one area to prevent the realisation of another potentiality. According to Mutahhari, just as there is a capability in human beings to acquire knowledge and create, they are also capable of oppression and coercion. He goes on to say that if there were no moderation in realising these potentialities, it would be found that, for example, the capacity for acquiring knowledge would be at the disposal of somebody who is driven by lust for power and one who uses his power and authority to produce nuclear bombs, heroin or obscene films (Mutahhari, 1994a, pp. 32-34).

It may be the case that sometimes freedom in relation to benevolence and quest for virtue comes into conflict with the freedom of gaining knowledge. Mutahhari gives an example to clarify the matter: imagine somebody who, for the realisation of his scientific talents, gains access to weapons of mass destruction, something which is in opposition to the realisation of the capacity for the benevolence and tendency for virtue. Since this is in direct opposition to the virtue of benevolence towards individuals and society, the point is which one should be taken as the basis and which talent or potentiality should be realised. It is at this point that we have to mark the boundaries of freedom. Are the boundaries of freedom, as put forward by some philosophers such as John Stuart Mill, the security of society or the rights of others¹⁹⁸? Definitely, the boundary between people's security and their right of freedom should not be ignored; however, Mutahhari sets other boundaries for freedom. In his system of thought, the balanced growth of individual and social capabilities is a virtue and considered to be the realisation of justice. Thus, to him, the boundaries of freedom are defined in terms of the balanced growth and realisation of natural capabilities in human beings. That is, any sort of

¹⁹⁸ John Stuart Mill (1806—1873), a liberal philosopher, states that "The only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinion of others, to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil in case he do otherwise" (Mill, 1998, p. 13).

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freedom should be such that the growth of a capability does not prevent the growth of other natural capabilities. Mutahhari explicitly says that many societies have fallen into decay and even collapsed because they concentrated on one specific virtue and neglected the others (Mutahhari, 2004a, pp. 32-34).

Thus, he characterises a perfect man as one in whom all existential values such as compassion, love, justice, and other values are developed in a harmonious way. By 'harmonious', he means that the growth and development of human capabilities should be in harmony with each other, just like a baby whose hands, head, nose, mouth and other organs and limbs begin to grow in a harmonious way (Mutahhari, 2004a, p.33). Therefore, a moderate (balanced) society, a society whose values have developed in a moderate way, constitutes a virtuous city (utopia) where justice is the most important element. From Mutahhari's point of view, a just society should provide equal chances for all its members to participate in various socio-political arenas, enabling them to actualise their natural potentialities in harmony. Therefore, freedom is the essential instrument for the establishment of social justice.

Mutahhari has not provided a separate piece of work about who can manage and control the moral compass, though it is perceivable that, from his point of view, both individuals and society are responsible for human freedom. According to Mutahhari, there are two kinds of freedom: spiritual and social. Spiritual freedom is the freedom of thought from superstition, delusion and prejudice, and freedom of will (*iradih*) from low and animal dependencies. He asserts that "a free mind thinks logically, and free will is transcendent" (Mutahhari, 2012b, p.67). However, to him, social freedom means freeing people from constraints and restrictions which are created by other people. The causes of this captivity are to some extent related to those who deprive others of their rights, to some extent to those who are deprived of their rights, and partly to the social organization... What is related to society is the concentration of power and wealth at one or more points, the laws which are based on

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discrimination or the practical discrimination that results from the concentration of power in one group and the weakness of another group (Mutahhari, 2012b, p.68).

With respect to the state, Mutahhari believes that “the state and the government are, in fact, the manifestation of the power of society against external invasion and the manifestation of justice and internal security and the law ...” (Mutahhari, 2011g, p.49). However, Mutahhari emphasises that the most important factor is that people should be free to choose their own state. He stresses that, “If man wants to grow, he must be free in his work, free in his choice” (Mutahhari, 2006a, p.316). He further stresses that, if this free choice in selecting the government is taken away from the nation under the pretext that the nation is not growing (or mature enough to understand the right choice), such a nation cannot grow and will remain immature (in politics). Its growth will occur only if it is free to have its own choice, even if it makes the wrong decisions for several times (Mutahhari, 2006a, p.317).

3.3 Mutahhari's Assessment of Women's Rights

3.3.1 Criticizing Patriarchy from Within

Mutahhari was one of the intellectuals of his time who were concerned about the dismal conditions of women in Muslim societies. To him, the subordination of women stems largely from men's ignorance. He emphasises that men's oppression of women is an example of men's oppression of themselves. He explains that, when women are held in bondage to their husbands and are deprived of all opportunities to educate and develop their personalities, they cannot properly fulfil their familial roles as wives and mothers. Therefore, men are also disadvantaged by women's subjugation¹⁹⁹. Mutahhari intends to develop new explanations of women's oppression that did not in any way pinpoint the patriarchal social structure or men's desire for power as the primary source of women's limited well-being and freedom. It seems

¹⁹⁹ Mutahhari compares the historical domination of men over women with parental oppression. He argues that “human history is full of examples of parental unawareness and ignorance leading to children's being deprived of education, socialisation [perhaps Mutahhari means that parents deprived their children of some kind of socialisation] and freedom of choice in marriage (Mutahhari, 2020, pp. 21-23).

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that Mutahhari makes a distinction between the "right" and "wrong" types of patriarchy i.e. in his view, men's ignorance is leading to the wrong types, but it is not clear whether he considers a patriarchal social structure to be problematic.

In his explanations for women's oppression, he also views men as victims, whose unawareness of women's rights becomes the main cause of women's subjugation. Evidently, his ideas about the reasons behind women's subordination contrasts with the views expressed by a wide range of scholars who blame men's desire for power as the reason for the subordination of women. 'Allamih Tabatabai opposes Mutahhari's views on this topic. According to Tabatabai, the maltreatment of women has generally deeper roots in men's desire for power and control; thus, throughout history men have tried to subjugate women as a way of exploiting them (Tabatabai, 2009, p.40), exactly as they try to oppress members of other social classes in their own society.

Although Mutahhari believes that the advent of Islam notably changed the position of women, as it changed people's views on women's rights and gave both men and women an insight into the true nature of women's nature, he is critical of the status of women in Muslim societies, saying "There are ideas in our [Muslim] society about women which are in no agreement with the spirit of Islam" (Mutahhari, 2001d, p.209). In this regard, Mutahhari has prepared a list of prevalent unfair norms which are not rooted in the *shari'ah*, but are part of the cultural norms prevalent within the Muslim societies. To him, many negative stereotypes of women stem largely from a few factors. First among them is the influence of domestic culture on women's life. Mutahhari identifies a clash between Islamic thought and other cultural norms regarding women's rights. For instance, concerning the necessity of a father's permission for the marriage of his virgin daughter, parents (fathers in particular) do not listen to their daughters on their choice of husbands, but make the choice themselves. Here Mutahhari insists,

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On this matter [the forced marriage of girls] we cannot blame civil law or Islamic law; rather, the behaviour and attitudes of Iranians should be blamed. The majority of Iranian men, like [the fathers] in pre-Islamic period, *jahiliyyah*, still hold that they have absolute authority over their daughters' marriage. From their perspective, a girl's expression of her choice of life partner and the father of her future children is an act of immodesty" (Mutahhari, 2002c, p.82).

To Mutahhari, according to Islamic jurisprudence, the consent of the girl is a necessary condition for her marriage, but not all jurists would agree that the consent of a father for the marriage of his virgin daughter is necessary. Mutahhari continues, "many marriage contracts which have been concluded before the girls reach intellectual maturity are null and invalid" (Mutahhari, 2002c, pp. 73-82). It seems that, by the term 'intellectual maturity', in this context, he means the intellectual ability of a girl to understand the implications of expressing her consent to her choice of marriage.²⁰⁰ As far as Islamic history is concerned, the Prophet Muhammad sought his daughter's (Fatimah) opinion about her marriage and gave her the freedom to make her own decision²⁰¹. Hence, one can observe a huge distance between Islamic thought and Muslim socio-cultural practices (as existent in Iranian society in Mutahhari's time) on this matter²⁰².

From Mutahhari's perspective, another factor fundamental to Muslim women's subordination is the impact of context and personal attitudes on *fatwas* concerning women's rights. For example, if a jurist believes that women's participation in socio-political affairs brings about social corruption, this belief will affect his verdict on women's engagement in public life and will, consequently, influence his interpretation of the issues of *hijab* and women's education and participation in political life, etc. However, in Mutahhari's view, the authentic religious sources do not supply any reasons for depriving women of life in society (Mutahhari, 2010b,

²⁰⁰ This is quite significant because traditional *fiqh* would only require the sexual maturity of girls, confirmed by the start of the menstrual cycle.

²⁰¹ For more on this topic, see, (Razwy, 1996).

²⁰² There are also other norms among the Muslim masses which, according to Mutahhari, need reform, such as women being enjoined to stay at home and their rights to participate in social affairs being denied, humiliating women and questioning their intellectual abilities, their lack of social independence, forcing young women to marry old men and stigmatizing adultery by women while ignoring it when committed by men (Mutahhari, 2001d, p. 210).

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p.582). Therefore, Mutahhari challenges some *fatwas* on women, seeing them as the product of misunderstandings and misinterpretations of Islamic doctrine. From his viewpoint, these *fatwas* do not agree with the spirit of Islam, the Prophet's *sunnah* (way of life) and the principles of justice (Mutahhari, 2001d, pp. 209-210). However, it is worth mentioning that these *fatwas* operate on different levels: some of them are based on certain traditions attributed to the Prophet, and the *fatwas* provide an interpretation of, and derive a legal ruling out of, them, and some of them are based on the interpretation of Qur'anic verses. Below are the examples of these *fatwas*;

A number of traditions ask women to stay at home and not to attend mosque. There is a tradition from the Prophet Muhammad says, "the mosques of women are their houses (Al-Saduq, 1984, p.374). Some jurists, such as 'Allamih-i Hilli, highly recommend that women pray at home and not join the prayer congregations, but Mutahhari finds this rule inconsistent with the Prophet's *sunnah*, which permits women to come to mosque and pray there. In addition, Mutahhari questions the authenticity of this *hadith* (Mutahhari, 2012c, p.41). Some jurists believe in the full authority of men over women, which results in the deprivation of women of the right of issuing *fatwas* and holding governmental positions. This approach is based on the interpretation of verse 4:34. From Mutahhari's perspective, the exclusion of women from these positions is against the spirit of Islamic justice. According to him, the governance of men in the Qur'an is in women's interests, but it does not mean the domination of men over women. Another view criticised by Mutahhari concerns the jurists' permission for men to enter an unlimited number of temporary marriages. He also criticises their belief that marriages can be annulled as the result of some women's illnesses, but not of men's. He also takes issue with the *fatwas* which permit the underage girls to marry. According to Mutahhari, none of these practices and beliefs are supported by the spirit of Islam²⁰³.

²⁰³ For more on this topic, see, (Rashidi, 2012).

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Although Mutahhari did not find the chance to explore them all, these points and many others in the same field have been pointed out in his Notes²⁰⁴, and it is clear that he intended to revisit the status of women in Muslim societies, more particularly in Iran, and under Islamic jurisprudence (Shi'a *fiqh*) from a new perspective (based on the principle of justice and his theory of *fitrah*). One should bear in mind that those criticisms of unfair Islamic verdicts on women's rights were identified and criticised by Mutahhari as a scholar who had been educated in Shi'a traditional religious schools under the supervision of highly reputed religious authorities. The significance of Mutahhari's work in this area lies partly in the fact that he criticised, as an insider, a number of entrenched Islamic beliefs about women's rights in order to demonstrate that the subordination of women was largely a socio-political and cultural issue rather than an integral element in Islamic thought.

3.3.2 Natural, Equal and Dissimilar Gender Rights in Islamic law

As noted above, the philosophy of natural law is one of the key principles of Mutahhari's methodological approach. Since he considers the doctrine of natural law in the framework of *mustaqilat al-'aqliyah* (intellectual postulates), which are independent of *shari'ah* laws, he tries to present a systematic rational-philosophical explanation of the different Islamic laws for men and women in Islamic jurisprudence. In *The System of Women's Rights in Islam*, he demonstrates that nature has provided each sex with particular qualities which distinguish one gender from the other. Mutahhari classifies these gender-related qualities into three groups: physical, psychological, and emotional. For instance, he emphasises that "men are the slaves of passion, they need to love and protect, while women need to be loved and protected" (Mutahhari, 2002c, pp. 159-165). To him, these differences have nothing to do with the superiority of one sex over the other. Rather, the gender-related qualities are

²⁰⁴ Mutahhari gathered a long list of subjects concerning women's rights in Islam which he planned to discuss later, including child custody, the superiority of men to women, abortion, *fatwas* and *hadiths* (traditions) on women. However, he did not find a chance to elaborate on them all. Mutahhari's notes on various Islamic subjects including these are now being published in Iran years after his assassination. His notes on women-related subjects can be found in (Mutahhari, 2001d).

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granted by nature with a view to providing family life with a solid foundation and securing the survival of the human species. In fact, natural differences between the two sexes point to the different responsibilities and rights in the family. According to him,

The difference between males and females is one of proportion rather than one of deficiency and perfection. The law of nature demands more harmony between the two sexes through such differences. After all, men and women have definitely been assigned to live together in pairs rather than living alone. Single life is deemed an aberration of the law of nature (Mutahhari, 2002c, p.161).

Given the above position, Mutahhari develops his theory of the 'equality of rights (of men and women) in family life, but not in the sense of the "sameness" of their rights. On this point, he asserts that

In Islam, rights, duties and punishments are [generally] gender-specific, meaning that while men and women [naturally] share humanity and some primary commonalities, , their respective sexes, nevertheless, have led to the formation of two genders with their own secondary features. Hence, as far as the common features of the two genders are concerned, men and women enjoy/face common, equal and non-gender-dependent rights, duties, and punishments, such as the right to education, worship, marriage, and ownership. However, when viewed from the angle of their genders and secondary features, rights, duties, and punishments are distributed between men and women in an equal and fair but different way and are gender-specific (Mutahhari, 2006c, p.125).

Mutahhari distinguishes between the family unit and other social systems. In respect to men and women's rights in the sphere of family life, he maintains that men and women enjoy equal, but not similar, rights. In justifying his theory, he gives an example to shed more light on the issue in question. Consider a father who desires to divide his wealth equally among his children. It is possible that he has different items of wealth: he may have a commercial firm, some pieces of land for farming, and some real estate and that he may have found by experience that one of his sons had a gift for commercial affairs, the second had ability in agriculture and the third had the ability to manage real estate. When he comes to distribute his wealth amongst his sons (in his life-time), bearing in mind that he must give equally to his sons in terms of the value of the property and that there should be neither preference nor discrimination, he bequeaths his items of wealth according to the talents which he has found in them:

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Quantity is different from quality. Equality is different from being exactly the same. What is certain is that Islam does not consider the rights of men and women to be identical, but it has never believed in preference and discrimination in favour of men as opposed to women, either. Islam has also observed the principle of equality between men and women. Islam is not against the equality of the two genders, but it does not agree with the sameness of their rights, either (Mutahhari, 2010b, p.129).

To him, family life is rooted in nature and is natural life. In public life, the contractual aspects prevail. The point he wants to clarify is that, since family life is different from other forms of social life, its system demands its own specific criteria, rules, and logic. In fact, the core idea of Mutahhari should be sought in the concept of male-female equality by his differentiation between the spheres of the family and society. Initially, the members of a civil society benefit from the same and equal rights, though, due to their individual personalities and talents, they can acquire unequal social positions. As a result, every member of society has the right to work, to be educated, and to seek a different social position (Mutahhari, 2002c, p.145)²⁰⁵. The above approach displays the main differences between Mutahhari and traditionalists that believe in the natural superiority of men over women and take this superiority as the basis for the juridical differences between the two sexes. It is in the light of these considerations that Mutahhari devises his theory of equal but dissimilar rights of men and women. Perhaps, this is the underlying reason for Paidar's belief that "Mutahhari's modernisation of the Shii [Shi'a] family involves a transferring of the family from the realm of religion to the realm of nature" (Paidar, 1995, p.177).

Mutahhari tries to prove that there is a harmony and consistency between the Book of Creation (*takvin*, or the world of creation and nature) and the Book of Revelation (*tashri'* or religious legislation); therefore, the differences between the rights of men and women in Islamic law are based on their natural differences. However, Mutahhari does not clarify how he reaches the conclusion that men and women benefit from an equal proportion of dissimilar rights and responsibilities granted to them in Islamic jurisprudence. In other words,

²⁰⁵ Women's social participation from Mutahhari's view will be explained in the next chapters.

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this conclusion is quite vague and depends on the criteria used to prove the equality of dissimilar rights. It is possible that since Mutahhari believes that men and women are equal in humanity and that these different rights are assigned by a just God (divine justice being one of the important principles of religion in Shi'a tradition), the differences are, therefore, just. In addition, it can be argued that Mutahhari deals with this challenge by invoking 'the principle of justice'. To him, justice means placing everything in its own appropriate position and giving every possessor of right their due (Mutahhari, 2005a, p.56). As was explained above, he develops his definition of 'justice' based on the concept of 'natural rights'. Hence, since nature has provided each sex with particular qualities, justice involves providing them with equal, but not necessarily similar rights.

On the same basis, he criticises any social movements that are founded on the idea of the two axes of 'freedom' and 'equality' of the two genders and neglect the natural differences between them. As Dabashi states, to Mutahhari, 'freedom' and 'equality' "have been the essential features of all 'Western' social movements in modern history, including those that have advanced the individual rights of women" (Dabashi, 2017, p.205). From Mutahhari's standpoint, ignoring natural differences between the two sexes is in the interest of capitalism in the West because it has allowed women's labour to be exploited and, while 'freedom' and 'equality' are the necessary conditions for the improvement of women's rights, they are not sufficient. One has to distinguish between the concept of 'equality' and 'sameness'. In other words, although men and women are equal in humanity, their natural differences should not be overlooked (Mutahhari, 2002c, pp.11-19). Here, he positions himself clearly against Western secular feminist movements and their followers in Iran.

Mutahhari argues that natural differences inevitably bring up dissimilar rights in the family. Hence, he rejects the absolute equality of rights between men and women by rejecting the sameness (*tashabuh*) of the rights. On the same theoretical grounds, he deals with a wide range of issues involving women's rights in Islamic family law, such as marriage, divorce,

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polygamy, dowry, temporary marriage, inheritance, men's guardianship over the family and a father's permission for the marriage of his virgin daughter. Exploring his ideas reveals that, in all these matters, he wishes to illustrate how Islam has fully supported the rights of women. In his discussion of the Islamic laws concerning family issues, he tries to reconcile women's rights with men's duties, and vice versa.

For instance, regarding polygamy, Mutahhari stresses that Islam did not invent polygamy but restricted the rule that was already in existence by making it conditional (Mutahhari, 2019c, p.163). In his view, "monogamy is the most natural form of marriage" (Mutahhari, 2002c, p.285), but, in certain social circumstances, polygamy is accepted. Mutahhari bases his argument on two premises. First, he believes that the right to marry is one of the most basic human rights which no one can be deprived of, like the right to be educated, the right to be fed, and the right to freedom, which count as basic rights for everyone. Second, he believes that, in most societies, women (adult females of marriageable age) outnumber men. He supports his argument by evidence from the United Nation's publication, 'Population Division' in 1964, which indicates that women over the age of 20 (and thus of marriageable age) outnumber men in the same age-range. Mutahhari demonstrates that, due to the nature of men's role in society, which has led to a higher death rate for them than for women, historically, more women have survived. Then, he concludes that, if we treat monogamy as the only legal form of marriage, a large number of women will be deprived of their natural right to marry (Mutahhari, 2002c, pp. 301-322). Therefore, Mutahhari accepts polygamy in certain conditions (e.g., when women outnumber men) and finds it the natural right of women to have a family life and men's duty to support them. To Mutahhari, "through the practice of polygamy, monogamy will be saved, because if polygamy is not allowed in certain circumstances, such as wartime, the spread of adultery burns the roots of monogamous life" (Mutahhari, 2002c, p.330).

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However, even in his discussion of polygamy, he heightens the importance of the principle of justice. He believes that Islam has emphasised that men are responsible for doing justice to all their wives, socially, morally, financially, and spiritually. On this point, Mutahhari criticises those Muslims who have disregarded the practice of justice in polygamous marriages, because, according to Islamic jurisprudence, Muslims may not do anything that does them harm. For instance, if a Muslim thinks that fasting is not good for his health, he or she must not fast. This means that, if a Muslim suffers from a specific disease and suspects that fasting may worsen their condition, they should not fast, according to Islamic jurisprudence. He is also surprised that many Muslims who are sure that they cannot, and do not want to, behave justly in polygamy still get married again and again in the name of Islam (Mutahhari, 2002c, p.352). Mutahhari believes that polygamy was allowed only in certain conditions. From Paidar's standpoint, this logic is enough for "modernist clergy such as Mutahhari [to] tolerate the restriction of polygamy in the Family Protection law" (Paidar, 1995, p.177).

In contrast to Mutahhari, who sought to present a rational explanation for polygamy outside a juridical context, as Mahrizi maintains, in all traditional primary Shi'a sources and 'commentaries on Islamic jurisprudence' (*Tuzih al-Masa'ils*), the discussion of polygamy is confined to juridical arguments concerning the religious order that a man can have no more than four permanent wives. However, sometimes justice and men's wealth are considered the only conditions needed for polygamy (Mahrizi, 2011, p.476). As a matter of fact, these texts do not explain why Islam affirms polygamy.

Some religious scholars in both Sunni and Shi'a communities have tried to elucidate the rationale for Islam's position in this regard. Among them is a current high ranking Shi'a jurist, Nasir Makarim Shirazi (b. 1924), whose idea on polygamy is in contrast to Mutahhari's view. Makarim Shirazi does not confine the main reason for polygamy to social circumstances; instead, he believes that individual and familial issues of various kinds can pave the way for men to take up polygamy, issues such as the limitation on women's reproductive years or

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their menstruation. In addition, he states that we cannot deny some men's strong desire for polygamy. If the need is based on men's lust, it has to be ignored. But if it is due to the infertility of a wife or a man's desire to have more children, the need for polygamy is justified.

Then he adds that,

Some men have strong sexual desires, and their first wife is unable to meet their needs. In this case, a man requires a second marriage; otherwise, he will fulfil his sexual desires through illegitimate ways. In this case, we cannot deny the logical demands of men (Makarim, 2014, pp. 174-177).²⁰⁶

Evidently, this approach is widely different from Mutahhari's philosophical perspective on polygamy, premised on theories of natural rights and social processes. To Mutahhari, polygamy arises from a social difficulty and is not due to the innate nature of men. On this point he states that

If there did not exist in society the problem of an excess number of women in need of marriage over the number of marriageable men, the custom of polygamy would have ceased to exist or would have rarely existed (Mutahhari, 2002c, p.333).

3.3.3 Criticism of Mutahhari's Theory of Equal and Dissimilar Rights

Mutahhari's methodological recourse to the principle of natural rights and his theory of the equal but dissimilar rights of men and women in the family provoked some academic debates among Iranian scholars. In the philosophical-theological circle, 'Allamih Tabatabai was a great adherent of the theory of natural rights. Since he was Mutahhari's teacher in Qum's religious seminary, it is reasonable to assume that Mutahhari was influenced by Tabatabai. However, there is a significant difference between Tabatabai's and Mutahhari's approaches as Tabatabai believes in the natural superiority of men over women²⁰⁷. As noted above, to Mutahhari, members of the family (men and women), benefit from an equal proportion of

²⁰⁶ It is beyond the scope of this research to investigate the views of all contemporary high-ranking Shi'a religious authorities on the issue of polygamy. Therefore, in order to provide the readers with a proper understanding of the way in which Mutahhari's idea can be distinguished from the other jurists, Makarim's opinion is discussed as an example of the current prevalent attitude.

²⁰⁷ Some present-day Iranian scholars such Muhammad Reza Ziba'i Nizhad and Hamid Karimi, who work on women's issues in Islam, have followed Tabatabai's way of thinking. In this regard, see, (Ziba'i Nizhad and Sobhani, 2009, pp. 66-67) and (Karimi, 2008, pp. 21-27).

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dissimilar rights and responsibilities, while, in Tabatabai's view, men have innate superiority over women. Tabatabai supports his argument with the Qur'anic verse which says, "Men are the managers of the affairs of women for that God has preferred in bounty one of them over another, and for that they have expended of their property" (4:34). To Tabatabai, this verse implies that males have God-given intrinsic superiority over females. There seems a tacit premise in Tabatabai's mind that, because men have more responsibilities than women do in social, family and, economic terms, the Creator provides them with more abilities, and, consequently, they benefit from extra rights in the socio-familial sphere. Tabatabai's way of thinking is revealed in such statements as the following: "there are natural superiority and innate privileges that God has bestowed upon men, namely, intellectual power, which has led to their determination, strength, and tolerance to hardships, whereas women have greater emotional aptitude" (Tabatabai, 2009, p.67). Therefore, he believes that verse 4:34 means that the assignment of male guardianship over women should not be confined to that of a husband's guardianship over his wife; it should be taken, rather, to point to a general guardianship of men over women in social matters. This is the main reason why, in Islamic jurisprudence, women are deprived of ultimate social, political, and legal authority, such as holding positions of judges or governmental positions (Tabatabai, 2009, pp. 55-69)²⁰⁸.

Mutahhari's approach is different from Tabatabai's' view in two points. For one thing, he believes in the equality but dissimilarity of rights in family life while Tabatabai does not accept the notion of equality for men and women in Islamic law (in both familial and social spheres). For another, Mutahhari seeks to restrict gender differentiation of rights to the domestic sphere and demonstrates that, in the social realm, both sexes benefit from equality and

²⁰⁸ As was explained above, from Tabatabai's standpoint, "*fitrah* is the basis of Islamic verdicts and rights ... Rights and responsibilities must originate in nature" (Tabatabai, 2009, p. 51). To support this, Tabatabai refers to Qur'anic verses such as "He said, 'Our Lord is He who gave everything its creation, then guided it'" (20:50) and "So set thy face to the religion, a man of pure faith, God original upon which He originated mankind. There is no changing God's creation. That is the right religion; but most men know it not" (30:30).

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similarity of rights whereas Tabatabai finds justice in the proportionality of rights in both familial and social realms and rejects gender equality in society.

In addition to Tabatabai, certain other scholars criticise Mutahhari's emphasis on the philosophy of natural rights. These thinkers do not acknowledge natural rights as an authoritative basis for gender rights. Among them are the feminist figures, Haleh Afshar and Ziba Mir-Hosseini, who belong to the different branches of feminism. Afshar, a secular feminist scholar, does not locate her argument in the context of Islam, but instead denounces the Qur'an's precepts about women for assuming that they are far less than men. With respect to verse 4:34, she states, "There is, of course, a great deal of debate about how and why the God of Islam, whose Prophet loved and respected women, should have issued such a commandment" (Afshar, 1993, p.11). Afshar does not affirm the Islamic view of natural rights. To her, depriving women of social participation derives from a doctrine of natural rights. Thus, she asserts that,

The arguments for the exclusion of women from the public domain were formulated in terms of the nature/nurture discourse: women were naturally different and had different functions, these enabled them to 'complement' the male in society, but it was not for women to 'compete' with men (Afshar, 1998, p.20).

Mir-Hosseini, another Muslim feminist, equally opposes resorting to natural rights for supporting gender differentiation. From the very outset, she distinguishes her methodology in discussion from that of Mutahhari and other Muslim jurists. Mutahhari examines gender rights on the basis of Islamic jurisprudential principles (*usul-i fiqh*). In contrast, Mir-Hosseini seems to be reluctant to engage with *usul-i fiqh's* methodology; she approaches the issue from a feminist perspective. According to her,

these differences are more to do with nature [perhaps she means that, these differences to Mutahhari are more to do with nature], and are not fixed but are shaped by social conditions ... That is to say, from the moment an infant is fed, its gender is defined. If we consider these definitions as natural, then discrimination can be interpreted as divine justice (Mir-Hosseini, 1999, pp. 117-118).

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The psychological differences between the two sexes is the most controversial issue for a range of Western and non-Western scholars. Many scholarly debates concern gender differences in a variety of fields, including women's and men's intellectual ability, ethics, emotions and characters.²⁰⁹ However, these distinctions may be natural or may be shaped by social circumstances. Setting up a strict line between innate and learned differences is highly prone to error and, hence, needs extensive psychological and social research. Mir-Hosseini does not elucidate how far she believes in innate psychological variations between the two sexes and whether, in her view, the natural differences between men and women have to be confined to biological and anatomical ones while the remainder are constructed and shaped by social circumstances. In addition, it would be better if Mir-Hosseini provided readers with more explanation as to why others reject sources for Mutahhari's assumptions—the findings of Western psychologists and sociologists—about natural psychological differences.

Furthermore, one has to take into account that Mutahhari's theory of natural differences between the two genders is not based on the research of Western psychologists and sociologists. He replaces it by the notion in Shi'a sources of *mustaqilat al-'aqliyyah* (the intellectual postulate), which can be regarded as the source of the theory of natural law in Mutahhari's thought. *Mustaqilat al-'aqliyyah* refers to a series of rational rulings that are issued by the intellect independently of revelation, such as the virtue of justice. Mutahhari seems to have classified the natural differences between the two sexes under the heading of *mustaqilat al-'aqliyyah*. Then, he supports his understanding with the findings of Western scholars. Hence, it seems that Mutahhari depends partly on Western sources to back up his discussion. However, this criticism is sometimes made of Mutahhari as well; his reading of Western sources, mainly psychological and sociological studies, was quite selective, and he chose findings which were more in line with his own understanding of *shari'ah* laws on

²⁰⁹ For more on gender differences, see, (Fischer, 2000) and also (Chrisler, 2010).

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gender-related issues. In other words, Mutahhari is not completely clear about the criteria with which he accepted particular psychological differences between the two sexes as natural. Mahdi Mhrizi also observes that Mutahhari's triple classification of differences – emotional, physical, and psychological – between the genders is quite controversial. He asks whether such variations can be proven by the aid of religion, science, or external evidence. In Mhrizi's view, Mutahhari does not illustrate how he has come up with a wide range of natural differences (Mhrizi, 2010, p.98).

Thus it can be concluded that, although Mutahhari's application of the philosophy of natural rights to women was quite novel in his time and changed the discussion of women's rights from a jurisprudential matter to a rational-philosophical one, his understanding of natural differences between the two sexes is to some degree ambiguous and controversial, notably when it is taken as the basis of his arguments.

3.4 Conclusion

This chapter examined the main principles of Mutahhari's methodology in studying gender-related issues and the theoretical-philosophical basis of his views on women's social life and finally his assessment of women's rights. Mutahhari's methodology regarding gender questions can be seen as an example of his rational critique of the juridical approach of Islamic jurisprudence at the time he was writing, which aimed to shift the discussion of women from the realm of specialised jurisprudence to a rational-philosophical debate. However, arguing that Mutahhari took a philosophical approach does not imply that he disregarded the traditional primary religious sources of the Qur'an and *hadith*, or did not apply traditional juridical principles, such as the principle of *ijtihad*, in deriving religious verdicts from the Islamic sources. On the contrary, Mutahhari sought to elucidate the Islamic laws concerning women which were found in the primary religious sources by providing rational-philosophical explanations for them in order to display the rationale behind the

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Islamic laws about women's rights. Mutahhari's criticism of iniquitous *fatwas* and norms regrading women, his use of the philosophy of natural rights as the basis for different Islamic laws for men and women and his theory of the equal but dissimilar rights of family members have been analysed as significant elements of his approach.

His emphasis on the concept of justice and the doctrine of natural rights and freedom as the theoretical-philosophical basis of his approach to women's social rights distinguish his approach from that of most religious authorities. There is a correlation between the three concepts of natural rights, justice, and freedom in Mutahhari's thought. His view of justice rests upon the theory of natural rights, which occupies a very important position in Mutahhari's view of justice. It seems that he takes *fitrah* as the starting point because human needs and (natural) rights derive from *fitrah*. Mutahhari believes that all human beings have certain innate potentialities, and it is the function of both individuals and society to actualise them. On the other hand, to help realise these potentialities, one has to make hard efforts. This is referred to as 'contest' in his terminology, and to have a just contest, one needs to provide freedom in society. In his view, a society in which there is no freedom in various field of politics, culture, economy and so on, the conditions for a just contest are not available, and such a society is far from being just²¹⁰. Therefore, freedom is an essential instrument for the establishment of social justice, which, according to Mutahhari's, balances natural abilities and potentialities and bringsthem in harmony with one's *fitrah*. So, freedom paves the way for humans to live according to their *fitrah*. Though in his view, it the goal of individuals and societies is justice, not freedom.

²¹⁰ It is necessary to note that this view is not restricted to Mutahhari. It can be found in the writings of some western theoreticians and philosophers, such as John Rawls, about justice. For instance, Rawls holds the belief that the element of contest, at its most extreme, should be present in justice. From his perspective, one of the conditions of the socio-economic inequality for people is that "they are to be attached to offices and positions open to all under conditions of fair equality of opportunity" (Rawls, 2001, p. 42).

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Of course, it should be noted that all human beings, male or female, have different talents and capacities, and these differences can be detected not only between males and females as separate or distinct sexes but also between separate groups of men and women, so that men and women each separately show certain differences in their natural capacities and capabilities. The second point is that individuals' endeavours are very effective in the realization of human potentialities.

To summarise Mutahhari's view of justice, natural rights and freedom to the idea of women's participation in social activities, the following points are worth mentioning. Women, like men, should act freely in acquiring knowledge, and society needs to pave the ground for women to do this, as it should for men. In *The Question of Hijab*, Mutahhari emphasises that Islamic precepts do not prohibit women from active participation in society, nor do they deny them basic rights to education or seeking knowledge. In some cases, it is even obligatory for both men and women to seek knowledge. In other words, the Islamic rules of gender segregation does not require that a woman should be imprisoned in her house, nor does it say that a woman has no right to leave her home or to do a particular job that is of social or economic nature (Mutahhari, 2009b, p.84). In seeking employment in society, women, like man, should be free to choose the job they desire. On the other hand, the society in which they live should provide the conditions for fulfilling this objective. In fact, there is an important responsibility for society to undertake: providing favourable conditions for women to make a choice between the professions and to select the one that is more appropriate and suitable for them²¹¹.

Social conditions should be such that women can have chances of participating in certain high-level social activities like occupying a high position among religious authorities and

²¹¹ In addition, Mutahhari believes that the government and society do not have the right to force women to enter wars or to undertake military occupations. Regarding the issue of *jihad* (holy war for the cause of Allah), he states, "it is not obligatory for women to participate in *jihad* unless a city or an area of Muslims has been attacked and the *jihad* has a totally defensive form. In this situation, *jihad* becomes obligatory for women as well. Otherwise, it is not obligatory" (Mutahhari, 2009b, p. 203).

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issuing *fatwas*, which are the highest in religious ranks. In this respect, Mutahhari's view is different from that of many other religious scholars as the majority of religious scholars consider the position of religious authority or the right to issue *fatwas* to be peculiar to men. We will elaborate on this issue in the next chapters.

4 Women's Right of Issuing *Fatwas* from Mutahhari's Viewpoint

This chapter will explain Mutahhari's views on women's right to issue *fatwas* (religious verdicts), which will enable a better understanding of Mutahhari's approach to women's acting as top-ranking religious authorities and reveal how his ideas differ from the dominant traditional views. Mutahhari's approval of women's right of issuing *fatwas* is one of the most revolutionary opinions in contemporary Shi'a jurisprudence. It will be explained in our discussion that women's religious authority and their right of issuing *fatwas* are highly controversial matters among Shi'a jurists, so much so that, today, forty years after Mutahhari's death, his opinions about women's religious authority and right to deliver *fatwas* have not gained ground yet. That is to say, at present, one can find no woman who is at once a knowledgeable religious authority and a *mufti* who delivers jurisprudential decrees, and, although there are many female *mujtahids* who are qualified to do independent jurisprudential scholarship (*ijtihad*), they are not allowed to deliver *fatwas*.

Nusrat Amin (1886-1983) and Zuhrih Sifati (b. 1948) are two female *mujtahids* of twentieth century Iran, both well qualified in Islamic jurisprudence. Amin was a well-known female Shi'a scholar who completed her education in Islamic scholarship under the supervision of

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prominent Ayatollahs. She had an *ijazih-yi ijtiḥad* and an *ijazih-yi riwayat*²¹². Zuhrih Sifati is another female top-ranking religious authority in Iran (Künkler, 2012, p, 128). Although both figures are *mujtahids*, they have not been able to issue *fatwas* for their followers. The reason for this may lie in the fact that a considerable number of Shi'a *'ulama* consider male gender as an essential condition for the acquiring the position of a *mufti* (Sajjadi Amin, 2019, p.28). This signifies the importance of making research into this subject²¹³. Therefore, this chapter tries to reveal both sides of the argument for and against women's practice as religious authorities and to demonstrate how a scholar like Mutahhari rejects the arguments of the opponents within a traditional jurisprudential framework²¹⁴.

Prior to investigating women's right to issue *fatwas*, it should be noted that two themes of judgment and delivering religious verdicts (being a *mufti*) are strongly connected and intertwined in the traditions. The term '*qadi*' comes from a verbal root meaning 'to resolve', 'to settle', and 'to decide'. In Islamic terminology, *qadi* denotes a judge "who issues definitive rulings in cases brought by disputants for resolution" (Moosa, 2004, p.557). The majority of Islamic schools in both Sunni and Shi'a contexts prohibit women from being judges. Even the jurists who allow women to judge do not accept their judgment in all circumstances. For instance, according to Hanafis, "women can only judge in those cases for which they can testify" (Bauer, 2010, p .3). The opponent's argument against women's role as a judge is based on some Qur'anic verses (such as 4:34) and *hadiths*. Although the Qur'anic verses do not directly refer to the issue of women's judging, they are interpreted as demonstrating the

²¹² *Ijazih-yi ijtiḥad* is a permit issued by grand ayatollahs demonstrating that a person who has finished his/her professional Islamic studies is qualified to interpret the primary religious sources and extract religious verdicts from them. *Ijazih-yi riwayat* is a permit indicating that a person is knowledgeable in transmitting the words of the Prophet and Imams and analysing the chain of *hadith* transmission.

²¹³ There have been similar debates in the Sunni context as well. There are Sunni scholars with various perspectives who demand or confirm female religious authority. For instance, Ahmed Al-Haddad, the Grand Mufti of Dubai, in a *fatwa* issued in 2009, confirmed women's position as *muftis* and declared that their religious opinions applied to both men and women. He contended that "women muftis' religious authority was in no way limited by gender" (Grewal, 2014, p. 249).

²¹⁴ To know more about women's right of issuing *fatwas*, see also (Sajjadi Amin, 2019), (Najafi, 1993), (Künkler, 2020), and (Bauer, 2010).

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superiority of male over female. Therefore, it has been argued that because men have authority over women in all aspects of life (in both family and society), women cannot hold the position of judge (*qadawat*).

Tehrani (1925-1995), a traditional Shi'a authority, emphasises that within the Shi'a school of thought, there is a consensus among the *'ulama* that male gender is the essential condition for the position of judge. Shaykh Tusi (d.1067), Muhaqiq Hilli (d.1277), Shahid Awal (d.1385), Shahid Thani (1506-1558), Fadil Hindi (d.1725), and Mirza Hashim Amuli (d.1993), are examples of the *'ulama* who do not accept women's judgments. In addition, Tehrani underlines that considering the *sunnah* and the practical life of Muslims, as well as certain *hadiths*, *qadawat* should not be undertaken by women (Tehrani, 1978, p.127).

Jurists who argue against women's judging often cite passages in the Qur'an and *hadiths* that are used against women's right of issuing *fatwas* as well. In this chapter, those traditions and Qur'anic verses will be examined. The significant point is that Shi'a *'ulama's* perspectives on the themes of judgment and *fatwas* can be categorized into two approaches. A group of jurists such as Tehrani and 'Adil 'Alavi (b. 1955) do not separate the two realms of issuing *fatwas* (*ifta*) and judgment (*qada*), a perspective implying that they deprive women of the right to issue *fatwas*. These thinkers argue that, based on the primary sources, women are not fit for the position of *qada*. According to 'Alavi, the conditions for both positions are the same. The only difference is that a judge's verdicts are limited and aim to resolve a hostility and disagreement between two specific parties while a *mufti's* verdicts are general and apply to all. Therefore, if male gender is an essential condition for the position of judge, inevitably it is necessity for the position of a *mufti* as well ('Alavi 2001, p.422).

However, some scholars like Mutahhari make a distinction between these two positions.

Mutahhari, in the *Zan va Masa'il-i Qadai va Siyasi*, stresses that,

Although all the traditions that are used against women's judging are controversial and flawed, it seems there is a consensus in the Islamic

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jurisprudence on this matter... However, in comparison to *qada*, the deprivation of women from the right to *fatwas* is not simply less reasonable, it is absolutely unreasonable (Mutahhari, 2012c, p.43).

The above statement implies that Mutahhari confirms the consensus of *'ulama* on the exclusion of women from the position of *qada*. In addition, there is no indication in his writings that women can undertake the position of *qadawat* while he rejects the exclusion of women from the position of *ifta*.

In this chapter, Mutahhari's approach to women's right of issuing *fatwas* will be analysed. In fact, the right of women to issue *fatwas* is one of the controversial subjects among Muslim jurists. In pre-revolutionary Iran, when a traditional approach was prevalent in the religious circles, due to the socio-cultural conditions, religious women were confined to the sphere of family. Therefore, the dominant atmosphere did not let such questions to be raised, and it could be said that some were not prepared to tolerate even giving ear to them. In that situation, Mutahhari was subject to serious criticisms by the traditionalists because of his approach to women's social life (especially after he published his book on *The Question of Hijab*); however, he never stopped elaborating on his ideas. One may ask: Does Mutahhari's view that women can also issue *fatwas* result from his argument that men and women enjoy equal rights in terms of their roles and status in society?

4.1 The Right of Women to Deliver *Fatwas*

Mutahhari strongly believed and made an effort to prove that the route to spiritual perfection is equal for everyone, male or female, though some traditional jurists such as Tehrani disagree with him. Concerning the spiritual status of women, Tehrani believes that spirituality is open to both genders, but, at the same time, he regards women as inferior to men in their potential for spiritual attainment. In other words, Tehrani finds worship the most important factor in human life but takes menstruation as an impediment to expressing Islamic faith. On this point, he states, "if women want to take part in humanity's caravan headed to spiritual

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perfection (Allah), they have to be either pregnant or breast feeding” (Tehrani, 2014, p.42). However, according to Mutahhari, the Qur'an repeatedly and clearly declares the spiritual equality of both sexes where it says,

Men and women who have surrendered, believing men and believing women, obedient men and obedient women (33:35)²¹⁵.

The Qur'an promises absolute equality of reward and punishment for males and females such as the verse (4:124).²¹⁶ There are also several verses in the Qur'an indicating the fact that both man and woman are created equal. The Qur'an says:

“O mankind, fear your Lord, who created you from one soul and created from it its mate and dispersed from both of them many men and women” (4:1)²¹⁷

The above verses are used by Mutahhari to argue that men and women are equal and identical in terms of personality and dignity and that sex does not have any effect on the course of human perfection and achieving proximity to God. From the Qur'anic perspective, both sexes are deemed equal and identical in their human course of development in the stages of proximity to God, servitude, attainment of reward in this world and afterlife to the state of being God's vicegerent, being an object of worship by the angels, and being divine trustees.

Now, with respect to the above points, one may ask whether man and woman, who share an equal and identical position, can be equal in terms of achieving the position of a top ranking religious authority. In other words, are women worthy of attaining high social and religious positions, including delivering *fatwas* and being a *marja'-'i taqlid*? Having studied the questions raised by Shi'a scholars concerning the issue of women's right to deliver *fatwas*,

²¹⁵ The Qur'an says also, “God has promised the believers, men and women, gardens underneath which rivers flow, forever therein to dwell, and goodly dwelling-places in the Gardens of Eden; and greater, God's good pleasure; that is the mighty triumph”. There are many other verses in the Qur'an which indicate the spiritual equality of men and women; in this regard see, (9:72), (24:12), (47:19), (48:5), (71:28), and (88:10).

²¹⁶ The Qur'an also states that “And who so ever does deeds of righteousness, be it male or female, believing – they shall enter Paradise, and not be wronged in a single date-spot” (4:124). See also (16:97) and (40:40) in the Qur'an.

²¹⁷ The Qur'an states that “It is He, Who created you from a single soul, and out of it He made its mate, that he may find comfort in her” (7:189). In this regard, see also verse 33:72.

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one can find that earlier Muslim scholars have not addressed the issue in question so much, or, at least, their words bring no clear evidence that they have. It is possible to argue that since the majority of Muslim women had to stay at home due to the prevalent social and cultural conditions or were not permitted to engage in scholarly and social activities in top-level positions, the question of women's right to issue *fatwas* was not worthy of attention to the scholars. Hence, in the opinion of the early Muslim scholars and jurists, there was no trace of direct discussions about the possibility or impossibility of women's right to issue *fatwas*. Nevertheless, as was explained above, there are discussions in all Islamic schools on women's role as judges which relate to the question of acquiring religious authority and issuing *fatwas*.

In *Mu'jam al-Maqayis al-lughah*, the word '*fatwa*' is defined as "a pronouncement of divine universal judgments about the issues which are related to what a person of religiously legal age (*mukallaf*) is obliged to do, drawing upon the constant arguments given in jurisprudence (Ibn Faris, 1984, p.377). Therefore, to attain a religious edict, a Muslim jurist studies legal proofs and offers his opinions. In fact, a *fatwa* is nothing but an opinion of a qualified religious jurist, *mujtahid*, on legal matters and religious practice. The difference between *ijtihad* and a *fatwa* is that *ijtihad* is the power and authority in deducing legal judgments, but a *fatwa* is the pronouncement of the legal judgment being deduced by reasoning. Shi'a scholars express different opinions with respect to women's right to decree *fatwas*, which, according to Sajjadi Amin, can be classified into four main groups (Sajjadi Amin, 2019, pp. 28-29).

The first group consists of those Muslim jurisconsults who have not mentioned any attributes of the *mufti*, so there is no evidence that only men can be *muftis*. For example, Shaykh Tusi (d.1067), Shaykh Mufid (d. 1022), and Ibn Idris of Hilli (d. 1202) are prominent Muslim jurists who have not spoken of the qualifications or attributes of a legal scholar (*mufti*) or a qualified Muslim jurist (*mujtahid*) and have not made any mention of male gender as an essential condition for being a *mufti*. Tusi, in *al-Nihayah*, and Ibn Idris of Hilli, in *al-Sar'ir*, think that

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punishments can only be enforced by the infallible Imams or by those who have been appointed by them. They do not speak of Muslim jurisconsults or their qualifications (Sajjadi Amin, 2019, p.28).

The second group of Muslim jurisconsults are those who, despite speaking of the conditions for being a *mufti*, have not mentioned male gender as the necessary condition for it. Muslim jurisconsults such as Sayyid Murtada (d.1044), 'Allamih Hilli (d.1326), Muhaqiq Hilli (d.1277), Muhaqiq Thani (d.1534), Fayd Kashani (d.1680), Shaykh Ansari (d.1864), Mirza Qumi (d.1815), and Ayatollah Burujirdi (d.1961) are some representatives of this group. However, this does not mean that the above-mentioned Muslim jurisconsults approve of women becoming religious authorities or of their entitlement to issue *fatwas*. As noted above, the possibility for women to be religious authorities has not been mentioned, or explicitly referred to, in the words of early Muslim jurisconsults. This may be justified by the fact that in the early days of Islam, there were only a few women who could occupy this position. Furthermore, the idea of women holding positions of religious authority was not commonly accepted by society. In other words, this issue was deemed irrelevant to the needs of the Muslim community, so the Muslim jurisconsults felt it unnecessary to raise it as an important issue for discussion. Certain Muslim jurisconsults such as 'Abd al-Nabi 'Araqi (1890-1966) and Sayfi Mazandarani (b. 1956) contend that Muslim jurisconsults did not deal with the issue of male gender as a condition for being a *mufti* because the condition was so obvious that it was not even need to be explicitly mentioned or discussed ('Araqi, 1960, p.45)²¹⁸.

Another group of Muslim jurisconsults consider male gender as an essential condition for the acquiring the position of a *mufti*. It is worth mentioning that the majority of Shi'a scholars have the same opinion. To give the names of a few scholars representing this perspective,

²¹⁸ In this regard, see also (Sayfi Mazandarani, 2006, p. 176).

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one can refer to Shahid Thani (d.1559), Fadil Hindi (d.1725), Sayyid Muhammad Tabatabai, known as Sayyid Mujahid (d.1827), Mirza Hashim Amuli (d.1993), Sayyid Muhammad Kazim Yazdi (d.1919), Sayyid Abu al-Qasim al-Khoei (d.1993), Sayyid Muhammad Baqir Sadr (d.1980), Muhammad Ali Araki (d.1995), Mirza Javad Tabrizi (d.2006), Muhammad Fadil Lankarani (d.2007), Muhammad Taqi Bahjat (d.2009), Sayyid Kazim Ha'iri (b.1938), and Sayyid Ali Husaini Sistani (b. 1930). However, as was mentioned before, the issue of practicing as a *mufti* and of undertaking the position of a Muslim judge are so interwoven that both are debated together in juristic discussions. Thus, since women are claimed to be unworthy of occupying the position of a judge, they have also been denied the position of a *mufti* by some Shi'a scholars such as Mirza Hashim Amuli.

The last group makes up a number of Muslim jurisconsults who strongly believe and explicitly state that male gender is not a condition for taking the position of a *mufti*. Sahib Javahir (d.1850), Muhammad Husain Isfahani (d.1942), Sayyid Muhsin Hakim (d.1970), Sayyid Murtada Husain Firuzabadi (d.1990), Sayyid Muhammad Husain Fazlullah (d. 2010), Muhammad Mahdi Shams al-Din (1936-2001), Sayyid Muhammad Mahdi Khalkhali (d. 2019) and, last but not least, Abdullah Javadi Amuli, among others, belong to this group.

Concerning the issue in question, Javadi Amuli states:

If, in the light of instructions and practices, there exists an equal condition or opportunity for both sexes, there is no evidence that women should be denied the position of a judge or a religious authority (*Marja'iyat*). Particularly because being a religious authority is a form of administrative or executive task, which is supported by and originated in certain qualifications such as jurisprudence, *ijtihad* and justice. It is possible for a woman who is well-qualified in Islamic scholarship and just (*'adil*) to train students who later on become *marja' taqlid*, but she is not allowed to work as a *marja' taqlid*. The acquisition of these qualifications does not rest upon the condition of male gender or femininity, especially if it occurs within the boundary of women's community. Implying that, it is permissible for a woman to be a religious authority only for women as it is possible for her to be the imam (leader) of congregational prayers (Javadi Amuli, 1997, p.405).

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Javadi Amuli's approval of women's religious authority within the women's community is quite an important intervention. Nevertheless, it also points to a limitation of women's authority while the authority of male *mufitis* is decreed to be covering both men and women.

Mutahhari developed a different view from that of Javadi. Mutahhari ranks among those Muslim jurisconsults who approve of women's right to deliver *fatwas* for both men and women. From his point of view, issuing a *fatwa* is an intellectual task. He adds that there is definitely no reason to say that expressing formal legal opinions (*fatwas*) is the exclusive privilege of men. He goes on to say:

With respect to the issue of *fatwas*, definitely there is no reason to confine the right of issuing *fatwas* to men's authority. Thus, if a woman has the same qualifications as men, she deserves to obtain high religious authority [i.e., become a *marja' al-taqlid*]. If we suppose a situation in which there is a woman who is more knowledgeable than men and she is just and well qualified in other required conditions [for this position], based on jurisprudential principles, not only is the imitation of this woman allowed but it is also compulsory (Mutahhari, 2012c, p.46).

It can be argued that the issue of Muslim religious authority and women's right to deliver *fatwas* are subject to controversial discussions among Muslim thinkers and jurisconsults. Both the opponents and advocates of these rights make efforts to establish their claims by recourse to the Islamic primary principles or the four sources of *fiqh* (i.e. the Holy Qur'an, tradition, consensus and reason). To make the subject matter clear, the next part will deal with the arguments raised by the opponents and advocates of women's right of issuing *fatwas*.

4.1.1 Consensus

Some jurisprudents hold that there is a prevailing consensus among Shi'a scholars on the claim that women are not permitted to issue *fatwas* and that the invalidity of their *fatwas* is deemed self-evident and in no need of explanation. In this connection, a reference can be made to the words of Sayfi Mazandarani (1956), who argues that Muslim scholars unanimously take male gender as a necessary condition of religious authority as there are

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certain other conditions such as maturity, reason, faith and justice (Sayfi Mazandarani, 2006, p.176).

In the previous part, it was explained that there are four approaches among Shi'a jurists to women's right of issuing *fatwas*; therefore, it should be now clear that there is no consensus on this matter. Mutahhari is one of the jurists who reject the claimed impermissibility of women's right to be a religious authority. He explicitly asserts that he has studied textbooks on jurisprudence, including *Mustamsak al-Urwah al-Wuthqa*²¹⁹, written by Sayyid Muhsin Hakim (d.1970), and found no evidence of the impermissibility of following a female *mujtahid* (Mutahhari, 2012c, p.43). According to *Mustamsak*, the only reasons for excluding women from the domain of *fatwas* is common sense (*bana`i`uqala*) (Hakim, 1971, p.43), meaning that there is no strong and clear evidence in the texts implying that women cannot be *muftis*. Rather, the only reason is that, based on common sense, male gender is the essential condition for the position of *ifta* and acting as a *marja`i taqlid*. However, Mutahhari criticises resort to common sense in this matter and argues that a sensible person does not differentiate between men and women in this issue (practicing religion on the basis of *fatwas* by women). Consulting a *marja`i taqlid*, he adds, is like referring to a physician. A sensible person seeks treatment from a professional physician; it does not matter whether the doctor is a man or women (Mutahhari, 2012c, p.42).

4.1.2 The Quran

There are certain Qur'anic verses which indicate the permissibility of women's religious authority. These verses imply the permissibility of expressing religious formal opinions by jurists without taking a certain gender as a precondition for that entitlement. Below are some of these verses:

²¹⁹ *Mustamsak al-Urwah al-Wuthqa* is an authentic Shi'a jurisprudential textbook written by Sayyid Muhsin Tabatabai Hakim (1889-1970). This book is an explanation of the *al-Urwah al-Wuthqa* written by Sayyid Muhammad Kazim Tabatabai Yazdi (1831-1919). The book consists of several jurisprudential subjects including, *ijtihad*, prayer, fasting, and *haj*.

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And We sent none before thee, but men to whom We made revelation *question the People of the Remembrance*, if you do not know (21:7)

It is not for the believers to go forth totally; but why should not a *party of every section of them go forth, to become learned in religion*, and to warn their people when they return to them, that haply they may beware? (9:122)

We sent not any before thee, except men to whom We revealed: 'Question the people of the Remembrance, if it should be that you do not know (16:43).

In verse 16:43, Muslims are called to "question the People of the Remembrance if they do not know", an injunction which is concerned only with the 'knowledge' of the people, in which there is no difference between men and women. This is what Mutahhari puts emphasis on: issuing *fatwas* or providing formal legal opinions is something intellectual and, as such, not restricted to men.²²⁰ However, there are some Qur'anic verses in favour of the impermissibility of women's religious authority, such as verse 4:34, which say that "Men are the managers [in charge of the affairs of women- *qawwamun*] of the affairs of women for that God has preferred in bounty one of them over another, and for that they have expended of their property" .

With respect to the above verse, there is a group of Shi'a jurisconsults who take the idea of men's authority over women to mean supporting, maintaining or taking care of them, or, in other words, undertaking the responsibilities of taking care of the family's needs and household tasks. According to this interpretation, man's authority over woman means that to the former should fulfil the rights of the latter to a decent life. This kind of interpretation can be found in the works of contemporary jurisconsults such as Muhammad Ibrahim Jannati (b.1933), Sayyid Muhammad Husain Fadlullah (1935-2010), Muhammad Taqi Ja'fari (1925-1998), and Javadi Amuli (b. 1933)²²¹. For instance, Fadlullah takes man's authority over

²²⁰ Mutahhari himself does not use these verses, but other authors have used them to support Mutahhari's conclusion. For instance, Sajjadi Amin refers to different Qur'anic verses in support of women's right of issuing *fatwas* (Sajjadi Amin, 2019, pp. 181-184)

²²¹ This way of thought can be discerned in the words of modernist reformers in other Islamic schools as well. For instance, Fazlur Rahman, a Sunni Muslim liberal reformer, stresses that "the superiority of some men in wealth and power is "not inherent but functional. If a woman becomes economically sufficient, say by

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woman to mean what a man can do in order to organize family life and marital relations between husband and wife, or to meet the needs for a better family life. In his interpretation of the term 'authority', in verse 4:34, as "guardianship", he takes it to denote the management and organization of married life and denies any other form of authority outside of the domestic context (Fadlullah, 1997, pp. 89-90). Muhammad Taqi Ja'fari (1925-1998), one of contemporary Muslim Iranian jurisconsults, is of the opinion that there are four modes of guardianship or management of the family: guardianship of both husband and wife, guardianship of wife, selfish and authoritative patriarchy, and the consultative system of family management. He prefers and recommends the fourth mode of family management. Ja'fari takes the authority of man to mean responsible guardianship in which his responsibility is to implement the decisions made in the family council just in the way a manager of a business does to run the affairs of his company (Ja'fari, 1999, pp. 5052). Basing his arguments on Qur'anic verse 49:13, he regards the family legal system in Islam as a form of homocracy (*insan salari*), in the sense of the equal rule of men and women, rather than patriarchy (*mard salari*) or matriarchy (*zan salalri*) (Ja'fari, 1999, p.61)²²².

However, it could be argued that even in the consultative system of family management, in one sense, the husband or father has superior authority. Ja'fari does not claim that family members are completely equal in decision making. In fact, he does not clarify the relationship between consultative decision making and male authority and guardianship. Javadi Amuli, a contemporary jurist and exegete, thinks of male authority as an administrative responsibility which is based on division of labour and as a human duty in married life. Accordingly, a man, as a member of the family, has to provide for his family with services, take care of his wife and meet her needs. In this connection, he contends, since men are responsible for

inheritance or earning wealth, and contributes to the household expenditure, the male's superiority would to that extent be reduced, since as a human, he has no superiority over his wife" (Rahman, 2009, p. 33).

²²² In this regard the Qur'an states, "O mankind We have created you male and female, and appointed you races and tribe, that you may know one another. Surely the noblest among you in the sight of God is the most God-fearing of you. God is All-Knowing, All-Aware" (49:13).

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financially supporting their families, they are also responsible for the management of them, and this brings men no privileges. What they do for their family members is part of their administrative responsibility and duty. This management is not a position; rather, it is an undertaking and a service (Javadi Amuli, 1997, pp. 391-392). Although such an interpretation of the concept of authority can be more often found in the works of contemporary Muslim scholars, certain prominent early scholars such as Shaykh Tusi have also expressed such a view (Tusi, 1970, p.324). It is necessary to point out that no direct treatment of the concept of "*qawwamiyyat*" (guardianship; authority) can be found in the works of Mutahhari, though he has partly discussed the domain of male authority.

From what Mutahhari says concerning the verse in question (4:34), one can infer that God has regarded men's authority over women in this verse to be based on two factors. The first one is the existential (natural) privilege or advantage as understood from "God has preferred in bounty one of them over another". Mutahhari takes this phrase of the verse to mean "by virtue of the sum total of advantages each of them (man and woman) has over the other in some respects, the task of authority or guardianship belongs to men" (Mutahhari, 2005c, p.832)²²³ The second factor concerns what, in Islamic terminology, is called *nafaqah* (maintennace). From Mutahhari's point of view, the Qur'anic clause "And for that they [men] have expended of their property" points to the livelihood provided by a man for his wife and children within the framework of the family. So, he concludes that "it cannot be said that this verse provides evidence for the authority of men over women in all aspects of life". Therefore, Mutahhari considers this verse as related to the family sphere, rather than the larger social sphere (Mutahhari, 2012c, pp. 76-77). The above class of jurisconsults admit the authority of men over women merely within the family framework, and, on the basis of

²²³ On this point, see also (Mutahhari, 1998a, p.630).

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verse 4:34, they take this authority to be restricted to the family and not to include the whole society²²⁴.

Unlike these scholars, there is another group of Shi'a jurisconsults such as Sayfi Mazandarani and Sayyid Muhammad Husain Tehrani (d.1995) who claim the impermissibility of women's right to be a judge, ruler or religious authority. These scholars refer to a number of certain Qur'anic verses such as 4:34 and argue that women are denied any guardianship or authority over men. They claim that since women's religious authority involves men's subjection to women in certain religious matters, women are not entitled to occupy such positions. Since the study of all verses to which the scholars refer to support the impermissibility of women's right to deliver Islamic legal opinions and the study of the views of all traditional jurists fall out of the boundaries of this research, we will only discuss verse 4:34, which is more frequently referred to by the opponents of women's religious authority. In addition, the focus of this part will be on the ideas of the high-ranking 20th century jurist Ayatollah Sayyid Muhammad Husain Tehrani, who has discussed women's issues in more detail. He published two specific writings on the question of women, entitled *New Treatise on the Interpretation of the Verse concerning Men's Guardianship over Women (Risalah Badi'i fi Tafsir Ayah al-Rijal qawwamun 'ala al-Nisa)* and *Treatise on Marriage: Population Control and its Horrible Impact on Muslims (Risalah Nikahiyah; Kahish-i jam'iyat Darbih-yi Sahmgin bar piykar-i Muslimin)*. The focus here is on Tehrani because he was close to Mutahhari, and both studied at a traditional religious seminary and benefited from the same teacher, 'Allamih Tabatabai. However, their intimate relationship never prevented them from declaring different juridical and religious opinions on various subjects, including women's issues. To enhance the discussion, in addition to Tehrani's views, the ideas of some other prominent traditional thinkers will be explained here.

²²⁴ Of this group of scholars, one can name such figures as Mutahhari, Muhammad Mahdi Shams al-Din (Shams al-Din, 1995, p. 68), Sayyid Muhammad Husain Fadlullah (Fadlullah, 1998b, p.294), Ja'far Subhani (Subhani, 1997, p. 58), and Musavi Ardibili (Musavi Ardibili, 2006, p. 91).

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In examining verse 4:34, two important points are to be made. First, it should be made clear as to what is meant by the expressions 'in charge of the affairs of women' (*qawwamun*). Does the management or authority referred to in this verse mean guardianship (*wilayat*) of some kind or only supporting women (*sarparasti*) and taking care of what pertains to them in general? The second point concerns the extent of a man's authority. Does it mean that man's authority is restricted to his family life and marital relationship or can it also be extended to include the whole society and social positions?

Regarding the meaning of '*qawwamun*', Shi'a jurists' opinions may be divided into two major categories. A number of Muslim jurists and interpreters seem to have taken the authority of men over women to mean guardianship (*wilayat*) of some sort which is compared to the power and authority of a person over their life and property. This group of Muslim jurists consists of such well-known figures as Qutb Rawandi (d. 1177), 'Allamih Hilli (d.1326), Fadil Miqdad (d.1423), Muqaddas Ardabili (d. 1558), Fayd Kashani (d. 1680), Sahib Jawahir (d. 1850), Shaykh Ansari (d. 1864), Ayatollah Gulpaygani (d.1993), Ja'far Subhani (b. 1929), Makarim Shirazi (b.1924), and the like (Sajjadi Amin, 2019, pp. 46-47).

For Tehrani, the natural superiority of men over women is a given when he writes,

In physiology, it has been proven that physically women are inferior to men. For instance, men have a larger brain and heart. An average man is taller than an average woman. Females are more sensitive and delicate while males are stronger and more powerful. It is obvious that women are better in love, passion, and physical attractiveness whereas men are better in thinking and problem solving (Tehrani, 1978, p.95).

He also claims that women psychologically need to rely on men whereas men like to be relied upon (Tehrani, 1978, p.76). Although he does not provide any scientific basis for his view about psychological differences between the two genders, he makes an attempt to base his analysis on some Qur'anic verses which, according to him, indicate the inherent superiority of males over females. The most important ones are verse 2:228 - "...And women

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have such honourable rights as obligations. But their men have a *degree (al-darajah)* over them. God is All-Mighty and All-Wise"-and verse 4:34.

From Tehrani's standpoint, the above verses contain two terms indicating the superiority of men over women: '*qawwamun*' (in charge of the affairs of women) and '*al-darajah*' (degree). According to Tehrani, the word '*qawwamun*' is an emphatic form of the word "*qayyim* and *qiyyam*", which mean a person who manages the affairs of others. For instance, the *qayyim* of a person is the one who governs their affairs. In fact, Tehrani believes that men are similar to a political or community leader while women are like the group they lead. Consequently, man has this responsibility and authority to direct the affairs of women. In his view, verse 4:34 provides two reasons indicating that men are given this status as protectors (*qawwamun*). The Qur'an says, "...because of what Allah has preferred one [men] with over the other [women]..." and "...because of what they [men] spend to support them [women] from their wealth".²²⁵ It seems that the first phrase displays a creational difference between men and women implying that men, by nature, are stronger than women. However, the second phrase looks at the issue from a legal angle and states that men possess the position of *qawwamun* because, in Islam, they have to pay dowries to women they wish to marry and are required to maintain their wife and children (i.e., provide them with *nafaqah*) (Tehrani, 1978, pp. 76-78). Mulla Muhsin Fayd Kashani (d.1680), another great Shi'a scholar, contends that, by authority or superiority of man over woman, the verse means authority or guardianship of a governor over his subjects (Fayd Kashani, 1997, p.207). Ayatollah Gulpaygani also emphasises that verse 4:34 signifies the authority of men over women, which involves men's dominance and rule over women, not vice versa (Gulpaygani, 1992, p.44).

The above jurists think of men's authority over women as not restricted to their families, rather believe that such authority should be extended to include their social relations. Hence,

²²⁵ This is Tehrani's interpretation of verse 4:34

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as long as women's social functions do not take the form of authority over men, they are permissible, but any social position which brings about some form of women's authority over men is to be rejected²²⁶. To sum up, it can be said that for this class of jurisconsults and exegetes, though the Qur'anic verse mentioned above concerns family relations, the reason given for the authority of men over women is a general one and includes social relations as well. This is because, in this verse, men's authority over women is understood to assume certain privileges for men over women. These privileges are men's power of reason and their physical strength, which are not restricted to men in the domestic domains. This is true of all men, and, hence, their authority should be exercised in all social relations between men and women (Tehrani, 1978, p.52)²²⁷. In other words, Tehrani stresses that the verse discussed above implies that this authority is not confined to the husband, but that men are generally superior to women in both the social and the familial realms. Additionally, this superiority is not conventional and has its origin in the creation. Therefore, by nature, men possess more physical, psychological, and intellectual strength while women are more emotional (Tehrani, 1978, p.78).

4.1.3 Traditions

As noted above, the issues of judgement and issuing religious verdicts (by a *mufti*) are closely intertwined in the traditions, to the extent that some jurists believe that the conditions for becoming a judge or a *mufti* are the same. Sayyid Abu al-Qasim al-Khoei (d.1992), who is ranked among the great Shi'a jurisconsults, also holds that the issue of delivering *fatwas* takes precedence over the issue of sitting in judgment (*qada*), for judgment concerns a limited number of people whereas decreeing *fatwas* is a universal and general injunction with which many people are concerned in one way or another. Thus, if the

²²⁶ The following Muslim jurisconsults are the representatives of this latter view: 'Allamih Sayyid Muhammad Husain Tabatabai (1904-1981), Sayyid Abu al-Qasim al-Khoei (1899-1992), Ayatollah Gulpaygani (1899-1993), Sayyid Muhammad Husain Tehrani (1924-1999), and Ayatollah Ma'rifat (1930-2006).

²²⁷ In this regard, see also: (Tabatabai, 1995, p. 343).

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condition of being male holds for serving as a judge, the same condition, first and foremost, holds for expressing formal legal opinions (Khoei, 1990, p.225).

However, in contrast to the above jurists, Fadil Lankarani (d.2007), another well-known jurist, speaks of the differences in conditions for becoming a judge and a *mufti*. For Fadil Lankarani, male gender as a condition for acting as a judge is based on the fact that a judge must be in a normal mental condition and avoid being overcome by emotions when issuing judgments. Since women find it difficult to overcome their emotions, the condition of male gender is deemed to be essential for attaining the position of a judge. However, the issue of working as a religious authority (*mufti*) is to be differentiated from the matter of legal judgment, for the person who issues *fatwas* does not need to meet people, and thus anyone who has the necessary qualifications to become a religious authority is able to deduce religious rulings and publish them for people's use (Fadil Lankarani, 2005, p.80).

There is a tradition transmitted from Imam Sadiq, the sixth Shi'a Imam, which has been the focus of most attention of those who reject the permissibility of women's right to issue *fatwas*.

The tradition states:

Look for a man [*rajul*] among yourselves who knows something of our knowledge and opinions [i.e. knows what our opinion is and is informed of our views and ideas]. He is to be accepted among you. I appointed him a judge among you (Al-Saduq, 1984, p.2).

Another tradition relates,

Among yourselves, identify a man [*rajul*] who is well-informed of things we have declared legal (halal) or illegal (haram). In this case, I appoint him a judge (among you) (Tusi, 1987, p.303).

Based on these traditions, there is a universal injunction incumbent upon the Shi'a to treat anyone who is well-informed of the authentic traditions and statements of Imams as if he is appointed by Imams as a judge. Since, in these traditions, the expression 'a man among you (*rajulin minkum*)' is taken by some jurisconsults as evidence for the claim that women are not permitted to deliver *fatwas* or to work as a judge.

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References to these traditions are subject to criticism by some jurisconsults, including Mutahhari. According to him, by recourse to these traditions, one cannot conclude that issuing *fatwas* by women is impermissible. The reason for this is that the rules and the conditions of making legal judgments (*qadawat*) differ from those of decreeing *fatwas*. Therefore, the relevant conditions of these two distinct spheres cannot be compared with each other. Neither can the rules of each sphere be extended to include the other. Hence, Mutahhari distinguishes between the positions of *ifta* (issuing *fatwas*) and *qada* (working as a judge). He insists that, in Arabic, the masculine pronouns do not exclusively denote the male gender, and the same is true of the Arabic word *rajul*, which does not exclusively refer to males in many cases. The word *rajul* in the tradition, according to Mutahhari, is not used to signify men or women only, but to signify anyone who possesses such advantages or privileges, whether they are male or female (Mutahhari, 2012c, pp. 37-41).

Mutahhari has been criticised due to his argument in favour of women's right to deliver *fatwas*. In a meeting with the members of the Society of Physicians, one of the physicians criticised him by saying that,

The justification you offered for what you inferred from the traditions and reports about the women's rights is to some extent influenced by the current social conditions of women and by the social status they have these days. Perhaps, it would be more appropriate to tackle these issues more deeply and freely... In my opinion, in the two traditions you related, it just so happens, that a man was actually meant and it would be better not to justify your position by saying the word *rajul* meant both man and woman, because this sort of interpretation seems so weak (to rely on). When we refer to our innate disposition, we see that *rajul* really means a male (Mutahhari, 2012c, pp. 46-47).²²⁸

In answering the critique, Mutahhari explains,

The general rule operating in the whole field of jurisprudence is that if the word man (*rajul*) appears in a tradition, when there is no evidence or indication based on which one can infer the idea of male gender or being male in its proper sense, one should not ascribe male gender to that word (Mutahhari, 2012c, p.48).

²²⁸ The identity of the person who levelled criticism at Mutahhari is unknown. There is no mention of his name anywhere, but his voice was recorded in a session in which there were exchanges of questions and answers after Muṭahhari had delivered his speech.

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Apart from the answer Mutahhari offered to the attendee of his lecture who criticised him, this discussion indicates the atmosphere prevailing in the religious community of the Society of Physicians at that time. It is noteworthy that the criticism levelled at him was not raised by a cleric in one of the existing religious schools, but by an educated person affiliated with the Society of Physicians. This example shows that even the academic circles could not accept Mutahhari's approach that sought to give women more rights. Indeed, although this seems like an objection to Mutahhari's opinion, it was also a general objection to the wider changes and movements in Iranian society at that time such as the secular feminist movement supported by the Pahlavi regime, which aimed at improving women's social rights. Such examples reveal that Mutahhari gave lectures and wrote in cultural and religious circumstances that were dominated by a traditional atmosphere and seemed to be moving in a direction opposite to his way of thinking.

Those who argue for women's right to deliver *fatwas* or their religious authority claim that, on rational grounds, no distinction can be made between a female expert and a male one, and just as people go to a male expert to ask him to take care of their demands, they can also go to a female one to ask her to meet their demands since their criterion for visiting them is their expertise and specialty, not their sex. A religious authority (*marja'-i taqlid/mufti*), is one who has expertise in deducing legal rulings and, and as far as this function is concerned, no distinction can rationally be made between a male *mufti* and a female one: they could be equally trusted and followed by all people. This was especially the case at the time of the infallible Imams and many years after their demise when, in receiving the traditions, people made no distinction between the male and female narrators of traditions and used to receive the *hadiths* from female narrators, too (Mutahhari, 1998a, p.286). Ayatollah Sayyid Reza Sadr (d.1994), while supporting the above argument, points out that, in the infallible Imams' days, people followed the formal legal opinions delivered by women, and the Imams were

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aware of this, but they did not reject such a practice (Sadr, 1999, p.107)²²⁹. Thus, Mutahhari ranks among those jurisconsults who maintain that following a female religious authority can be justified, as it means nothing but following experts in religious matters. To him, there is no difference between a female religious authority and a male one in this regard (Mutahhari, 2012c, p.44).

4.2 Conclusion

As it was made clear in our discussion above, women's role as religious authorities and their right of issuing *fatwas* are two highly controversial and intertwined issues in Shi'a jurisprudence. Even today, forty years after the death of Mutahhari and after so much intellectual effort by Mutahhari and his like-minded colleagues, his opinions about the permissibility of women's right to deliver formal legal opinions and their right to exercise religious authority have not yet come to fruition. That is to say, at present, while there are many female *mujtahids* in Muslim societies who are knowledgeable and qualified to act as religious authorities to deliver jurisprudential decrees, by doing independent research on religious rulings in the sources of *fiqh*, none of them is allowed to do so.

Although Mutahhari's engages mainly with jurisprudential arguments by investigating the interpretation of terms and expressions in the Quran and traditions, his new understanding of women's right of issuing *fatwas* is derived from his *ijtihadi* methodology and his different conception of reason as one of the principles of *fiqh*. Mutahhari, unlike many traditional jurists, does not subordinate reason to religious understanding, but rather treats reason as a

²²⁹ In addition, historical evidence proves that women played a significant role in the transmission of religious knowledge, though Islamic history is mainly men's history, and women are less mentioned in the historical records. The most important factor which could shed light on the significance of the role of women in *hadith* transmission is their active participation in the chain of transmission. *Musnad-i Fatimah al-Zahra* by Jalal al-Din-i Suyuti, *Jami' Masanid al-Nisa'* by Ibrahim Muhammad al-Jamal, *Sahm-i Zana dar Nashr-i Hadith* by Mahdi Mhrizi, and *Zanan-i din Gustar* by Tahirah Ruhani are examples of the sources which display the contribution of women in reporting *hadiths*. In this regard, see also (Sayeed, 2013).

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criterion outside *fiqh* which could govern the jurists' understanding of religious matters in *fiqh*. For Mutahhari, reason determines what is right and what is wrong: it is a meta-jurisprudential principle.

It seems that Mutahhari questions the consensus of *'ulama* on the exclusion of women from the domain of religious authority by drawing on two reasons. For one thing, he can find no direct indication in the primary sources to support the rejection of women's right of issuing *fatwas*. For another, Mutahhari finds this exclusion unreasonable since issuing *fatwas*, to him, is an intellectual task based on learning and scholarly expertise. Therefore, people could go to and rely on a female religious authority for their religious questions and needs precisely in the same way they would go to a physician for their medical needs and problems. Based on Mutahhari's understanding of the philosophy of natural rights, all people, regardless of their sex have the right to educate in various religious and non-religious fields because nature has placed this capacity in them. On the other hand, according to his theory of social justice, society should be an arena of free contest, that is, all individuals should be free to obtain positions in line with their capacity and efforts. Therefore, the deprivation of women from the right of *ifta* as an intellectual activity is in contrast to the philosophy of natural rights and the principle of justice.

The significance of Mutahhari lies in the fact that he questions the consensus of *'ulama* regarding women's right of issuing *fatwas* and rejects the arguments of the opponents of that right within the traditional Shi'a jurisprudential framework. Finally, he comes to this revolutionary conclusion that, if a woman has the same qualifications as men, she deserves to obtain high religious authority. However as explained earlier, while Mutahhari distinguishes between the two positions of *mufti* and *qadi*, he accepts the first and rejects the position of *qadawat* for women. However, there is an unclear point in Mutahhari's view which demands further research. Mutahhari has not distinguished between a *mufti* (a person who decrees *fatwas*) and a *marja'* (a person who delivers *fatwas* and has a position of leadership in

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various socio-political matters, such as Ayatollah Khomeini's role in the Islamic Revolution of 1979 or Mirzay-i Shirazi's role in the so-called Tobacco Movement of 1981). It is obvious that Mutahhari confirms the position of being *muftis* for women, arguing that this is an intellectual task. But *marja' iyyat*, a position of high socio-religious authority, is a position higher and greater than being a mere *mufti* since it covers socio-political leadership as well. The question of whether Mutahhari accepts the *marja' iyyat* of women or not remains to be answered and needs further research, though following Mutahhari's way of thought, logically there should be no obstacle for women's *marja' iyyat*. Because according to him *marja' iyyat*, primarily is an intellectual and scientific task.

One may ask the question as to why, in pre-revolutionary Iran, when the majority of women were deprived of the role in primary social activities, let alone the right of issuing *fatwas*, Mutahhari opened up a discussion on this particular right, which was not even women's first request at that time. Exploring Mutahhari's writing makes it clear that Mutahhari has two major concerns. His is partly preoccupied by understanding and answering the questions of young people and intellectuals; accordingly, he asserts that solving the problems and responding to the current questions about Islam are "the only aims of my writing" (Mutahhari, 2011a, p.38). The second concern of Mutahhari was the misunderstandings of Islamic doctrines by religious authorities. With respect to the status of women in Islam, he challenges some *fatwas* on women, seeing them as the products of misunderstandings and misinterpretations of Islamic doctrines. From his viewpoint, these *fatwas* are inconsistent with the spirit of Islam, the Prophet's *sunnah* and the principle of justice (Mutahhari, 2001d, pp. 209-210). In other words, from Mutahhari's perspective, there is a long distance between the Quran's attitude to the rights of women and the attitude in the *hadiths* (narrations), jurists' *fatwas* and common norms of Muslim societies (Mutahhari, 2010c, p.566). Therefore, although the challenges of modern era are one of the main concerns of Mutahhari, as a jurist, he is highly cautious about traditional interpretations in Islamic

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jurisprudence. Hence, it can be observed that in many cases, Mutahhari moves against the mainstream juridical approaches and develops revolutionary ideas such as his view on women's right of issuing *fatwas*.

5 Women's Socio-Political Participation from Mutahhari's Perspective

As noted in the first chapter, the debate surrounding the question of women and their social participation illustrates the struggle between various perspectives in pre-revolutionary Iran, which may be interpreted as stemming from the conflict between Western secularism and religion. On the one hand, there were Westernised women, with a mostly Western education, who, according to Keddie, were Western in dress, culture, and politics, and often followed secular ideologies, including nationalism, liberalism, socialism, or communism. On the other hand, there were traditional religious women who ideologically and practically followed religious authorities in various matters, including marriage, divorce, family practices, and *hijab* (Keddie, 2000, p.408). During the Pahlavi era, there were two poles in Iranian society: on the one pole were Western-oriented educated figures who were supported by the regime and tried to modernise Iran and make improvements in the status of women through legal changes; on the other side of the spectrum was a traditional *hawzah* institution with quite conservative approaches to women's role in public life.

Although the Pahlavi state was in favour of secular reforms which affected the urban elite for the most part, as Hegland argues, contrary to the popular assumption, the reforms and modernisation which took place during the reign of the Pahlavi kings "failed to affect substantially the status and condition of the majority of Iranian women" (Hegland, 1982, p.483). Although the constitutionalists of the twentieth century demanded political freedom,

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national independence, and social progress, the Pahlavi regime's policy of Westernisation was not successful in that dimension. Rather, "modernisation had reinforced foreign dependence and was now threatening the moral fabric of society" (Paidar, 1995, p.167). In the pre-revolutionary time, the majority of women just had primary education, and their role was defined within the family life as a mother or wife. Hence, "any outside activity was restricted to socializing among neighbours and family or was contained within the religious ritual or activity". Traditional women knew that they have to admit their domestic role and live up in accordance with society's expectations (Hegland, 1982, pp. 483-484).

The abolition of *hijab* during the reign of the first Pahlavi Shah (1925-1941) had changed the appearance of women in public towards a dressing style that was more Western than Iranian. This dress code continued during the reign of the second Pahlavi Shah as well. In this socio-political context, women with religious backgrounds, who wore the traditional Islamic clothing (*chadur* and *niqab*), were under immense pressure. Accordingly, as Davari states, the prohibition of *hijab* "led to a great psychological pressure on pious women and gradually gave rise to a more extreme position on their part" (Davari, 2005, p.51). Women were not welcome in universities and various workplaces due to the anti-*hijab* policy of the state. Based on the traditional understanding of Islam, which was prevalent at the time, women were discouraged from participating in social activities because, from that perspective, they were not deemed fit for public life, and their primary roles were defined within the family, namely, acting as a wife and/or mother. However, within religious circles, views on women's public role, rights, and participation were diverse, contested, and undergoing significant changes. In reality, it is difficult to present a simple classification of Iranian Shi'a jurists' approaches to the question of women's role in public life, given the diverse and complicated reactions to this issue.

On women's role in public life, Mutahhari, as a traditional reformer and Muslim philosopher,

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used a combination of traditional Islamic sources (i.e. the Qur'an, *sunnah*, *hadith*, and Islamic jurisprudence) and historical evidence along with philosophical sources, emphasizing human nature (*fitrah*), justice, and freedom. In chapter three, I explained how Mutahhari applied theoretical-philosophical principles as the bases for his discussion of women's social rights. This chapter seeks to shed light on the outcomes of Mutahhari's approach on women's role in public life.

As explained before, Mutahhari was aware of change over time and directly engaged with intellectual controversies happening in Iranian society, questioning Islamic beliefs concerning women's issues. He tried to create a new space for women's role in public life and to change the conservative view which excluded women from society, but, at the same time, he also rejected the secular approach, which blamed Islam for women's oppressions and tried to deprive Iranian society of the religion of Islam altogether. It is clear that he took a different viewpoint from that taken by other schools of thought such as secularism and feminism, as he did not share the same intellectual basis with those ideologies. At the same time, by drawing on the same primary religious sources as used by traditional Islamic scholars, Mutahhari developed new ideas on women's social life that contradicted conservative opinions. He actively engaged with the issue of women's role in public life and, from 1968 to 1969, delivered a series of lectures on the question of Islamic *hijab* in *Irshad* in Tehran, lectures that were later collected and published as *The Question of Hijab*.

Mutahhari saw women's oppression as a trend in human history and studied the issue to find the possible causes and reasons for this problem. In contrast with most of the jurists of his time, he did not merely repeat the previous jurists' *fatwas* on women's role in public life, which made for the exclusion of women from the social arena, but approached Islamic jurisprudence through a new method of *ijtihad*. He believed that our understanding of *shari'ah* based on the Qur'an and *sunnah* has to be consistent with the concepts of justice and reason. In other words, since Mutahhari presented his arguments on the basis of the

philosophy of natural rights and the principle of justice, it can be said that he contributed to the development of an alternative approach to Islamic jurisprudence that one may call rational-philosophical. By exploring Mutahhari's writings, one can observe that, he believes in different levels of public activities, ranging from employment in various fields of health care and socio-cultural institutions to engagement with politics (*siyasat*) and governmental position (*hukumat*). In fact, Mutahhari makes a distinction between political participation and governmental position. Two issues are at stake here: the political participation of women, such as their participation in demonstrations and elections and the women's assumption of political power in Islamic states. Therefore, this chapter explores the views of Mutahhari regarding women's socio-political participation on three different levels. It will first investigate whether women can leave the home and their domestic role to work in the public. Concerning this issue, there have been disagreements among Muslim thinkers some of them confine women to domestic life while others such as Mutahhari hold the view that there is no reason whatsoever to prohibit women from taking part in social activities. The second level concerns the political participation of women and the third level is related to women's political power and governmental positions from Mutahhari's point of view. For a better understanding of Mutahhari's ideas, the opinions of the traditional jurists who opposed women's right of political participation will be introduced, too. However, as noted in the previous chapters, the focus will be more on the ideas of Ayatullah Muhammad Husain Tehrani, as a representative of the conservative approach and a contemporary of Mutahhari.

5.1 Women and Working Outside the Home

Mutahhari divides women's historical roles into three distinctive periods, and, at the outset, points to two opposite extremes. In certain periods, and due to strict and harsh attitudes towards women, he argues, their direct participation in constructing history was denied. In other words, in those periods, women's life was restricted to the home and family life. Under such circumstances, women's thoughts, consciousness, artistic talents, creativity, and even

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worship would hardly find a chance for desirable growth and development. Mutahhari believes that, in such a society, because their living environment is defined within the family and they do not have access to public life, women are treated by men as precious objects or commodities such as diamond and gold, a process that could be called the commoditisation of women. In such periods, history was predominantly male, and women had no direct and observable role in constructing history. For Mutahhari, Iranian women in the last century had such a role, that is, they were commoditised by men (Mutahhari, 2006a, p.226).

In certain other societies, due to increasing mechanization and growth in production, many women have left the so-called drudgery of the home in favour of assuming employment outside of the house. However, they are not seen as human beings equal to men in terms of social rights; rather, the factory owners' and capitalists' interests require that they should take advantage of woman²³⁰. Capitalist economies do not use women's physical strength or abilities; they do not treat them simply as workers cooperating with men in the process of production. These economies exploit the power of their physical beauty to attract more customers and gain higher incomes. To be more precise, the factory owners trade in women's honour and respect, and, to make matters worse, they pay women much less than men. It is clear that all this is done in the name of woman's 'liberty' and her becoming 'equal' with men (Mutahhari, 2002c, pp. 17- 19). In fact, Mutahhari argues that the inclusion of women in the workforce in capitalist economies did not provide women with equal rights with men, but only exploited them.

He draws on Will Durant, who states,

Until 1900 or so a women had hardly any rights which a man was legally bound to respect.... [The Industrial Revolution] brought the industrialization of women on a scale unknown and undreamed of before. They were cheaper labour than men; the employer preferred them as employees to their more costly and rebellious

²³⁰ Marx also criticises capitalism for the exploitation of women's and children's labour. Marx states, "The labour of women and children was, therefore, the first thing sought for by capitalists who used machinery"(Marx, 1867, p.278).

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males. A century ago in England, men found it hard to get work, but placards invited them to send their wives and children to the factory gate... The first legal stem in the emancipation of our grandmothers was the legislation of 1882, by which it was decreed that thereafter the woman of Great Britain should enjoy the unprecedented privilege of keeping the money they earned. It was a highly moral and Christian enactment, put through by the factory owners in the House of Commons to lure the ladies of England into attendance upon their machines. From that year to this irresistible suction of the profits motive has drawn women out of the drudgery of the home into the serfdom of the shop (Durant, 1953, pp. 131-132).

The main question is whether a woman is doomed to choose between two forms of oppression and submit to either of them. From the viewpoint of Mutahhari, the misfortunes of women in the past mostly originated in the fact that their humanity was ignored, and their modern misfortunes are due to the fact that, intentionally or otherwise, their womanliness, natural or instinctive tendencies and needs, mission, and special capabilities are to some extent consigned to oblivion. Mutahhari's view is that both of the two ways mentioned above are going to extremes. To choose one role is to lose the other. What can guarantee that a woman will assume a public role while remaining faithful to their nature, in Mutahhari's understanding, is to improve and increase women's dignified and moral participation in various social, economic, scientific, political, and cultural activities.

However, some Shi'a jurists hold a different view in this regard. Ghulam Husain Isfahani Ha'iri (d.1939), for instance, states that "there is no doubt that assigning the task of business to men and housework to women is the best and the most appropriate policy" (Ja'fariyan, 2001, p.355). In his point of view, women's carrying out business and doing activities outside the home would make men take care of home affairs such as cleaning, washing-up, cooking and so on. If we were to choose between assigning business tasks to men and housework to women, on the one hand, and assigning business tasks to women and housework to men, it would surely not be in the interest of the nation to allow women to do business tasks. He asks, as long as women are entrusted with the heavy responsibility of giving birth to children and bringing them up, how can they possibly undertake to do business at the same time?

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(Ja'fariyan, 2001, pp. 355-359)²³¹. From this viewpoint, women's activity is to be done merely in individual and family domains and within the sphere of family life in the home. This position may have had its roots in the prevailing cultural and social conditions under which most women were condemned to have merely a family life, and thus, the issue of women's business seems to have been out of the question. However, this approach changed as part of the secular reforms in the Pahlavi era.

A contemporary jurist and critic²³² of Mutahhari's *The Question of Hijab* has raised objections to Mutahhari's ideas. According to him, Mutahhari's understanding of Islamic *hijab* and his interpretation of the relevant Qur'anic verses on this subject will encourage women to participate in different kinds of social activities along with men while surely this is not approved or regarded praiseworthy in Islam²³³. He also levels criticisms at Mutahhari's view that Islam approves of women's going out and participating in social activities provided that they try to retain their moral integrity, arguing that "although women's going out of their houses is not legally forbidden, it is reprehensible, and women's presence in social activities is not recommended" (Mutahhari, 2014c, p.33). Mutahhari rejects his criticisms and believes that there is no reason to disapprove of women's engagement in social activities while preserving their moral integrity. It seems that this jurist and others' disapproval of women's social participation is not caused by the role and nature of social activity, but by the fact that

²³¹ Rasul Ja'fariyan, a contemporary Iranian scholar, has gathered the most renowned works (including books, articles and treaties) on the issue of *hijab* written by religious authorities during 1911 to 1968. Ja'fariyan's work is entitled *Rasa'il-i Hijabiyih, Shast Sal Talash dar Barabar-i bid'at-i Kashf-i Hijab (Treatises on Hijab: Sixty years of Effort against the Heresy of the Eliminating Hijab)*. Since most of these sources are not available to all and found in a few famous libraries only, researchers have little direct access to them. Ja'fariyan's work paved the way for easy access. Therefore, in this study, *Rasa'il-i Hijabiyih* has been referenced when drawing on such materials.

²³² The critic of Mutahhari's *Question of Hijab* was one of the *mujtahids* of Mutahhari's time. For some unknown reason(s), he wanted to remain unknown although his criticism and Mutahhari's responses were published in a book entitled *Mutahhari's Responses to the Criticisms of the Question of Hijab*.

²³³ Although Mutahhari believes that women's wearing headscarves in Islam originates from Qur'anic verses, he stresses that Islamic *hijab* moved to extremes due to the Arabs' communication with new Muslim nations [such as Iranian and Roman empires] (Mutahhari, 2009b, p. 25). Basing his argument on the Qur'an and *hadiths*, Mutahhari clearly defines the Islamic headscarf and denies the obligation of face covering. From his perspective, Islamic *hijab* does not restrict women's social activities; rather, it shapes them (Mutahhari, 2009b).

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women's presence outside the home is believed to be the cause of moral corruption. The opponents of women's social activities support their argument by resorting to a Qur'anic verse of the *surah* of Ahzab (33:33) which addresses the Prophet's wives:

Remain in your houses; and display not your finery, as did the pagans of old (33:33).

According to this verse, Allah forbids the Prophet's wives to leave their houses and showing off their physical charms and beauty. Some jurisconsults hold that this verse is not peculiar to the wives of the Prophet Muhammad, but addresses all women. For example, from Tehrani's point of view, the Prophet's wives, as well as all other women, should abide in their houses for the same reason: it is because Islam prohibits the display of women's attractive features outside their houses. Therefore, this is not a divine command targeting the Prophet's wives only, but rather a general rule for all Muslim women (Tehrani, 1978, p.218). Perhaps, this is due to the fact that the real sphere of activity for women is within the home and not the social arena, and, in this matter, there is no difference between the wives of the Prophet and other ladies.

Tehrani seeks to justify his stance by raising a question: what is the underlying reason behind this Quranic command is it that the Prophet's wives were less wise or pious than other women? In other words, for what reason did the Qur'an only command them to stay at home and forbid them to participate in social activities (such as being a judge or occupying position in the government)? Then, he explains that this is not the case, as, on many occasions, the Prophet's wives appeared to be wiser and more pious than ordinary Muslim women. Thus, if the Prophet's wives' staying in their houses and not gaining power and authority are ordained by God, this ordinance will be surely true of other women as well (Tehrani, 1978, pp. 217-218). In fact, from the traditionalists' perspective, all physical and psychological differences between the two sexes are in line with their respective natures and

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the roles they have to play. For instance, child-rearing and working as a housewife are appropriate to females' biology while social duties are entrusted to men²³⁴.

Mutahhari maintains that Tehrani and other traditionalist thinkers have confused the issue, and their resort to the aforementioned verse in support of their argument against women's socio-political activities is not convincing. To Mutahhari, the verse in question addresses the Prophet's wives, not all women. According to him, definitive decrees are required for the wives of the Prophet due to their peculiar position, compared to other women. He justifies his claim by emphasizing that when the Prophet passed away, he had several wives, and he prophesied that, after his death, the Muslim community would suffer from some tribulations, including controversy about his wives, as the Mothers of the Faithful.

The Prophet's wives were supposed to be respected as the Mothers of the Faithful, so certain regulations were decreed whose rationale was to prevent any sedition after the Prophet. Therefore, certain laws were issued one of which prohibited the Prophet's wives to marry any other men after the Prophet's death. The following verses from *surah al-Ahzab* cast light on this matter:

O Prophet, say to thy wives: 'If you desire the present life and its adornment, come now, I will make you provision, and set you free with kindness. But if you desire God and His Messenger and the Last Abode, surely God has prepared for those amongst you such as do good a mighty wage (33:28-29)

'Allamih Tabatabai, in his interpretation of verse 33:33, does not take this command to address all women, though based on verse 4:34, as will be explained later, he denies women guardianship over men in both realms of the family and society. Tabatabai's hermeneutical methodology involves interpreting each verse with the aid of other verses. Since verse 33:32 explicitly announces that the Prophet's wives are not equal with other women, God demands more of them. Hence, they need to be more cautious about their religious duties. The Qur'an

²³⁴ However, some scholars such as Muhammad Farid Wujdi (1878-1954) take a further step and claim that "a woman can never obtain salvation unless she is a wife of a man or a mother of children and tries hard for their true upbringing" (Ja'fariyan, 2001, p. 278).

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says, "Wives of the Prophet, you are not as other women. If you are god-fearing, be not abject in your speech, so that he in whose heart is sickness may be lustful; but speak honourable words" (33:32). Therefore, although Tabatabai keeps his conservative approach and does not accept women's political participation (based on verse 4:34), he does not refer to verse 33:33 to confine women to home life and exclude them from social activities. According to him, this verse applies to the Prophet's wives only (Tabatabai, 2008, pp. 459-461).

Therefore, Mutahhari does not believe that women are not allowed in Islam to work outside the home and that their role should be restricted merely to housekeeping and looking after their husbands and children. In his view, "so long as women are not drawn towards corruption, the Islamic precepts do not prevent their active participation in society" (Mutahhari, 2009b, p.203).²³⁵ As explained above, according to Mutahhari, the first level of women's social work can be exemplified in the occupation of women in educational and cultural institutions or the health care sector. This is a sort of activity which is commonly practiced by both men and women and needs to be considered to see if Islam approves of it.

Mutahhari stresses,

Surely, it is not possible to claim that all social activities are forbidden for women. There is no reason for such a claim, no one makes it. For instance, there is a series of health care activities or cultural activities which are taken to be social, such as working in social and health care institutions or socio-cultural institutions, which are reckoned as giving services to people in society and, as such, they are considered as social. These jobs in themselves pose no problems to women, and there is no reason to say that social work is not permitted (Mutahhari, 2012c, p.50)²³⁶.

²³⁵ According to Mutahhari, in some cases, "women's participation is deemed obligatory, as in the *hajj* rituals that are equally obligatory for men and women. No man has the right to prevent it" (Mutahhari, 2009b, p. 203).

²³⁶ The study of history of Islam confirms this view. For instance, Khadijah, the Prophet's wife, carried out extensive economic activity and was a well-known businesswoman, as well as an intellectual woman.

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As noted above, from Mutahhari's view point, there is no reason to limit women to home life and they can play a range of public roles. However, since the Qur'an in verse 4:34²³⁷ has entrusted men with the guardianship of their families because they pay for the family's expenditure, the following question arises: In this modern age, when women and men are both in paid employment to manage their family life, can one claim that the authority of men is denied and ceases to be valid? Nowadays, a vast number of women undertake to manage and support the families alone or want to participate in the provision of the family needs. In such a situation, family support is no longer men's sole responsibility²³⁸. For instance, Fazlur Rahman, in *Major Themes of the Qur'an*, argues that the superiority of some men in power, wealth and the like is not inherent but purely functional. Therefore, "if a woman becomes economically sufficient, say by inheritance or earning wealth, and contributes to the household expenditure, the male's superiority would to that extent be reduced, since as a human, he has no superiority over his wife" (Rahman, 2009, p.33).

From Mutahhari's perspective, the rationale behind men's authority over women in family life is beyond family economy although, in his view, *nafaqah* (maintenance) is one reason for male authority. He argues that Islam does not want to legislate in favour of women and against men, or vice versa. Rather, Islamic legislation takes care of the salvation (*sa'adah*) of men, women and children and, consequently, the salvation of human society. Therefore, according to Mutahhari, even if women pay for family expenses, it is men who should govern the family. He points to some rationale behind the Islamic doctrine of *nafaqah*. For instance, he points to the different nature of men and women and their responsibilities in family life. He contends that the burden of pregnancy, breastfeeding and childrearing naturally falls on

²³⁷ "Men are the managers of the affairs of women for that God has preferred in bounty one of them over another, and for that they have expended of their property" (4:34).

²³⁸ Some scholars such as Fazlur Rahman present different interpretations of the concept of *nafaqah* in Islam. Fazlur Rahman, in *Major Themes of the Qur'an*, argues that the superiority of some men in power, wealth and the like is not inherent but purely functional. Therefore, "if a woman becomes economically sufficient, say by inheritance or earning wealth, and contributes to the household expenditure, the male's superiority would to that extent be reduced, since as a human, he has no superiority over his wife" (Rahman, 2009, p. 33).

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women's shoulders, all of which result in a decrease in women's physical strength. Therefore, it is not fair for women to be responsible for the family expenses as well. In addition, he believes that the Islamic rule of *nafaqah* is based on the nature of men and women: women are created materially in need of men while men are spiritually dependent on women (Mutahhari, 2002c, pp.208-209). However, Mutahhari does not explain as to how and based on which sources he ascribes such natural characteristics to the sexes. Mutahhari strongly criticises thinkers such as Bertrand Russell for advocating the transformation of fatherly duties and responsibilities to state duties. In *Marriage and Morals*, Russel writes,

There is another powerful force which is working in the direction of the elimination of the father, and this is the desire of women for economic independence... There are two different ways in which married women might acquire economic independence. One is that of remaining employed in the kind of work that they were engaged upon before marriage. This involves giving their children over to the care of others.... The other method would be that women with young children should receive a wage from the State on condition of devoting themselves to the care of their children. This method would, of course, be not alone adequate, and would need to be supplemented by provisions enabling women to return to ordinary work when their children ceased to be quite young. But it would have the advantage of enabling women to care for their children themselves without degrading dependence upon an individual man (Russell, 2009, pp. 76-77).

From Mutahhari's standpoint, eliminating the father and his role in the family under the rubric of women's financial independence will destroy the family's foundation, and consequently, it will lead to the disintegration of society, because, according to him, "a family is the source of happiness, salvation, and spiritual enjoyments" (Mutahhari, 2002c, pp. 212-215). In another book, *Nizam-i Khanivadigi-yi Islam (The System of Family in Islam)* Mutahhari expands his discussion by arguing that a family, like any other social unit, needs governance, and inevitably, there should be ruler and ruled. However, he reasons that, in contrast to civil societies, the governance in the family is based on *fitrah*, human nature, indicating that naturally both men and women desire to have domination over each other, but only in different ways. Men desire to dominate woman in a masculine way, namely, by power, while women desire to dominate men in a feminine way, that is, by mastering the hearts of their

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husbands. Then, Mutahhari concludes that this process leads to unity between the spouses and family members. He labels family as a “natural company”, that is, a company which was founded by *fitrah* to establish unity. However, he emphasizes that men's guardianship over women in family life should not be practiced out of any kind of oppression but based on justice and fair behaviour (Mutahhari, 2019c, pp. 26-35).

Nevertheless, he emphasizes that male governance in family life does not undermine the financial independence of women. In fact, the Qur'an explicitly stresses female financial independence, saying, “To the men a share from what they have earned, and to the women a share from what they have earned” (4:32). Mihrizi also suggests that, from the view point of Islam, women are entitled to do business and earn income, but any profit that a woman earns by way of returns for her work is her own income, not for financially supporting the family while men's business and income should be dedicated to meeting their family needs and guaranteeing the welfare of their families. Mihrizi maintains that women's economic activities are their best asset for the preservation of their independence (Mihrizi, 2010, pp. 281-282).

Mutahhari's view implies that, if the circumstances in the modern world are such that the greater bulk of economic load is placed on the shoulders of women, this will not be approved of by Islam. For, under no circumstances, should women shoulder the heavy burden of providing living expenditure or the responsibility of managing the economic life of the family. The governments are responsible for the provision of economic welfare of those families that are left without a guardian or women who are unmarried or have lost their husbands.

5.2 Women's Political Participation

The second level of women's role in public life concerns their political participation. Mutahhari makes a distinction between politics (*siyasat*) and government (*hukumat*) as instances of authority (Mutahhari, 2012c, p.104), indicating that women can be active in the political arena (e.g., by participating in demonstrations and elections) without holding governmental positions. He divides women's roles in socio-political activities into direct (*mustaqim*) and indirect (*ghiyr-i mustaqim*) ones. By direct roles, he means that women should not only avoid restricting themselves to the home but also show that they are consciously taking part in social activities. According to Mutahhari, the indirect role of women is their effect on men, as he states in the *Future of the Islamic Revolution*:

Men are inspired by women, and if women do not sympathize with men in a social movement, they are more likely to mitigate the effect men can have on that movement, and, conversely, if women show more sympathy with men and what they do in social events, this can expand men's influence on the events. In other words, women do not become an obstacle but a moving force for men as they were clearly seen to be so doing in the movement of the Iranian people which resulted in the victorious Islamic Revolution of Iran (Mutahhari, 2006a, p.210).

In the same book, he argues:

Women throughout history have not served just as a person who gives birth to men or takes care of their physical strength, but as a source of inspiration and power and a complementary element of their manliness. Women have injected chivalry and valour into men from afar and at war fronts (Mutahhari, 2006a, p.224).

Mutahhari regards the influence of women on men as distinct from the direct and prominent role they play in the realisation of the Islamic Revolution of Iran, which was their active participation in the demonstrations and strikes. Their participation in certain significant events such as the 17 *Shahrivar* demonstration (September 8 1978)²³⁹ against Muhammad Reza Shah was extensive that those who were shot dead by the Shah's forces were chiefly women because they walked in the front rows of demonstrators (chanting slogans against the Shah's

²³⁹ September 8, 1978, is known in Iranian history as, "*Jum'ih-yi siyah*" (the Black Friday) (Abrahamian, 2008, p.159).

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dictatorial regime) (Mutahhari, 2006a, p.210)²⁴⁰. Given the crucial and undeniable role women played in the triumph of the Islamic Revolution of Iran, ranging from their political activities against the Pahlavi Shah, which resulted in their imprisonment and torture, to their participation in demonstrations which made them the target of bullets, Mutahhari insists that such a historical role for women is unprecedented. Therefore, for Mutahhari, the Islamic Revolution brought about a new socio-political role for Muslim women and revived the position women held in the early days of Islam. Mutahhari shares the idea with some other scholars in both Shi'a and Sunni communities that, in the early days of Islam, women played a very crucial role in political, cultural, and military arenas. Although Mutahhari believes that women's role has gradually diminished, he has not elucidated when exactly women's role in public reduced. Jawad also argues that, after the death of the Prophet, the rights of women underwent erosion, and women "were discouraged from participating in public affairs... barred from developing their intellectual abilities...and confined to their four walls at home...this depressed situation has persisted more or less until the present day in various shapes and forms throughout the Muslim world" (Jawad, 1998, p.14). Perhaps, it is for this reason that Mutahhari emphasizes that there is a growing need to conduct extensive research into this issue in order to make clear what caused women to actively reappear in the scenes of history after being deprived of social activities for a long period of time, and to shift history from male-dominated to a more egalitarian form (Mutahhari, 2006a, p.224). Mutahhari may have been inspired by his teacher, Khomeini, who stressed that, women and men alike should engage in all aspects of social life, and, therefore, a society cannot be

²⁴⁰ Iranian women's contribution to revolutions and socio-political movements should not be neglected. For example, through personal, collective, direct or indirect intervention in socio-political affairs, Iranian women made enormous changes in the social events of Iran. Their role in such events such as the Tobacco Movement, Constitutional Movement, and the Islamic Revolution of Iran is undeniable (Alasvand, 2011, p. 230). Even Western scholars like Higgins confirm the active participation of Iranian women during the Islamic Revolution of 1979; accordingly, she states: "The revolution drew women into public political behaviour far more effectively than had the legal emancipation of the Pahlavi era..." (Higgins, 1985, p. 447).

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developed only in the hands of men. According to Ayatollah Khomeini, both Men and women should engage in political affairs and preserve their own society. "In social and political activities, women should act just like men" (Khomeini, 1989a, p.403).²⁴¹

From Mutahhari's point of view, an Islamic society cannot continue to exist without women's participation in various social activities. He even emphasizes that women's share in Islamic movements is much greater than that of men. It is perhaps for this reason that Khomeini takes women's social participation, especially in revolutionary movements or uprisings, as an obligation and does not think it necessary for them to receive their husbands' permission for it. According to the newspaper *Javan*²⁴², Ayatollah Sayyid Ali Khamenei, the leader of Iran, points to the distinction between the view of Imam Khomeini and that of his contemporary Muslim scholars about the necessity of women's participation in the formation of the Islamic Revolution,

Imam Khomeini truly considered the position of people, particularly that of women, in demonstrations [against the Shah's regime], and, at that time, when a great number of Muslim scholars would oppose women's participation in the demonstrations, Imam Khomeini, who was aware of people's potentialities, summoned all of them to [take part in] demonstrations (Javan, 2018).

The important point in the arguments proposed by Mutahhari is that he, on the one hand, considers the indirect but constructive role of women in history as a result of the particular sexual ethics of women, i.e. chastity, modesty, and piety, and, on the other hand, he believes that women's direct participation in social arenas could lose effect if it is not practiced carefully. Therefore, he emphasizes that there is one subtle way for women to follow and play both roles at the same time: playing a decisive role in constructing history while, together with men, keeping their modesty, chastity, and necessary coverings; in this way, they can have their direct effect as well (Mutahhari, 2006a, pp. 225-226). Thus, Mutahhari

²⁴¹ Khomeini also states that, "We feel proud to say that women, old and young, small children and young adults, appear in the cultural, economic, and military arenas, and together with men, or [even] more ardently than them (Khomeini, 1989b, pp. 397-398).

²⁴² This is an Iranian newspaper which has been published in Iran since 1998.

supports female participation in society, but only within the framework of Islamic morality and etiquette as defined for women. There are indications in the early Islamic history demonstrating that Muslim women participated in the political arena such as prominent female figures who were active in politics and also women's participation in the pledge of allegiance (*bay'at*) to the Prophet Muhammad or the Imams.

5.2.1 Prominent Female figures in Islamic History

Fatimah is the most important female figure in Shi'a belief. She is one of The Five Persons (*panj-tan* or *ahl al-kasa*), namely, the Prophet Muhammad, Fatimah (his daughter), Ali (his cousin and son-in-law), and his two grandsons, Hassan and Husain. Additionally, according to Shi'a doctrine, Fatimah is also one of 'The Fourteen Infallibles', consisting of the Prophet Muhammad, Fatimah, and twelve Imams, including her husband, Ali. She is regarded as a role model for Muslim women and is in such a high spiritual position that, in various traditions, she been given the title of 'the Doyenne of the women of the worlds' (*sayyidah nisa' al-alamin*) or "the Doyenne of the women of paradise" by the Prophet and Imams (Kulayni, 2000, P.459). Mutahhari draws on another important tradition by the Prophet saying that "Fatimah is a part of me (*bid'atun minni*); whoever angers her angers me" (Shaykh Mufid, 1985, p.298). In another version, the Prophet Muhammad says, "God is angered by her anger and is pleased when she is pleased" (Shaykh Mufid, 1985, p.116).

With respect to the above traditions, Mutahhari asserts that the Prophet's love for them [Fatimah and his sons] is not personal, that is, it is not just because they are his children or grandchildren. The Prophet loved them because they were exemplary Muslims (Mutahhari, 2019b, p.86). In another book, he emphasises that even the enemies of the Prophet admitted that he was wise, implying that, all the deeds and words of the Prophet were based on wisdom. Therefore, if he respected Fatimah so much, for instance, when she entered the Prophet's house and he invited her, especially to sit beside him, it was not just because the

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Prophet loved Fatimah as his daughter. Rather, he did this deliver an important message to people about the spiritual and intellectual position of Fatimah (Mutahhari, 2014b, p.25)²⁴³.

There are several traditions suggesting that Fatimah was an expert in Islamic knowledge, and, on many occasions, Muslims asked her religious questions. Furthermore, after the death of her father, she actively participated in politics. Her famous address named '*Khutbah Fadakiyah*' (the Fadak address)²⁴⁴ to a large audience displays the depth of her socio-political and Islamic knowledge. In that speech, she presents an analysis of the concepts of *tawhid* and prophethood, the pre-Islamic era, and the relationship between the scripture, the prophets, and Imams. Additionally, she interprets some critical Qur'anic verses, such as the *tathir* verse (the verse of purification)²⁴⁵ regarding the position of *imamat* in Islam and the position of *ahl al-bayt* (the Prophet's household). Her criticism of the new caliph demonstrates her socio-political awareness as well as her personal bravery. Mutahhari refers to Fatimah's '*Khutbah Fadakiyah*' as historical support for women's right of participating in politics. He argues that Fatimah did not go to the mosque (wearing *hijab*, of course) only to discuss her own personal share of the Fadak gardens, but also to address the issue of

²⁴³ Ayatollah Nasir Makarim Shirazi (b. 1927) emphasises that, when the Prophet praised Fatimah as the 'doyenne of the women of paradise', it also demonstrates her intellectual position in the eyes of the Prophet. Makarim takes one step further and claims that 'Fatimah is a part of the Prophet' implies that not only the biological link between her and the Prophet, but also her partaking of the Prophet's soul, knowledge, wisdom, moral character, piety, and virtue (Makarim Shirazi, 2009, p. 87). Even Sunni scholars praise Fatimah. For instance, Yamani (1940), a Sunni writer, states that "there is no doubt that she was the doyen of the women of the world. She was a master jurist who was an expert in religion and understanding the Qur'an and Sunnah...When we speak about her jurisprudence and knowledge of *hadiths*, we realise that, on many occasions when she faced a juridical matter, she looked at the light of God and God irradiated her heart and cherished her" (Yamani, 2009, p. 261).

²⁴⁴ Fadak was one of the villages around Medina and 140 kilometres from Khaybar. In the Battle of Khaybar between the Jews and Muslims of the area, the Jews were defeated. The inhabitants of Fadak approached the Prophet and submitted one half of their land to him after the battle. Based on the Qur'an (59:6-7), this land exclusively belonged to the Prophet, and he gifted it to his daughter, Fatimah. Despite the fact that Fatimah was in official possession of the land after the death of the Prophet, the political power of the time disregarded her right. On this point, see (Rahbar, 2007) and (Makarim Shirazi, 2009).

²⁴⁵ The Qur'an says, "people of the House, God only desires to put away from you abomination and to cleanse you" (33:33).

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caliphate (*Khilafat*), which was a political matter (Mutahhari, 2012c, p.64)²⁴⁶. Fatimah, of course, is not the only female figure in Islamic history who was well aware of the socio-political atmosphere of her time; rather, there were many influential Muslim women who were active in public life. For Mutahhari, Fatimah is a special figure here because she was the daughter of the Prophet and the most prominent woman of those active figures.

5.2.2 Pledge of Allegiance (Bay'at)

Bay'at, in its Islamic sense, is a pledge of allegiance by means of which one declares his or her obedience and loyalty to the rule and authority of someone. In the early history of Islam, when the political power was in the hands of the Prophet and Imams²⁴⁷, this form of agreement was repeatedly made between the rulers and their male and female followers. The Pledge of Ridwan (literally, "divine pleasure") made between the Prophet and Muslim women in 6 AH, is a good case in point. According to Alasvand, in the Pledge of Ridwan, about 489 women expressed their allegiance to the Prophet (Alasvand, 2011, p.238)²⁴⁸. The proponents of women's involvement in politics cite this pledge of women and take it as an instance of political participation. The Qur'an also makes a reference to such pledges in verse 60:12: "O Prophet, when believing women come to thee, swearing fealty [pledging] to thee upon the terms that they will not associate with God anything ... ask God's forgiveness for them; God is All-forgiving, All-compassionate".

²⁴⁶ Zainab, the daughter of Fatimah and Imam Ali, is another female figure who, according to Mutahhari, played a significant role in Islamic history, especially in the event of Karbala. Mutahhari emphasises that the history of Karbala is male-female history; It is an event in which both men and women were involved and played their respective roles. Zainab emerged as an important figure after Ashura because the leadership of the caravan of the captives was hand over to her. Mutahhari praises Zainab's historical sermon in the city of Kufah, in which she strongly objected to the oppressive government of the time (Mutahhari, 2018, pp. 382-384).

²⁴⁷ After the Prophet, Imam Ali, the first Shi'a Imam (also, the fourth caliph), ruled the Muslim society of the day for about five years. After him, his son, Hasan Ibn Ali, the second Shi'a Imam, led the Muslims for about seven months.

²⁴⁸ The Pledge of Ridwan was a pledge between the Prophet Muhammad and some of his *sahaba* near the city of Mecca in 668, before the Hudaibiyyah peace treaty. The Qur'an, in verse 48:18 refers to the pledge of Ridwan, saying, "God was well pleased with the believers when they were swearing fealty to thee under the tree, and He knew what was in their hearts, so He sent down the Shechina upon them, and rewarded them with a nigh victory".

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According to Mutahhari, the above verse refers to the pledge of allegiance to the Prophet offered by faithful women, which meant that they would do what the Prophet ordered them to and would lend him their support (Mutahhari, 2012c, p.58)²⁴⁹. Mutahhari also refers to Imam Ali's reign, in which women took a pledge of allegiance to support him. From Mutahhari's perspective, allegiance to Imam Ali or other caliphs was, in fact, a matter of participating in a social event where they would vote in favour of the caliph (Mutahhari, 2012c, p.59). He refers to a statement in *Nahj al-Balaghah* (in sermon 228)²⁵⁰, in which Imam Ali makes an explicit statement about the women's pledge of allegiance to him, which can be taken as support for women's political engagement. If their political participation were not confirmed by him, not only would he not accept their allegiance but also he would express his discontent with it in one way or another.

5.2.3 Women's Suffrage

Another example of women's political activities is their participation in elections. Although women's right to vote is thoroughly accepted in the contemporary democratic systems of the world, the important point is the nature of voting which can delimit women's political participation in democratic systems. Trying to reduce or remove certain religious authorities' objections to women's political power, Mutahhari's proposes a definition of voting that can help remove what we might call men's "fear of being governed by women", as it were.

He argues that voting can be looked at in two ways: delegating (transferring) the right of governing to someone (*tafviz-i haqq*) and appointing someone as a representative (*vakil*) to make a decision on one's behalf. If voting is taken to mean delegating the right of governing to someone, it implies that men and women equally have this right in the first place, and,

²⁴⁹ To know more about women's *bay'at* with the Prophet and the specific terms of their *bay'at*, see (Mutahhari, 2008a, p. 260), (Mutahhari, 2001d, p. 262), and (Mu'min Zadih, 2009, p. 345).

²⁵⁰ In sermon 228, Imam Ali states "You drew out my hand towards you for allegiance, but I held it back and you stretched it but I contracted it. ...and the happiness of people on their allegiance to me was so manifest that little children felt joyful,and young girls ran for it without headscarves" (Sharif Radi, 2011, p. 378).

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therefore, they can delegate this right to others in elections (i.e. women would need to have the right to govern before they can transfer this right to someone else). Mutahhari explains that each society needs to have a ruling group to perform legislation for everyone to follow and obey. This group of people are not born rulers (in the way bees are by nature); rather, members of any society must select the rulers from among themselves. Since, in a democratic system, all people cannot govern at the same time, inevitably the majority of people delegate (*tafviz*) this right to a limited number of people. In this case, the main question in the field of women's political participation is whether women essentially have any right to govern in the first place to be able to delegate it to someone else (Mutahhari, 2012c, p.101). If voting is taken to mean the delegation of a right to somebody else, and if it can be proved that a woman has the right to govern, then she will have the right to vote, and it is possible for her to delegate (transfer) her own right to another person at will. On the other hand, a person who does not have the right to govern will not have the right to vote, like little children who do not have such a right, and even their custodians are not permitted to vote on their behalf.

The second meaning Mutahhari proposes for voting is “appointing a representative” (*vakil*). Mutahhari explains that, people of a country have the rights to good health, wealth, security, etc., and decisions need to be made on these matters. Since it is not possible for all people to consult one another on various issues, they select a limited number of people as their representatives from among themselves to make decisions on their behalf. In other words, all people of a country are like the shareholders of a company who elect a board of directors to make decisions on their behalf about how to run the company. In the same fashion, to vote means appointing someone as a representative and not delegating to someone the right to govern. Consequently, the elected people do not govern the country or nation; rather, they simply represent the voters. Mutahhari sees voting as this kind of relationship between people and their rulers (Mutahhari, 2012c, pp. 97-99).

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He contends that if the nature of voting is taken to mean making someone a representative, it is no longer necessary to establish the idea of the right to government for a woman first in order to admit her right to vote. In other words, electing representatives does not require to possess the right to govern in the first place, and therefore women have the right to vote. The laws of a country are applied to all people—women, men, children, and adults—and women have the right to be part of this process (Mutahhari, 2012c, p.92). Seen from this point of view, Mutahhari hopes, even those who do not approve of women's involvement in government can acknowledge women's right to vote.

There is a serious disagreement on this issue between the traditionalists and Mutahhari. For example, Tehrani believes that women, even if they are *mujtahids*, are not permitted to enter a parliament, for the function of a parliament is not merely adopting laws and regulations or debating on the issues or consulting about laws, but it also covers such tasks as general guardianship, guidance and leadership of people in political, economic, social, cultural, and moral spheres. Tehrani even suggests that it would be better to change the designation of 'Consultative Assembly' into "General Guardianship Assembly". From his viewpoint, the position and status of a parliament is not just representing people. If this is the case, there is no difference between a man or a woman. Rather, representing people in the parliament is a kind of guardianship and authority. Accordingly, to be a member of the parliament as a representative of the people, which is the highest rank of management or directorship and of the highest significance, explicitly contradicts verse 4:34 (Tehrani, 1978, pp. 215-218).

The difference between Mutahhari's view and that of the traditionalist authorities like Tehrani could be explained by noting the fact that Mutahhari makes a distinction between politics (*siyasat*) and government (*hukumat*) as instances of authority, for he thinks that the form of government today differs from that of the past. He says,

Politics is of a more general sense, and a person who works for the Ministry of Foreign Affairs and is fully aware of the foreign policies and the world circumstances provides comments, makes suggestions, and takes part in councils.

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Thus, such a person is involved in politics without having a position which makes others submit to him. Even being an ambassador is a political task but not governance, for there is no element of governance or submission. These are two issues which have to be distinguished from each other (Mutahhari, 2012c, pp. 104-105).

Mutahhari's theory of the nature and function of voting will help us to have a better understanding of his approach to women's right to political positions. He stresses,

In our opinion, the nature of voting is the very designation of someone as a representative, and the members of a parliament are not the ruling class. They are, in fact, the representatives who, due to the fact they have been elected by others, are entitled to make decisions about the important issues and to pass laws. Hence, their decisions and what they have passed are valid like the decisions of a board of directors... this is like an arbitration (*hakamiyat*) which the Holy Qur'an refers to in the case of a dissension between marriage partners (4: 35) or other forms of arbitration which may occur in juridical or legal matters, whether one side of the dispute is a woman or not (Mutahhari, 2012c, p.102).

Taking this into consideration, Mutahhari's view can be explained in terms of democratic structures. In democracies, it is not a person who governs; it is actually the system which governs. Therefore, individuals, men or women, have a responsibility in different sectors, and this does not meant authority over or guardianship of a society. Rather, in democratic systems, power is distributed and divided, and a multi-part system exerts its rule and dominance. That is, in such political structures, the person who rules, whether a man or a woman, is not a ruler in its traditional sense. This explains why women can have political positions such as holding the office of a minister.

5.3 Political Positions, Governance and Authority

As explained above, women can participate in social activities in different levels. They can be active in different socio-cultural and educational institutions and also in the healthcare sector. Women have the right to participate in political activities such as demonstrations and elections. However, there is another level of public life for women, namely, governmental positions. In fact, the question of whether women can exercise political power in an Islamic state is a controversial issue among Shi'a jurists. A community of traditionalist jurists such as

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Sayyid Muhammad Husain Tehrani oppose the idea of women's social activities taking the form of authority or guardianship in society. Tehrani states that Muslims have no doubts that it is in no way permissible for women to take charge of governmental positions (Tehrani, 1978, p.127). Some Muslim thinkers and authorities like Tehrani approve of women's presence in society in terms of socio-cultural and educational activities but reject women's involvement in governmental posts. They argue that the political realm is concerned with the guardianship of society, and this task belongs to men only. In fact, the issue of the guardianship or authority of women in social and political matters remains controversial and challenging until today in Iran. The issue of women's political authority has proponents and opponents among Shi'a scholars and thinkers.

The importance of this issue lies in the fact that women constitute half of the population of each society, and today, unlike in the past, they have access to education and many of them are qualified enough to play a role in the management of society. As explained in relation to the issue of *fatwas*, guardianship means 'ruling, possessing something and implementing ownership, as well as obtaining the power to rule (DihKhuda, 1962). In the books of jurisprudence, guardianship is divided into two forms: particular and general (*wilayat-i khassah va wilayat-i 'ammah*). Particular guardianship (*wilayat-i khassah*) may be exemplified in such matters as guardianship over charitable endowment (*waqf*), over somebody's will (*wasiyyah*), and supervising the way the will is carried out, over the legally incompetent (*mahjur*) and the incapable (*qasir*), and the like. In fact, this sort of guardianship is a particular custodianship. What is certain in regard to the particular guardianship is that, in many cases, there is no distinction between man and woman, the only difference being in the case of the right to guardianship over a daughter, which belongs to her father or her paternal grandfather (Zakiri, 2012, p.178).

However, the challenging question is the issue of the general guardianship or the women's right of governance and holding political positions. In the previous chapter, women's right of

issuing *fatwas* was discussed, and it was made clear that, although certain jurists take male gender as the condition for following a religious authority (*taqlid*) and issuing *fatwas*, Mutahhari rejects this condition. The important question now is: if women have the capability of issuing *fatwas*, can they, like men, take such guardianship, as involves the right to rule, which some Muslim jurists assign to religious authority? As regards the latter issue, there is a difference of opinion among Shi'a scholars. Some believe that there is a legal prohibition against women's involvement in political power. They cite arguments with which we will deal in the following discussions.

5.3.1 Arguments Raised against Women's governmental positions

5.3.1.1 The Qur'an-Based Arguments

Qur'anic verse 4:34²⁵¹ is one of the widely used and cited legal verses of the Qur'an which has been the focus of attention in Islamic jurisprudence and in discussions in various areas pertaining to women's rights including women's assuming political power, position of a judge, their right of issuing *fatwas* and guardianship of a family. A number of classical Shi'a commentators of the Qur'an, such as Shaykh Tusi (d. 1067) in *Tibyan*, Tabarsi (d. 1154) in *Majma' al-Bayan*, and some modern Shi'a commentators, such as 'Allamih Tabatabai (d. 1981), Sayyid Abu al-Qasim al-Khoei (d.1992), and Sayyid Muhammad Husain Tehrani (d.1995), as well as many other Sunni jurisconsults and exegetes consider the abovementioned verse as Qur'anic evidence of the rejection of women's acquisition of political power and occupying political positions. According to them, this verse implies that men have superiority and domination over women, and this superiority and dominion should be exercised over all modes and aspects of women's life. In other words, men are entitled to have full dominion over women. From the viewpoint of this group of jurisconsults, involvement in politics includes ruling and exercising authority over the others. Thus, if

²⁵¹ "Men are the managers of the affairs of women for that God has preferred in bounty one of them over another, and for that they have expended of their property" (4:34).

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women hold political positions, they need to govern men, and this is in contrast with the explicit meaning of the verse in question. Therefore, they accept women's social roles and positions to the extent that they do not cause women to exercise their authority and power over men, and they deny any positions and posts whatsoever which establish women's guardianship or authority over men (Tehrani, 1978, pp. 217-219)²⁵².

‘Allamih Tabatabai takes men's superiority and dominion to be a result of their intellectual power as well as their physical strength. Citing verse 4:34, he believes that the guardianship or authority of men in the two spheres of family and society is something fixed and unchangeable, and that the above verse confirms the authority for men in general. He maintains that it is true that what is signified by the verse concerns the family, but, in fact, it expresses a ramification of man's authority, and thus, one cannot confine the application of the concept of men's authority to the realm of the family only (Tabatabai, 1995, pp. 343-344). Another jurisconsult, Mohammad Reza Gulpaygani, citing the same verse, contends that if women are not competent enough to take charge of a small family, it stands to reason to claim that they are not worthy of taking care of a larger social environment or society as a whole (Gulpaygani, 1993, p.44). Tehrani, in supporting the same opinion, asks, "Is it possible to accept that God has entrusted women with the right to have authority over millions of people in human society but denies her guardianship over her husband and even does not set her equal in rank to man?" (Tehrani, 1978, p.218).

As indicated in the previous chapter, there exists another group of Muslim authorities, such as Mutahhari, Ja‘fari and Javadi Amuli, who criticise the first view arguing that even though that verse has entrusted men with the guardianship of their families, this guardianship falls within the scope of marital problems and family life only, and men have no other forms of authority and dominion over women. In other words, men's authority over women is not

²⁵² Regarding the natural superiority of men over women, see also (Tabarsi, 1988, p. 68).

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meant to cover the sphere of social life.²⁵³ The reason for this is the point made by part of the verse which says, "God has preferred in bounty one of them [men] over another [women]". Mutahhari claims that the Quran does not state 'because of the advantage Allah has granted men over women', but states '*because of the advantage Allah has granted some of them over some others*', meaning that women have a set of advantages as do men. Taking into account all men's and women's particular characteristics merits, and advantages, one can conclude that men are more competent to take charge of affairs within the sphere of family life. Mutahhari refers to the ending part of the verse which concerns the issue of family maintenance (*nafaqah*) and explains that women are provided with an unprecedented advantage in financial matters since men have been entrusted with the responsibility of providing women's living expenditure. Thus, men, who are made responsible for paying for the family expenses, are required to manage the family, too. With these premises, Mutahhari concludes that, with respect to the above-mentioned verse, it is not possible to claim that, in all aspects of social life, men should have authority over women (Mutahhari, 2012c, pp. 76-77).

By investigating the arguments provided by the opponents and proponents of men's comprehensive guardianship over women, it can be seen that the differences between these two views are rooted in the conceptions of the superiority or authority of man over woman in terms of their creation. According to the first view, the innate superiority of men over women is the foundation of their legal superiority in Islamic jurisprudence. The other viewpoint,

²⁵³ As it was explained in our discussion on issuing *fatwas*, other Muslim scholars such as Muhammad Taqi Ja'fari and Javadi Amuli hold almost similar views to that of Mutahhari, that is, they regard the guardianship of a man as limited to the sphere of family life, though their terminology is different from that of Mutahhari. For example, Ja'fari believes that guardianship denotes a responsible supervisor whose duty is to implement the decisions made in the family council just as a manager of a business does (Ja'fari, 1999, pp. 50-52) Javadi Amuli also takes the guardianship of a man to mean his administrative responsibility in his marital and family life. Other authorities like Muhammad Javad Mughniyah, Muhammad Mahdi Shams al-Din, Sayyid Muhammad Husainn Fadlullah, Subhani and Musavi Ardabili, among others, agree with Mutahhari on the view that the guardianship and authority of man over woman is only within the sphere of family life and does not apply to society as a whole. With regard to this point, see (Javadi Amuli, 1997, p. 160), (Fadlullah, 1998a, p.160), (Ha'iri, 1995, p.76), (Ja'fari 2001, p. 274), and (Fiqhi Rasul, 2005, p.143).

represented by such thinkers as Mutahhari, while taking the difference between man and woman to be originated in their nature (*fitrah*), considers this essential difference necessary for strengthening the family ties but does not take it to mean the superiority or dominion of man over woman in all aspects²⁵⁴.

5.3.1.2 Life Story of the Prophet and His Family

With regard to the Prophet and Imams' conduct in life, the opponents of the idea of women's governance and authority argue that during the reigns of the Prophet, Imam Ali and Imam Hassan, which were very short, and even during the reign of the caliphs, no woman was appointed as a ruler or governor in any of the Islamic territories. Women were not even entrusted with mid-level administrative tasks while there were competent women at that time to occupy such positions (Bustan, 2010, p.288).

According to Alasvand, a contemporary Iranian female researcher, if the appointment of women to governmental positions posed no problems or were preferable, it would have been done by the Imams. However, she concedes that, in case of necessity, in some particular cases, women were offered certain key appointments. For instance, Zaynab (the granddaughter of the Prophet) was asked to protect Imam Sajjad's life and to guard the captives of Karbala or was entrusted with preserving the heritage of *imammat* (*vadi'ah Imamat*). Another case was Imam Hassan Askari's (the eleventh Shi'a Imam) mother (also known as 'Jaddih'), who acted as an authority for the Shi'a Muslims of the time; that is, they referred to her in matters of religious queries. However, all these cases arose as a response to the exigencies of the times and cannot be generalized as instances of legal judgment. (Alasvand, 2011, pp. 246-247).

²⁵⁴ This is the main point in which Mutahhari differs from traditional thinkers. As explained above, he distinguishes between the two realms of familial and social life. From his perspective, members of society benefit from the same and equal rights. They can obtain different social positions due to their individual talents (Mutahhari, 2002c, p. 145). Thus, in Mutahhari's view, social activities are open to all, male and female, and they all have the right to receive education, to work and to seek different social positions.

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Mutahhari does not regard the above explanation as sufficient for arguing that women are not permitted to adopt positions of political authority. He says,

Yes, history does not show that the Prophet of Islam entrusted a woman with a political or administrative position or that during the reign of Imam Ali, when the Islamic nation was expanded to such an extent that it included several countries as great as the Islamic countries today, there never was even one case of appointing a woman as a governor... but can this condition provide a legal prohibition for doing so? (Mutahhari, 2012c, p.78).

In other words, if women were not appointed as leaders, managers, governors or the like by the Imams, this cannot be taken to mean that women's leadership of society on a large scale is wrong. In fact, Mutahhari differentiates between what is allowed and what is a priority in Islam. There are practices which may be permitted but not given priority over others in Islamic jurisprudence. In other words, such practices have not been recommended by the Imams, but they have not been religiously forbidden, either.

Taking Mutahhari's discussion into consideration, it could be deduced that, although the study of the *sunnah* of the Prophet and Imams demonstrates that they have not recommended women's involvement in politics, this does not necessarily mean the impermissibility of such involvement. In fact, the social conditions that prevailed in the Arabian Peninsula in the early days of Islam should be taken into consideration. Islam appeared at the time when some people openly buried their daughters alive, and one wonders if such a society was prepared to accept women's rule over men. Therefore, can one argue that the Muslim community in its early days, due to the prevailing cultural conditions, was not prepared to accept female political authority, and, therefore, no woman was appointed in the political positions at that time because it was likely that the men who fell under her dominion would disobey her, and this could lead to unavoidable catastrophic consequences.

5.3.1.3 Traditions (*Ahadith*)

Some of the traditions frequently cited as evidence for the issue in question are attributed to the Prophet. According to some of these tradition, the Prophet said, "Never will prosper such a nation as makes a woman their ruler " (Gulpaygani, 1993, p.48)²⁵⁵. Those who disagree with the idea of women's political participation cite the above tradition as evidence and claim that women's involvement in politics is not permitted in Islam. In his study of this *hadith*, Mutahhari observes that there is no such *hadith* in Shi'a books, and originally it comes from the Sunni sources, emphasizing, of course, that if there is a tradition in the books of Sunni scholars, this is by itself no reason for its invalidity. He goes on to say that a tradition can be regarded valid when all those who narrated it are trustworthy, whether they are Sunni or Shi'a. Mutahhari acknowledges that he has not had the chance to study the authenticity of the tradition in question insisting that it is necessary at the outset to find out whether it is authentic or not²⁵⁶.

In his study of traditions, Mutahhari is less concerned with the *isnad* (chain of transmission of each *hadith*) and its reliability than with the text (*matn*) and its message. Accordingly, in dealing with this *hadith*, he draws attention to the difference between the structures of the governments in the present age with those of the past. In the past, a ruler had dominion over all aspects of a society, and a king exerted his authority over all affairs of the people. But today, in a government with a democratic structure, it is not a person who rules. According to Mutahhari, in the past, the governments were despotic and as soon as someone was appointed as the king of a nation, he held the fates of his subjects in his hand. They were like the passengers and the crew of a ship whose fates were in the hands of a captain who was

²⁵⁵ There are also some other traditions with the same theme, such as, "It is not incumbent on women to hold the office of judge or a leader, they cannot hold this responsibility" (Shaykh al-Hur Al-Amili, 1996, p. 162)", and "Any man whose tasks have been administered by a woman, he has been under a curse" (Shaykh al-Hur Al-Amili, 1996, p. 131). Regarding traditions which prohibit women's political participation, see (Tehrani, 1978, pp. 204-211), (Alasvand, 2011, p. 245), (Bukhari, 1998, p. 97) and (Tusi, 1997, p. 213).

²⁵⁶ However, Alasvand believes that, on the basis of the criteria laid down by Shi'a scholars for selecting among the transmitters of *hadiths*, this tradition with its cited proof in the Sunni sources is not taken to be valid (Alasvand, 2011, p. 245).

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sailing the ship across the waters in different courses, and its passengers had no choice of their own. This kind of absolute authority and totalitarian behaviour and attitude is not tolerated from anyone, man or woman, today (Mutahhari, 2012c, p.81).

Apparently, Mutahhari believes that the *hadith*, if it is authentic, might have been applicable to the conditions of those times. However, with regard to the present political structure of governments, no man or woman is entrusted with exclusive jurisdiction in the sense of absolute authority or guardianship. In other words, the division of power in the systems of modern government is made in such a way that a person in power has to rule according to the governing laws and regulations and, of course, with regard to the division of power, no matter how high his or her power is. Therefore, involvement in government today does not mean the authority and dominion over the individuals in society as it did in the past. Therefore, the above-mentioned traditions are not taken to mean the impermissibility of women's political participation *per se*.

5.3.2 Arguments for Women's Political Participation

One of the main problems with the traditionalist approach is that it imposes some juridical laws on women to warrant their seclusion from public life while disregarding some evidence in the Qur'an and Islamic history to the contrary. In fact, with the claim of male natural superiority over women, for example, by ascribing greater intellectual ability to men, and the consequent claim that women are not suitable for exercising political power, the issue becomes even more complicated. On the one hand, this idea has weight among many high ranking Shi'a jurists, and, on the other hand, there are references to intelligent women in both the Qur'an and *sunnah* that help refute such a claim. For example, Bilqis (the Queen of Sheba), is described in the Qur'an as an intelligent leader who wisely managed every step she took in her both political and religious decisions. Asiyah (the wife of Pharaoh) is another woman that, according to the Qur'an, in spite of being the wife of the most powerful tyrant of

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the time, embraced the revelation and affirmed God's messenger (Moses) whereas her husband and a great number of people of the time rejected the prophet. The Qur'an says, "God has struck a similitude for the believers, the wife of Pharaoh, when she said, 'My Lord, build for me a house in Paradise, in Thy presence, and deliver me from Pharaoh and his work, and do Thou deliver me from the people of the evildoers'" (66:11).

Many stories have been told in the Holy Qur'an, including stories of the divine prophets such as Abraham, Moses, Jesus, Mary (the mother of Jesus), and Asiyah (the Pharaoh' wife). The story of the Queen of Saba is among the interesting stories which are narrated in detail in the Qur'an. The Qur'an is not a book of history or anecdotes merely dealing with historical events, but there is no doubt that in telling a story, it tries to draw people's attention to some outstanding points. In Mutahhari's opinion, the fact that the Qur'an levels no criticism at the Queen of Sheba for her leadership signifies that the Qur'an expresses no opposition to the rule of women (Mutahhari, 2012c, p.61).

Mutahhari furthers points to some of the key attributes of this woman in the Qur'an which reveal how noble she was in character. He argues that, unlike the early rulers, the Queen of Sheba was not a despot. She would attach importance to consultations with her advisors to the extent that she says, "O Council, pronounce to me concerning my affair; I am not used to decide an affair until you bear me witness" (27: 32). Although the consultants encourage her to rise against Solomon, the Prophet of her time, and his army, she thoughtfully rejects their view and says, "Kings, when they enter a city, disorder it and make the mighty ones of its inhabitants abased. Even so they too will do. Now I will send them a present, and see what the envoys bring back (27:34-35). This clearly shows how knowledgeable and insightful Bilqis was, and by this stratagem, she prevents a war as well as its consequences like killing of many innocent people, destructions of cities, and turning children into orphans. In addition, the Queen of Sheba is very open-minded and receptive to the truth. On her meeting with

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Solomon, when she is convinced that the words of Solomon are right, she accepts the divine religion with no resistance²⁵⁷.

Therefore, thinkers, who approve of women's right to be involved in political power, take the story of the Queen of Sheba as support for their view. Regarding this point, Mutahhari writes, those who approve of women's right to government, believe that the Qur'an mentions shortcomings when telling stories. However, in the case of the story of the Queen of Sheba, the Holy Qur'an makes no such mentions, and this is a good reason to believe that the Holy Qur'an supports the idea of women's right to government and political participation" (Mutahhari, 2012c, p.61).

5.4 Conclusion

By exploring Mutahhari's views, it is obvious that unlike the majority of the jurists of his time, he has a supportive approach to women's role in public life, and his ideas and views can open up new horizons for expanding women's social and political rights. It could be observed that he has discussed women's role in public life on three levels: women's participation in various socio-cultural and educational institutions and the health care sector, their participation in political activities such as demonstrations and elections, and finally their right of assuming governmental positions and political power. The key point which distinguishes Mutahhari's view from other traditional jurists is the fact that he makes a distinction between the two realms of *siyasat* (political participation) and *hukumat* (political power). To him, there is no reason to exclude women from socio-cultural and educational activities. He also, on various occasions, praises Iranian women's engagement with politics such as their

²⁵⁷ In this regard, the Qur'an says, "It was said to her, 'Enter the pavilion.' But when she saw it, she supposed it was a spreading water, and she bared her legs. He said, 'It is a pavilion smoothed of crystal. She said, 'My Lord, indeed I have wronged myself, and I surrender with Solomon to God, the Lord of all Being" (27:44).

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participation in demonstrations against the Pahlavi regime. Therefore, the most controversial point regarding women's role in public life refers to their right of assuming political power. In studying Mutahhari's views on the social and political rights of women, the following points are worthy of careful consideration. Mutahhari's views on certain matters regarding women's social participation, such as their administrative and political responsibilities, are not entirely clear. It is not quite certain as to what extent he approves of women's taking high ranking political offices like presidency. In other words, we cannot clearly infer from his words whether he thinks men and women are equally fit for high ranking governmental positions. Even though Mutahhari tries to prove in theory that, from the Islamic point of view, women's political participation in administrative positions is permissible, it seems that, in his view, this theory is not complete and unified since in some of his writings he makes references to the fact that women have not been as successful as men in political positions. Perhaps, his doubts about women's success in high-ranking political positions are due to the cultural, social, and historical conditions of his time when most high political offices in the world were in the hands of men and the ground was still not prepared for the presence and growth of women in this field.

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This research investigated women's social participation from the perspective of Ayatollah Mutahhari, who was one of the foremost thinkers of 20th century Iran. I chose to study Mutahhari in this research for three reasons. First, although many studies from various perspectives, such as secularism and feminism, have been done in favour of women's rights, they mainly remain on an academic level and have not created significant actual change in Shi'a women's situation because their approaches were not welcomed and confirmed by high-ranking jurists. Considering the religious background of Iranian society, research which intends to be influential in Iran has to be consistent with the cultural and religious background of this community. Hence, this research focused on Mutahhari who is a respected and one of the most influential clerical figure in Shi'a Iranian society and a revered figure in the eyes of religious authorities. In fact, since Mutahhari completed his traditional religious studies in a seminary under the supervision of prominent Ayatollahs such as, Ayatollah Burujirdi, Khomeini, Muhaqiq-i Damad and 'Allamih Tabatabai, in the eyes of religious authorities, he was well-versed and qualified in different branches of Islamic scholarship, especially jurisprudence and, was knowledgeable enough to read and interpret religious texts and practice *ijtihad*. The statement of Ayatollah Khomeini, as a high-ranking religious authority, on Mutahhari's assassination, demonstrates his clear approval of Mutahhari's thoughts. In that statement, he describes Mutahhari as a "man who was almost unique in Islamology and different Islamic disciplines and [the study of] the Holy Qur'an" (Khomeini, 1979, p.1879).

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Secondly, Mutahhari was not only a clergyman but also a modern intellectual. In addition to the traditionalist audiences, he addressed modern educated intellectuals and Iranian youth. His academic career in the University of Tehran made him familiar with intellectual circles, with whom he formed constructive relationships (Nasri, 2010b, p.602). The significant contribution of Mutahhari's work partly lies in his active engagement with the challenges Muslims faced in the modern world. Finally, the most important reason for doing this research on Mutahhari's ideas is his dynamic and progressive methodology in jurisprudence. Although Mutahhari was educated in the traditional *usuli* school, he made use of a combination of jurisprudential and philosophical notions in his methodology. As was explained in this study, Mutahhari took a different approach to the principle of reason (*'aql*) and put significant emphasis on the two principles of justice and natural rights to the extent that he regarded them as meta-jurisprudential principles to construct the basis for his religious understanding. Highlighting the role of these principles in the process of *ijtihad*, Mutahhari tried to clarify the philosophy behind jurisprudential rules in various Islamic matters, including women-related issues. Although he tried to present gender-egalitarian interpretation of Islamic laws, he differentiated between domestic and public realms. According to him, family members benefit from equal but dissimilar rights while members of a civil society benefit from 'equal' and 'similar' rights, though, due to their individual personalities and talents, they can hold different social positions. Concerning women's social life, he developed new opinions such as women's right of issuing *fatwas* or their right of taking political positions. This became the starting point of this research, where I discussed the theoretical-philosophical basis of Mutahhari's' approach to women's social life and argued that, with respect to Mutahhari's rational-philosophical methodology, new ideas can be developed, even within the traditional *usuli* school. In addition, his approach to women's rights in Islam can pave the way for new understandings of women's social participation. This study also displayed Mutahhari as a traditional cleric who was aware of the requirements of

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the time and made a significant contribution to the development of modern thought within the Iranian Shi'a society.

In the introduction, the four major approaches of Muslim scholars to the question of women (traditionalism, secularism, Islamic feminism and reformism) were discussed, and it was explained that Mutahhari does not fit into the category of secularists or Islamic feminists as he does not share the same basis with their ideologies. He cannot be placed in the category of traditionalists, either, due to his awareness of modern developments, his rational methodology in *ijtihad*, his understanding of the principle of justice, and natural rights as meta-jurisprudential principles. Hence, according to this research, Mutahhari was a rationalist traditional reformist who, within the traditional *usuli* school, developed reformist ideas on gender related issues. As a matter of fact, most studies on women's rights have focussed on traditionalist views or feminist reinterpretations while the middle-ground traditional reformers such as Mutahhari have been overlooked. In other words, there exists an academic gap regarding the ideas of traditional reformers such as Mutahhari about women's rights. Hence, this research is intended to fill in the existing gap by concentrating on Mutahhari's approach to women's role in public life and right of issuing *fatwas*.

Chapter two of this research presented an account of Mutahhari's reformist perspective, exploring his traditional educational background and his encounter with the modern academic world. With respect to Mutahhari's intellectual life, it is worth noting that he was brought up in two contexts, a traditional religious seminary and the University of Tehran. Hence, he could appreciate the advantages and disadvantages of both systems. In fact, in the social climate of pre-revolutionary Iran, when there was no collaboration between *hawzah* and universities, Mutahhari made a significant contribution in reconciling these two centres of different kinds of learning. In Tehran, Mutahhari engaged with other schools of thought, especially secular thinking, which gained strong support among the political and cultural elite of the country at that time. Mutahhari believed that Islamic thinking needed

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revival in various areas including women's rights; hence, he tried to present a theoretical framework for Islamic thought which would allow him to deal with other schools of thought and modern issues on the same basis. Mutahhari realized that the traditional approach could not respond to the challenges created by modern developments in women's issues and, therefore, tried to introduce a new style of scholarship and philosophical methodology in his discussion.

Chapter three investigated the jurisprudential and philosophical bases of Mutahhari's views on women's rights. Undoubtedly, Mutahhari's ideas about gender-related issues originated from his dynamic and progressive methodology of *ijtihad*. Hence, in this chapter, his methodology was explained in terms of his use of the four principles (*usul*) of *fiqh* -the Qur'an, the *sunnah*, consensus, and reason- to discover the relevant *shari'ah* laws from these sources. I explained that *usuli* scholars vary in their perception of the principle of reasoning in *ijtihad*. Some, like Ibn Idris al-Hilli (d.1202), believe that the Qur'an, the *sunnah*, and *ijma'* have precedence over reason (Katuzian 2014, pp. 52-54) Based on this approach, *'aql* is a non-independent principle which cannot derive *shari'ah* law from religious sources independently. Consequently, in case of disagreement between *shari'ah* law and reason, jurists have to stick to the former and disregard the findings of reason. This study showed that Mutahhari took a different perspective in his methodology of Islamic jurisprudence. He was highly concerned with the significance of reasoning in *ijtihad* and placed more emphasis on reasoning than most Shi'a *usuli* jurists. In fact, many traditionalist jurists have made instrumental use of *'aql* (reason) to develop their arguments; that is, they perceive *'aql* as a tool for logical reasoning. However, Mutahhari did not have an instrumental understanding of reason. He did not restrict the role of reason to developing arguments or to convincing his audience; rather, he found reason as a category outside *fiqh*. It could be said that, to Mutahhari, *'aql* is the criterion which helps determine the validity of legal judgements. In his perspective, all jurisprudential rulings must be evaluated and scrutinised by drawing on a

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number of indisputable and definitive principles. Any ruling that contradicts such principles must undoubtedly be disqualified, and not deemed canonical. These principles may be called *meta-jurisprudential principles*. One such principle is the principle of justice. In addition, although Mutahhari confirmed the four principles of jurisprudence, i.e. the Qur'an, the *sunnah*, consensus and reason, he believed in justice and natural rights as the meta-jurisprudential principles that played a key role in his jurisprudential analysis.

This chapter also demonstrated that, Mutahhari's rational and philosophical approach deeply influenced his understanding of religion. Therefore, he introduced a framework shift for discussing women's rights, and this shift to philosophy and reason as guiding principles created a space for alternative ways of thinking to the traditional jurisprudential approach. According to him, the sphere of the family should be examined with respect to the philosophy of natural rights. Since Mutahhari believed that different faculties give rise to different rights, nature is, in his view, the only authoritative source of human rights, and the law of nature puts family members (male and female) in dissimilar positions. Hence, natural differences between the two sexes account for the different responsibilities and rights in the family (Mutahhari, 2006c, p.126).

The investigation of the underlying theoretical and philosophical bases of Mutahhari's approach to women's social life reveals the fact that three fundamental concepts construct the basis of his views on women's social participation: the principle of justice, the philosophy of natural rights, and his definition of freedom. Moreover, there is an intimate connection between these three concepts in Mutahhari's socio-political approach, including his views on women's role in public life. What distinguishes Mutahhari from other thinkers is his eagerness to explain *shari'ah* law based on his theory of *fitrah*, i.e. to explain the rationale of *shari'ah* law within the framework of the theory of natural rights. In other words, he sought to define individuals' social rights in respect to the scheme and order of creation.

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The important point is that Mutahhari's view of justice rests upon the theory of human nature (*fitrah*), which occupies a very important position in his view of justice. In other words, his understanding of *fitrah* has a certain connection with social justice and women's rights. He believed that all human beings have certain innate potentialities, and it is the responsibility of individuals and society to actualise them. On the other hand, to realise these potentialities, one has to make efforts. This is referred to as 'contest' (*musabiqih*) in his terminology, and, in order to have a just contest, freedom is required in society. Human beings, male or female, have different talents and capacities, and these differences can be detected between male and female as separate or distinct sexes. However, these differences can also be found between the members of the same sex, so much so that each man or woman has their own natural capacities and capabilities. Chapter three demonstrated that Mutahhari used the three principles of justice, *fitrah* and freedom as extra-legal principles. It is clear that this is a kind of philosophical approach, because he applied these basic philosophical principles to inform a legal judgement. From Mutahhari's perspective, these principles are beyond the *usul-i fiqh*.

This study mainly focused on women's right of delivering *fatwa* and their social participation from Mutahhari's perspective because he developed new ideas in these two realms which have been overlooked by researchers. Hence, Chapter Four investigated women's right of issuing *fatwas* from Mutahhari's perspective, which provides a revolutionary opinion. In his discussion of *fatwas*, he presents a very brief jurisprudential argument, investigating the ideas of the advocates and opponents based on primary religious sources. He concludes that issuing a *fatwa* is an intellectual task. He adds that there is definitely no reason to say that expressing legal opinions or issuing *fatwas* is the exclusive privilege of men. He goes on to say that if a woman is of the same qualifications as a man, she has the right to issue *fatwas*, and if we live under certain circumstances in which a woman is more knowledgeable than men and enjoys other qualifications such as being just, on the basis of juristic proofs,

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we cannot help saying that to follow her as a *mujtahid* is not only permitted but also *obligatory* for both men and women (Mutahhari, 2012c, p.46).

It was made clear in our discussion that women's religious authority and right of issuing *fatwas* are highly controversial issues among Shi'a jurists so much so that, today, forty years after Mutahhari's death, his opinions about women's religious authority and right to deliver *fatwas* have not gained ground yet. In other words, although there are many female *mujtahids* who are qualified to do independent legal reasoning (*ijtihad*), they are not allowed to issue *fatwas*. This chapter illustrated that based on Mutahhari's methodology and within the traditional *usuli* school, women's right of issuing *fatwas* can be confirmed. It was discussed that Mutahhari questioned the consensus of the *'ulama* on the exclusion of women from the domain of religious authority by drawing on two reasons. For one thing, he could find no direct indication in the primary sources to support the rejection of women's right of issuing *fatwas*. For another, Mutahhari found this exclusion unreasonable; issuing *fatwas*, to him, is an intellectual task based on learning and scholarly expertise. Therefore, Shi'a Muslims could rely on a female religious authority for their religious questions and needs precisely in the same way they would go to a physician for their medical needs and problems. While, based on Islamic teachings, all Muslims, regardless of their sex are strongly encouraged to educate in various religious and non-religious fields, the deprivation of women from the right of *ifta* as an intellectual activity is in contrast to reason and, perhaps, against justice.

However, there is an unclear point in Mutahhari's view which demands further research. Mutahhari has not distinguished between the position of a *mufti* (a person who delivers *fatwas*) and that of a *marja'* (a person who delivers *fatwa* and has a position of leadership in various socio-political matters). It is obvious that Mutahhari confirms the position of being *muftis* for women, arguing that this is an intellectual task. However, it is not clear whether he accepts the position of *marja' iyyat* for women. In other words, Mutahhari remains vague on

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the extent of religious authority women can hold. While he provides reasons to suggest that women can act as *muftis*, he remains ambiguous as to whether women's religious authority could be extended to other areas connected with the role of a *mufti*, such as becoming a judge, a *marja'* or a social and political leader. Further research might reveal Mutahhari's stance on these issues.

In the final chapter, Mutahhari's ideas about women's social participation were examined. Traditionally, one of the issues raised by the Islamic authorities has been the way in which women can participate in various social activities. By recourse to verse 4:34, many jurists regarded men as the dominant sex or managers of women in both realms of family and society and believed that only man can attain the position of a ruler or run a government, and even did not approve of women voting in elections (Tehrani, 1978). This limitation was imposed even on women's participation in Friday prayers, daily ritual (communal) prayers or burial prayers. Although prohibition of women from Friday prayers and voting is no longer valid these days, it was the prevalent attitude among clerical traditionalists in pre-revolutionary Iran when Mutahhari was involved in women's discussion.

This research expounded on the differences between the views and arguments raised by Mutahhari and traditionalist jurists. Mutahhari's treatment of the subject in question and his criticisms levelled at the ideas raised by the opponents are worth noting. He tries to provide a critical analysis of the opponents' views by explaining the historical contexts of the traditions and drawing on rational and philosophical reasons as well as jurisprudential methodology. He holds that women's participation in social, economic, scientific, educational, and political activities is part of their natural rights. With respect to the principle of justice and the necessity of developing their capabilities, Mutahhari claims that women can participate in all these activities on condition that they observe legal and moral standards. Taking Mutahhari's writings into consideration, it can be deduced that he discusses women's social activity on three levels; their participation in various socio-cultural and educational institutions

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and the health care sector, their engagement with political activities such as demonstrations and elections, and their right of holding political power and governmental positions. Regarding women's political life Mutahhari makes a distinction between politics (*siyasat*) and governmental position (*hukumat*). Hence, with respect to administrative responsibilities, Mutahhari has proposed a point which deserves careful consideration. Traditionalists believe that Qur'anic verse 4:34 is an evidence which rejects women's participation in political activities and their occupying of political positions. According to them, this verse implies that men have superiority over women in both social and familial realms. Since, involvement in politics includes exercising authority over the others, thus, if women hold political positions, they need to govern men, and this is in contrast with the explicit textual meaning of the Qur'anic verse (4:34). Therefore, traditionalists accept women's social positions to the extent that they do not exercise authority over men, and deny any positions whatsoever which establish women's guardianship over men.

In refuting the above argument, Mutahhari states that the office of government and guardianship in the past was vested in, and dependent on, the ruler or the king who possessed full power and authority whereas, today, systems of government have changed, and there is no position as the guardian or manager of society in the traditional style. In other words, the ruler's authority or power practiced in the past has now been substituted by democratic systems, and decisions are made through democratic structures. In modern administrations, there is a multiplicity of administrative tasks and separate political powers. Although Mutahhari has not elaborated on the issue in question, there are several indications in his works that, to him, in modern governmental systems, the idea of women's engagement in administrative tasks does not mean guardianship or management of some sort. In other words, administrative hierarchies have brought about some sort of division of labour; therefore, the concept of guardianship or management has changed. He exemplifies his view by stating that if a woman takes on a responsibility in an office or a ministry, this is not to be

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interpreted as guardianship over Muslims (Mutahhari, 2012c, pp.104-105). It seems that Mutahhari, by administrative tasks, refers to the senior positions within the administration. One of the foundations of the traditionalist view is found in verse 4:34, for which Mutahhari offers a new interpretation (within the Shi'a context). According to him, this verse can only be applied to family and not society because it was revealed to the Prophet in relation to family issues. Here, his interpretation of the verse differs from that of his teacher, 'Allamih Muhammad Husain Tabatabai, as explained in the thesis. However it is worth noting that Mutahhari's views on certain matters regarding women's social participation are not clear enough. For example, it is not quite clear whether he approves of women's holding high-ranking political positions like presidency. Whether he believed that men and women are equally fit for high ranking governmental positions such as presidential position? Perhaps future research may reveal Mutahhari's stance on this matter.

In addition, as was explained earlier, Mutahhari's theory of natural differences between two sexes is based on the notion of *mustaqilat al-'aqliyyah* (the intellectual postulates), which are a series of rational rulings which are provided by the intellect independently and without the help of revelation, such as the virtue of justice. However, his triple classification of emotional, physical, and psychological natural differences between men and women in family life is quite controversial and needs further investigation. He has not provided any scientific, religious or other sources for his assumptions of alleged natural differences between the sexes. Although he supports his understanding with the findings of some Western scholars, it seems that his reading of Western psychological and sociological studies was quite selective, and he chose findings which were more in line with his own interpretation of Islamic jurisprudential rules on gender-related issues.

Thus, it can be concluded that, although Mutahhari's use of the philosophy of natural rights has changed the style of discussion on women's rights from a merely jurisprudential one to a more rational and philosophical approach, his understanding of natural differences between

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two sexes is to some degree ambiguous and needs clarification, especially in those cases where it has been taken as the basis of his arguments on various Islamic laws on women's rights. For example, regarding the issue of the dowry, he posits that the law of creation has ordained beauty, dignity and pride on the part of women and love, need and demand on the part of men. The next logical step is to claim that, "Man is weaker than woman in controlling his (sexual) instinct. This provides women with an opportunity to not surrender themselves easily. On the contrary, they have always forced men to court them and take steps to win them. One of the primary steps to attract women's attention and pleasure is the gift – the dowry [in the Islamic sense] – which was given to her by men" (Mutahhari, 2002c, p. 184). Mutahhari further explains that the Islamic dowry is connected with women's modesty and chastity. By nature, she realises that, for the sake of her honour and respect, she should not freely accept the authority of man. Therefore, as the Qur'an explicitly puts it, the Islamic dowry is only a gift from men to women, and it should not be conceived of as a wage or pension (Mutahhari, 2002c, pp. 184-196). Therefore, the whole discussion by Mutahhari on the issue of the dowry is founded on the inner and natural different feelings of men and women. However, if one can show that these feelings are not natural but rather constructed and formed by social circumstances, then his whole argument on the issue will be subject to question. Hence, one can argue that, Mutahhari in his perception of natural differences between two genders was quite influenced by the socio-cultural climate of his current time.

This study also showed that, although Mutahhari advocated women's right of social participation and highlighted the significant roles played by Iranian women in the Revolution of 1979, he did not actively encourage women to leave home and disregard family life. Rather, to him, the integrity of the family and the primary role of women as mother and wife were important. Therefore, in this sense, he can still be considered to be a traditionalist. Mutahhari is not as radical as some other thinkers with secular or feminist perspectives, but for a thinker with this kind of socio-religious background, the aforementioned ideas on

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women's social participation and right of issuing *fatwas* were quite revolutionary. This study did not aim to make Mutahhari appear as a feminist or modernist or more revolutionary than he already was. Rather, it revealed that, within the traditional background, he engaged with a traditionalist approach, and, as an insider, criticised the traditional Islamic scholarship for some of its unjust *fatwas*, social norms and cultural practices within Muslim societies in terms of women's rights. The present study is unique in the sense that, even if some research has been conducted with respect to specific issues to do with women in Islam from Mutahhari's perspective, there is still no comprehensive account of Mutahhari's Islamic thought as applied to the status of women which delves as an interrelated unity into the main issues of women such as social justice, freedom and natural rights. In fact, not only was this study the first study in English on Mutahhari's views on women's social life but also it looked at new material that has been published recently and former researchers were unable to refer to.

In short, this research presented an analysis of the most influential intellectual trends among contemporary Iranian Muslim thinkers in regard to the question of women's social rights and elaborated on its intellectual principles and foundations. This can help the reader detect the fundamental reason why there is a difference between Mutahhari's position and that of the other thinkers, including traditionalists. In addition, this research also demonstrated that adopting Mutahhari's rational-philosophical position towards the question of women based on the three fundamental concepts of justice, natural rights and freedom can open up a new horizon in women studies which allows us to deal with diverse gender-related issues on the same basis. In other words, Mutahhari introduces philosophical principles that can be used to argue for more rights for Muslim women today. His position also leads us to some possible fundamental changes to the conceptualisation of the principles of *fiqh* that could be exploited in favour of more women's rights.

Since Mutahhari is a very influential figure in modern Iranian society and even within the clerical system, a question may arise as to why some of his ideas on women's social

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participation and their right of issuing *fatwas* have not been accepted and practised yet. It could be argued that Mutahhari has different opinions concerning the social participation of women, ranging from women's right to be educated, to vote, to participate in demonstration and Friday prayer, women's *hijab*, to their participation in the governmental positions and issuing *fatwas*. As a matter of fact, many of Mutahhari's ideas including his views on Islamic head scarfs, women's education and the like have been accepted and practiced. Concerning the issue of *hijab*, Mutahhari's *The Question Hijab* created a space for religious women in Iranian society to become active in the social arena. Although some of Mutahhari's ideas such as women's issuing *fatwas* have not practiced in the Islamic republic, he was the one who legitimised religious women's participation in various social activities.

Therefore, although Mutahhari's publications, which number more than a hundred, are among the best-sellers in Iran, and his opinions have attracted many intellectuals in the Shi'a communities, many of his views on different socio-political and economic issues, as well as women's rights, need further investigation. For example, some of his arguments about the equality, and not identity, of rights between men and women, as well as his peculiar view of the rights of women to deliver juristic decrees and their employment in certain political positions are open to serious objections by traditionalist religious groups in Iran today. In other words, his legacy has been ignored to a certain extent and the potential implications of his ideas have not been explored enough.

Another point to be mentioned here is that, in his studies of women's rights, Mutahhari has not dealt with all the relevant subjects in this field. For instance, he has not discussed the question of difference between the blood-money of men and women and abortion. In his introduction to *The Rights of Women in Islam*, he states that "other aspects of the subject that remain to be discussed and for which I have already prepared study-notes are: the right of guardianship of children, the period of *'iddah*, women's outdoor work, and a number of other matters, which I am going to study in the second volume of the book" (Mutahhari,

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2002c, p.24). Unfortunately, he did not live long enough to do so. His unexpected death prevented him from addressing these issues in more detail.

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