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Sedigheh Vasmaghi: A new voice of Iranian religious reformism

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Abstract

This article explores the ideas of Iranian reformist scholar Sedigheh Vasmaghi and her contribution to religious reformist thought in Iran. As this article demonstrates, a significant aspect of Vasmaghi's work concerns how she understands the extent to which the legal aspects of the Qur'an and the associated rulings found in *fiqh* literature are relevant to the conditions of the modern world. This article investigates Vasmaghi's ideas about the Qur'an and her contextualist approach to interpretation, arguing that her views on Islam's socio-legal rulings are rooted in her approach to the Qur'an. As the article will demonstrate, Vasmaghi's ideas add to the work of other prominent Iranian reformist scholars such as Abdolkarim Soroush, Muhammad Mujtahed Shabestari, Mohsen Kadivar and Hassan Yousefi Eshkevari, but her approach is also subject to criticism, in particular her manner of differentiating between the mutable and immutable aspects of religion.

Key words: Qur'anic interpretation; contextualist approach; shari'a; Iranian reformist scholars; Sedigheh Vasmaghi

Introduction

During the 1990s, a group of reformist religious scholars in Iran, including both seminary graduates and lay religious scholars, gained prominence for introducing new ways of interpreting Islam to meet the challenges of the modern era. Accordingly, various novel hermeneutic approaches to interpreting the Qur'an appeared; approaches emphasizing issues such as gender equality and religious pluralism. This trend of scholarly thinking is referred to as "New Religious Thinking,"¹ "New Kalām" (*kalām-e jadīd*),² "Religious Intellectualism" (*rawshanfekrī-e dīnī*)³ or "Post-Islamism,"⁴ and is prominent in the scholarly works of scholars such as Abdolkarim Soroush, Mohsen Kadivar, Mohammad Mujtahed Shabestari and Hassan Yousefi Eshkevari. Although their ideas often received significant resistance from the state and conservative figures, these authors regularly published in newspapers and scholarly journals, such as *Kiyān*, and delivered speeches within academic circles in the 1990s and early 2000s.⁵ Furthermore, with the growth of the Internet in the same period, some reformist scholars developed personal websites to not only avoid censorship, but also reach wider audiences.

Needless to say, however, reformist scholars do not hold a monolithic line of thinking. Some are more oriented towards political matters, including critiquing structural aspects

¹ Ridgeon, "Ahmad Qabil, a Reason to Believe."

² Madaninejad, "New Theology in the Islamic Republic of Iran."

³ Jahanbakhsh, "The Emergence and Development of Religious Intellectualism in Iran."

⁴ Bayat, "The Making of Post-Islamist Iran."

⁵ See Jahanbakhsh, *Islam, Democracy and Religious Modernism in Iran*, 142–3.

of the Islamic Republic of Iran, while others focus on presenting new ways of interpreting the Qurʾān. In addition, these thinkers' ideas have evolved over the past few decades to the point that some who considered themselves religious intellectuals in the 1990s have since distanced themselves from this movement.⁶

Sedigheh Vasmaghi, a reformist Iranian religious scholar, is the subject of this article. Vasmaghi is a lawyer, poet, reformist politician and expert in Islamic jurisprudence. She studied at a women's seminary in Iran for three years in the 1980s, then took a Bachelor of Arts degree from the Faculty of Theology at the University of Tehran. Vasmaghi obtained her PhD in Islamic jurisprudence from the University of Tehran and then joined the Faculty of Theology in 1991. She served as a member of the City Council of Tehran from 1999 to 2003, in the wake of the 1997 presidential election won by reformist Muhammad Khatami.⁷ After President Ahmadinejad's re-election in 2009 and the rise of Green Movement, Vasmaghi joined voices of protest inside the country, but later, like some reformists, chose to go overseas. In 2011, she became a visiting professor at Göttingen University and then Uppsala University in Sweden, where she stayed until returning to Iran in 2017.⁸ Upon her return, she was initially interrogated, but then set free. Recently, she was summoned to Iran's Revolutionary Court, but refused to attend.⁹

Over the past two decades, Vasmaghi, as a religious reformist, has written a number of books and articles about interpretation of the Qurʾān (*tafsīr*), Islamic law and women's rights in Islam. Although Western academic literature has paid significant attention to Iranian reformist scholars' work on religion,¹⁰ Vasmaghi's ideas remain virtually unknown to Western academia, as no articles have been written about her thus far. Of her own work, only one book published in Iran has been translated into English; her 2008 publication *Zan, Fiqh, Islām* was released under the title *Women, Jurisprudence, Islam* in 2014.¹¹ Vasmaghi's two most recent books are *Bezā't-e Fiqh va Gostareh Nofūz-e Fuqahā* [The Bounty of Jurisprudence and the Sphere of Jurists' Influence] and *Bāzkhāni-e Shari'at* [Reinterpretation of the Shari'a], published in 2009 and 2017 respectively. The first did not receive permission for publication in Iran, and was published electronically as a result, while the second was published in print before Vasmaghi's return to Iran.

This article explores Vasmaghi's contribution to the trend of Iranian religious reformist thought, demonstrating that a significant aspect of her work is how she understands the extent to which the legal aspects of the Qurʾān and the associated rulings found in *fiqh* literature are relevant to the conditions of the modern world. To assess her understanding of Islam's legal rulings, this article investigates Vasmaghi's ideas about the Qurʾān and her contextualist approach to interpretation, arguing that her views on such rulings are rooted in her approach to the Qurʾān. In the course of this argument, I occasionally present Vasmaghi's ideas in light of the wider reformist discourses developed by scholars such as Soroush, Shabestari, Kadivar and Eshkevari in order to show her contributions more clearly.

The Qurʾān and its codification

Over the past two decades, Iranian reformist scholars have presented various theories about revelation and the Prophet's role in the emergence of the Qurʾān. Prominent among these,

⁶ For example, Mostafa Malekian became dissatisfied with the project of religious intellectualism. See Sadeghi-Boroujerdi, "Mostafa Malekian: Spirituality, Siyasat-Zadegi," 284.

⁷ Mir-Hosseini, "Review of *Women, Jurisprudence, Islam*," 655.

⁸ *Ibid.*, 656.

⁹ Sedigheh Vasmaghi, "Shā'er va nevisandeh, beh dādgāh-e enqelāb eḥdār shod"

¹⁰ The literature on Iranian reformist scholars is vast. For some works, see Khosrokhavar, "The New Intellectuals in Iran"; Jahanbaksh, "Introduction: Abdolkarim Soroush's Neo-Rationalist Approach to Islam"; Ghobadzadeh, *Religious Secularity*; Amirpur, *New Thinking in Islam*, chapter 7 and 8; Sadeghi-Boroujerdi, *Political Thought and Reform in Iran*.

¹¹ Vasmaghi, *Women, Jurisprudence, Islam*.

Soroush and Shabestari both reject the proposition that Muhammad was a passive agent in the process of revelation. For Shabestari, although the Qurʾān “refers ultimately to God,” it is “the Prophet’s human oration in both words (*lafz*) and content (*mohtavā*).”¹² Soroush argues that the Qurʾān is closely linked to the Prophet’s personality and experience, indicating that it is the work of the Prophet.¹³ In his recent work, Soroush posited that *wahy* is a type of prophetic dreaming and the Prophet experienced revelation in the form of visions and images.¹⁴ As argued here, however, Vasmaghi does not engage in such discussions on the nature of *wahy* and the Qurʾān, instead choosing to focus on another area of Qurʾānic studies, namely codification.

Iranian reformist scholars, like reformist scholars of most Muslim-majority countries, do not generally explore the Qurʾān’s history or question the traditional Islamic narrative of its codification. According to this account, the Prophet’s followers learned through recitation the revelations he received, and some were written down by literate persons (*kuttāb al-wahy*) in his community. Key to this narrative is the fact that the Qurʾān was collected and became a text at the order of the third caliph, ‘Uthmān b. ‘Affān (d. 35/656).¹⁵ The doctrine of the Uthmanic collection of the Qurʾān was long accepted by Western scholars until the second half of the twentieth century when it was challenged by certain researchers.¹⁶ Furthermore, while many Arab scholars – such as Nasr Hamid Abu Zayd (d.2010), Muhammad Shahrur (d.2019), Muhammad Abed al-Jabiri (d.2010) and Hassan Hanafi (b.1935) – and Iranian reformist scholars, such as Soroush and Shabestari, believe that the context of the Qurʾān played a significant role in its content, none explore issues relevant to the Qurʾān’s codification, instead accepting the traditional account. As Johanna Pink notes, “While the *historicity* of the Qurʾān is an important issue in modern Muslim exegesis of the Qurʾān, there has been virtually no discussion of the *history* of the text.”¹⁷ While reformist Iranian and non-Iranian scholars alike have not by and large discussed issues related to the Qurʾān’s authenticity, textual integrity and process of codification, Vasmaghi does deal with these issues, albeit not in great detail, positing ideas potentially controversial for a typical Muslim. According to her:

There is no doubt that the verses of the Qurʾān were revealed to the Prophet and that he recited them to his followers, but what cannot be confirmed with certainty is that the message of the Prophet was recorded and preserved word-for-word, and corresponds with the Qurʾān as it exists today.¹⁸

According to Vasmaghi, it would have been difficult for Muslims in Mecca to preserve written verses, given their situation. Indeed, keeping Qurʾānic scripts was certainly challenging for Muslims in Mecca, because if their enemies had found these scripts, they would have been destroyed. Further, Vasmaghi states, “Muslims spent the three years before their

¹² Shabestari, “Qerāʾat-e nabavī az jahān.”

¹³ Soroush, *The Expansion of Prophetic Experience*, 329. For Soroush and Shabestari’s ideas of revelation, see Ali Akbar, *Contemporary Perspectives on Revelation and Qurʾānic Hermeneutics*; Ali Akbar and Abdullah Saeed, *Contemporary Approaches to the Qurʾān*. For other religious intellectuals’ ideas about the Qurʾān and its legal rulings see: Ali Akbar and Abdullah Saeed, “Interpretation and mutability: socio-legal texts of the Quran; three accounts from contemporary Iran”.

¹⁴ Soroush, *Kalām-e Muhammad, ru’yā-ye Muhammad*. For Soroush’s theory of prophetic dreaming see Akbar, “Abdolkarim Soroush’s Theory of Revelation: From Expansion and Contraction of Religious Knowledge to Prophetic Dreams”

¹⁵ For discussions on the Qurʾān’s codification during the time of caliph ‘Uthmān and some Western scholars’ comments, see Schoeler, “The Codification of the Qurʾān.”

¹⁶ Wansbrough, *Qurʾānic Studies*. Also, Patricia Crone (d. 2015) and Michael Cook argue that the Qurʾān dates from much later than Muhammad or even ‘Uthmān, contending that no non-Islamic sources attest to the Qurʾān’s existence before the end of the seventh century. Crone and Cook, *Hagarism*, 18.

¹⁷ Pink, “Striving for a New Exegesis of the Qurʾān,” 783.

¹⁸ Vasmaghi, *Bāzkhāni-e Shariʿat*, 77.

migration to Medina in Shi‘b Abī Ṭālib in the throes of hardship and starvation. We do not know whether in such circumstances the revealed verses were transcribed exactly and preserved.”¹⁹ In addition, there is no evidence demonstrating that Muslims brought Qur’ānic scripts with them from Mecca to Medina. Indeed, as many Muslims in Mecca fled the city secretly and with difficulty, it would have been extremely difficult for them to bring Qur’ānic scripts recorded in Mecca.²⁰ Therefore, Vasmaghi concludes, it is most probable that Muslims in Mecca memorized Qur’ānic verses and recited them to each other, which likely led to difficulties later when they sought to produce a text representing the Prophet’s exact words during the caliphate of ‘Uthmān.²¹

After the Prophet’s death, prior to the ‘Uthmān caliphate, Muslims had already decided to codify and compile the Qur’ān. The most important of such efforts took place when, following the Battle of Yamāma and the killing of several reciters of the Qur’ān, ‘Umar asked Abū Bakr to order the Qur’ān’s compilation.²² This, for Vasmaghi, demonstrates that some parts of the Qur’ān were engraved on tablets and other parts were memorized, in particular by the reciters.²³ In other words, not all of the Qur’ān was engraved or written, making its compilation a difficult task for Muslims: “the compilation of verbal messages, at a time when there was neither sound recording equipment like today, nor appropriate writing tools or even many literate individuals, was beset with serious difficulties.”²⁴

Vasmaghi likens the codification of the Qur’ān to a situation in which the students of a given teacher, after their teacher’s death, seek to compile their notes and what they memorized in class. In Vasmaghi’s analogy, a teacher communicates a lesson to his students in class over a 23-year period. In such a class, attendance is haphazard: some students stay only for a short period, others join mid-way through, and several students do not attend at all, asking others about the material. Some students just listen, others memorize and a few take written notes. After the teacher dies, the students decide to compile a written record of the class given over the last 23 years. The incomplete notes they have contradict each other at times, so they ask those who memorized the lessons to help. While they devote every effort to this task, the volume compiled still cannot be claimed as authenticated by the teacher. For Vasmaghi, while the volume produced contains the teacher’s lessons, it cannot be confirmed that no words have been lost or added.²⁵

Vasmaghi relies on a number of *riwayāt* from Islamic sources to demonstrate that even early Muslims considered the alteration of the Qur’ān to be likely. For example, “In *Ṣaḥīḥ Bukhārī*, ‘Umar b. Khaṭṭāb is quoted as saying that there was originally a verse in relation to stoning in the Qur’ān.”²⁶ Further, “In *Ṣaḥīḥ Muslim*, it is narrated that Abu Mūsa al-Ash‘arī assembled the reciters of Basra, who numbered 300 persons, and informed them that the Qur’ān had been compiled incompletely.”²⁷ Vasmaghi’s conception of the Qur’ān’s codification, as I later demonstrate, has one significant implication: instead of seeking to show that the Qur’ān is altered, or some of its words are not exactly the same as those the Prophet recited to his Companions, Vasmaghi’s key objective here is to determine that the Qur’ān is oral in nature, meaning we should treat it not as a written text, but as an oral communication, which was later codified.

¹⁹ Ibid., 67–68.

²⁰ Ibid., 68.

²¹ Ibid.

²² Ibid., 73.

²³ Ibid.

²⁴ Ibid., 76.

²⁵ Ibid., 78.

²⁶ Ibid., 77.

²⁷ Ibid.

Contextualist approach to the Qurʾān

Taking a contextualist approach to interpreting the Qurʾān has become popular among many contemporary reformist Iranian and non-Iranian Muslim scholars. Soroush, Eshkevari, Kadivar and Shabestari are among such Iranian scholars who view the Qurʾān through the lens of the context of its revelation. Despite some differences in methodology, the idea that any hermeneutics of the Qurʾān should take into account the cultural, political and economic milieu in which the Qurʾān emerged is key to all their approaches - an idea that has led them to distinguish between universal and particular verses, the former applying to humans generally and the latter applying only in specific conditions.²⁸

Over the last decades, a number of Qurʾānic studies scholars have discussed the role the Qurʾān's oral nature - or what Fred M. Donner refers to as its "orality" - might have played in its formation. Orality, as Donner notes, refers to "the possibility that the text originated as a recited oral performance, as opposed to a written composition."²⁹ That is, orality should not be confused with "the question of the later oral transmission of the text."³⁰ Neuwirth argues that the oral nature of the Qurʾān is reflected in its style, contending that the "very stylistic character of the Qurʾān indicates its orality."³¹ The orality of the Qurʾān is observed, for example, in its "very short and concise sentences with frequently changing patterns of particularly clear-cut rhymes."³² Added to this, the fact that the Qurʾān includes verses that point to communicational processes in the form of a dialogue between a speaker and listeners (addressees of the Prophet) demonstrates its oral nature. Among Muslim scholars, Muhammad Arkoun pays significant attention to the oral nature of the Qurʾān,³³ arguing that when interpreting, the interpreter should consider the role of oral discourse in the Qurʾān's formation. The shift from oral to written discourse in the form of *muṣḥaf*, while increasing the cultural role of the written word among early Muslims, came at the expense of interpreters' serious consideration of the Qurʾān's oral culture, as Arkoun notes.³⁴

While most Iranian reformist scholars have not paid much attention to the Qurʾān's "orality," Vasmaghi is an exception. Unlike Neuwirth, however, Vasmaghi does not connect the orality of the Qurʾān to its style. Rather, in emphasizing its oral nature, Vasmaghi's main aim is to highlight the Qurʾān's contextuality and to underscore that its legal rulings pertain to the addressees of Muhammad alone. Vasmaghi's point of departure is her view that the Qurʾān was not designed as a written text, and thus should be treated as an oral discourse not a written piece: "the Qurʾān is not the written legacy of the Prophet but his oral speech recorded by his followers."³⁵ She continues, "The Qurʾān was revealed orally (*shafāhī*) and many of its objectives, including practical rulings... were set out by the Prophet verbally."³⁶ Furthermore, she highlights the significant differences between verbal and written pieces:

In a written composition that the author intends to instruct the addressees about something, especially if their intention is to convey commands, all points must be expressed in such a way that the addressees can correctly identify the intention of the author.³⁷

²⁸ For some of the literature available in English, see Kadivar, "Human Rights and Intellectual Islam"; Kadivar, "From Traditional Islam to Islam as an End in Itself"; Soroush, "The Changeable and Unchangeable"; Shabestari, "Religion, Reason and the New Theology."

²⁹ Donner, "The Qurʾān in Recent Scholarship," 34.

³⁰ Ibid.

³¹ Neuwirth, "Qur'an and History," 13.

³² Ibid, 12.

³³ Arkoun, *Rethinking Islam*, 30-35.

³⁴ Arkoun, "The Notion of Revelation," 75.

³⁵ Vasmaghi, *Bāzkhāni-e Shariʿat*, 263.

³⁶ Vasmaghi, *Bezāʿt-e fiqh*, 327.

³⁷ Ibid., 326.

Hence, certain considerations that typically exist in verbal communication between a speaker and addressee, and are easily understandable to the addressee, are not understandable to an absent person in the same way.³⁸ That is, for an absent addressee, oral communication is more open to interpretation (*tafsīr-pazīr-tar*) and even more difficult to interpret than a written piece. Further, in a speech delivered orally, especially dialogical speech reflecting a conversation between two sides, the content is very much dependent on the addressees' customs, culture and even questions they pose to the speaker; none of these issues arise in the case of a written piece. As Vasmaghi notes, "The Qur'ān as an oral speech (*kalām-e shafāhi*) was dependent on the customs of its addressees and the events of its time."³⁹

Therefore, Vasmaghi posits that, when we read the Qur'ān, a substantial proportion of the facts and events behind its verses are hidden from us, demonstrating the importance of a contextualist approach.⁴⁰ Here, Vasmaghi draws a comparison between the situation of the Prophet's addressees hearing Qur'ānic verses and the way people react to a president's speeches. When a president speaks to the people of his/her country, the audience understands the intent according to antecedent events. People from another country, on the other hand, may not understand the president's actual intent because they are unaware of the country's past and current affairs.⁴¹ For Vasmaghi, there is a circumstantial context that exists between speaker and addressee in an oral speech or communication; without considering this context, we cannot correctly understand the speaker's meaning.⁴² Indeed, "the verses of the Qur'ān are not revealed in a vacuum and thus they cannot be comprehended without taking into account the events that played a significant role in shaping them."⁴³ In this way, Vasmaghi connects the importance of a contextualist approach to the Qur'ān's oral nature.

For Vasmaghi, many of the Qur'ān's verses refer to matters directly relevant to the lives of the people of Hijāz. For example, when the Qur'ān speaks of *aṣḥāb al-fil*, this was a narrative known to the addressees of the Qur'ān.⁴⁴ Also, when the Qur'ān mentions Abū Lahab, the Prophet's addressees were again already familiar with the person of Abū Lahab and thus understood why he was cursed.⁴⁵ Ceremonies indicated in the Qur'ān, such as *hajj*, were also familiar to the Hijāzi people. In addition, the Qur'ān's descriptions of heaven are consistent with the wishes and desires of Arabs of the seventh century. These include, the promise of gardens full of trees and flowing rivers under flourishing trees – descriptions which were relevant to the condition of people who could find no shade in molten hot and waterless deserts.⁴⁶ Other examples include reference to the wars between Muslims and their opponents, or the Qur'ān's forbidding of certain pre-Islamic practices such as *zihār*, a pre-Islamic form of divorce (Q 58:2-3).⁴⁷ Even the verses in which God takes oath were consistent with the culture of Arabian society: "the Qur'ān adhered to the taste of its addressees in its manner of speaking with them and even oath taking in many verses."⁴⁸

Thus, Vasmaghi argues that if Islam had appeared in another part of the world, Qur'ānic verses would be different from what they are now. For example, if the people of Iran had been the Qur'ān's addressees, its verses would be different, as many of them were irrelevant to Iranians. The people of Iran, for instance, did not have the tradition of *zihār* to be admonished, and verses referring to the Hijāzi or Qurayshi people's way of life, or specific

³⁸ Ibid.

³⁹ Vasmaghi, *Bāzkhānī-e Shari'at*, 107.

⁴⁰ Ibid., 108.

⁴¹ Ibid.

⁴² Ibid., 109.

⁴³ Ibid., 107.

⁴⁴ Ibid., 103.

⁴⁵ Ibid.

⁴⁶ Vasmaghi, *Bezā't-e fiqh*, 303-4.

⁴⁷ Vasmaghi, *Bāzkhānī-e Shari'at*, 103.

⁴⁸ Vasmaghi, *Bezā't-e fiqh*, 303.

individuals from these tribes such as Abū Lahab, would also have been meaningless for Iranians.⁴⁹ This approach is similar to the positions of other Iranian reformist scholars, such as Soroush and Eshkevari, who argue that today's Qur'ān would be a different text if the Prophet had lived in another part of the world.⁵⁰

Like Soroush, who famously distinguishes between the essential and accidental features of religion, arguing that the former is fixed and unchangeable and the latter is mutable and changeable,⁵¹ Vasmaghi distinguishes between two groups of Qur'ānic verses: those related to worship and spiritual matters and those related to socio-legal issues. To distinguish these two aspects of the religion from each other, Vasmaghi reasons that the nature of worship is not entirely influenced by external factors such as changes that take place in human society: "the changes and developments that have taken shape throughout the centuries in human societies cannot [necessarily] affect the nature of prayer or fasting."⁵² Similarly, the Qur'ān's ethico-moral messages are unchangeable and not restricted to a specific time or place.⁵³ Religious precepts relating to matters aside from worship, however, should not be extended to other contexts as they are closely related to the conditions in which they emerged.⁵⁴ Indeed, changes in human society inherently influence societal, family and economic matters, and thus a Muslim living in the contemporary world is not obliged to follow the socio-legal precepts prevalent in early Muslim community. Vasmaghi also reasons that when the Qur'ān asks people to follow the teachings of all prophets, and emphasizes that there is no difference between them (Q 16:36; Q 2:285), this actually refers to religion's fundamental teachings, including a monotheistic worldview (Q 3:95). In these verses, the Qur'ān does not refer to socio-legal rulings, as these naturally differ from time to time and society to society.⁵⁵

Another aspect of Vasmaghi's contextualist approach is the idea that the Qur'ān retains a close relationship to its interpreters' interests and presumptions, meaning that a given interpretive discourse is shaped by the interpreter's pre-understandings: "the view of every person towards Qur'ānic verses and the way people comprehend verses of the Qur'ān depend on a number of factors such as their taste, culture, knowledge and insight."⁵⁶ That is, in the same way that the Qur'ān's historical context influenced its content, the historical contexts and environments of its interpreters have played a key role in its interpretation. This idea is also reflected in the writings of other reformist scholars, such as Soroush and Shabestari, who state that interpreters' understanding of themselves and the world around them plays a significant role in their understanding of the Qur'ān.⁵⁷ In other words, no one can approach the Qur'ān with an empty mind (*zahn-e khālī*), and thereby no one can presume to speak on behalf of God.⁵⁸

Echoing this approach, Vasmaghi argues that "no one can present their own understanding or interpretation of the Qur'ān as the definitive intent of God... and legislate on the basis of their own interpretation, attributing those legislations to the Qur'ān and imposing them on the people."⁵⁹ However, as compared to Soroush and Shabestari, Vasmaghi's approach has less of a political tone. She uses this idea to argue that certain interpretive/legislative discourses that emerged in the course of Islamic history and Qur'ānic interpretation – for instance, those related to women's rights – were closely related to the circumstances of

⁴⁹ Ibid., 326.

⁵⁰ Soroush, *The Expansion of Prophetic Experience*, 71; Eshkevari, "Ḥuqūq-e bashar va aḥkām-e ejtemā'i-e Islam."

⁵¹ Soroush, *The Expansion of Prophetic Experience*, 70-89.

⁵² Vasmaghi, *Bezā't-e fiqh*, 341-42; see also Vasmaghi, *Women, Jurisprudence, Islam*, 32.

⁵³ Vasmaghi, *Bāzkhāni-e Shari'at*, 273.

⁵⁴ Vasmaghi, *Bezā't-e fiqh*, 344.

⁵⁵ Vasmaghi, *Bāzkhāni-e Shari'at*, 230.

⁵⁶ Ibid., 125.

⁵⁷ Shabestari, *Hermenutik, kitāb va sunnat*, 161; see also Ibid., 8-9, 17; Soroush, *Qabz va bašt-e te'orik-e shari'at*, 357.

⁵⁸ Shabestari, *Hermenutik, kitāb va sunnat*, 286, 298; Soroush, *Reason, Freedom and Democracy in Islam*, 37; Soroush, *The Expansion of Prophetic Experience*, 123.

⁵⁹ Vasmaghi, *Bāzkhāni-e Shari'at*, 140-141.

the interpreters. Indeed, when it comes to deriving legal rulings from the Qurʾān, many considerations outside the Qurʾān influence a jurist's approach.⁶⁰

Prophetic ḥadīths and *riwayāt* and their relation to the Qurʾān

In the late twentieth and early twenty-first centuries, many reformist Muslim scholars – including Iranian scholars – exhibited an increasing tendency towards questioning the authenticity of numerous ḥadīths, even those recorded in canonical Sunni and Shīʿa ḥadīth texts.⁶¹ Vasmaghi takes a somewhat similar approach as, according to her, many ḥadīths and narrations (*riwayāt*) recorded in canonical and non-canonical ḥadīth literature are not reliable. She opines, “In the decades following the Prophet’s death, the Muslim community was yet to realise the importance of writing and recording the words and deeds of the Prophet.”⁶² The unreliability of the ḥadīths and *riwayāt* narrated from the Prophet can be demonstrated by speaking one sentence to several people and asking them to repeat it. Much of the time, even someone who has heard the speaker’s words first-hand will not remember them exactly.⁶³ As such, the oral narration of a speaker’s words over a very long period of time may significantly differ from the speaker’s original words.

Vasmaghi argues that the authenticity of ḥadīth literature and *riwayāt* should be considered in light of the Qurʾān. For her, “The Qurʾān is the primary source of Islam and must be greatly preferred to *riwayāt*.”⁶⁴ As an example of the unreliability of *riwayāt*, Vasmaghi points out that the Qurʾān does not outline a punishment for drinking alcohol, but the *riwayāt* prescribes eighty lashes. In another example, Vasmaghi highlights that while the Qurʾān does not prescribe the punishment of stoning for any crime, the *riwayāt* considers stoning the punishment for adultery.⁶⁵ In the case of adultery, some *riwayāt* prescribe not only the punishment of one hundred lashes, but also a year’s exile or the shaving of the head, while the Qurʾān only calls for one hundred lashes for adulterers and fifty for adulterous maidservants (Q 24:2; Q 4:25).⁶⁶ Finally, while the Qurʾān prescribes no punishment for apostasy, some ḥadīths and *riwayāt* suggest the death penalty as the punishment.⁶⁷

The lack of compatible Qurʾānic rulings casts doubt on the authenticity of many *riwayāt*. Vasmaghi states that the Qurʾān has a much more “progressive” nature than ḥadīth literature and *riwayāt*. Indeed, in contrast to the Qurʾān’s approach, which tries to limit cruelty, brutality and violence, the *riwayāt* prescribe more violent and brutal punishments.⁶⁸ Therefore, in response to whether we should consider ḥadīth literature and *riwayāt* as part of shariʿa, Vasmaghi argues that the unreliable nature of ḥadīth and *riwayāt* means their rulings should not be used as the basis of shariʿa rulings.⁶⁹

The Qurʾān’s *āyāt al-aḥkām*

The majority of Iranian reformist scholars lament the special attention Muslim jurists have paid to *āyāt al-aḥkām* in deriving laws for the Muslim community throughout Islamic history.

⁶⁰ Ibid., 125.

⁶¹ Fazlur Rahman was among Muslim scholars in the second half of the twentieth century who considered many ḥadīths inauthentic. See Rahman, *Islam & Modernity*, 147; Rahman, *Islamic Methodology in History*, 46. For Iranian scholars’ ideas on this, see for example Kadivar, “Nāsāzgarī-ye ḥukm-e qatl-e murtad bā muḥkamāt-e Qurʾān.”

⁶² Vasmaghi, *Bāzkhānī-e Sharīʿat*, 80.

⁶³ Ibid., 81.

⁶⁴ Ibid., 186.

⁶⁵ Ibid., 164.

⁶⁶ Ibid., 187.

⁶⁷ Ibid., 64.

⁶⁸ Ibid., 187-8; Even in relation to a person who has committed murder, the Qurʾān considers it better to forgive, indicating that sparing the life of one person is tantamount to sparing the lives of all humankind. Ibid., 176.

⁶⁹ Ibid., 265.

Jurists have focused on *āyāt al-aḥkām* at the expense of verses emphasizing ethics and social justice matters. Scholars such as Soroush, Kadivar, Shabestari and Eshkevari, despite differences in methodology, believe that the *āyāt al-aḥkām* represent only a small portion of Qurʾānic verses and are significantly affected by the particular circumstances and time of their revelation. This means *āyāt al-aḥkām* are related to a specific situation – i.e. Hījāzi society in the seventh century – and thus should be considered mutable and changeable.⁷⁰

Applying her contextualist approach to interpreting the Qurʾān, Vasmaghi states that Qurʾānic rulings relevant to the social arena, or *āyāt al-aḥkām*, are mutable and thus cannot be implemented in all times and places. Vasmaghi is critical of the vast majority of *fuqahā* throughout Islamic history who stressed the eternity of sharīʿa rulings – an approach which, by and large, continued into the modern period.⁷¹ She also refers to a number of pre-modern or early modern jurists to demonstrate their prioritization of religious rulings on legal matters over those in the realm of ethics. She notes that Shaikh Mortaza Ansari (d.1864) claimed that prophets came in order to promulgate legal rulings, while neglecting the fact that “prophets pursued higher objectives; objectives such as promoting monotheism, condemning idolatry, condemning oppression, promoting good deeds, and suchlike.”⁷² Like some other reformist scholars,⁷³ Vasmaghi believes the Qurʾān is not a book of legislation. Although some of its verses deal with matters such as inheritance and marriage rules, most contain moral teachings or statements about God and matters of worship; verses that often do not receive the attention of jurists.⁷⁴ According to Vasmaghi, verses pertaining to socio-legal matters are relevant to Arab society of the seventh century and inherently changeable:

Many of the *āyāt al-aḥkām* relate to the customs of the original addressees of the Qurʾān... traces of the customs of people living in Arabian society are found in these verses... it cannot be claimed easily that the verses relevant to, for example, inheritance, did not consider the customary conditions of Qurʾān’s addressees and are also strictly binding in other eras and under different conditions.⁷⁵

As it pertains to *ḥudūd*, Vasmaghi notes that these punishments are closely related to the culture and customs of seventh-century Arabian society and are not acceptable in today’s world.⁷⁶ In the arena of women’s rights, Vasmaghi puts forward that women did not play an important role in community life on the eve of Islam’s emergence. As women’s responsibilities have increased in the modern period, justice requires their rights to also be increased accordingly.⁷⁷ In the light of contemporary norms, values and necessities, many laws relating to women – such as laws concerning family relations, including “male guardianship” and men’s right to divorce – should undergo substantial change.⁷⁸ Vasmaghi links Islam’s blood money law, according to which the blood money for men is double that of women, to men and women’s different circumstances at the time of revelation. She states that, before Islam, this ruling was common among Arab tribes and Islam did not change this, given that men still had more societal responsibilities. For example, paternal male relatives had to pay the blood money for manslaughter: “when a man committed

⁷⁰ Shabestari, “Qirāʾat-e nabavī az jahān”; for another scholar’s view on the changeability of *āyāt al-aḥkām*, see Eshkevari, “Ḥuqūq-e bashar va aḥkām-e ijtimāʿī-ye Islam”; “Tamāmī-e aḥkām-e ejtemāʿī-ye Islam.”

⁷¹ Vasmaghi, *Bāzkhāni-e Sharīʿat*, 219.

⁷² *Ibid.*, 16.

⁷³ For example, Kadivar views the Qurʾān as “a book of guidance, not the book of law” (Kadivar, “Ijtihād’ in Usul al-Fiqh,” XXVII).

⁷⁴ Vasmaghi, *Bezāʿt-e fiqh*, 333-34.

⁷⁵ Vasmaghi, *Bāzkhāni-e Sharīʿat*, 141.

⁷⁶ Vasmaghi, *Bezāʿt-e fiqh*, 335-36.

⁷⁷ *Ibid.*, 184.

⁷⁸ Vasmaghi, *Women, Jurisprudence, Islam*, 29; see also *Ibid.*, 83-90, 107-8.

manslaughter, the men of his family [not the women] considered it their duty to help their relative and pay the blood money.”⁷⁹ This means that the blood money law relates to “the custom of the people” at the time of revelation; in light of contemporary circumstances, therefore, the classical blood money law should be revised to correspond with the custom of people in the modern period.⁸⁰

In terms of Islamic inheritance law, Vasmaghi again relates its unequal treatment of men and women to the context of Arabian society: “the financial and economic structure of the society of the first Muslims centered [on] men... Families were financially dependent on men. Men provided for women’s needs.”⁸¹ Thus, inheritance law relates to the economic relationship between partners and depends “on the financial and economic structures governing society and individuals, and also on family structures, relations among relatives, and the responsibilities of family members in financial and economic matters.”⁸² In the contemporary world in which many women have responsibilities equal to – if not greater than – those of men, and in situations where women make a significant contribution to living expenses, the classical laws of inheritance should change accordingly.⁸³ Furthermore, Vasmaghi applies the same method to critique the sharī’a ruling related to testimony. The Qur’ān states that when taking on financial debt, two men or one man and two women should be present as witnesses to the agreed terms of repayment (Q 2:282). According to Vasmaghi, this ruling reflects the “culture, outlook and customs of the people” at that time, when men dealt more with financial matters than women.⁸⁴ This ruling cannot be implemented in the contemporary world: “given the present customs concerning testimony and the bases of the knowledge of judges, we should not pay undue attention to the conditions for witnesses that prevailed among the first Muslims, or to the relevant laws of that time.”⁸⁵ Vasmaghi concludes that “many of the laws that are known as sharī’a laws have features and attributes that are not appropriate to the conditions of life today, including in Iran.”⁸⁶

Despite the fact that the vast majority of Iranian reformist scholars (including Vasmaghi) emphasize the contextual nature of the *āyāt al-aḥkām*, some stress the relatively progressive nature of the Qur’ān’s legal rulings given its seventh-century Arabian context, arguing that Islam implemented certain constructive reforms of the norms and values around matters related to, for instance, women and slaves prevalent in Hijāzi society.⁸⁷ Vasmaghi takes a somewhat similar approach: “in the period the Prophet lived among his followers in Medina, he was able to implement reform to some customs of society... These reforms would not have been possible without consideration of the existing capacity of the society.”⁸⁸ This means the Prophet could not dismantle all the entrenched, discriminatory laws and traditions of his society.⁸⁹ Vasmaghi also states that these changes and reforms should not be considered the last word of the Prophet, as it is important to pay significant attention to the direction the process of reform was moving.⁹⁰ That is, Islam and its founder laid down the “path” (*masīr*) – a path that the next generations of Muslims must follow.⁹¹ For example, the Prophet improved the lives of slaves and outlined rules that increased their rights (*huqūq*). However, Islam could not eradicate slavery in a short period of time given

⁷⁹ Ibid., 139.

⁸⁰ Ibid., 140.

⁸¹ Ibid., 145.

⁸² Ibid.

⁸³ Ibid., 147.

⁸⁴ Ibid., 136.

⁸⁵ Ibid., 137.

⁸⁶ Vasmaghi, *Bāzkhānī-e Shari‘at*, 248.

⁸⁷ Shabestari, *Naqdī bar qir‘at-e rasmī az dīn*, 509.

⁸⁸ Vasmaghi, *Bezā‘t-e fiqh*, 100.

⁸⁹ Vasmaghi, *Bāzkhānī-e Shari‘at*, 190.

⁹⁰ Vasmaghi, *Bezā‘t-e fiqh*, 100.

⁹¹ Vasmaghi, *Bāzkhānī-e Shari‘at*, 198–199.

slaves' very weak position in Arabian society. Law reform is a gradual process, and any legislative change requires a concomitant change in society.⁹²

In another example, Vasmaghi notes that verses on *qiṣās* include a simultaneous call for forgiveness and mercy. For example, in Q 5:45, the Qurʾān states that several persons should not be killed in exchange for the life of one person. This verse declares the equality of human life and warns against excessive punishment. It praises forgiveness, emphasizing that those who pardon others will be rewarded by God. The Qurʾān, according to Vasmaghi, speaks about forgiveness and encourages people to forgo executing murderers in a context in which “people used to kill each other in wars and tribal conflicts and often killed many people in retaliation for the killing of one person.”⁹³

In what follows, I present Vasmaghi's other rationale for the contextual nature of *āyāt al-aḥkām* and discuss why she argues against applying such rulings in the contemporary period.

***Aḥkām imḍā'i* and the Prophet's sunna**

Some Iranian reformist scholars emphasize that many of the Qurʾān's socio-legal precepts, including punishment rulings, had their roots in pre-Islamic Arabian society; the Qurʾān did not establish these precepts.⁹⁴ Vasmaghi confirms that the overwhelming majority of the Qurʾān's jurisprudential rulings are *imḍā'i* (pre-Islamic rules confirmed by the Prophet) not *ta'sīsī* (rulings established by Islam, without any pre-Islamic precedent), as Muhammad did not change many of the rules or customs prevalent in Arabian society prior to Islam. The Prophet, after beginning his prophetic mission, continued his life based on the same customs and traditions by which he had previously lived. The embracing of Islam did not cause people to change their lifestyle completely.⁹⁵ Indeed, Muhammad did not engender pronounced or wide-ranging change in how he and his followers lived, making few new rules in this regard.⁹⁶ For example, the Prophet's grandfather, ʿAbd al-Muṭṭalib, was the first to determine the punishment of cutting off the hand of a thief.⁹⁷ Also, *qiṣās* and *dīya* were common prior to Islam.⁹⁸ For Vasmaghi, the Prophet only sought to establish new rulings or implement reforms to existing laws on rare occasions.⁹⁹ Furthermore, any such reform aimed to create justice in society, meaning the Prophet was more reformer than legislator.¹⁰⁰ Vasmaghi writes:

No reason or proof exists to demonstrate that the Prophet announced to his followers that from now on, you must ask me about all your life affairs and do only the things I tell you to. The followers of Islam approached the Prophet at will, and at the same time there were other Muslim tribes who lived outside of Medina and who approached the chiefs of their own tribes for adjudication, and not the Prophet, of the problems they encountered.¹⁰¹

According to Vasmaghi, “the Prophet's non-interference in the customary laws and traditions does not mean that he considered them *sharīʿa* laws”; rather, “the Prophet

⁹² Vasmaghi, *Bezāʿt-e fiqh*, 231.

⁹³ For her ideas on *qiṣās*, see Vasmaghi, “Tajdid-e naẓar dar maʿnāy-e *qiṣās*”; Vasmaghi, *Bāzkhānī-e Sharīʿat*, 221.

⁹⁴ See, for example, Eshkevari, “Fiqh, ikhtilāfāt-e fiqhī va taghīr-pazīrī-ye aḥkām.”

⁹⁵ Vasmaghi, *Bezāʿt-e fiqh*, 99, 301; see also Vasmaghi, *Bāzkhānī-e Sharīʿat*, 18.

⁹⁶ Vasmaghi, *Women, Jurisprudence, Islam*, 23; Vasmaghi adds that “no prophet can change all details of people's life and replace them with new rulings.” Vasmaghi, *Bezāʿt-e fiqh*, 181.

⁹⁷ Vasmaghi, *Bezāʿt-e fiqh*, 304-5.

⁹⁸ *Ibid.*, 305; Vasmaghi, *Women, Jurisprudence, Islam*, 24.

⁹⁹ Vasmaghi, *Bāzkhānī-e Sharīʿat*, 145.

¹⁰⁰ Vasmaghi, *Bezāʿt-e fiqh*, 162.

¹⁰¹ Vasmaghi, *Bāzkhānī-e Sharīʿat*, 145.

considered the legislative arena in accordance with the norms and values of his society, and deemed them outside the realm of his own responsibility as Prophet.”¹⁰² Therefore, Vasmaghi continues, if we comply staunchly with the laws of the Prophet’s era, we run counter to the Prophet’s approach to legislation. Indeed, in the same way the Prophet acted based on the laws of his society, leaving many untouched, we should also endorse existing *urfī* laws - an approach reminiscent of Eshkevari’s conception of *imḍā’ī* rulings.¹⁰³

Based on her idea that Muhammad considered legislation outside the realm of his prophetic responsibility and her conception of *imḍā’ī* rulings, Vasmaghi gives a new definition of sunna, addressing whether what is identified as the sunna of the Prophet can be considered among *sharī’a* laws. To begin, Vasmaghi distinguishes between Muhammad as a Prophet and Muhammad as an ordinary person who lived in a particular society with specific traditions, norms and values. The importance of this distinction, Vasmaghi argues, is:

If we do not distinguish between the Prophet’s normal behaviour as an ordinary human being and the teachings that he promulgated as a prophet, then the problem which arises is that we take all the laws and traditions that existed in the Prophet’s society as being the sunna of the Prophet. However, these laws also existed before Islam, and the Prophet for the most part had no role in their establishment.¹⁰⁴

According to Vasmaghi, given the limited number of *āyāt al-aḥkām*, jurists could not find sufficient rules in the Qur’ān to address socio-legal matters. It was in this context that the sunna gained particular emphasis, gradually attaining a status akin to the Qur’ān. Vasmaghi states, “In terms of the rulings and laws that are found in the sunna, but have no basis in the Qur’ān, most of the *fuqahā* not only believe in their legitimacy, but consider them obligatory *sharī’a* rulings.”¹⁰⁵ The dominant definition of sunna – the one disputed by Vasmaghi – incorporates the customs, traditions and laws of the Hijāzi people among whom the Prophet lived.¹⁰⁶ Indeed, what is considered sunna in Islamic literature includes “a continuation of the prevailing way of life of the pre-Islamic Hijāzi Arabs.”¹⁰⁷ However, for Vasmaghi, “It seems more appropriate that we consider the Prophet’s sunna his own particular manner (*tariqeh*). These include the norms based on which he founded his position as Prophet.”¹⁰⁸

Some aspects of the Prophet’s life were related to his human nature and needs, such as eating, sleeping, etc. Others reflect the Prophet’s personal skills, experiences and opinions linked to prevailing conditions, such as his responses to commerce and war considerations. These categories of Muhammad’s life, Vasmaghi contends, should not be considered *sharī’a* because they are unconnected to his divine revelations, prophetic mission or prophethood (*nabuvat*).¹⁰⁹ Accordingly, the sunna of the Prophet should only be considered part of *sharī’a* if they relate to the Prophet’s “religious affairs”; the affairs promulgated and specified by Muhammad himself as the Prophet of God.¹¹⁰ For example, after receiving his prophetic mission in Mecca, Muhammad can be seen as occupying the position of a prophet,

¹⁰² Ibid., 228.

¹⁰³ Vasmaghi, *Women, Jurisprudence, Islam*, 31; Eshkevari similarly states that if the Prophet had lived today, “he would have taken the same logical and rational approach towards the social norms, values, experiences and traditions of this time, and thus would have engaged and interacted positively with [the norms] of the contemporary era” (Eshkevari, “Huqūq-e bashar va aḥkām-e ejtemā’ī-ye Islam”).

¹⁰⁴ Vasmaghi, *Bāzkhānī-e Sharī’at*, 32.

¹⁰⁵ Ibid., 166; Vasmaghi rejects this approach, arguing that everything found in ḥadīth and *riwāyāt* narrated from the tradition of the Prophet should be evaluated in light of the Qur’ān and its underlying principles.

¹⁰⁶ Vasmaghi, *Bezā’-t-e fiqh*, 149.

¹⁰⁷ Ibid., 301; see also Vasmaghi, *Women, Jurisprudence, Islam*, 21.

¹⁰⁸ Vasmaghi, *Bezā’-t-e fiqh*, 149.

¹⁰⁹ Ibid., 158.

¹¹⁰ Ibid.; Vasmaghi, *Bāzkhānī-e Sharī’at*, 269-70.

as he did not wait for people to refer to him or ask him questions before promulgating his message about the existence of One God and the Hereafter. Despite restrictions and threats, Muhammad publicized God's message.¹¹¹

The extension of *aḥkām* to other eras

Vasmaghi's approach to the Qur'an's *aḥkām imḍā'ī* displays her effort to locate many Qur'anic rulings in a specific time and place. Vasmaghi's next question concerns the extent to which *aḥkām imḍā'ī* can be applied to other times, to people living after the era of revelation. This question has long been a source of concern for Muslim scholars. For example, this question has been raised in literature on *asbāb al-nuzūl*, where classical Muslim scholars have identified links between some of the Qur'an's verses or passages and certain events in Muhammad's life. Although scholars such as al-Wāhidī (d.468/1075) and Jalāl al-Dīn al-Suyūṭī (d.911/1505) emphasized the importance of the *sabab* in understanding the meaning of Qur'an's verses,¹¹² they also frequently noted that the particularities of the context of revelation does not mean the application of these verses is limited to such contexts.¹¹³

Vasmaghi herself notes that many jurists have endeavored to find a way to extend sharī'a rulings to other situations, as they worry Islam will become obsolete if the collection of rulings jurists refer to as "sharī'a rulings" are not passed onto and performed by the next generations.¹¹⁴ To this end, some *fuqahā* presented the jurisprudential rule of equivocality (*qā'ede eshterāk*) for generalizing rulings to contexts beyond that of the revelation and to Muslims of future generations: "in the rule of equivocality, it is accepted that every ruling addressed to one person or directed towards one person, can be generalized to every person unless proven otherwise."¹¹⁵ According to this formulation, all sharī'a rulings should be extended to people of all times and places unless there is an indication explicitly showing that the verse associated with the ruling is limited to certain people or groups.¹¹⁶ That is, for many *fuqahā* – from pre-modern Sunni jurist al-Juwaynī (d.478/1087) to modern Shī'a scholars such as Muhammad Kadhīm Khorasani (d.1911) – the fact that Qur'anic rulings are not worded in a way that restricts their application to a specific time or place demonstrates their eternity.¹¹⁷

Vasmaghi rejects this approach based on her conception of the Qur'an's orality, according to which she posits that the duties and sharī'a rulings expressed in the Qur'an apply to the addressees of the Prophet alone. If these rules are to be extended to other people, she argues, there should be a strong reason for it. According to Vasmaghi, when someone addresses a few people in an oral speech and asks them to do something, it is only the addressees who should take the speaker's word as binding, unless the speaker explicitly asserts that his or her words also apply to people not present. Vasmaghi states:

Let us assume a father who addresses two of his children and obliges them to do something. If we say that his other children are also obliged to comply with the orders the father addressed to two of them, we must have a strong reason.¹¹⁸

¹¹¹ Ibid., 272.

¹¹² See, for example, Rippin, "Al-Zarkashi and Al-Suyuti," 248; al-Suyūṭī, "Suyūṭī on the Occasions of Revelation," 52-54.

¹¹³ See, for example, Suyūṭī, "Suyūṭī on the Occasions of Revelation," 54.

¹¹⁴ Vasmaghi, *Bezā't-e fiqh*, 333.

¹¹⁵ Vasmaghi, *Bāzkhāni-e Shari'at*, 245.

¹¹⁶ Ibid.

¹¹⁷ Ibid., 225; Akhund Khorasani states, "From the absoluteness of the ruling it can be understood that it applies to all individuals. His meaning is that the rulings and laws that exist in the Qur'an and narrations, given they were not explicitly restricted to particular individuals or conditions, apply to all" (Ibid., 252).

¹¹⁸ Vasmaghi, *Bezā't-e fiqh*, 317.

With this approach, Vasmaghi seeks to limit the Qur'ānic socio-legal rulings to the Prophet's direct addressees, arguing that the spoken word has different characteristics than the written word, especially their extent of impact.¹¹⁹ Vasmaghi contends that jurists have neglected this difference, treating the Qur'ān as the written word even though it, like any other oral speech, is addressed to only its immediate addressees.¹²⁰ She rejects the idea that "when rulings have no time specification, then they are eternal,"¹²¹ highlighting instead:

The usual process of legislating in all human societies has been that when a law is made, even if there is no time limit designated, this does not mean that it is eternal because law has a specific function and the purpose of making it is to provide people with fair rights, engendering relative satisfaction and order in society... Laws are the product of the requirements, demands, insight and experience of every society and naturally vary from time to time or society to society.¹²²

For Vasmaghi, if the Prophet's intention was to oblige people beyond the revelation era to follow his rulings and orders, this should have been recorded in a clear and unambiguous way in the Qur'ān: "it is not stated explicitly in either the Qur'ān nor the *riwayāt* that the words of the Qur'ān and the Prophet are addressed to all people in all places and in all ages."¹²³ Vasmaghi also reasons that many of the Qur'ān's verses were revealed in Medina in response to events, wars and questions posed to the Prophet, and it cannot be stated with certainty that Muhammad's intention in these verses was to issue a shari'a ruling. Indeed, if those events had not happened or those questions not posed, the corresponding verses would not have been revealed. For Vasmaghi, "the declaration of divine orders and obligations that God wants people to perform cannot depend on events or questioning."¹²⁴ In other words, if the Prophet's intention was to legislate, he would not have waited until certain questions were raised or certain events occurred.

Are Qur'ānic rulings and the Prophet's words binding?

Vasmaghi presents a further reason for her argument that Qur'ānic rulings are non-binding; a reason not presented by any other Iranian reformist scholar. According to Vasmaghi, in order to identify whether a Qur'ānic phrase can be considered a shari'a ruling, we must ensure it expresses a binding demand, that is, it asks something of its addressees in an unequivocal manner.¹²⁵ Many *āyāt al-ahkām* do not fulfill this condition, i.e., they are often expressed in the form of advice and recommendations, not as enforceable laws. They are merely advice helping Muslims solve the problems of their social lives. For Vasmaghi, "In most cases, from the words and phrases of the Qur'ān alone, it cannot be perceived with certainty that the intention of the text was to propose an obligatory demand or request."¹²⁶

Vasmaghi takes the example of Q 33:59, the verse considered by many *fuqahā* as ordering women to wear hijab: "O Prophet! Ask your wives, daughters, and believing women to draw their cloaks over their bodies. In this way it is more likely that they will be recognized as virtuous and not be harassed." According to Vasmaghi, this verse asks the Prophet to tell his wives, daughters and other believing women to draw their cloaks so that their bodies, or parts of bodies, are not revealed. The verse highlights that observing this advice will

¹¹⁹ Vasmaghi notes that only Mirza Qumī cites this crucial difference and argues that oral speech is addressed only to the listener.

¹²⁰ Vasmaghi, *Bāzkhānī-e Shari'at*, 263.

¹²¹ *Ibid.*, 253.

¹²² *Ibid.*, 226-29.

¹²³ *Ibid.*, 244; see also Vasmaghi, *Ibid.*, 264.

¹²⁴ *Ibid.*, 274.

¹²⁵ *Ibid.*, 121.

¹²⁶ *Ibid.*, 126.

help women avoid harassment from evil-doing men, and indicates that covering the body helps pious women distinguish themselves from the non-pious.¹²⁷ Vasmaghi states, “In this verse, women are *advised* (italics added), in a pleasant tone and without threat or strict command, to cover their bodies, and there is no mention of the amount of such covering.”¹²⁸ The most straightforward reading of this verse does not imply an order or obligation, rather “a kindly recommendation.” However, the vast majority of Muslim jurists have instead concluded that this verse obliges women to cover their hair and body. Vasmaghi states, “Even if this verse is to be subject to jurisprudential use, the most that can be said is that not covering the body is considered ‘*makrūh*’ and ‘unfavored’.”¹²⁹

In contrast, Vasmaghi then gives an example of a verse with a more obligatory tone, Q 2:282: “O believers! When you contract a loan for a fixed period of time, commit it to writing.” Later in the same verse, the Qurʾān asks believers to find two persons to witness such a deal. The words used in this verse, according to Vasmaghi, are more commanding and directly addressing all believers. More importantly, the verse does not limit the time or place to which the prescribed ruling applies. However, despite its commanding nature, most jurists do not consider it compulsory for Muslims to write a description of credit transactions, instead seeing this verse’s instructions as “guiding recommendations” (*tawṣīyeh-hā-ye ershādī*).¹³⁰ This begs the question: what is the difference between Q 2:282 and Q 33:59? Why do *fuqahā* consider the former to be advisory and the latter binding? Vasmaghi’s answer is that *fuqahā*’s approach to hijab, and by extension other issues of women’s rights, is influenced not by the verses of the Qurʾān, but by the dominant culture of their time – an idea with roots in her contextualist approach.¹³¹

Ambiguities in the verses of *aḥkām* and the abolition of *aḥkām*

The ambiguity in understanding the Qurʾān’s *āyāt al-aḥkām* is Vasmaghi’s final reason for the non-applicability of the Qurʾān’s socio-legal rulings in the contemporary period. The *āyāt al-aḥkām*, especially those pertaining to punishment precepts, include many ambiguous and undefined terms. In addition, the conditions in which *āyāt al-aḥkām* should be implemented and the people to whom they refer are unclear, given the Qurʾān’s oral nature. For example, the punishment for *muḥārib* in verse Q 5:33 outlines that the wrongdoer should be killed, hung on a cross, have their opposite hand and foot cut off, or be exiled far from their homeland. Although the verse appears to speak of people at war with God and His messenger, there is a contextual background behind the text which shows that the verse’s intent is something other than its literal meaning. Many verses of the Qurʾān are dedicated to unbelievers’ war against the Prophet and Muslims, but the content of none of those verses is close to this verse and none has prescribed such severe punishment.

The intent of Q 5:33 is not clear from its literal meaning or even from other verses of the Qurʾān.¹³² In this verse, not only is it unknown who is intended by those who wage war with God and His messenger and corrupt the earth, but there are also other ambiguities. For example, it is not stated whether any of the above forms of punishment can be chosen, or whether the selection is subject to particular conditions.¹³³ Certainly, at the time this verse was revealed, within the context and events that led to its revelation, the ambiguities we see today did not appear to the Qurʾān’s immediate addressees, as they identified the *muḥārib* referent from the events that caused the verse’s revelation. Vasmaghi concludes:

¹²⁷ Ibid., 124-125.

¹²⁸ Ibid., 125.

¹²⁹ Ibid., 125.

¹³⁰ Ibid., 123.

¹³¹ Ibid., 124.

¹³² Ibid., 131.

¹³³ Ibid., 132.

There is no evidence to demonstrate that the term *muḥārib* and the punishments that are mentioned in this verse were extended to other referents at the time. If we want to act on the basis of this verse of the Qurʾān today, it will be very difficult to accurately define *muḥārib*. Given that the verse does not give a definition of *muḥārib* and there is a lack of consensus on the form of punishment which appeared later among jurists, it must be said that the equating of any [contemporary] referent to this verse is neither justified nor legitimate.¹³⁴

To demonstrate the verse's ambiguity, Vasmaghi asks: "who exactly is a *muḥārib*?" "who should identify and punish *muḥārib*s?" "what is meant by corruption of the earth?" and similar questions. She continues, "If any individual or group were to speculate that they have the right to identify people who in their own assessment are *muḥārib*s, and decide to spill their blood, then religion and religious commands will cause chaos and insecurity."¹³⁵ Following on, Vasmaghi sets out another example, Q 5:38, which calls for cutting off the hand of thieves. The literal meaning of the verse suggests that the Qurʾān orders us to cut off the hand of every thief. However, it is not clear to whom "thief" refers and a definition cannot be found in any other verse. Vasmaghi asks, "Is a person who steals a loaf of bread labelled a thief, or is someone called a thief who, for example, has stolen billions of dollars?"¹³⁶ This raises another question: is it just to cut off the hand of both thieves, that is, to apply the same punishment to two very different degrees of theft? Another ambiguity is the act of cutting off a hand itself. Does the verse really mean the hand should literally be cut off or is it saying that a thief must be punished in a way such that there is no possibility he/she can steal again? Here, Vasmaghi argues that not only are many *āyāt al-aḥkām* ambiguous, but sometimes the best interpretation is not necessarily the literal meaning. With regards to the verse in question, the punishment prescribed is incompatible with the spirit of the Qurʾān, which places great emphasis on proportionality between punishment and crime and strongly recommends forgiveness, such as in verses related to *dīya* and *qiṣāṣ*.¹³⁷ Considering the Qurʾān's emphasis on justice, Q 5:38 seems to advise that a person who has engaged in stealing should be punished in a way such that he/she can no longer steal.

Therefore, Vasmaghi concludes, the ambiguity in understanding some Qurʾānic verses, particularly in *āyāt al-aḥkām*, is due to the fact that the Qurʾān was not revealed in our time. Additionally, the Qurʾān's oral nature leads to ambiguity in the *āyāt al-aḥkām*, as many of these verses were revealed in a particular context. Many of these ambiguities, Vasmaghi claims, are only vague for us, but they were clear to the audience of the Qurʾān.¹³⁸ In short, "the Qurʾān has many ambiguities in relation to its socio-legal rulings,"¹³⁹ and thus they should not be used to issue sharīʿa rulings.¹⁴⁰

Concluding remarks

Vasmaghi's thoughts comprise another Iranian religious reformist scholarly effort to present ideas for interpreting Islam in a way that addresses the challenges of modernity. Some of her ideas resemble those of other Iranian reformist scholars, including her emphasis on contextualist approaches to interpreting the Qurʾān, the so-called "progressive" nature of the Qurʾān's socio-legal aspects for seventh-century Arabian society, and her cautious use of prophetic ḥadīths and their evaluation in the light of the Qurʾān. Despite these similarities, it should be noted that Vasmaghi, by and large, does not refer to the writings of other

¹³⁴ Ibid., 134.

¹³⁵ Ibid., 233.

¹³⁶ Ibid., 135.

¹³⁷ Ibid., 136.

¹³⁸ Ibid., 139.

¹³⁹ Ibid., 142.

¹⁴⁰ Ibid., 140.

Iranian reformist scholars. Similarly, when addressing the concept of the Qurʾān's orality, she neither refers to Mohammad Arkoun's ideas nor those of Western scholars who have written extensively on the matter, such as Neuwirth. In the absence of clear reference to these writings, the extent to which Vasmaghi has been influenced by contemporary Iranian reformist thinkers or Western scholars remains unclear.

Vasmaghi's ideas on the non-applicability of many of Islam's socio-legal rulings in the contemporary period, also previously expressed in one way or another by other Iranian reformist scholars, comprise a challenge to many conservative figures in Iran who consider these rulings fixed and unchangeable. Her view on the advisory nature of the verse on hijab is also another challenge to conservatives who consider hijab a compulsory and eternally binding aspect of *sharīʿa*.

Some aspects of Vasmaghi's thought are new contributions to the literature produced by Iranian reformist scholars. As shown, Vasmaghi does not discuss the nature of *waḥy* or speak about Muhammad's involvement in the revelatory process, as Soroush and Shabestari do. Unlike other reformist scholars, she addresses whether the text of the Qurʾān can be considered exactly the words delivered by the Prophet to his immediate addressees. Indeed, for Vasmaghi, it cannot be stated with certainty that the Qurʾānic text is verbatim what Muhammad narrated to his Companions, given the difficulties early Muslims encountered in the compilation of verbal messages. However, rather than seeking to cast doubt on the authenticity of the Qurʾān, Vasmaghi's aim is more oriented around highlighting its oral nature. Despite this, the extent to which her ideas on the Qurʾān's codification are acceptable to other reformist scholars is unclear. In addition, her ideas about the Qurʾān's codification are not above criticism. For example, although Vasmaghi casts doubt on the authenticity of *riwayāt*, she still relies on certain *riwayāt* – namely, those narrated from the Prophet's Companions, such as ʿUmar and Abū Mūsa – to strengthen her argument that the Qurʾān we have today cannot be considered the word-for-word account of the Prophet.

Vasmaghi's definition of the sunna, which limits it to the norms and values upon which Muhammad founded his position as a Prophet of God, is novel. However, her belief that “it is rational and acceptable to refer to the sunna in rare circumstances and only in situations where no better alternative exists”¹⁴¹ seems controversial for a typical Muslim, even in the modern period, as believers throughout Islamic history (and until today) have considered Muhammad's behaviour a model to be followed.

A significant part of Vasmaghi's writings deal with Islam's legal rulings and their applicability in the contemporary period. As demonstrated, even her contextualist approach to interpreting the Qurʾān and discussion of its oral nature seem to be presented in order to support the non-applicability of such rulings in today's world. Like the vast majority of Iranian religious intellectuals, Vasmaghi considers Islamic legal rulings among the mutable aspects of religion. Still, two points of her discussion – namely, her arguments about the ambiguity and advisory tone of many *āyāt al-aḥkām* – are relatively novel in literature produced by Iranian reformist scholars.

Like Soroush, Vasmaghi distinguishes between two types of Qurʾānic verses, although she does not use Soroush's characterization of the “essentials” and “accidentals” of religion; a characterization long criticized by traditionalist and semi-traditionalist scholars in Iran. For example, one can raise the idea that if Soroush's “thoughts are carried to their logical consequence, nothing will be left of religion.”¹⁴² Many critics believe that if a change of context leads to changes in the application of the Qurʾān's socio-legal laws, this could also extend to the religion's precepts of worship or even customs and rituals, given that the Qurʾān does not distinguish between socio-legal rulings and precepts of worship, such as prayer and fasting.¹⁴³

¹⁴¹ Vasmaghi, *Bezāʿt-e fiqh*, 174.

¹⁴² Amirpur, “The Expansion of Prophetic Experience,” 434.

¹⁴³ For one example, see an article criticizing a similar approach by Nasr Hamid Abu Zayd in an Iranian scholarly journal: Naqi-Zadeh, “Andīsheh-hā-ye Abu Zayd,” 155.

Vasmaghi argues that, while religious matters relating to worship are fixed, the religion's socio-legal rulings are changeable. At one point, Vasmaghi states, "An unchanging sharī'a law is one for which the reasons are evident and which does not depend on conditions, time, place or custom, e.g. the prohibition of alcohol and usury, the obligation of the daily ṣalāt prayers, fasting, etc."¹⁴⁴ This point is worth examining further here, as it illustrates potential criticisms of Vasmaghi's work. As previously explained, the Qur'ān's legal rulings apply to the addressees of the Prophet alone, according to Vasmaghi, and a strong reason must exist to extend them beyond the context of the revelation era, including to the contemporary period. Also, in oral speech only the addressees should take the speaker's word as binding and obligatory. The question thus arises: why should the ruling prohibiting alcohol be extended to Muslims beyond the era of revelation and be considered an essential aspect of the religion? In other words, what distinguishes the precepts pertaining to other socio-legal matters from that related to the prohibition of alcohol?

Another criticism arises from the fact that, for Vasmaghi, if the Prophet's intention was to legislate, he would not have waited until certain questions were raised by his Companions or certain events occurred in his community. However, according to the literature on *asbāb al-nuzūl*, the verse often considered to prohibit wine consumption, Q 5:90, was revealed after one person or a group of people became drunk in a gathering, engaged in aggression and one Companion had his nose broken.¹⁴⁵ In addition, we can argue that, like the verse on cutting off the hand of a thief, the verse pertaining to alcohol consumption can be interpreted non-literally. For example, the verse may suggest that drinking alcohol must be avoided only when one engages in excessive drinking and becomes associated with fighting or hurting another person.

Vasmaghi's assertion that many of the Qur'ān's legal rulings emerged in response to questions posed to the Prophet, and thus their nature is temporary and relevance contingent upon the circumstances of the revelation era, is also disputable on another basis. The Prophet, as reflected in the Qur'ān, not only responded to questions from his Companions on legal matters, but also other issues, including ethical matters which Vasmaghi considers eternal. For example, in response to a question about orphans, Muhammad said "Improving their condition is best" (2:220). Thus, the question arises: is the Qur'ān's request that believers improve the condition of orphans a non-eternal precept of the religion, meaning that it pertains only to the Prophet's society? Vasmaghi is unlikely to support this proposition given the ethical nature of this ruling.

Vasmaghi's suggestion to distinguish the religion's changeable from its unchangeable precepts is an attempt to help believers find a way of harmonizing many Islamic rulings with the norms and values of the modern world. But, the division between the changeable and the unchangeable parts of religion still remain controversial and highly "subjective." Defining which parts of Islam are eternal and which are changeable is a source of concern for many scholars, but still there remains no consensus over where the line between these two aspects of religion should be drawn.

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¹⁴⁴ Vasmaghi, *Women, Jurisprudence, Islam*, 32; see also *Ibid.*, 25.

¹⁴⁵ See the translation of al-Wāhidi's book, al-Naishaburi, *Reasons and Occasions of Revelation*, 276–280; for an explanation of the gradual prohibition of wine in the Qur'ān from a reformist scholar, see Fazlur Rahman, "Interpreting the Qur'an," 47–48.

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